

MIKE VICTORINO ADMITTED LAST WEEK THAT HE PERSONALLY DIDN'T KNOW THE FACTS IN THE INJECTION WELL CASE WELL ENOUGH TO HAVE TESTIFIED IN FRONT OF THE COUNTY COUNCIL WITHOUT LOOKING LIKE A FOOL.

FAIR ENOUGH I GET IT!

IT GOES WITHOUT SAYING THAT MIKE DIDN'T WRITE THE PRESS RELEASES HE PUT HIS NAME ON, FILLED WITH ALL THOSE FABRICATED, HEAVY DUTY, LET ME TELL YOU WHAT'S GOING TO HAPPEN, DOOM AND GLOOM, SURE THING "POSSIBILITIES".

THE MAYOR DOES'T ACTUALLY KNOW ABOUT ANY OF THAT STUFF HIMSELF, HE JUST LET THE OIL AND GAS INDUSTRY LAWYERS OF HUNTER ANDREWS & KURTH MAKE ALL THAT UP. IT IS FEAR MONGERING MR MAYOR AND DECEITFUL AND NOT AT ALL IN LINE WITH CHRISTIAN OR LOCAL VALUES.

JUST THE SAME WAY MOANA LUTEY IS NOW SIMPLY FABRICATING OUT OF THIN AIR AN OPINION THAT GIVES THE MAYOR AUTHORITY OVER YOUR LEGITIMATE VOTE.

HOW DOES IT FEEL COUNCIL MEMBERS TO BE ON THE SHORT END OFF THAT STICK?

ARE YOU PISSED OFF? YOU SHOULD BE.

RECEIVED AT GET MEETING ON 10/15/19  
Sam Small

OUR CHARTER EXPLICITLY GIVES THE COUNCIL THE AUTHORITY TO PREVAIL OVER ANY DISAGREEMENT WITH THE MAYOR JUST BY VOTING ON AN ORDINANCE, ON BEHALF OF US ALL. YOU ALREADY DID THAT AND THESE ENORMOUSLY WELL-FUNDED, OUTSIDE INTERESTS WANT TO TAKE YOUR AUTHORITY AWAY.

THIS IS NO LONGER JUST ABOUT THE INJECTION WELL CASE. CORP COUNSEL, THE MAYOR AND OTHERS HAVE SO ALLOWED THEMSELVES TO BE INFLUENCED BY INDUSTRY FORCES THAT ARE HELL BENT ON THEIR OWN NATIONAL AGENDA, THAT THEY HAVE THRUST UPON US ALL A MANUFACTURED CHARTER CRISIS THAT DOES ABSOLUTELY NO GOOD FOR THE PEOPLE OF MAUI, OUR ECONOMY OR OUR ENVIRONMENT.

WHAT THEY ARE DOING IS DESTABILIZING, DIVISIVE AND WILL HAVE LASTING NEGATIVE IMPACTS ON THIS COUNCIL. AFTER HEARING SO MUCH ABOUT WANTING TO GO THE SUPREME COURT TO GAIN "CERTAINTY" HOW CAN THEY POSSIBLY JUSTIFY MANUFACTURING A CHARTER CRISIS THAT CREATES ONLY UNCERTAINTY.

NOTHING GOOD WILL COME FROM WHAT CORP COUNSEL AND THE MAYOR HAVE BEEN COERCED TO DO, IF THEY

ARE SUCCESSFUL IN DOING IT.

THIS IS ACTUALLY A HUGE OPPORTUNITY FOR THE FUTURE OF MAUI COUNTY IN TERMS OF ACCOUNTABILITY, TRANSPARENCY AND FAIRNESS FOR THIS COUNCIL AND THE CITIZENS YOU REPRESENT, IF YOU NINE RISE TO THE CHALLENGE AND DO WHAT NO OTHER COUNCIL HAS HAD THE GUAVAS TO DO, AND THAT'S TO PURGE CORPORATION COUNCIL OF THOSE LAWYERS WHO ARE SO PROFESSIONALLY CONFLICTED BY THEIR PROTECTION OF PAST CORRUPTION THAT THEY CAN NO LONGER POSSIBLY SERVE THE BEST INTERESTS OF THE PEOPLE.

THERE'S JUST SO MUCH DIRECT EVIDENCE OF WRONGDOING BY CORP COUNSEL THAT YOU JUST HAVE TO GET YOUR OWN LAWYERS. YOU HAVE TO.

IT'S NOT JUST THE INJECTION WELL CASE. IT'S THE TIMESHARE TAX MANUFACTURED AS A WEAPON, IT'S THE INTENTIONAL 6 MONTH DELAY IN FILING THE JUDGES RULING IN ERIC POULSEN'S UPCOUNTRY WATER BILL SUIT, DESIGNED TO DENY A CITIZEN HIS RIGHT TO SEEK A HIGHER AUTHORITY.

IT'S WITHHOLDING TOMMY RUSSO'S SETTLEMENT AGREEMENT WHICH I UNDERSTAND TOOK A FEDERAL JUDGE

TO GET THEM TO SEND TO THIS COUNCIL.

ITS THE UPCOUNTRY WATER BILL ITSELF AND THE BOGUS LANGUAGE CORP COUNSEL KNOWINGLY INSERTED TO SECRETLY MANUFACTURE A GIVEAWAY TO DEVELOPERS COUNTY WIDE AT THE TAXPAYERS EXPENSE.

ITS THE SAFETY AND COMFORT THEY FEEL TO DO THESE KINDS OF REALLY WRONG THINGS AND GET AWAY WITH IT SO WELL THEY EVEN HAVE THE LAWYER WHO WROTE THE BOGUS LANGUAGE ADVISE THE COUNCIL ON FIXING WHAT WAS INTENTIONALLY BROKEN. AND IT WAS INTENTIONAL, THE COUNCIL KILLED THE 3 LOT OR LESS DEFERRAL AGREEMENTS AFTER CHRIS SALEM EXPOSED THEM AS A FRAUD AND THEY TRICKED GLADYS BAISA INTO CREATING A REPLACEMENT FOR THEM.

NONE OF YOU CAN POSSIBLY SAY YOU ARE SERVING THE BEST INTERESTS OF THE PEOPLE IF YOU DON'T AGREE TO GET THIS COUNCIL ITS OWN LEGAL OPINIONS AND REPRESENTATION FOR RUSSO'S CASE AND EVERYTHING THAT'S PENDING.

MOANA LUTEY LIED TO YOU IN HER CONFIRMATION HEARINGS. THOSE TWO SENTENCES THAT SHE TRIED TO INSERT INTO YOUR INJECTION WELL AUTHORIZATION

ORDINANCE WERE NOT AT ALL COMMON. SHE ABSOLUTELY DID TRY TO USURP YOURS AND THE MAYOR'S AUTHORITY AND HAD WE NOT CALLED HER ON IT THEY WOULDN'T HAVE HAD TO BOTHER CONJURING UP THIS CHARTER CRISIS.

AND ON THE FLIP SIDE, IF THE CLAIM OF AUTHORITY THEY ARE MAKING NOW WAS ACTUALLY REAL, LUTEY NEVER WOULD HAVE HAD TO TRY TO USURP ANYTHING TO BEGIN WITH.

AND YOU CAN EXPECT CORP COUNSEL AND THE HIRED GUNS ARE NOT GOING TO JUST ROLL OVER HERE. THEY WILL HIT YOU WITH EVERYTHING THEY HAVE. THEY HAVE ESSENTIALLY UNLIMITED FUNDS AND BELIEVE ITS THEIR PROFESSIONAL OBLIGATION TO DO EVERYTHING, INCLUDING LYING TO THE COURT, IN ORDER TO PREVAIL FOR THEIR CLIENTS, WHO IT IS NOW OBVIOUS, ARE NOT THIS COUNCIL.

I GUARANTEE YOU THE NEXT BATTLE, AFTER YOU DO VOTE AS EARLY AS THIS FRIDAY TO PROCURE AN INDEPENDENT COUNSEL, MS. LUTEY IS GOING TO DEMAND THAT SHE GETS TO PICK WHAT LAWYER GETS HIRED AND TO MANAGE THAT RELATIONSHIP. YOU CAN'T ALLOW HER TO DO THAT. YOU CAN'T EVEN GO INTO EXECUTIVE SESSION WITH HER LATER TODAY ON RUSSO'S SETTLEMENT OR ON ANYTHING.

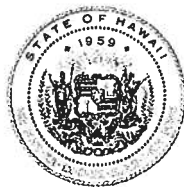
LUTEY'S RELATIONSHIP WITH THIS COUNCIL IS SO CONFLICTED YOU SHOULD BE LOOKING AT ALL THE LIES SHE TOLD AT HER CONFIRMATION HEARING, AND THERE ARE MORE, AND USE THEM TO IMPEACH HER.

THE MAYOR ALSO NEEDS TO GET FREE OF MOANA LUTEY'S CONFLICTED MANIPULATIONS, SO AS YOU PROCURE COUNSEL AND REPRESENTATION FOR THIS COUNCIL, PLEASE ALSO PROCURE INDEPENDENT COUNSEL AND REPRESENTATION FOR THE MAYOR TOO.

AND TO THE MAYOR, PLEASE COME TO YOUR SENSES MIKE, YOU ARE EMBARRASSING YOURSELF AND ALL OF MAUI TOO.

TRUMP'S EPA ALREADY HAS OTHER CASES THAT WILL ACHIEVE THEIR GOALS OF ALLOWING POLLUTERS TO POLLUTE MORE. THEY DON'T REALLY NEED MAUI'S INJECTION WELL CASE TO GO TO THE SUPREME COURT TO DO THEIR DIRTY WORK.

WHY SELL OUT THE CITIZENS AND DESTROY MAUI'S GLOBAL REPUTATION BY ALLOWING YOURSELF TO BE MANIPULATED BY AN INDUSTRY AGENDA THAT COULD NOT CARE LESS ABOUT YOU OR OUR SMALL ISLAND CHAIN?



DAVID Y. IGE  
GOVERNOR

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OFFICE OF THE LIEUTENANT GOVERNOR  
OFFICE OF INFORMATION PRACTICES

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September 27, 2019

VIA E-MAIL

Mr. Chris Salem

Re: Appeal from Denial of Access to General Records  
(U APPEAL 17-45, U APPEAL 18-7)

Dear Mr. Salem:

The Office of Information Practices (OIP) opened the above referenced files based upon your request to appeal the denial by certain agencies of the County of Maui of your requests for access to government records under Part II of the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (HRS) (the UIPA). Specifically, you made: (1) a written request to the Office of Council Services (OCS-M), dated February 24, 2017, for access to "Special Counsel law firm Kobayashi, Sugita and Goda, LLP's procurement disclosures by the Department of the Corporation Counsel to the members of the Maui County Council," and (2) a written request to the Department of Corporation Counsel (Corp Cnsl-M), dated August 17, 2017, for access to "the date and record of the **first time** the public documents referenced in the Declaration of Matson Kelley were '*eventually produced*' by the County of Maui." Both OCS-M and Corp Cnsl-M had responded to your record requests by informing you that they do not maintain the requested records.

As you know, OIP has a heavy backlog of appeals and is working hard to address complex appeals in a timely manner. In light of these considerations and the passage of time since you filed these appeals, please inform OIP within twenty business days from the date of this letter as to whether you wish to pursue these appeals. If we do not hear from you within twenty days, OIP will dismiss the appeals in accordance with section 2-73-18, Hawaii Administrative Rules.

This letter also serves as notice that OIP is not representing anyone in these appeals. OIP's role herein is as a neutral third party.

Yours truly,

Lorna Aratani  
Staff Attorney

Dear Federal Bureau of Investigations, Clare E. Connors, Attorney General, State of Hawaii, Michael Wheat, U.S. Prosecuting Attorney, Donald Guzman, Prosecuting Attorney, Maui County, Kelly King, Maui County Council Chair, Keani Rawlins-Fernandez, Tasha Kama, Riki Hokama, Alice Lee, Mike Molina, Tamara Paltin, Shane Sinenci, and Yukilei Sugimura,

We are pleased to present you with this petition affirming this statement:

**"The self-described "Dinosaurs" of Maui's Corporation Counsel are a team of litigators led by Moana Lutey who have been around long enough to be professionally compromised while serving past Mayors Alan Arakawa and James Apana.**

**By their dirty acts over the years, these lawyers are now so personally and professionally conflicted that they can no longer possibly serve the public's best interest.**

**We citizens call for an investigation into Racketeering by these "Dinosaurs" and, at the very least, demand their removal from Maui's Office of Corporation Counsel. "**

Attached is a list of individuals who have added their names to this petition, as well as additional comments written by the petition signers themselves.

Sincerely,  
Maui Causes



Maui County is a billion-dollar pawn being played by companies who profit by polluting, AKA "The Pollution Industry."

The world will never forgive or forget that Maui's Sewage, partially treated and injected into underground wells, is what gave Trump's deregulation-frenzied Supreme Court the opportunity to rule against EPA permits for all Injection Wells and cripple the Clean Water Act.

We can stop this by ridding Maui's Corporation Counsel of the "Dinosaurs". That's the self-chosen name of the team of litigators led by Moana Lutey who have been around long enough to be professionally compromised while serving past Mayors Alan Arakawa and James Apana.

By their dirty acts over the years, these lawyers are now so personally conflicted that they can no longer possibly serve the public's best interest.

Moana Lutey and Maui's "Dinosaur Lawyers":

- \* Inserted language into the Injection Well resolution that would give the Lawyers final say over county policy, robbing authority from both the Mayor and the County Council, in violation of legal norms, the County Charter and Rules for lawyers in Hawaii.
- \* Are actively blocking enforcement of SMA Permits that protect our shoreline, in violation of the U.S. Coastal Zone Management Act.
- \* Wrote secret developer agreements from 1974 to 2007 in order to shift financial burdens onto residents and is still blocking collection of over \$100 million from developers by withholding and falsifying public records.
- \* Secretly violated the intent of the Council in 2015 in order to create a new way to shift financial burdens from developers to residents.
- \* Are actively concealing government liens which have been unlawfully placed on private properties in the County of Maui.
- \* Manufactured a fake RE tax to use as a weapon against a timeshare group.
- \* Are obstructing investigations into several instances of County fraud by lying to both the County Council and Mayor Victorino and have harmed and defamed private resident citizens who have exposed the County corruption.
- \* Are wasting millions for our tax dollars to take the Lahaina Injection Well case to the Supreme Court regardless that such regulatory changes belong in the legislature, not the courts, and many millions more in a series of frivolous litigations.

As citizens, our voices were significant contributing factors to the recent removal of bad actors such as David Goode, William Spence, J.D. Kim and especially Patrick Wong, who as Director of Corporation Counsel was overseeing the ongoing coverup of illegal acts by others in the County.

The "Dinosaurs" were all trained and compromised by Mr. Wong and are today actively continuing on with his legacy. If we continue to allow Maui's Corporation Counsel to be run by these Litigating Bullies tied to long-standing big money interests, the Maui we are so fortunate to know and love will never survive.

What a foul legacy the corrupt "Dinosaurs" of Maui's Corporation Counsel are dumping on us.

We need to flush them out.

Maui's Director of Corporation Counsel must not be yet another Local Litigator with strong ties to local special interests.

Maui needs the breath of fresh air that can only come from a Director of Corporation Counsel who is a Skilled Negotiator with Mainland Experience.

Follow this link to read and download a formal Request for Investigation distributed by local activist Christopher Fishkin.

<https://www.dropbox.com/s/vq53vnlx2xubxf/letter%20for%20Crim%20Inv.pdf?dl=0>

first_name	last_name	city	state	country	zip	comment
Steven	Foman	Paia	HI	United States	96779	
Paz	Padilla	Kihai	HI	United States	96753	
Susan	Dis	Lahaina	HI	United States	96761	Investigate, expose, and remove , please, before Maui--is ecology and quality of life are destroyed by profiteering.
Marc	Takaha	Kihai	HI	United States	96753	This is the SECOND time (SHAKA Monsanto moratorium) that the people's voice has been ignored and overridden. I small corporate corruption.
John	and Christel B	Hana	HI	United States	96713	Onipa'a !!
Any	watson	Hana	HI	United States	96713	
Ann	Johnson	Kihai	HI	United States	96753	
And	Takamono	Kihai	HI	United States	96753	feels like the Monsanto vote all over again
Kathleen	MacIsaac	Haku	HI	United States	96708	
Marie	Louise der kinderen	Haku	HI	United States	96708	
ShakirahPereira	ShakirahPereira	Makawao	HI	United States	96768	
Charlene	Yoshimura	Kahului	HI	United States	96733	Stop the dirty back room deals. Keep Maui a beautiful place to live or visit.
Jane	Sperr	Haku	HI	United States	96708	
Rosemary	Robinson	Haku	HI	United States	96708	
Bobbie	Best	Wailuku	HI	United States	96793	
Robin	Knox	Kihai	HI	United States	96753	There have been too many irregularities, too many decisions that do not serve the will of the elected council or the people of mMaui County, and too little accountability and transparency
Virginia	Christ	Houston	TX	United States	77077	
Bonnie	Newman	Houston	TX	United States	96753	
Joseph	Johnston	Houston	TX	United States	96753	
Joseph	Johnston	Houston	TX	United States	96753	
Susan	Douglas	Honokaa	HI	United States	96727	#ResistFascism www.WeAreOne.cc
C	Melior	Honokaa	HI	United States	96727	
Kelly	Jenkins	Lahaina	HI	United States	96761	
tassy	tassy	Lahaina	HI	United States	96761	
BEVERLY	WRIGHT	San Carlos	CA	United States	94070	
Cayce	Richardson	Makawao	HI	United States	96768	We live in a democracy not a dictatorship the environment should be the number one thing in Hawaii as that--is how they make all their money on tourism The ocean must be protected from injection wells and the Electro
Lisa	Cubeiro	Stafford Town	NY	United States	8050	
Rick	Ten Eyck	Borroero Sprin	CA	United States	92004	Do the right thing with transparency. Unfortunately, Maui is on a slippery slope downward with developing challenges similar to Oahu. Don--it support --paradise lost --i mahalo
Christopher	Harris	Borroero Sprin	CA	United States	92004	
JA	Wilson	Oregon City	OR	United States	97045-7330	
Shirri	Kalman	Abiquaqueque	NM	United States	87139	Sickened by the continuous Theft and Disregard of Indigenous Peoples Lands And Rights To Sacred Places! This Needs To Stop Now! On This Indigenous Peoples Day! Thank You--
Francis	William	Englewood	IL	United States	60515	
Francis	William	Englewood	IL	United States	60515	
Elizabeth	Vessel	Warner's Grov	IL	United States	83860	
Frances	Salvato	Warner's Grov	IL	United States	83860	
Debra	Smith	Pukalani	HI	United States	96768	
Barbara	Geary	Kihai	HI	United States	96753	
Cyrus	Mead	Kamuela	HI	United States	96743	
Ryvette	Keen	Wailuku	HI	United States	96793	Enough is enough. Conflicts of interest are not good for the people, our water, or our land.
James	Abner	Scottsdale	AZ	United States	85257	
Brett	Gobar	pala	HI	United States	96779	mayor/mike and corp council, as well as others in the County and State need to hear that the people dont want more development in Hawaii; we want better quality of life, water, traffic... rise up ! Brett Gobar BS Water Qi
John	McCollum	Kula	HI	United States	96790	
Berry	Miller	Wailuku	HI	United States	96793	
Michelle	Spire	Wailuku	HI	United States	96793	
Paula	Nickles	Wailuku	HI	United States	96708	
William	Douglas	Haku	HI	United States	96708	
Lisa	Overy	Kihai	HI	United States	96753	
Laila	Johnson	Wailuku	HI	United States	96793	
Laura	P.	Kula	HI	United States	96790	
Barbara	Mattson	Kihai	HI	United States	96753	
Michael	LaFleur	Makawao	HI	United States	96768	
Chris	Cayton	Honolulu	HI	United States	96819	
Susan	Campbell	Haku	HI	United States	96708	Nuff already
Millera	Kari	Wailuku	HI	United States	96732	
Michelle	Temple	Kahului	HI	United States	96732	
Sandra	Wesson	Kahului	HI	United States	83854	
Chris	Scholl	Post Falls	ID	United States	7253	
Michael	Daddario	Nearuane City	NY	United States	96779	
Anson	pakaki	Paia	HI	United States	96790	
Lori	F.	Kahului	HI	United States	96733	
Elisa	Plauche	Haku	HI	United States	96733	
Patty	Davis	Haku	HI	United States	96708	
Pam	Palencia	Haku	HI	United States	96708	
Kathy	Fujimoto	Kihai	HI	United States	96753	
Paul	Gullen	manhattan Be	CA	United States	90266	Remove all criminals
Ronda	Gallemore	Kaunakakai	HI	United States	96748	
Christina	Waves	Wailuku	HI	United States	96793	Drain the swamp! Get them out!
Patricia	Gardner	Wailuku	HI	United States	96793	
Patricia	Gardner	Wailuku	HI	United States	96793	
Tara	Grace	Haku	HI	United States	96708	
Tom	Calhoun	Makawao	HI	United States	96768	Nuff Already, after the pat wong years, the public has zero tolerance now, and already signs of corruption is showing and that is the word on the streets of Maui by folks in the know.
Brenda	Chol	Las Vegas	NV	United States	89121	
Charlotte	Obrien	Haku	HI	United States	96708	This is terrible. We must stop this from happening!
Trudy	Soo	Kula	HI	United States	96768	Nuff Already, after the pat wong years, the public has zero tolerance now, and already signs of corruption is showing and that is the word on the streets of Maui by folks in the know.
Fiona	Nash	Kihai	HI	United States	96753	
Tamra	soo	Kula	HI	United States	96790	
Don	Cianelli	Newtown Squ	PA	United States	19073	
Vinayak	Vinayak	Kihai	HI	United States	96753	
Michelle	Wiley	Kula	HI	United States	96753	
Michelle	Wiley	Kula	HI	United States	96753	
Smith	smith	Kula	HI	United States	96753	
Tamira	Callender	Pukalani	HI	United States	96788	
Carry	Carry	Wailuku	HI	United States	96793	

Bond	Rowe	Lahaina	HI	United States	96761	
Jimmy	Quitan	Kihai	HI	United States	96753	They have stole and cheated the people of Maui long enough. Send them to jail
John	Hanhauser	Kihai	HI	United States	96753	
Marlene	Depliere	Haiku	HI	United States	96708	everyone is accountable for their actions
Michelle	Walkiki	Haiku	HI	United States	96708	
Kelna	Morales	Kihe	HI	United States	96753	
Lisa	Evonov	Kihai	HI	United States	96753	
Syvia	Stinefield	Kahului	HI	United States	96732	The elected County Council represents the people, and the Corporation Counsel must serve in honor of our Council and the people's wishes.
Kathleen	Sheahan	Kihai	HI	United States	96753	
Gayle	Shufeldt	Lahaina	HI	United States	96768	
Candice	Pacheco	Makawao	HI	United States	96753-9117	
Lauri	Laureano	Kihai	HI	United States	96779	
Manon	Prette	Paia	HI	United States	96708	
George	Chyz	Haiku	HI	United States	96753	
Megan	sussman	Kihai	HI	United States	96708	
Suzanne	Powers	Haiku	HI	United States	96755	
Kim	Villeneuve	KAPAAU	HI	United States	89138	
Isabeth	Smith	Jas.Vegas	NV	United States	96708	
Colleen	Herthim	Haiku	HI	United States	96708	I have been oppressed in Maui County since 1994.
Robert	Lisowski	Haiku	HI	United States	96788	
Joan	Pakalani	Pakalani	HI	United States	96788	
Beth	Clapper	Haiku	HI	United States	96761	
HARLOW	TODARO	Lahaina	HI	United States	96708	
Nala	Nai 'a NEWLIC	HAIKU	HI	United States	96708	
Ashley	Stewart	Kihai	HI	United States	96753	
Pam	Slowick	Fairfield	IA	United States	525556	Lets clean up our crooked corporate counsel in Maui.
Roma	Carlisle	Makawao	HI	United States	96768	
Jeff	Munoz	Kula	HI	United States	96790	
Annette	JP Schmidt	Kihai	HI	United States	96753	
Howard	Fenzler	Lahaina	HI	United States	96771	
Bob	Ward	Kula	HI	United States	96790-8042	
Vaughn	Paul Manley	Makawao	HI	United States	96768	
Diana	George	Waialuku	HI	United States	96793	
Myles	Saputo	Haiku	HI	United States	96708-5027	
Linda	Linda	Haiku	HI	United States	96708	
Maja	Daniels	Haiku	HI	United States	96708	
Sulara	James	Wailea	HI	United States	96753	
Frazier	Barr	Makawao	HI	United States	96768	
Phoebe	bodkin					
Zoe	Alexander	Haiku	HI	United States	96708	
Paul	Riske	Makawao	HI	United States	96768	
Harold	Ward	Lahaina	HI	United States	96779	
James	Bloomfield, M	Paia	HI	United States	96708	so sick of the Law-Makers being (good 'ol) law breakers
Janet	Marcus	Haiku	HI	United States	96753	
Jane	Russomanno	Kihai	HI	United States	96761	
Isadora	Sicking	Lahaina	HI	United States	96793	
Robert	Boeckman	Waialuku	HI	United States	96761	
Laura	bode	Lahaina	HI	United States	96708-0140	
Eric	Balzer	Haiku	HI	United States	96753	
Nija	Rosamond	Kihai	HI	United States	94010	
Warren	Flake	Burlingame	CA	United States	96732	
Renée	Miller	Kahului	HI	United States	94507	
Kenneth	Kelleiter	Ahimo	CA	United States	96788	For Justice!
Elsa	Nguyen					
Ray C	stark	pukalani	HI	United States		
Robert	Friedlander					
Leisha	Boyle	Paia	HI	United States	96779	
George	Kula		HI	United States	96790	
Laurent	Carlson	Kihai	HI	United States	96753	
Kathleen	Zahnd	Makawao	HI	United States	96768	
Maggie	O'Neill	Seattle	WA	United States	98178	
Hilary	Costigan	Haiku	HI	United States	96708	
Melissa	Harty	Makawao	HI	United States	96768	
Patth	Veronica	Hana	HI	United States	96713	
Amel	Chinn	JAHAINA	HI	United States	96761	It is time to expose the dirty acts that Maui has been having to deal with for years and it is affecting our way of life and our future.
Ally	Beal	Waialuku	HI	United States	96708	Details to Come. - Mona Lutey lied to the County Council on several key issues during her recent confirmation hearing. - We call on Mayor Victorino to purge Corporation Counsel of the corrupt few who carry on the dirty c
Ruby	Deusch	Kihai	HI	United States	96753	
Emily	Dzizegiewski					#corruption
John	Coe Jr	Waipahu	HI	United States	96797	
Paul	Solomon	Haiku	HI	United States	96708	
Michael	Di Rosario	Haiku	HI	United States	96708-5367	
Elise	thompson					
Cecilia	Reilly	Haiku	HI	United States	96708	
Heidi	Denecke	Lahaina	HI	United States	96761	
Adam	Hicks	Makawao	HI	United States	96768	
Stephanie	Edgiff	Waialuku	HI	United States	96768	
Christopher	Winkler	Waialuku	HI	United States	93022	I called two of these attorneys' the most corrupt government attorneys' for their covering-up unlawful acts by their own department. These attorneys have obstructed investigations by the County.
Maria	Walters	Opa	CA	United States	96753	
Bryan	Fononga	Kihai	HI	United States	96768	
Donelson	smith	Makawao	HI	United States	96768	
	Campbell	Cleveland	CA	United States	30528	

Kecia Victoria	Joy	Kihel	HI	United States	96753	We the people are rising and the greed and profits at the expense of the environment is coming to an end. Watch and see...
Elizabeth Wood	Victoria Wood	Kihel	HI	United States	96753	Stop the madness!
Berry	Fald	Paia	HI	United States	96779	This is MY ISLAND. Stop bad people from doing more bad things...
Georgia	pinsky	Makawao	HI	United States	96778	It is shameful that Maui has a chance to be a world leader in pioneering environmental protection and yet will be known for enabling trump to gut the clean water act
Paul	kuykendall	Panoa	HI	USA	96761	It is shameful that Maui has a chance to be a world leader in pioneering environmental protection and yet will be known for enabling trump to gut the clean water act
Jeremy	Leven	LAHAINA	HI	United States	96753	
Michael	Olman	United States	HI	United States	96768	
Maia	Chapman	Makawao	HI	United States	96753	
Jayla	Byers	Kihel	HI	United States	96793-2668	
Lynda	Barry	Wailuku	HI	United States	96768	
Solomon	Sikirdji	Makawao	HI	United States	96749	
Sandi	Rhodes	Keauou	HI	United States	96746	Lahaina is right on the coast. I can't imagine this treated waste NOT getting into the ocean. This needs to be investigated.
Christine	Queen	Kapa'a	HI	United States	96753	
Nancy	Silva	Kihel	HI	United States	96768	
Priscilla	Carmichael	Makawao	HI	United States	96768	We need new leadership and these old council have illegally acted against the needs of Maui.
Piet	Vanderhorst	Wailuku	HI	United States	96779	Drastic change is needed in Corporation Counsel team. Investigation into current regime is needed NOW
John	Schwartz	Wailuku	HI	United States	96753	Please cleanup the water treatment methods so that our oceans are clean!
Jason	Gelert	Kihel	HI	United States	96779	Stop this madness!
Eric	Rebody	Hilo	HI	United States	96779	
Brian	Hamby	Paia	HI	United States	96708	
Doreane	Alan	Hauku	HI	United States	96708	
Bonniestar	Bonniestar	marsh	HI	United States	96779	
Olaf	Behrendt	Paia	HI	United States	96708	
Kalei	Engel	Hauku	HI	United States	96779	
Ember	Behrendt	PAIA	HI	United States	96779	
Laurie	Mann	Lahaina	HI	United States	96761	
George	Peabody	Kaunakakai	HI	United States	96748	MAGA. Drain the local swamp!
Iauri	Iauneano	Kihel	HI	United States	96753-9117	
Desanna	Summers	Kihel	Pa	United States	96753	
Phillip	Yoss	Paia	HI	United States	96748	
Brent	Shabans	Kaunakakai	HI	United States	96753	
Ragan	Ragan	Kihel	HI	United States	96790	I am in Honor who Represents the National Sovereign of the United States of America the Native American Church of the Ghost Dancers 501c3 am a Secure Party the Creditor who is the Age of the Majority I Support Love
Lucrazia	Oddie	Hauku	HI	United States	96708	Do a quest article in Hawaii Civil Beat. This is much bigger and deeper than the Kealoaha Corruption trial in Honolulu.
Steve	Pasek	Paia	HI	United States	96779	Do a quest article in Hawaii Civil Beat. This is much bigger and deeper than the Kealoaha Corruption trial in Honolulu.
Alicia	Jacobson	Hauku	HI	United States	96708-1473	
Gwendolyn	Etessami	Kihel	HI	United States	96708	
rod	windle	Hauku	HI	United States	96753	
Dennis	Schuster	Kula	HI	United States	96790	In a time when national politics is thouroughly corrupt. We must do everything possible to stop corruption here at home, in our Maui County.
Hope	Hope	Wailuku	HI	United States	96793	Thank you
Valerie	Jasick	Smith	HI	United States	96773	Serious allegations require serious attention. Leadership is a privilege of service to community. Shameful is the act of corruption within an office of public service.
Annell	Henry	Kula	HI	United States	96790	
Annell	Annell	Kula	HI	United States	96790	
Frances	Johanna Sakra	Kaunakakai	HI	United States	96793	
Kamiloa	Kamaunu	Wailuku	HI	United States	96825	
Miranda	Gastel	Makawao	HI	United States	92869	
Valarie	Honn	Orange	CA	United States	96779	
Paul	Carter	paia	HI	United States	96753	
Lenore	Brozen	Kihel	HI	United States	96768	
John	Morey	Makawao	HI	United States	96761	
Delaney	De La Barra	Lahaina	HI	United States	96753	
Bob	Dalle	Kihel	HI	United States	96753	
Bonnie	Newman	Kihel	HI	United States	96753	
Teressa	Wessar	Wailuku	HI	United States	96753	
Cori	Wessar	Kihel	HI	United States	96779	
Elizabeth	Leavigs	Paia	HI	United States	96748	Stop the Fraud and Corruption
Paul	Gulfan	Kaunakakai	HI	United States	96732	This kind of corruption needs to stop
Curtis	Pang	Kahului	HI	United States	96743	
MJ	Duberstein	Kihel	HI	United States	96708	It is far beyond time for a change! To have people who will act in the best interests of the population, not themselves and their cronies!
Adam	Gould	Haiku	HI	United States	96753	
Stefan	Malcek, Ph.D	Kihel	HI	United States	96793	
Valerie	Clark	Wailuku	HI	United States	96753	
John	Gangini	Wailuku	HI	United States	96753	
Sheela	shafar	Kihel	HI	United States	96766	
Jean	Young	Makawao	HI	United States	96790	
Barbara	Barce	Lahaina	HI	United States	96790	
Debra	Wayman	Kula	HI	United States	96708-5658	
Jeff	Wayman	Hauku	HI	United States	96708	We must stop the high level of corruptions in this County which has been the normal operating procedure for too long.
Mark	Morris	Hauku	HI	United States	96722-5312	
Kalani	Kalani	Princeville	HI	United States	96784	
Merion	McHenry	United States	HI	United States	96790	Let's protect the health of the aina before it's gone!!!
Raphiell	Nolin	Puunene	HI	United States	96753	
Eva	Roberts	Kula	HI	United States	96708	
Don	Lax	Kihel	HI	United States	96708	
Lori	Lewis	Hauku	HI	United States	96708	
susan	segel	makawao	HI	United States	96708	
Solitaire	Solitaire	Hauku	HI	United States	96793	Get rid of Moama.
Shelley	Shelley	Wailuku	HI	United States	96768	Details Coming Soon: Moana Lutey lied on several key points to the Maui County Council in her confirmation hearings. We call on Mayor- Victorino to purge Corporation Counsel of the corruption of past administrations be
Carl	Ale Heck	Wailuku	HI	United States	96768	
Maui	Gausas	Makawao	HI	United States	96768	

Friday May 24<sup>th</sup>, 2019

Prosecuting Attorney, Don Guzman  
150 S. High St. Wailuku, HI 96793

Attorney General, Clare E. Connors  
Department of the Attorney General  
425 High St. Honolulu, HI 96813

United States Department of Justice, Michael Wheat  
United States Attorney Office  
Central District of California  
312 North Spring St. Suite 1200  
Los Angeles, California 90012

Re: Request for Criminal Investigation of Acting Corporation Counsel Moana Lutey, Deputy Corporation Counsels' Michael Hopper, Caleb Rowe, Brian Bilberry, Jennifer Oana, and Edward Kushi of The Department of the Corporation Counsel, County of Maui, State of Hawai'i.

Dear Mr Guzman, Ms. Connors, and Mr. Wheat,

This letter is to request the opening of a criminal investigation of the above-mentioned individuals of the Department of the Corporation Counsel, County of Maui. Substantial documentary evidence now clearly shows that the actions of Ms. Lutey and her deputies appear to constitute a criminal conspiracy to cover-up unlawful actions by County Officials on behalf of private developers and their associates.

There has been, and continues to be, an ongoing pattern of deceit and false representations, having been made in court pleadings, by these government attorneys', to the Maui County Council, as well as to Mayor Victorino, regarding the same.

Moreover, public records show that Acting Director Lutey, and the above-named Deputies, have misused their power and privilege with the judiciary, the Council and the Mayor, to intentionally and knowingly withhold county records, obstruct investigations, violate County Ordinances, State Environmental and Federal Law, and intimidate and discredit whistleblowers.

One of the whistleblowers, who has exposed thousands of developer agreements administered unlawfully and in contravention of County Ordinance for years, under the advise and at the direction of the Department of the Corporation Counsel, is presently being unlawfully obstructed in his County employment by Acting Director Moana Lutey and Deputy Corporation Counsel Brian Bilberry. His work with two successive Mayors has exposed multiple layers of fraud which Ms. Lutey continues to conceal. The whistleblower is aiding the County in bringing forth significant recovery through highly credentialed professional consultants; which work Acting Director Lutey and Mr. Bilberry are actively obstructing.

They have been trying to extort a contract from this individual in order to secure his employment with the Mayor's Office, in exchange for him no longer pursuing the enforcement of a private developer's SMA permit obligations, which are in non-compliance, and which enforcement exposes fraud by engineering and land planning firms presently and historically benefiting from contracts with the County of Maui. The Partner of one of these firms is a former Director and Deputy Director of the Department of Public Works for the County of Maui.

In addition to an Affidavit of over 260 pages with 41 Exhibits in support, there is new evidence of the above-mentioned fraud by County Official(s) presently being covered-up and not being acted upon by Ms. Lutey. This includes a false ledger provided by an Engineer in the Department of Planning, which reveals the creation of unlawful government liens on five private properties.

Additionally, In furtherance of covering-up wrong doing by County Officials; Acting Director Lutey wrote a legal memorandum advising the Mayor not to enforce the above-referenced SMA permit, (which is required under the County administration of the Federal Zone Management Act). Ms. Lutey and her deputies have been fully aware and intentionally covered up this developer's non-compliance for years.

Asserted in this letter is also a serious pattern of "abuse of power" which exists and is pervasive within the Department of the Corporation Counsel, and, specifically, has occurred by the above-named individuals. An example of such abuse is evidenced by Acting Director Moana Lutey who recently attempted to appropriate the power of the Maui County Council and the Mayor to themselves i.e. their department, for settlement authorization. This just took place in a case presently before the United States Supreme Court which impacts both Maui County and the mainland United States regarding the Clean Water Act. The legal letter by the Department of the Corporation Counsel was clearly and flagrantly written in contravention of legal norms, powers, and rules represented in both the Maui County Charter and the Hawaii Rules of Professional Responsibility as adopted by the Hawaii State Supreme Court.

Due to exposure and intense pressure and scrutiny which occurred in public testimony before the Maui County Council on May 20<sup>th</sup>, 2019, the Department of the Corporation Counsel was compelled to remove the unlawful and unprecedented language included in the proposed authorization for settlement. This attempt to appropriate power and the subsequent removal of said language, is characteristic of the behavior demonstrated by these above-named individual government attorneys.

I assert that there is pattern and practice of both allegedly unlawful and unethical behavior, existing under both Patrick Wong, Ms. Lutey's predecessor, and now continues unabated and with fresh vigor under Acting Director Moana Lutey.

There is a plethora of documentary evidence, in support of the above allegations, justifying this request for investigation.

The citizens of Maui County deserve a transparent government which has law abiding and ethical government attorneys who serve the public interest with integrity. The Department of the Corporation Counsel claim both the Maui County Council and the Mayor as their clients. The record shows that Acting Director Moana Lutey and the deputies named herein, have been, and continue to be involved in

a criminal conspiracy which defrauds the County and its taxpaying residents. These government attorneys' facilitate and then cover-up their own and other County Officials' unlawful acts, to the benefit of private developers and their associates.

The health and well-being of a County government in the second wealthiest island in Hawai'i, and one of the top tourist destination spots in the world, require a thorough investigation into these well documented allegations of unlawful and unethical acts and criminal conspiracy by the Acting Director, Moana Lutey of the department of the Corporation Counsel and the numerous deputies named above.

It should be noted that I, too, have also been made a victim of Ms. Lutey, Mr. Bilberry and Mr. Rowe's abuse of power and intimidation in seeking to expose this corruption.

Public Records in evidentiary support will be made available to law enforcement and the Hawaii Supreme Court upon request.

Thank you for your immediate attention to this matter.

Sincerely,



Christopher P. Fishkin

Founder

Maui Citizens for Clean Government

cc. Chief Justice Mark E. Recktenwald, Hawaii Supreme Court



Affidavit of Samuel A. Small Oct 1, 2018

I, Samuel A. Small, state as follows;

1. I have been a full-time resident of the County of Maui, State of Hawaii since 2005.
2. My involvement with media technology began in the early 1970's. I have BA in Speech Communication (with a minor in Broadcasting) from Penn State and ran a Media Production Company in NYC for nearly 30 years, producing commercials and documentaries.
3. As both a Creative and Technical Director, I served for 8 years as Vice President of Broadcast Production Services for Prudential Financial.
4. Here on Maui, I chaired the Media Content & Production Committee for the SHAKA Movement's 2014 electoral win of the GM Moratorium with opposition from a \$12 Million media blitz waged by Monsanto.
5. I am currently principally engaged in the design and implementation of complex online marketing and media delivery platforms for a variety of advanced educational products.
6. I am the independent producer and host of Maui Causes, a weekly, local issues driven interview TV show that airs both online and on Akaku's Ch 55 (Mondays & Sundays at 7PM and 7AM)
7. For the past three years I have been doing research for a documentary film on the contributing factors of Maui's shoreline degradation and have documented the unethical mismanagement of Maui County's administration of subdivision deferral agreements that allow private developers to shift their financial burdens for roadway infrastructure improvements onto the public, as well as SMA Permit application fraud that allow many of the same private developers to circumvent environmental protections and public oversight mandated by the Federal Coastal Zone Management Act.
8. I was recently invited to make a presentation of some of my research to the Maui County Council's Infrastructure and Environment Committee by Committee Chair Elle Cochran, whose staff fact-checked it. The video of the presentation can be viewed at

<https://maucauses.org/maui-causes-show-64/>. (1) See Infrastructure Presentation PDF PG 1 - 46

### **Unaccounted for and Uncollected Upon 3-Lot-or-Less Infrastructure Deferral Agreements**

9. From the 2013 *Maui Time Weekly* cover story I learned about the County of Maui Department of Public Works mismanagement of thousands of untracked, unaccounted for, and uncollected upon developer agreements, authored by the Department of Corporation Counsel since 1974.. (2) See [Maui Time Weekly PDF PG 47 - 51](#)

10. Christopher Salem, who is widely quoted in Maui Time Weekly's reporting, has an extensive resume in land planning, residential and commercial development, and general contracting of multifamily, entry-level residential housing. In 2011, Mr. Salem's expertise in the permit and planning process earned him a position with Maui County as Executive Assistant to County Council Member Sol Kaho'ohalahala, the Chair of Planning Committee, specifically to advise the County on how to effectively resolve these mismanaged developer deferral agreements.

11. Previously, former County Council Member JoAnne Johnson-Winer worked alongside Mr. Salem for over a decade and recounted her discoveries in an affidavit she submitted in public hearings, which included a scathing account of procedural abuse by public officials and county attorneys. Johnson-Winer testified: "I can see how the " three parcel or less" County subdivision ordinance, originally intended to assist local families wanting to divide relatively small, family land parcels by "deferring" the expensive cost of frontage roadway improvements, drainage infrastructure, and utility relocation, has been exploited by public officials for decades."

(3) See [Affidavit of JoAnne Johnson-Winer PDF PG 52 - 64](#)

### **Good Intentions, Intentionally Abused:**

12. By County ordinance, the "onetime deferral" of roadway infrastructure cost was limited to small subdivisions, containing "3 lots or less". The subdivision agreements, drafted by County attorneys, required landowners to pay the County their "fair share" of infrastructure costs, at a future date, when the

County of Maui initiated a roadway Capital Improvement Project along the subdivision's frontage. (4) [See Sample Deferral Agreement PDF PG 65 - 70](#)

13. Council testimony, newspaper articles, and public records reveal how County attorneys never tracked these developer agreements and literally let them pile up in storage closets and warehouses. Now uncovered and cataloged, these public records show how extensively this ordinance has been manipulated by select private developers, apparently assisted by certain well-placed licensed professionals, public officials, and County attorneys.

The lack of any tracking mechanism for these "one time" deferrals allowed it to go unnoticed, and the records now show for decades that two or three layers of additional deferrals have been re-applied inappropriately to the same parent properties and developments, in clear violation of the adopted County Ordinance. The increased, and unlawful additional burden on taxpayers, has yet to be assessed or calculated. (5) [See Maui Time Weekly "Deferral Article" PDF PG 71](#)

14. Because the agreements were not monitored, developers were never assessed their fair share, even when the County did initiate and complete roadway Capital Improvement Project along their frontage. On CIPs performed, with State, County, and Federal funds, the taxpayers ended up paying for 100% of the developer's infrastructure financial obligations.

(6) [See List of Deferral Agreements PDF PG 72 - 79](#)

15. Even after this was all made public in 2001, County officials continued to write the potentially defective agreements, facilitating private developers intentional shifting of their financial burdens onto the backs of Maui taxpayers to an amount totaling, perhaps, hundreds of millions of dollars.

16. In her affidavit, Council Member Johnson-Winer expresses concern that the County's budget process is compromised because it has never included any accounting of the deferred development infrastructure costs that are owed to the County. It is a clear violation of the Maui County Charter by

public officials and the Department of Finance to not include an accounting of the monies owed which are categorized as anticipated revenues to offset County expenditures.

17. In her affidavit Council Member Johnson-Winer also expresses concern that ordinances, like #3731, which she introduced and saw legally enacted into law, are being actively circumvented by the Department of Public Works and the attorneys within the Department of Corporation Counsel.

**Attempts to remediate stonewalled:**

18. I have reviewed a series of letters between Councilmember Ellie Cochran and Public Works Director David Goode starting in January of 2012. Councilmember Cochran increasingly presses Public Works for details on the number of deferral agreements that exist and their potential value to the County if collected because, "These deferral agreements represent a major revenue that is continuously overlooked each year".

**(7) See Councilmember Cochran Letters to Public Works Director Goode PDF PG 80**

19. The interchange ends with a response on June 4, 2012, not from Public Works but rather directly from the Mayor's office, signed by the Mayor Arakawa, with Director Goode stating that "After our meeting with our Corporation Counsel on this issue, we are unable to respond at this time on the matter as we are 1) researching the applicability of certain agreements on the ability to seek compensation, and 2) working out a formula for compensation on certain agreements. Rest assured we (Departments of Public Works and Corporation Counsel) are actively working on this issue... " It is now six years later and still Public Works and Corporation Counsel have not disclosed to the Maui County Council or the public which "certain agreements" they were researching on the ability to seek compensation and which "certain agreements" they were working out a formula for compensation. **(8) See Director Goode Letter to Cochran signed by Mayor Arakawa PDF PG 81 - 82**

### **Avoidance and Unsupported Claims:**

20. On March 22, 2014 David Goode publically set the stage for the County's inaction by writing a Viewpoint for the Maui News. Director Goode expresses what County Ordinance 18.20.040, in effect from the 1970's up to 2007, **REQUIRES** of subdividers: "If the subdivider elected to defer the improvements, he/she would be **required** to compensate the County of Maui for the cost of the improvements when performed by the County. To ensure that this was done, the subdivider was **required** to enter into an agreement to compensate the County for the improvements when performed"

Later in the same editorial, Director Goode completely misrepresents the same ordinance and casts uncertainty upon the "requirements" of the subdividers when he ignores the consistent use in the language of the ordinance of the word "shall" by stating "As explained, the agreements state that if and when the County of Maui does a Capital Improvement Project along a roadway fronting a property that has one of these agreements recorded against it, the County **may** recover the costs of doing those improvements that were specifically deferred." The actual ordinance never once includes the word "**may**", only the word "**shall**" is used. (9) See [Maui News Viewpoint Article PDF PG 83 - 84](#)

21. The Subdivision ordinance clearly states that deferrals are to be a one time event: "The land so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels." However in public testimony to the Budget and Finance Committee on April 19, 2012, Director Goode admits that the ordinance has been violated repeatedly, "some deferral agreements, three lots, had another future three lot and a future three lot, so it got subdivided again and again, had different deferrals." It is questionable as to whether the County could ever collect on a "one time" deferral agreement that was applied over and over again to the same original parcel by developers and County officials, in violation of the adopted ordinance. Anyone purchasing a property with one of these overlapping encumbrances on its title, would be wise to retain legal counsel to dispute any attempt by the county to collect upon the original developer's outstanding subdivision obligations which transfer with the title. (10) See [Council Minutes – Director Goode Admission PDF PG 85 - 86](#)

22. In his 2014 "Viewpoint" printed in the Maui News, Director Goode made an official statement on behalf of the County of Maui that: "The Department of Public Works is currently enforcing the agreements per their express terms." And, "They are agreements, plain and simple, and the County is abiding by them." Factually, in violation of the adopted County ordinance, the Department of Public Works has never collected on any of these thousands of deferral agreements, even when infrastructure projects were completed that clearly should have triggered a collection.

**Circumventing Environmental and Zoning Laws Through Fraud and Abuse of Power:**

23. Unfortunately, uncovered breaches of public trust do not end with the unaccounted for developer agreements. Public records and testimony also reveal that private developers and their licensed consultants are actively circumventing environmental laws adopted by Maui County under the Planning Commission rules and procedures, involving the preservation of Shoreline Management Areas.

24. The 2010 study of the State of Hawaii Coastal Zone Management Program conducted by the National Oceanic and Atmospheric Administration (NOAA) shows that compliance with and enforcement of SMA Permits has been, and remains, an issue. [\(11\) See NOAA Study PDF PG 87 - 133](#)

25. The lack of action on the part of the County to remediate the existing ordinances and Planning Department procedures to stop this known exploitation makes the County vulnerable to the same kind of federal prosecution that we suffered over the County's persistent and illegal use of injection wells.

**Current Example of Circumvention and Manipulation of Shoreline Management Rules and Laws**

26. This long-standing systemic pattern of manipulation raises questions on the veracity of recent statements and filings made by the attorneys of the Department of Corporation Counsel and Planning Director William Spence.

27. I have reviewed the Freedom of Information Act RFS request for public records for 16-0001392 received 11/28/16 by the Maui County Department of Planning where Mr. Salem requests, not for the first time, the “public record of the date of final acceptance and closure of SMA Permit #SM2 2000/0042” for a developer’s oceanfront subdivision in West Maui. (12) See Public Records RFS Request – SMA Permit Final Acceptance PDF PG 134 - 135

28. The public records provide conclusive evidence that the developer’s SMA Permit was never closed, is indeed currently expired, and that the developer’s infrastructure and environmental mitigation conditions remain unfulfilled.

29. Through actions triggered by a concerned citizen, the developers of Olowalu were found to be in violation of their SMA Major Permit, almost ten years after the permit was issued by the Department of Planning. Despite the fact the developer’s infrastructure and environmental mitigation conditions were left unfulfilled, the Director of Public Works signed off on that massive subdivision.

30. It is noteworthy that many of the licensed professional consultants and public officials at Olowalu are the same as in the SMA Permit #SM2 2000/0042.

(13) See Olowalu Notice of Non Compliance PDF PG 136 - 148

**The Foundational Role of a Municipality’s Administration and Recordkeeping of Permits:**

31. Tracking and keeping records of all types of issued permits is a foundational duty for all municipalities to insure that commercial and residential developments, roadway infrastructure, environmental protection, and public facilities have passed the necessary steps to ensure both public safety and the underwriting of real property mortgages and insurance coverage. Just as a Birth Certificate substantiates an individual’s existence, rights and credit worthiness, so does a Certificate of Occupancy substantiate a structure.

32. Given the importance of such record keeping, the response from the Corporation Counsel attorneys to Mr. Salem's public record request, that no "SMA Permit tracking record exists" and that the County has "no affirmative obligation to maintain records", would leave any citizen with no choice but to file a complaint for access to public records in the Second Circuit Court for the State of Hawaii.

33. In response to Mr. Salem's FOIA request for RFS 16-0001392 dated 1/9/17, attorney Brian Bilberry, Maui County Deputy Corporation Counsel, states "the Department of Planning has advised that there are no documents which would constitute "public records of the date of final acceptance and closure of SMA permit #SM2 2000/(0)042". (14) See Corporation Counsel Attorney Bilberry "No Records" exist response. PDF PG 149

34. In the declaration that Planning Director Will Spence made in response to Salem's request for a determination on the status of permit #SM2 2000/0042, Spence echos Bilberry's assertion that there are no "public records of the date of final acceptance and closure of SMA permit #SM2 2000/042" but then goes on to state that "It is my belief that SM2 2000/0042 was closed when the approval was issued on June 6, 2000 via letter to Hugh Farrington." Spence's declaration is flawed in two ways: First, the unique role of a Director is to make legally binding determinations of fact, not to express his personal "beliefs" on matters of County permit compliance records. Second, it is impossible for a development permit, which as a condition requires construction that has not yet been performed, to be signed off and "closed" on the same day that *the application* for that permit was approved. (15) See Declaration of Planning Director Spence PDF PG 150 - 154

35. The 6/23/200 preliminary subdivision acceptance letter to Farrington clearly states "**Condition 15. Of Preliminary Subdivision Approval:** Comply with the conditions of the SMA Minor Permit (SM22000/0042) granted on June 6, 2000. Note: Upon approval of Construction Plans, the sub divider should verify if a SMA Major Permit is required." That forward looking statement also precludes the



Director's "same day" declaration. (16) See Farrington SMA Permit acceptance 6/6/2000 And Preliminary Subdivision letter 6/23/2000 PDF PG 155 - 162

36. Clearly, when a SMA permit requires plans to be approved for the construction of roadway infrastructure and drainage mitigations, a permit cannot be closed on the same day it is issued. For a SMA permit to be closed someone with sufficient authority had to sign off on it and for the County to persist in its business there must exist a record of who had that authority and when they signed. If Bilberry's contention is true, that no public records of the sign off exist, it could only be because, as Mr. Salem contends, the developer SMA permit was indeed never satisfied and never closed. Spence's absurd "belief" draws questions of what the Director is trying to cover up.

37. Mr. Salem shared with me a copy of the Permit Summary for SMA Permit SM2 2000/0042, which I understand was recently provided to him by an executive assistant to Council Member Kelly King, the Chair of Planning for the Maui County Council. (17) County Records – SMA Permit Summary sm2 2000 0042 PDF PG 163

38. Although the SMA Permit Summary does not include all of the underlying permit application documents, such as the engineer's stamped Order of Magnitude estimate, it is a public document that is clearly responsive to Mr. Salem's repeated requests for all documents related to SMA Permit SM2 2000/0042t. Why didn't Public Works or Bilberry ever deliver to Mr. Salem at least the permit summary?

39. Mr. Salem also shared the Permit Summary copy with the State of Hawaii Office of Information Practices and they apparently agreed. I read in a letter dated August 17, 2017 from the staff attorney of the OIP to the effect that the County attorneys should have provided that Permit Summary in their response to Mr. Salem's RFS request made in 2016. Instead, the County attorneys repeatedly claimed the record "simply does not exist".

(18) See Letter from OIP Staff Attorney 8/16/17 & 10/3/17 PDF PG 164

40. Being computer savvy, a requirement of my profession, I figured I was a good candidate to dive into the County's online information systems, Kiva-net and Accel GIS, to try to obtain a clean copy of the Permit Summary for SMA Permit SM2 2000/0042 and see what else might be there that Corporation Counsel claims does not exist.

41. I found that the online databases of Permit tracking records maintained by the County of Maui are quite extensive. At the same time, the records are very difficult to access. Some functions work only on certain web browsers. Most of the search parameters don't work at all. The system requires you to enter information in just the right way to get anywhere. Mostly it's about 0s and dashes. Sometimes it wants them, sometime not. But then, once you figure out the right way to enter a query, it responds.

42. It took me a solid day and a half to back into the system using a third party map utility to identify TMK's and three different browsers to find the different expressions of the same SMA and subdivision permit tracking public records that are indeed actively maintained in the County's systems.

43. It didn't help that they changed the physical addresses of several of the properties I was researching. Overall I found that once you are able to access at least one piece of the information you are looking for, the system does contain a wide variety of interconnected Permit tracking cross-links to an extraordinary amount of related, detailed and useful permit data.

44. Ultimately, I did discover even more maintained public records that should have been delivered to Mr. Salem by the Planning Department, in the form of the two attached separate SMA Permit Summaries for #SM2 2000/0042. (19) See County Records – SMA Permit Summaries PDF PG 165

45. On Kivanet at;

<http://kivanet10g.co.maui.hi.us/kivanet/2/permit/summary/index.cfm?pid=281293&jur=MAUI> and on ACCELA GIS, at <http://agis10g.co.maui.hi.us:8080/agis/map/PermitData.jsp?CAP=CAP3>

46. (ACCELA GIS is difficult to access via the hotlink above. However it can be reached by clicking on the blue “GIS Parcel” link on the Kivanet page and clicking on the small “Permit Info” tab on the bottom left)

47. Searching through the other permits listed for TMK 2430150040000 contained in ACCELA GIS, I was able to locate the summary of the associated Subdivision Permit, #SUBD-20000045. (20) **See County Records – Subdivision Summary PDF PG 166**

48. I then was able to call up #SUBD-20000045 on Kivanet.

Note the empty boxes for “Construction Plan Approval” in the detail of “Inspections”.

<http://kivanet10g.co.maui.hi.us/kivanet/2/permit/summary/index.cfm?pid=279237&jur=MAUI> (21) **See County Records - SMA Permit Open Construction Plan Approval PDF PG 167 and 21a Detail: County Records Open Inspection OPEN detail. PDF PG 168**

49. Kivanet's permit record offers a link to “CONSTRUCTION PLAN APPROVAL” which leads to this page: (22 **See County Records – Const Plan Approval OPEN Subdivision Summary #5) PDF PG 169**

<http://kivanet10g.co.maui.hi.us/kivanet/2/permit/activities/index.cfm?fa=3&pid=279237&id=175345&jur=MAUI> where the **Activity Status of the Construction Plan Approval is still listed as “OPEN”.**

#### **What These Documents Reveal:**

50. The County of Maui does in fact have an extensive capability to create and maintain public records. Though the system could be more user friendly, they do have the ability, and the duty, to retain

control over private developer's and property owner's compliance with SMA Permits, Subdivision conditions, and all the residential and commercial permits they issue, including underlying permit application documents.

51. The records clearly show that the SMA Permit was a condition of the oceanfront subdivision's final acceptance and approval. The condition is delineated on the June 27<sup>th</sup>, 2000 Preliminary Subdivision approval issued by the Department of Public Works. The public records also clearly show that the Developer Lot 48A, LLC's SMA Permit was extended twice, until December 31, 2001, to allow for the completion of the subdivision infrastructure and environmental mitigations.

52. Public records maintained and tracked by the County of Maui **clearly contradict** Planning Director Spence's declaration that the SMA permit was "closed" on June 6<sup>th</sup>, 2000. The SMA permit could not possibly have been "closed" on the very same day the permit *application* was approved.

**The Cover Up - More Intentional Abuse of Authority and Power:**

53. Spence's declaration hides the fact that this Developer Lot 48A, LLC's SMA permit is still open, and now expired, and is part of what appears to be an ongoing attempt by County officials to cover up administrative failures or specific abuses in the SMA permitting process and the lack of inspections on SMA Permits applied to this project and probably many others in Maui County.

On Oct 12, 2009 in testimony to the County Council, Director of Public Works, Milton Arakawa points the finger of responsibility to track compliance with issued SMA Permits towards the Department of Planning.

"Mr. Chair, the second three-lot subdivision was the subject of an SMA Minor Permit, if I'm correct. But the conditions of the SMA Minor Permit, I mean would, it would still apply. From, from our standpoint, we, we would look to the Planning Department to basically enforce those SMA Minor Permit conditions. If there are any violations regarding the actual subdivision regulations and it's brought to our

attention then of course we would go out and investigate. But the, the SMA Minor Permit conditions should be enforced by, by Planning.” [23. Milton Arakawa testimony 10.12.09 PDF PG 170](#)

54. Through selective mismanagement and manipulation of the system, certain private developers have been allowed to dodge all obligations and oversight. With the County refusing to enforce neither deferral agreements nor SMA Permit violations, it has fallen to citizens' complaints and costly litigation to protect the public and our environment. And as “Maui-Gate”, it is taxpayer's dollars that are being used to defend in court the Mayor and the Directors that are involved.

**Other Projects - Same Licensed Professionals, Same Manipulations:**

55. The Ukumehame development, which is directly adjacent to Olowalu, is another development project initiated at the same time as Olowalu, Montana Beach and Hui Rd E, by mostly the same group of licensed professionals and administered by the same County officials. The records now reveal a pattern of intentional circumvention and manipulation of the County's SMA Permit Rules. The June 4<sup>th</sup>, 1999 letter to attorney Tom Welch of Mancini, Rowland and Welch from the project coordinator for Pacific Rim land, Inc clearly states, “Our goal is to come up with the best lot configuration possible and avoid an SMA requirement”. [\(24\) See Attorney Welch Letters – Ukumehame PDF PG 171 - 177](#)

56. The shoreline proximity of these rather large parcels should make it impossible to bypass environmental mitigations. This is the vast stretch of land directly mauka of where so much recent flooding and shoreline erosion is taking place. The damage done to marine life in that area is incalculable. In conclusion, the discretionary authority of the Planning Director to waive or exempt large lot developments or subdivisions of 4 parcels or less, allows developers and their consultants to manipulate the SMA Permit application process and dodge their environmental mitigation obligations.

**Typical behaviors of a corrupt administration:**

57 History documents that when private citizens raise questions or challenge the decisions of politically appointed Directors, County attorneys immediately circumvents and terminates the Council member's communication and investigation process. As a recent example, Robert Sinnott MD, COL USA Rtd, of Kihei, in his 2014 response to a letter of intimidation sent to him by Deputy Corp Counsel Moana Lutey, reiterates that he is NOT interested in suing the County though, "The County seems to be making every effort to encourage me to do that." and that "Unless you have some information that would preclude my speaking to them, I suggest strongly that your office stop interfering with my Constitutional rights." (25)

[See Letter from Kihei Resident Colonel Sinnott PDF PG 178 - 180](#)

58. The Department of Corporation Counsel continues to overstep its authority through unjustified intimidation designed to deny Maui citizens and taxpayers of their rights. One example was recently characterized by Second Circuit Judge Peter Cahill in his ruling that the County must refund \$10.7 million to a time-share owners association. Cahill wrote that the Department of Corporation Counsel, not the County's Real Property Assessment Division, orchestrated the County's official decision to "**create a weapon** — a new \$10-plus million tax obligation — against taxpayers with whom it was in litigation." (26)

[See Maui News Article – Judge Cahill PDF PG 181](#)

### **The Documents Discovered!**

59. On August 3rd 2009 Joseph Prutch, Staff Planner of the Planning Dept responded to one of Salem's many requests for the supporting documents for SM2 2000.0042, writing, "As you know, the SM2 file cannot be found at the County. Without the file I could only locate documents on the computer and was only able to find the following: 1) SMA Minor Permit 2) Scope of SMA Permit 3) Condition of Approval for permit 4) Extension approval letter dated Nov 6, 2000 (not signed) 5) Extension approval letter dated May 10, 2001 (not signed). Sorry, I was not able to find a compliance report or any shoreline certification maps." (27) [See Prutch 8/3/09 fax cover sheet PDF PG 182](#)

60. It was not until 2015 that it was discovered that just three months after claiming the files “cannot be found”, the complete “missing” file, including the application packet that Mr. Salem first requested in 2001, was transmitted in a letter from Planning Program Administrator Clayton Yoshita to Mr. Shichao Li of the State of Hawaii Office of Planning, Mr Prutch was cc’d.

(28) See 10/3/09 letter from Yoshita PDF PG 183

61. The complete application packet, secured through a FOIA request to the State of Hawaii Office of Planning in 2015, included the ‘missing’ 40 Page Special Management Area (SMA) Report authored by Munikiyo, Arakawa, and Hiraga, Inc, from May of 2000, just prior to Milton Arakawa's employment with the County of Maui. 29) See Signed SMA Permit Application by Developer Hugh Farrington, May 11, 2000. PDF PG 184 - 193

62. The documents reveal that when Milton Arakawa was hired as Deputy Director of Public Works in 2001, he was immediately allowed by Public Works Director Goode to **sign off on his own client’s oceanfront subdivision with an incomplete conditioned SMA Permit** (#SM2 2000/0042). Deputy Arakawa’s land planning firm was the authorized agent for the entire SMA permit application process. Deputy Director Arakawa engaged in unethical conduct incompatible his official duties as established in the Maui County Charter to serve the financial interest of a private developer and his client. (30) See 30. Final Sub Approval Arakawa; PDF PG 194

63. The SMA Permit application authored by Deputy Arakawa’s firm also included an Order of Magnitude statement generated by the civil engineering firm Unemori Engineering, Inc. The exact same SMA Permit infrastructure and drainage improvements were given to Sullivan, Inc., a licensed engineering contractor, who calculated the **costs to be ten times more** than the valuation that was submitted by Unemori. (31) See Sullivan, Inc. Project Estimate PDF PG 195

64. The cover letter of the fax transmission of the conditioned Order of Magnitude valuation from Unemori Engineering to developer Farrington includes a comment from Warren S. Unemori: **“Hope you’re successful in convincing Planning that improvements will cost less than \$125,000.”** Signed **“Good Luck, Warren S. Unemori”**. (32) See Unemori fax 3/3/2000 PDF PG 196

65. In January of 2008, Warren Unemori was served with a Request for Production of that Order of Magnitude Estimate and falsely denied ever having been employed “to perform any services in connection with the SMA Minor permit process.” (33) See Ito letter 1/18/08 PDF PG 197 - 200

66. On March 15th, 2016 attorney Matson Kelly made a declaration detailing the SMA Permit County records and environmental studies that the law firm for developer Lot 48A, LLC / Hugh Farrington, concealed during legal arbitration proceedings. The attorney representing the developer, Margery Bronster, had represented to the Arbitrator that the SMA Permit records "are not relevant, and therefore they will not be produced". Kelley states in his declaration that he has reviewed the documents that have been recently uncovered and that they are, in fact, relevant to the arbitration that took place, and further show that the developer, **“lied to me. Lied to the arbitrator.” And that “they lied to this Court.”** (34) See Declaration of Matson Kelley PDF PG 201 - 206

67. On June 6, 2017 Attorney Randall Schmitt wrote a letter to the ODC appraising them of apparent professional misconduct by certain attorneys of The Corporation Council of the County of Maui. Schmitt writes: “subsequent events seem to indicate that **the records that we requested so many years ago did and do exist.**” Schmitt paints a picture of misdeeds and malfeasance that are worthy of an investigation by the Hawaii State and US Attorneys General for racketeering. (35) See Attorney Schmitt Letter to Office of Disciplinary Counsel PDF PG 207 - 210



68. Such an investigation is also called for regarding a Complaint for Access to Public Records filed in the Circuit Court for the Second Circuit. (*Civil No. 17-1-0208(1)* where Deputy Corporation Counsel Moana Lutey responded; ***“The declaration provided by (attorney) Matson Kelley is in reference to a matter where the documents were eventually produced.”***

**(36) See Civil No. 17-1-0208(1) PG 211 - 213**

It took an intervention by the State Office of Information Practices asking for substantiation that the documents were indeed “eventually produced” by Corporation Counsel, to get Lutey to admit that proof of the delivery of the documents ***“does not exist in any County record”***. **(37) See Exhibit “B” - False Representations of Eventually Produced Public Records PDF PG 214 - 215**

69. Deputy Lutey cannot prove that Corporation Counsel ever delivered the requested documents for #SM2 2000/0042 because they are documents that Corporation Counsel has been actively withholding from Christopher Salem since his original request for them in 2001, saying that they don’t exist. At one point Corporation Counsel claimed that the County has no responsibility to maintain records of the SMA permits they issue, when, in truth, the documents are the foundation under which all real estate mortgages and property insurance policies are written. **Corporation Counsel is caught in a Catch 22, claiming that they “eventually produced” documents that don’t exist. Which is it?**

**How we know all this:**

70. Almost two decades ago, Christopher Salem purchased a parcel of land in a “3 Lots or Less” subdivision in West Maui. Mr. Salem’s research of County ordinances and recorded County subdivision agreements had shown that the “one time” SMA Permit exemptions for 4 lots or less and the “one time” deferral of the subdivision roadway frontage improvements were exhausted by the developer who sold Mr. Salem his property. Mr. Salem says he was convinced that no further development of the “3 Lots or Less” subdivision could occur without public review, an SMA Major Permit including environmental impact

studies, and full roadway improvements and environmental mitigations along the roadway frontages of the underlying subdivision.

71. Believing the desirable open space and limited density of his “3 Lots or Less” subdivision was protected, Mr. Salem designed and built his family home. Mr. Salem says he understood that once a County roadway infrastructure project was built along his subdivision frontage he would be required to pay his pro rata fair share of the deferred cost of the roadway improvements. During the purchase of the property, Mr. Salem felt the benefits of a low density lifestyle far outweighed the future expense on the “3 Lots or Less” subdivision infrastructure deferral agreement which clouded his property title.

72. To his surprise, and detriment, Mr. Salem had no idea the stated conditions of the “3 Lot or Less” developer deferral agreements were not being enforced and that developers island-wide were indeed being allowed to re-subdivide their subdivisions over and over without completing their infrastructure obligations, shifting the financial burdens to the taxpayers while leaving the open-ended County cloud on property owner’s titles.

73. A well-connected developer, armed with private consultants and legal counsel who were current or previous public officials with the County of Maui, applied for a re-subdivision of one of the oceanfront parent parcels of Salem’s “3 Lots or Less” subdivision. Salem disputed the re-subdivision application on the grounds that a SMA Major Permit was required on the oceanfront development and the “one time” deferred infrastructure improvements must be completed by the developer in accordance with the adopted laws and ordinances. At the very least, Mr. Salem asserted, the “3 Lots or Less” cloud on his property title was to be removed.

74. The low density lifestyle Mr. Salem thought he had secured was ultimately obliterated and years of costly legal disputes with the developer ensued. During the critical years of legal disputes and government record discovery, Corporation Counsel retained, as special counsel, the Developer Lot 48A,

LLC's legal counsel, Margery Bronster. As the record shows, Bronster failed to disclose to the Maui Procurement Committee her active representation of Developer Lot 48A, LLC in legal disputes centering on the County SMA permit records.

The decades of legal disputes caused by the **conspired concealment of government records** by County officials including Public Work Director Milton Arakawa and attorney Margery Bronster on behalf of Developer Lot 48A, LLC led to Mr. Salem's complete financial ruin and the loss of his family home. **(38 See Attorney Margery Bronster Special Counsel Procurement Report PDF PG 216 - 234**

**Ongoing harm:**

75. Harm came to Mr. Salem in 2010 when Director Arakawa sent Mr. Salem a formal Notice of Intent to Collect on the County's "3 Lots or Less" roadway infrastructure encumbrance that was attached to Salem's real property deed. By doing so, the County's "encumbrance" was converted into a "lien". However, to this very day, the County Council has not adopted any process or formula to allow any property owner to remove an open-ended lien on their title.

Furthermore, prior to the notice being sent to Mr. Salem, the County had never issued a Notice of Intent to collect on any of the thousands of subdivision deferral agreements and they have not done so since. **(39 See Department of Public Works – Notice of Intent to Collect PDF PG 235 - 319**

76. Not only is the County negligent having not established any formula and process to collect on any of the deferred amounts, there's never been established a fund to receive nor disburse the funds should any ever be collected. In May 2018 Council Member Guzman proposed the creation of a fund specifically for this purpose. Item BF-145 is on the Master List for the Budget and Finance committee but has not been scheduled. **(40 See CC 18-177 Infrastructure Development Fund) PDF PG 320 - 322**

77. In 2014, despite believing that the financial obligations for the roadway improvements were actually the responsibility of Milton Arakawa's client, Mr. Salem attempted to pay off the "3 Lots or Less" subdivision lien on his property title to satisfy the terms established by his mortgage lender. The

Department of Corporation Counsel refused to establish a dollar amount for the lien and wouldn't accept payment from Mr. Salem to remove it. Unable to satisfy the demands of his lender and their legal counsel, the lender foreclosed, [41. See Prudential Listing Cancel PDF PG 323](#)

78. The documents that attorney Bronster, Public Works and Corporation Counsel withheld, which finally have been secured, show the following:

a. That the application for SMA Permit SM2 2000/0042 contained fraudulent engineering estimates that allowed the developer to avoid public hearings, SMA Major environmental studies, public parking for shoreline access, and public view preservation.

b. That attorney Bronster and her client falsely denied having obligations to fulfill roadway infrastructure and drainage mitigations that her client's professional consultants incorporated into the subdivision SMA Permit.

c. That attorney Tom Welch of Mancini, Welch & Geiger, entered into a settlement agreement in 2001 knowing his client was concealing relevant County of Maui government records.

d. That upon his employment, Deputy Director Milton Arakawa issued final subdivision approval to his own client in spite of the SMA Permit being unfulfilled, in violation of the Maui County Charter.

e. That Deputy Director Milton Arakawa sent a Notice of Intent to collect to Mr. Salem, and fellow "3 Lot or Less" owners, for roadway infrastructure and drainage improvements that were his own client's financial obligations.

79. The affidavit of former Council Member and Department of Transportation Director JoAnne Johnson Winer affirms that executive assistants to Maui Council Members are direct witnesses to many of the facts presented in this affidavit including the concealment of County records spanning a time period of almost 20 years. It is cause for investigation to find out if those executive assistants are being intimidated to remain silent.

80. The Department of Planning's refusal to enforce the terms of the developer's subdivision and SMA Permit, and Corporation Counsel's concealment of the SMA Permit records, in apparent conspiracy with private developers and their legal counsel, gave Mr. Salem no choice but to engage in costly, protracted, and ongoing litigation.

81. In repeating violation of the State Procurement Code, Corporation Counsel now employs, without going through the legislated Procurement Committed and conflict disclosure process, the very same KSG law firm as special counsel to defend former Public Works Director Arakawa and the County Defendants. Is it coincidence or conspiracy that KSG, the same law firm that represented the Federal Savings Bank that drove Salem into bankruptcy, is now defending Deputy Director Arakawa, Directors Spence and Goode and Corporation Counsel Pat Wong?

82. All of my research leads me to the conclusion that when they go into executive sessions, Corporation Counsel misleads the members of the Maui County Council in order to obtain taxpayer funds to continue their long-standing pattern of vigorously defending the unlawful acts of politically appointed public officials. Corp Counsel obstructs the County Council from investigating the acts of County Departments and their Directors by asserting that the Council Members are Corp Counsel's clients too and must abide by their directives and advice. The Dept. of the Corporation Counsel will even authorize their administrative clients not to answer questions from Council Members, their other purported client(s) during litigation.

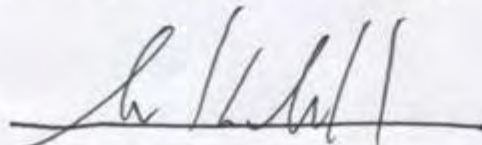
83. In sum, my findings conclude and I believe that Attorney Margery Bronster, Tom Welch, Deputy Public Works Director Milton Arakawa, Planning Director William Spence, Public Works Director David Goode, Corporation Counsel Pat Wong, Deputy Corp Counsel Brian Bilberry and Moana Lutey, and Mayor Alan Arakawa, and probably other public officials within the County Departments who assisted in the concealment of County records, should all be investigated for conspiracy, collusion, fraud, and racketeering.

## **Exhibit Summary**

- 1) **Presentation script w Powerpoint PDF PG 1 - 46**
- 2) **Mautime Weekly - PDF PG 47 - 51**
- 3) **Affidavit of JoAnne Johnson Winer PDF PG 52 - 64**
- 4) **Sample Deferral Agreement - PDF PG 65 - 70**
- 5) **Maui News "Deferral Article" PDF PG 71**
- 6) **Public Works List of 602 Deferral Agreements PDF PG 72 - 79**
- 7) **Councilmember Cochran Letters to Public Works Director Goode PDF PG 80**
- 8) **Director Goode Letter to Cochran signed by Mayor Arakawa - PDF PG 81 - 82**
- 9) **Maui News Viewpoint Article - PDF PG 83 - 84**
- 10) **Council Minutes – Director Goode Admission PDF PG 85 - 86**
- 11) **NOAA Study - PDF PG 87 - 133**
- 12) **Public Records RFS Request – SMA Permit Final Acceptance PDF PG 134 - 135**
- 13) **Olowalu SMA Permit Notice of Non Compliance - PDF PG 136 - 148**
- 14) **Corporation Counsel Attorney Bilberry "No Records" exist response. PDF PG 149**
- 15) **Declaration of Planning Director William Spence - PDF PG 150 - 154**
- 16) **Farrington SMA Permit acceptance 6/6/2000 And Prelim SubD 6/23/00 - PDF PG 155 - 162**
- 17) **County Records – SMA Permit Summary sm2 2000 0042 - PDF PG 163**
- 18) **Letter from OIP Staff Attorney 8/16/17 & 10/3/17 - PDF PG 164**
- 19) **County Records – SMA Permit Summaries - PDF PG 165**
20. **County Records – SMA Permit Summaries 2000/0042 - PDF PG 166**
21. **County Records Open Inspection OPEN - PDF PG 167**
- 21a. **Detail: County Records Open Inspection OPEN - PDF PG 168**
- 22) **County Records - SMA Permit Open Construction Plan Approval - PDF PG 169**
- 23) **Milton Arakawa testimony 10.12.09 - PDF PG 170**
- 24) **Attorney Welch Letters – Ukumeheme - PDF PG 171 - 177**
- 25) **Letter from Kihei Resident Colonel Sinnot - - PDF PG 178 - 180**

- 26) Maui News Article – Judge Cahill - PDF PG 181
- 27) Prutch 8/3/09 fax cover sheet - PDF PG 182
- 28) 10/3/09 letter from Yoshita - PDF PG 183
- 29) SMA Permit Application - PDF PG 184 - 193
- 30) Arakawa's sign off - - PDF PG 194
- 31) Sullivan order of magnitudes. - PDF PG 195
- 32) Unemori fax 3/3/2000 - PDF PG 196
- (33) Ito letter 1/18/08 - PDF PG 197 - 200
- 34) Declaration of Matson Kelley - PDF PG 201 - 206
- 35) Attorney Schmitt Letter to Office of Disciplinary Counsel - PDF PG 207 - 210
- 36) Civil No. 17-1-0208(1) - PDF PG 211 - 213
- 37) False Representations of Eventually Produced Public Records - PDF PG 214 - 215
- 38) Attorney Margery Bronster Special Counsel Procurement Report - PDF PG 216 - 234
- 39) Department of Public Works – Notices of Intent to Collect - PDF PG 235 - 319
- 40) See CC 18-177 Infrastructure Development Fund) - PDF PG 320 - 322
- 41) Prudential Maui Realty Letter – Agent Lawrence Carnicelli - - PDF PG 323

- 26) Maui News Article – Judge Cahill - PDF PG 181
- 27) Prutch 8/3/09 fax cover sheet - PDF PG 182
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- 29) SMA Permit Application - PDF PG 184 - 193
- 30) Arakawa's sign off - - PDF PG 194
- 31) Sullivan order of magnitudes. - PDF PG 195
- 32) Unemori fax 3/3/2000 - PDF PG 196
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- 41) Prudential Maui Realty Letter – Agent Lawrence Carnicelli - - PDF PG 323

x   
SAMUEL SMALL

23 (SS)



This 23 page document titled, AFFIDAVIT OF SAMUEL SMALL,  
dated OCTOBER 1ST, 2018, was subscribed and sworn to  
before me this 1ST day of OCTOBER, 2018, in the 2ND Circuit of  
the State of Hawaii, by SAMUEL SMALL.



Signature: [Handwritten Signature]  
Name: RYAN SHERWOOD  
Notary Public, State of Hawaii

My commission expires: 7-15-2022

BUDGET AND FINANCE COMMITTEE MINUTES  
Council of the County of Maui

April 19, 2012

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MR. GOODE: I'm well aware of this one. Ms. Silva subdivided property. As part of the subdivision requirements she had to dedicate road widening lots, because a portion of Olinda Road I think fronting her property was not up to 40 feet as standard. So those dedications was probably...probably, 'cause I'm not super positive but a shoulder, so it wasn't intended to make the road wider in that area at all. So as part of the benefit of getting the subdivision, the road widening lot was required. So it's uncommon, what she provided, to a lot of other ag-type subdivisions.

CHAIR PONTANILLA: Thank you for asking though.

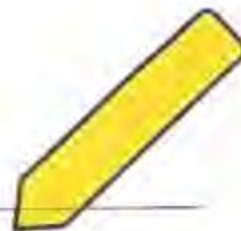
COUNCILMEMBER COCHRAN: Thank you.

CHAIR PONTANILLA: The other thing that I had over here is in regards to whenever we do road improvements, how do we handle the deferral agreements?

MR. GOODE: Yeah, that came up earlier so I'm glad you mentioned it. And I have a pretty comprehensive response coming back to the Committee. I don't know if you've received that yet. We're still putting it together because it was...there was a lot of questions and they required a fair amount of research. You know this Council, I think the last term, you know, had the issue, deferral agreements came up, and there's...and at the time the Department didn't have a good handle on how many agreements were out there or where they were, et cetera. And what we've done is since then our staff has gone through over 3,000 subdivision files and gone through them all to find all the deferral agreements. They've made copies of them all and they've made a GIS layer of exactly where all these deferral agreements are. And since that time, they've actually gone in and re-colored all that layer so you can see a specific agreement, what area it affects. So it's an extremely useful tool for us now to know on any given roadway whether there's a deferral agreement or not. And there's large sections of the County where there's hardly any of them, and there's other sections where they're concentrated. West Maui is one of them and the Upcountry area, especially like this ag subdivision-type thing. But it's basically for three lots or less, so these are small subdivisions, a lot of them. They were just three lots at the time. And so they were given the option then of either improving the road that adjoins them or deferring it to a future time when the County comes in and improves that road. And so we estimate roughly that per lineal foot of frontage road we're owed when we do the work, about \$250 per foot. So if a property has 100 feet, that property owner is going to owe the County roughly, I mean real rough, \$25,000 when we do a project there. And right now other than Lower Road 4, there was one other project which I can't remember which will be in that letter, you know, that we have some deferral agreements. And possibly to Lower Road 3, which we finished already, may have some deferral agreements. Compounding all that is that some deferral agreements, three lots, had another future three lot and a future three lot, so it got subdivided again and again, had different deferrals. And in some cases especially in West Maui, the original three-lot subdivision was a huge piece of land that went halfway up the mountain, and so there's a possibility there's going to be some deferral agreements where theoretically there's 1,000 different owners and they each owe us \$25. I mean it's getting...it potentially is getting really crazy as it relates to us

BUDGET AND FINANCE COMMITTEE MINUTES  
Council of the County of Maui

April 19, 2012



trying to administer it. So we're going to devise some ideas and probably come back to this body in one Committee or another and try to figure out a way to handle those complex ones. But the simpler ones, it's going to be pretty straightforward. So I know there's a perception out there that as you drive down our roadways there's like money bags hidden in there, that there's this, a pot of gold on every road 'cause these people owe us money, and I'm here to tell you it's chasing rainbows, okay. There's money here and there, but they are not large sums of money that are going to rain down on us in any way, shape, or form. But it's our job, I feel our Department's job is to find those deferral agreements and make people accountable for what they agreed to do. Even if they bought and sold down the road, those are recorded agreements on their property. So we will figure it out and we will work to, you know, find those and make sure that those monies come in when we do projects in those areas. But it's not as...it's not millions and millions of dollars.

CHAIR PONTANILLA: Okay, thank you. Okay, Members, that concludes the CIP portion.

MR. GOODE: Mr. Chair, could I have one more thing --

CHAIR PONTANILLA: Sure, go ahead.

MR. GOODE: --on the CIP, if I could? Thanks in allowing me to indulge this. I just wanted to maybe brag a little bit and also thank our staff, but let you and the public know, you know, last year or FY 2011--I'm looking at hopefully some final numbers here--we had in County appropriations about 18½ million, we spent 14½ or encumbered which is about 78 percent. So those funds that were lapsed, almost all of them were due to low bids. It wasn't due that we didn't do the project, it was due to low bids. And one project we had it was supposed to be for a Federal match and the Feds changed the rules and they did 100 percent of it, so our match just evaporated. So if you take out the lapsed...excuse me, that change in that Federal project and the low bids, 99 percent of the funds you allocated were either spent or just came back because we got great bids or this change in Federal. And then if you throw in the Federal dollars that we got, almost \$12 million and you look at the original 18.5 appropriation that you had for County funds, 87 percent of all those funds were spent or encumbered. And I think that's...you know we talk about...we'll probably talk later about performance measures, et cetera, that's exactly what we, you know, we want to see from the Administration level. I'm sure you folks want to see it. The public wants to see it, how we appropriated these funds, and so I just wanted to make sure I got that in at some point today. It seemed like a good place to discuss it, so hats off to the Engineering Division and Cary Yamashita is the head.

CHAIR PONTANILLA: Good. Very good. Mr. Couch?

COUNCILMEMBER COUCH: Thank you. And good job to your Department. The question I have is, is this a situation where if you had a little bit more leeway in your projects, you could have let's say paved more roads if it was a road paving project? We talked about it prior to the break. Is this this situation here?

FINAL Evaluation Findings  
**Hawaii Coastal Zone Management Program**

*September 2004 – July 2008*

January 2010



Office of Ocean and Coastal Resource Management  
National Ocean Service  
National Oceanic and Atmospheric Administration  
United States Department of Commerce

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## I. EXECUTIVE SUMMARY

Section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA), requires the National Oceanic and Atmospheric Administration's (NOAA) Office of Ocean and Coastal Resource Management (OCRM) to conduct periodic evaluations of the performance of states and territories with federally approved coastal management programs. This review examined the operation and management of the Hawaii Coastal Zone Management Program (HICZMP or Coastal Program) by the Department of Business, Economic Development and Tourism (DBEDT), the designated lead agency, for the period from September 2004 to July 2008.

This document describes the evaluation findings of the Director of OCRM with respect to the HICZMP during the review period. These evaluation findings include discussions of major accomplishments as well as recommendations for program improvement. This evaluation concludes that the DBEDT is satisfactorily implementing and enforcing its federally approved coastal program, adhering to the terms of the Federal financial assistance awards, and addressing the coastal management needs identified in section 303(2)(A) through (K) of the CZMA.

The evaluation team documented a number of HICZMP accomplishments during this review period. A key accomplishment was the development of a new Ocean Resources Management Plan in partnership with other state agencies and stakeholders, and statewide implementation through the Executive Policy Group and Working Group. Other important accomplishments include: streamlining of Hawaii's federal consistency process; support of many key hazard mitigation projects; and contributions toward the development and implementation of the national Performance Measurement System. In addition, the HICZMP created a Special Management Area (SMA) Permit Coordinator Position to improve implementation of the SMA Permit System. The SMA Coordinator has increased information sharing between the state, counties, and public and facilitated resolution of permitting issues.

The evaluation team also identified areas where the implementation of the HICZMP could be strengthened. The recommendations for the HICZMP are in the form of Program Suggestions and describe actions that OCRM believes DBEDT should consider to improve the program, but that are not mandatory. A key program suggestion is the need to ensure that state budget planning and funding levels support the essential components of the program necessary to maintain approvability of the HICZMP under the CZMA. Opportunities identified for strengthening the HICZMP include: providing leadership for climate change adaptation planning; consideration of how MACZAC and the HICZMP might more effectively work together to address coastal management issues; and finalizing Hawaii's draft Coastal and Estuarine Land Conservation Program Plan.

## II. PROGRAM REVIEW PROCEDURES

### A. OVERVIEW

NOAA began its review of the HICZMP in May 2008. The §312 evaluation process involves four distinct components:

- An initial document review and identification of specific issues of concern;
- A site visit to Hawaii, including interviews and a public meeting;
- Development of draft evaluation findings; and
- Preparation of the final evaluation findings, partly based on comments from the State regarding the content and timetables of recommendations specified in the draft document.

Accomplishments and recommendations made by this evaluation appear in boxes and **bold** type and follow the findings section where facts relevant to the recommendation are discussed. The recommendations may be of two types:

**Necessary Actions** address programmatic requirements of the CZMA's implementing regulations and of the HICZMP approved by NOAA. These must be carried out by the date(s) specified;

**Program Suggestions** denote actions that OCRM believes would improve the program, but which are not mandatory at this time. If no dates are indicated, the State is expected to have considered these Program Suggestions by the time of the next CZMA §312 evaluation.

A complete summary of accomplishments and recommendations is outlined in Appendix A. Failure to address Necessary Actions may result in a future finding of non-adherence and the invoking of interim sanctions, as specified in CZMA §312(c). Program Suggestions that must be reiterated in consecutive evaluations to address continuing problems may be elevated to Necessary Actions. The findings in this evaluation document will be considered by NOAA in making future financial award decisions relative to the HICZMP.

### B. DOCUMENT REVIEW AND ISSUE DEVELOPMENT

The evaluation team reviewed a wide variety of documents prior to the site visit, including: (1) the 2004 Hawaii CZMP §312 evaluation findings; (2) the federally-approved Environmental Impact Statement and program documents for the Hawaii CZMP approved in 1978; (3) draft of a new program document that was submitted to OCRM for informal review in May of 2008. (4) federal financial assistance awards and work products; (5) semi-annual performance reports; (6) official correspondence; (7) Ocean Resources Management Plan; and (8) relevant publications on coastal management issues in Hawaii.

Based on this review and discussions with NOAA’s OCRM, the evaluation team identified the following priority issues prior to the site visit:

- Program accomplishments since the last evaluation;
- Changes to the core statutory and regulatory provisions of the Hawaii CZMP;
- Ocean resource management planning;
- Management of coastal hazards;
- Public access;
- Special Management Area permitting process;
- Implementation of federal and state consistency authority;
- Performance measures;
- Effectiveness of interagency and intergovernmental coordination and cooperation at local, regional, state, and federal levels;
- Public participation and outreach efforts;
- The Coastal Nonpoint Pollution Control Program;
- The manner in which the Hawaii CZMP has addressed the recommendations contained in the §312 evaluation findings released in 2005.

### **C. SITE VISIT TO HAWAII**

Notification of the scheduled evaluation was sent to the Hawaii Department of Business, Economic Development and Tourism, Office of Planning, relevant environmental agencies, members of Hawaii’s congressional delegation, and regional newspapers. In addition, a notice of NOAA’s “Intent to Evaluate” was published in the *Federal Register* on June 18, 2008.

The site visit to Hawaii was conducted from July 23 – August 4, 2008. The evaluation team consisted of Carrie Hall, Evaluation Team Leader and Kate Barba, Chief, OCRM, National Policy and Evaluation Division; John Parks, Coastal Program Specialist, OCRM, Coastal Programs Division; and Paul Klarin, Policy Specialist, Oregon Coastal Program.

During the site visit, the evaluation team met with HICZMP staff, the Hawaii State Office Planning Director, and other state officials, federal agency representatives, county representatives, nongovernmental representatives, and private citizens. Appendix C lists individuals and institutions contacted during this period.

As required by the CZMA, NOAA held an advertised public meeting on Wednesday, July 30th, 2008, at 7:00 p.m. in the Hilo State Office Building, Conference Rooms A, B, and C, 75 Aupuni Street, Hilo, Hawaii. The public meeting was an opportunity for members of the general public to express their opinions about the overall operation and management of the HICZMP. Appendix D lists persons who registered at the public meeting. OCRM’s response to written comments submitted during this review is summarized in Appendix E.



The support of the HICZMP staff were crucial in setting up meetings and arranging logistics for the evaluation site visit. Their support is most gratefully acknowledged.

### III. COASTAL MANAGEMENT PROGRAM DESCRIPTION

NOAA approved the Hawaii Coastal Zone Management Program (HICZMP or Coastal Program) in 1978. The lead agency is the Department of Business, Economic Development and Tourism (DBEDT) and the HICZMP is located within the State Office of Planning (OP). The HICZMP is a framework for designing and carrying out permitted land and water uses and activities while respecting the resources and values expressed by the Coastal Program's objectives and policies.

The Hawaiian Island archipelago spans the distance of 1,523 miles (2,451 km) from the Big Island of Hawaii in the southeast to Kure Atoll in the northwest. This makes Hawaii the world's longest island chain. Hawaii is situated approximately 3,200 km (1,988 miles) southwest of the North American mainland, and is the southernmost state of the United States and the second westernmost state after Alaska. Hawaii's total coastline is 1052 miles, with a total population of 1,211,537 people (2000 Census). As an island archipelago, the 'coastal zone' in Hawaii is inclusive of all land area.

The primary authority of the HICZMP, Chapter 205A, Hawaii Revised Statutes (HRS), was enacted in 1977. The Coastal Program provides a coordinated perspective for government and the private sector in the use and protection of coastal resources. In building on existing authorities rather than creating new ones, the HICZMP relies on a network of authorities and partnerships for implementation. The planning departments of the Counties of Hawaii, Kauai, Maui, and the City and County of Honolulu play a crucial role in implementing the regulations outlined under Chapter 205A, HRS. In particular, the counties implement the Special Management Area (SMA) permit system and shoreline certifications that manage development in the shoreline areas of the coastal zone.

Annual Coastal Zone Management (CZM) funding provides ongoing support of coastal zone management functions such as policy analysis and legislative review, State and County Agency compliance, federal consistency, public education and outreach, public participation through the Marine and Coastal Zone Advocacy Council, County implementation of the special management area permit, coastal hazards preparedness planning, and development of a coastal nonpoint pollution control program. Funding also supports newly strengthened initiatives such as County-wide implementation of the legislatively-approved (in 2007) Ocean Resources Management Plan, including the initiation of several culturally-appropriate and community- and place-based ocean resource management projects in coordination with local non-government organizations and community groups.

## **IV. REVIEW FINDINGS, ACCOMPLISHMENTS, AND RECOMMENDATIONS**

### **A. OPERATIONS AND MANAGEMENT**

Overall, OCRM finds that the Hawaii Department of Business, Economic Development and Tourism, State Office of Planning, is satisfactorily implementing the Hawaii Coastal Zone Management Program as approved by NOAA in 1978.

#### **1. Organization and Administration**

The HICZMP was built upon existing authorities and is a network of authorities and partnerships collectively implementing the objectives and policies of Chapter 205A, HRS. State agencies are required to ensure that their statutes, ordinances, rules, and actions comply with the coastal zone management objectives and policies in Chapter 205A, HRS.

The Department of Business, Economic Development and Tourism (DBEDT) is the lead agency for the HICZMP which is housed within the State Office of Planning (OP). DBEDT has the primary administrative responsibility for a range of services including: promoting economic diversification and high technology industries; increasing foreign trade; economic research and analysis; promoting tourism; encouraging energy and ocean related research; housing finance and development; and long range planning for the state. The Department also houses the Land Use Commission which works with the counties to implement the state's land use planning program. In addition to managing the state's coastal zone, the OP is responsible for guiding development in the state through a continuous process of comprehensive, long-range, and strategic planning, and manages a statewide geographic information system.

County governments play a crucial role in implementing the HICZMP by regulating development in geographically designated Special Management Areas (SMAs). Through their respective SMA permit systems, the Counties assess and regulate development proposals for compliance with the HICZMP objectives and policies and SMA guidelines set forth in Chapter 205A, HRS. Since 1990, the State through the OP, has the authority to regulate development within limited SMAs under the jurisdiction of the Hawaii Community Development Authority.

The Counties of Hawaii, Kauai, and Maui implement the SMA permit system in direct partnership and coordination with the HICZMP. This includes the receipt, expenditure, and reporting of federal award monies through the annual CZM cooperative agreement with NOAA. In 2007, the City and County of Honolulu declined to further partner with the HICZMP, including the receipt of federal CZM funds. The City and County of Honolulu choose not to accept federal funds for several reasons, including concerns with implied obligations to implement the new Ocean Resources Management Plan and increased reporting requirements. The City and County of Honolulu, however, continues to implement its SMA permit system and attends joint quarterly HICZMP and County SMA meetings when issues discussed are of interest. OCRM is concerned that the reduced level of participation by the City and County of Honolulu will affect the implementation of the federally approved HICZMP and will continue to monitor the situation.

## **G. COASTAL DEPENDENT USES AND COMMUNITY DEVELOPMENT**

### **1. Special Management Area Permit System and Community Planning**

The HICZMP manages Hawaii's coast in a partnership with the four counties of Maui, Kauai, City and County of Honolulu, and Hawaii. Chapter 205A, HRS calls for each county to regulate development in geographically designated Special Management Areas (SMA) through a SMA permit system. Each County has developed its own ordinances and regulations for carrying out the SMA permit system and ensuring that development proposals are in compliance with the CZM objectives, policies, and SMA guidelines in the HRS. The HICZMP has direct SMA authority over limited areas under the jurisdiction of the Hawaii Community Development Authority.

The previous evaluation found that it was a necessary action for the HICZMP to improve the enforcement of local SMA programs and ensure open communication between all networked programs. The evaluation also encouraged the HICZMP to continue its outreach and educational activities. Since the previous evaluation, the HICZMP has taken several steps to address these concerns.

The HICZMP has focused on raising the public's understanding and awareness of the SMA permit system. The Coastal Program developed a *Participant's Guide to the Special Management Area Permit Process in the State of Hawaii*. The Guide is directed towards citizens and provides them with basic information on what an SMA permit is, what types of development are regulated, opportunities for public information, and contacts for more information at the state and county level. The guide is available in printed form and on the HICZMP website. The Coastal Program has also conducted SMA workshops for different audiences. Those attending SMA workshops have included planners, Planning Commissioners, developers, and the public. The workshops address the requirements of the SMA permit and the need for SMA permit conditions to have a CZM context. OCRM commends the HICZMP for continuing to increase awareness and understanding of the SMA permit process through the provision of training sessions and development and distribution of the SMA Guide.

The HICZMP also dedicated a position to serve as an SMA Coordinator. The SMA Coordinator serves as a liaison with county staff and the general public. The SMA Coordinator facilitates communication between the public and SMA administrators and assists with resolving issues. The Coordinator also holds quarterly meetings with the County Planning Directors and staff focused on addressing issues of mutual concern. Meeting topics have included public access, human-induced overgrowth of vegetation on beaches, and cumulative impacts of proposed development. The meetings also provide the Counties with the opportunity to exchange their experiences, successes, and challenges in administering the SMA permit and help ensure consistency in implementation.

In addition, the HICZMP also initiated a Special Management Area Permit System Assessment. The Assessment provides a comparative overview of the procedures and practices of each County's SMA permit system. The report includes a discussion of: (1) Effectiveness and efficiency of procedures for evaluating and regulating development (2) Consistency among

Counties in evaluating and regulating development (3) Effectiveness of public participation; and (4) Areas of concern for which guidance by the HICZMP may be needed. This assessment will be used by the HICZMP to streamline and improve the SMA permit system and to determine if the existing framework is sufficient to address the ORMP's strategic actions.

**Accomplishment: The HICZMP has taken multiple steps to raise awareness of, and improve the implementation of, the SMA Permit System including: creating an SMA Permit Coordinator position, developing a Participants Guide, holding SMA permit workshops, and initiating an assessment of the SMA Permit System.**

Evaluation participants raised a concern with the need to better monitor and enforce SMA permit conditions. Although the HICZMP has taken significant steps to improve the SMA permit system and expanded ongoing educational efforts, enforcement of permit conditions continues to remain an issue. SMA permit conditions are monitored and enforced at the County level. The HICZMP may wish to explore opportunities for assisting counties with monitoring and enforcement of SMA permit conditions.

## **2. Community EnVisioning**

The EnVision Downtown Hilo 2025 project began as interested citizens, the Hilo Downtown Improvement Association and a County of Hawaii Planning Department staff member came together and began a process to envision Downtown Hilo's future. The group, the Friends of Downtown Hilo Steering Committee, reached out to hundreds of Hilo residents and stakeholder groups who provided input into a community based vision and a Living Action Plan that lays out a five year implementation plan. The EnVision Downtown Hilo project was the first time in Hawaii County that community members had come together to develop a shared vision for their future. The community is currently in the process of executing its Living Action Plan. OCRM commends the HICZMP for funding innovative community planning which encourages broad public participation.

## **3. Shoreline Certifications and Setbacks**

The Coastal Program manages coastal development through shoreline setbacks in order to reduce hazard risks and protect public access. The Shoreline Setback program is implemented through DNLR and the Counties. DNLR is responsible for approving a shoreline certification and county zoning boards then use this information to determine the construction setback. The previous evaluation included a program suggestion that the HICZMP should work with DNLR to develop a scientifically-based shoreline definition process. This program suggestion arose out of a controversy surrounding the basis of shoreline certifications. The shoreline is defined in the HRS as the "upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves."

During the previous evaluation review period, DNLR administrative rules gave preference to using the vegetation line to determine the shoreline. This became an issue when some landowners were engaging in the controversial practice of encouraging growth of vegetation by planting salt tolerant vegetation and installing watering systems to encourage growth further down the beach. Induced vegetation growth results in a reduced shoreline setback and increased risk to property and reduced public access. In 2006, the Hawaii Supreme Court ruled that the vegetation line trumps the debris line only when the vegetation line lies more inland than the debris line and furthers the public policy of extending to public ownership and use “as much of Hawaii’s shoreline as is reasonably possible.” This ruling clarified the definition of “shoreline.”

State law requires setbacks from the certified shoreline of at least 20 feet and no more than 40 feet. Counties are allowed to require additional setbacks. The HICZMP provided financial assistance to Kauai County to assist with collecting shoreline erosion and accretion data and synthesizing the information to develop annual erosion rates. In 2007, the County of Kauai passed a setback ordinance mandating a 40-foot minimum setback plus 70 times the annual coastal erosion (70 years is considered the average lifespan of a building by the Federal Emergency Management Agency). The ordinance could not have been passed without the collection and scientific analysis of erosion data to develop erosion rates for all coastal areas. OCRM commends the HICZMP for providing assistance to the County of Kauai and enabling the implementation of setbacks that will reduce future risks to life and property. OCRM encourages the HICZMP to continue to support other counties in their efforts to develop similar strong setback regulations that protect property and increase personal safety.

**Accomplishment: The HICZMP provided support to the County of Kauai in their efforts to collect and synthesize the information they needed to mandate a minimum setback based on annual erosion rates and equivalent to the life of a structure (70 years).**

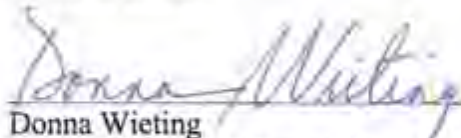
## V. CONCLUSION

For the reasons stated herein, I find that the State of Hawaii is adhering to the programmatic requirements of the Coastal Zone Management Act and its implementing regulations in the operation of its approved Hawaii Coastal Zone Management Program (HICZMP).

The HICZMP has made notable progress in the following areas: development of the Ocean Resources Management Plan; streamlining federal consistency processes; facilitating research and the development of coastal hazard tools; improving the implementation of the SMA Permit System; and the development and implementation of the national Performance Measurement System.

These evaluation findings also contain four recommendations in the form of four Program Suggestions. The Program Suggestions should be addressed before the next regularly-scheduled program evaluation, but they are not mandatory at this time. Program Suggestions include: the need to ensure that state budget planning and funding levels support the essential components of the HICZMP; providing leadership for climate change adaptation planning; consideration of how MACZAC and the HICZMP might more effectively work together to address coastal management issues; and finalizing Hawaii's draft CELCP Plan. Program Suggestions that must be repeated in subsequent evaluations may be elevated to Necessary Actions. Summary tables of program accomplishments and recommendations are provided in Appendix A.

This is a programmatic evaluation of the HICZMP which may have implications regarding the State's financial assistance awards. However, it does not make any judgment about or replace any financial audits.



Donna Wieting  
Acting Director, Office of Ocean and  
Coastal Resource Management

JAN 11 2010

Date



COUNTY OF MAUI  
DEPARTMENT OF PUBLIC WORKS  
AND WASTE MANAGEMENT  
LAND USE AND CODES ADMINISTRATION  
351 SOUTH HIGH STREET  
KAHULUI, MAUI, HAWAII 96741

Land Use and Codes Administration

TRACY TAKAMINE, PE  
Wastewater Reclamation Division

LOUIS POUJEE, PE  
Engineering Division

JOHN HARBER  
Solid Waste Division

BRADY HOSHINO, PE  
Highway Division

April 30, 2002

Mr. Robert Horcajo, Project Manager  
OLOWALU ELUA ASSOCIATES, LLC  
173 Hoohana Street, Suite 201  
Kahului, Hawaii 96732

SUBJECT: OLOWALU MAUKA SUBDIVISION  
TMK: (2) 4-8-003:010, 050-070 & 073-082  
(2) 4-8-004:011-016  
LUCA FILE NO. 4,766

Dear Mr. Horcajo:

Final approval for the subject subdivision (consolidation of 38 lots and resubdivision into 34 lots and 5 roadway lots) has been granted on April 30, 2002. This final approval is based upon Section 18.04.020(C) of the Maui County Code (Ordinance 2372). An approved final plat is enclosed for your records.

The State of Hawaii, Department of Land and Natural Resources, State Historic Preservation Division has attached the following condition to this final approval:

"...the terms specified in the accepted preservation plan and burial treatment plan are followed and an acceptable archaeological monitoring plan for sites 4820 and 4821 is submitted to this office for review prior to the commencement of any ground-altering activities. In addition, an acceptable report documenting the findings of the monitoring activities will be submitted to this office for review upon 180 days following the completion of the proposed undertaking."

In accordance with Section 18.04.020(D) of the Maui County Code, the lots created by this subdivision shall not qualify for this exception with respect to any subsequent consolidation/resubdivision of any of the parcels.



Mr. Robert Horcajo, Project Manager  
SUBJECT: GLOWALU MAUIKA SUBDIVISION  
LUCA FILE NO. 4766

April 30, 2002  
Page 2 of 2

If you have any questions regarding this letter, please call Mr. Lance Nakamura of our  
Land Use and Codes Administration at 270-7252.

Very truly yours,



DAVID GOODE  
Director of Public Works  
And Waste Management

Enclosure: Approved Final Plat

15783, 5/10/02, LU/SUBDIVISION/REGISTRATION

- XC. Dept. of Finance, Real Property Tax Division w/final plat
- Dept. of Finance, Tax Map Division w/final plat
- Building Permit Section w/final plat
- Engineering Division w/final plat
- Dept. of Planning w/final plat
- Dept. of Water Supply w/final plat
- Police Dept. w/final plat
- State Dept. of Health w/final plat
- Maui Electric Co. w/final plat

CHARMAINE TAVARES  
Mayor  
JEFFREY S. HUNT  
Director  
KATHLEEN ROSS AOKI  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

April 26, 2010

CERTIFIED MAIL – RETURN RECEIPT REQUESTED  
#7007 2560 0001 7799 7861

Olowalu Elua Associates, LLC  
33 Lono Avenue, Suite 450  
Kahului, Hawaii 96732

Attention: Mr. Peter Martin

Dear Mr. Martin:

**SUBJECT: REQUEST FOR SERVICE NO. 10-0000452: FAILURE TO COMPLY WITH SPECIAL MANAGEMENT AREA (SMA) USE PERMIT FOR THE OLOWALU SUBDIVISION, LOCATED AT OLOWALU, MAUI, HAWAII; TMK(S): (2) 4-8-003:005, 10 (POR.), 41, 42, 43, 50 (POR.), 63 (POR.), AND 78 (POR.); AND (2) 4-8-004:011, 12, 13, 14, 15, AND 16 (SM1 99/0021)**

This is in reply to your letter dated March 15, 2010, attached as Exhibit No. 1, a response letter to our Notice of Warning issued on February 25, 2010.

The following are responses to your replies to Conditions No. 2, 4, 8, 11, 12, 14, 19, 32, and 33, attached to SM1 99/0021. The original conditions of approval for SM1 99/0021 are attached as Exhibit No. 2:

**Condition No. 2** - The project was to commence no later than September 30, 2002, which it did; however, Condition No. 2 states that the project "shall be completed within five years after the date of initiation." Failure to complete this project within the five-year period coupled with no recorded and/or approved time-extension requests may indicate that this SMA Use Permit 99/0021 has been automatically terminated;

**Condition No. 4** - Final construction does not appear to have been completed and current construction does not appear to be in accordance with preliminary subdivision plans received on November 9, 1999. Dirt fire roads do not appear to have been completed according to the Uniform Fire Code with the road ending in a locked gate at the Honoapiilani Highway, the preservation plan is not fully implemented, few greenways have been installed, bikeways are not evident, and highway improvements for ingress and egress off the Honoapiilani Highway have not commenced. The interior road system as originally designed on the subdivision plan does not appear to match that which was constructed. The road identified as Luawai Street at the Olowalu Mauka Subdivision sign is not in agreement with the plans filed with the County and appears to have been constructed without revisions to the subdivision map;

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793  
MAIN LINE (808) 270-7735; FACSIMILE (808) 270-7634  
CURRENT DIVISION (808) 270-8205; LONG RANGE DIVISION (808) 270-7214; ZONING DIVISION (808) 270-7253

**Condition No. 8** - Full compliance with government regulations has not occurred as the project is out of compliance with both the SMA conditions and the Conservation District Use Permit (CDUP) conditions as noted in this letter;

**Condition No. 11** - The property has not been developed in substantial compliance with the representations made to the Maui Planning Commission (Commission). At this time it appears this failure to develop the property in accordance with the SMA may lead to the revocation of this SMA Use Permit 99/0021;

**Condition No. 12** - Infrastructure improvements including roads, traffic related improvements, greenways, and possibly drainage have not been completed prior to final subdivision approval and bonds are not on file with the County per the wording of Condition No. 12;

**Condition No. 14** - The roadways do not appear to have been constructed in substantial compliance with the greenway plan. The greenways do not appear to have been completed per the application plan and neither have improvements been made for a channelized intersection and means of ingress and egress from the Honoapiilani Highway as noted in the subdivision plans;

**Condition No. 19** - The preservation plan has not been implemented. There is no evidence of viewing platform construction for historical sites No. 4710 and No. 4718 as outlined in the Department of Land and Natural Resources (DLNR) letter of March 7, 2002. The growth of invasive species of trees and bushes is evident especially at the important site No. 04, Kawaihoa/Kaiwaloa heiau. Little to no maintenance appears to be occurring on numerous sites. There is no interpretative signage evident at the sites. The condition of the petroglyph viewing site in the Olowalu valley is in very poor condition. There is no interpretative signage, the red railings are unsafe and deteriorated, and the platforms for viewing are nonexistent;

**Condition No. 32** - No roadway improvements for ingress and egress from the Honoapiilani Highway to the Mauka Subdivision have been initiated per the Environmental Assessment (EA) and the Subdivision plans. The originally approved highway improvements consisted of Driveways A, B, C, and D as noted in the Final EA and plans submitted to the Commission for review and approval. Driveways A, B, C, and D are depicted on the original subdivision plans that were included in the traffic study and EA submitted by the developer in connection with the issuance of the SMA. The developer is now proposing a relocation of Driveway D. This revised proposal was discussed with the Maui Department of Transportation (DOT) in 2003. However, no EA has been completed to date although a Draft EA is being processed by Munekiyo & Hiraga, Inc. as of late 2009. This relocation of Driveway D may be problematic in its connection with the internal road system for the development, the increase in traffic in this area, and the plan originally approved by the Commission. The relocation of Driveway D does not connect to an approved Olowalu Mauka subdivision access road approved in the original subdivision. Failure to complete a channelized intersection according to plan with left turn lanes, acceleration lanes, bike lanes, and paved shoulders is a violation of the SMA conditions. Although there was a caveat to hold off developing the highway improvements if a phasing plan for project development was agreed to, no phasing plan is evident and at this stage of the development there should have been roadway improvements as initial phases of

Mr. Peter Martin  
April 26, 2010  
Page 3

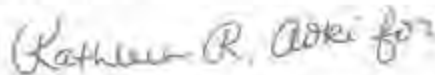
the project have been completed. There is no evidence of this "phasing plan" on file with the DOT. The inability of the Developer to move forward on this critical road improvement signals non-compliance with the SMA conditions. The efficacy of a relocation of Driveway D from that originally proposed is not evidenced in any updated traffic report analysis on file. The original Olowalu Mauka roadway system connects to the original location of Driveway D, not the relocated Driveway D as proposed; and

**Condition No. 33** - The roadway light within the subdivision meeting a maximum wattage of 100 w hps does not appear to have been completed.

In conclusion, the Olowalu Subdivision is in noncompliance with SM1 99/0021 according to a project site visit held on January 22, 2010, for Conditions No. 2, 4, 8, 11, 12, 14, 19, 32, and 33, as approved by the Commission on September 19, 2000.

Thank you for responding to your Notice of Warning. Please be advised that a Notice of Violation will be issued if the responsible party does not show any effort to comply with our Notice of Warning. Should you require further clarification, please contact Staff Planner Kurt Wollenhaupt at [kurt.wollenhaupt@mauicounty.gov](mailto:kurt.wollenhaupt@mauicounty.gov) or at (808) 270-1789.

Sincerely,



JEFFREY S. HUNT, AICP  
Planning Director

Attachments

xc: Clayton I. Yoshida, AICP, Planning Program Administrator  
Aaron H. Shinmoto, PE, Planning Program Administrator (2)  
Kurt F. Wollenhaupt, Staff Planner  
Sonny Huh, Zoning Inspector, Zoning Administration and Enforcement Division  
Project File  
General File

JSH:KFW:vb

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JAMES "KIMO" APANA  
Mayor

JOHN E. MIN  
Director

CLAYTON I. YOSHIDA  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

September 19, 2000

Mr. Robert Horcajo  
Olowalu Elua Associates, LLC  
173 Ho Ohana Street, Suite 201  
Kahului, Hawaii 96732

Dear Mr. Horcajo:

RE: Special Management Area (SMA) Use Permit for the Proposed Olowalu Subdivision at TMK: 4-8-003:5, 10 (Por.), 41, 42, 43, 50 (Por.), 63 (Por.), and 78 (Por.) and 4-8-004:11, 12, 13, 14, 15, and 16 at Olowalu, Maui, Hawaii (SM1 990021) 4.762/4.758

At its regular meeting on September 12, 2000, the Maui Planning Commission (Commission) conducted a public hearing on the above-referenced application. At the meeting, the Commission clarified the record as follows:

1. Commissioner Star Medeiros who was a member of the Citizens Advisory Committee (CAC) for the West Maui Community Plan clarified the park designation and language. During the CAC's discussions on the park site at Olowalu, the reduction of 50 percent of agriculture related to the reduction of sugar cane cultivation and not to other agricultural crops that could be grown on the site. As such, the 50 percent reduction of agriculture has occurred. Based on the language, the applicant is advised that a 30-acre park should be reserved on the Camp Pecusa side of the makai lands in Olowalu.
2. Commissioner Joe Bertram III requested that the applicant work with Maui Electric Company to encourage energy efficiency in the project and use of alternative energy options such as solar panels.

The Commission, after due deliberation, voted to grant approval of the Special Management Area Use Permit, subject to the following conditions:

**STANDARD CONDITIONS:**

1. That construction of the proposed project shall be initiated by **September 30, 2002**. Initiation of construction shall be determined as construction of offsite improvements, issuance of a foundation permit and initiation of construction of the foundation, or issuance of a building permit and initiation of building construction, whichever occurs first. Failure to comply

within this two (2) year period will automatically terminate this Special Management Area Use Permit unless a time extension is requested no later than ninety (90) days prior to the expiration of said two (2) year period. The Planning Director shall review and approve a time-extension request but may forward said request to the Maui Planning Commission for review and approval.

2. That the construction of the project shall be completed within five (5) years after the date of its initiation. Failure to complete construction of this project will automatically terminate the subject Special Management Area Use Permit. A time extension shall be requested no later than ninety (90) days prior to the completion deadline. The Planning Director shall review and approve a time-extension request but may forward said request to the Maui Planning Commission for review and approval.
3. The permit holder or any aggrieved person may appeal to the Maui Planning Commission any action taken by the Planning Director on the subject permit no later than ten (10) days from the date the Director's action is reported to the Commission.
4. That final construction shall be in accordance with preliminary subdivision plans included in the submittal received on November 9, 1999.
5. That appropriate measures shall be taken during construction to mitigate the short-term impacts of the project relative to soil erosion from wind and water, ambient noise levels, and traffic disruptions.
6. That the subject Special Management Area Use Permit shall not be transferred without prior written approval in accordance with Section 12-202-17(d) of the Special Management Area Rules of the Maui Planning Commission. However, in the event that a contested case hearing preceded issuance of said Special Management Area Use Permit, a public hearing shall be held upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.
7. That the applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Special Management Area Use Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Special Management Area Use Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the applicant and County

of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including, but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this permit. Proof of a policy naming County of Maui as an additional named insured shall be submitted to the Planning Department within ninety (90) calendar days from the date of transmittal of the decision and order.

8. That full compliance with all applicable governmental requirements shall be rendered.
9. That the applicant shall submit plans regarding the location of any construction-related structures such as, but not limited to trailers, sheds, equipment and storage areas and fencing to be used during the construction phase to the Maui Planning Department for review and approval.
10. That the applicant shall submit to the Planning Department five (5) copies of a detailed report addressing its compliance with the conditions established with the subject Special Management Area Use Permit. A preliminary report shall be reviewed and approved by the Planning Department prior to issuance of a grading permit. A final compliance report shall be submitted thirty (30) days after the completion of the subdivision to the Planning Department for review and approval.
11. That the applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the Special Management Area Use Permit. Failure to so develop the property may result in the revocation of the permit.

*PROJECT SPECIFIC CONDITIONS:*

12. That the applicant shall be responsible for all required infrastructural improvements including, but not limited to water source and system improvements for both domestic and fire protection, drainage improvements, traffic-related improvements, wastewater system improvements, and utility upgrades. Said improvements shall be constructed concurrently with the development and shall be completed prior to final subdivision approval or bonded in accordance with Title 18, Maui County Code, relating to the subdivision ordinance.

13. That as represented by the applicant, an approximate 54-acre cultural reserve for historic and cultural preservation operated and managed by the Olowalu Cultural Reserve, a non-profit organization, shall be established in perpetuity to ensure preservation of historic and cultural resources, as well as to perpetuate the Hawaiian culture and continued access to Native Hawaiians to "gather", to perform religious practices, and to attend to their own kuleana. Access to the cultural reserve shall be open to the general public as a cultural reserve. Access for recreational purposes shall be as approved by the Olowalu Cultural Reserve (as amended).
14. As represented by the applicant, the roadways for the proposed subdivisions shall be constructed in substantial compliance with the proposed greenway plan identified in the application. For each phase of development, final plans for the applicable increments of the approximate sixty (60) acres of greenways shall be submitted to the Maui Planning Department for review and approval. Said greenway areas shall be regularly maintained and access to the greenways shall be open to the general public for access and recreational purposes (as amended).
15. That the applicant shall establish an irrigation system for the proposed agricultural subdivisions which addresses the supply, storage, and distribution of irrigation water to the proposed lots, and is secured in terms of permit acquisition, quality, quantity, availability, and year-round operations and maintenance. Documentation that the irrigation system has been established shall be submitted to the Maui Planning Department within ninety (90) days of construction of the subdivision.
16. That the applicant shall prepare a dust- and erosion-control plan for review and approval by the Maui Planning Department to ensure that any fallow agricultural lands do not create future adverse dust and erosion impacts on the surrounding area. Said plan shall be reviewed and approved by the appropriate State of Hawaii agencies and implemented as soon as practicable by the applicant and its assigns and successors. A copy of the approved dust- and erosion-control plan for the agricultural lands shall be submitted to the Maui Planning Department and the Department of Public Works and Waste Management for our records (as amended).
17. That potential buyers will be advised that the lots are for sale as commercial agricultural lots and of Hawaii's Right to Farm Act which prohibits conditions, covenants, and restrictions that will prevent or impede reasonable agricultural use of the lots.
18. That the Maui/Lanai Islands Burial Council shall review the mitigation proposals for all burials.



19. That the applicant shall submit a detailed preservation plan (scope of work) for the sites identified for preservation to the Department of Land and Natural Resources, State Historic Preservation Division (SHPD), for approval. This plan will include buffer zones, interim protection measures (as needed), and long-range preservation plans. No land alteration may occur in the vicinity of these sites until minimally the buffer zones and interim protection measures are approved and the SHPD verifies the interim protection measures are in place. No preservation activities may occur in these sites until the preservation plan is approved. The SHPD shall verify in writing to the County when the plan has been successfully executed.
20. That archaeological data recovery shall occur at the sites identified in the survey reports. The applicant shall submit an archaeological data recovery plan (scope of work) for these sites to the SHPD for approval. The SHPD shall verify in writing to the County when the plan has been successfully executed. Further, as noted, the gleyed marsh soils shall also undergo archaeological data recovery. Minimally, data recovery fieldwork must be successfully concluded (and verified in writing by SHPD) prior to land alteration in this part of the project area. The SHPD shall verify in writing to the permitting agencies when the plan has been successfully completed.
21. That archaeological monitoring of land-altering construction in the sand areas along the shore shall occur, as a contingency to identify, document, and treat any burials that might be found. A monitoring plan (scope of work) shall be submitted to and be approved by the SHPD prior to the beginning of the monitoring. This plan must specify how any burials that are found will be documented archaeologically, notification procedures, and treatment measures that will be taken. This scope should be completed before a monitoring contract is negotiated.
22. All preservation areas and buffer zones shall be clearly marked on the subdivision plans and recorded with the property documents to ensure that future owners of the lots are aware of these restrictions to the lots.
23. That as represented by the applicant, the oral history work shall be expanded to include more people of the Olowalu area, such as existing and former residents, persons who have knowledge of their ancestors living in the area, and the kupunas.
24. That adequate buffers between the cultural preserve areas and the agricultural lots shall be established to ensure that the cultural experience is not impacted by the agricultural use and structures on the adjoining lots. Mitigation measures from high boundary

- walls, residences, farm buildings, and operations shall be submitted to the Maui Planning Department for review and approval.
25. Unless removal is necessary for intersection improvements, to the extent practicable, the Monkey Pod trees within the subject property on both sides of Honoapiilani Highway shall be retained and consideration shall be given to extending the Monkey Pod trees as part of the cultural landscape (as amended).
  26. That structures located within the floodway Flood Zone A0 and A4 shall be constructed above the flood elevation. Measures such as post and pier construction shall be considered to conform to the Flood Hazard District and to allow flood waters to continue to traverse the property (as amended).
  27. That future buyers of lots shall be informed that development within flood hazard areas shall be implemented in accordance with Chapter 19.62, Maui County Code (as amended).
  28. That use of soil as fill is prohibited within the Shoreline Setback Area, except for clean sand. Further, any grading or mining of a coastal dune is prohibited.
  29. That a minimum shoreline setback of 150 ft. from the certified shoreline shall be established for all lots on the makai portion of the subdivision regardless of a government beach reserve fronting the subdivided lots. No structures shall encroach into the Shoreline Setback Area to ensure that future shoreline erosion and storm-wave action will not adversely affect structural development on the properties.
  30. That public lateral pedestrian access along the shoreline within the Shoreline Setback Area shall be provided. Landscaping in the area within 50 ft. of the shoreline should be spaced far enough apart so as not to interfere with lateral access. Further, as represented by the applicant, mauka/makai public shoreline access from Honoapiilani Highway and public beach parking shall be provided near the Olowalu Mill site to Olowalu Landing, as well as access points to the shoreline from both ends of the makai Olowalu lands. Documentation that access, as required, has been provided shall be filed with the Departments of Public Works and Waste Management, Parks and Recreation, and Planning prior to final subdivision approval (as amended).
  31. As represented by the applicant, the existing cane haul road (approximately 80 ft. wide) on the mauka side of Honoapiilani Highway shall be set aside as a reserve (Roadway Lot 39) for

future roadway expansion or relocation of Honoapiilani Highway (as amended).

32. That roadway improvements to Honoapiilani Highway, including left-turn storage lanes, acceleration and deceleration lanes, driveway connections, etc., as identified in the applicant's Traffic Impact Assessment Report (TIAR), and as required by the Department of Transportation shall be provided in conjunction with the development of the subdivision. The roadway improvements shall be reviewed and approved by the Department of Transportation. Construction of the improvements shall be completed prior to occupancy of the agricultural lots unless a phasing plan for the improvements is reviewed and approved by the Department of Transportation.
33. That the outdoor lighting plans for the subdivision shall be submitted to the Maui Planning Department for review and approval to reduce the negative impacts on seabirds, especially the dark-rumped petrel (*Pterodroma phaeopygia sandwichensis*) which is a federally endangered species. All potential owners of the lots shall be informed that appropriate measures approved by the Maui Planning Department shall be taken to reduce the negative impacts of night lights (as amended).
34. That future buyers of the lots shall be informed that there may be potential waste from the old mill site (Olowalu Mill) and other vacated agricultural industrial areas. Remedial cleanup must be conducted before any new development occurs.
35. That future buyers of the lots shall be informed of the survey monuments located within the boundaries of their lots which need to be protected from any development activities. Further, in the event the survey monuments are disturbed or destroyed during development of the subdivision or properties, it will be the responsibility of the applicant, assigns or successors to reference and replace the monuments.
36. That Condition Nos. 16, 17, 21, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, and 35 shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances within sixty (60) days from the date of receipt of this decision. A copy of the recorded unilateral agreement shall be filed with the Planning Director and the Director of the Department of Public Works and Waste Management within ten (10) days of recordation.

The conditions of this Special Management Area Use Permit shall be enforced pursuant to Sections 12-202-23 and 12-202-25 of the Special Management Area Rules for the Maui Planning Commission.

Mr. Robert Horcajo  
September 19, 2000  
Page 8

Further, the Commission adopted as its Findings of Fact, Conclusions of Law, Decision and Order the Planning Department's Report and Recommendation Report prepared for the September 12, 2000 meeting and authorized the Planning Director to transmit said Decision and Order for the Commission.

Thank you for your cooperation. If additional clarification is required, please contact Ms. Colleen Suyama, Staff Planner, of this office at 270-7735.

Very truly yours,



JOHN E. MIN  
Planning Director

JEM:CMS:cmb

c: Clayton Yoshida, AICP, Deputy Planning Director  
Aaron Shinmoto, Planning Program Administrator (2)  
LUCA (2)  
Department of Water Supply  
Michael Munekiyo, AICP, Munekiyo, Arakawa & Hiraga, Inc.  
Patricia Nishiyama, Na Kupuna O Maui  
Ed Lindsey  
Buck Buchanan  
Timothy Johns, Department of Land and Natural Resources  
Kazu Hayashida, Department of Transportation  
James Nakatani, Department of Agriculture  
Gary Gill, Department of Health  
Colleen Suyama, Staff Planner  
Project File  
General File

(K:\Planning\SM1\99SM12\99SM121v)



COUNTY OF MAUI  
DEPARTMENT OF PUBLIC WORKS  
AND WASTE MANAGEMENT  
LAND USE AND CODES ADMINISTRATION  
250 SOUTH HIGH STREET  
KAHULUI, MAUI, HAWAII 96731

Land Use and Codes Administration

TRACY TAKAMINE, PE  
Wastewater Remediation Division

JOHN FONG LEE, PE  
Engineering Division

DAVID D. HARDER  
Solid Waste Division

COLIN HADENACK, PE  
Highways Division

April 30, 2002

Mr. Robert Horcajo, Project Manager  
OLOWALU ELUA ASSOCIATES, LLC  
173 Hoohana Street, Suite 201  
Kahului, Hawaii 96732

SUBJECT: OLOWALU MAUKA SUBDIVISION  
TMK: (2) 4-8-003:010, 050-070, & 073-082  
(2) 4-8-004:011-016  
LUCA FILE NO. 4.766

Dear Mr. Horcajo:

Final approval for the subject subdivision (consolidation of 38 lots and resubdivision into 34 lots and 5 roadway lots) has been granted on April 30, 2002. This final approval is based upon Section 18.04.020(C) of the Maui County Code (Ordinance 2372). An approved final plat is enclosed for your records.

The State of Hawaii, Department of Land and Natural Resources, State Historic Preservation Division has attached the following condition to this final approval:

"...the terms specified in the accepted preservation plan and burial treatment plan are followed and an acceptable archaeological monitoring plan for sites 4820 and 4821 is submitted to this office for review prior to the commencement of any ground-altering activities. In addition, an acceptable report documenting the findings of the monitoring activities will be submitted to this office for review upon 180 days following the completion of the proposed undertaking."

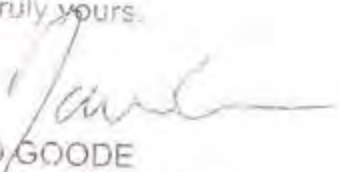
In accordance with Section 18.04.020(D) of the Maui County Code, the lots created by this subdivision shall not qualify for this exception with respect to any subsequent consolidation/resubdivision of any of the parcels.

Mr. Robert Horcajo, Project Manager  
SUBJECT: OLOWALU MAUKA SUBDIVISION  
LUGA FILE NO. 2766

April 30, 2002  
Page 2 of 2

If you have any questions regarding this letter, please call Mr. Lance Nakamura of our  
Land Use and Codes Administration at 270-7252

Very truly yours,



DAVID GOODE  
Director of Public Works  
And Waste Management

Enclosure: Approved Final Plat

- STATE OF HAWAII, DEPARTMENT OF LAND AND NATURAL RESOURCES
- XG: Dept. of Finance, Real Property Tax Division w/final plat
  - Dept. of Finance, Tax Map Division w/final plat
  - Building Permit Section w/final plat
  - Engineering Division w/final plat
  - Dept. of Planning w/final plat
  - Dept. of Water Supply w/final plat
  - Police Dept. w/final plat
  - State Dept. of Health w/final plat
  - Maui Electric Co. w/final plat

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT  
STATE OF HAWAII

CHRISTOPHER SALEM,

Requestor,

vs.

THE COUNTY OF MAUI; THE COUNTY OF  
MAUI, by and through WILLIAM SPENCE, as  
DIRECTOR OF PLANNING, and BRIAN  
BILBERRY, DEPUTY THE CORPORATION  
COUNSEL WITH THE DEPARTMENT OF  
CORPORATION COUNSEL,

Defendants.

Civil No.: 17-1-0208 (1)

MEMORANDUM IN SUPPORT OF  
MOTION

**MEMORANDUM IN SUPPORT OF MOTION**

**I. FACTS**

Requestor Christopher Salem ("Requestor") has filed the instant complaint alleging that he has been denied access to a public record. Under H.R.S. § 92F-15, judicial enforcement is allowed after ". . . denial of access to a government record. . . ." However, the County has not denied Requestor access to any government record. Instead, the record sought simply does not exist. Declarations of William R. Spence and Brian A. Bilberry. Requestor has been informed that the requested record does not exist but is unable, or incapable, of accepting that fact.

There is no basis for this lawsuit to proceed, as there is no claim upon which relief can be granted. As such, dismissal is warranted under Rule 12(b)(6) of the Hawaii Rules of Civil Procedure ("HRCP"). In the alternative, dismissal is appropriate under 56 of the HRCP.

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT  
STATE OF HAWAII

CHRISTOPHER SALEM,  
Requestor,

Civil No.: 17-1-0208 (1)

vs.

DECLARATION OF WILLIAM R. SPENCE

THE COUNTY OF MAUI; THE COUNTY OF MAUI, by and through WILLIAM SPENCE, as DIRECTOR OF PLANNING, and BRIAN BILBERRY, DEPUTY THE CORPORATION COUNSEL WITH THE DEPARTMENT OF CORPORATION COUNSEL,

Defendants.

DECLARATION OF WILLIAM R. SPENCE

WILLIAM R. SPENCE does hereby declare:

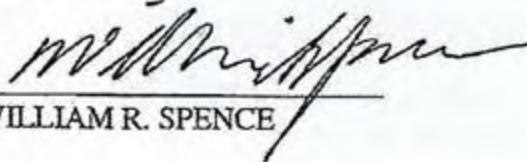
1. I make this declaration upon personal knowledge and am competent to testify to the matters stated herein.
2. I am the Director of Planning. I have held this position since January 2, 2011. In my capacity as Director, I am familiar with Christopher Salem and his requests for public records related to SMA Permit #SM2 2000/0042.
3. In November 2016, my department received a request from Salem requesting public records “. . . of the date and final acceptance and closure of SMA Permit #SM2 2000/0042. . . [a]lso the name of the Planning Department Individual that closed the referenced SMA Permit. . .”. There is no document responsive to this request and Salem was informed of that fact.



4. It is my belief that SM2 2000/0042 was closed when the approval was issued on June 6, 2000 via letter to Hugh Farrington. Salem received a copy of that letter well before the filing of the current lawsuit.

I hereby declare under penalty of perjury that the above is true and correct.

DATED: Wailuku, Maui, Hawaii, June 6, 2017.

  
WILLIAM R. SPENCE

JOHN E. MIN  
Director

CLAYTON I. YOSHIDA  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

June 6, 2000

Mr. Hugh Farrington  
Lot 48-A, LLC  
P. O. Box 1516  
Kihei, Hawaii 96753

Dear Mr. Farrington:

**RE: Special Management Area (SMA) Minor Permit – For the Three-Lot Subdivision of Lot 48-A at Hui Road "E" and Related Subdivision Improvements at TMK: 4-3-015:004, Lahaina, Island of Maui, Hawaii (SM2 2000/0042)**

In response to your application received on May 11, 2000, and in accordance with the Special Management Area Rules for the Maui Planning Commission, Sections 12-202-12 and 12-202-14, a determination has been made relative to the above project that:

1. The project is a development;
2. The project has a valuation not in excess of \$125,000.00 (Valuation: \$91,400.00);
3. The project has no significant adverse environmental or ecological effect, taking into account potential cumulative effects; and
4. The project is consistent with the objectives, policies and Special Management Area guidelines set forth in the Hawaii Revised Statutes (HRS), Chapter 205-A and is consistent with the County General Plan and Zoning.

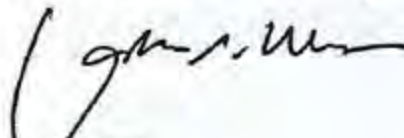
In consideration of the above-referenced determination, you are hereby granted a Special Management Area Minor Permit approval, subject to the following conditions:

Mr. Hugh Farrington  
June 6, 2000  
Page 2

1. That construction shall be in accordance with plans submitted on May 11, 2000.
2. That a subdivision approval shall be obtained prior to the initiation of construction (if applicable).
3. That construction of the subdivision improvements shall be initiated by December 31, 2000 and shall be completed within one (1) year of said initiation.
4. As represented, the existing chain-link fencing located within the minimum 48 ft. shoreline setback area shall be removed within sixty (60) days of the date of this approval. Documentation shall be submitted to the Maui Planning Department that the condition has been fulfilled.
5. That continued public-lateral shoreline access shall be allowed along the rock ledge, makai (ocean side) of the existing embankment and vegetation fronting the shoreline area of Lot 48-A.
6. That full compliance with all other applicable governmental requirements shall be rendered.

Thank you for your cooperation. If additional clarification is required, please contact Ms. Colleen Suyama, Staff Planner, of this office at 270-7735.

Very truly yours,



JOHN E. MIN  
Planning Director

Mr. Hugh Farrington

June 6, 2000

Page 3

JEM:CMS:osy

c: Clayton Yoshida, AICP, Deputy Planning Director  
Aaron Shinmoto, PE, Planning Program Administrator  
Colleen Suyama, Staff Planner  
Michael Munekiyo, AICP, Munekiyo, Arakawa & Hiraga, Inc.  
LUCA (2)  
2000/SM2 Minor Permit File  
General File  
(S:\CMS\HuiRoadE2)

JAMES "KIMO" APANA  
Mayor

JOHN E. MIN  
Director

CLAYTON I. YOSHIDA  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

June 6, 2000

Mr. Hugh Farrington  
Lot 48-A, LLC  
P. O. Box 1516  
Kihei, Hawaii 96753

Dear Mr. Farrington:

RE: Special Management Area (SMA) Minor Permit – For the Three-Lot Subdivision of Lot 48-A at Hui Road "E" and Related Subdivision Improvements at TMK: 4-3-015:004, Lahaina, Island of Maui, Hawaii (SM2 2000/0042)

In response to your application received on May 11, 2000, and in accordance with the Special Management Area Rules for the Maui Planning Commission, Sections 12-202-12 and 12-202-14, a determination has been made relative to the above project that:

1. The project is a development;
2. The project has a valuation not in excess of \$125,000.00 (Valuation: \$91,400.00);
3. The project has no significant adverse environmental or ecological effect, taking into account potential cumulative effects; and
4. The project is consistent with the objectives, policies and Special Management Area guidelines set forth in the Hawaii Revised Statutes (HRS), Chapter 205-A and is consistent with the County General Plan and Zoning.

In consideration of the above-referenced determination, you are hereby granted a Special Management Area Minor Permit approval, subject to the following conditions:

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793  
PLANNING DIVISION (808) 270-7735; ZONING DIVISION (808) 270-7253; FACSIMILE (808) 270-7634

Planning RFS Responses 000003

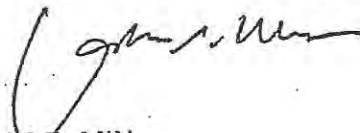
F

Mr. Hugh Farrington  
June 6, 2000  
Page 2

1. That construction shall be in accordance with plans submitted on May 11, 2000.
2. That a subdivision approval shall be obtained prior to the initiation of construction (if applicable).
3. That construction of the subdivision improvements shall be initiated by December 31, 2000 and shall be completed within one (1) year of said initiation.
4. As represented, the existing chain-link fencing located within the minimum 48 ft. shoreline setback area shall be removed within sixty (60) days of the date of this approval. Documentation shall be submitted to the Maui Planning Department that the condition has been fulfilled.
5. That continued public-lateral shoreline access shall be allowed along the rock ledge, makai (ocean side) of the existing embankment and vegetation fronting the shoreline area of Lot 48-A.
6. That full compliance with all other applicable governmental requirements shall be rendered.

Thank you for your cooperation. If additional clarification is required, please contact Ms. Colleen Suyama, Staff Planner, of this office at 270-7735.

Very truly yours,



JOHN E. MIN  
Planning Director

JAMES "KIMO" APANA  
Mayor

CHARLES JENCKS  
Director

DAVID C. GOODE  
Deputy Director



COUNTY OF MAUI  
DEPARTMENT OF PUBLIC WORKS  
AND WASTE MANAGEMENT  
LAND USE AND CODES ADMINISTRATION  
250 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793

FERBINGTON  
RALPH M. NAGAMINE, L.S., P.E.  
Land Use and Codes Administration

RONALD R. RISKA, P.E.  
Wastewater Reclamation Division

LLOYD P.C.W. LEE, P.E.  
Engineering Division

ANDREW M. HIROSE  
Solid Waste Division

BRIAN HASHIRO, P.E.  
Highways Division

June 23, 2000

Mr. Reed M. Ariyoshi, P.E., P.L.S.  
WARREN S. UNEMORI ENGINEERING, INC.  
2145 Wells Street, Suite 403  
Wailuku, Hawaii 96793

SUBJECT: MAILEPAI HUI PARTITION SUBDIVISION  
TMK:(2) 4-3-015:004  
LUCA FILE NO. 4.805

Dear Mr. Ariyoshi:

Preliminary approval was granted to the subject subdivision on June 23, 2000.  
Final approval shall be contingent upon compliance with the following conditions:

1. Requirements/comments from Maui Electric Company:
  - a. Electricity is available from nearby existing facilities (overhead and/or underground).
  - b. Requires line extension (overhead and/or underground) within existing County or State road right-of-way.
  - c. Requires line extension (overhead and/or underground) within private road or property.

Comments: Final approval of the subdivision is recommended. Line extension requirement for Lot 48-A-2 can be deferred until it is developed.

If you have any questions, please contact Mr. Alan Miyazaki at 871-2390.

G

Mr. Reed M. Ariyoshi, P.E., P.L.S.

SUBJECT: MAILEPAI HUI PARTITION SUBDIVISION  
LUCA FILE NO. 4.805

June 23, 2000

Page 2 of 6

2. Comply with requirements/comments from the State of Hawaii, Department of Land and Natural Resources, Historic Preservation Division. For further information, please contact Ms. Cathleen Dagher at (808) 692-8023.
3. <sup>Rev. 12/1/00</sup> Comply with requirements/comments from the Department of Planning. For further information, please contact Mr. Francis Cerizo at 270-7253.
4. Requirements/comments from the Department of Water Supply:
  - a. Provide water service to each lot in accordance with the standards.
  - b. Water system development fees will be charged upon application for water meters.
  - c. The applicant should be advised that the department's processing of this subdivision does not in any way imply that water service for the subdivision will be available. Approval of water service to each lot will be subject to rules and regulations of the department at the time water service is applied for.

If you have any questions, please contact the Department of Water Supply at 270-7835.

<sup>Rev. 12/1/00</sup> Requirements/comments from the Department of Public Works and Waste Management, Engineering Division:

<sup>Rev. 12/1/00</sup> Provide approved certified shoreline documents.

**NOTE:** Your "Checklist For Preliminary Plats" indicated that the Shoreline Certification was submitted. However, your letter of transmittal dated May 8, 2000, does not indicate that the certified shoreline survey map was submitted.

If you have any questions, please contact Mr. Lloyd Lee at 270-7745.

000020



Mr. Reed M. Ariyoshi, P.E., P.L.S.  
SUBJECT: MAILEPAI HUI PARTITION SUBDIVISION  
LUCA FILE NO. 4.805

June 23, 2000  
Page 3 of 6

6. Requirements/comments from the Department of Public Works and Waste Management, Wastewater Reclamation Division:

- a. Provide a sewer system to the proposed lots for connection to the existing County sewer system.
- b. The developer should be informed that the Wastewater Reclamation Division cannot insure that wastewater system capacity will be available for the project.
- c. Developer is not required to pay assessment fees for this area at the current time.
- d. The construction plans shall show the installation of an advance riser at each lot.
- e. Indicate on the plans the ownership of each easement (in favor of which party). **NOTE: County will not accept sewer easements that traverse private property.**
- f. Force mains in Hui Road "E" and new SMH to remain private. SMH should be installed in private roadway (Discussed with Reed Ariyoshi).

If you have any questions, please contact Scott Rollins at 270-7417.

7. In accordance with Section 18.12.040(B) MCC, submit a copy of any deed restrictions or covenants applicable to the subdivision. If there are none, please indicate this in writing.

8. In accordance with Section 18.12.030(E)(13.a.) of the Maui County Code (MCC), submit a certificate signed and acknowledged by all persons vested with record title in the land subdivided consenting to the preparation and recording of the plat, provided that no consent is required by any person having any non-governmental easement, lease or license affecting the land subdivided, provided further that the director shall not approve any subdivision that causes any lot to be landlocked on the land subdivided or any adjacent land.

Mr. Reed M. Ariyoshi, P.E., P.L.S.

SUBJECT: MAILEPAI HUI PARTITION SUBDIVISION  
LUCA FILE NO. 4.805

June 23, 2000

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9. In accordance with Section 18.12.040(C) MCC, submit a tax clearance certificate (issued by Department of Finance, Real Property Tax Division) to show written proof that all taxes and assessments on the tract are paid to date. An "Application for Tax Clearance" form is enclosed for your use.  
**NOTE:** The tax clearance certificate shall be valid at the time of final subdivision approval.

10. Submit a revised original notarized letter of authorization from the owner consenting to the subdivision of TMK:(2) 4-3-15:04. The letter of authorization previously submitted by the owner consented to the subdivision of TMK:(2) 4-3-15:42.

11. In accordance with Section 18.20.040(B.2.) (Existing streets) MCC, improve the adjoining half of Hui Road "E" and the road widening lot to the provisions of the subdivision ordinance for roadways within the urban district. The one-time exemption from construction of roadway improvements on existing streets abutting subdivisions containing three lots or less was used as part of the previous Mailepai Hui Partition subdivision (LUCA File No. 4.686).

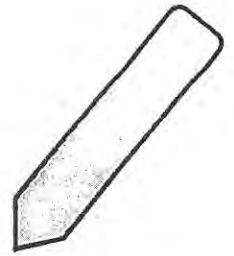
12. Design and construct the drainage facilities to the requirements of the Department of Public Works and Waste Management. A detailed final drainage report and site specific erosion control plan shall be submitted with the construction plans for review and approval. The drainage report shall include, but not be limited to, hydrologic and hydraulic calculations, and the schemes for disposal of runoff waters. The site specific erosion control plan shall show the location and details of structural and non-structural best management measures. The drainage and erosion control plans shall provide verification that the grading and all runoff water generated by the project will not have an adverse effect on the adjacent and downstream properties.

13. Comply with or show compliance with Section 18.16.210 (Shoreline and other access rights-of-way) MCC.

14. As noted on the preliminary plat, the two existing structures will be removed. These two structures must be removed prior to final subdivision approval.

Mr. Reed M. Ariyoshi, P.E. P.L.S.  
SUBJECT: MAILEPAI PARTITION SUBDIVISION  
LUCA FILE NO. 4.805

June 23, 2000  
Page 5 of 6



15. Comply with the conditions of the Special Management Area (SMA) Minor Permit (SM2 2000/0042) granted on June 6, 2000. NOTE: Upon the approval of the construction plans, the subdivider should verify with the Department of Planning to verify if an SMA Major Permit is required or if another SMA Minor Permit is required due to the addition of construction work. \*
16. Submit ten (10) sets of the construction plans and three (3) sets of a drainage and soil erosion control report for review and approval by the applicable agencies. In accordance with Section 18.24.010(D) MCC, a construction plan review fee (\$50/lot) shall be paid upon submission of the construction plans.
17. Submit fifteen (15) prints of the final plat in accordance with Chapter 18.12 (Final Plat) MCC. The final plat shall include all revisions addressing the comments noted on the enclosed preliminary plat.

Within one (1) year from the date of preliminary approval of the subdivision, all requirements shall be completed, unless an extension of time is granted. Applications for extension of time should be made in writing to the Department of Public Works and Waste Management at least fifteen days before the expiration date.

If you have any questions regarding this letter, please call Mr. Lance Nakamura of our Land Use and Codes Administration at 270-7252.

Very truly yours,

CHARLES JENCKS  
Director of Public Works  
And Waste Management

Enclosures: Preliminary Plat  
Application For Tax Clearance

Mr. Reed M. Ariyoshi, P.L.S.

SUBJECT: MAILEPAI HUI PARTITION SUBDIVISION  
LUCA FILE NO. 4.805

June 23, 2000

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XC: Dept. of Finance, Real Property Tax Div. (unmarked preliminary plat only)  
Dept. of Finance, Tax Map Div. (unmarked preliminary plat only)  
Engineering Division w/preliminary plat  
Wastewater Reclamation Division  
Dept. of Water Supply, SD 00-42  
Dept. of Planning  
State Dept. of Health  
Maui Electric Company

### Permit Summary

<b>Permit:</b>	SM2 20000042	<b>Flags:</b>	NO
<b>Description:</b>	SMA MINOR PERMIT		
<b>Project:</b>	<a href="#">HUI RD."E"</a> 3 LOT SUBD.LOT 48-A HUI RD."E"		
<b>Status:</b>	DONE	<b>Entered:</b>	27-Jun-2000
<b>Issued:</b>	27-Jun-2000	<b>Completed:</b>	06-Jun-2000
<b>Decision:</b>	A W/COND		
<b>Expiration:</b>		<b>Last Renewal:</b>	
<b>Location Desc.:</b>			

Parcel Information		
<b>Address</b>	<b>TMK</b>	
<a href="#">40 HUI E RD</a>	<a href="#">2430150040000</a>	<a href="#">GIS Parcel</a>

Scope of Work
<p>Special Management Area (SMA) Minor Permit ? For the Three-Lot Subdivision of Lot 48-A at Hui Road "E" and Related Subdivision Improvements at TMK: 4-3-015:004, Lahaina, Island of Maui, Hawaii (SM2 2000/0042)</p> <p>In response to your request for a second time extension dated May 8, 2001, the Maui Planning Department hereby amends Condition No. 3 of the above-referenced permit and grants a two month extension as follows:</p> <p>"3. That construction of the subdivision improvements shall be initiated by August 31, 2001, and shall be completed within one (1) year of said initiation."</p>

Professionals / Contractors
There are no professionals for this application.

[\[QUANTITIES\]](#)

Structure Classification			
<b>Initial Value:</b>	\$0.00	<b>Calculated Value:</b>	\$0.00
<b>Standard Plan:</b>		<b>Public Project:</b>	
<b># of Structures:</b>		<b># of Res. Units:</b>	
<b>Total Floor Area:</b>			
<b>Model:</b>			

Occupancy Group	Construction Type	Structure Class
None attached.	None attached.	None attached.

Inspections							
Inspection	Result	Completed Date	Completed By	Schedule	CORR		
					O	C	N
There are no inspections for this permit.							

Activities								
Description	Assigned	Nodes		Dur.	Est. Completion	Target End	Decision	Decision Date
		Beg	End					
There are no activities for this application.								

Permit Flags		
Flag	Description	Status
There are no flags on this application		



DAVID Y. IGE  
GOVERNOR

STATE OF HAWAII  
OFFICE OF INFORMATION PRACTICES

NO. 1 CAPITOL DISTRICT BUILDING  
250 SOUTH HOTEL STREET, SUITE 107  
HONOLULU, HAWAII 96813  
Telephone: (808) 586-1400 FAX: (808) 586-1412  
E-MAIL: [qip@hawaii.gov](mailto:qip@hawaii.gov)  
[www.qip.hawaii.gov](http://www.qip.hawaii.gov)

CHERYL KAKAZU PARK  
DIRECTOR

August 16, 2017

VIA EMAIL

Mr. Christopher Salem  
5100 Lower Honoapiilani Road  
Lahaina, Hawaii 96761

Re: CORR 2017-0815-01

Dear Mr. Salem:

The Office of Information Practices has received your letter of August 12, 2017. In your letter, you posed the question that if an agency maintains a record which is the subject of a record request under Part II of the Uniform Information Practices Act, must the agency disclose the record to the requester. If the agency maintains a record, the record must be disclosed subject to the exceptions in section 92F-13, Hawaii Revised Statutes (HRS).

In your particular situation, you had received an e-mail message on July 11, 2017, from Ms. Susan Foley, Executive Assistant to Councilmember Kelly T. King, with an attached copy of a County of Maui, Hawaii, Permit Summary for Permit SM2 2000/0042 ("KIVA net 10.g") (hereafter referred to as "KIVA net 10.g Permit Summary"). On November 28, 2016, you had submitted an RFS Information form to the County of Maui for access to the "public record of the date of final acceptance and closure of SMA Permit #SM2 2000/0042. Also, name of Planning Department individual with Planning Department that closed the reference SMA Permit in the County records." Your specific question was that if Maui County/Planning Department (Maui County) maintained the record referred to as the KIVA net 10.g Permit Summary at the time of your November 28, 2016, record request, was Maui County required to disclose the KIVA net 10.g Permit Summary to you at that time? The answer is yes, subject to the exceptions in section 92F-13, HRS.

If you have any questions, please contact OIP.

Sincerely,

Donald H. Amano  
Staff Attorney

B

## Permit Summary

<b>Permit:</b>	SM2 20000042	<b>Flags:</b>	NO
<b>Description:</b>	SMA MINOR PERMIT		
<b>Project:</b>	<a href="#">HUI RD."E"</a> 3 LOT SUBD.LOT 48-A HUI RD."E"		
<b>Status:</b>	DONE	<b>Entered:</b>	27-Jun-2000
<b>Issued:</b>	27-Jun-2000	<b>Completed:</b>	06-Jun-2000
<b>Decision:</b>	A W/COND		
<b>Expiration:</b>		<b>Last Renewal:</b>	
<b>Location Desc.:</b>			

### Parcel Information

<b>Address</b>	<b>TMK</b>	
<a href="#">40 HUI E RD</a>	<a href="#">2430150040000</a>	<a href="#">GIS Parcel</a>

### Scope of Work

Special Management Area (SMA) Minor Permit ? For the Three-Lot Subdivision of Lot 48-A at Hui Road "E" and Related Subdivision Improvements at TMK: 4-3-015:004, Lahaina, Island of Maui, Hawaii (SM2 2000/0042)

In response to your request for a second time extension dated May 8, 2001, the Maui Planning Department hereby amends Condition No. 3 of the above-referenced permit and grants a two month extension as follows:

"3. That construction of the subdivision improvements shall be initiated by August 31, 2001, and shall be completed within one (1) year of said initiation."

### Professionals / Contractors

There are no professionals for this application.



January 16, 2013 | 08:02 AM

The war in Maui County over deferral agreements is raging again. It flares up now and then through the years, only to dissipate a few weeks later. Silent for the last couple years, the issue began getting discussed a few weeks ago. In fact, county officials are insisting that the problem may even be coming to an actual solution.

A relatively ancient anecdote is in order.

Back in 2002, when the County of Maui first began talking of the Lower Honoapiilani Highway "Phase IV" development between Kahana and Napili, West Maui resident Christopher Salem visited an engineer who worked for the county. Salem, who lived in the area, had some infrastructure improvement ideas: speed control devices, using indigenous stone walls to replace the current steel barricades, and even burying overhead power lines underground to improve the neighborhood's aesthetics. According to Salem, the engineer looked over his proposal, then said the county had no money to make those kinds of improvements.



"What about the funds from the multiple developer reimbursement agreements along Phase IV?" Salem said he asked.

"Ah, we never collect those," Salem said the engineer told him.

"Ever?"

"Never."

Ah, deferral agreements. I had first heard of these a year or two after Salem's meeting, when I was discussing land development with then-Maui County Council member Jo Anne Johnson (now named Jo Anne Johnson Winer, she went to work in 2011 as the county transportation director). Deferral agreements were one of her perennial bugbears—an itch in the county's planning/public works/finance nexus that, no matter how much she scratched at it, never seemed to get better.

Put simply, deferral agreements were deals the County of Maui used to strike with those who wanted to divide up their land into three lots or less. The landowners had a choice: pay for whatever sidewalk, pavement, curb or gutter improvements were needed right then, or defer the payment. The practice began in 1974, and was mainly to help local families divide up their land for their offspring without having to become full-fledged developers.

Even simple questions like how many of these agreements exist aren't simple to answer. According to Maui County Public Works Director David Goode, a mid-2011 search by his office discovered 600 such agreements. That seems great, except that in 2010, his predecessor Milton Arakawa told the Maui County Council Planning Committee that his office found about "1,700" agreements.

"That was before we did our count," Goode told me. "The previous number, I can only imagine, is an estimate."

Goode, by the way, was County Public Works Director back in 2002 around the time when Salem first found out that the county "never" collects deferral agreements. A decade later, in 2012, Goode lamented to the County Council during budget hearings how "crazy" the whole situation had gotten.

**"[I]n some cases, especially in West Maui, the original three-lot subdivision was a huge piece of land that went halfway up the mountain," Goode said during an April 19, 2012 budget hearing. "And so there's a possibility there's going to be some deferral agreements where theoretically there's 1,000 different owners and they each owe us \$25. I mean it's getting really crazy."**

In any case, the issuing of these deferral agreements to those building three lots or less ended in 2007 after a number of problems emerged. First, as Salem discovered five years earlier, the county simply didn't collect any of the deferred monies. The deferral agreements just sat there, without the landowners making any payments, even as county officials actually went ahead and made some of the required infrastructure improvements.

"This is money," Johnson said at a Nov. 15, 2010 Maui County Council Planning Committee hearing on the matter. "It's not owed to me. It's not owed to Public Works. This is taxpayer money that is able to be collected if we would simply send people a bill for their proportionate share of whatever the improvements were made to the frontage abutting their property."

They did this, county public works officials admitted years later, because they had very little notion of who exactly owed them what. Just how many of these deferral agreements hadn't yet been paid, how many infrastructure improvements were made without first securing payment—even figuring out how many deferral agreements actually existed—were all unknowns at the County of Maui, even as late as 2010.

"[W]e intend to collect the necessary information on deferral agreements as we need it," then-Public Works Director Milton Arakawa told the Council's Planning Committee at a Nov. 15, 2010 hearing (this is the same hearing when he threw out the 1,700 figure that Goode disputes. "There are approximately 4,900 subdivision files at Kalana Pakui and an, an additional 5,800 files in storage. And, of course, not all of these have deferral agreements. So we do not need the information, all of this information, at the current time. And it would take many months of research to find deferral agreements through the 33 years that this provision was in existence."

As for how much money that added up to, Johnson estimated that the figure would run into the "millions of dollars."

Councilman Mike Victorino, who at that point had been on the council for four years, admitted during the hearing that he'd known nothing of deferral agreements, and what he was hearing "astonished" him.

"And it's astonishing that 33 years and some seven Administrations and I don't know how many Councils in between, this has just languished and languished," he said, according to the hearing minutes. "And I, I'll take responsibility, four years, I've just heard about it. I've never had any idea what the heck was going on. And now, now to have some reality set in, Mr. Chair, it's astonishing. But this could be millions and millions and millions of dollars that is due this County. And the problem is maybe some people even passed away, you know, people have left, sold it six, seven times, I don't know."

Victorino's last point, about the possibility of properties with deferral agreements on the books getting sold and re-sold, throwing the question of who owed the county what completely askew, was important. At the hearing, Arakawa agreed that property sales since the agreement made it all that more difficult to figure out dollar amounts.

Then Victorino called for action. "But it's the point that this County is due this money," he said. "And whether the next Administration takes it on or not I think the, the Council should make it, you know, very much an important issue that we need to work on this problem along with a few others because these are monies that the people of Maui County are owed."

The next day, The Maui News ran a story on the hearing under the pretty sensational but nonetheless

accurate headline "County unpaid for roadwork for decades." And then, as is often the case where these types of things are concerned, nothing changed. For all his talk of being "astonished," Victorino apparently didn't do anything after the hearing (he did not return a phone call for this story).

But Salem, the guy who discovered more than a decade ago the untapped potential of deferral agreements, decided to do something. There were two reasons for this. First, he had also worked as a County Council aide, and was very familiar with both engineering and legislative matters. And second, he owns a house in the Lower Honoapiilani Highway Phase IV area.

In mid-2010, Salem received a letter (dated May 27, 2010) from Public Works Director Arakawa. "[W]e would like to provide you the following "Notice of Intent to Collect," Arakawa wrote, referring to the fact that a deferral agreement was attached to his house, which was in the Phase IV project area. "As part of this project, the County will be seeking a payment of a pro rata share of roadway improvements as included in the terms of the deferral agreement."

The letter would have been alarming enough if Arakawa had stopped there. The letter included no due date, but was rather just a warning that such a collection notice would someday come. Deferral agreements are, after all, contingent liens—homeowners who don't pay them risk foreclosure.

But the letter also stated that the county didn't actually have a "pro rata share of the costs" to give him. Instead, Arakawa's letter said, Salem would have to negotiate his final share of the cost with the other original lot owners.

Title companies call that an "open-ended encumbrance"—a bill that, someday, will come due in some amount that's yet undetermined. Good luck selling a home—much less getting it appraised—with that attached to your deed.

Needless to say, Arakawa's letter outraged Salem. It was one thing to ask him to pay a bill—that was perfectly reasonable. But to put in writing that someday he'd have to pay an indeterminate amount that he'd have to negotiate himself? That was too much.

"He didn't have the authority to send that letter," Salem said. "There is no formula adopted by ordinance for the assessment and collection of these agreements. The county Charter says assessments have to be adopted by the Council."

Salem, who spent about 15 years working with the County Council, then wrote up the "Fairness Bill" (dubbed PC-17). The bill, said Salem, would get all the deferral agreements off the county's books and set up a method of collecting whatever money was still owed to the county. It would develop a formula for assessing and collecting the agreement amounts. He said it was partly based on a similar county parks ordinance.

"There already is an ordinance with parks," Salem said. "If you develop, you give up land for a park or pay a fee. That came out in 1987, and is exactly what's needed for deferral agreements." Of course, Salem said there was a three lots or less exemption built into the parks ordinance as well.

Anyway, the Fairness Bill seemed to be moving along until early December. Then, Salem said, Councilmember Don Couch suddenly killed it. What's more, the bill was not rolled over to the next council session.

According to Couch, the bill was "auto-filed," meaning that if a council member didn't ask for it to come up again during the next term, it was filed away. His reason, he told me, was that the bill simply wasn't necessary.

"The Department of Public Works is going ahead with deferral agreements where applicable, and not going ahead where nothing is going on. When they come up, I'm guessing a lot of them get rectified."

Goode agreed. "When the county comes in and does a project, then we would exercise the agreements," he said. "We're coming up on our first project now where we'd send out a letter [to those with deferral agreements]." The project, Goode explained, is the Lower Honoapiilani Highway Phase IV development that affects Salem.

As for Salem's "Fairness Bill," Goode said it that the County Corporation Counsel's office had said it wasn't legal.

"There was discussion on amending the law," Goode said. "But our attorneys said that you can't. It's a done deal and we have to live with it. I don't think at this point that there's any way to change the deal. It wouldn't fly."

For his part, Salem says he still concludes that the Maui County Charter is clear on this. "The park fee ordinance does have a formula for collection," he said. "They're never acknowledging these things. Will they acknowledge them in this year's budget?"

<b>Permit ID</b>
SM2-20000042
<b>Description</b>
Special Management Area (SMA) Minor Permit ? For the Three-Lot Subdivision of Lot 48-A at Hui Road "E" and Related Subdivision Improvements at TMK: 4-3-015:004, Lahaina, Island of Maui, Hawaii (SM2 2000/0042) In response to your request for a second time extension dated May 8, 2001, the Maui Planning Department hereby amends Condition No. 3 of the above-referenced permit and grants a two month extension as follows: "3. That construction of the subdivision improvements shall be initiated by August 31, 2001, and shall be completed within one (1) year of said initiation."
<b>Address</b>
40 HUI E RD LAHAINA, HI 96761
<b>Contacts</b>
PERMIT APPLICANT:, HUGH FARRINGTON
<b>Conditions</b>
CONST ACRD - CONSTRUCTION IN ACCORD W/PLANS CONSTRUCTION IN ACCORD W/PLANS Recorded by: 1080
OBTAIN BP - OBTAIN BUILDING PERMIT (IF APPLICABLE) OBTAIN BUILDING PERMIT (IF APPLICABLE) Recorded by: 1080
MITIGATE - APPROPRIATE MITIGATE MEASURES APPROPRIATE MITIGATE MEASURES Recorded by: 1080
INITIATE2 - INITIATE CONSTUCTION INITIATE CONSTUCTION Recorded by: 1080
FULL COMP - FULL COMPLIANCE FULL COMPLIANCE Recorded by: 1080
<b>Additional Information</b>
<b>General Permit Information -</b> Permit Name: Permit Location: Project: HUI RD."E" Entry Date: 27-Jun-2000 Accept Date: 27-Jun-2000 Issue Date: 27-Jun-2000 Expiration Date: Completion Date: 06-Jun-2000

<b>Permit ID</b>
SUBD-20000045
<b>Description</b>
MAILEPAI HUI PARTITION SUBDIVISION - Subdivision of Lot 48-A into Lots 48-A-1, 48-A-2 & 48-A-3.
<b>Address</b>
40 HUI E RD LAHAINA, HI 96761
<b>Contacts</b>
PERMIT CONTACT:, WARREN S. UNEMORI ENGINEERING, INC.
PERMIT APPLICANT:, WARREN S. UNEMORI ENGINEERING, INC.
PERMIT OWNER:, LOT 48 LLC
<b>Additional Information</b>
<b>General Permit Information -</b> Permit Name: Permit Location: Project: 4.805 Entry Date: 09-May-2000 Accept Date: 09-May-2000 Issue Date: 09-May-2000 Expiration Date: Completion Date: 03-Oct-2001

**Permit Summary**

<b>Permit:</b>	SUBD 20000045	<b>Flags:</b>	NO
<b>Description:</b>	SUBDIVISION		
<b>Project:</b>	4.805 MAILEPAI HUI PARTITION SUBDIVISION		
<b>Status:</b>	DONE	<b>Entered:</b>	09-May-2000
<b>Issued:</b>	09-May-2000	<b>Completed:</b>	03-Oct-2001
<b>Decision:</b>	FINAL		
<b>Expiration:</b>		<b>Last Renewal:</b>	
<b>Location Desc.:</b>			

**Parcel Information**

<b>Address</b>	<b>TMK</b>	
<a href="#">40 HUI E RD</a>	<a href="#">2430150040000</a>	<a href="#">GIS Parcel</a>

**Scope of Work**

MAILEPAI HUI PARTITION SUBDIVISION - Subdivision of Lot 48-A into Lots 48-A-1, 48-A-2 & 48-A-3.

**Professionals / Contractors**

**REED M ARIYOSHI**  
 WARREN S. UNEMORI ENGINEERING **Phone:** 242-4403  
 WAILUKU, HI 96793  
 CE - CIVIL ENGINEER  
**License:** 5465 **Expires:** 30-Apr-2018

[\[QUANTITIES\]](#)

**Structure Classification**

<b>Initial Value:</b>	\$0.00	<b>Calculated Value:</b>	\$0.00
<b>Standard Plan:</b>		<b>Public Project:</b>	
<b># of Structures:</b>		<b># of Res. Units:</b>	
<b>Total Floor Area:</b>			
<b>Model:</b>			

Occupancy Group	Construction Type	Structure Class
None attached.	None attached.	None attached.

**Inspections**

Inspection	Result	Completed Date	Completed By	Schedule	CORR		
					O	C	N
There are no inspections for this permit.							

**Activities**

Description	Assigned	Nodes		Dur.	Est. Completion	Target End	Decision	Decision Date
		Beg	End					
<a href="#">INITIAL PERMIT APPL REVIEW</a>	9930	1	2	5	13-May-2000	13-May-2000	A	11-May-2000
<a href="#">PRELIMINARY APPROVAL</a>	9930	3	4	15	24-May-2000	24-May-2000	A W/COND	23-Jun-2000
<a href="#">CONSTRUCTION PLAN APPROVAL</a>	0680	4	5	30				
Comment: SEE ROUTING.								
<a href="#">FINAL PLAT REVIEW</a>	9930	6	7	15	24-May-2000	24-May-2000	A	10-Sep-2001
<a href="#">FINAL REVIEW APPROVAL</a>	9930	7	8	19	13-Jun-2000	13-Jun-2000	A	08-Sep-2000
Comment: TAX CLEARANCE EXPIRES 12/31/00								

**Permit Flags**

Flag	Description	Status
There are no flags on this application		

### Inspections

Inspection	Result	Completed Date	Completed By	Schedule	CORR		
					O	C	N
There are no inspections for this permit.							

### Activities

Description	Assigned	Nodes		Dur.	Est. Completion	Target End	Decision	Decision Date
		Beg	End					
<a href="#">INITIAL PERMIT APPL REVIEW</a>	9930	1	2	5	13-May-2000	13-May-2000	A	11-May-2000
<a href="#">PRELIMINARY APPROVAL</a>	9930	3	4	15	24-May-2000	24-May-2000	A W/COND	23-Jun-2000
<a href="#">CONSTRUCTION PLAN APPROVAL</a>	0680	4	5	30	?	?	?	?
Comment: SEE ROUTING.								
<a href="#">FINAL PLAT REVIEW</a>	9930	6	7	15	24-May-2000	24-May-2000	A	10-Sep-2001
<a href="#">FINAL REVIEW APPROVAL</a>	9930	7	8	19	13-Jun-2000	13-Jun-2000	A	08-Sep-2000
Comment: TAX CLEARANCE EXPIRES 12/31/00								

### Permit Flags

Flag	Description	Status
There are no flags on this application		

## Activities

**Permit:** SUBD 20000045

**Project:** 4.805

**Address:** 40 HUI E RD

[\[ACTIVITY LIST\]](#)

**Activity:** CONST APPR

**Activity Status:** OPEN

**Description:** CONSTRUCTION PLAN APPROVAL

**Assigned To:** RENEE M. G SEGUNDO

**Available:**

**Target End:**

**Start Work:**

**Est. Completion:**

**Total Days:**

**Allocated Days:**

**Duration:** 30

**Working Days:**

**Comments:** SEE ROUTING.

### Actions

**Description**

**Tickler Date**

**Status**

**Completed**

**Notes**

There are no actions for this activity.



PLANNING COMMITTEE MINUTES  
Council of the County of Maui

October 12, 2009

---

CHAIR KAHO`OHALAHALA: I, I wanted to get back to the --

VICE-CHAIR JOHNSON: Sure.

CHAIR KAHO`OHALAHALA: --the compliance because we're, part of today's agenda  
...*(inaudible)*...

VICE-CHAIR JOHNSON: Right. Right is compliance.

CHAIR KAHO`OHALAHALA: ...compliance. And so my, my only follow-up question if I,  
...*(inaudible)*...

VICE-CHAIR JOHNSON: No, please go right ahead.

CHAIR KAHO`OHALAHALA: ...to look at the compliance part of it. Now when the, when conditions are placed on by the Planning Department for a permit, and does moving to the second subdivision or SMA, are those compliance, are those conditions still attached to the original? Because you were talking about these were the original conditions for an SMA permit, and there were these compliance issues that were placed as conditions. And then if you move that same, and then you're going to re-subdivide another, a, a parcel that then it goes to the SMA part of it, I guess. The question is are those compliance requirements still attached in the, the, the new subdivision?

MR. ARAKAWA: Mr. Chair, the second three-lot subdivision was the subject of an SMA Minor Permit, if I'm correct. But the conditions of the SMA Minor Permit, I mean would, it would still apply. From, from our standpoint, we, we would look to the Planning Department to basically enforce those SMA Minor Permit conditions. If there are any violations regarding the actual subdivision regulations and it's brought to our attention then of course we would go out and investigate. But the, the SMA Minor Permit conditions should be enforced by, by Planning.

CHAIR KAHO`OHALAHALA: Okay. And I guess just what I want to understand is that we got two departments that are interacting and then you have several other agencies. And when we're looking at the compliance then I want to be sure that how, how is this organized within your own Department's review? Is it always going to go back to the Planning Department for, for review? Or is it gonna, do you have a, jurisdiction over that SMA so that you make approvals, you know, from Public Works? Can you just help me understand where the interaction is between the departments itself? Because now it's coming back to Planning that has all of that jurisdiction. So any, any comments on that?

MR. ARAKAWA: We, we basically, of course as you know, administer Title 16 and 18 in, in general. Title 16 being the, the building code and plumbing, electrical codes as well as Title 18 which is subdivisions. If there are any potential violations regarding those two codes and people bring up their concerns to us this is what we will investigate. But if

Pacific Rim  
*land*  
Incorporated

PO Box 220, Kihei, Hawaii 96753  
Phone (808) 874-5263 fax (808) 879-2557

**Facsimile**

June 4, 1999

Mr. Thomas Welch, Jr.  
Mancini Rowland & Welch  
33 Lono Ave., Suite 470  
Kahului, HI 96732

Via facsimile (808) 871-0732, four (4) pages, no hard copy to follow

RE: Ukumehame  
Consolidation and Reconfiguration of Parcels with no SMA Permit required

Dear Tom:

We are finalizing the Ukumehame Consolidation and Reconfiguration Plan, and are trying to get a handle on the SMA issue. Our goal is to come up with the best lot configurations possible and avoid an SMA requirement.

To recap, we have twelve clear parcels (parcels 9, 48, 53, 54, 55, 56, 60, 61, 65, 66, 68, and 70) included our Consolidation Application which we are reconfiguring into thirteen new lots. In the new lots, nine are clear, and four have the clouded parcels within them. (We may go with a different layout that creates 11 clear and only 2 clouded.) We were planning on excluding all the clouded parcels from the application. If we reconfigure thirteen parcels, will we need to include one clouded parcel in our application? What are the ramifications of including clouded parcels in our application, especially if we are creating clouded parcels? We have received comments from LUCA to list all existing parcels and identify which are included/excluded in the application.

So that leads me to our next question: In April, you sketched the "Before" and "After" parcels in the SMA 'zone' (attached for your convenience) showing nine parcels before and seven after. I have scribbled my notes on your drawing. We have four clear parcels (9, 48, 68, & 70) which are included in the consolidation and five clouded (57, 58, 59, 67, & 69) which are not included. How does this affect our application?

Finally, to be exempt from an SMA: "The subdivision of lands into more than four lots where the minimum lot area is less than 20 acres qualifies as a development, and is therefore, subject to the permit procedures of the SMA rules." How do you interpret this? Does this mean we can only have three lots under 20 acres in the SMA area, and the remainder lots in the zone must be over 20 acres? If all lots are over 20 acres, how many can we have in the SMA zone?

ATTEN  
7 Farrows Rd  
9 02-478-4100  
Please review this information and call Becky and me at (808) 874-5263 to discuss further at your earliest convenience. Thank you.

Sincerely,  
5263 Corp.



Heidi Bigelow  
Project Coordinator

Attachment

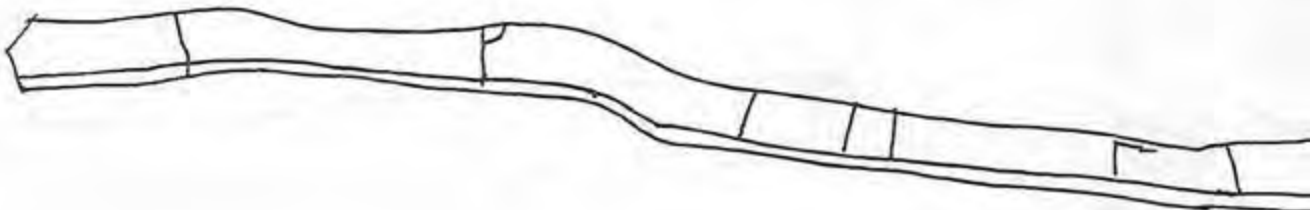
AFTER:

7 PARCELS IN SM.  
4 OF WHICH ARE  
Leaving a subdivis.



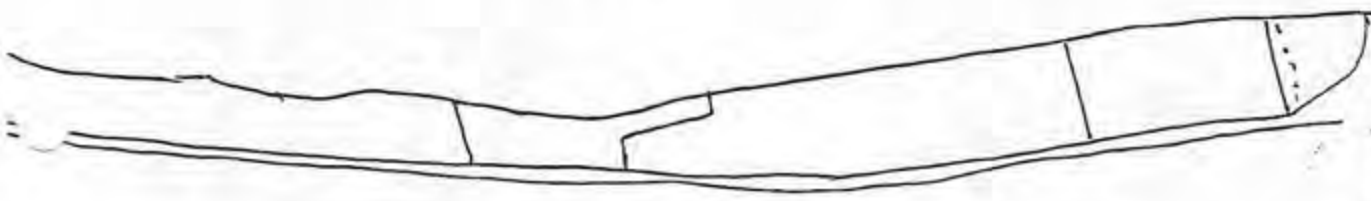
BEFORE

9 PARCELS IN SM.



PARCELS IN SMA AREA

1 OF WHICH ARE OVER 20 ACRES,  
leaving a subdivision of 3 lots under 20 acres.



PARCELS IN SMA AREA



This shows that you'd like to have SMA  
prescription should also apply!  
This was presented to planning Dept in Sept 1998

AFTER:

7 PARCELS IN SMA AREA

4 OF WHICH ARE OVER 20 ACRES,

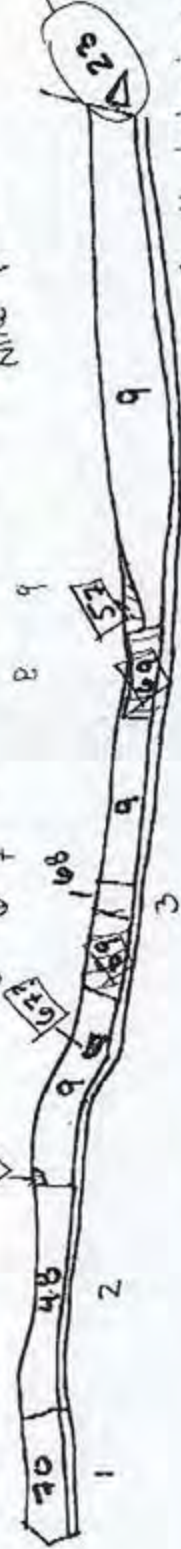
LEAVING A SUBDIVISION OF 3 LOTS UNDER 20 ACRES.



BEFORE

9 PARCELS IN SMA AREA

Nine parcels in SMA Area



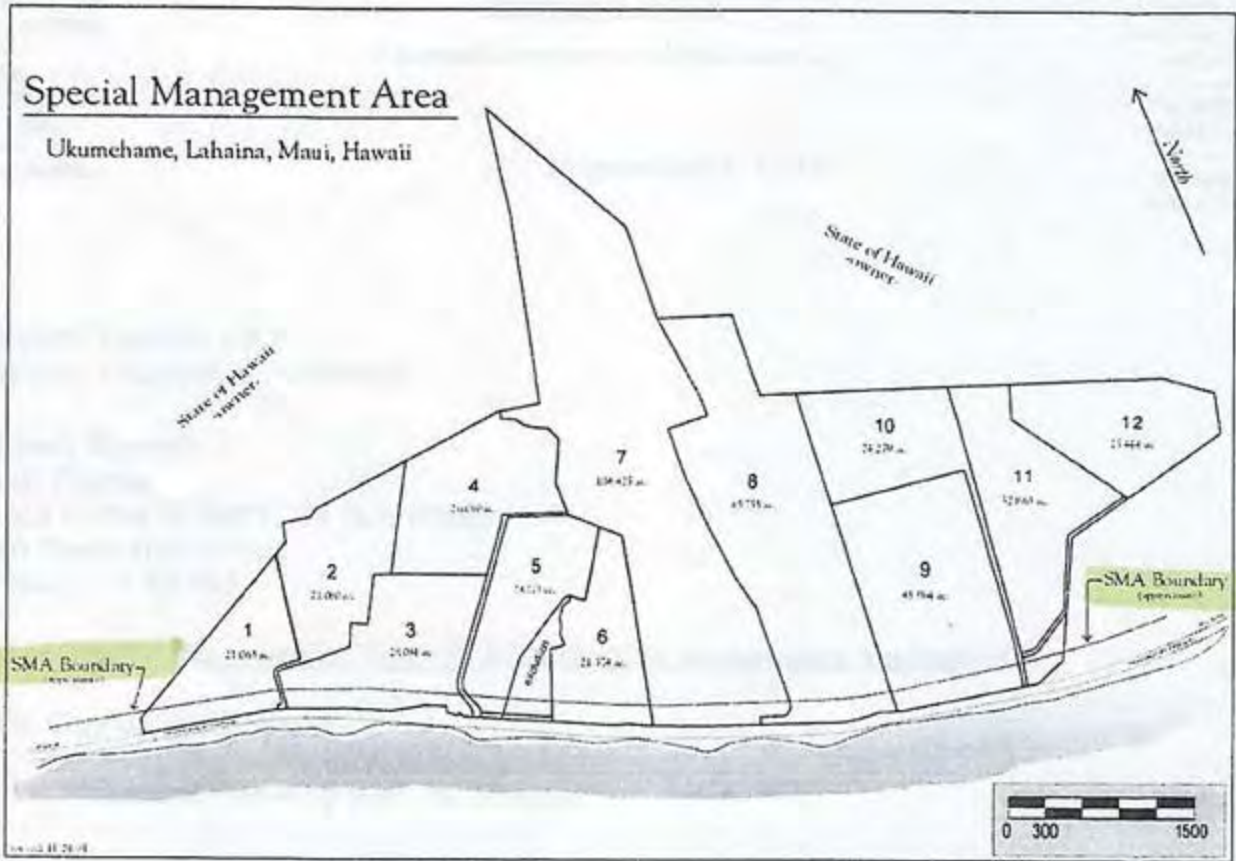
Grants 58, 59, 69, 57, 6, 67? in SMA, but not included in consolidation because clouded.

Grants 70, 48, 9, 6, 68 included 6 in SMA

Grant 23 clear, but not included 6 in SMA.

4 Only 4 to be included in Consolidation/ Reconfiguration.

Not include "Grants" in SMA Area



PAUL R. MANCINI\*  
ROBERT E. ROWLAND\*  
THOMAS D. WELCH, JR.  
MATTHEW V. PIETSCH

COUNSEL  
ROBERT A. RICHARDSON  
ROSALYN LOOMIS

\*A LAW CORPORATION

## MANCINI, ROWLAND & WELCH

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS

THE KAHULUI BUILDING  
33 LONO AVENUE  
SUITE 470  
KAHULUI, HAWAII  
96732-1681

TELEPHONE:  
(808) 871-8351

FACSIMILE:  
(808) 871-0732

September 3, 1998

Clayton Yoshida, AICP  
Planning Program Administrator

Colleen Suyama  
Staff Planner  
MAUI COUNTY DEPT. OF PLANNING  
250 South High Street  
Wailuku, HI 96793

RE: Ukumehame: TMK (2) 4-8-2:9: SMA Assessment Application

Dear Clayton and Colleen:

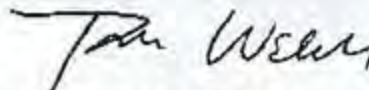
Thanks for meeting with me Tuesday.

Just to confirm our conclusions for the file, we agreed that paragraph 1 of your July 17 letter to Jim Judge does not intend to say that the full (major) SMA permit requirement is triggered by the subdivision itself. Instead, the application will be processed as a minor permit by virtue of the proposed work in the SMA area costing less than \$125,000, and that a major SMA permit would be required only if the DLNR, DOT or other agency were to say that the construction work, increased traffic or other factors, taken together, create cumulative effects which would result in "substantial adverse environmental or ecological effect" under H.R.S. §205A-22.

You suggested that we might want to anticipate the DOT's response by providing for a traffic study up front, similar to Pete Martin's handling of a similar situation at Launiupoko. I will pass that suggestion on to my client.

Again, thanks for your help. If you have any questions or further thoughts at this point, please let me know.

Regards,



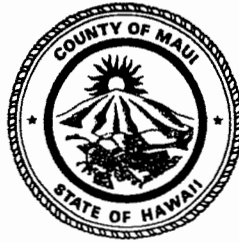
Thomas D. Welch, Jr.

TDW:dkw

cc: James R. Judge, Esq. (fax 242-4368)  
Tim Farrington (fax 874-6450)



ALAN M. ARAKAWA  
Mayor



PATRICK K. WONG  
Corporation Counsel

EDWARD S. KUSHI  
First Deputy

LYDIA A. TODA  
Risk Management Officer  
Tel. No. (808) 270-7535  
Fax No. (808) 244-2646

DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 SOUTH HIGH STREET, 3<sup>RD</sup> FLOOR  
WAILUKU, MAUI, HAWAII 96793  
EMAIL: CORPCOUN@MAUICOUNTY.GOV  
TELEPHONE: (808) 270-7740  
FACSIMILE: (808) 270-7152

---

November 17, 2014

R.C. Sinnott  
52A Waimahaihai Street  
Kihei, HI 96753

RE: Meeting with Council members

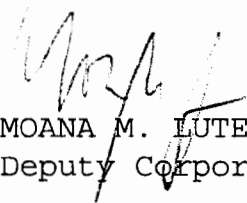
Dear Mr. Sinnott:

This is to address your requests to meet with Council member Couch and Chair Baisa. Based on your repeated threats of litigation, council members have been instructed to not meet with you.

If you would like to address your concerns in writing, that is fine. However, there will be no in person meetings.

If you have any questions or comments, please direct them to me in writing so that we can maintain a clear record of our communication. Thank you for your attention to this matter.

Sincerely,

  
MOANA M. LUTEY  
Deputy Corporation Counsel

cc: Gladys Baisa, Council Chair  
Don Couch, Council member

52 A Waimahaihai Street  
Kihei, Hi 96753

19 November 2014

Ms. Moana Lutey  
Department of the Corporation Counsel  
County of Maui  
200 South High Street, 3<sup>rd</sup> Floor  
Wailuku, Maui 96793

Dear Ms. Lutey:

Thank you for your opinion. Suing the County from my observation is clearly the method of doing business here in Maui County and is a self serving method for your department. As I stated in my most recent letter, I am not interested in suing the County. The County seems to be making every effort to encourage me to do that.

My goal is simple. The County via multiple departments participated in activities that it should not have done and I am trying to correct that failure while trying to insure that my community in Kihe is protected from the negligent behavior of the County, which your office seems to have little interest in correcting.

I note from your letter that your office “*instructs*” the Maui County Council. Does that extend to their apparel and the correct way to say “yes” ?

I am quite certain that the council members have an obligation under the 1<sup>st</sup> Amendment to listen to my grievances. They most assuredly can make sound judgments on their own. I wish to make certain that they have availed themselves of my grievances and that this is done in a neutral environment without the intimidation of an overseer, unless that is their wish. Unless you have some information that would preclude my speaking to them, I suggest strongly that your office stop interfering with my Constitutional rights.

Sincerely

Robert Sinnott MD  
COL USA Rtd

# Maui County must repay \$11M in time-share suit

Honolulu Star-Advertiser 28 Aug 2017 1:10 PM By Andrew Gomes agomes@staradvertiser.com

A state judge has rebuked Maui County attorneys and property tax officials for collecting \$10.7 million in improper taxes from owners of a Kaanapali time-share because the owners challenged the county's tax policy.

Circuit Judge Peter Cahill said in a written decision earlier this month that the county abused its taxation power to create a weapon against taxpayers who had sued to dispute the legality of a unique treatment of time-shares for property tax purposes.

In the decision, Cahill ordered the county to refund \$10.7 million in taxes to the owners of 1,114 units in the Westin Kaanapali Ocean Resort Villas, plus interest and \$83,325 in fees the owners paid to initially appeal the improper tax bills.

The owners also are expected to seek extra damages and recovery of roughly \$400,000 in attorneys fees.

"This all never had to happen," said Robert Klein, a local attorney

and former Hawaii Supreme Court justice representing the timeshare owners.

Klein said a poorly designed legal tactic by the county to retroactively "reassess" property taxes backfired. "They went way out there," he said of the county. "Basically, (Cahill) said the reassessments were illegal."

In a written statement, Maui County and its corporation counsel strongly disagreed with the findings and rulings of the court.

County attorney Pat Wong said in the statement that a "highly questionable" lawsuit filed in 2013 by the Ocean Resort Villas time-share owners challenging the county's special tax rate for time-shares led county property tax assessors to uncover that they had undercharged the owners in 2006, 2007 and 2008 by \$10.7 million, so the county tried to collect the correct amount.

Wong said the county will refund the \$10.7 million along with interest and fees but will appeal

the court ruling.

Maui County claims that backlogged property tax assessment rolls resulted in Ocean Resort Villas being billed about \$8 million based on the land value and value of construction costs on two parcels that make up the time-share complex built between 2003 and 2006. This valuation method is typical for condominiums while they are being built, and the county usually switches to assessing the value of individual condo units when construction is finished.

That didn't initially happen in the case of Ocean Resort Villas.

The county made the change for the time-share in 2009, and owners paid the higher assessments though they appealed the amount and settled with the county for 2009 and 2010 bills.

Then in 2013, Ocean Resort Villas owners, through two owner association boards, filed a lawsuit that alleged the county didn't follow Hawaii open-meetings laws and that having a separate prop-

erty tax rate for time-shares wasn't fair. The suit alleged that the county owed the owners \$30 million.

In 2015, one month before a scheduled trial date, the county filed a counterclaim seeking to recover a "tax windfall" from 2006, 2007 and 2008 — \$10.7 million in underpayments — for Ocean Resort Villas. Circuit Judge Rhonda Loo dismissed the counterclaim in March 2016.

Two months later the county Real Property Assessment Division sent Ocean Resort Villas 1,114 "amended" tax assessments for the three years totaling an extra

\$10.7 million and gave owners 30 days to pay it. The notice also said, "For questions, call Maui County Department of Corporation Counsel."

The time-share owners appealed the amended assessments to a county tax review board but had to first pay the \$10.7 million and an appeal fee of \$75 per owner, for a total of \$83,325.

In January the board upheld the higher assessments, and the time-share owners further appealed to the state Tax Appeal Court in February, paying \$100 for each of the 1,114 appeals. The Tax Court had yet to rule when Cahill issued his decision Aug. 8.

Cahill said no evidence was presented that the county would have issued the amended assessments in the normal course of real property tax functions.

"The county issued the amended assessments not as part of its routine assessment and taxation function, but, viewing the facts in the light most favorable to the county, abused (its) taxation power to create a weapon — a new \$10-plus million tax obligation — against taxpayers with whom it was in litigation," Cahill said in his order.

Issues over the validity of Maui County's tax rate for time-share property have yet to be decided in the case.

 Write a comment...

 Share  Comment  Save  More

 Bump it  Dump it

CHARMAINE TAVARES  
Mayor  
JEFFREY S. HUNT, AICP  
Director  
KATHLEEN A. AOKI  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

**FACSIMILE TRANSMISSION COVER SHEET**

**DATE:** August 3, 2009  
**TO:** Chris Salem  
**TELEPHONE NO.:** (808) 288-1166 **FACSIMILE NO.:** (808) 669-8779  
**FROM:** Joe Prutch *J.P.*  
**NO. OF PAGES (INCLUDING COVER SHEET):** 6  
**REMARKS OR SPECIAL INSTRUCTIONS:**

On June 22, 2009, you requested to access government records for (2) 4-3-015:004 (Lot 48A, LLC). You specifically requested SMA File SM2 2000/0042 and Shoreline Certification Maps. As you know, the SM2 file cannot be found at the County. Without the file I could only locate documents on the computer and was only able to find the following:

1. SMA Minor Permit
2. Scope of SMA Permit
3. Conditions of Approval for permit
4. Extension approval letter dated Nov 6, 2000 (not signed)
5. Extension approval letter dated May 10, 2001 (not signed)

Sorry, I was not able to find a compliance report or any shoreline certification maps. You might check with Dev. Services Admin. (DSA: 270-7252) to locate the Subd 4.805 file, maybe there is some information available there.

**MAUI COUNTY CODE IS AVAILABLE ON THE INTERNET**

<http://ordlink.com/codes/maui/index.htm>

If you do not receive all pages, or if there is a problem with this transmittal, please call (808) 270-7735. Our facsimile number is (808) 270-1775.  
[planning@mauicounty.gov](mailto:planning@mauicounty.gov)

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793  
PLANNING DIVISION (808) 270-7735; ZONING DIVISION (808) 270-7253; FACSIMILE (808) 270-7634

CHARMAINE TAVARES  
Mayor

JEFFREY S. HUNT  
Director

KATHLEEN ROSS AOKI  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

October 13, 2009

Mr. Shichao Li  
State of Hawaii  
Office of Planning  
P.O. Box 2359  
Honolulu, Hawaii 96804-2359

Dear Mr. Li:

**SUBJECT: SPECIAL MANAGEMENT AREA (SMA) MINOR PERMIT FOR  
LOWER HONOAPIILANI ROAD PROJECT**

We have received your email dated October 5, 2009, requesting relevant materials for the above project, more defined as Subdivision of Lot 48-A at Hui Road "E".

Attached you will find the following materials:

1. SMA Assessment application packet;
2. SMA Minor Permit dated June 6, 2000; and
3. Tax Map Key (TMK) maps showing three (3) lots and five (5) lots.

Thank you for your cooperation. Should you have any questions regarding this letter, please contact Staff Planner Joseph Prutch via email at [joseph.prutch@mauicounty.gov](mailto:joseph.prutch@mauicounty.gov) or at 270-7512.

Sincerely,

A handwritten signature in black ink, appearing to read "Clayton I. Yoshida".

CLAYTON I. YOSHIDA, AICP  
Planning Program Administrator

for JEFFREY S. HUNT, AICP  
Planning Director

Attachments

xc: Aaron H. Shinmoto, PE, Planning Program Administrator (2)  
Joseph M. Prutch, Staff Planner  
Project File  
General File

JSH:CIY:JMP:vb

K:\WP\_DOCS\PLANNING\LETTERS\tr2009\Shichao\_100509.doc

JAMES "KIMO" APANA  
Mayor

JOHN E. MIN  
Director

CLAYTON I. YOSHIDA  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

June 6, 2000

Mr. Hugh Farrington  
Lot 48-A, LLC  
P. O. Box 1516  
Kihei, Hawaii 96753

Dear Mr. Farrington:

RE: Special Management Area (SMA) Minor Permit – For the Three-Lot Subdivision of Lot 48-A at Hui Road "E" and Related Subdivision Improvements at TMK: 4-3-015:004, Lahaina, Island of Maui, Hawaii (SM2 2000/0042)

In response to your application received on May 11, 2000, and in accordance with the Special Management Area Rules for the Maui Planning Commission, Sections 12-202-12 and 12-202-14, a determination has been made relative to the above project that:

1. The project is a development;
2. The project has a valuation not in excess of \$125,000.00 (Valuation: \$91,400.00);
3. The project has no significant adverse environmental or ecological effect, taking into account potential cumulative effects; and
4. The project is consistent with the objectives, policies and Special Management Area guidelines set forth in the Hawaii Revised Statutes (HRS), Chapter 205-A and is consistent with the County General Plan and Zoning.

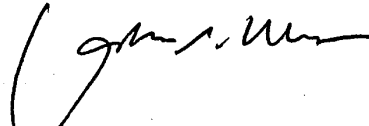
In consideration of the above-referenced determination, you are hereby granted a Special Management Area Minor Permit approval, subject to the following conditions:

Mr. Hugh Farrington  
June 6, 2000  
Page 2

1. That construction shall be in accordance with plans submitted on May 11, 2000.
2. That a subdivision approval shall be obtained prior to the initiation of construction (if applicable).
3. That construction of the subdivision improvements shall be initiated by December 31, 2000 and shall be completed within one (1) year of said initiation.
4. As represented, the existing chain-link fencing located within the minimum 48 ft. shoreline setback area shall be removed within sixty (60) days of the date of this approval. Documentation shall be submitted to the Maui Planning Department that the condition has been fulfilled.
5. That continued public-lateral shoreline access shall be allowed along the rock ledge, makai (ocean side) of the existing embankment and vegetation fronting the shoreline area of Lot 48-A.
6. That full compliance with all other applicable governmental requirements shall be rendered.

Thank you for your cooperation. If additional clarification is required, please contact Ms. Colleen Suyama, Staff Planner, of this office at 270-7735.

Very truly yours,



JOHNE. MIN  
Planning Director



Mr. Hugh Farrington  
June 6, 2000  
Page 3

JEM:CMS:osy

c: Clayton Yoshida, AICP, Deputy Planning Director  
Aaron Shinmoto, PE, Planning Program Administrator  
Colleen Suyama, Staff Planner  
Michael Munekiyo, AICP, Munekiyo, Arakawa & Hiraga, Inc.  
LUCA (2)  
2000/SM2 Minor Permit File  
General File  
(S:\\CMS\HuiRoadE2)



COUNTY OF MAUI  
 DEPARTMENT OF PLANNING  
 250 SOUTH HIGH STREET  
 WAILUKU, MAUI, HAWAII 96793  
 TELEPHONE: (808) 243-7735; FAX (808) 243-7634

**MAUI PLANNING COMMISSION  
 SPECIAL MANAGEMENT AREA ASSESSMENT AND/OR  
 MINOR PERMIT APPLICATION**

00 MAY 11 P3:48

DATE: \_\_\_\_\_

PERMIT TYPE: SMA Minor PROJECT NAME: Subdivision of Lot 48-A

PROPOSED DEVELOPMENT: Three (3) lot subdivision

TAX MAP KEY NO.: 4-3-15:4 CPR/HPR NO.: --- LAND AREA: 1.4 acres

PROPERTY ADDRESS: Along Hui Road "E", Napili, Maui, Hawaii

OWNER: Lot 48-A, LLC PHONE: (808) 875-7000

ADDRESS: P.O. Box 1516

CITY: Kihei STATE: Hawaii ZIP CODE: 96753

SIGNATURE: *Heugh J. Lawrence*

APPLICANT: Lot 48-A, LLC

ADDRESS: P.O. Box 1516

CITY: Kihei STATE: Hawaii ZIP CODE: 96753

PHONE (HOME): --- PHONE (BUSINESS): (808) 875-7000 FAX: (808) 875-7075

SIGNATURE: *Heugh J. Lawrence*

CONTACT: Munekiyo, Arakawa & Hiraqa, Inc.

ADDRESS: 305 High Street, Suite 104

CITY: Wailuku STATE: Hawaii ZIP CODE: 96793

PHONE (HOME): --- PHONE (BUSINESS): (808) 244-2015 FAX: (808) 244-8729

EXISTING USE OF PROPERTY: The property contains two small storage sheds within its fenced boundaries. Lawn and landscaped areas comprise the balance of the property.

CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION: Urban

COMMUNITY PLAN DESIGNATION: Single Family

MAUI COUNTY ZONING DESIGNATION: R-3, Residential

OTHER SPECIAL DESIGNATIONS: \_\_\_\_\_

## **I. DESCRIPTION OF THE PROPOSED IMPROVEMENTS AND ANTICIPATED IMPACTS**

### **A. PROJECT LOCATION AND SETTING**

The landowner and applicant, Lot 48-A, LLC, proposes a three (3) lot subdivision of TMK 4-3-15:4, located at Napili, Maui, Hawaii. See Figure 1 and Figure 2. Encompassing approximately 1.4 acres, the subject property is located along the north side of Hui Road "E". Bordering Hui Road "E" along its southern extent are single-family residential units. Two (2) vacant parcels (TMK 4-3-15: 54 and 55) border the property to the east. The property's northern boundary is defined by the coastline, while a pedestrian shoreline accessway, extending from the Hui Road "E" cul-de-sac, borders the property along its southwest property line. Access to the subdivided lots will be via Hui Road "E". Beyond Hui Road "E", surrounding land uses in the immediate vicinity include single-family residential, condominium and multi-family uses.

The property contains two (2) storage sheds measuring approximately 840 square feet and 580 square feet, respectively. A maintained lawn and landscaped perimeter make up the balance of the property.

### **B. PROPOSED ACTION**

A three (3)-lot subdivision is proposed by the applicant. The lot sizes will range between approximately 16,900 square feet and 23,700 square feet. Improvements proposed in connection with the subdivision include the following:

1. Installation of approximately 220 lineal feet of curb, gutter, sidewalk and related improvements along Lower Honoapiilani Road;
2. Installation of approximately 142 lineal feet of curb, gutter, sidewalk and related improvements along the north side of Hui Road "E";

- 
3. Installation of a fire hydrant;
  4. Installation of a 2-inch diameter force main to allow the conveyance of wastewater from each lot to the existing County sewerline on Lower Honoapiilani Highway; and
  5. Electrical, telephone and cable TV service.

The estimated cost for the foregoing improvements is \$91,400.00. Implementation of subdivision improvements will commence upon receipt of required permits and upon approval of construction documents.

**C. RELATIONSHIP OF THE PROPOSED ACTION TO LAND USE PLANS, POLICIES AND CONTROLS**

The property is within the State "Urban" district. The West Maui Community Plan designates the property as Single-Family. Underlying zoning for the property is R-3, Residential. The proposed subdivision is in consonance with the applicable land use designations.

The property is a shore-fronting parcel and must conform with setback requirements set forth in the Rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of Kahoolawe, Lanai, and Maui. Setbacks for the three (3) lots will range from approximately 42 feet to 55 feet. See Exhibit "A". No improvements are proposed within the setback area.

It is noted that the shoreline bordering the property is rocky and fixed.

**D. PROBABLE IMPACTS**

Construction activities associated with the proposed subdivision improvements may create temporary inconveniences, as construction vehicles and equipment (e.g., backhoes, concrete trucks) are used to

---

complete curb, gutter and sidewalk work. Appropriate traffic control measures will be used to ensure the safe and efficient passage of vehicles along both Lower Honoapiilani Highway and Hui Road "E". In addition to possible construction traffic impacts, construction noise and fugitive dust impacts will need to be addressed by the contractor. In this regard, construction is anticipated to be limited to daylight hours to help mitigate nuisance impacts. As required, sections of Hui Road "E" and Lower Honoapiilani Highway will be watered down while roadway improvements are undertaken. Existing grades of each lot will be maintained.

The creation of three (3) lots is not anticipated to have adverse long-term impacts upon infrastructure and public services. In particular, the subject action is not expected to affect traffic operations, water and wastewater systems. The development of the properties for three (3) single-family residences will not alter drainage patterns and characteristics. The increased runoff resulting from the new roofed and paved areas of the single-family residences will not adversely affect downstream or adjacent properties.

The property has been previously cleared and landscaped. There are no significant or sensitive habitats on the property. There are no surface archaeological features on the site.

**E. ALTERNATIVES TO THE PROPOSED ACTION**

With the exception of the "no action" alternative, no other subdivision alternative has been considered by the applicant. In the context of the property's existing land use designation and physical characteristics, the three-lot configuration proposed is deemed to be both appropriate and viable.

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**F. MITIGATING MEASURES TO MINIMIZE IMPACTS**

The primary impacts associated with the proposed subdivision are those related to the attendant roadway improvements. These impacts include additional noise, dust and construction traffic. To mitigate the effects of these impacts, construction will be limited to daylight hours. As appropriate, traffic control, as well as noise and dust mitigation measures will also be implemented to ensure that nuisance and inconveniences to neighboring residents are minimized.

**G. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES**

The proposed subdivision would involve the commitment of fuel, labor, funding and material resources. No other irreversible or irretrievable commitment of resources resulting from the project is anticipated.

**ORDER OF MAGNITUDE ESTIMATE  
FOR  
SUBDIVISION OF LOT 48-A INTO 3 LOTS**

March 4, 2000

Description	Approx. Quan.	Unit	Unit Price	Total
<b><u>ROADWIDENING</u></b>				
<b><u>L. Honoapiilani Road</u></b>				
Grading L. Honoapiilani Road	220	l.f.	\$ 5.00	\$ 1,100
2½ AC	41	ton	\$ 85.00	\$ 3,485
4" ATB	66	ton	\$ 82.00	\$ 5,412
6" SBC	100	ton	\$ 35.00	\$ 3,500
Primer	103	gal.	\$ 4.00	\$ 412
Conc. Curb and Gutter	220	l.f.	\$ 20.00	\$ 4,400
4' Sidewalk	220	l.f.	\$ 18.00	\$ 3,960
Driveway Curb Cut and Apron	1	each	\$ 1,000.00	\$ 1,000
Traffic Control		L.S.		\$ 2,000
Grassing Shoulder	880	s.f.	\$ 0.50	\$ 440
Dust Control		L.S.		\$ 2,000
	Subtotal - L. Honoapiilani Road:			\$ 27,709
<b><u>Hui Road E</u></b>				
Grading L. Honoapiilani Road	400	l.f.	\$ 5.00	\$ 2,000
2" AC	36	ton	\$ 85.00	\$ 3,060
6" UTB	108	ton	\$ 35.00	\$ 3,780
Primer	112	gal.	\$ 4.00	\$ 448
Conc. Curb and Gutter	142	l.f.	\$ 20.00	\$ 2,840
Sidewalk	142	l.f.	\$ 18.00	\$ 2,556
Driveway Curb Cut and Apron	2	each	\$ 1,000.00	\$ 2,000
Traffic Control		L.S.		\$ 1,000
Grassing Shoulder	600	s.f.	\$ 0.50	\$ 300
Dust Control		L.S.		\$ 2,000
	Subtotal- Hui Road E:			\$ 19,984
<b><u>WATER SYSTEM:</u></b>				
Fire Hydrant	1	each	\$ 4,000.00	\$ 4,000
Double Service Conn.	1	each	\$ 2,000.00	\$ 2,000
	Subtotal - Water System:			\$ 6,000

Description	Approx. Quan.	Unit <sup>1</sup>	Unit Price	Total
<b><u>SEWER SYSTEM:</u></b>				
2" HPE Force Main	900	l.f.	\$ 20.00	\$ 18,000
Connection to Existing SMH	1	each	\$ 3,000.00	\$ 3,000
Conc. Anchor Beam Block	3	each	\$ 300.00	\$ 900
Subtotal - Sewer System:				\$ <u>21,900</u>
<b><u>ELECTRICAL, TELEPHONE, CATV SYSTEM:</u></b>				
Service Lateral	3	each	\$ 2,500.00	\$ 7,500
Subtotal - Electrical, Telephone, CATV System:				\$ <u>7,500</u>
SUM OF ALL ITEMS:				\$ 83,093
10% CONTINGENCY:				\$ 8,309
PROBABLE CONSTRUCTION COST:				\$ <u><u>91,402</u></u>



AFFIDAVIT OF JO ANNE JOHNSON WINER

I, JoAnne Johnson Winer, state as follows;

1. I am a citizen of the United States of America, a resident of the County of Maui, State of Hawaii and I am over 21 years of age.

2. As a resident of West Maui, I was elected to the Maui County Council on November 2, 1999 and served for ten years until reaching term limitations and I currently serve as Director of Transportation for the County of Maui.

3. On or about 1999, I hired Kathy Kaohu as my executive assistant to the Maui County Council. Ms. Kaohu is currently an executive assistant to Maui County Council Member Don Guzman. She also assisted me in research on issues while on the Council and on issues related to "deferral agreements."

4. On or about late in 2000, my office was contacted by West Maui resident Christopher Salem regarding questions and concerns over the proposed design for a County of Maui Capital Improvement Project for Phase IV of Lower Honoapiilani Road relating to public safety, environmental impacts and view planes, since the project ran adjacent to his property.

5. In cooperation with Austin, Tsutsumi Associates, Inc. (project consultants for Phase IV) and County Project Manager Joe Krueger, Mr. Salem volunteered his professional knowledge and expertise to help create a more sensitive and safe redesign of the Phase IV roadway improvements, which I believe are still on file with the County.

6. As a member of the Maui County Council, I approved the expenditures for this Phase IV Capital Improvement Project during our annual budget hearings as a part of

our annual budget process. During this process, I understood from the information provided that the project would begin in 2002 and the construction would take about a year.

7. I do not believe that Council members were aware at the time the funding was approved that the Department of Public Works had failed to acquire the numerous land rights and necessary easements to initiate the field construction of the Phase IV roadway upgrades. To the best of my knowledge the Phase IV Capital Improvement Project is currently stalled and I am unclear if approvals and/or funding are in place.

8. In late 2000, Mr. Salem also brought to my attention outstanding obligations owed to the County of Maui from developer contractual agreements commonly known as “3 Lots or Less” roadway improvement “Deferral Agreements.”

9. We met with Councilmember Riki Hokama to determine if his historical knowledge could help us to understand this process and how these obligations could still be outstanding. Councilmember Hokama was not aware of who was tracking these obligations and was also concerned about these obligations. He did not want to use public monies to pay for improvements that were the responsibility of either developers or owners.

10. Since Mr. Salem owned a property along Phase IV of Lower Honoapiilani Road he shared his firsthand knowledge of how this worked with us. He advised us that in accordance with terms of a “3 Lots or Less” subdivision agreement recorded on his land title by our attorneys in Corporation Counsel, the original developers deferred the cost of roadway and drainage improvements. Mr. Salem explained that this obligated

current and future property owners within the 3 Lot subdivisions to pay to the County of Maui their “pro rata” share of the Phase IV Capital Improvement Project.

11. I later learned from Mr. Salem’s ongoing inquiries and notices to our County departments, the Department of Corporation Counsel, Department of Finance, and Department of Public Works that no department was assigned to track the collection and assessment of an unknown quantity of developers contractual financial obligations owed to the County of Maui. As a result, it was unknown how many of these agreements existed or how much money might be owed to the County of Maui. I believe I also received a letter from Public Works confirming that no records were being kept by their department of these agreements.

12. Through this process I also learned that subdivisions of 4 lots of more were required by ordinance to mitigate the impacts of their developments by installing complete roadway and drainage improvements along their frontages without any form of deferral or developer exemptions available.

13. I recall receiving a copy of a letter sent from Mr. Salem to Mayor Alan Arakawa alerting the administration that public funds were likely being used to pay for private developer’s financial obligations without any form of reimbursement to the County of Maui, since deferral agreements were not being tracked.

14. From 2002 and for years thereafter, I continued to raise my concerns in annual Maui County Council budget hearings regarding how these deferral agreements actually obligated the County of Maui to pay for and incur private owner’s financial obligations.

15. Prior to my tenure as a council member, I learned that the first three phases of Lower Honoapiilani Road had been upgraded and improved as County of Maui Capital Improvement Projects with County of Maui and Federal funds. However, no funds were provided through deferral agreement collections.

16. As I came to learn over time, on these 3 phases, the County of Maui paid with public taxpayer funds the entire costs of developer's roadway frontage and financial obligations without making any attempts to notice or collect upon the development debts owed.

17. My numerous inquiries to then Department of Public Works Director Milton Arakawa, requesting a list of developer's subdivisions that were subject to assessment and collection throughout Maui County, failed to achieve any results.

18. In 2007, out of frustration, I proposed legislation to the members of Maui County Council to Title 18 that was adopted (I think it was ordinance 3513 and Bill Number 77) by Maui County Council in 2007. I believed that by doing so, it would limit the expenditure of public funds on private developer's or owners financial obligations that had been ongoing since 1974.

19. On October 12, 2009, I proposed further language to a proposed Title 18 bill that would insure that financial obligations set forth in previously executed and recorded "deferral agreements" would be assessed and collected by the County of Maui.

20. The resulting Ordinance 3731 was enacted and insured that proper advanced Notice of Intent to Collect would be sent by the director authorized to administer the developer agreement at the commencement of future funding of roadway

Capital Improvement Projects and at the time land right of way acquisition was initiated by the County of Maui.

21. Ordinance 3731 insured that developers and their heirs would be obligated to pay a pro rata share of roadway capital improvements in order to prevent those costs from being shifted to Maui County taxpayers.

22. In compliance with the adopted ordinance, I recall that Director of Public Works, Milton Arakawa, then sent letters of Notice of Intent to Collect to multiple property owners along the Phase IV Capital Improvement Project of Lower Honoapiilani Road, including Mr. Salem.

23. Director Arakawa informed property owners that the County would ask them for a payment of the pro rata share of costs of the Phase IV roadway improvements as per the terms of their deferral agreements. Director Arakawa also notified the property owners that Phase IV construction would now commence in 2012.

24. Director Arakawa, I believe also informed the affected property owners that their pro rata share would likely be determined in consultation and agreement between other property owners within their subdivision. However, I could never find any authorization within our legislation that would allow such a notice and determination.

25. It was not until November of 2010 that Public Works Director Milton Arakawa finally disclosed to the County Council that he believed there were perhaps as many as 1800 open-ended deferral agreements affecting the land title of thousands of properties in Maui County that had been executed and recorded by Corporation Counsel. This was very disturbing to many of us.

26. I was also made aware by Mr. Salem that Director Arakawa had informed

the property owners in Mr. Salem's subdivision that 5 property owners from two separate overlapping 3 Lot subdivisions were obligated to pay a pro rata share of the 3 Lots or Less Subdivision Agreement. Mr. Salem asked me if I was aware of how this could happen and I advised him that I knew of no ordinance adopted by the Maui Council that would allow two separate overlapping subdivisions of the same parcel of land to twice defer their roadway infrastructure and financial obligations and I had no explanation as to how this could even happen.

27. In early 2011, I met with Mayor Alan Arakawa and Mr. Salem and I was instructed by Mayor to work with Corporation Counsel Attorney Ed Kushi and Mr. Salem to see if there was a possible formula or process for assessment and collection of the deferred developer financial obligations that the Mayor might present for consideration to the Maui County Council. The knowledge that both Mr. Salem and I had of the subject matter was why I believe we were asked to come up with some possible suggestions to the Mayor.

28. The effort to provide input never came to fruition since Corporation Counsel advised the Mayor that our input was not needed. I was also questioned by Corporation Counsel as to why I was even involved in this matter inasmuch as I was no longer a Councilmember. I explained that I had specific knowledge of the issue and felt that I could contribute to resolving the matter to the benefit of all concerned. I am aware that after Corporation Counsel countered Mayor Arakawa's directive, Mr. Salem took it upon himself as a private citizen to meet with Council members and their assistants to draft legislation to adopt a fair and reasonable process for collection and assessment of the developer's deferred financial obligations.

29. I read what I term the “Fairness Bill,” prepared with assistance from Mr. Salem in cooperation with Council Member Elle Cochran’s executive assistant Jordan Molina. The bill provided what I thought could be the start to achieving a fair and responsible process for collection and assessment of developer’s deferred financial obligations. Mr. Salem advised that the bill also appeared to have support from members of the Maui County Council. I do not know what happened to the legislation beyond what I was told by Mr. Salem.

30. I am unaware if the Department of Public Works or Corporation Counsel ever addressed the concerns raised by Mr. Salem regarding the five owners with two overlapping three lot subdivisions. There should be some type of response as it does not appear to be allowed under our county ordinances. If it is not legal, then how can Corporation Counsel allow it to be permitted?

31. Corporation Counsel informed Mr. Salem, and I believe, during public testimony, our County Council as well as the general public, that releasing copies of the developer contractual agreements would be “an interruption of a legitimate government function”. I did not agree with this interpretation.

32. I recalled reading in a Maui News article that Public Works Director David Goode publicly stated that Corporation Counsel deemed the “Fairness Bill” illegal. From what I understood, the “Fairness Bill” was reviewed by Council Services attorneys prior to being forwarded to the County Council for consideration and no issues regarding illegality were raised.

33. I question whether or not a written memorandum was ever issued by Corporation Counsel to the members of the Maui County Council explaining why the

“Fairness Bill” was unlawful or inconsistent with the 2010 Ordinance that was approved by Corporation Counsel. This was always a part of the standard procedure when I was on the Council.

34. During my years of public service as a Council Member of the County of Maui, the attorneys in Corporation Counsel always led me to believe that the “3 Lot or Less” contractual agreements drafted and recorded by the Department were collectable debts owed to the County of Maui.

35. Why the Fairness Bill that was submitted was not considered or an alternate proposal drafted so that monies owed to the people of Maui County were able to be collected? I was disturbed with the way Mr. Salem’s integrity was questioned and how his motivation to resolve this issue was portrayed both privately and publicly during the discussions surrounding the bill.

36. I believe Mr. Salem’s efforts in seeking responsible government over the past fifteen years were on behalf of the best interests of the citizens of Maui County. From what I personally witnessed, his dedication and commitment to the youth programs of West Maui has been exemplary despite the suffering his family has endured and continues to endure by bringing these issues into the public light.

37. It was recently brought to my attention that Public Works Director David Goode advised that the County of Maui “*may or may not*” be collecting upon the developer contractual obligations previously noticed for collection to property owners by Public Works Director Arakawa. I do not agree with this position as it contradicts the intent and stated language of ordinance 3731 that was publicly adopted by our Maui



County Council. Consistent with all legislation adopted by the Maui County Council, Ordinance 3731 was reviewed and approved by Corporation Counsel and is a law.

38. I have reviewed a letter from Director Goode, which was approved by Mayor Arakawa on January 9, 2012, wherein he stated his department has completed the cataloging of all known deferral agreements and it is his intent to work with the Department of Finance and Corporation Counsel to arrive at fair formula for calculation and assessment and notify the affected land owners of their required contributions.

39. I have also reviewed a letter from Director Goode on April 16, 2012, which provided the projected revenues from collection of developer deferral agreements on affected parcels along the South Kihei Road Capital Improvement Project.

40. I also reviewed a recent document showing Mr. Salem's analysis of the developer deferral agreements on residential, commercial, and industrial properties recorded by the Department of Public Works and Corporation Counsel throughout Maui County.

41. Why are public officials not bound to follow ordinance 3731 which required that Notices of Intent to Collect deferred developer contractual financial obligations were distributed? Why does it appear that the County is shifting private obligations to the public in violation of the County Charter?

42. An additional concern is the obligation to insure that there are no unfulfilled SMA Permit obligations wherein developers have failed to complete their roadway improvement and drainage mitigations that also may end up being paid for with County funds during Capital Improvement Projects. What is being done to insure that these obligations are being met and who is tracking them?

43. During a Maui County Council Infrastructure Management meeting on February 1, 2010, Attorney Galazin of Corporation Counsel informed the Council members of the different situations in which a developer may have to pay for roadway improvements and drainage mitigations, including obligations set forth in subdivision applications and SMA Permit studies and applications.

44. As I learned during the final years of my tenure as a Council Member, the Planning Department was not tracking SMA requirements that would insure compliance of developers in completing their SMA Permit roadway and drainage mitigations. They appear to rely solely on the integrity of developers and complaints from citizens to administer developer compliance.

45. I am deeply concerned that the SMA permitting process has become a means for private developers to skirt their infrastructure and environmental mitigation responsibilities, since enforcement may be absent or selective.

46. During my latter days as of member of the Maui County Council, I became aware that developers of Olowalu Mauka subdivision had failed to complete their subdivision obligations and environmental mitigations conditioned in an SMA Major Permit issued almost 10 years prior and as a result a lawsuit was filed by a private resident who was sold a property in the developers Olowalu Mauka subdivision.

47. My understanding was that the Olowalu subdivision received final subdivision approval from the County even though there were incomplete SMA Permit conditions. This occurred during the very same time period that Mr. Salem raised his concerns that developer's "3 Lots or Less" contractual agreements executed by Corporation Counsel were not being kept track of, assessed, or collected upon. Mr. Salem

also complained that his 3 lot subdivision was being re-subdivided a second time by Developer Lot 48A, LLC in violation of the Maui County Code and the SMA Permitting process.

48. As I learned from being called as a witness in legal arbitration proceedings involving a dispute over Developer Lot 48A, LLC's obligations to pay their pro rata share of the Phase IV Capital Improvements affecting the land title of Mr. Salem's property, the County Department of Public Works signed off on Developer Lot 48A, LLC's oceanfront subdivision with what I viewed as an incomplete and unfulfilled SMA Permit during the same time period whereby the same county department granted the Olowalu subdivision approvals with unfulfilled SMA Permit obligations.

49. I also learned that the Developer Lot 48A, LLC's attorney was working for the County of Maui Department of Corporation Counsel at the same time she was employed by Lot 48A, LLC in the legal proceedings. I saw nowhere in the procurement reports that this was disclosed to the members of the Council. I also learned Developer Lot 48A, LLC's SMA Permit studies were not provided to the arbitrator and they included the disputed roadway and drainage improvements to the frontage of Mr. Salem's property along of Phase IV of Lower Honoapiilani Road.

50. When I was informed that the former land planning firm of a county official was the same SMA consultant retained by the County of Maui to complete the SMA environmental studies and permitting for Phase IV of Lower Honoapiilani Road as well as being the SMA Permit consultant for the Developer Lot 48A, LLC for the re-subdivision of the "3 Lots or Less" subdivision I became extremely concerned. This is

the same subdivision in which Mr. Salem owned an original parcel of land abutting Phase IV of Lower Honoapiilani Road. To my knowledge there was no disclosure made to this effect.

51. I witnessed Mr. Salem's vehement protest and complaints that the overlapping subdivision of the original "3 Lots or Less" subdivision by Lot 48A, LLC required developer Lot 48A, LLC to obtain a SMA Major Permit through public hearings. My belief is that the one time exemption from an SMA Major permit was exhausted on the original 3 Lots or Less Subdivision. I still question how this could happen if laws are in place to protect the rights of the public?

52. Mr. Salem further argued that the engineering valuation for the Lot 48A, LLC's SMA permit underestimated the impacts of the oceanfront subdivision and costs associated with the development to intentionally avoid environmental studies and public review. Even after my inquiries to the Planning Department about this issue and also the SMA requirements I do not believe this has ever been resolved or investigated.

53. I was made aware that deferral agreements recorded by Corporation Counsel on Mr. Salem's property along with Director Arakawa's written notice to Mr. Salem caused residential appraisers and real estate brokers to refuse to represent his property for sale.

54. I was also advised that Mr. Salem attempted to pay the County of Maui a pro-rata share of the "3 Lots or Less" subdivision agreement to try to remove the open ended lien on his property during an open escrow even though it was developer Lot 48A, LLC's obligation to do so. I was told by Mr. Salem that Corporation Counsel refused to accept his payment or remove the lien on his property to facilitate the escrow.

55. I remain dedicated to the people of Maui County and I truly believe that our citizens expect all public officials to protect their interests and act with integrity.

56. As a former member of the Maui County Council, I witnessed time and again where private citizens were forced to uphold the ordinances adopted by the Maui County Council to protect citizen's individual and public property rights, when this should in effect be the obligation of the County of Maui.

57. I have gone through Mr. Salem's lengthy and detailed timelines and also his analysis of what has taken place and I would agree that what he has uncovered appears to reveal a failure to enforce laws uniformly, collect monies due the County, adhere to SMA and subdivision laws and disclose possible conflicts of interest. These issues should be thoroughly investigated and resolved, which I believe Mr. Salem has attempted to do on a number of occasions.

58. Mr. Salem should not be punished for shining the light on these issues but thanked for having the courage to bring them to the County in the first place.

59. I am prepared to testify under oath to the events described in this affidavit to insure that the public's trust is fairly represented.

  
JoAnne Johnson Winer

Doc. Date: 8-11-15 # Pages: 14  
Flyuza Wasano Second Circuit  
Doc. Description affidavit

 8-11-15  
Notary Signature Date  
NOTARY CERTIFICATION

State of Hawaii  
County of Maui

Sworn to and subscribed before me on  
day of AUG 11 2015



Flyuza Wasano  
Notary Public, State of Hawaii  
My commission expires 08/11/2017



13



JAMES "KIMO" APANA  
Mayor

DAVID C. GOODE  
Director

MILTON M. ARAKAWA, A.I.C.P.  
Deputy Director



RALPH M. NAGAMINE, L.S., P.E.  
Land Use and Codes Administration

RONALD R. RISK, P.E.  
Wastewater Reclamation Division

LLOYD P.C.W. LEE, P.E.  
Engineering Division

Solid Waste Division

BRIAN HASHIRO, P.E.  
Highways Division

**COUNTY OF MAUI  
DEPARTMENT OF PUBLIC WORKS  
AND WASTE MANAGEMENT**

LAND USE AND CODES ADMINISTRATION  
250 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793

October 3, 2001

Mr. Reed M. Ariyoshi, P.E., P.L.S.  
**WARREN S. UNEMORI ENGINEERING, INC.**  
2145 Wells Street, Suite 403  
Wailuku, Hawaii 96793

**SUBJECT: MAILEPAI HUI PARTITION SUBDIVISION  
TMK: (2) 4-3-015:004  
LUCA FILE NO. 4.805**

Dear Mr. Ariyoshi:

Final approval for the subject subdivision has been granted on October 3, 2001. An approved final plat is enclosed for your records.

If you have any questions regarding this letter, please call Mr. Lance Nakamura of our Land Use and Codes Administration at 270-7252.

Very truly yours,

  
for DAVID GOODE  
Director of Public Works  
And Waste Management

Enclosure

LSN S:\LUCA\ALL\SUBD\LUCASUBD\REG4\4#805-1.fln

xc: Dept. of Finance, Real Property Tax Division w/final plat.  
Dept. of Finance, Tax Map Division w/final plat  
Building Permit Section w/final plat  
Engineering Division w/final plat  
Wastewater Reclamation Division w/final plat  
Dept. of Planning w/final plat  
Dept. of Water Supply, SD 00-42 w/final plat  
Police Dept. w/final plat  
State Dept. of Health w/final plat  
Maui Electric Co. w/final plat

**P.B. Sullivan Construction Inc.**

P.O. Box 734  
Kihei, HI 96753  
Phone: 808-875-2833  
Fax: 808-874-5690  
License # AC-22090

**Project: Lower Honoapiilani Road Improvements Phase 4**

Item #	Description	Bid Qty.	UM	Unit Price	Price
1	Roadway Excavation	102	CY	\$239.91	\$24,470.82
2	6" Permeable Pipe W/ Permeable	210	LF	\$76.34	\$16,031.40
3	6" UTB Under Roadway	40	TON	\$189.45	\$7,578.00
4	3" AC Pavement	27	TON	\$343.73	\$9,280.71
5	5" Asphalt Treated Base	37	TON	\$343.73	\$12,718.01
6	4" Base Course Under Swale	33	TON	\$218.27	\$7,202.91
7	1 1/2" Asphalt At Paved Swale	13	TON	\$343.73	\$4,468.49
8	18" Storm Drain	13	LF	\$178.58	\$2,321.54
9	24" Storm Drain	95	LF	\$172.78	\$16,414.10
10	Type "61614P" Drain Inlet (3' X 4')	3	EACH	\$4,579.08	\$13,737.24
11	ARV W/ Type F Manhole	2	EACH	\$2,745.71	\$5,491.42
12	12" Waterline (CL 52)	91	LF	\$999.88	\$90,989.08
13	Concrete Jacket (12" Waterline)	91	LF	\$512.36	\$46,624.76
14	Engineering Design			By Others	
15	Control Survey/Staking			By Others	
16	Permits			By Others	
17	Construction Water			By Others	
<b>Total</b>					<b>\$257,328.48</b>

Estimate prepared using plan sheets C-4, C-5, C-32, C-32, C-37, C-38 drawn by Kent Morimoto dated 6/2001 for the Lower Honoapiilani Road Improvements Phase 4

**Price Excludes:**

Design, Authority Approvals, Construction Water or any items not specifically mentioned in this estimate.

0

0

02/12 '08 14:03 NO.700 01/03



Warren S. Umemori Engineering  
2143 Wells Street, Suite 403  
Wailuku, Maui, Hawaii 96793  
(808)242-4403 FAX: (808)244-4856

TELECOPIER TRANSMITTAL

TO: Tim Farrington DATE: March 4, 2000  
P.O. Box 1516 PROJECT: Mailepai Hui Subdivision  
Kihei, Hawaii 96753 of Lot 48-A into 3 Lots  
JOB NO.: \_\_\_\_\_  
RE: \_\_\_\_\_

ATTENTION: \_\_\_\_\_

TELECOPIER NO.: 874-6450



We are transmitting 3 page(s) including this cover sheet. If they are not received, please call us and we will retransmit them as soon as possible.

Originals to be Mailed:  yes  no

Documents: Order of Magnitude Estimate of Construction Cost of Anticipated Improvements

Remarks: I wasn't exactly sure about existing improvements on Hui Road E. Therefore I assumed the worst case scenario. I also assumed that the existing 6-inch line will be able to deliver the required fire flow of 1000 gpm because of the very short run. Hope you're successful in convincing Planning that improvements will cost less than \$125,000.

Copies To: \_\_\_\_\_

Good luck;

By:

Warren S. Umemori

**CONFIDENTIAL COMMUNICATION:** This message is intended only for the use of the designated recipient named above. If the reader of this message is not the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this message in error, kindly notify us immediately by telephone. Thank you.

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**DEFENDANTS WARREN S. UNEMORI ENGINEERING INC. AND REED M.  
ARIYOSHI'S RESPONSE TO PLAINTIFFS' FIRST REQUEST FOR  
PRODUCTION OF DOCUMENTS**

Comes now Defendants WARREN S. UNEMORI ENGINEERING, INC. and REED M. ARIYOSHI hereinafter "WSUE/ARIYOSHI", by and through their attorney and responds to PLAINTIFFS' First Request for Production of Documents as follows:

**General Objections and Conditions**

1. Duplicative Discovery. WSUE/ARIYOSHI object to each request which purports to require it to produce documents which are already in the possession of PLAINTIFF.
2. Unduly Burdensome and Oppressive. WSUE/ARIYOSHI object to each request which seeks "ANY" or "ALL" documents on the grounds that such a request is unduly burdensome and oppressive.
3. Relevance Objection. WSUE/ARIYOSHI object to each request which seeks "ANY" or "ALL" documents on the grounds that such documents are neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence.
4. Attorney Client Privilege and Work Product. WSUE/ARIYOSHI object to each request which seeks documents prepared by WSUE/ARIYOSHI's counsel, counsel's agents or consultants, or which seeks documents constituting or referring to communications between counsel, counsel's agents, counsel's consultants and/or WSUE/ARIYOSHI or their agents or representatives on the grounds that such documents are protected by the attorney-client privilege and/or work product doctrine.
5. Only Reasonable Inquiry. WSUE/ARIYOSHI object to each request to the extent that it purports to require WSUE/ARIYOSHI to search WSUE/ARIYOSHI facilities and inquire of WSUE/ARIYOSHI employees other than those facilities and employees which would reasonably be expected to have responsive information, on the ground that such request is unduly burdensome and oppressive. WSUE/ARIYOSHI's responses are based upon (1) a reasonable

search, given the time allotted to WSUE/ARIYOSHI to respond to the requests, of facilities and files or sections of document collections that could be reasonably expected to contain responsive information, and (2) inquiries of WSUE/ARIYOSHI employees or representatives who could reasonably be expected to possess responsive information. The subject matter of these requests is under continuing investigation. WSUE/ARIYOSHI expressly reserves the right to use or rely upon documents not identified in this Response if such documents are uncovered through WSUE continuing investigation.

6. Vague, Overbroad and No Time Limit. WSUE/ARIYOSHI object to these requests on the ground that they are vague and overbroad and require it to guess at what documents PLAINTIFF wants. Further, there is no limitation relevant to the time period for the requested documents.

7. No Knowledge of Plaintiff's Activities. WSUE/ARIYOSHI object to these requests to the extent that they seek the production of records solely within the knowledge of the PLAINTIFF.

8. Site of Production. WSUE/ARIYOSHI objects to production at the law offices of WRIGHT & KIRSCHBRAUM 1885 Main Street, Suite 108, Wailuku, HI 96793. WSUE/ARIYOSHI will make copies of the WSUE/ARIYOSHI files and other documents responsive to this Request available at the offices of Bruce M. Ito, 810 Richards Street, Suite 748, Honolulu, Hawaii, 96813 in addition, the original project files will be retained at the office of Bruce Ito for a limited time so that comparisons can be made with the original if the copies are illegible. Copies of such documents will be made at PLAINTIFF'S expense.

#### Responses to Requests for Production.

Requests 1.

Documents responsive to this request will be produced.

Request 2.

WSUE and ARIYOSHI have no documents responsive to this request as neither provided services for ANKA Inc.

Request 3.

Documents responsive to this request will be produced.

Request 4.

Documents responsive to this request will be produced.

Request 5.

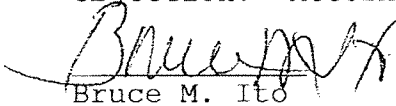
Documents responsive to this request will be produced.

Request 6.

No documents responsive to this request will be produced as neither WSUE nor ARIYOSHI performed any services for Boy Pointe Lot 48 LLC.

Request 7.

Objection. Attorney-Client privilege.

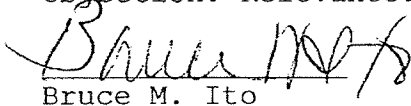
  
Bruce M. Ito

Request 8.

WSUE and ARIYOSHI have no documents responsive to this request as neither did work on potential building site on Lot 48A.

Request 9.

Objection. Relevance.

  
Bruce M. Ito

Without waiving the foregoing objection, documents responsive to this request will be produced.

Request 10.

WSUE and ARIYOSHI have no documents responsive to this request as neither performed any services for ANKA, Inc.

Request 11.

WSUE and ARIYOSHI will produce documents in its possession for the shoreline certification application that were submitted for Lot 48 A LLC.

Request 12.

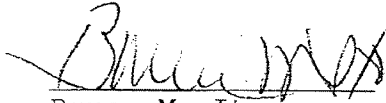
WSUE and ARIYOSHI have no documents responsive to this request; neither WSUE nor ARIYOSHI were employed to perform any services in connection with the Special Management Area Minor permit process.

Request 13.

WSEU and ARIYOSHI will produce these documents if the attorney client privilege between Tom Welch and this clients is waived.

Request 14.

Objection. Relevance.

  
Bruce M. Ito

Without waiving the foregoing objection, documents responsive to this request will be produced.

DATED: Honolulu, Hawaii, Jan 18, 2007.

  
BRUCE M. ITO

Attorney for Defendant WARREN  
S. UNEMORI ENGINEERING, INC.  
and REED M. ARIYOSHI

|  
**DECLARATION OF MATSON KELLEY**

I, Matson Kelley (hereinafter “Declarant”) make the following Declaration and hereby declare the following under penalty of perjury:

1. I am a citizen of the United States of America and a resident of the Island and County of Maui, State of Hawai’i. I am over 21 years of age. I was the attorney for Christopher Salem in Dispute Prevention and Resolution Arbitration No. 07-0357-M/A.

2. I was the attorney for Christopher Salem in an action for a Motion to Vacate the above referenced Arbitration ruling before The Honorable Judge Joseph Cardoza in the Circuit Court of the Second Circuit Civil No. 09-1-0040(3).

***Introduction***

3. I have been informed that through the Request for Information (RFI) requests and with the assistance of staff attorneys with State of Hawaii Information Practices (“OIP”), the individual departments of the County of Maui have recently produced public documents and SMA Permit studies that were previously not disclosed in the arbitration and public officials during legal proceedings involving private developer Lot 48A, LLC. The newly released evidence now confirms that Lot 48A, LLC’s SMA Permit Project Assessment Report and related environmental studies were in the possession of the County of Maui during critical stages of dispute resolution in the above entitled referenced case.

***Public documents received.***

4. I have received from Mr. Salem a copy of 94 pages of a “Complete file and copy of SMA Permit application, issued SMA Permit, related SMA Permit studies, SMA Permit extensions, and final SMA inspection and approvals issued by the Department of Planning to

developer Lot 48A, LLC, SMA Permit # SM2 2000/0042” issued by the County of Maui Department of Planning on November 4, 2015, in response to Mr. Salem’s Request for Inspection of Public Documents (#15-0001744).

The file contains the following relevant documents;

- Doc # 000002 – Letter from State of Hawaii Office of Information Practices dated November 2, 2015.

- Doc # 000006 – Cover Page to a “Special Management Area Assessment” stamped “ORIGINAL” which was prepared for Lot 48A, LLC by the land planning firm Munikeyo, Arakawa, & Hiraga, Inc. For the record, Arakawa is former County of Maui Public Works Director Milton Arakawa.

- Doc # 000007 – 000026 Cover Page and related contents including proposed action, impacts, mitigation measures, order of magnitude estimate, subdivision plan, etc. to a “Special Management Area Assessment” prepared by for Lot 48A, LLC by Munikeyo, Arakawa, & Hiraga, Inc., dated May, 2000.

- No “ORIGINAL” stamp.

- Doc # 000027 – #000048 Cover Page and related contents including proposed action, impacts, mitigation measures, order of magnitude estimate, subdivision plan, etc. to a “Special Management Area Assessment” prepared by for Lot 48A, LLC by the land planning firm Munikeyo, Arakawa, & Hiraga, Inc., dated May, 2000.

- No “ORIGINAL” stamp.

- Doc # 0000066 – Cover Page and related contents including proposed action, impacts, mitigation measures, order of magnitude estimate, subdivision plan, etc. to a “Special Management Area Assessment” prepared by for Lot 48A, LLC by the land planning firm Munikeyo, Arakawa, & Hiraga, Inc., dated May, 2000.

- No “ORIGINAL” stamp

- Jan 3, 2005 Fax from Lot 48A, LLC Partner Colin Moreton

- Doc 000081 - July 19, 2001 Request for Government Information from Chris Salem to the County of Maui Planning Department including the following;

- Request for SMA Application SM2 2000/0042

- Request for Improvement Valuation Summary

- Doc 000049 - June 22, 2009 Request to Access Government Record from Chris Salem (RFS#09-0002016) relating to Lot 48A, LLC’s SMA File – SM2 2000/0042.

- Note 7/23/09 – “Can’t locate file, informed Chris”
  - Doc 000052 – August 3, 2009 letter to Mr. Salem from the Department of Planning in response to Request for Government Record relating to SM2 2000/0042 and Shoreline Certification Maps.
    - Letter states “The SM2 File cannot be found”
    - No. of Pages including Cover Sheet – Only 6
  - Doc 000072 – October 13, 2009 letter from Department of Planning Program Administrator Clayton Yoshida on behalf of Planning Director Jeff Hunt to Mr. Li of the State of Hawaii Office of Planning.
    - Referenced documents are not attached to letter
  - Doc 000089 – Order relating to County of Maui’s Motion to Quash Debtor Christopher Salem’s Rule 2004 Subpoenas, including requests for a copy of final inspection and acceptance by the Department of Planning for SMA Permit – SM2 2000/0042 for Lot 48A, LLC
  - Power point presentation authored by Mr. Salem titled “Developer Violations of Special Management Area Permits”

***What was presented by my firm previously to The Honorable Judge Joseph Cardoza***

5. Attached hereto as Exhibit \_\_\_\_ is a true and correct copy of the transcript of Proceedings from the hearing on September 23, 2009 before the Hon. Joseph E. Cardoza in *Christopher Salem v. Lot 48A LLC*, Civ. No. 09-1-0040(3).

- The compelled and requested Lot 48A, LLC SMA Permit Project Assessment Report and Order of Magnitude Estimate authored by former Public Works Director Milton Arakawa’s land planning firm were never produced to myself or Mr. Salem by the County of Maui, Developer Lot 48A, LLC, or Unemori Engineering, Inc. at any time during Arbitration proceedings, or dating back to 2001 to Mr. Salem.
- Doc #000025, dated May 9, 2000, represents a signed SMA Permit application by Hugh Farrington authorizing Munekiyo, Arakawa, and Hiraga, Inc. for the preparation, filing, and processing of an application for Special Management Area Assessment for the subject subdivision.
- Doc 000037- 000939 is an Engineer’s Cost Estimate and Order of Magnitude Estimate for Subdivision of Lot 48A into 3 Lots.

- Doc 000038 describes Road widening of Lower Honoapiilani Road with related quantities, unit prices, and total cost of \$27,709.00.
- Doc 000042 is a photo of the subdivision frontage area of road widening along Lower Honoapiilani Road.
- Doc 000031 is a narrative description of Description of Proposed Improvements and Anticipated Impacts - “Proposed Action”, including “Installation of approximately 220 lineal feet of curb, gutter, sidewalk, and related improvements along Lower Honoapiilani Road.

***Statement of Related Facts***

6. During arbitration proceedings, I submitted a discovery request and filed a motion to compel the complete copies of Developer Lot 48A, LLC’s SMA Permit files, including all studies, reports, valuations, etc., and was informed by Lot 48A, LLC’s legal counsel “*that they are not relevant, and therefore they will not be produced*”.

7. To my knowledge and belief, my former client has never been involved with any litigation involving the County of Maui. It is my understanding that his efforts are in support of the public interest and bring forth financial recovery and transparency to the Maui County Government.

***Conclusion***

8. The investigation into the whereabouts of public documents that were compelled, subpoenaed, and requested through written requests to Developer Lot 48A, LLC; their Counsel; Unemori Engineering, Inc.; and, the County of Maui Department of Planning dating back to August of 2001, have finally resulted in additional documents being produced.

9. As stated in my argument to Honorable Judge Cardoza on September 29, 2009; “*We fought tooth and nail in this case to get documents as evidenced by our motions to compel, and we were stonewalled*”.



10. Developer Lot 48A, LLC's SMA Permit file and related studies and communications authored by former Public Works Director Milton Arakawa's land planning firm Munekiyo, Arakawa, and Hiraga, Inc , have now been discovered to have been in the possession of the County of Maui. *I argued to the Court at the original hearing that "My client should not have been required to fight over this issue. It's incredible. A half million dollars in litigation was spent on this when this document clearly shows that they were required to do it."*

The "it" referenced in the quotation above, was a subdivision entitlement obligation to complete the roadway engineering improvements and environmental mitigations along Lower Honoapiilani Road and Hui Road E which were vested in an SMA Permit SM2 2000/0042, issued, signed, and agreed to between Developer Lot 48A, LLC, their authorized consultant Munekiyo, Arakawa, and Hiraga Inc., their civil engineer Unemori Engineering, Inc., and the County of Maui Department of Planning; which Developer Lot 48A, LLC was obligated to complete, and failed to do so. The Lot 48A, LLC SMA Permit SM2 2000/0042 is now expired and unfulfilled.

11. As I stated to the Honorable Circuit Court of the Second Circuit on September 29, 2009;

*I also argued to the Court at the original hearing that "Now there's testimony at the arbitration that -- there's testimony from the respondent, Lot 48, LLC, the only person that assisted with the subdivision was Unemori Engineering. They lied to me. They lied to the arbitrator. That was not disclosed. And ultimately -- even through the declaration, which we initially supported, attached to our motion -- they lied to this Court."*

12. The May 27, 2010 "Notice of Intent to Collect" sent to Christopher Salem by former Public Works Director Milton Arakawa, claiming that Mr. Salem was obligated to pay

the County of Maui for roadway frontage engineering and drainage improvements along his Lower Honoapiilani property frontage that were already vested in Munikiyo, Arakawa, and Hiraga, Inc SMA Permit SM2 2000/0042 assessment studies issued to his former client Lot 48A, LLC and related Unemori, Inc engineering valuation, is the “smoking gun” held by Public Works and Lot 48A, LLC.

13. The “deferral” cloud on Mr. Salem’s property title, that we demanded upon Public Works Director Milton Arakawa to expunge from my client’s property prior to arbitration with Lot 48A, LLC, should have been removed by the County of Maui in 2001 when Lot 48A, LLC was issued County entitlement and subdivision approvals of the 3 Lot re subdivision of Lot 48A.

I, MATSON KELLEY, declare under penalty of law that the foregoing is true and correct to the best of my knowledge and belief.

DATED: Wailuku, Maui, Hawai’i, March 15, 2016.

  
MATSON KELLEY  
Declarant

# MCCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

RANDALL K. SCHMITT  
ATTORNEY

DIRECT #5:  
PHONE - (808) 529-7422  
FAX - (808) 535-8018

June 6, 2017

## VIA HAND DELIVERY

Office of Disciplinary Counsel  
1132 Bishop Street, Suite 300  
Honolulu, Hawai'i 96813

Re: Chris Salem - Allegations of Professional Misconduct by Maui  
Corporation Counsel

Dear Sir/Madam:

A former client of mine, Christopher Salem, a resident of the County of Maui, has asked me to bring to your attention potential professional misconduct by certain attorneys for the County of Maui related to his claims for matters relating to Lot 48A of the Olowalu Mauka subdivision. This firm represented Mr. Salem in an action brought against certain design professionals related to that development, *Salem et al. v. Unemori et al*, Civil No. 07-1-0540 (M). We represented Mr. Salem from approximately October 2010 through February 2012 and have not had any substantive involvement in the matter since that time. While I was counsel for Mr. Salem, however, I prepared a letter to Milton Arakawa, then the Director of Public Works for Maui, dated December 28, 2010, a copy of which is enclosed for your reference. That letter sought the production of certain key records related to the development. Not only did the County not produce the requested records, but also, then deputy corporation counsel, Jane Love, threatened me with Rule 11 sanctions. The requested materials were not produced.

We withdrew as counsel for Mr. Salem in that lawsuit in February 2012 but subsequent events seem to indicate that the records that we requested so many years ago did and do exist. Attached hereto is the affidavit of Jo Anne Johnson Winer dated August 11, 2015, the declaration of Matson Kelley dated March 15, 2016 and a complaint filed in Second Circuit Court by Mr. Salem (Civil No. 17-1-0208(3)), which provide greater detail of the actions related these important documents since our withdrawal.

# MCCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

RANDALL K. SCHMITT  
ATTORNEY

DIRECTOR:  
PHONE - (808) 529-7422  
FAX - (808) 535-8018

December 28, 2010

**BY REGISTERED MAIL**  
**RETURN RECEIPT REQUESTED**

Milton Arakawa, A.I.C.P.  
Public Works Management Director  
200 S. High Street  
Wailuku, Maui, Hawai'i 96793

Re: C. Salem Claims

Dear Mr. Arakawa:

Please be advised that this firm has been retained by Christopher Salem to pursue claims against you personally and prepare and file the appropriate lawsuit. While your recent admission to the County Council that under your authority over 1800 subdivision agreements involving developer roadway obligations have gone unaccounted for and uncollected is both shocking and disturbing on a County wide level, Mr. Salem's claims and damages are both personal and substantial.

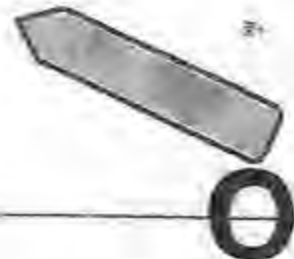
Mr. Salem owns a home on Hui Road E over which there was an original 3 lots or less subdivision agreement. As originally drafted, that subdivision agreement allowed a onetime deferral of specific drainage and roadway improvements. As we now know, when your developer client in private practice with Munikiyo, Arakawa, and Hiraga, Inc. ("MAH") submitted a plan to re-subdivide one of the 3 parent parcels, engineering studies, project assessments, SMA permits and land entitlements were issued and conditioned upon that Developer completing the originally deferred roadway improvements.

Your company, MAH, was personally contracted by this Developer to process the necessary SMA assessment studies and SMA Permits just prior to your appointment to your present position with the County of Maui. Immediately after the start of your employment with the County of Maui, you unilaterally shifted the subdivision and SMA Permit drainage and roadway conditions back onto to Mr. Salem and the other owners without notice to Mr. Salem, the general public, or the Planning Commission by using as second set of 3 lots or less deferral agreements. This was illegal and done with the clear intent to benefit an MAH client while in public office.

Formal requests for production of documents related to this secret decision, both compelled and formally requested of the Department of Public Works, have proven this shifting was done in the secret without any apparent consultation with authorized County Directors nor

240539.3

P.O. Box 2800 • Honolulu, Hawaii 96803-2800  
Five Waterfront Plaza, 4th Floor • 500 Ala Moana Boulevard • Honolulu, Hawaii 96813  
Telephone: (808) 529-7300 • FAX: (808) 526-8233



was it in any way within your authority. I am informed that Mr. Munikiyo was not consulted prior to the alterations to the MAH studies and SMA assessment submissions. It was, we believe, an *ultra vires* act for which you personally orchestrated. As it was to the clear benefit of this former developer client involving hundreds of thousands of dollars, they too may have been involved in a collective action (also known as a conspiracy) to commit this unlawful and subversive act. Questions remain on how many of the 1800 3 lots or less agreements involve this type of intentional manipulation of County ordinances.

Unfortunately for my client, the contributing circumstances to your unlawful administrative decisions do not end with the manipulation of the 3 lots or less agreements. The underlying oceanfront land has now been subdivided twice into five lots with no public or environmental review. This raises further questions regarding your administration of the order of magnitude estimates by the engineer of record for the SMA application. Despite being notified of the intentionally misleading valuations by the engineer of record, you have refused to investigate this matter and take appropriate action to the detriment of my client.

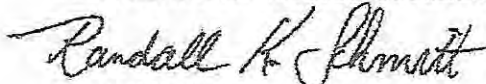
This letter is to place you on notice of these claims and to demand that you immediately notify your various insurance carriers of this cause of action. Mr. Salem has suffered serious financial losses relating to your actions including but not limited to hundreds of thousands of dollars spent in litigating this issue. Your notice to your insurance carriers should include notice to your partners at Munikiyo Arakawa and Hiraga of these claims.

In an effort to resolve this matter, please be advised that we would be willing to enter into good faith mediation with a neutral mediator prior to filing the lawsuit. This option is predicated on your intent to do so in a meaningful fashion with the intent to resolve this situation prior to incurring additional losses and substantial fees and costs.

Please also provide me with contact information for your legal counsel if you retain an attorney to assist you with this claim.

Sincerely,

McCORRISTON MILLER MUKAI MacKINNON LLP



Randall K. Schmitt

RKS:jmc

cc: C. Salem (via email only)

Office of Disciplinary Counsel

June 6, 2017

Page 2

I would be happy to discuss any aspect of this matter with you concerning the period of my involvement but since we no longer represent Mr. Salem, most of the information concerning any recent events must necessarily come from him.

Sincerely,

McCORRISTON MILLER MUKAI MacKINNON LLP

A handwritten signature in black ink that reads "Randall K. Schmitt". The signature is written in a cursive style with a large, prominent initial "R".

Randall K. Schmitt

RKS:jmc

Enclosures

cc: Christopher Salem (via email only) (with enclosures)

358973.1

ORIGINAL

6

DEPARTMENT OF THE CORPORATION COUNSEL 205

FILED

2017 JUL -6 PM 3:00

M. FERNANDEZ KAHAKAUWILA, CLERK  
SECOND CIRCUIT COURT  
STATE OF HAWAII

PATRICK K. WONG 5878  
Corporation Counsel  
MOANA M. LUTEY 6385  
CHRISTIE M. TRENHOLME 10095  
Deputies Corporation Counsel  
County of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793  
Telephone No.: (808) 270-7741  
Facsimile No.: (808) 270-7152  
E-mail: moana.lutey@co.maui.hi.us  
E-mail: christie.trenholme@co.maui.hi.us

Attorneys for Defendants  
COUNTY OF MAUI, WILLIAM SPENCE and BRIAN BILBERRY

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT  
STATE OF HAWAII

CHRISTOPHER SALEM,  
Requestor,

vs.

THE COUNTY OF MAUI; THE COUNTY OF  
MAUI, by and through WILLIAM SPENCE, as  
DIRECTOR OF PLANNING, and BRIAN  
BILBERRY, DEPUTY THE CORPORATION  
COUNSEL WITH THE DEPARTMENT OF  
CORPORATION COUNSEL,  
Defendants.

Civil No.: 17-1-0208 (1)

DEFENDANTS COUNTY OF MAUI,  
WILLIAM SPENCE AND BRIAN  
BILBERRY'S REPLY  
MEMORANDUM IN SUPPORT OF  
THEIR MOTION TO DISMISS OR, IN  
THE ALTERNATIVE, FOR  
SUMMARY JUDGMENT;  
CERTIFICATE OF SERVICE

Hearing:  
Date: July 11, 2017  
Time: 8:15 a.m.  
Judge: Honorable Rhonda I. L. Loo

No Trial Date Set

**DEFENDANTS COUNTY OF MAUI, WILLIAM SPENCE AND BRIAN BILBERRY'S  
REPLY MEMORANDUM IN SUPPORT OF THEIR MOTION TO DISMISS OR,  
IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

pm

## I. ARGUMENT

### JUDGMENT IN FAVOR OF THE DEFENDANTS IS APPROPRIATE

The County agrees that, in general, government records are subject to disclosure when requested. Unfortunately, the document Plaintiff seeks does not exist. *See* Declarations of William R. Spence and Brian A. Bilberry, attached to Defendants' Motion. Therefore, there is no basis for this lawsuit to continue because there is absolutely no relief that the Court can grant Plaintiff in this matter.

Plaintiff's arguments related to what the County should have done in terms of record keeping are misplaced. This litigation is to address the County's failure to produce public records to Plaintiff – not how the County conducts its business. As cited in the County's motion, the UIPA only requires the County to provide access to public records. There is no affirmative obligation to maintain records. *State of Hawaii Organization of Police Officers v. Society of Professional Journalists*, 83 Hawai'i 378, 401, 927 P.2d 386, 393 (1996).

As the record currently exists, there is no evidence before this Court that disputes Defendants' position. The declaration provided from Matson Kelley is in reference to a separate matter where the documents were eventually produced. That declaration is completely irrelevant in the current matter.

Likewise, the letter from Plaintiff's former legal counsel, Randall K. Schmitt, is equally irrelevant. That letter was sent to the Office of Disciplinary Counsel from litigation legal counsel withdrew from in 2012.<sup>1</sup> Clearly that letter does not dispute the County's position that the requested document that forms the basis of this lawsuit does not exist.

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<sup>1</sup> A declaration from JoAnne Johnson Winer is referenced in the letter but was not attached to the Exhibit "B".



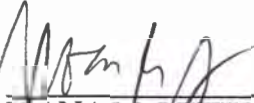
In the absence of any admissible evidence to dispute Defendants' evidence, judgment in favor of Defendants is appropriate. There is no issue of material fact remaining in this matter.<sup>2</sup>

## II. CONCLUSION

Defendants respectfully request that their motion be denied as there are no records responsive to Plaintiff's request. As such, there is no claim upon which relief can be granted and there are no issues of material fact remaining.

DATED: Wailuku, Maui, Hawaii, JUL 06 2017.

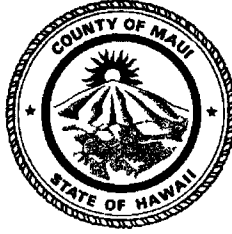
PATRICK K. WONG  
Corporation Counsel  
Attorney for Defendants  
THE COUNTY OF MAUI, WILLIAM SPENCE  
and BRIAN BILBERRY

By   
\_\_\_\_\_  
MOANA M. LUTEY  
CHRISTIE M. TRENHOLME  
Deputies Corporation Counsel

---

<sup>2</sup> Plaintiff's arguments related to a conflict of interest is incomprehensible. There is no conflict of interest with the Department of the Corporation Counsel being involved in this matter.

ALAN M. ARAKAWA  
Mayor



PATRICK K. WONG  
Corporation Counsel

EDWARD S. KUSHI  
First Deputy

LYDIA A. TODA  
Risk Management Officer  
Tel. No. (808) 270-7535  
Fax No. (808) 270-1761

DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 SOUTH HIGH STREET, 3<sup>RD</sup> FLOOR  
WAILUKU, MAUI, HAWAII 96793  
EMAIL: CORPCOUN@MAUICOUNTY.GOV  
TELEPHONE: (808) 270-7740  
FACSIMILE: (808) 270-7152

October 6, 2017

Donald Amano  
State of Hawaii  
Office of Information Practices  
No. 1 S. Hotel Street, Ste. 107  
Honolulu, HI 96813

RE: U Appeal 18 - 7 (Christopher Salem)

Dear Mr. Amano:

This responds to Mr. Salem's appeal documented in the letter received from your office on September 28, 2017.

The County has no further documentation to provide Mr. Salem. Everything that the County has in its possession related to Lot 48A has previously been produced at Mr. Salem's request. As noted in prior correspondence with your office, Mr. Salem has made approximately 30 UIPA requests related to Lot 48A.

The record Mr. Salem most recently requested does not exist in any County record. Mr. Salem acknowledged that this document did not exist in his letter to you dated September 6, 2017.

In spite of Mr. Salem's confirmation that the requested record does not exist, the Department of Public Works and Department of Planning also checked their records. No responsive record was discovered.

Donald Amano  
State of Hawaii  
Office of Information Practices  
October 6, 2017  
Page 2

The County remains committed to providing all documents within its possession that are not protected from disclosure in compliance with the UIPA. However, there is nothing that we have in our possession that has not already been provided to Mr. Salem.

Thank you for your attention to this matter. Please contact me if you have any questions or comments.

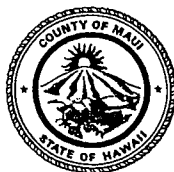
Best,



Moana M. Luzzey  
Deputy Corporation Counsel

MML:chs

CHARMAINE TAVARES  
Mayor



BRIAN T. MOTO  
Corporation Counsel

**DEPARTMENT OF THE CORPORATION COUNSEL**

COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
TELEPHONE: (808) 270-7740  
FAX: (808) 270-7152

MEMO TO: Brian T. Moto, Corporation Counsel

FROM: Professional Services Procurement Selection Committee  
(Moana Lutera, Jane Love, Richard B. Ross)

DATE: July 3, 2008

The Selection Committee for Professional Services Procurement met on July 3, 2008 to consider the retention of outside counsel to assist the County in the various legal matters arising out of the announced decision of Molokai Utilities, Inc., Mosco, Inc., and Wai`ola O Moloka`i to cease water and wastewater services in West Maui as of August 31, 2008.

1. Margery Bronster, Bronster & Hoshibata, Honolulu

- (a) Experience and professional qualifications relevant to the project type

Margery Bronster is the former Attorney General of the State of Hawaii and has handled high profile cases in the past. She has broad regulatory and administrative law experience before state agencies, and also has a wealth of litigation experience handling complex matters in state and federal courts. She and members of her firm have previously been retained to handle cases on behalf of the State of Hawaii, the City & County of Honolulu, and the County of Hawaii. Ms. Bronster and her firm have experience in antitrust, securities, real estate and land disputes, fraud, and environmental cases, and plaintiff's *qui tam*, among others.

- (b) Past experience

To the committee's knowledge, the County of Maui has not previously retained the Bronster firm. The firm was opposite to the County of Maui in one of the FLSA cases, now concluded, but Cheryl Tipton reports that the firm only served as local counsel and did not take an active role in the case. Cheryl did not have any bad experiences with the Bronster firm in the course of that litigation.

(c) Capacity to accomplish the work in the allotted time

According to Ms. Bronster, she and her colleagues had set aside a significant amount of time for a lengthy trial scheduled to start in early July, but the trial date was vacated when the plaintiff died suddenly. She indicates that she and her colleagues have time to begin immediately, and that the firm has sufficient staff to handle litigation going forward on multiple fronts. The Bronster firm specializes in litigation. Should transactional work be necessary, Ms. Bronster would recommend counsel from other firms.

(d) Additional criteria

Ms. Bronster charges between \$275 and \$400 per hour. John Hosibata charges between \$200 and \$350 per hour. Jeanette Castagnetti and Rex Fujichaku charge between \$200 and \$300 per hour. The firm has negotiated lower rates for special counsel work on behalf of state and county agencies.

The Bronster firm has completed its conflict check and reports no conflicts.

Rank: First Choice

**REDACTED**

2.

- (a) Experience and professional qualifications relevant to the project type

**REDACTED**

- (b) Past experience

**REDACTED**

**REDACTED**

- (c) Capacity to accomplish the work in the allotted time

**REDACTED**

- (d) Additional criteria

**REDACTED**

Rank: Second Choice

**REDACTED**

3

- (a) Experience and professional qualifications relevant to the project type

**REDACTED**

- (b) Past experience

**REDACTED**

- (c) Capacity to accomplish the work in the allotted time

**REDACTED**

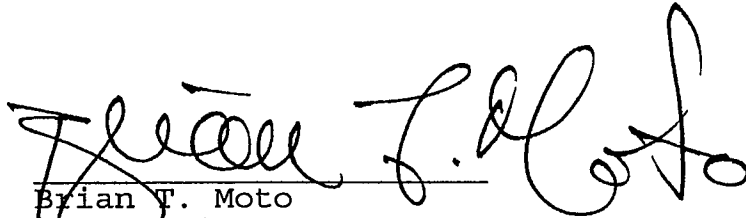
**REDACTED**

(d) Additional criteria

**REDACTED**

**Rank: Third Choice**

Recommendations approved:



Brian T. Moto  
Corporation Counsel

S:\ALL\JEL\Litigation Section Administration\7.3.08selectioncomm.wpd

# Resolution

No. 08-67

AUTHORIZING THE EMPLOYMENT OF  
SPECIAL COUNSEL BRONSTER & HOSHIBATA  
WITH RESPECT TO POSSIBLE LEGAL CLAIMS  
RELATING TO WATER AND WASTEWATER  
UTILITY SERVICE ON MOLOKAI

WHEREAS, Molokai Properties, Ltd., dba Molokai Ranch, the largest private landowner on Molokai, has unilaterally announced that it intends to cease operating its water and wastewater utilities, namely, Molokai Public Utilities, Inc., Wai`ola O Moloka`i, Inc., and Mosco, Inc. (hereafter collectively referred to as "the Utilities") which provide water and wastewater service to residents, businesses, and public facilities in West Molokai; and

WHEREAS, § 128-9(4), Hawaii Revised Statutes, grants to the Governor emergency powers to take over and operate the Utilities, if necessary to assure continuation of utility service; and

WHEREAS, § 342D-10, Hawaii Revised Statutes, grants to the Governor or the Director of the State Department of Health emergency powers to avoid adverse health consequences and environmental impacts that will likely result if the Utilities abandon their wastewater treatment facilities; and

WHEREAS, the Utilities are subject to regulation by several State agencies, including the Public Utilities Commission, the State Commission on Water Resource Management, the State Department of Health, and the State Department of Agriculture; and



**Resolution No. 08-67**

WHEREAS, the County has filed a formal complaint against the Utilities with the Public Utilities Commission, bearing Docket No. 2008-0116; and

WHEREAS, the Public Utilities Commission has made the County a party to a Temporary Rate Relief proceeding, bearing Docket No. 2008-0115; and

WHEREAS, to protect public health and safety, to prevent environmental harm, and to avoid substantial financial costs to the affected Molokai residents, businesses, and public facilities, as well as to the County's taxpayers, the County may need to pursue a variety of legal and equitable claims arising under County, State, Federal and/or international law; and

WHEREAS, the potential legal and equitable claims may encompass a wide range of legal specialities, including environmental law, public utility law, administrative law, water law, constitutional law, plaintiff's *qui tam*, international law, and complex litigation; and

WHEREAS, the Selection Committee of the Department of the Corporation Counsel has met as required by the State Procurement Code, and has identified and ranked three law firms on the County's eligibility list, of which the firm Bronster & Hoshibata was ranked first; and

WHEREAS, the recommendation of the Selection Committee was accepted by the Corporation Counsel; and

**Resolution No. 08-67**

WHEREAS, pursuant to Chapter 3-6.6 of the Revised Charter of the County of Maui (1983), as amended, the Council alone is authorized to retain or employ special counsel by resolution adopted by a two-thirds vote; and

WHEREAS, the Council finds that, because of the need for specialized expertise and the urgency and complexity of these matters, there is a real necessity to retain the law firm of Bronster & Hoshibata as special counsel to advise and represent the County; and

WHEREAS, Bronster & Hoshibata and the Department of the Corporation Counsel shall work as a team in this matter and take all possible steps to minimize the amount of attorneys' fees and costs; and

WHEREAS, Bronster & Hoshibata's conduct in this matter shall reflect the firm's understanding that the County of Maui is a public entity that has obligations, concerns, and interests that may extend beyond those of a similarly-situated private litigant; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the Council hereby authorizes the employment of the firm Bronster & Hoshibata as special counsel to represent the County of Maui in all legal matters pertaining to the Utilities; and

**Resolution No. 08-67**

2. That total compensation for the employment of the firm Bronster & Hoshibata as special counsel shall not exceed \$100,000.00; and

3. That the hourly rate for partner Margery Bronster shall not exceed \$275.00; and

4. That the hourly rate for all other attorneys in the firm shall not exceed \$225.00; and

5. That the hourly rate for paralegal staff shall not exceed \$100.00; and

6. That the compensability of costs shall be in general accord with the intent of 28 U.S.C. § 1920; and

7. That the compensable costs shall include: (1) fees for printing and witnesses; (2) fees for copies necessarily obtained for use in the case; (3) fees of the clerk and marshal; (4) fees of the court reporter for necessary transcripts; (5) docket fees; and (6) compensation of court-appointed experts and interpreters; and


8. That the non-compensable costs shall include: (1) telephone calls; (2) facsimile charges; (3) postal charges; (4) messenger charges; (5) fees for computerized legal research; (6) travel, unless pre-approved by the Corporation Counsel; (7) investigative expenses, unless pre-approved by the Corporation Counsel; and (8) other costs reasonably considered part of a law firm's overhead; and

9. That in instances of travel, both inter-island and out-of-state travel includes travel on regular coach economy fare and must be pre-approved by the Corporation Counsel; and

10. That the expenditures of additional funds or substantial changes to the responsibilities of the parties shall require Council approval; and

11. That certified copies of this Resolution be transmitted to the Mayor, the Corporation Counsel, and the Director of Finance.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
JANE E. LOVELL  
Deputy Corporation Counsel  
County of Maui

S:\ALL\JEL\Molokai Ranch Formal Complaint\Reso\Special Counsel.wpd

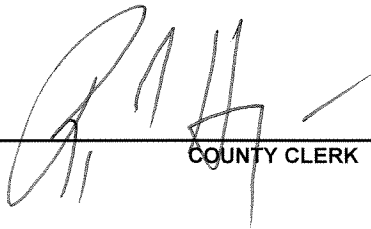
**COUNCIL OF THE COUNTY OF MAUI**

**WAILUKU, HAWAII 96793**

**CERTIFICATION OF ADOPTION**

**It is HEREBY CERTIFIED that RESOLUTION NO. 08-67 was adopted by the Council of the County of Maui, State of Hawaii, on the 8th day of August, 2008, by the following vote:**

MEMBERS	G. Riki HOKAMA Chair	Dennis A. MATEO Vice-Chair	Michelle ANDERSON	Gladys C. BAISA	Jo Anne JOHNSON	William J. MEDEIROS	Michael J. MOLINA	Joseph PONTANILLA	Michael P. VICTORINO
ROLL CALL	Aye	Excused	Excused	Aye	Aye	Excused	Aye	Aye	Aye

  
\_\_\_\_\_  
COUNTY CLERK

# Resolution

No. 08-105

AUTHORIZING ADDITIONAL COMPENSATION OF  
SPECIAL COUNSEL BRONSTER HOSHIBATA, A LAW CORPORATION,  
WITH RESPECT TO LEGAL CLAIMS  
RELATING TO WATER AND WASTEWATER  
UTILITY SERVICE ON MOLOKAI

WHEREAS, Molokai Properties, Ltd., dba Molokai Ranch, the largest private landowner on Molokai, unilaterally announced its intention to cease operating its water and wastewater utilities, namely, Molokai Public Utilities, Inc., Wai'ola O Moloka'i, Inc., and Mosco, Inc. (hereafter collectively referred to as "the Utilities") which provide water and wastewater service to residents, businesses, and public facilities in West Molokai; and

WHEREAS, the Public Utilities Commission has made the County a party to a Temporary Rate Relief proceeding, bearing Docket No. 2008-0115; and

WHEREAS, the County has filed a formal complaint against the Utilities with the Public Utilities Commission, bearing Docket No. 2008-0116; and

WHEREAS, the Department of Health initiated enforcement proceedings against the Utilities and Molokai Properties, Ltd., dba Molokai Ranch, bearing Docket Nos. 08-SDW-EO-01 and 08-WW-EO-01, in which the County intervened; and

**Resolution No. 08-105**

WHEREAS, Molokai Properties, Ltd., dba Molokai Ranch has appealed from the Department of Health's decisions and orders to the First Circuit Court, bearing Civ. No. 08-1-1877-08 EEH; and

WHEREAS, the Department of Health initiated enforcement proceedings against the County, bearing Docket Nos. 08-SDW-EO-02 and 08-WW-EO-02; and

WHEREAS, the County has appealed from the Department of Health's decisions and orders to the Second Circuit Court, bearing Civ. Nos. 08-1-0533(1) and 08-0534(1); and

WHEREAS, the County has filed a civil suit in the Second Circuit Court entitled COUNTY OF MAUI VS. MOLOKAI PROPERTIES, LTD., FORMERLY KNOWN AS MOLOKAI RANCH, LTD., ET AL., CIVIL NO. 08-1-0493(1), seeking damages for breach of contract and other remedies; and

WHEREAS, the existing and potential legal claims encompass a wide range of legal specialities, including environmental law, public utility law, administrative law, water law, constitutional law, plaintiff's *qui tam*, international law, and complex litigation; and

WHEREAS, the Council alone is authorized to retain or employ special counsel upon a resolution passed by two-thirds vote; and

WHEREAS, the Council finds that there is a real necessity to retain the firm of Bronster Hoshibata, A Law Corporation, as special counsel to represent the County of Maui in the above-

**Resolution No. 08-105**

referenced matters because of the multiplicity of actions and the complexity of the issues; and

WHEREAS, the Council has by Resolution No.08-67, authorized the employment of special counsel Bronster Hoshibata, A Law Corporation ("special counsel") for \$100,000; and


WHEREAS, the Corporation Counsel has requested authorization to raise the compensation limit for the employment of special counsel by an additional \$200,000 for the prosecution of the above-referenced matters; now therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the Council hereby approves and authorizes the increase of compensation for the employment of special counsel by \$200,000; and

2. That certified copies of this Resolution be transmitted to the Mayor, the Corporation Counsel, the Director of Finance, and Bronster Hoshibata, A Law Corporation.

APPROVED AS TO FORM AND LEGALITY:



JANE E. LOVELL  
Deputy Corporation Counsel  
County of Maui

S:\ALL\JEL\Molokai Ranch Formal Complaint 20080116\Reso\Special Counsel Additional Funds.wpd



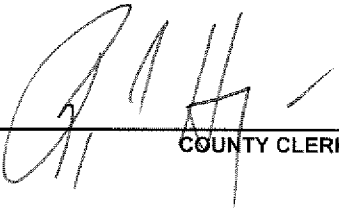
**COUNCIL OF THE COUNTY OF MAUI**

**WAILUKU, HAWAII 96793**

**CERTIFICATION OF ADOPTION**

It is **HEREBY CERTIFIED** that **RESOLUTION NO. 08-105** was adopted by the Council of the County of Maui, State of Hawaii, on the 19th day of December, 2008, by the following vote:

<b>MEMBERS</b>	<b>G. Riki HOKAMA Chair</b>	<b>Dennis A. MATEO Vice-Chair</b>	<b>Michelle ANDERSON</b>	<b>Gladys C. BAISA</b>	<b>Jo Anne JOHNSON</b>	<b>William J. MEDEIROS</b>	<b>Michael J. MOLINA</b>	<b>Joseph PONTANILLA</b>	<b>Michael P. VICTORINO</b>
<b>ROLL CALL</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Excused</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>

  
\_\_\_\_\_  
COUNTY CLERK

# Resolution

No. 10-32

AUTHORIZING ADDITIONAL COMPENSATION OF  
SPECIAL COUNSEL BRONSTER HOSHIBATA, A LAW CORPORATION,  
WITH RESPECT TO LEGAL CLAIMS  
RELATING TO WATER AND WASTEWATER  
UTILITY SERVICE ON MOLOKAI

WHEREAS, Molokai Properties, Ltd., dba Molokai Ranch, the largest private landowner on Molokai, unilaterally announced its intention to cease operating its water and wastewater utilities, namely, Molokai Public Utilities, Inc., Wai'ola O Moloka'i, Inc., and Mosco, Inc. (hereafter collectively referred to as "the Utilities") which provide water and wastewater service to residents, businesses, and public facilities in West Molokai; and

WHEREAS, the Public Utilities Commission has made the County a party to a Temporary Rate Relief proceeding, bearing Docket No. 2008-0115; and

WHEREAS, the County has filed a formal complaint against the Utilities with the Public Utilities Commission, bearing Docket No. 2008-0116; and

WHEREAS, the Department of Health initiated enforcement proceedings against the Utilities and Molokai Properties, Ltd., dba Molokai Ranch, bearing Docket Nos. 08-SDW-EO-01 and 08-WW-EO-01, in which the County intervened; and

**Resolution No. 10-32**

WHEREAS, Molokai Properties, Ltd., dba Molokai Ranch appealed from the Department of Health's decisions and orders to the First Circuit Court, bearing Civ. No. 08-1-1877-08 EEH; and

WHEREAS, Molokai Properties, Ltd., dba Molokai Ranch has appealed to the Intermediate Court of Appeals from the decision and order of the First Circuit Court, bearing Docket No. 30056; and

WHEREAS, the Department of Health initiated enforcement proceedings against the County, bearing Docket Nos. 08-SDW-EO-02 and 08-WW-EO-02; and

WHEREAS, the County appealed from the Department of Health's decisions and orders to the Second Circuit Court, bearing Civ. Nos. 08-1-0533(1) and 08-1-0534(1); and

WHEREAS, the State has advised that it intends to appeal from the decision and order of the Second Circuit Court; and

WHEREAS, the County has filed a civil suit in the Second Circuit Court entitled COUNTY OF MAUI VS. MOLOKAI PROPERTIES, LTD., FORMERLY KNOWN AS MOLOKAI RANCH, LTD., ET AL., CIVIL NO. 08-1-0493(1), seeking damages for breach of contract and other remedies; and

WHEREAS, the County has intervened as a party in two permanent rate relief proceedings before the Public Utilities Commission, bearing Docket Nos. 2009-0048 and 2009-0049; and

WHEREAS, the existing and potential legal claims encompass a wide range of legal specialities, including environmental law,

**Resolution No. 10-32**

public utility law, administrative law, water law, constitutional law, plaintiff's *qui tam*, international law, and complex litigation; and

WHEREAS, the Council alone is authorized to retain or employ special counsel upon a resolution passed by two-thirds vote; and

WHEREAS, the Council finds that there is a real necessity to retain the firm of Bronster Hoshibata, A Law Corporation, as special counsel to represent the County of Maui in the above-referenced matters because of the multiplicity of actions and the complexity of the issues; and

WHEREAS, the Council by Resolution No.08-67, authorized the employment of special counsel Bronster Hoshibata, A Law Corporation ("special counsel") for \$100,000; and

WHEREAS, the Council by Resolution No. 08-105 authorized additional compensation for special counsel in the amount of \$200,000; and

WHEREAS, the Corporation Counsel has requested authorization to raise the compensation limit for the employment of special counsel by an additional \$200,000 for the prosecution and defense of the above-referenced matters; now therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the Council hereby approves and authorizes the increase of compensation for the employment of special counsel by \$200,000; and

**Resolution No. 10-32**

2. That certified copies of this Resolution be transmitted to the Mayor, the Corporation Counsel, the Director of Finance, and Bronster Hoshibata, A Law Corporation.

APPROVED AS TO FORM AND LEGALITY:



JANE E. LOVELL  
Deputy Corporation Counsel  
County of Maui

S:\ALL\JEL\Molokai Ranch Formal Complaint 2008-0116\Reso\2010 Reso Addt'l Funds Special Counsel.wpd

**COUNCIL OF THE COUNTY OF MAUI**

**WAILUKU, HAWAII 96793**

**CERTIFICATION OF ADOPTION**

**It is HEREBY CERTIFIED that RESOLUTION NO. 10-32 was adopted by the Council of the County of Maui, State of Hawaii, on the 18th day of June, 2010, by the following vote:**

<b>MEMBERS</b>	<b>Dennis A. MATEO Chair</b>	<b>Michael J. MOLINA Vice-Chair</b>	<b>Gladys C. BAISA</b>	<b>Jo Anne JOHNSON</b>	<b>Solomon P. KAHO'OHALAHALA</b>	<b>William J. MEDEIROS</b>	<b>Wayne K. NISHIKI</b>	<b>Joseph PONTANILLA</b>	<b>Michael P. VICTORINO</b>
<b>ROLL CALL</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Excused</b>	<b>Aye</b>	<b>Aye</b>	<b>Excused</b>

  
\_\_\_\_\_  
COUNTY CLERK

CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

June 1, 2010

Mr. Chris Salem  
5106 Lower Honoapiilani Road  
Lahaina, Maui, Hawaii 96761

Dear Mr. Salem:

Thank you for your letter of May 31, 2010 pertaining to our Notice of Intent to Collect letter dated May 27, 2010. In response to your request for a list of the other parcels in your subdivision receiving a similar letter, we provide the following:

(2) 3-4-15:004  
(2) 3-4-15:058

(2) 3-4-15:054

(2) 3-4-15:057

Enclosed is a map showing the parcels that were sent similar Notice of Intent to Collect letters. If you have any questions, please contact me at 270-7845.

Sincerely,

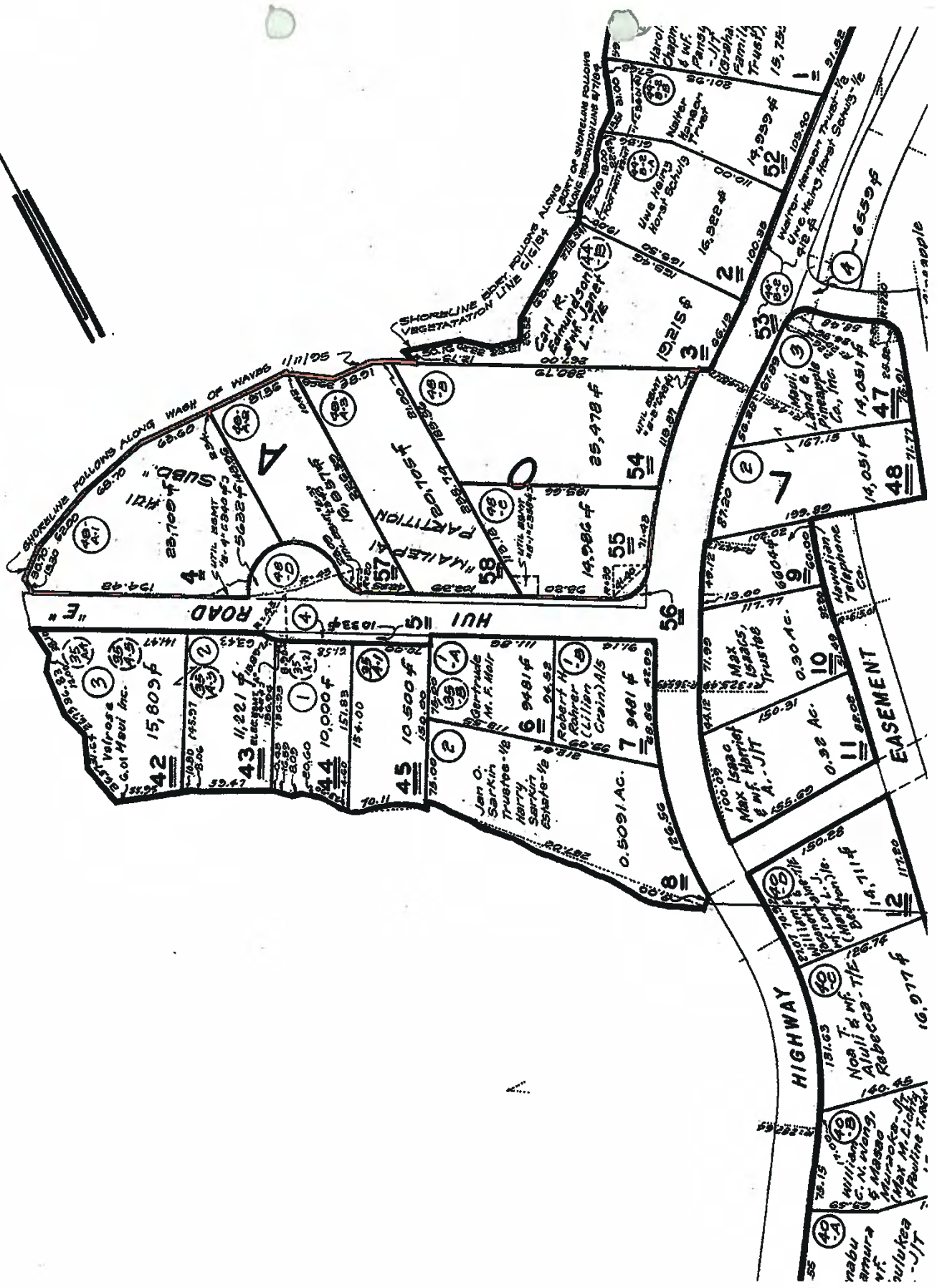
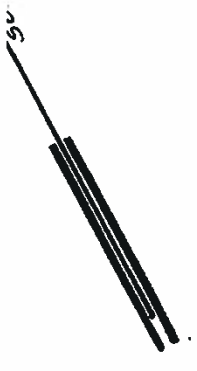
A handwritten signature in cursive script that reads "Milton M. Arakawa".

MILTON M. ARAKAWA, A.I.C.P.  
Director

MMA:MMM:jso

Enclosure

xc: ✓ Milton M. Arakawa, Director of Public Works  
s:\mike\csalem\_ntc to collect request





**Chris Salem**  
May 31, 2010

5106 Lower Honoapiilani Rd  
Lahaina, HI 96761

*JUNE 1*  
*10 MAY 32 A8:27*

County of Maui  
Department of Public Works  
200 South High Street Room 434  
Wailuku, Maui, HI 96793  
Phone 808 270-7845  
Fax 808 270-7955

COUNTY OF MAUI  
PUBLIC WORKS

Attention: Director Arakawa

RE: Notice of Intent to Collect

Dear Mr. Arakawa;

I am in receipt of your Notice to Collect dated May 27, 2010. Please confirm in writing which specific parcels in our subdivision have been sent a similar notice and therefore are subject to your interpretation of the deferral obligations.

Please forward your response to my e-mail address listed below.

Sincerely;

*Chris Salem*

Chris Salem

Cc: file

821

PROPERTY	USE	STATUS	DATE	REMARKS	DATE
Engineering					
Electricity					
PLUMB					
DOA					
ENGR					
HWC					
SECTY.					

Return to \_\_\_\_\_  
By \_\_\_\_\_

*Planned to respond  
of Tunk's. I'll  
provide map. &*

808 280-6050  
chrisalema@yahoo.com

*Wicopa Air Proctor, Lot 48*

OWNER	ADDRESS	SUBDIVISION DATE	# OF LOTS	SUBDIVISION FILE NO.	T.M.K.
Kai Pali LLC	708 Canyon Rd. Suite 3 Santa Fe, NM 87501-2751	12-12-96	3	4.686	4-3-15: 4 <sup>00</sup>
Island Civil Holdings LLC c/o Harris Myco Inc	P.O. Box 19019 Atlanta, GA 31126	12-12-96	3	4.686	4-3-15: 054
Christopher Saleem	5106 L. Monastiraki Rd. Lahaina 96761	12-12-96	3	4.686	4-3-15: 055
Doshi Family Trust of 1999 Glen R. & Karen E. Doshi	P.O. Box 675210 Rancho Santa Fe CA 92067	12-12-96	3	4.686	4-3-15: 057
Thomas H. Masss, Jr & Martha P. Masss Revoc Living Trust	49 Hale Malie Pl. Lahaina, 96761	12-12-96	3	4.686	4-3-15: 058

CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

**Kai Pali, LLC**  
708 Canyon Road, Suite 3  
Santa Fe, New Mexico 87501-2751

Ladies and Gentlemen:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on December 12, 1996 to create three (3) lots (LUCA File No. 4.686). One of the lots from the original subdivision is TMK 4-3-15:004, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

The County of Maui has been working to implement the Lower Honoapiilani Road Improvements Project Phase IV which involves roadway, drainage, and sidewalk improvements along the segment of Lower Honoapiilani Road, between Hoohei Road and Napilihau Road. As part of this project, the County will be seeking a payment of a pro rata share of roadway improvements as included in the terms of the deferral agreement. This would pertain to lands along the frontage of Lower Honoapiilani Road included in the original subdivision.

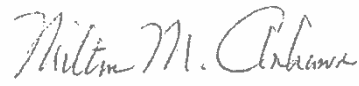
It should be emphasized that the final project costs have not been determined as of this juncture, so it is not possible to provide you with the pro rata share of the costs relevant to the original subdivision. It is also noted that your share would likely be determined in consultation and agreement with the other lots comprising the original

Kai Pali, LLC  
May 27, 2010  
Page 2

subdivision. The timing of the payment also is uncertain although the County is seeking to start construction sometime in calendar year 2012.

If you have any questions, please feel free to call me at (808) 270-7845. Thank you for your future attention to this matter.

Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm



CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

Island Girl Holdings, LLC  
c/o Harris MYCFO, Inc.  
P. O. Box 19019  
Atlanta, Georgia 31126

Ladies and Gentlemen:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on December 12, 1996 to create three (3) lots (LUCA File No. 4.686). One of the lots from the original subdivision is TMK 4-3-15:054, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

The County of Maui has been working to implement the Lower Honoapiilani Road Improvements Project Phase IV which involves roadway, drainage, and sidewalk improvements along the segment of Lower Honoapiilani Road, between Hoohui Road and Napilihau Road. As part of this project, the County will be seeking a payment of a pro rata share of roadway improvements as included in the terms of the deferral agreement. This would pertain to lands along the frontage of Lower Honoapiilani Road included in the original subdivision.

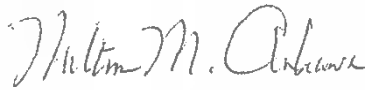
It should be emphasized that the final project costs have not been determined as of this juncture, so it is not possible to provide you with the pro rata share of the costs relevant to the original subdivision. It is also noted that your share would likely be

Island Girl Holdings, LLC  
May 27, 2010  
Page 2

determined in consultation and agreement with the other lots comprising the original subdivision. The timing of the payment also is uncertain although the County is seeking to start construction sometime in calendar year 2012.

If you have any questions, please feel free to call me at (808) 270-7845. Thank you for your future attention to this matter.

Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm





CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

Mr. Christopher Salem  
5106 Lower Honoapiilani Road  
Lahaina, Maui, Hawaii 96761

Dear Mr. Salem:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on December 12, 1996 to create three (3) lots (LUCA File No. 4.686). One of the lots from the original subdivision is TMK 4-3-15:055, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

The County of Maui has been working to implement the Lower Honoapiilani Road Improvements Project Phase IV which involves roadway, drainage, and sidewalk improvements along the segment of Lower Honoapiilani Road, between Hoohui Road and Napilihau Road. As part of this project, the County will be seeking a payment of a pro rata share of roadway improvements as included in the terms of the deferral agreement. This would pertain to lands along the frontage of Lower Honoapiilani Road included in the original subdivision.

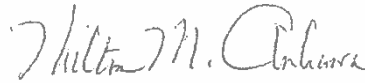
It should be emphasized that the final project costs have not been determined as of this juncture, so it is not possible to provide you with the pro rata share of the costs relevant to the original subdivision. It is also noted that your share would likely be determined in consultation and agreement with the other lots comprising the original

Mr. Christopher Salem  
May 27, 2010  
Page 2

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Sincerely,



**MILTON M. ARAKAWA, A.I.C.P.**  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm



PLAT 03

CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

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Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

DOSHAY Family Trust of 1999  
Mr. Glenn R. and Mrs. Karen E. Doshay  
P. O. Box 675210  
Rancho Sante Fe, California 92067

Dear Mr. and Mrs. Doshay:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on December 12, 1996 to create three (3) lots (LUCA File No. 4.686). One of the lots from the original subdivision is TMK 4-3-15:057, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

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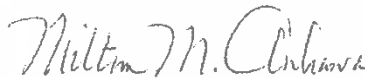
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DOSHAY Family Trust of 1999  
Mr. Glenn R. and Mrs. Karen E. Doshay  
May 27, 2010  
Page 2

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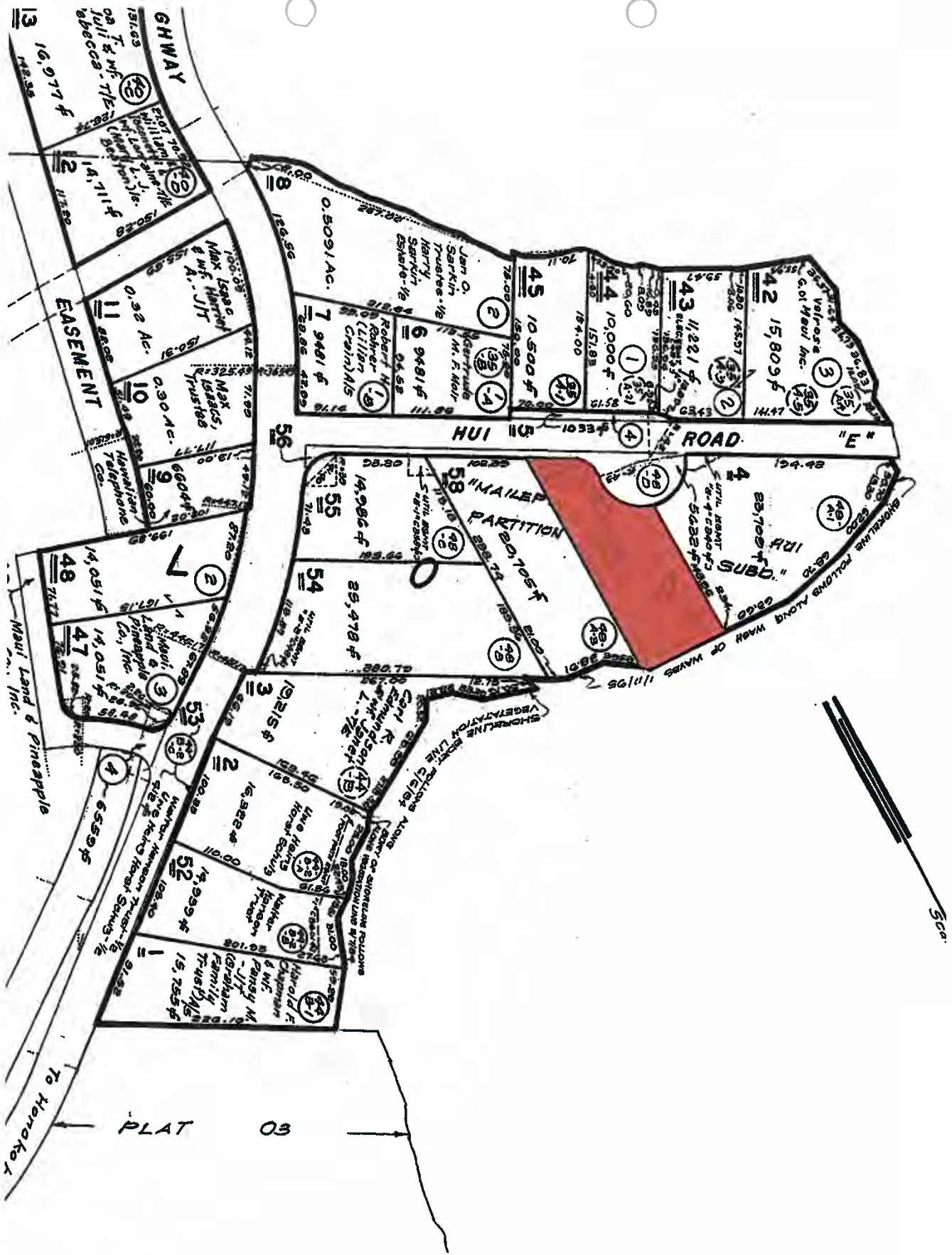
If you have any questions, please feel free to call me at (808) 270-7845. Thank you for your future attention to this matter.

Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm



CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

Thomas H. Maass, Jr. and Martha P. Maass Revocable Living Trust  
49 Hale Malia Place  
Lahaina, Maui, Hawaii 96761

Dear Mr. and Mrs. Maass:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on December 12, 1996 to create three (3) lots (LUCA File No. 4.686). One of the lots from the original subdivision is TMK 4-3-15:058, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

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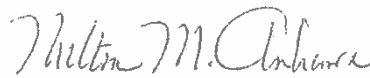
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Thomas H. Maass, Jr. and Martha P. Maass Revocable Living Trust  
May 27, 2010  
Page 2

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Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm





R-545

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

NOV 07, 1995 08:30 AM

Doc No(s) 95-145123

/s/CARL T. WATANABE  
ACTING  
REGISTRAR OF CONVEYANCES

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY:

MAIL (x)

PICK UP ( )

Land Use Codes Division  
COUNTY OF MAUI  
250 South High Street  
Wailuku, Maui, Hawaii 96793  
a:\forms\3lots.rev(11/93)

T.M.K. No. 4-3-15:04

LUCA File No. 4.686

**SUBDIVISION AGREEMENT  
(3 LOTS OR LESS)**

WHEREAS, ANKA, INC., a Hawaii corporation, whose address/principal place of business is 41 Hui Road "E", Lahaina, Hawaii 96761 and whose mailing address is same as above, ("the Owner"), is the Owner of a certain parcel of real property identified in Land Use & Codes Administration File No. 4.686, incorporated herein by reference and a made a part hereof, and situate at Alaeloa, Kaanapali, Maui, Hawaii, Tax Map Key No. 4-3-15:04, containing an area of approximately 2.772 acres, which property is incorporated herein by reference (the "Property");

WHEREAS, the Owner desires to subdivide the above referenced Property in an undertaking known as the Mailepai Hui Partition, Subdivision of Lot 48, hereinafter called the "Subdivision"; and

WHEREAS, the County of Maui (the "County") is a body politic and corporate and a political subdivision of the State of Hawaii, which has adopted and is responsible for the enforcement of the ordinance which regulates subdivisions within the County of Maui (the "Subdivision Ordinance"); and

WHEREAS, the Subdivision Ordinance provides for certain requirements which must be met prior to approval of the subdivision; and

WHEREAS, Section 18.20.040 of the Maui County Code states in part:

"18.20.040 Existing Streets. A. No improvements shall be required upon existing streets for a consolidation of lots; for a designation of an access easement; for a subdivision creating only road widening lots; and for a consolidation of three developable lots or less which is resubdivided without creating additional developable lots. Improvements to existing streets may be deferred for a subdivision containing three lots or less, provided the Subdivider or Owner, their heirs, executors or assigns agree to pay their pro rata share of the cost of road improvements upon the existing street pursuant to the terms of the ordinance authorizing said improvements by the County or to a formula determined by the County, taking into account reasonable factors such as the actual cost of the road improvements and the number of feet of roadway abutting the subdivided property. Said improvements shall include but not be limited to: pavement widening, construction of curb, gutter and sidewalk, and relocation of utilities underground. The land so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels."

WHEREAS, the subdivision contained three (3) or fewer lots;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed by and between the Owner, for him or her self and heirs, devisees, executors, administrators, person representatives, successors and assigns, and the County, as follows:

1. The Owner, his or her heirs, executors, administrators, personal representatives, successors and assigns shall pay the pro rata share of the cost of road improvements for Lower Honoapiilani Road and Hui Road "E", pursuant to the terms of the ordinance

authorizing said improvements by the County or to a formula determined by the County, taking into account reasonable factors such as the actual cost of the road improvements and the number of feet of roadway abutting the subdivided property. Said improvements shall include but not be limited to, pavement widening, construction of curb, gutter and sidewalk, and relocation of utilities underground. The land in the Subdivision shall not thereafter qualify for a deferral of the requirement to improve existing streets pursuant to Section 18.20.040 of the Maui County Code with respect to any subsequent subdivision of any of the resulting parcels.

2. The County shall permit the subdivision process to proceed with respect to the Subdivision.

3. Where there is more than one owner, all obligations of the Owner set forth herein shall be joint and several obligations of each Owner.

4. The Owner does hereby declare that the Property, and all parts thereof, is and shall be held subject to the foregoing covenants, conditions and restrictions and that all of such covenants, conditions and restrictions shall be effective as to and shall run with the land as to the Property from and after the recording of this instrument (the "Agreement") with the Bureau of Conveyances or Land Court of the State of Hawaii, as the case may be, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Owner, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor, or assign, as the case may be, of any of them, that the acquisition of any right, title or interest in or with respect to the Property by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Agreement by such person or persons, entity or entities, and that upon any transfer of any right, title or interest in or with respect to the Property the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform, all of the covenants, conditions and restrictions of this Agreement.

5. This Agreement and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land in perpetuity, or until the same is released as to the Property or any part thereof by the County.

6. The term "Owner" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include the Owner, his or her heirs, devisees, executors, administrators, personal representatives, successors and assigns.

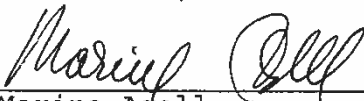
7. The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all the parties hereto, notwithstanding all the parties are not signatory to the original or the same counterparts. For all purposes, including without limitation, recordation, filing and delivery of this instrument duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the 28<sup>th</sup> day of February, 1995.


COUNTY OF MAUI:  
Department of Public Works  
& Waste Management

By  \_\_\_\_\_  
Charles Jencks  
Its Director

OWNER: ANKA, INC.

 \_\_\_\_\_  
Marina Agell  
Its Secretary-Treasurer

APPROVED AS TO FORM AND LEGALITY:

 \_\_\_\_\_  
~~Edward H. ...~~ **LILLIAN B. KOLLER**  
Deputy Corporation Counsel  
County of Maui

STATE OF HAWAII            )  
  ) SS.  
COUNTY OF MAUI            )

On this 28<sup>th</sup> day of September, 1995, before me personally appeared Charles Jencks, to me personally known, who, being by me duly sworn, did say that he is the Director of Public Works of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Title 18 of the Maui County Code, the Subdivision Ordinance, and the said Charles Jencks acknowledged the said instrument to be the free act and deed of the said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

*Rami Dielle*  
Notary Public, State of Hawaii  
My commission expires: 7/21/97

4

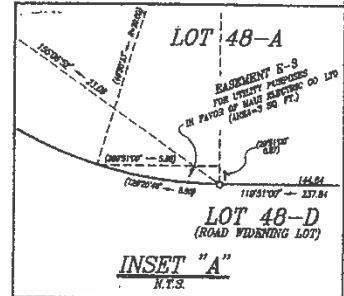
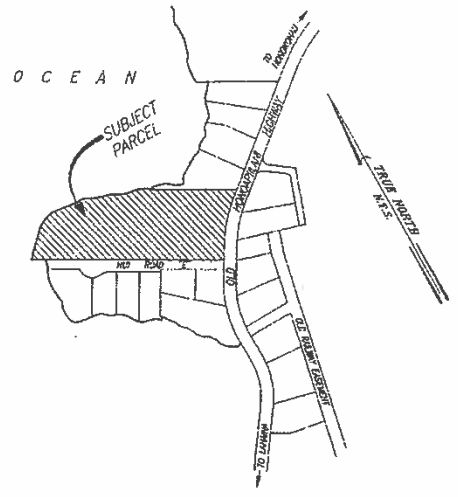
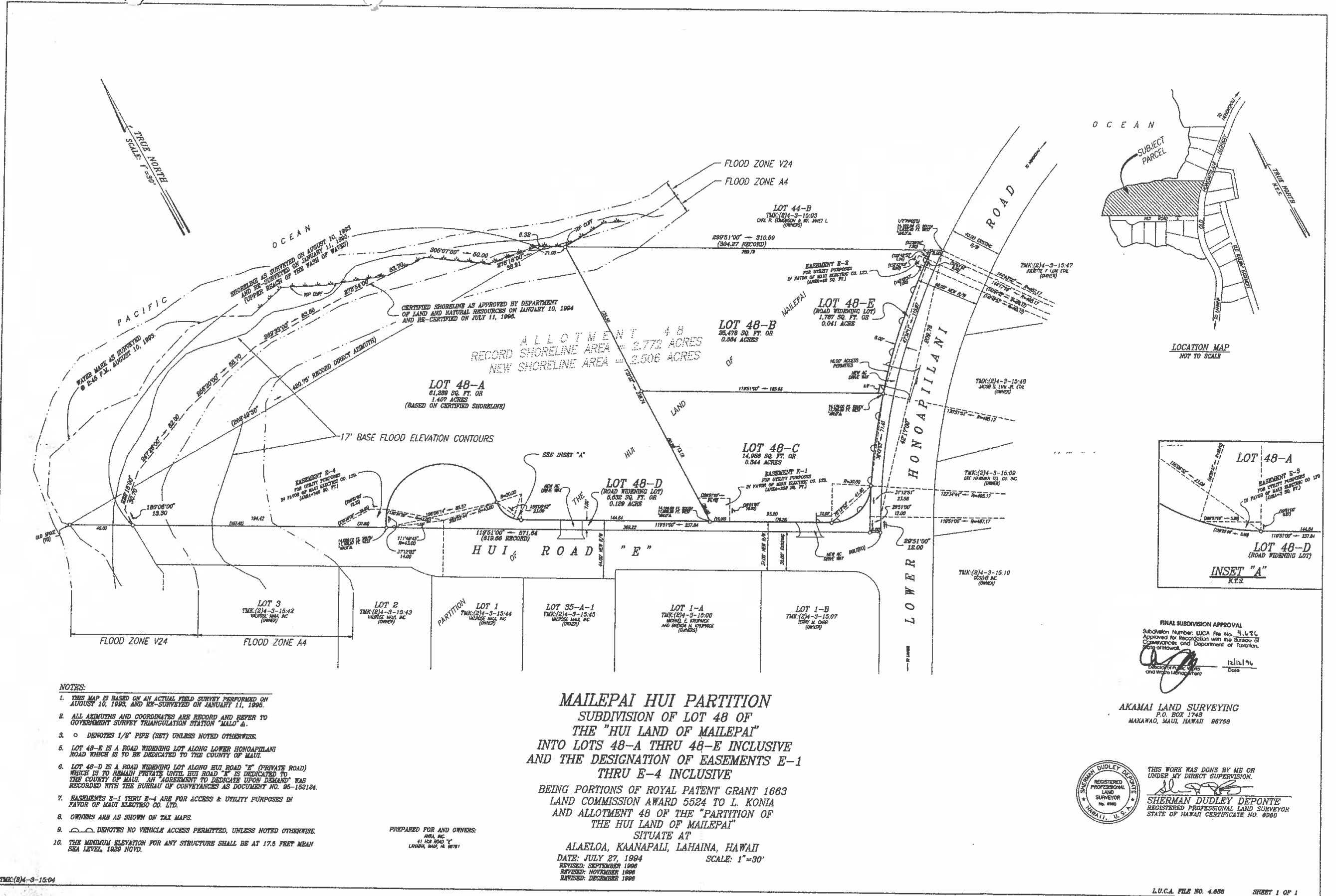
STATE OF HAWAII            )  
                                  ) SS.  
COUNTY OF MAUI            )

On this 26 day of July, 1995, before me personally appeared Marina Agell, to me personally known, who being by me duly sworn, did say that she is the Secretary-Treasurer of ANKA, INC., a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

  
\_\_\_\_\_  
Notary Public State of Hawaii.  
My commission expires: 4.20.99.





FINAL SUBDIVISION APPROVAL  
 Subdivision Number: LUCA File No. 4.686  
 Approved for Recordation with the Bureau of Conveyances and Department of Taxation, State of Hawaii.  
 Date: 12/11/94

AKAMAI LAND SURVEYING  
 P.O. BOX 1748  
 MAKAWAO, MAUI, HAWAII 96768



THIS WORK WAS DONE BY ME OR UNDER MY DIRECT SUPERVISION.  
 SHERMAN DUDLEY DEPONTE  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 STATE OF HAWAII CERTIFICATE NO. 8960

- NOTES:
1. THIS MAP IS BASED ON AN ACTUAL FIELD SURVEY PERFORMED ON AUGUST 10, 1993, AND RE-SURVEYED ON JANUARY 11, 1995.
  2. ALL AZIMUTHS AND COORDINATES ARE RECORD AND REFER TO GOVERNMENT SURVEY TRIANGULATION STATION "MALO A".
  3. ○ DENOTES 1/2" PIPE (SBT) UNLESS NOTED OTHERWISE.
  4. LOT 48-E IS A ROAD WIDENING LOT ALONG LOWER HONOAPIILANI ROAD WHICH IS TO BE DEDICATED TO THE COUNTY OF MAUI.
  5. LOT 48-D IS A ROAD WIDENING LOT ALONG HUI ROAD "E" (PRIVATE ROAD) WHICH IS TO REMAIN PRIVATE UNTIL HUI ROAD "E" IS DEDICATED TO THE COUNTY OF MAUI. AN AGREEMENT TO DEDICATE UPON DEMAND WAS RECORDED WITH THE BUREAU OF CONVEYANCES AS DOCUMENT NO. 96-152124.
  6. EASEMENTS E-1 THRU E-4 ARE FOR ACCESS & UTILITY PURPOSES IN FAVOR OF MAUI ELECTRIC CO. LTD.
  7. OWNERS ARE AS SHOWN ON TAX MAPS.
  8. ○ DENOTES NO VEHICLE ACCESS PERMITTED, UNLESS NOTED OTHERWISE.
  9. THE MINIMUM ELEVATION FOR ANY STRUCTURE SHALL BE AT 17.5 FEET MEAN SEA LEVEL, 1929 NGVD.

**MAILEPAI HUI PARTITION**  
 SUBDIVISION OF LOT 48 OF  
 THE "HUI LAND OF MAILEPAI"  
 INTO LOTS 48-A THRU 48-E INCLUSIVE  
 AND THE DESIGNATION OF EASEMENTS E-1  
 THRU E-4 INCLUSIVE

BEING PORTIONS OF ROYAL PATENT GRANT 1663  
 LAND COMMISSION AWARD 5524 TO L. KONIA  
 AND ALLOTMENT 48 OF THE "PARTITION OF  
 THE HUI LAND OF MAILEPAI"

SITUATE AT  
 ALAELOA, KAA NAPALI, LAHAINA, HAWAII  
 DATE: JULY 27, 1994  
 REVISION: SEPTEMBER 1996  
 REVISION: NOVEMBER 1998  
 REVISION: DECEMBER 1998

PREPARED FOR AND OWNERS:  
 AKAI, INC.  
 41 1/2 HUI ROAD "E"  
 LAHAINA, MAUI, HI 96761

TMK(2)4-3-15-04

# KAHANAWILI STREAM

OWNER	ADDRESS	SUBDIVISION DATE	# OF LOTS	SUBDIVISION FILE NO.	T.M.K.
Walter F Hoster III Trust	P.O. Box 7900 Incline Village, NV 89452	6-25-02	2	4.819	4-3-19:046
Kahana Nui LLC % Wm. Moffatt	4560 L. Homapiihawi Rd Lehi, 96761	6-25-02	2	4.819	4-3-19:049

CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

Walter F. Hester, III Trust  
P. O. Box 7900  
Incline Village, Nevada 89452

Ladies and Gentlemen:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on June 25, 2002 to create two (2) lots (LUCA File No. 4.819). One of the lots from the original subdivision is TMK 4-3-19:046, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

The County of Maui has been working to implement the Lower Honoapiilani Road Improvements Project Phase IV which involves roadway, drainage, and sidewalk improvements along the segment of Lower Honoapiilani Road, between Hoohui Road and Napilihau Road. As part of this project, the County will be seeking a payment of a pro rata share of roadway improvements as included in the terms of the deferral agreement. This would pertain to lands along the frontage of Lower Honoapiilani Road included in the original subdivision.

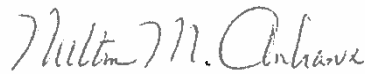
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Walter F. Hester, III Trust  
May 27, 2010  
Page 2

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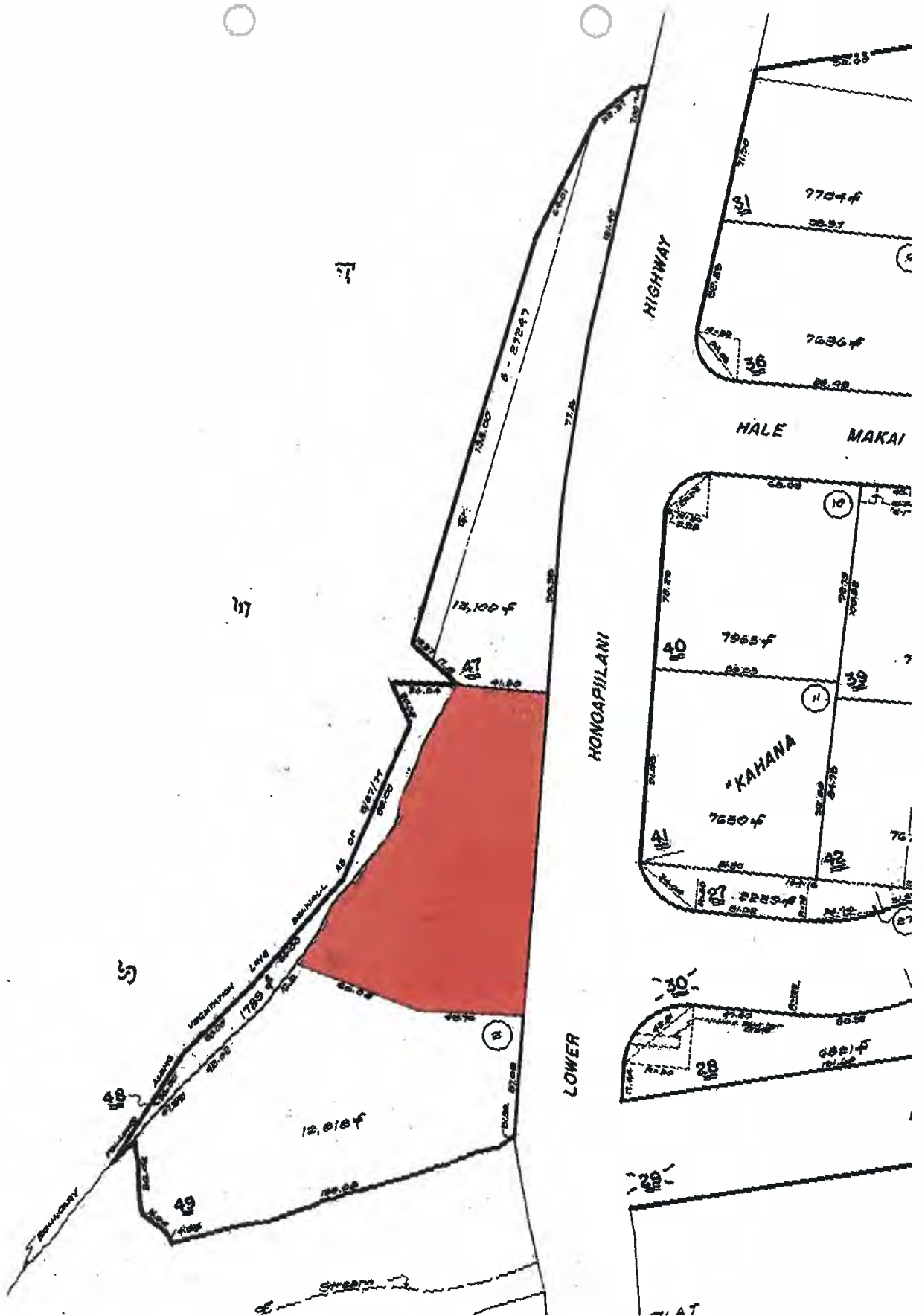
If you have any questions, please feel free to call me at (808) 270-7845. Thank you for your future attention to this matter.

Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm



CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

Kahana Nui, LLC  
c/o Mr. William Moffett  
4560 Lower Honoapiilani Road  
Lahaina, Maui, Hawaii 96761

Ladies and Gentlemen:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on June 25, 2002 to create two (2) lots (LUCA File No. 4.819). One of the lots from the original subdivision is TMK 4-3-19:049, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

The County of Maui has been working to implement the Lower Honoapiilani Road Improvements Project Phase IV which involves roadway, drainage, and sidewalk improvements along the segment of Lower Honoapiilani Road, between Hoohui Road and Napilihau Road. As part of this project, the County will be seeking a payment of a pro rata share of roadway improvements as included in the terms of the deferral agreement. This would pertain to lands along the frontage of Lower Honoapiilani Road included in the original subdivision.

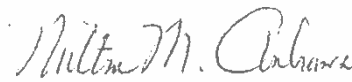
It should be emphasized that the final project costs have not been determined as of this juncture, so it is not possible to provide you with the pro rata share of the costs relevant to the original subdivision. It is also noted that your share would likely be determined in consultation and agreement with the other lots comprising the original

Kahana Nui, LLC  
May 27, 2010  
Page 2

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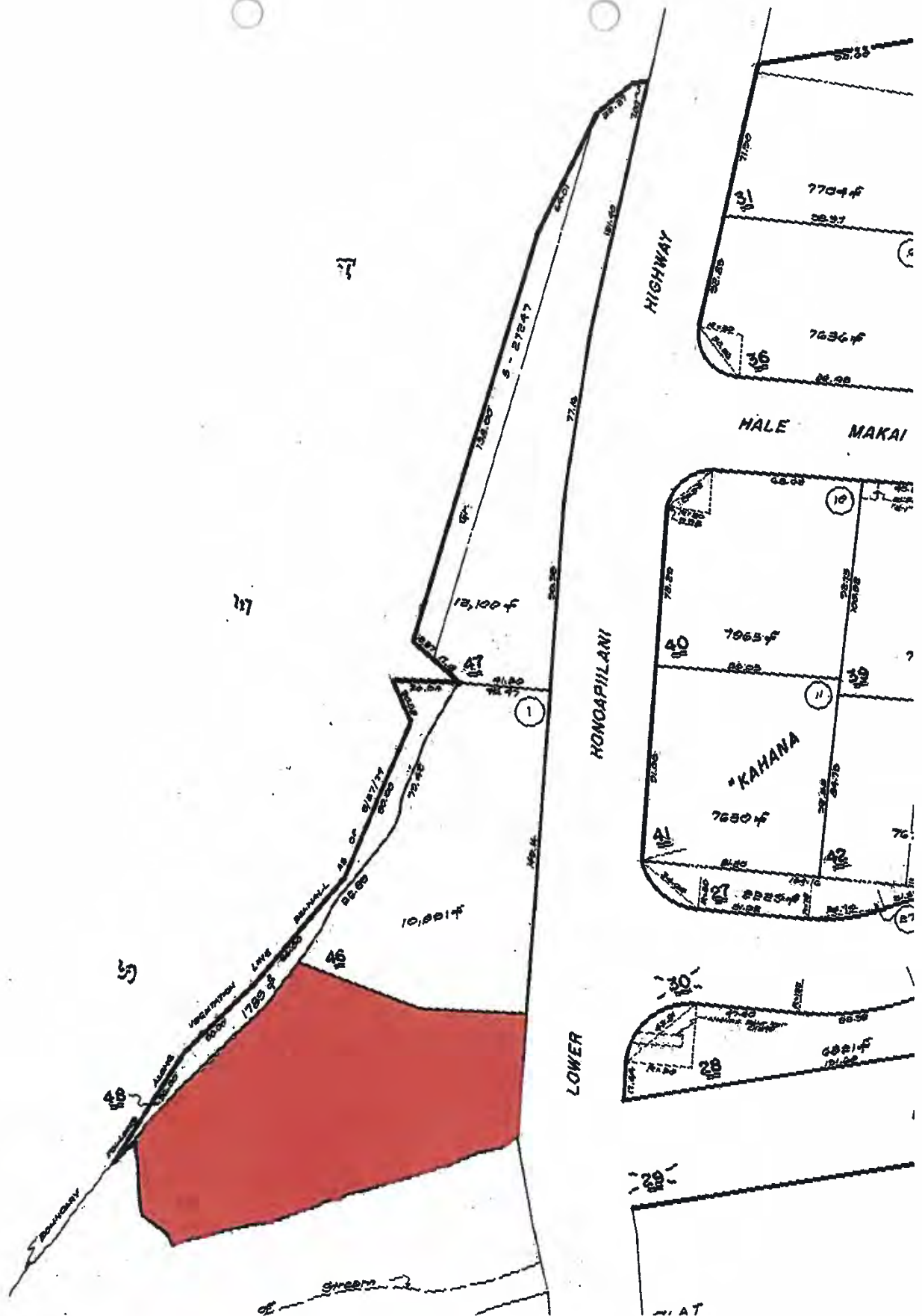
If you have any questions, please feel free to call me at (808) 270-7845. Thank you for your future attention to this matter.

Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm





R-73 STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED  
FEB 19, 2002 08:01 AM  
Doc No(s) 2002-028288

/s/ CARL T. WATANABE  
ACTING  
REGISTRAR OF CONVEYANCES

LAND COURT

AFTER RECORDATION, RETURN BY: MAIL (X) PICK-UP ( )  
Land Use and Codes Administration  
County of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793

PG-315316-B RS  
9 pgs.

A:\FORMS\3lotsRev.wpd(9/00)

TMK No.(2) 4-3-19:046

LUCA File No. 4.819

SUBDIVISION AGREEMENT  
(THREE LOTS OR LESS)

WHEREAS, Kahana Nui, LLC

\_\_\_\_\_, whose residence  
address/principal place of business is 115 Aloalo Place  
Lahaina, HI 96761 and whose

mailing address is 115 Aloalo Place Lahaina, HI 96761

\_\_\_\_\_, ("the Owner"), is/are the owner(s) of a  
certain parcel of real property identified and described in Land  
Use and Codes Administration File No. 4.819,

incorporated herein by reference and made a part hereof, and  
situate at 4591 L. Honoapiilani Rd. Lahaina, HI 96761,

Tax Map Key No. (2) 4-3-019:046, containing an area of approximately 25,446 Square Feet (the "Property");

WHEREAS, the Owner desires to subdivide the above referenced Property in an undertaking known as the Kahananui Stream House lots subdivision, hereinafter called the "Subdivision"; and

WHEREAS, the County of Maui (the "County") is a body politic and corporate and a political subdivision of the State of Hawaii, which has adopted and is responsible for the enforcement of the ordinance which regulates subdivisions within the County of Maui (the "Subdivision Ordinance"); and

WHEREAS, the Subdivision Ordinance provides for certain requirements which must be met prior to approval of the subdivision; and

WHEREAS, Section 18.20.040 of the Maui County Code states in part:

"18.20.040 Existing streets. A. No improvements shall be required upon existing streets for a consolidation of lots; for a designation of an access easement; for a subdivision creating only road widening lots; and for a consolidation of three developable lots or less which is resubdivided without creating additional developable lots. Improvements to existing streets may be deferred for a subdivision containing three lots or less, provided the subdivider or owner, their heirs, executors or assigns agree to pay their pro rata share of the cost of road improvements upon the existing street pursuant to the terms of the ordinance authorizing said improvements by the county or to a formula determined by the county, taking into account reasonable factors such as the actual cost of the road improvements and the number of feet of roadway abutting the subdivided property. Said improvements shall include but not be

limited to, pavement widening, construction of curb, gutter and sidewalk, and relocation of utilities underground. The land so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels. Churches shall also dedicate land necessary for road widening purposes to comply with the requirements of this chapter."

WHEREAS, the subdivision contained three (3) or fewer lots;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed by and between the Owner, for himself and his heirs, devisees, executors, administrators, person representatives, successors and assigns, and the County, as follows:

1. The Owner, his heirs, executors, administrators, personal representatives, successors and assigns shall pay the pro rata share of the cost of road improvements for \_\_\_\_\_  
Kahananui Stream House Lots Subdivision,  
pursuant to the terms of the ordinance authorizing said improvements by the County or to a formula determined by the County, taking into account reasonable factors such as the actual cost of the road improvements and the number of feet of roadway abutting the subdivided property. Said improvements shall include but not be limited to, pavement widening, construction of curb, gutter and sidewalk, and relocation of utilities underground. The land in the Subdivision shall not thereafter qualify for a deferral of the requirement to improve existing streets pursuant to Section

18.20.040 of the Maui County Code with respect to any subsequent subdivision of any of the resulting parcels.

2. The County shall permit the subdivision process to proceed with respect to the Subdivision.

3. Where there is more than one Owner, all obligations of the Owner set forth herein shall be joint and several obligations of each Owner.

4. The Owner does hereby declare that the Property, and all parts thereof, is and shall be held subject to the foregoing covenants, conditions and restrictions and that all of such covenants, conditions and restrictions shall be effective as to and shall run with the land as to the Property from and after the recording of this instrument (the "Agreement") with the Bureau of Conveyances or Land Court of the State of Hawaii, as the case may be, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Owner, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor, or assign, as the case may be, of any of them, that the acquisition of any right, title or interest in or with respect to the Property by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Agreement by such person or persons, entity or entities, and that upon any transfer of any right, title or interest in or with respect to the

Property the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform, all of the covenants, conditions and restrictions of this Agreement.

5. This Agreement and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land in perpetuity, or until the same is released as to the Property or any part thereof by the county.

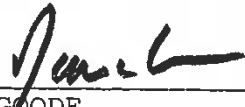
6. The term "Owner" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include the Owner, his heirs, devisees, executors, administrators, personal representatives, successors, and assigns.

7. The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all the parties hereto, notwithstanding all the parties are not signatory to the original or the same counterparts. For all purposes, including without limitation, recordation, filing and delivery of this instrument duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the 30th day of January, 2007.


COUNTY OF MAUI:

DEPARTMENT OF PUBLIC WORKS AND  
WASTE MANAGEMENT

By   
DAVID GOODE  
Its Director

OWNER:

Kahana Nui LLC  
(Print Name Above)

By   
Name: William B. Moffett  
Its Managing Member

By \_\_\_\_\_  
Name:  
Its


By \_\_\_\_\_  
Name:  
Its

By \_\_\_\_\_  
Name:  
Its

By \_\_\_\_\_  
Name:  
Its

By \_\_\_\_\_  
Name:  
Its

APPROVED AS TO FORM  
AND LEGALITY:


  
\_\_\_\_\_  
Gregory J. Carneau  
Deputy Corporation Counsel  
County of Maui

STATE OF HAWAII )  
 ) SS.  
COUNTY OF MAUI )

On this 30<sup>th</sup> day of January, 2002, before me personally appeared DAVID GOODE, to me personally known, who being by me duly sworn, did say that he is the Director of Public Works and Waste Management of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Title 18 of the Maui County Code, the Subdivision Ordinance, and the said DAVID GOODE acknowledged the said instrument to be the free act and deed of the said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

  
NOTARY PUBLIC, State of Hawaii.  
Print Name JILL ANNE S. ONO  
My commission expires: 11/30/02

STATE OF HAWAII )  
 ) SS.  
\_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument and acknowledged that \_\_\_\_\_ executed the same as \_\_\_\_\_ free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC, State of Hawaii.  
Print Name \_\_\_\_\_  
My commission expires: \_\_\_\_\_



STATE OF HAWAII )  
 ) SS.  
 )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC, State of Hawaii.  
Print Name \_\_\_\_\_  
My commission expires: \_\_\_\_\_

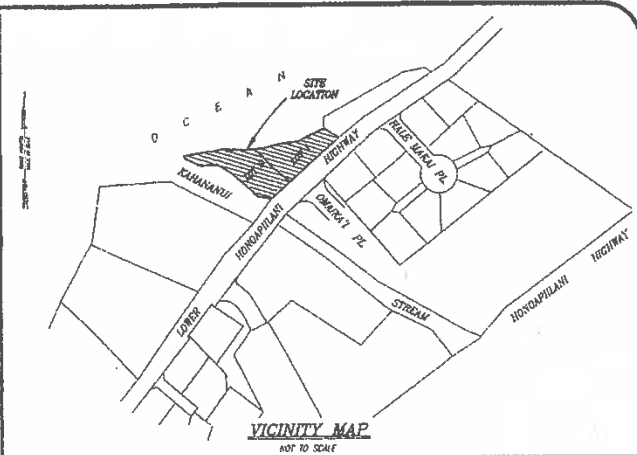
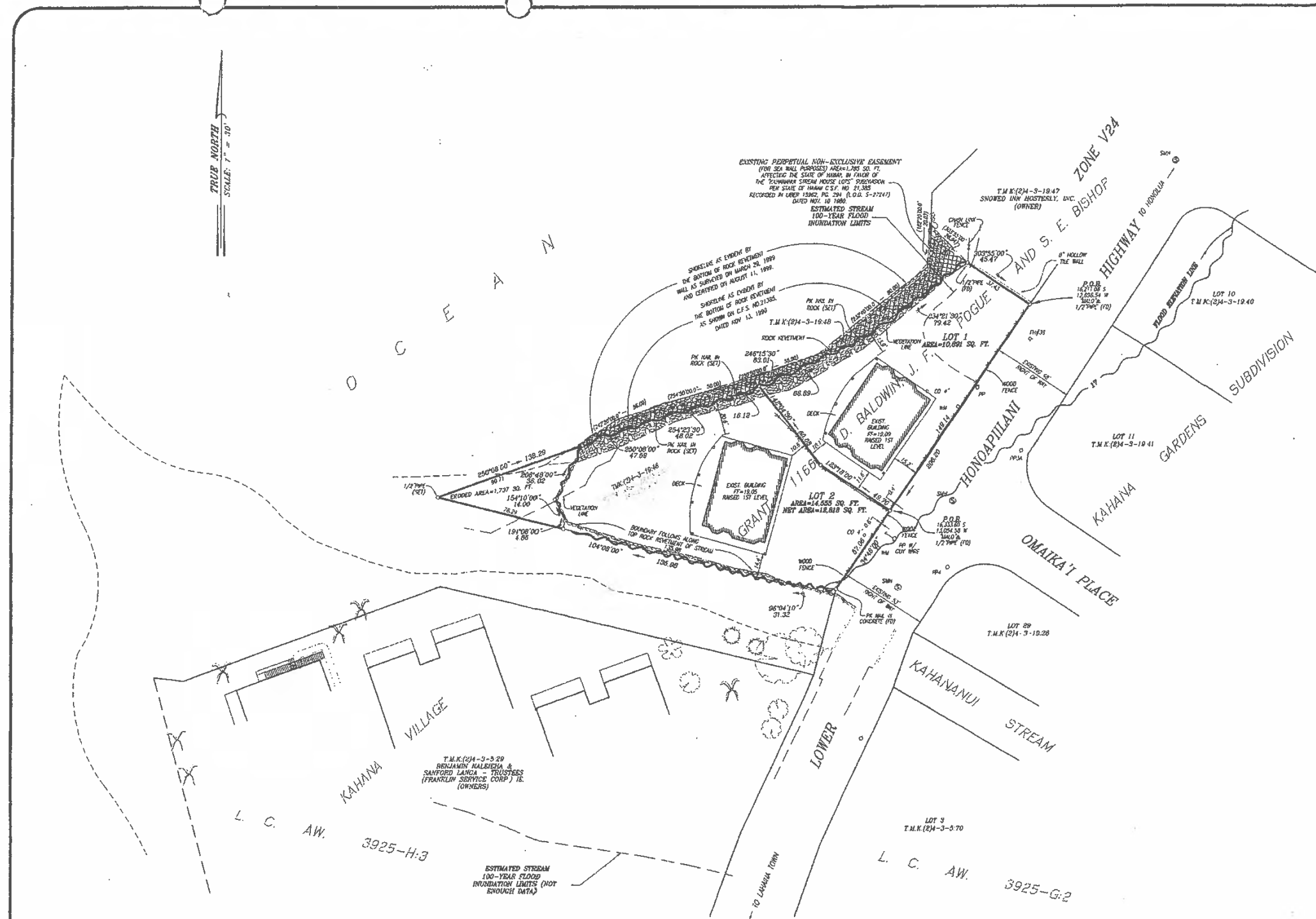
STATE OF HAWAII )  
COUNTY OF MAUI ) SS.  
 )

On this 15<sup>th</sup> day of January, 2002, before me personally appeared William B. Moffett and \_\_\_\_\_, to me personally known, who being by me duly sworn, did say that ~~they are~~ <sup>he is</sup> the partners of Kahana Nui LLC, a ~~general~~ partnership organized under the laws of the State of Hawaii and said William B. Moffett, Managing Member acknowledged that ~~they~~ <sup>he</sup> executed the foregoing instrument as ~~their~~ <sup>his</sup> free act and deed as such general partners.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

DeAnn K. Kaina  
NOTARY PUBLIC  
STATE OF HAWAII

DeAnn K. Kaina  
NOTARY PUBLIC, State of Hawaii.  
Print Name DeAnn K. Kaina  
My commission expires: My Commission Expires June 10, 2005



FINAL SUBDIVISION APPROVAL  
 Subdivision Number: LUCA File No. 4.819  
 Approved for Recordation with the Bureau of  
 Conveyance and Department of Taxation,  
 State of Hawaii  
 [Signature] 6.25.02  
 Director of Public Works and Waste Management Date

**KAHANANUI STREAM  
 HOUSE LOTS SUBDIVISION  
 SUBDIVISION OF A PORTION OF  
 GRANT 1166 TO D. BALDWIN,  
 J. F. POGUE, AND S. E. BISHOP  
 INTO LOTS 1 & 2**

SITUATE AT KAHANA,  
 KAHANAPALI, LAHAINA, MAUI, HAWAII

DATE: JANUARY 21, 2000 SCALE: 1" = 30'  
 REVISED: SEPTEMBER 5, 2000  
 REVISED: JANUARY 30, 2002  
 REVISED: MAY 28, 2002  
 REVISED: JUNE 18, 2002

**AKAMAI LAND SURVEYING, INC.**  
 P.O. BOX 1748  
 MAKAWAO, MAUI, HAWAII 96768

OWNER:  
 KAHANA HUI LLC  
 115 ALDADO PLACE  
 LAHAINA, MAUI, HAWAII 96761

PROPERTY ADDRESS:  
 4591 LOWER HONOPILANI RD  
 KAHANA, MAUI, HAWAII



THIS WORK WAS DONE BY ME OR  
 UNDER MY DIRECT SUPERVISION  
 [Signature] 6.25.02  
**SHERMAN DUDLEY DEPONTE**  
 LICENSED PROFESSIONAL LAND SURVEYOR  
 STATE OF HAWAII CERTIFICATE NO. 6960

- NOTES:**
- THIS MAP IS BASED ON AN ACTUAL FIELD SURVEY PERFORMED ON MARCH 29, 1989, AND AGAIN ON OCTOBER 1, 1989.
  - AZIMUTHS AND COORDINATES ARE RECORD AND REFER TO GOVERNMENT SURVEY TRIANGULATION STATION 'MALO' Δ.
  - ELEVATIONS SHOWN HEREON ARE BASED ON THE FLOOD INSURANCE RATE MAP, REFERENCE MARK, RM.16 ELEVATION TAKEN AS 11.65 FT. ABOVE MEAN SEA LEVEL, 1929 N.G.V.D.
  - PURSUANT TO MAUI COUNTY CODE SECTION 3.44.015(C), THE COUNTY OF MAUI IS NOT RESPONSIBLE FOR ANY PARK, ROADWAY, EASEMENT (INCLUDING BUT NOT LIMITED TO DRAINAGE, SEWER, ACCESS, RECLAIMED WATER, OR AVIGATION EASEMENT), OR ANY OTHER INTEREST IN REAL PROPERTY SHOWN ON THIS MAP OR SHOWN ON THESE PLANS, UNLESS THE MAUI COUNTY COUNCIL HAS ACCEPTED ITS DEDICATION BY A RESOLUTION APPROVED BY A MAJORITY OF COUNCIL'S MEMBERS AT A REGULAR OR SPECIAL MEETING OF THE MAUI COUNTY COUNCIL.
  - ALL BOUNDARY CORNERS ARE 1/2" PIPE (SET) EXCEPT WHERE NOTED OTHERWISE.
  - FLOOD ZONE INFORMATION SHOWN HEREON IS BASED ON THE INTERPRETATION OF THE FLOOD INSURANCE RATE MAP COMMUNITY - PANEL NO. 15003-0151 C, DATED SEPTEMBER 17, 1997.
  - ESTIMATED STREAM 100-YEAR FLOOD INUNDATION LIMITS SHOWN HEREON WAS STUDIED AND PROVIDED TO THIS OFFICE BY OTOMO ENGINEERING INC.



T.M.K.: (2)4-3-19:46

L.U.C.A. FILE NO. 4.819

*MacCarr / Fun Land*

OWNER	ADDRESS	SUBDIVISION DATE	# OF LOTS	SUBDIVISION FILE NO.	T.M.K.
Donald H. Valley	1333 Costa Brava Shall Beach, CA 93449	3-11-82	3	4.356	4-3-3:104
McNear Trust	48 Peacock Dr. San Rafael, CA 94901-1505	3-11-82	3	4.356	4-3-3:105
Burton R. Lund <del>Phon</del> Mac P. Lund	4946 L. Honoquiani Rd. Lahaina, 96761-9218	3-11-82	3	4.356	4-3-3:106
Mary L. Padgett c/o Loughlin, Peter/Lora	1481 Seminole Dr South Lake Tahoe, CA 96150-4048	3-11-82	3	4.356	4-3-3:106

CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

Mr. Donald H. Valley  
1333 Costa Brava  
Shell Beach, California 93449

Dear Mr. Valley:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on March 11, 1980 to create three (3) lots (LUCA File No. 4.356). One of the lots from the original subdivision is TMK 4-3-3:104, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

The County of Maui has been working to implement the Lower Honoapiilani Road Improvements Project Phase IV which involves roadway, drainage, and sidewalk improvements along the segment of Lower Honoapiilani Road, between Hoohui Road and Napilihau Road. As part of this project, the County will be seeking a payment of a pro rata share of roadway improvements as included in the terms of the deferral agreement. This would pertain to lands along the frontage of Lower Honoapiilani Road included in the original subdivision.

It should be emphasized that the final project costs have not been determined as of this juncture, so it is not possible to provide you with the pro rata share of the costs relevant to the original subdivision. It is also noted that your share would likely be

Mr. Donald H. Valley  
May 27, 2010  
Page 2

determined in consultation and agreement with the other lots comprising the original subdivision. The timing of the payment also is uncertain although the County is seeking to start construction sometime in calendar year 2012.

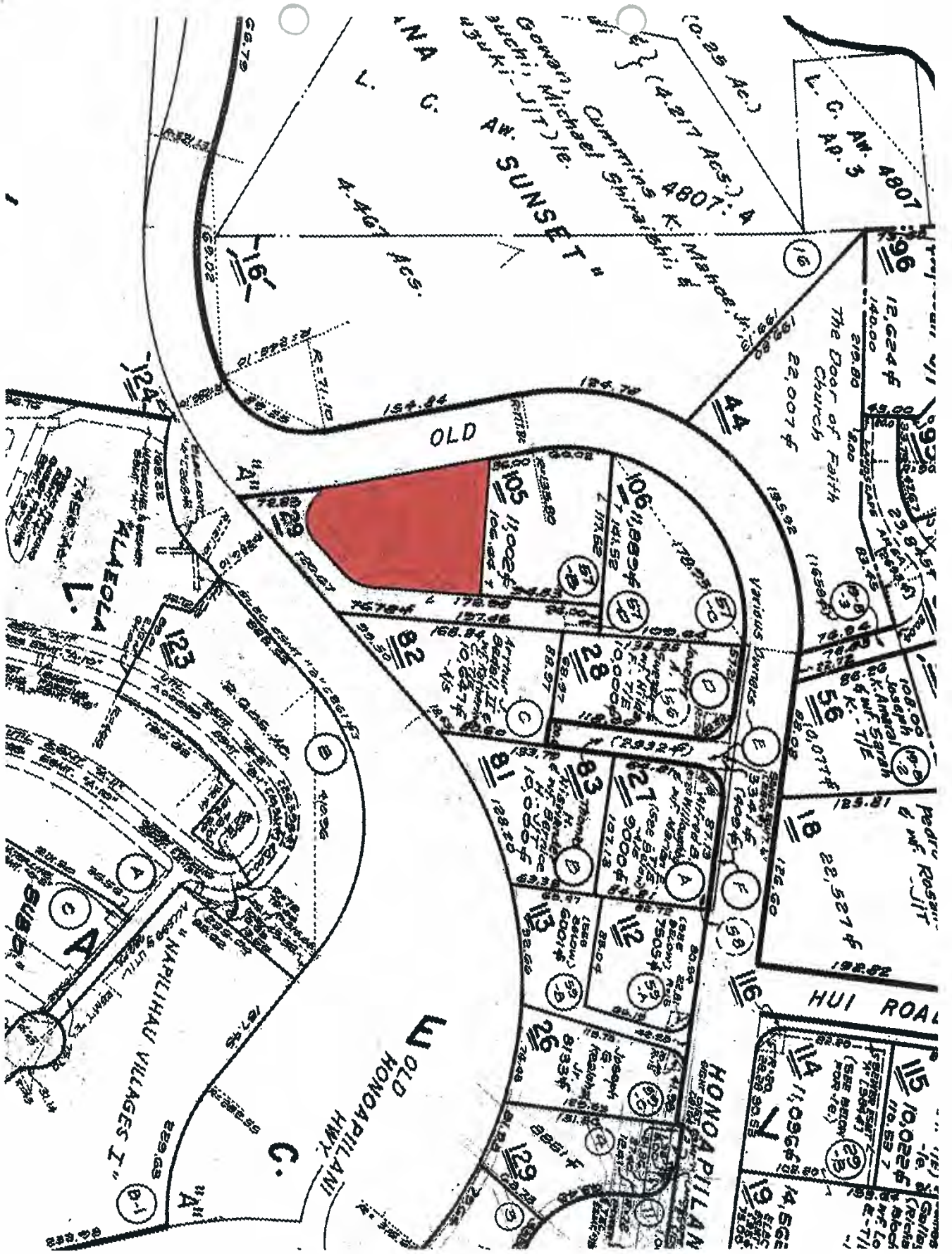
If you have any questions, please feel free to call me at (808) 270-7845. Thank you for your future attention to this matter.

Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm



CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



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Engineering Division

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Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

McNear Trust  
48 Peacock Drive  
San Rafael, California 94901-1505

Ladies and Gentlemen:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on March 11, 1980 to create three (3) lots (LUCA File No. 4.356). One of the lots from the original subdivision is TMK 4-3-3:105, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

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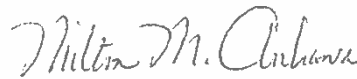
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McNear Trust  
May 27, 2010  
Page 2

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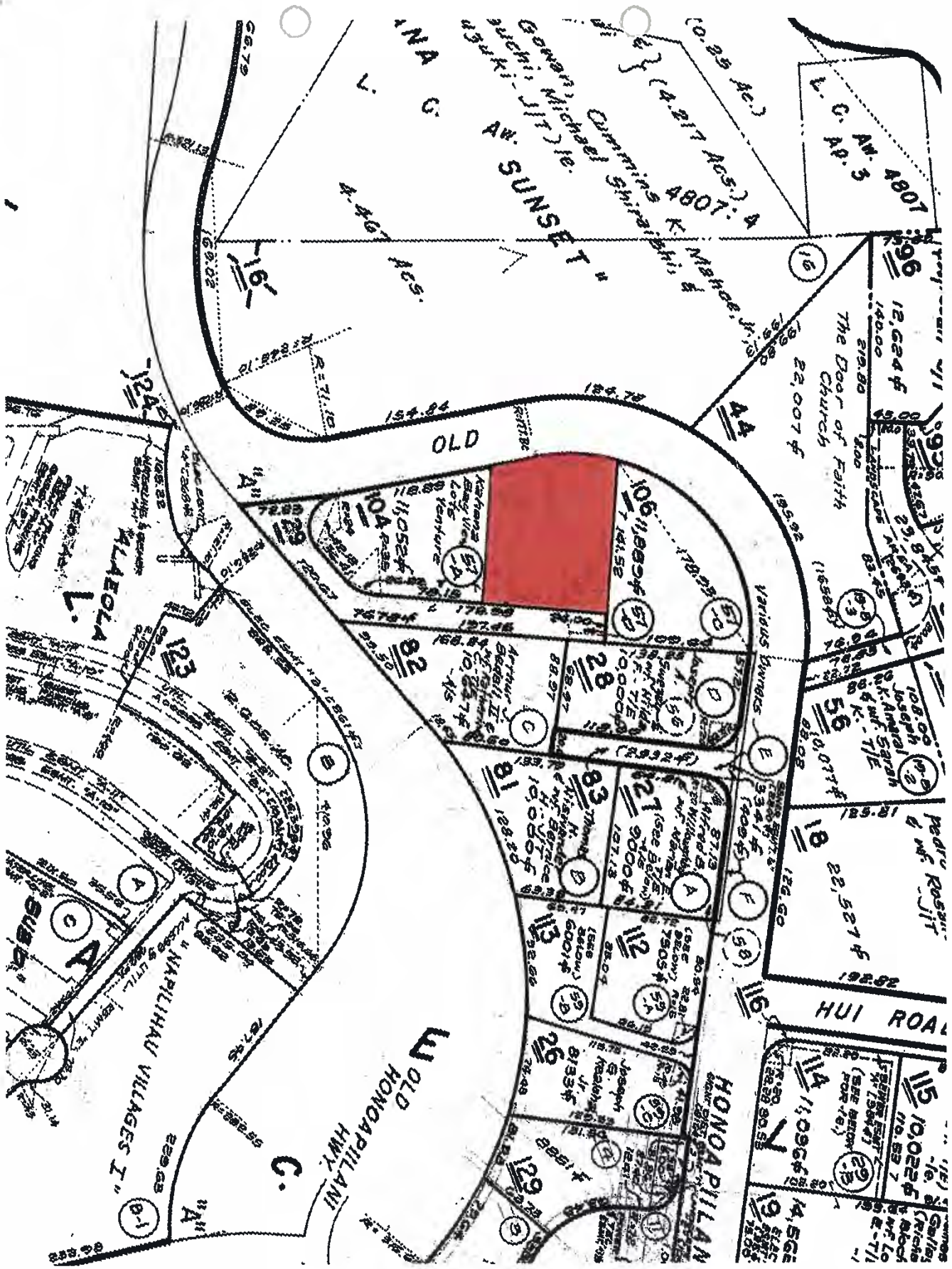
Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm





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Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

June 18, 2010

Mr. Peter Loughlin  
Mrs. Lora Loughlin  
1481 Seminole Drive  
South Lake Tahoe, California 96150-4848

Dear Mr. and Mrs. Loughlin:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on March 11, 1980 to create three (3) lots (LUCA File No. 4.356). One of the lots from the original subdivision is TMK 4-3-3:106, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

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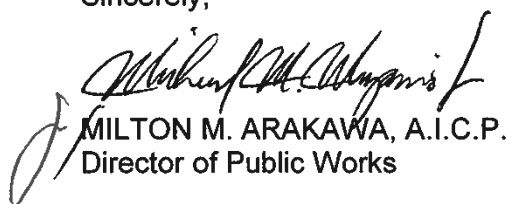
It should be emphasized that the final project costs have not been determined as of this juncture, so it is not possible to provide you with the pro rata share of the costs relevant to the original subdivision. It is also noted that your share would likely be determined in consultation and agreement with the other lots comprising the original

Mr. Peter Loughlin  
Mrs. Lora Loughlin  
June 18, 2010  
Page 2

subdivision. The timing of the payment also is uncertain although the County is seeking to start construction sometime in calendar year 2012.

If you have any questions, please feel free to call me at (808) 270-7845. Thank you for your future attention to this matter.

Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm

From: Dawn Matney  
To: Ono, Jill-Anne; Teruya, Scott  
CC: Miyamoto, Michael  
Date: 6/17/2010 9:53 AM  
Subject: Re: 4950 LOWER HONOAPIILANI ROAD, LAHAINA (TMK: 4-3-3:106)  
Attachments: 4303-106.pdf

Aloha,  
attached is a TT report showing owner history for the above referenced parcel.

Address for owners Peter & Lora Loughlin:

1481 Seminole Drive  
South Lake Tahoe, CA 96150-4848

Regards, Dawn

>>> Scott Teruya 6/16/2010 1:53 PM >>>  
Dawn,

Please reply to all with the information requested.

Thanks,  
Scott

NOTICE: The information in this transmittal (including attachments, if any) is privileged and confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by, or on behalf of, the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal. Thank you.

Scott K. Teruya, Division Administrator  
Real Property Tax Division  
Department of Finance  
County of Maui  
70 E. Kaahumanu Avenue, Suite A-16  
Kahului, HI 96732

Assessment: (808) 270-7297  
Billing and Collection: (808) 270-7697  
Fax: (808) 270-7884

Visit us on the web at [www.mauipropertytax.com](http://www.mauipropertytax.com) ( <http://www.mauipropertytax.com/> )

>>> Jill-Anne Ono 6/16/2010 1:43 PM >>>  
Good afternoon, Mr. Teruya™

Public Works Deputy Director Michael Miyamoto would like to know the name and address of the current owner of the above-referenced address.

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, the Department is currently in the process of notifying owners of our "Notice of Intent to Collect" financial obligations which apply to a deferral agreement which the original subdivider executed back on March 11, 1980.

Any information you can provide us would be greatly appreciated!

Jill Anne S. Ono, Private Secretary  
Department of Public Works  
County of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793  
(808) 270-7845

CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

June 7, 2010

Mr. Burton R. Lund  
Mrs. Mae P. Lund  
4950 Lower Honoapiilani Road  
Lahaina, Maui, Hawaii 96761

*Letter returned.  
Got owner info +  
address from RPT*

*6/4/10: Letter addressed  
to 4946 L. Honoapiilani Rd  
returned. Mike  
provided new address.*

*JM*

Dear Mr. and Mrs. Lund:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on March 11, 1980 to create three (3) lots (LUCA File No. 4.356). One of the lots from the original subdivision is TMK 4-3-3:106, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

The County of Maui has been working to implement the Lower Honoapiilani Road Improvements Project Phase IV which involves roadway, drainage, and sidewalk improvements along the segment of Lower Honoapiilani Road, between Hoohui Road and Napilihau Road. As part of this project, the County will be seeking a payment of a pro rata share of roadway improvements as included in the terms of the deferral agreement. This would pertain to lands along the frontage of Lower Honoapiilani Road included in the original subdivision.

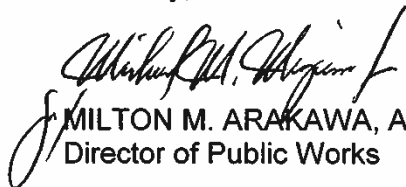
It should be emphasized that the final project costs have not been determined as of this juncture, so it is not possible to provide you with the pro rata share of the costs relevant to the original subdivision. It is also noted that your share would likely be determined in consultation and agreement with the other lots comprising the original

Mr. Burton R. Lund  
Mrs. Mae P. Lund  
June 7, 2010  
Page 2

subdivision. The timing of the payment also is uncertain although the County is seeking to start construction sometime in calendar year 2012.

If you have any questions, please feel free to call me at (808) 270-7845. Thank you for your future attention to this matter.

Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm

CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



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Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

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Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

Mr. Burton R. Lund  
Mrs. Mae P. Lund  
4946 Lower Honoapiilani Road  
Lahaina, Maui, Hawaii 96761

Dear Mr. and Mrs. Lund:

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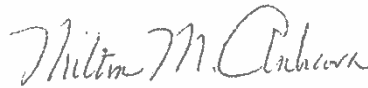
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Mr. Burton R. Lund  
Mrs. Mae P. Lund  
May 27, 2010  
Page 2

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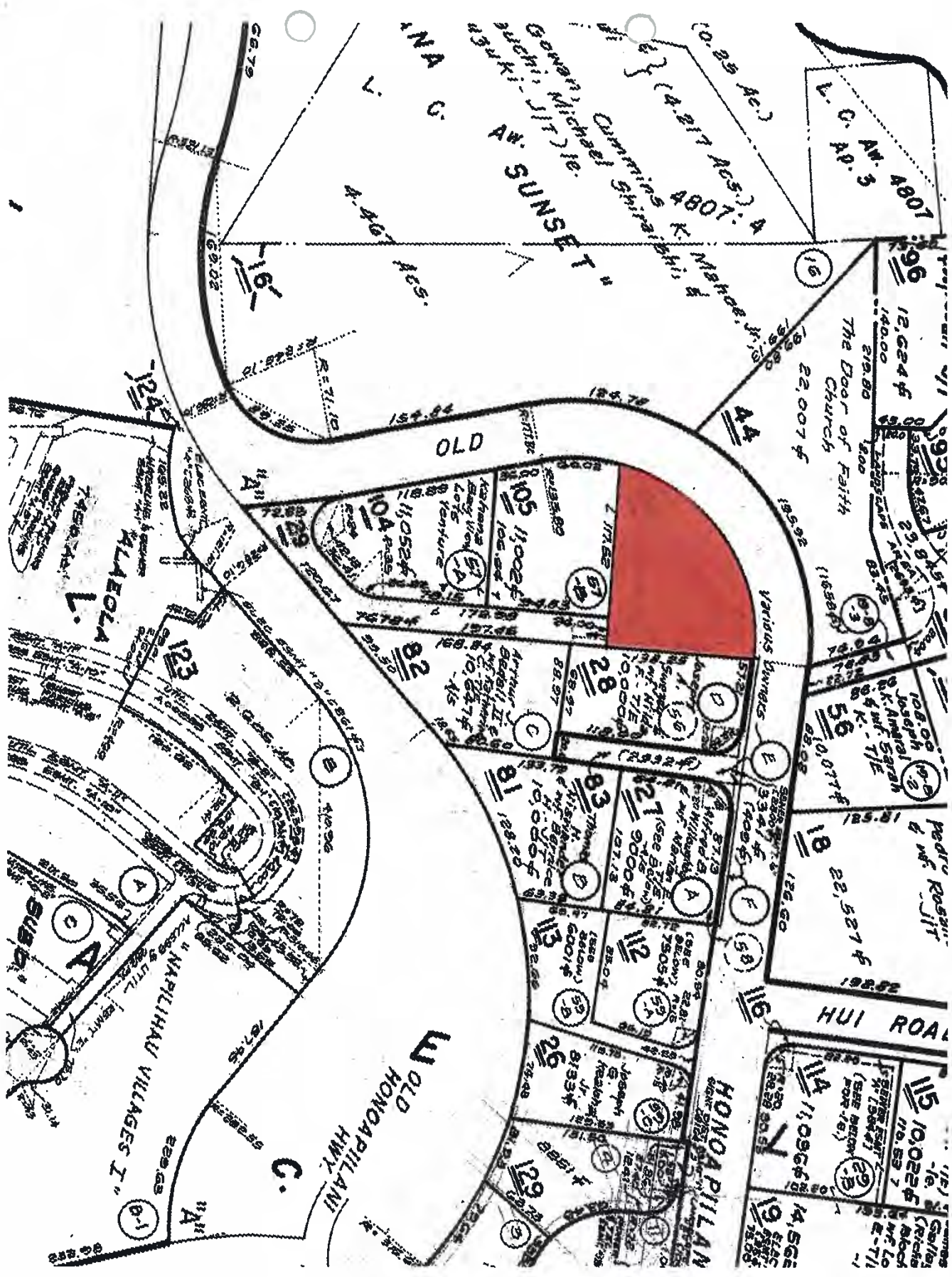
Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm





CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
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Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

Ms. Mary L. Padgett  
c/o Peter and Lora Loughlin  
1481 Seminole Drive  
South Lake Tahoe, California 96150-4848

Dear Ms. Padgett:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on March 11, 1980 to create three (3) lots (LUCA File No. 4.356). One of the lots from the original subdivision is TMK 4-3-3:106, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

The County of Maui has been working to implement the Lower Honoapiilani Road Improvements Project Phase IV which involves roadway, drainage, and sidewalk improvements along the segment of Lower Honoapiilani Road, between Hoohui Road and Napilihau Road. As part of this project, the County will be seeking a payment of a pro rata share of roadway improvements as included in the terms of the deferral agreement. This would pertain to lands along the frontage of Lower Honoapiilani Road included in the original subdivision.

It should be emphasized that the final project costs have not been determined as of this juncture, so it is not possible to provide you with the pro rata share of the costs relevant to the original subdivision. It is also noted that your share would likely be determined in consultation and agreement with the other lots comprising the original

Ms. Mary L. Padgett  
May 27, 2010  
Page 2

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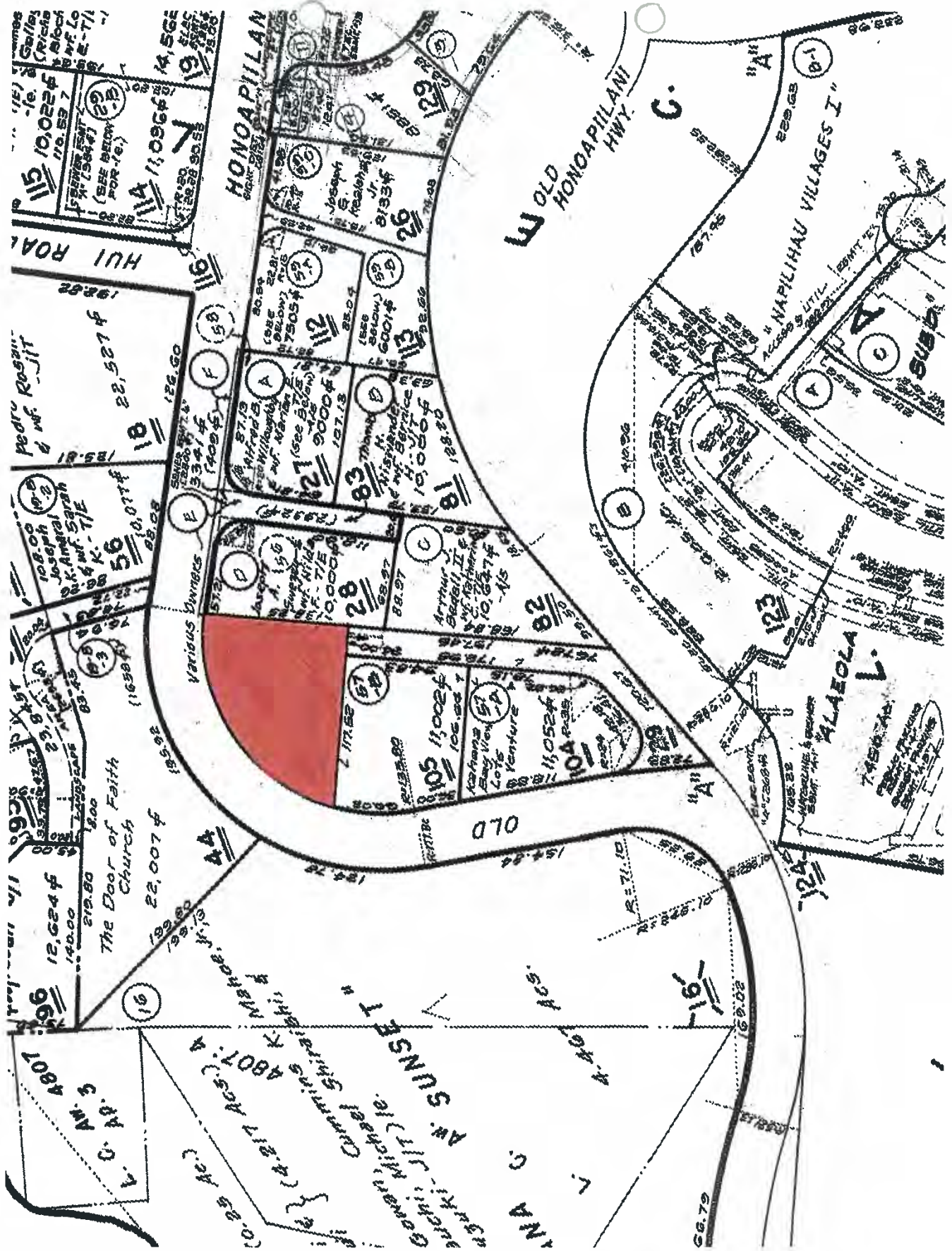
If you have any questions, please feel free to call me at (808) 270-7845. Thank you for your future attention to this matter.

Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm



A.356

KE ✓

RECORDATION REQUESTED BY  
LAND USE & CODES ADMINISTRATION DIVISION  
AFTER RECORDATION, RETURN TO:  
LAND USE & CODES ADMINISTRATION DIVISION  
DEPARTMENT OF PUBLIC WORKS  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
HONOLULU, HAWAII 96825 (✓) PICK-UP ( )

80-29233

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

30 MAR 14 P 3: 20

14576 755

LIBRARY  
C.F. NEUMANN III, REGISTRAR

SUBDIVISION AGREEMENT  
(THREE LOTS OR LESS)

WHEREAS, NEIL O. WARNER, Trustee of Employees Profit and  
Sharing Trust, Phillips & Co., P.C., and MANO ENTERPRISES, INC.,  
"owner" are the owners of a certain parcel of real property  
at Alaeloa, Lahaina, County of  
Maui, State of Hawaii, Tax Map Key 4-3-03:29,  
containing an area of approximately 0.9781 Acres  
(the "Property"),

WHEREAS, the Owner desires to subdivide the above-referenced  
Property in an undertaking known as the Mailepai Hui Land  
Subdivision;  
and

WHEREAS, the County of Maui (the "County") is a body politic  
and corporate, and a political subdivision of the State of Hawaii,  
which has adopted and is responsible for the enforcement of the  
ordinance which regulates subdivisions within the County of  
Maui (the Subdivision Ordinance"); and

WHEREAS, the Subdivision Ordinance provides for certain requirements which must be met prior to approval of the Mailepai Hui Land Subdivision; and

WHEREAS, the Subdivision Ordinance provides that certain requirements may be deferred by agreement between the Owner and the County;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed by and between the Owner and the County, as follows:

1. The Owner shall participate in an improvement district for Honoapiilani Highway at Alaeloa, Lahaina, Maui, Hawaii if and when such improvement district is proposed.

2. The County shall permit the subdivision process to proceed with respect to Mailepai Hui Land Subdivision.

3. Where there is more than one Owner, all obligations of the Owner set forth herein shall be joint and several obligations of each Owner;

4. The Owner does hereby declare that the Property, and all parts thereof, is and shall be held subject to the foregoing covenants, conditions and restrictions and that all of such covenants, conditions and restrictions shall be effective as to the Property from and after the recording of this instrument (the "Agreement") with the Bureau of Conveyances of the State of Hawaii or the Land Court of the State of Hawaii, as the case may be, shall run with the land, and shall continue to be effective and run with the land in perpetuity, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by Owner, the County of Maui, or any heir, executor, administrator,

14576 757

personal representative, successor, or assign, as the case may be, or any of them, that the acquisition of any right, title or interest in or with respect to the Property by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Agreement by such person or persons, entity or entities, and that upon any transfer of any right, title or interest in or with respect to the Property the same shall be subject to, and the transferee shall assume and be bound and obligated to observe <sup>AND DO</sup> or perform all of the covenants, <sup>Emp.</sup> conditions and restrictions of this Agreement; PROVIDED, HOWEVER, that the Agreement may be released by the County by the execution and recordation of any appropriate instrument in the Bureau of Conveyances or the Land Court of the State of Hawaii, as the case may be.

5. The term "Owner" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include the Owner, his heirs, executors, administrators, personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the 30th day of January, 19 80.

COUNTY OF MAUI

BY [Signature]  
Its Director of Public Works

OWNER

14576 758

By Neil O. Warner, Trustee  
Neil O. Warner, Trustee of Employees  
Pension Profit Sharing Trust,  
Warner, Phillips Co., P.C.

By Russell A. Meyers, President  
MANO ENTERPRISES, INC.

APPROVED AS TO FORM  
AND LEGALITY:

Em Kow  
Deputy Corporation Counsel  
County of Maui

STATE OF HAWAII        )  
                                  )    SS.  
COUNTY OF MAUI        )

On this 5th day of January, 1980,  
before me appeared R. HAYASHI, to me personally known, who,  
being by me duly sworn, did say that he is the Director of  
Public Works of the County of Maui, a political subdivision  
of the State of Hawaii, and that the seal affixed to the  
foregoing instrument is the lawful seal of the said County  
of Maui, and that the said instrument was signed and sealed  
on behalf of said County of Maui pursuant to Chapter 11 of  
the Permanent Ordinances of the County of Maui 1971, the  
Subdivision Ordinance, and the said R. HAYASHI, acknowledged  
the said instrument to be the free act and deed of the said  
County of Maui.

Raymond A. Matsumura  
Notary Public, State of Hawaii

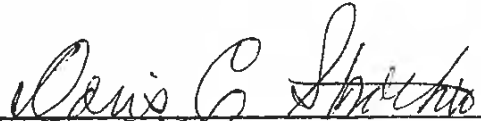
My commission expires: 1/20/82



STATE OF HAWAII     )  
                          ) SS.  
COUNTY OF MAUI    )

14576 759

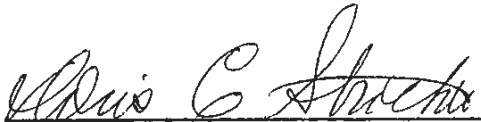
On this 25th day of September 1979, before me personally appeared NEIL O. WARNER, who by me being sworn, did say that he is the Administrator and a Trustee of the Employees Pension and Profit Sharing Trust, Warner, Phillips & Co., P.C., and that said instrument was signed on behalf of said Trust by authority of its Trustees, and the said NEIL O. WARNER acknowledged said instrument to be the free act and deed of said Trust.

  
\_\_\_\_\_  
Notary Public  
Second Judicial Circuit

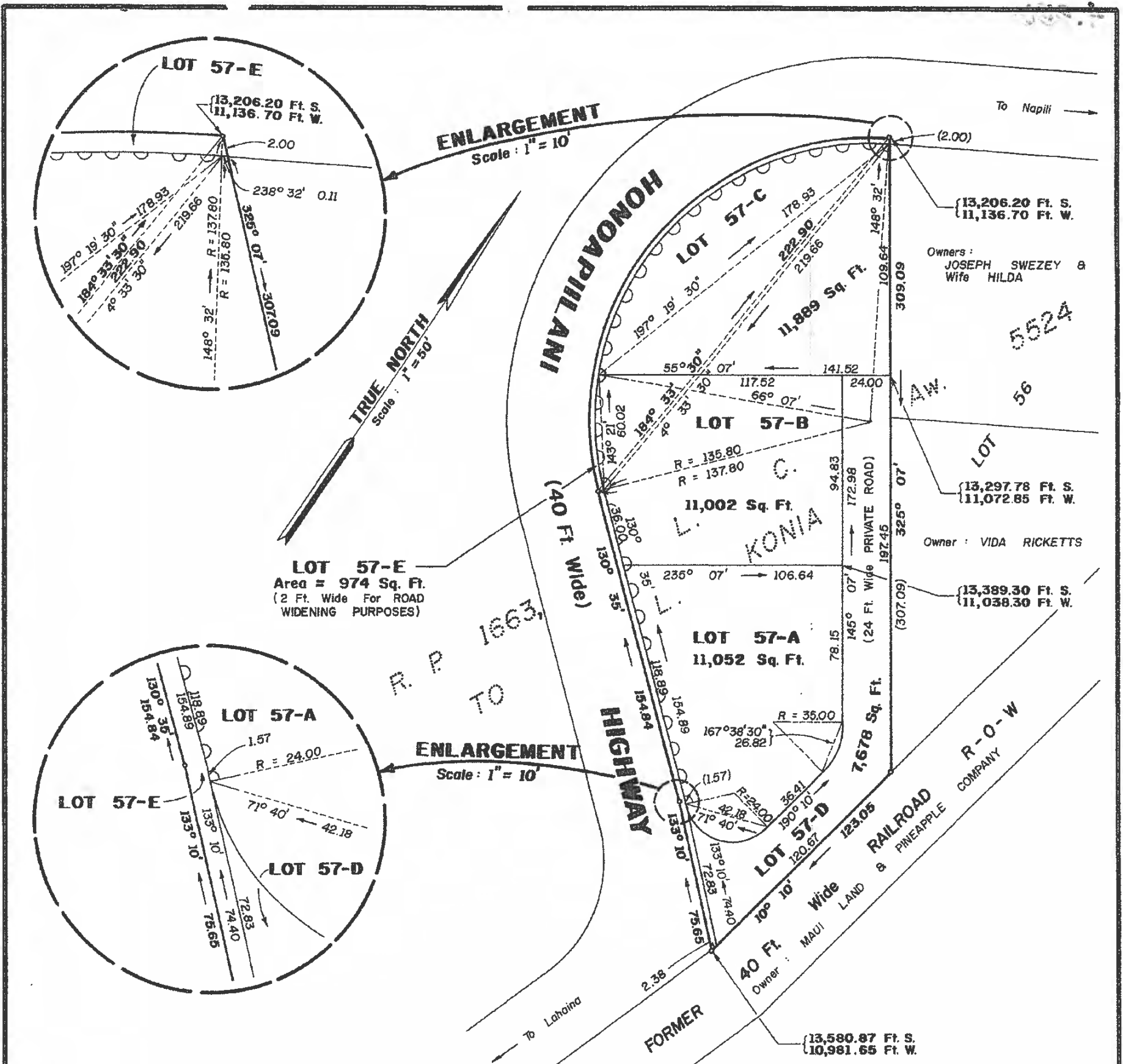
My commission expires: 4/1/81

STATE OF HAWAII     )  
                          ) SS.  
COUNTY OF MAUI    )

On this 25th day of September 1979, before me personally appeared RUSSELL A. MEYERS, to me personally known, who, being by me duly sworn, did say that he is the President of MANO ENTERPRISES, INC.; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and that the said RUSSELL A. MEYERS acknowledged the said instrument to be the free act and deed of said corporation.

  
\_\_\_\_\_  
Notary Public,  
Second Judicial Circuit

My Commission expires: 4/1/81



- NOTES :**
1. OWNERS AS SHOWN TAKEN FROM TAX MAP KEY.
  2. COORDINATES AS SHOWN REFER TO "MALO" Δ.
  3. LOT 57-E TO BE DEDICATED FOR ROAD WIDENING PURPOSES.
  4. ALL CORNERS MARKED BY 1/2" PIPE UNLESS OTHERWISE NOTED.
  5. AREA OF LOT 57 = 42,595 Sq. Ft.
  6. DENOTES NO ACCESS PERMITTED (ACCESS PERMITTED ONLY THROUGH LOT 57-D).

FINAL SUBDIVISION APPROVAL  
 Subdivision number 4356  
 Approved for Recordation with the Bureau of Conveyances and Department of Taxation, State of Hawaii.  
  
 Director of Public Works      date MAR 11 1980

**"MAILEPAI HUI LAND SUBDIVISION"**  
**SUBDIVISION OF ALLOTMENT No. 57 INTO**  
**LOTS 57 - A TO 57 - E INCLUSIVE**  
 BEING PORTION OF R. P. 1663, L. C. Aw. 5524 TO L. KONIA  
 AT ALAELOA, KANAPALI, LAHAINA, MAUI, HAWAII

Owner : **RUSSELL MEYERS**  
 Address : **LAHAINA, MAUI, HAWAII**



THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.  
  
**ROBERT T. TANAKA**      DATE  
 Reg. Professional Surveyor  
 Cert. No. 1754 E-S  
 Revised : JUL. 24, 1979

# GALLAGHER

OWNER	ADDRESS	SUBDIVISION DATE	# OF LOTS	SUBDIVISION FILE NO.	T.M.K.
Barbara L. Shields Margan T. Shields Jennifer L. Quay Anna M. Shields	5029 L. Honoapiilani Rd. Lahaina 96761	3/6/87	3	4.488	4-3-03:019
Ralph E. III & Kimberly D. Carpenter	5027 L. Honoapiilani Rd. Lahaina, 96761	3/6/87	3	4.488	4-3-03:115
Richard A. & Andrina M. Cochrane	P.O. Box 10595 Lahaina, 96761	3/6/87	3	4.488	4-3-03:114

CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

Ms. Barbara L. Shields  
Ms. Morgan T. Shields  
Ms. Jennifer L. Quail  
Ms. Anna M. Shields  
5029 Lower Honoapiilani Road  
Lahaina, Maui, Hawaii 96761

Dear Mesdames Barbara L. Shields, Morgan T. Shields, Jennifer L. Quail and Anna M. Shields:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on March 6, 1987 to create three (3) lots (LUCA File No. 4.488). One of the lots from the original subdivision is TMK 4-3-03:019, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

The County of Maui has been working to implement the Lower Honoapiilani Road Improvements Project Phase IV which involves roadway, drainage, and sidewalk improvements along the segment of Lower Honoapiilani Road, between Hoohui Road and Napilihau Road. As part of this project, the County will be seeking a payment of a pro rata share of roadway improvements as included in the terms of the deferral agreement. This would pertain to lands along the frontage of Lower Honoapiilani Road included in the original subdivision.

Ms. Barbara L. Shields  
Ms. Morgan T. Shields  
Ms. Jennifer L. Quail  
Ms. Anna M. Shields  
May 27, 2010  
Page 2

It should be emphasized that the final project costs have not been determined as of this juncture, so it is not possible to provide you with the pro rata share of the costs relevant to the original subdivision. It is also noted that your share would likely be determined in consultation and agreement with the other lots comprising the original subdivision. The timing of the payment also is uncertain although the County is seeking to start construction sometime in calendar year 2012.

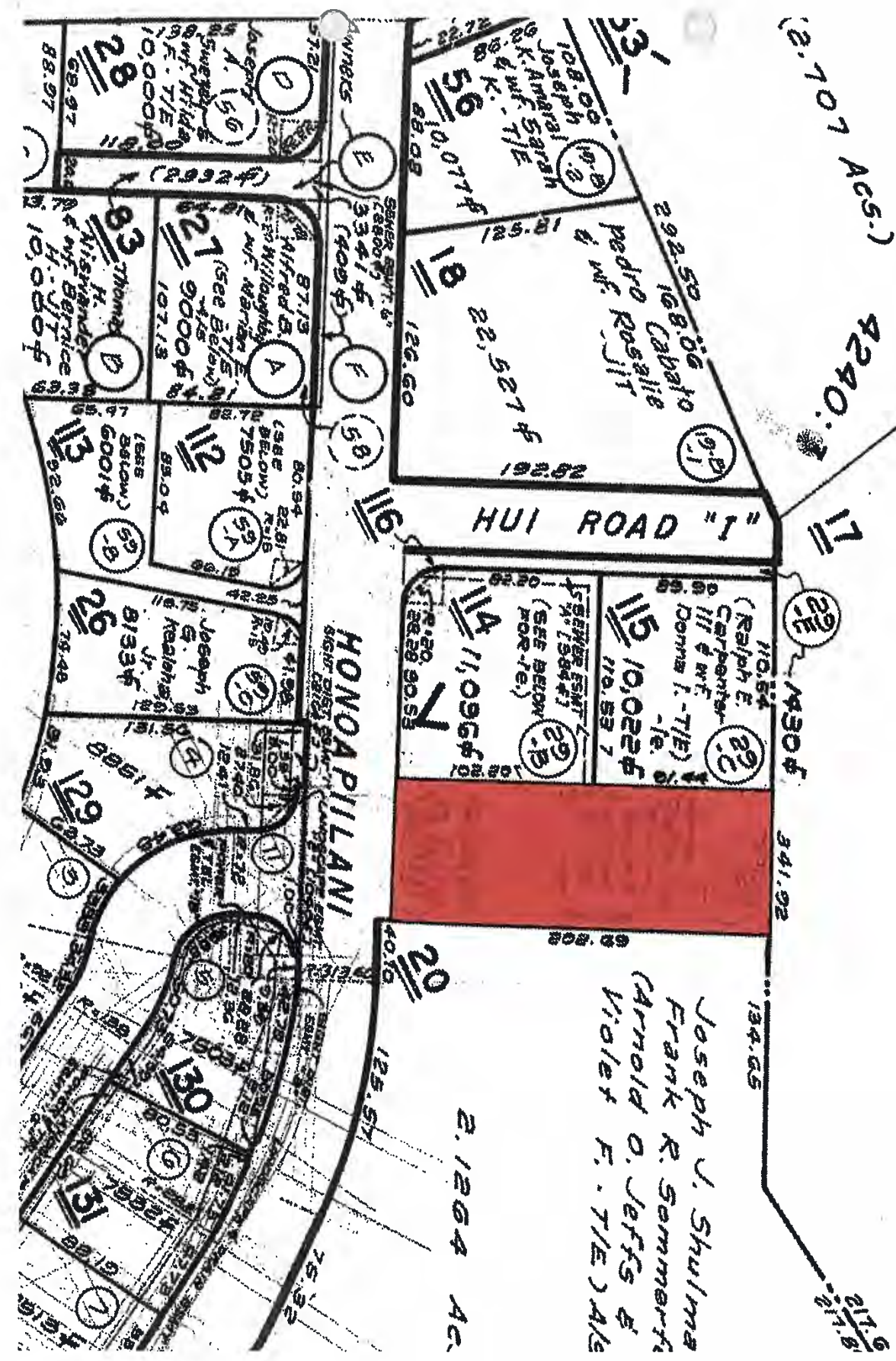
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Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm



2.707 ACS.

0 (6.718 ACS.)

CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

Mr. Ralph E. III and Mrs. Kimberly D. Carpenter  
5027 Lower Honoapiilani Road  
Lahaina, Maui, Hawaii 96761

Dear Mr. and Mrs. Carpenter:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on March 6, 1987 to create three (3) lots (LUCA File No. 4.488). One of the lots from the original subdivision is TMK 4-3-03:115, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

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Mr. Ralph E. III and Mrs. Kimberly D. Carpenter  
May 27, 2010  
Page 2

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Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm



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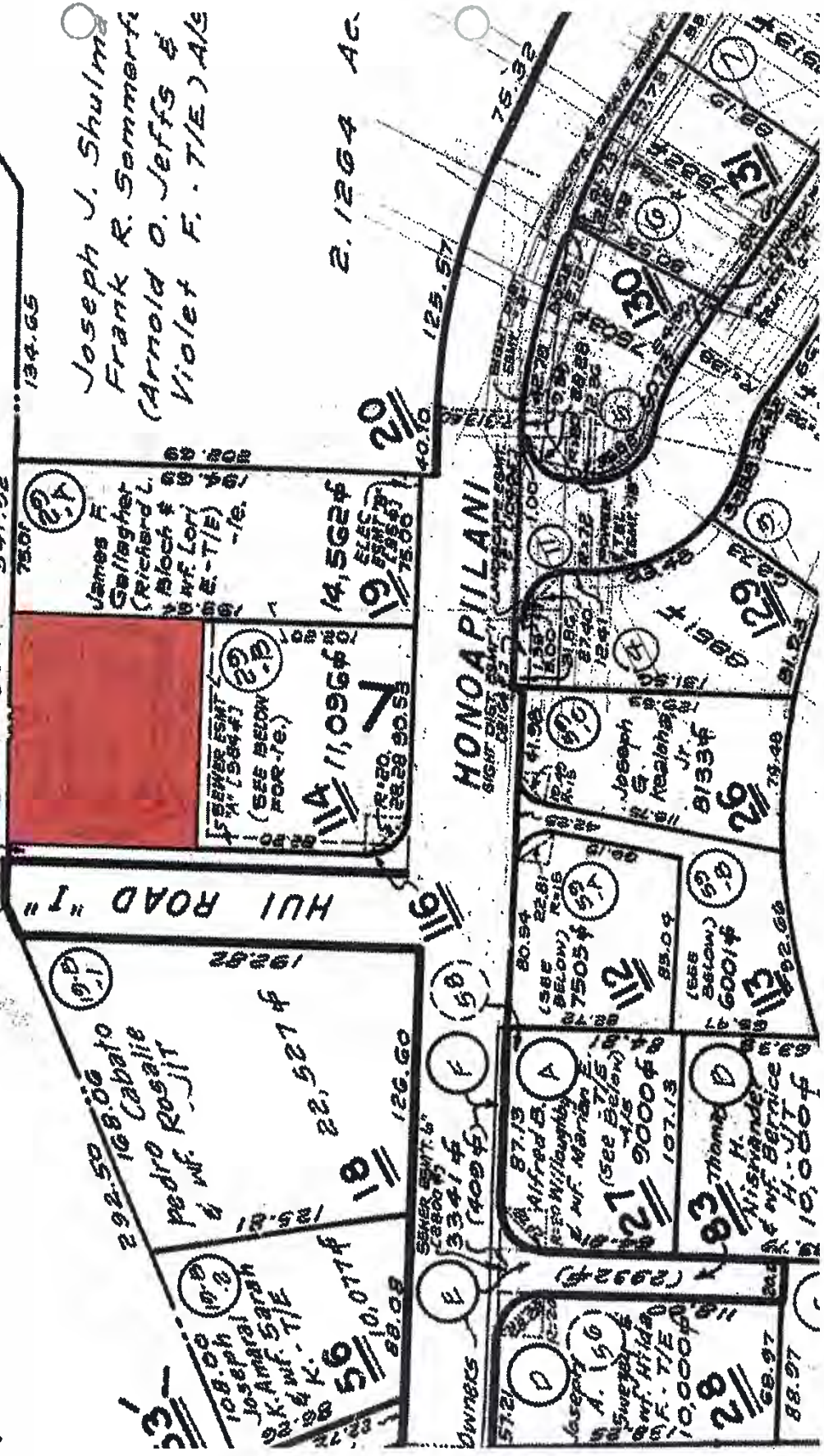
0 (6.718 ACS.)

AW.

(2.707 ACS.)

4240:7

217.8



CHARMAINE TAVARES  
Mayor

MILTON M. ARAKAWA, A.I.C.P.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

BRIAN HASHIRO, P.E.  
Highways Division

COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

May 27, 2010

Mr. Richard A. and Mrs. Andrina M. Cochrane  
P. O. Box 10595  
Lahaina, Maui, Hawaii 96761

Dear Mr. and Mrs. Cochrane:

Pursuant to Ordinance No. 3731 which took effect on March 16, 2010, we would like to provide you the following "Notice of Intent to Collect". It should be emphasized that this is not a bill for collection of monies owed, but it is simply an advance warning for financial obligations which apply at an undetermined future date to the owner of this property.

The financial obligations stem from a deferral agreement which the original subdivider executed on March 6, 1987 to create three (3) lots (LUCA File No. 4.488). One of the lots from the original subdivision is TMK 4-3-03:114, of which you are shown as the current owner of record. We note that this agreement has been recorded in the Bureau of Conveyances. The agreement runs with the land and binds and constitutes notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in the property. For your information, we have included a copy of the final subdivision map and the deferral agreement for your reference.

The County of Maui has been working to implement the Lower Honoapiilani Road Improvements Project Phase IV which involves roadway, drainage, and sidewalk improvements along the segment of Lower Honoapiilani Road, between Hoohui Road and Napilihau Road. As part of this project, the County will be seeking a payment of a pro rata share of roadway improvements as included in the terms of the deferral agreement. This would pertain to lands along the frontage of Lower Honoapiilani Road included in the original subdivision.

It should be emphasized that the final project costs have not been determined as of this juncture, so it is not possible to provide you with the pro rata share of the costs relevant to the original subdivision. It is also noted that your share would likely be

Mr. Richard A. and Mrs. Andrina M. Cochrane  
May 27, 2010  
Page 2

determined in consultation and agreement with the other lots comprising the original subdivision. The timing of the payment also is uncertain although the County is seeking to start construction sometime in calendar year 2012.

If you have any questions, please feel free to call me at (808) 270-7845. Thank you for your future attention to this matter.

Sincerely,



MILTON M. ARAKAWA, A.I.C.P.  
Director of Public Works

MMA:jso  
Enclosures  
s:\milton\deferral agreement ntc of intent to collect.frm

4.425 ACS.

0 (6.718 ACS.)

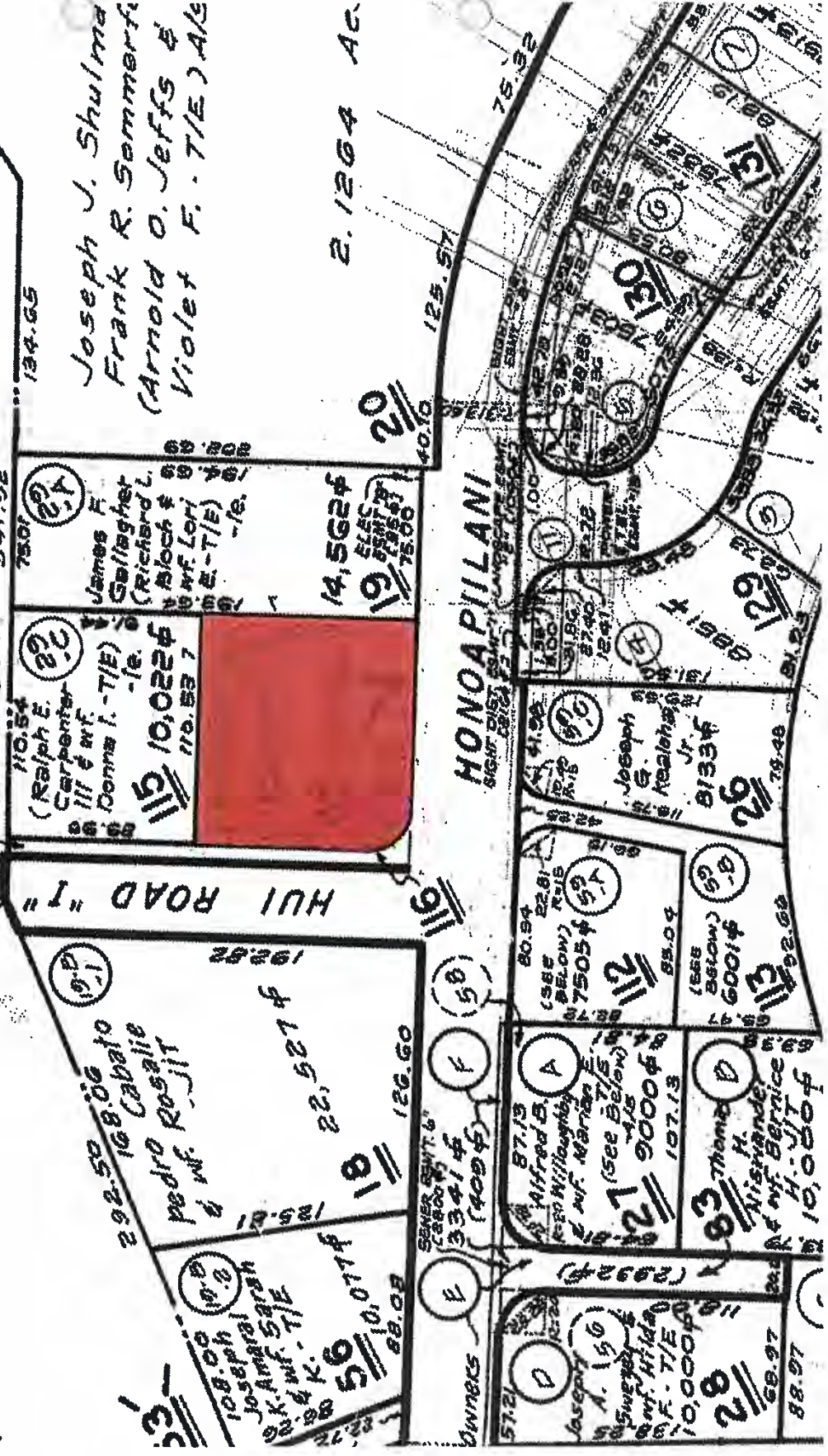
AW.

(2.707 ACS.)

4240:7

17

217.9  
217.8



RECORDATION REQUESTED BY:

AFTER RECORDATION, RETURN TO:

RETURN BY: MAIL (✓) PICKUP ( )

THE ORIGINAL OF THE DOCUMENT  
REQUESTED AS FOLLOWS:  
STATE OF HAWAII  
OFFICE OF  
BUREAU OF CONVEYANCES

Received for record this AUG - 8 1986  
day of \_\_\_\_\_, A.D., 19\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M. and  
recorded in Liber 19749 321  
on Pages \_\_\_\_\_

SUBDIVISION AGREEMENT  
(THREE LOTS OR LESS)

WHEREAS, James F. Gallagher, un-married

*J.F.G.*  
*J.A./mp*

\_\_\_\_\_  
("Owner"), is the owner of a certain parcel of real property at Kaanapali, Lahaina, County of Maui, State of Hawaii, Tax Map Key 2nd, 4-3-03:19, containing an area of approximately 38,766 Square Feet (the "Property");

WHEREAS, the Owner desires to subdivide the above-referenced Property in an undertaking known as the Gallagher Subdivision; and

WHEREAS, the County of Maui (the "County") is a body politic and corporate, and a political subdivision of the State of Hawaii, which has adopted and is responsible for the enforcement of the ordinance which regulates subdivisions within the County of Maui (the "Subdivision Ordinance"); and

WHEREAS, the Subdivision Ordinance provides for certain requirements which must be met prior to approval of

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
DEPARTMENT OF LAND AND NATURAL RESOURCES

96593  
111 1755 06/08/86 7.00  
06/08/86 7.00  
06/06/86  
06/08/86

the Gallagher Subdivision;  
and

WHEREAS, Section 18.20.040 of the Maui County Code states in part:

"18.20.040 Existing streets. A. No improvements shall be required upon existing streets for a subdivision containing three lots or less, provided the subdivider or owner, their heirs, executors or assigns agree to participate in an improvement district when and if such improvement district is proposed."

WHEREAS, the Gallagher Subdivision  
is a subdivision containing three or fewer lots;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed by and between the Owner, for himself and his heirs, executors, administrators, personal representatives, successors and assigns, and the County, as follows:

1. The Owner, his heirs, executors, administrators, personal representatives, successors and assigns shall participate in an improvement district for Lower Honoapiilani Highway & Hui Road "I" if and when such improvement district is proposed.

2. The County shall permit the subdivision process to proceed with respect to Gallagher Subdivision.

3. Where there is more than one Owner, all obligations of the Owner set forth herein shall be joint and several obligations of each Owner.

4. The Owner does hereby declare that the Property, and all parts thereof, is and shall be held subject to the

foregoing covenants, conditions and restrictions and that all of such covenants, conditions and restrictions shall be effective as to and shall run with the land as to the Property from and after the recording of this instrument (the "Agreement") with the Bureau of Conveyances of the State of Hawaii without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Owner, the County of Maui, or any heir, executor, administrator, personal representative, successor, or assign, as the case may be, of any of them, that the acquisition of any right, title or interest in or with respect to the Property by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Agreement by such person or persons, entity or entities, and that upon any transfer of any right, title or interest in or with respect to the Property the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform, all of the covenants, conditions and restrictions of this Agreement.

5. This Agreement and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land in perpetuity, or until the same is released as to the Property or any part thereof by the County.

6. The term "Owner" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine

or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include the Owner, his heirs, executors, administrators, personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the 1st day of August, 1986.

COUNTY OF MAUI

By Brian Haslino  
for ALVIN K. FUKUNAGA  
ITS DIRECTOR OF PUBLIC WORKS

OWNER

James F. Gallagher  
JAMES F. GALLAGHER  
(Print Name Above)

\_\_\_\_\_  
(Print Name Above)

APPROVED AS TO FORM  
AND LEGALITY:

James B. Takayama  
Deputy Corporation Counsel  
County of Maui



STATE OF HAWAII        )  
                              :  SS.  
COUNTY OF MAUI        )

On this 1st day of August, 1986,  
before me appeared BRIAN HASHIRO, to me personally known, who being  
by me duly sworn, did say that he is the Deputy Director of Public  
Works of the County of Maui, a political subdivision of the State of  
Hawaii, and that the seal affixed to the foregoing instrument is the  
lawful seal of the said County of Maui, and that the said instrument  
was signed and sealed on behalf of said County of Maui pursuant to  
Title 18 of the Maui County Code, the Subdivision Ordinance, and the  
said BRIAN HASHIRO acknowledged the said instrument to be the free  
act and deed of the said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and  
official seal.

*Naomi Hillerme*

Notary Public, State of Hawaii

My commission expires: 7/21/89

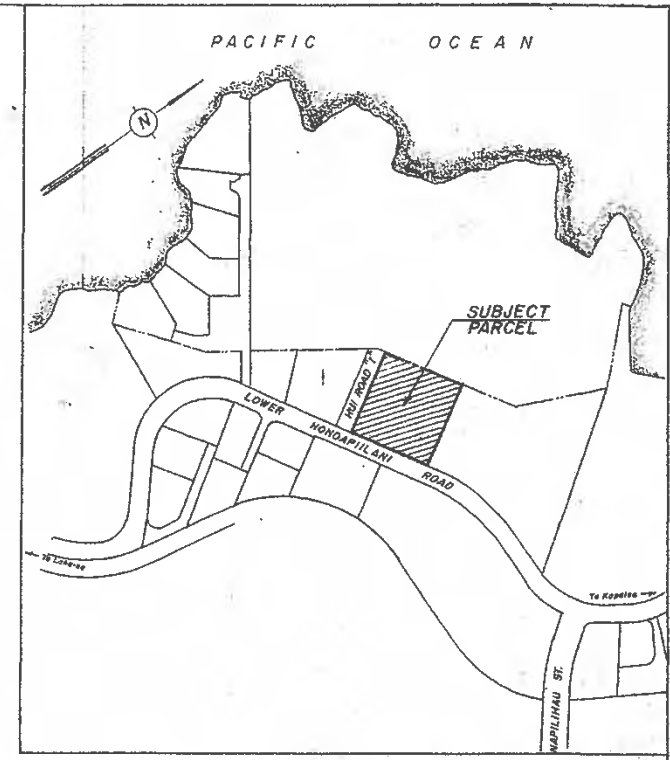
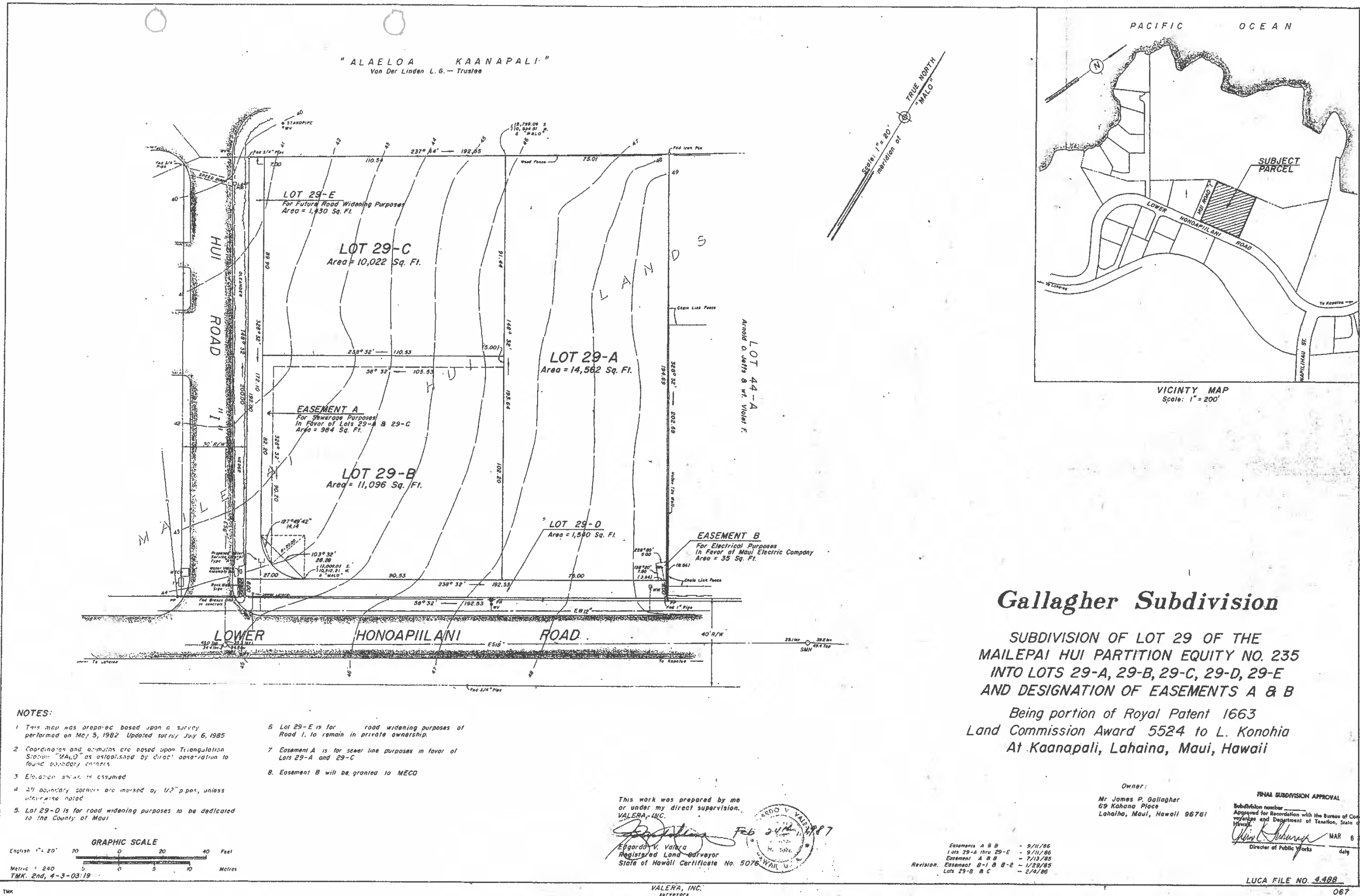
STATE OF HAWAII        )  
                              : SS.  
COUNTY OF MAUI        )

On this 5<sup>th</sup> day of March, 1986,  
before me appeared JAMES F. Gallagher,  
to me known to be the person described in and who executed  
the foregoing instrument and acknowledged that he  
executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand  
and official seal.

Ronald J. Matsumoto  
Notary Public, State of Hawaii

My commission expires: 1-1-87



VICINITY MAP  
Scale: 1" = 200'

### Gallagher Subdivision

SUBDIVISION OF LOT 29 OF THE  
MAILEPAI HUI PARTITION EQUITY NO. 235  
INTO LOTS 29-A, 29-B, 29-C, 29-D, 29-E  
AND DESIGNATION OF EASEMENTS A & B

Being portion of Royal Patent 1663  
Land Commission Award 5524 to L. Konohia  
At Kaanapali, Lahaina, Maui, Hawaii

- NOTES:**
- This map was prepared based upon a survey performed on May 3, 1982. Updated survey July 6, 1985.
  - Coordinates and azimuths are based upon Triangulation Station "MALO" as established by direct observation to known boundary corners.
  - Elevation shown is assumed.
  - All boundary corners are marked by 1/2" pipes, unless otherwise noted.
  - Lot 29-D is for road widening purposes to be dedicated to the County of Maui.

- Lot 29-E is for road widening purposes of Road 1, to remain in private ownership.
- Easement A is for sewer line purposes in favor of Lots 29-A and 29-C.
- Easement B will be granted to MECO.

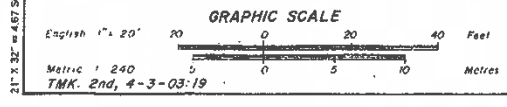
This work was prepared by me or under my direct supervision.  
**VALERA, INC.**  
*Eduardo V. Valera*  
Eduardo V. Valera  
Registered Land Surveyor  
State of Hawaii Certificate No. 5076



Owner:  
Mr. James P. Gallagher  
69 Kahana Place  
Lahaina, Maui, Hawaii 96761

**FINAL SUBDIVISION APPROVAL**  
Subdivision number \_\_\_\_\_  
Approved for Recordation with the Bureau of Conveyances and Department of Taxation, State of Hawaii.  
*Walter J. Johnson*  
Director of Public Works  
MAR 6 1985

Easements A & B - 9/11/86  
Lots 29-A thru 29-E - 9/11/86  
Easement A & B - 7/15/85  
Revision: Easement B-1 & B-2 - 1/29/85  
Lots 29-B & C - 2/4/86



LUCA FILE NO. 4488

VALERA, INC.  
Surveyors  
Waialae, Maui, Hawaii

R-545

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

NOV 07, 1995 08:30 AM

Doc No(s) 95-145123

/s/CARL T. WATANABE  
ACTING  
REGISTRAR OF CONVEYANCES

LAND COURT

AFTER RECORDATION, RETURN BY:

Land Use Codes Division  
COUNTY OF MAUI  
250 South High Street  
Wailuku, Maui, Hawaii 96793  
a:\forms\3lots.rev(11/93)

MAIL (x)

REGULAR SYSTEM

PICK UP ( )

T.M.K. No. 4-3-15:04

LUCA File No. 4.686

**SUBDIVISION AGREEMENT  
(3 LOTS OR LESS)**

WHEREAS, ANKA, INC., a Hawaii corporation, whose address/principal place of business is 41 Hui Road "E", Lahaina, Hawaii 96761 and whose mailing address is same as above, ("the Owner"), is the Owner of a certain parcel of real property identified in Land Use & Codes Administration File No. 4.686, incorporated herein by reference and a made a part hereof, and situate at Alaeloa, Kaanapali, Maui, Hawaii, Tax Map Key No. 4-3-15:04, containing an area of approximately 2.772 acres, which property is incorporated herein by reference (the "Property");

WHEREAS, the Owner desires to subdivide the above referenced Property in an undertaking known as the Mailepai Hui Partition, Subdivision of Lot 48, hereinafter called the "Subdivision"; and

WHEREAS, the County of Maui (the "County") is a body politic and corporate and a political subdivision of the State of Hawaii, which has adopted and is responsible for the enforcement of the ordinance which regulates subdivisions within the County of Maui (the "Subdivision Ordinance"); and

WHEREAS, the Subdivision Ordinance provides for certain requirements which must be met prior to approval of the subdivision; and

WHEREAS, Section 18.20.040 of the Maui County Code states in part:

"18.20.040 Existing Streets. A. No improvements shall be required upon existing streets for a consolidation of lots; for a designation of an access easement; for a subdivision creating only road widening lots; and for a consolidation of three developable lots or less which is resubdivided without creating additional developable lots. Improvements to existing streets may be deferred for a subdivision containing three lots or less, provided the Subdivider or Owner, their heirs, executors or assigns agree to pay their pro rata share of the cost of road improvements upon the existing street pursuant to the terms of the ordinance authorizing said improvements by the County or to a formula determined by the County, taking into account reasonable factors such as the actual cost of the road improvements and the number of feet of roadway abutting the subdivided property. Said improvements shall include but not be limited to: pavement widening, construction of curb, gutter and sidewalk, and relocation of utilities underground. The land so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels."

WHEREAS, the subdivision contained three (3) or fewer lots;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed by and between the Owner, for him or her self and heirs, devisees, executors, administrators, person representatives, successors and assigns, and the County, as follows:

1. The Owner, his or her heirs, executors, administrators, personal representatives, successors and assigns shall pay the pro rata share of the cost of road improvements for Lower Honoapiilani Road and Hui Road "E", pursuant to the terms of the ordinance

authorizing said improvements by the County or to a formula determined by the County, taking into account reasonable factors such as the actual cost of the road improvements and the number of feet of roadway abutting the subdivided property. Said improvements shall include but not be limited to, pavement widening, construction of curb, gutter and sidewalk, and relocation of utilities underground. The land in the Subdivision shall not thereafter qualify for a deferral of the requirement to improve existing streets pursuant to Section 18.20.040 of the Maui County Code with respect to any subsequent subdivision of any of the resulting parcels.

2. The County shall permit the subdivision process to proceed with respect to the Subdivision.

3. Where there is more than one owner, all obligations of the Owner set forth herein shall be joint and several obligations of each Owner.

4. The Owner does hereby declare that the Property, and all parts thereof, is and shall be held subject to the foregoing covenants, conditions and restrictions and that all of such covenants, conditions and restrictions shall be effective as to and shall run with the land as to the Property from and after the recording of this instrument (the "Agreement") with the Bureau of Conveyances or Land Court of the State of Hawaii, as the case may be, without the execution, delivery or recordation of any further deed, instrument, document, agreement, declaration, covenant or the like with respect thereto by the Owner, the County of Maui, or any heir, devisee, executor, administrator, personal representative, successor, or assign, as the case may be, of any of them, that the acquisition of any right, title or interest in or with respect to the Property by any person or persons, entity or entities, whomsoever, shall be deemed to constitute the acceptance of all of the covenants, conditions and restrictions of this Agreement by such person or persons, entity or entities, and that upon any transfer of any right, title or interest in or with respect to the Property the same shall be subject to, and the transferee shall assume and be bound and obligated to observe and perform, all of the covenants, conditions and restrictions of this Agreement.

5. This Agreement and all of the covenants, conditions and restrictions contained herein shall continue to be effective as to and run with the land in perpetuity, or until the same is released as to the Property or any part thereof by the County.

6. The term "Owner" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include the Owner, his or her heirs, devisees, executors, administrators, personal representatives, successors and assigns.

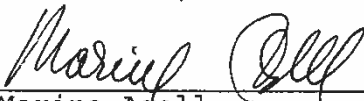
7. The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all the parties hereto, notwithstanding all the parties are not signatory to the original or the same counterparts. For all purposes, including without limitation, recordation, filing and delivery of this instrument duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the 28<sup>th</sup> day of February, 1995.


COUNTY OF MAUI:  
Department of Public Works  
& Waste Management

By   
Charles Jencks  
Its Director

OWNER: ANKA, INC.

  
Marina Agell  
Its Secretary-Treasurer

APPROVED AS TO FORM AND LEGALITY:

  
~~Edward H. ...~~ **LILLIAN B. KOLLER**  
Deputy Corporation Counsel  
County of Maui



STATE OF HAWAII            )  
  ) SS.  
COUNTY OF MAUI            )

On this 28<sup>th</sup> day of September, 1995, before me personally appeared Charles Jencks, to me personally known, who, being by me duly sworn, did say that he is the Director of Public Works of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Title 18 of the Maui County Code, the Subdivision Ordinance, and the said Charles Jencks acknowledged the said instrument to be the free act and deed of the said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

*Ramona Williams*  
Notary Public, State of Hawaii

My commission expires: 7/21/97

4

Council Chair  
Mike White

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Stacy Crivello

Councilmembers  
Alika Atay  
Elle Cochran  
Don S. Guzman  
Riki Hokama  
Kelly T. King  
Yuki Lei K. Sugimura



**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

May 8, 2018

Director of Council Services  
Maria E. Zielinski

RECEIVED

2018 MAY -8 AM 9:42

OFFICE OF THE  
COUNTY CLERK

The Honorable Mike White  
Council Chair  
County of Maui  
Wailuku, Hawaii 96793

Dear Chair White:

**SUBJECT: AMENDING TITLE 3, MAUI COUNTY CODE, BY  
ADDING A NEW CHAPTER TO ESTABLISH AN  
INFRASTRUCTURE DEVELOPMENT FUND (BF-1)**

May I request the attached proposed bill, entitled "A BILL FOR AN ORDINANCE ADDING A NEW CHAPTER TO TITLE 3, MAUI COUNTY CODE, RELATING TO AN INFRASTRUCTURE DEVELOPMENT FUND," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink that reads "Riki Hokama".

RIKI HOKAMA, CHAIR  
Budget and Finance Committee

bf:2019bgt:001ach07:cmn

Attachment

COUNTY COMMUNICATION NO. 18-177

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2018)

A BILL FOR AN ORDINANCE ADDING A NEW CHAPTER TO TITLE 3, MAUI COUNTY CODE, RELATING TO AN INFRASTRUCTURE DEVELOPMENT FUND

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Title 3, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

**“Chapter 3.91**

**INFRASTRUCTURE DEVELOPMENT FUND**

Sections:

- 3.91.010 Fund established.
- 3.91.020 Purpose.
- 3.91.030 Administration.

**3.91.010 Fund established.** There is established and created a fund to be known as the “infrastructure development fund.” For purposes of this chapter, infrastructure shall exclude water, wastewater, and parks improvements.

**3.91.020 Purpose.** The infrastructure development fund is established for the purpose of funding infrastructure improvements, including funding for debt service.

**3.91.030 Administration.** A. The director of finance shall establish a separate account to record all revenues credited to, and expenditures made from, the fund. An accurate accounting shall be maintained to identify funds required for expenditure in a specific geographical area.

B. All revenue received from the following sources shall be deposited to the fund:

- 1. The cash value of subdivision roadway improvements estimated at final subdivision approval, collected in lieu of installation of improvements.

2. Funds received as a result of the collection of deferred subdivision roadway improvements.

3. Funds required to be paid to the County for infrastructure development as a condition of a change in zoning, shoreline management area approval, or other land use approval.

4. Funds required to be paid to the County for infrastructure development as a result of a settlement.

5. Donations received by the County for infrastructure development.

C. Assessment fees for water, wastewater, and parks improvements shall not be deposited to the fund.

D. Expenditures from the fund shall be through appropriations set forth in the annual budget ordinance.

E. On or before March 1 of each year, the director of finance shall transmit to the council a detailed report of the fund during the preceding year.”

SECTION 2. This ordinance shall take effect on July 1, 2018.

APPROVED AS TO FORM AND LEGALITY:



JEFFREY UEOKA

Department of the Corporation Counsel

County of Maui

2018-0458

2018-04-17 Ordinance



May 20, 2011

Chris Salem  
8 Hui Rd. E  
Lahaina, HI 96768

Re: Listing Agreement

Aloha Mr. Salem,

I have now submitted six offers to purchase your property. At this time we have two major issues with your property rendering it "unsalable".

First, the County of Maui has an open-ended, undefined lien on the property which negates appraisals, lending and payoff amounts on a HUD1 closing statement. Second is your lender's non-responsiveness towards any and all offers. Your bank has not replied nor even counter offered to bonafide real all-cash buyers.

Therefore, as per the terms and conditions of our listing agreement contract I hereby cancel Prudential Maui Realtors' listing for 8 Hui Rd. E. Should you be able to clear up these two hurdles I would very much like the opportunity to help you sell the property in the future.

Mahalo,

A handwritten signature in black ink, appearing to read "LPC", with a long horizontal flourish extending to the right.

Lawrence P. Carnicelli, Broker  
Prudential Maui Realtors  
256 Papalua Street  
Lahaina, HI 96761  
[LPC@LahainaMaui.com](mailto:LPC@LahainaMaui.com)  
(808) 283-6090

# County unpaid for roadwork for decades

## Developers could owe millions for deferred infrastructure fees

By CHRIS HAMILTON  
Staff Writer

WAILUKU — Departing Maui County Council Member Jo Anne Johnson on Monday said she wants to see her successors make certain that some developers and homeowners are held responsible for road projects built by Maui County with taxpayer money — to support new, small, private subdivisions.

The county could be owed millions of dollars because of uncollected fees for road improvement projects done over a three-decade period for subdivisions of three lots or less, council members and county officials revealed Monday during a Planning Committee meeting.

Public Works Department Director Milton Arakawa said officials know as many as 1,800 “deferral agreements” for subdivisions that size. From 1974 until 2007, developers could either do the work themselves or ask the county to do it, deferring payment. The ordinance was changed so now property owners must build the widened roads, sidewalks and other agreed-upon improvements themselves.

The number of agreements could range in the thousands, Johnson and Arakawa said, but finding out who owes what would be very labor intensive, county staff said. Further com-

to the idea of re-negotiating invoices, setting up payment plans or even granting amnesty in certain cases. She’s been pushing for the Public Works Department to move forward on doing something about the problem for about a year, according to committee documents.

Johnson is leaving her West Maui residency seat after the new year because of term limits. The powerful Planning Committee has been bogged down for months dealing with the General Plan 2030 Update and has only a few meetings before four of its seven voting members must leave office.

Chairman Sol Kaho’ohalahala is among them. He, at Johnson’s request, agreed to defer the matter for further study. No legislation has been proposed yet.

With a new mayor coming in as well, Alan Arakawa, Johnson used Monday’s meeting to call on the next administration and council to pursue the matter. It could be a valuable source of revenue in a time of budget stringency and cuts.

Finance Director Kalbert Young said there could be liens, deed restrictions or other contractual methods already in place against property owners. That could be one way of approaching the issue, he said.

“This could be millions and millions and millions of dollars owed this county,” Victorino said in agreeing this should be

a government priority.

Victorino said that he and Johnson became aware of the issue as county officials investigated how to pay for improvements to an upcoming phase of construction to Lower Honoapiilani Road.

Milton Arakawa said that for any subdivision with four lots or more, the developer has already paid for improvements to the road. However, for subdivisions that would be developed before the final subdivision approval, the developer has not paid for improvements to the road. Because of past policy, apparently, the smaller lots were given the deferrals, he said.

“So have you guys been collecting on it?” said Council Member Wayne Nishiki. “No, we have not,” Arakawa said.

Nishiki, who will also be out of office come January, suggested that the county hire a private contractor, such as a collection agency, to get back what’s owed to the county. He also said that council members need “to bite” the Public Works Department to get the developers to pay for the road improvements.

Deputy Corporation Counsel Michael Hopper said the County Council may need to craft laws in order to collect the fees and also to determine if the subdivision developer or homeowner would be responsible for a lesser amount of money.

Milton Arakawa said there is no billing or payment system agricultural zoning of longtime

in place to accept money for these projects. “I don’t see any reason why the county can’t collect on those agreements,” Hopper said.

The Planning Committee also considered a draft bill by Kaho’ohalahala that would establish new “agriculture impact fees” for when ag land is converted to nonagricultural needs. The revenue would go toward agricultural preservation and conservation practices.

Planning Department Director Kathleen Aoki said this tool is relatively new but is similar to other laws implemented across the United States in recent years. Her concern, though, is the high cost of studies associated with the new fee, which can be as much as \$250,000, not including staff time, she said. The studies are needed, in part, to avoid lawsuits, Aoki said.

Planning staff said that if the council wants to implement agricultural impact fees, it should be part of a larger package of legislation in coordination with existing state and federal laws used to preserve coastal access and wetlands.

However, Baisa said she thought that this bill “is kind of premature.” She noted opposition from the Realtors Association of Maui, which expressed concerns that the bill would for no reason negatively affect the agricultural zoning of longtime

news.com.

Chris Hamilton can be reached at [chamilton@maui.news.com](mailto:chamilton@maui.news.com).

County of Maui  
Department of Public Works  
SUBDIVISION AGREEMENTS

4-Apr-12

SUB FILE NO.	#	PARCELS	SUBDIVISION NAME	LOCATION	FINAL APPROVAL DATE
4.0387	1	2	PARTITION OF HUI LAND OF MAILEPAI	Lahaina	6/7/1979
2.1112	2	3	RAYMOND SUBDIVISION	Kula	7/17/1979
3.1005	3	3	PRATT-ODA SUBDIVISION	Waikuku	7/31/1979
2.1217	4	3	IRA O. WELL SUBDIVISION	Haiku	8/3/1979
2.1241	5	3	MAKAWAO RANCH ACRES, UNIT 2	Makawao	9/17/1979
2.1210	6	3	KAHIAMCE PITT SUBDIVISION	Haiku	9/13/1979
4.0389	7	3	KAHANA NUI SUBDIVISION	Lahaina	9/20/1979
2.1174	8	3	SEGASER AND SMITH SUBDIVISION	Haiku	10/15/1979
3.0557	9	3	PIONEER SUBDIVISION	Kihui	12/4/1979
2.0678	10	3	HENRY T. KOBAYASHI SUBDIVISION	Kula	12/31/1979
2.1194	11	3	MIYAMOTO SUBDIVISION	Haiku	12/31/1979
3.0911	12	3	ALLEN Y. TING SUBDIVISION	Waikuku	2/4/1980
4.0356	13	3	MAILEPAI HUI LAND SUBDIVISION	Lahaina	3/11/1980
2.1193	14	3	IRA O. WELL SUBDIVISION	Haiku	3/7/1980
2.1227	15	3	KEALAHOU SUBDIVISION	Kula	3/26/1980
3.1091	16	3	PAUKUKALO LARGE LOT SUBDIVISION	Waikuku	9/5/1980
2.1042	17	3	COOPER PARK TRACT	Haiku	9/12/1980
2.1226	18	3	THE JEFF WHITE SUBDIVISION	Haiku	9/18/1980
2.1221	19	3	HALIMAILE VILLAGE SUBDIVISION	Makawao	9/23/1980
2.1231	20	3	ANTHONY A. TAM SUBDIVISION	Makawao	11/10/1980
2.0987	21	3	MAU-WIKOLI SUBDIVISION	Kula	11/21/1980
2.1248	22	3	WAICHILI-KEOKEA HOMESTEADS	Kula	11/22/1980
4.0349	23	3	WAHIKULI HOUSE LOTS 1ST SERIES	Lahaina	12/12/1980
3.1053	24	3	COUNTRY CLUB LOT SUBDIVISION	Paia	12/18/1980
2.1315	25	3	MARSHALL M. GOODSILL SUBDIVISION	Kula	12/24/1980
2.1205	26	3	RICHARD ANTOINE SUBDIVISION	Haiku	1/13/1981
2.1205	27	3	LILIKOI FARM LOTS	Haiku	1/26/1981
4.0400	28	3	UPPER KAPUNAKEA LARGE LOT SUBDIVISION NO. 2	Lahaina	2/27/1981
3.1106	29	3	KIHEI-KAONOULU SUBDIVISION	Kihui	2/10/1981
2.1269	30	3	HALEAKALA FOREST SUBDIVISION	Makawao	3/16/1981
2.1312	31	3	ORVILLE RICHIE SUBDIVISION	Haiku	3/16/1981
2.1321	32	3	OLSEN TRACT #8	Haiku	3/18/1981
3.1093	33	3	NORA COOPER SUBDIVISION	Waikuku	3/20/1981
2.1255	34	3	KEALAHOU ACRES	Kula	4/10/1981
2.1311	35	3	RUTH RICHIE SUBDIVISION	Haiku	4/20/1981
2.1286	36	3	MAKAWAO RANCH ACRES - UNIT 1	Makawao	5/22/1981
2.1292	37	3	HOME PADDOCK SUBDIVISION	Makawao	5/28/1981
2.1330	38	3	MANUEL GOMES SUBDIVISION	Makawao	6/18/1981
2.1211	39	3	KUIAHA-KAUPAKALUA HOMESTEADS	Haiku	7/27/1981
4.0396	40	3	MAX ISAAC SUBDIVISION	Lahaina	8/28/1981
2.1297	41	3	HALEAKALA VIEW TRACT	Pukalani	9/15/1981
2.1278	42	3	BERTRAM BRAS SUBDIVISION	Haiku	9/17/1981
4.0406	43	3	MARY SHIM SUBDIVISION	Lahaina	10/7/1981
2.1338	44	3	LAND COURT APPLICATION 1320	Haiku	10/8/1981
2.1296	45	3	CRAVALHO TRACT	Haiku	10/9/1981
2.1304	46	3	MAKALANI SUBDIVISION	Makawao	10/21/1981
3.1055	47	3	SUNSET ESTATES SUBDIVISION	Kihui	10/21/1981
3.1056	48	3	SUNSET ESTATES SUBDIVISION	Kihui	10/21/1981
3.1101	49	3	KANALO A AVENUE SUBDIVISION	Waikuku	10/22/1981
3.1118	50	3	PUNENE SWITCHING STATION SUBDIVISION	Kahului	10/30/1981
5.0344	51	3	JULES DUDOIT SUBDIVISION	Molokai	11/3/1981
2.1272	52	3	CARDOZA SUBDIVISION	Makawao	12/2/1981
2.1349	53	3	ALAE 3 & 4 HOMESTEADS	Kula	12/5/1981
2.1209	54	3	KUIAHA-KAUPAKALUA HOMESTEADS	Haiku	12/17/1981
5.0293	55	3	KUMUKOA-HALEAKALANI SUBDIVISION	Molokai	2/24/1982
5.0334	56	3	CORREA SUBDIVISION	Molokai	4/15/1982
3.1045	57	3	WAIKO A MAKAI HOMESTEADS	Kihui	5/8/1982
2.1259	58	3	HALEAKALA HOMESTEADS	Makawao	7/8/1982
3.1364	59	3	LOUIS TEXEIRA FARM SUBDIVISION	Kula	7/8/1982
3.1162	60	3	MAUI ELECTRIC CO. GENERATING STATION SUBD.	Waikuku	7/19/1982
2.1369	61	3	KEALAHOU SUBDIVISION	Kula	8/30/1982
5.0413	62	3	LAND COURT APPLICATION 532	Molokai	9/14/1982
2.1384	63	3	UMENO SUBDIVISION	Kula	9/17/1982
3.1108	64	3	KAHAKULOA AGRICULTURAL PARK SUBDIVISION	Waikuku	10/21/1982
5.0328	65	3	CHOW SUBDIVISION	Molokai	11/5/1982

2.1320	66	3	AYATO KIYOMOTO SUBDIVISION	Kula	12/5/1983
2.1300	67	3	NAKANISHI SUBDIVISION	Kula	1/20/1983
2.1410	68	3	HAIKU CIRCLE SUBDIVISION	Haihu	3/14/1983
2.1795	69	3	OPAEPILAU TANK LOT SUBDIVISION	Haihu	2/18/1983
2.1420	70	3	HITOYE KAJIHARA SUBDIVISION	Makawao	4/12/1983
2.1250	71	3	CALASA SUBDIVISION	Kula	5/3/1983
2.1440	72	3	KAOHOLA LOTS SUBDIVISION	Kula	5/3/1983
2.1379	73	3	MARCEL SUBDIVISION	Makawao	6/2/1983
2.1500	74	3	MARCEL SUBDIVISION	Makawao	6/2/1983
3.1163	75	3	WAIOHULI-KEOKEA BEACH HOMESTEADS	Kihai	6/7/1983
4.0450	76	3	MAILEPAI HUI LANDS	Lahaina	8/2/1983
3.1148	77	3	H. FUJII SUBDIVISION	Kihai	8/9/1983
2.1266	78	3	LABASAN SUBDIVISION	Haihu	8/25/1983
2.1303	79	3	FELIPE SUBDIVISION	Haihu	8/25/1983
2.1413	80	3	M & C. ARUDA SUBDIVISION	Haihu	8/28/1983
2.1300	81	3	IRA O. WELL SUBDIVISION	Haihu	8/30/1983
2.1409	82	3	J. SHIBUYA SUBDIVISION	Kula	9/5/1983
1.0129	83	3	HANA HOUSE LOTS	Hana	9/13/1983
3.1184	84	3	VIDA SUBDIVISION	Waiuku	9/21/1983
5.0407	85	3	LAND COURT APPLICATION 1714	Molokai	11/17/1983
2.1333	86	3	IRA O. WELL SUBDIVISION	Haihu	12/2/1983
2.1493	87	3	MAKAWAO RANCH ACRES	Makawao	1/2/1984
3.1206	88	3	WAIOHULI-KEOKEA BEACH HOMESTEADS	Kihai	1/12/1984
2.1475	89	3	MAKANI KAI SUBDIVISION	Makawao	1/25/1984
2.1465	90	3	KAUHIOKA ROAD SUBDIVISION	Haihu	2/14/1984
2.1459	91	3	H. ELSNER SUBDIVISION	Haihu	3/15/1984
2.1462	92	3	CIVIL NO. 1993 PARTITION	Haihu	4/2/1984
3.1202	93	3	WAIOHULI-KEOKEA BEACH HOMESTEADS	Kihai	4/13/1984
2.1464	94	3	OMADPIO HOMESTEADS	Kula	5/7/1984
3.1171	95	3	TAYLOR SUBDIVISION	Kihai	5/15/1984
3.1191	96	3	SHOICHI MORI SUBDIVISION	Waiuku	6/4/1984
2.1430	97	3	MOKUPAPA SUBDIVISION	Haihu	6/15/1984
2.1405	98	3	ROMERO SUBDIVISION	Haihu	8/6/1984
5.0421	99	3	LAND COURT APPLICATION 1714	Molokai	9/2/1984
2.1283	100	3	HALEAKALA RANCH HOMESTEADS SUBDIVISION	Makawao	9/4/1984
3.1186	101	3	PALAR SUBDIVISION	Kahului	9/19/1984
2.1463	102	3	HALEAKALA HOMESTEADS	Makawao	10/24/1984
2.1485	103	3	KUJANA-PAUWELA HOMESTEADS	Haihu	10/24/1984
3.1125	104	3	KUI SEU HEW SUBDIVISION	Waiuku	10/24/1984
2.1483	105	3	MAKANI SUBDIVISION	Makawao	11/21/1984
2.1552	106	3	KULA ORCHARDS SUBDIVISION	Kula	12/3/1984
1.1230	107	3	KAHAKULOA HOMESTEADS	Waiuku	1/7/1985
2.1544	108	3	MILNE SUBDIVISION	Kula	2/12/1985
3.1226	109	3	KESAJI SUBDIVISION	Waiuku	2/14/1985
4.0478	110	3	KAHANA SUNSET BEACH LOTS	Lahaina	4/3/1985
2.1436	111	3	JOHNSON SUBDIVISION	Haihu	4/9/1985
2.1481	112	3	A.K. SUBDIVISION	Haihu	4/16/1985
2.1502	113	3	MAKANI SUBDIVISION UNIT II	Pukalani	4/16/1985
2.1629	114	3	KAUHIOKA SUBDIVISION	Haihu	5/6/1985
3.1183	115	3	REMNANT 4 SUBDIVISION	Waiuku	5/21/1985
2.1565	116	3	WAIOHULI-KEOKEA HOMESTEADS	Kula	5/28/1985
2.1492	117	3	COOPER PARK TRACT	Haihu	5/29/1985
2.1519	118	3	SILVA TRACT	Makawao	6/5/1985
3.1243	119	3	NAKAMURA-ARAKAKI SUBDIVISION	Waiuku	7/29/1985
4.0477	120	3	SMITH SUBDIVISION	Lahaina	8/8/1985
2.1470	121	3	TAKITANI FARM LOTS SUBDIVISION NO. 2	Haihu	8/22/1985
3.1575	122	3	PUKALANI ACRES	Pukalani	9/15/1985
5.1181	123	3	WAIAXDA HOUSE LOTS	Kihai	9/23/1985
4.0475	124	3	MAILEPAI HUI PARTITION	Lahaina	10/2/1985
2.1553	125	3	PAIA DEPOT VILLAGE SUBDIVISION	Paia	10/6/1985
3.1201	126	3	KAHULUI TOWN DEVELOPMENT SIXTH INCREMENT	Kahului	11/21/1985
2.1584	127	3	MAKAWAO RANCH ACRES SUBDIVISION UNIT 2	Makawao	1/13/1986
3.1251	128	3	FONG CONSTRUCTION BASEYARD SUBDIVISION	Kahului	1/29/1986
3.1281	129	3	WAIOHULI-KEOKEA BEACH HOMESTEADS	Kihai	1/29/1986
5.0405	130	3	MAPULEHU PARTITIONS 2 & 3	Molokai	2/2/1986
2.1550	131	3	TAVARES TRACT	Makawao	2/27/1986
2.1611	132	3	C.E. CHATTERTON SUBDIVISION	Kula	3/6/1986
2.1616	133	3	A.K. SUBDIVISION	Haihu	3/6/1986
2.1578	134	3	FLEMING LOTS	Makawao	3/21/1986
2.1506	135	3	H. ELSNER SUBDIVISION	Haihu	3/21/1986
4.0465	136	3	A. RAMEL SUBDIVISION	Lahaina	3/21/1986
2.1473	137	3	HUI KUI AINA O ULUMALU SUBDIVISION	Haihu	5/14/1986
2.1507	138	3	RAYMOND ALBERT SUBDIVISION	Makawao	5/16/1986
2.1589	139	3	HALEAKALA HOMESTEADS	Makawao	5/19/1986
2.1484	140	3	HARADA SUBDIVISION	Kula	6/2/1986
3.1255	141	3	WAIOHULI-KEOKEA BEACH HOMESTEADS	Kihai	8/26/1986
2.1804	142	3	TAKITANI FARM LOTS SUBDIVISION NO. 2	Haihu	7/4/1986
3.1297	143	3	KALANIKAU SUBDIVISION	Kihai	7/25/1986
2.1648	144	3	MAKAWAO RANCH ACRES - UNIT 2	Makawao	7/28/1986



4.0601	145	3	ALICE HOAPILI SUBDIVISION	Lahaina	7/31/1985
4.0462	146	3	KAHANA HUI SUBDIVISION	Lahaina	9/5/1986
5.0443	147	3	KALAE TRACT SUBDIVISION	Molokai	9/19/1986
2.1608	148	3	EDMUND LOCKE SUBDIVISION	Kula	10/15/1986
3.1210	149	3	COUNTRY CLUB LOTS SUBDIVISION	Kahului	10/21/1986
2.1457	150	3	PRUCHER SUBDIVISION	Kula	10/25/1986
3.1307	151	3	PUUNENE SUGAR STORAGE SUBDIVISION	Kahului	11/12/1986
2.1603	152	3	RICE FAMILY SUBDIVISION	Makawao	11/20/1986
2.1639	153	3	KAIMANALANI SUBDIVISION	Haiku	11/26/1986
3.1276	154	3	4TH MAUI COUNTRY CLUB SUBDIVISION	Kahului	12/23/1986
2.1583	155	3	JOHN T. HASHIMOTO SUBDIVISION NO. 4	Kula	1/30/1987
2.1890	156	3	LAND COURT APPLICATION 960	Makawao	2/12/1987
4.0488	157	3	GALLAGHER SUBDIVISION	Lahaina	3/6/1987
2.1641	158	3	KUIAHA-PAUWELA HOMESTEADS	Haiku	3/10/1987
3.1343	159	3	OWA SUBDIVISION	Waiauku	3/11/1987
2.1660	160	3	PARTITION OF THE HUI KUAI AINA O PEAHI	Haiku	4/7/1987
2.1630	161	3	KUSUMOTO TRACT	Makawao	5/5/1987
2.1880	162	3	M. YAMAMURA RURAL SUBDIVISION NO. 2	Haiku	5/15/1987
4.0497	163	3	RESNICK SUBDIVISION	Lahaina	5/19/1987
2.1636	164	3	HALEAKALA HOMESTEADS	Makawao	6/15/1987
2.1487	165	3	LILIKOI FARM LOTS	Haiku	6/19/1987
2.1646	166	3	KUIAHA-KAUPAKALUA HOMESTEADS	Haiku	6/24/1987
2.1691	167	3	STEPHENS SUBDIVISION	Haiku	7/8/1987
2.1710	168	3	KUIAHA-PAUWELA HOMESTEADS	Haiku	8/14/1987
2.1685	169	3	HUELO HUI PARTITION LOTS	Haiku	8/18/1987
2.1712	170	3	KUIAHA-PAUWELA HOMESTEADS	Haiku	8/20/1987
2.1638	171	3	PEAHI HUI PARTITION	Haiku	8/29/1987
2.1621	172	3	JACOB T.S. MAUI SUBDIVISION	Haiku	9/10/1987
2.1482	173	3	HILLCREST TRACT	Makawao	9/29/1987
2.1707	174	3	MAKAWAO RANCH ACRES-UNIT 1	Makawao	10/20/1987
2.1546	175	3	JACINTHO SUBDIVISION	Kula	12/4/1987
2.1695	176	3	VIRGINIA CAIRES SUBDIVISION	Haiku	12/17/1987
2.1734	177	3	PULUHUNUI SUBDIVISION	Kula	1/8/1988
3.1335	178	3	FIRST ASSEMBLY OF GOD SUBDIVISION	Waiauku	1/27/1988
2.1582	179	3	BALISON SUBDIVISION	Kula	2/17/1988
2.1608	180	3	KUIAHA-KAUPAKALUA HOMESTEADS	Haiku	2/25/1988
2.1751	181	3	KAMETANI SUBDIVISION	Kula	3/17/1988
3.1357	182	3	12TH INCREMENT KAHULUI TOWN DEVELOPMENT	Kahului	3/18/1988
3.1288	183	3	KAMAOLE HOMESTEADS	Kihei	5/12/1988
2.1621	184	3	BOWMAN SUBDIVISION	Haiku	5/16/1988
2.1709	185	3	VON TEMPSKY TRACT	Kula	6/9/1988
2.1748	186	3	ULUPALAKUA-SEIBU SUBDIVISION	Makawao	6/14/1988
2.1656	187	3	ERNEST M. ROBELLO SUBDIVISION	Kula	7/29/1988
2.1606	188	3	MARCIEL SUBDIVISION	Makawao	8/0/1988
3.1401	189	3	WAIEHU KAI SUBDIVISION	Waiauku	8/25/1988
2.1542	190	3	RAYMOND SUBDIVISION	Kula	9/1/1988
3.1305	191	3	KAHULUI TOWN DEVELOPMENT	Kahului	9/23/1988
5.0480	192	3	LAND COURT APPLICATION 1681	Molokai	9/29/1988
2.1713	193	3	LILIKOI FARM LOTS SUBDIVISION	Haiku	10/8/1988
2.1609	194	3	KEALANOU ACRES SUBDIVISION	Kula	10/24/1988
2.1742	195	3	LAND COURT APPLICATION 1320	Pukalani	11/18/1988
3.1353	196	3	WAIOHULU-KEOKEA BEACH HOMESTEADS	Kihei	11/18/1988
3.1689	197	3	JOHN DE COSTA LOTS	Makawao	11/30/1988
2.1782	198	3	HUI KUAI AINA O PEAHI PARTITION	Haiku	12/16/1988
2.1554	199	3	MAKAWAO RANCH ACRES, UNIT 2	Makawao	12/22/1988
1.0155	200	3	ALLEN Y. AND DUANE P. TING TRUST SUBDIVISION	Hana	12/23/1988
3.1250	201	3	WAIOHULU-KEOKEA BEACH LOTS	Kihei	1/13/1989
2.1719	202	3	WRIGHT SUBDIVISION	Kula	2/16/1989
2.1714	203	3	LAND COURT APPLICATION 960	Haiku	2/24/1989
2.1746	204	3	HUI KUAI AINA O LILIMALU PARTITION	Makawao	3/3/1989
3.1331	205	3	WAIOHULU-KEOKEA BEACH HOMESTEADS	Kihei	3/17/1989
3.1399	206	3	KAHULUI TOWN DEVELOPMENT	Kahului	4/14/1989
2.1854	207	3	MAKANI SUBDIVISION	Makawao	5/0/1989
2.1554	208	3	WOLFORD SUBDIVISION I	Haiku	5/11/1989
2.1556	209	3	WOLFORD SUBDIVISION II	Haiku	5/11/1989
2.1675	210	3	KUIAHA-KAUPAKALUA HOMESTEADS	Haiku	6/1/1989
3.1607	211	3	KAHAMOE-PITT SUBDIVISION	Haiku	6/5/1989
3.1815	212	3	BOTEILHO ESTATE 3	Kula	6/21/1989
2.1780	213	3	HALEAKALA HOMESTEADS	Makawao	7/25/1989
2.1737	214	3	HARUKI NAKAMURA SUBDIVISION	Kula	8/6/1989
5.0484	215	3	EDITH B. MEYER SUBDIVISION	Molokai	8/17/1989
2.1631	216	3	MAKENA SURF SUBDIVISION	Kihei	8/12/1989
2.1806	217	3	KEAWAKAPU BEACH LOTS	Kihei	9/15/1989
2.1796	218	3	KUIAHA-PAUWELA HOMESTEADS	Haiku	10/20/1989
3.0453	219	3	WILLIAM KAMAKANA AND EDITH KAMAKANA BEACH LOTS	Molokai	11/1/1989
2.1820	220	3	LILIMALU HUI PARTITION	Haiku	11/15/1989
3.1382	221	3	WHARF INDUSTRIAL SUBDIVISION NO. 2	Kahului	12/7/1989
2.1840	222	3	HAUKU FARMS SUBDIVISION	Haiku	1/17/1990
4.0564	223	3	THE PLANTATION AT KAPALUA LARGE LOT SUBDIVISION	Lahaina	3/27/1990

2.1782	224	3	ALAE 3 & 4 HOMESTEADS	Kula	3/30/1990
2.1903	225	3	ONE LOA SUBDIVISION	Kihai	3/29/1990
3.1074	226	3	CIVIL NO. 2251 PARTITION	Haku	4/8/1990
3.1480	227	3	WAIOHULI-KEOKEA BEACH HOMESTEADS	Kihai	5/21/1990
3.1461	228	3	WAIOHULI-KEOKEA BEACH HOMESTEADS	Kihai	5/21/1990
2.1857	229	3	KUIAHA-PAUWELA HOMESTEADS	Haku	6/8/1990
3.1369	230	3	COUNTRY CLUB LOTS SUBDIVISION 1ST EXTENSION	Kahului	6/15/1990
2.1765	231	3	FORSBERG SUBDIVISION	Kula	6/20/1990
2.1771	232	3	CARRIE FURTADO SUBDIVISION	Kula	6/25/1990
2.1852	233	3	DR. SUN YET SEN SUBDIVISION	Kula	7/8/1990
3.1440	234	3	D. WISSMAR SUBDIVISION	Waileku	7/13/1990
2.1862	235	3	PILANI NORTH LARGE LOT SUBDIVISION	Kihai	8/2/1990
2.1859	236	3	LILUOI FARM LOTS	Haku	8/21/1990
2.1847	237	3	MAC ISAAC SUBDIVISION	Makawao	8/24/1990
2.1826	238	3	PUKALANI ACRES	Pukalani	9/5/1990
1.0171	239	3	PHILLIPS-LEANDRO SUBDIVISION	Hana	9/28/1990
3.1436	240	3	KIHEI HEIGHTS SUBDIVISION	Kihai	10/1/1990
4.0517	241	3	KAHANA MAUKA	Lahaina	10/2/1990
2.1874	242	3	HONOKALA SUBDIVISION	Haku	11/19/1990
2.1894	243	3	KUIAHA-KAUPAKULUA HOMESTEADS	Haku	11/27/1990
4.0562	244	3	WANIKULI HOUSE LOTS, THIRD SERIES	Lahaina	12/13/1990
2.1830	245	3	VISION HAWAII	Haleiwa	1/2/1991
2.1947	246	3	WAIOHULI-KEOKEA HOMESTEADS	Kula	1/8/1991
4.0522	247	3	NAKA-TANI SUBDIVISION	Lahaina	2/23/1991
2.1846	248	3	LUBAN SUBDIVISION	Kula	4/8/1991
2.1842	249	3	TEXEIRA-MEDEIROS SUBDIVISION	Kula	4/18/1991
2.1944	250	3	ROBERT A. HASKIN SUBDIVISION	Haku	4/25/1991
2.1845	251	3	KUIAHA-PAUWELA HOMESTEADS	Haku	5/3/1991
2.1942	252	3	KUIAHA-KAUPAKULUA HOMESTEADS	Haku	6/19/1991
4.0590	253	3	PARTITION OF HUI LAND OF MAILE	Lahaina	7/9/1991
2.1887	254	3	MAKAWAO RANCH ACRES - UNIT 2	Makawao	7/24/1991
2.1864	255	3	LAND COURT APPLICATION 960	Haku	8/28/1991
2.1830	256	3	ALAE FARM SUBDIVISION	Kula	9/20/1991
2.1564	257	3	KULA ORCHARDS	Kula	10/9/1991
2.1678	258	3	MITSUO ITO SUBDIVISION	Kula	10/31/1991
2.1735	259	3	ALAE FARM SUBDIVISION	Kula	11/7/1991
2.1841	260	3	KOKOMO ITO SUBDIVISION	Haku	11/9/1991
3.1433	261	3	KAMAOLE HOUSE LOTS	Kihai	11/18/1991
2.2019	262	3	PULEHIKI PARTITION	Kula	11/21/1991
3.1483	263	3	PUGONE TRACT	Waikuku	11/26/1991
3.1456	264	3	WAIKO MAUKA SUBDIVISION	Waikuku	12/16/1991
1.0154	265	3	KANUHA SUBDIVISION	Hana	1/13/1992
2.1925	266	3	FUMIKO KUNIKI SUBDIVISION	Kula	2/4/1992
2.1930	267	3	KUIAHA-PAUWELA HOMESTEADS	Makawao	2/21/1992
2.1944	268	3	HOKULEANA SUBDIVISION	Haku	2/25/1992
2.1981	269	3	RALPH NISHIDA SUBDIVISION	Kula	4/3/1992
2.1951	270	3	KEALAHOU FARM LOTS	Kula	4/9/1992
2.1866	271	3	ASA F. BALDWIN SUBDIVISION	Makawao	4/10/1992
3.1590	272	3	COUNTRY CLUB LOTS SUBDIVISION	Kahului	4/24/1992
2.1895	273	3	KUIAHA-KAUPAKULUA HOMESTEADS	Haku	5/22/1992
3.1431	274	3	HALE PILANI SUBDIVISION	Kihai	5/3/1992
2.1886	275	3	H.P. CO'S HOUSE LOTS	Haku	6/9/1992
2.1909	276	3	ULUMALU HUI PARTITION	Haku	6/18/1992
2.2008	277	3	WAIOHULI-KEOKEA HOMESTEADS	Kula	7/7/1992
2.1901	278	3	HOKULEANA SUBDIVISION	Makawao	7/9/1992
1.0133	279	3	NAHIKU HOMESTEADS SUBDIVISION	Hana	7/15/1992
2.1913	280	3	KUIAHA-KAUPAKULUA HOMESTEADS	Haku	8/14/1992
1.0135	281	3	NAHIKU HOMESTEADS SUBDIVISION	Hana	9/9/1992
2.2013	282	3	CARRIE FURTADO SUBDIVISION	Kula	9/11/1992
1.0160	283	3	HANA HOUSE LOTS	Hana	9/25/1992
3.1463	284	3	WAIOHULI-KEOKEA BEACH HOMESTEADS	Kihai	9/29/1992
4.0640	285	3	MAILEPAI HUI LANDS	Lahaina	9/30/1992
1.0175	286	3	IBBETSON SUBDIVISION	Hana	10/6/1992
2.1827	287	3	KUIAHA-KAUPAKULUA HOMESTEADS	Haku	10/7/1992
2.2039	288	3	MAKANI SUBDIVISION UNITS I AND II	Pukalani	1/4/1993
2.1955	289	3	STEWART SUBDIVISION	Haku	1/13/1993
2.1791	290	3	VICTORINO M. PIRES SUBDIVISION	Kula	12/2/1992
2.1790	291	3	OLSEN TRACT NO. 5	Haku	12/11/1992
4.0661	292	3	KAHANA SUNSET BEACH LOTS	Lahaina	12/23/1992
3.1559	293	3	KAMAOLE HOMESTEADS	Kihai	12/31/1992
2.1999	294	3	STEIN SUBDIVISION	Makawao	1/19/1993
2.2015	295	3	S. ISAGAWA SUBDIVISION	Makawao	1/19/1993
3.1344	296	3	HAMAMURA SUBDIVISION	Waikuku	2/2/1993
2.2053	297	3	SODETANI SUBDIVISION	Kula	3/19/1993
3.1531	298	3	KAHAKULOA HOMESTEADS	Waikuku	4/12/1993
2.1855	299	3	TOSHIO YAMADA SUBDIVISION	Kula	4/21/1993
2.1804	300	3	JOAN-FEITEIRA SUBDIVISION	Makawao	4/25/1993
2.2073	301	3	KAUHIKOA ROAD SUBDIVISION	Haku	4/28/1993
2.1920	302	3	KAMETANI SUBDIVISION	Kula	4/29/1993

2.2064	303	3	HALEAKALA HOMESTEADS	Makawao	5/5/1993
2.1532	304	3	KAHAKULOA HOMESTEADS	Waikuku	5/7/1993
3.1534	305	3	KAHAKULOA HOMESTEADS	Waikuku	5/7/1993
2.1937	306	3	HUI KUIA AINA O PEAKI PARTITION	Hahaione	5/11/1993
3.1533	307	3	KAHAKULOA HOMESTEADS	Waikuku	5/27/1993
4.0635	308	3	YAMAJUCHI	Lahaina	6/10/1993
2.2029	309	3	OMAOPIO HOMESTEADS	Kula	6/16/1993
2.1873	310	3	MAKENA SURF SUBDIVISION - PHASE III	Kihali	6/16/1993
2.1914	311	3	KULA ORCHARDS SUBDIVISION	Kula	9/16/1993
2.2016	312	3	WITHERS SUBDIVISION	Hahaione	9/27/1993
2.2043	313	3	WALSH SUBDIVISION	Kula	9/30/1993
2.2069	314	3	OUNDA VISTA SUBDIVISION	Makawao	10/14/1993
2.2057	315	3	MARK SHEEHAN SUBDIVISION	Hahaione	10/19/1993
2.2093	316	3	WAIPIO BAY SUBDIVISION	Hahaione	10/21/1993
3.1284	317	3	ALA LANI UNITED METHODIST CHURCH LOT SUBDIVISION	Waikuku	10/21/1993
1.0177	318	3	KAAPAHU SUBDIVISION	Hahaione	10/22/1993
2.1860	319	3	SF-7 SUBDIVISION	Kula	10/22/1993
2.2036	320	3	LAND COURT APPLICATION 1320	Kula	10/22/1993
2.2028	321	3	HALEAKALA HOMESTEADS	Makawao	12/27/1993
4.0660	322	3	KAUMEHAWA SUBDIVISION	Lahaina	1/10/1994
2.2104	323	3	KEALAHOU FARM LOTS	Kula	1/12/1994
2.1488	324	3	AIRPORT INDUSTRIAL SUBDIVISION	Kahului	2/18/1994
2.2072	325	3	VISION HAWAII SUBDIVISION	Hahaione	3/3/1994
5.0514	326	3	ACKERMAN/RICE SUBDIVISION	Molokai	3/19/1994
2.2145	327	3	VICTORINO M. PILES SUBDIVISION NO. 2	Kula	3/24/1994
3.1576	328	3	BARBARA LONG SUBDIVISION	Waikuku	4/15/1994
3.1506	329	3	KAMAOLE HOMESTEADS SUBDIVISION	Kihali	5/26/1994
2.2066	330	3	RAYMOND SUBDIVISION	Kula	6/7/1994
2.2111	331	3	FERNANDEZ SUBDIVISION	Hahaione	6/25/1994
4.0644	332	3	MALIALANI SUBDIVISION	Lahaina	7/25/1994
2.1954	333	3	MOMI KAI SUBDIVISION	Hahaione	8/9/1994
2.1893	334	3	SPALDING/WATUMULL SUBDIVISION	Hahaione	8/10/1994
3.1538	335	3	WAIKAKA MAKAI HOMESTEADS	Kihali	8/25/1994
2.2025	336	3	SHIMOTE-MATSUMURA SUBDIVISION	Makawao	9/30/1994
2.1918	337	3	TAKASHI KAJIHARA SUBDIVISION	Makawao	9/31/1994
2.2119	338	3	HPOLITO SUBDIVISION	Makawao	10/20/1994
2.2135	339	3	PIIHOLO FARMS SUBDIVISION	Makawao	11/19/1994
2.2220	340	3	OPAEPILAU TANK LOT SUBDIVISION	Makawao	12/2/1994
2.1877	341	3	LAND COURT APPLICATION	Kihali	12/14/1994
2.2043	342	3	HALEAKALA HOMESTEADS	Makawao	1/17/1995
2.1837	343	3	HUELO HUI PARTITION	Hahaione	1/18/1995
2.2109	344	3	JACK MAGOON SUBDIVISION	Kula	1/18/1995
4.0674	345	3	A. RAMELB SUBDIVISION	Lahaina	1/18/1995
2.2107	346	3	JOSEPH SANTOS SUBDIVISION	Hahaione	1/27/1995
5.1573	347	3	HAMADA-TANAKA SUBDIVISION	Kihali	3/21/1995
5.0512	348	3	KALAE TRACT SUBDIVISION	Molokai	3/8/1995
2.2089	349	3	SAKUGAWA FAMILY SUBDIVISION	Kula	3/15/1995
2.2132	350	3	SAKUGAWA FAMILY SUBDIVISION	Kula	3/15/1995
2.2240	351	3	HOWARD SUBDIVISION	Kula	4/9/1995
3.1841	352	3	DAIRY ROAD INDUSTRIAL SUBDIVISION	Kahului	4/9/1995
2.2032	353	3	CHANG SUBDIVISION	Kihali	5/4/1995
2.2258	354	3	KULA VIEW ESTATES SUBDIVISION	Kula	5/18/1995
2.1870	355	3	KULAMANI SUBDIVISION	Kula	6/26/1995
2.2162	356	3	POOHINA TRACT	Kula	8/1/1995
2.2635	357	3	SAKUGAWA FAMILY SUBDIVISION	Kula	8/11/1995
2.2056	358	3	DOLDER SUBDIVISION	Hahaione	8/16/1995
1.0179	359	3	HANA AGRICULTURAL PARK - UNIT II	Hahaione	8/17/1995
2.2040	360	3	WAIOHILI-KEOKEA HOMESTEADS	Kula	9/14/1995
5.0537	361	3	MEO SUBDIVISION	Molokai	10/6/1995
2.2208	362	3	CHANG PARTITION, CIVIL NO. 88-0039 (1)	Kihali	10/20/1995
2.1936	363	3	LINDEN HILL SUBDIVISION	Kula	10/25/1995
2.1962	364	3	HO'OKULEANA SUBDIVISION	Hahaione	10/27/1995
2.2226	365	3	SHERMAN THOMPSON SUBDIVISION	Kula	10/31/1995
3.1610	366	3	FIRST ASSEMBLY OF GOD SUBDIVISION	Kahului	11/13/1995
2.2124	367	3	KUHAIKA-KAUPAKULUA HOMESTEADS	Hahaione	11/24/1995
2.2167	368	3	MAU SUBDIVISION	Kula	11/30/1995
2.2123	369	3	BLAIR SUBDIVISION	Kula	2/15/1996
2.2130	370	3	MAUKA ALAE SUBDIVISION	Kula	2/23/1996
2.2269	371	3	PUKALANI TERRACE SUBDIVISION	Pukalani	2/28/1996
3.1047	372	3	OWA SUBDIVISION	Waikuku	3/12/1996
2.2196	373	3	CRAVALHO SUBDIVISION	Hahaione	3/13/1996
2.2121	374	3	PUKALANI ACRES	Pukalani	3/18/1996
3.1888	375	3	SMITH SUBDIVISION	Waikuku	4/3/1996
3.1657	376	3	KEPLER SUBDIVISION	Kihali	4/18/1996
5.0560	377	3	KAWELA SUBDIVISION	Molokai	4/18/1996
2.2042	378	3	IKE ODACHI FAMILY SUBDIVISION	Kula	5/7/1996
3.1622	379	3	IAO DOJO SUBDIVISION	Waikuku	5/8/1996
2.2255	380	3	LLOYD SUBDIVISION	Makawao	5/29/1996
2.2070	381	3	KYOKO ARMSTRONG SUBDIVISION	Kula	5/30/1996

2.2128	382	3	THE JOSEPH F. CAIRES, SR. FAMILY SUBDIVISION	Halei	6/5/1996
3.1590	383	3	AINA-NAU TRACT	Waialua	8/18/1996
2.2264	384	3	RICHARD HOEHN SUBDIVISION	Halei	6/27/1996
2.2120	385	3	PUKALANI LOTS	Pukalani	8/18/1996
2.2125	386	3	HALEAKALA HOMESTEADS	Makawao	5/17/1996
2.2345	387	3	HOWARD TAVARES SUBDIVISION	Halei	8/18/1996
2.2351	388	3	WAIOHULI-KEOKEA HOMESTEADS	Kula	9/19/1996
1.0174	389	3	PAPAHOHUA SUBDIVISION	Hana	10/22/1996
3.1821	390	3	PLUNKETT SUBDIVISION	Kihei	11/20/1996
5.0517	391	3	KALINAKAKAI HOMESTEAD LOTS	Molokai	12/2/1996
4.0686	392	3	MAILEPAI HUI PARTITION	Lahaina	12/12/1996
2.2559	393	3	HARTLEY SUBDIVISION	Makawao	12/13/1996
2.2143	394	3	OMAOPIO HOMESTEADS	Makawao	3/13/1997
1.0197	395	3	WAIOHONU-KAKIO HOMESTEADS	Hana	3/21/1997
2.2185	396	3	LAND COURT APPLICATION 342	Kula	4/16/1997
2.2268	397	3	MAUI LAND & PINE LARGE LOT SUB	Makawao	4/29/1997
2.2260	398	3	TANIZAKO SUBDIVISION	Makawao	4/30/1997
2.2188	399	3	HALEAKALA HOMESTEADS	Makawao	5/15/1997
2.2080	400	3	HASHIMOTO SUBDIVISION	Kula	6/2/1997
2.2150	401	3	KULA ORCHARDS SUBDIVISION	Kula	7/6/1997
2.2288	402	3	VIRGINIA CAIRES SUBDIVISION	Makawao	7/25/1997
3.1490	403	3	KUUNAHAEU LARGE LOT SUBDIVISION	Waikuku	8/27/1997
4.0670	404	3	PAUNAU TRACT	Lahaina	9/15/1997
2.2234	405	3	HANEHOI GARDENS	Halei	10/7/1997
2.2330	406	3	SHIM SUBDIVISION	Kula	11/14/1997
2.2153	407	3	OMAOPIO HOMESTEADS	Kula	11/26/1997
2.2233	408	3	KAHIAMOE SUBDIVISION	Halei	11/28/1997
2.2083	409	3	KUJAH-KAUPAKULLIA HOMESTEADS	Halei	12/3/1997
2.2265	410	3	HUELO HUI PARTITION	Halei	12/9/1997
4.0094	411	3	SATOKI YAMAMOTO SUBDIVISION	Lahaina	12/11/1997
2.2230	412	3	ROSE P. MACHADO ESTATES SUBDIVISION	Kula	1/16/1998
2.2295	413	3	OTOMO KAWAMOTO SUBDIVISION	Kula	2/16/1998
2.2445	414	3	MAKENA BEACH LOTS	Kihei	2/13/1998
2.2045	415	3	LAND COURT APPLICATION 342	Kula	3/13/1998
2.2337	416	3	KAHIAMOE-PITT SUBDIVISION	Halei	5/24/1998
3.1742	417	3	KIHEI FARM SUBDIVISION	Kihei	8/27/1998
2.2015	418	3	VERNON GARRISON SUBDIVISION	Makawao	8/31/1998
2.2324	419	3	LILIKOI FARM LOTS	Halei	12/2/1998
3.1780	420	3	KIHEI FARM SUBDIVISION	Kihei	12/2/1998
2.2379	421	3	KAUHIKOA ROAD SUBDIVISION	Halei	12/15/1998
2.2164	422	3	WAIOHULI-KEOKEA HOMESTEADS	Kula	2/16/1999
2.2167	423	3	OLLIE DAVIS SUBDIVISION	Halei	2/19/1999
4.0721	424	3	WAHKULI HOUSE LOTS, SECOND SERIES	Lahaina	3/2/1999
2.2078	425	3	LAND COURT APPLICATION 342	Kula	3/5/1999
2.2325	426	3	HUELO HILLSIDE SUBDIVISION - PHASE II	Halei	3/18/1999
2.2426	427	3	SONNY VICKS SUBDIVISION	Kihei	4/6/1999
1.0205	428	3	WAIOHONU-KAKIO HOMESTEADS	Hana	4/14/1999
1.0208	429	3	E.T.J. HANA PROPERTIES SUBDIVISION	Hana	4/20/1999
3.1757	430	3	KAHAKULOA HOMESTEADS	Waikuku	6/18/1999
2.2006	431	3	WAIKOA HOMESTEADS	Kula	6/25/1999
2.2405	432	3	HUELO HUI PARTITION	Halei	9/7/1999
2.2455	433	3	OMAOPIO HOMESTEADS	Kula	9/29/1999
2.2528	434	3	MANAWAI HOMESTEADS	Halei	10/11/1999
2.2242	435	3	H.A. BALDWIN "KALIANUI"	Makawao	10/21/1999
2.2182	436	3	WAIOHULI-KEOKEA HOMESTEADS	Kula	12/29/1999
2.2538	437	3	MACCLAIR SUBDIVISION	Kihei	1/19/2000
2.2554	438	3	MANAWAI HOMESTEADS	Halei	3/30/2000
2.2494	439	3	LAND COURT APPLICATION 342	Kula	4/3/2000
2.2122	440	3	TADATSUGU ENDO SUBDIVISION	Kula	5/12/2000
2.2327	441	3	CLARK SUBDIVISION	Makawao	5/14/2000
2.2416	442	3	LILIKOI FARM LOTS SUBDIVISION	Halei	11/15/2000
2.2485	443	3	MANAWAI HOMESTEADS	Halei	1/3/2001
2.2103	444	3	KUJAH-KAUPAKULLIA HOMESTEADS	Halei	1/26/2001
1.0238	445	3	KIPAHULU SUBDIVISION	Hana	3/5/2001
2.2562	446	3	MAKENA BEACH LOTS	Kihei	3/6/2001
6.0067	447	3	FIRST ASSEMBLY OF GOD SUBDIVIS	Lahai	3/20/2001
2.2427	448	3	KAUFMAN SUBDIVISION	Kihei	4/3/2001
3.1725	449	3	KIHEI FARMS SUBDIVISION	Kihei	5/17/2001
2.2522	450	3	LAND COURT APPLICATION 1654	Kihei	5/7/2001
3.1953	451	3	KOPAA SUBDIVISIONNO. 2	Waikuku	6/7/2001
2.2555	452	3	HALEAKALA HOMESTEADS	Makawao	6/13/2001
3.1525	453	3	WAILIKU BEACH LOTS SUBDIVISION	Waikuku	6/27/2001
1.0234	454	3	HONOMAOLE SUBDIVISION	Hana	6/29/2001
2.2302	455	3	BUCHANAN-LOMONGO SUBDIVISION	Kula	6/29/2001
1.0231	456	3	KAKO SUBDIVISION	Hana	7/27/2001
2.2175	457	3	WAIOHULI-KEOKEA HOMESTEADS	Kula	8/8/2001
2.2567	458	3	MATHILDA CARVALHO SUBDIVISION	Halei	8/22/2001
3.1876	459	3	MORETTI SUBDIVISION	Waikuku	9/13/2001
2.2090	460	3	ALAE 3 & 4 HOMESTEADS	Kula	11/20/2001

2.2536	461	3	KUIAHA-PAIWELA HOMESTEADS	Makawao	12/28/2001
2.2608	462	3	WALTMAN/CASTELLINI SUBDIVISION	Halei	12/28/2001
3.1626	463	3	MOLINA SUBDIVISION	Waikuku	12/28/2001
1.0232	464	3	HONOMAOLE SUBDIVISION	Hana	2/8/2002
3.1869	465	3	B.B.C. HALAMA SUBDIVISION	Kihai	3/17/2002
3.1871	466	3	WAIOHULI-KEOKEA HOMESTEADS	Kihai	8/7/2002
4.0818	467	3	KAHANANUI STREAM HOUSE LOTS SUBDIVISION	Lahaina	6/24/2002
2.2579	468	3	BEREAN MISSION SUBDIVISION	Halei	9/10/2002
2.2102	469	3	BOTELHO ESTATE 3	Kula	10/1/2002
1.0250	470	3	HONOMAOLE SUBDIVISION	Hana	10/18/2002
3.1970	471	3	H.R. AUHANA SUBDIVISION	Kihai	10/22/2002
2.2663	472	3	MANAWAI HOMESTEADS	Halei	11/7/2002
2.2464	473	3	E.C.B. FERREIRA SUBDIVISION	Halei	11/15/2002
2.2599	474	3	HONOKALA SOUTH SUBDIVISION	Halei	12/17/2002
2.2610	475	3	JAMES DEREGO SUBDIVISION	Pukalani	12/26/2002
2.2137	476	3	PIHOLE FARMS SUBDIVISION II	Makawao	1/6/2003
2.2627	477	3	HUELO HIJ PARTITION	Halei	2/25/2003
2.2453	478	3	OHATA SUBDIVISION	Pala	3/5/2003
4.0820	479	3	WAHKULU HOUSE LOTS (FIRST SERIES)	Lahaina	6/30/2003
3.1833	480	3	WAIKOA HOUSE LOTS	Kihai	10/22/2003
3.2036	481	3	WAIOHULI-KEOKEA HOMESTEADS	Kihai	11/26/2003
2.2710	482	3	BATAKIS SUBDIVISION	Halei	12/26/2003
3.2000	483	3	NELSON SUBDIVISION	Kihai	2/13/2004
3.1964	484	3	GOVERNMENT LAND OF KAMAOLE	Kihai	4/1/2004
2.2511	485	3	MARY DE CAMBRA SUBDIVISION	Makawao	5/11/2004
2.2385	486	3	PARTITION OF THE HIJ LANDS OF PEAHI	Halei	5/12/2004
1.0252	487	3	ULUNAELE SUBDIVISION	Hana	5/17/2004
2.2751	488	3	DANIELLS/CURELL/CAIRES SUBDIVISION	Halei	8/10/2004
2.2752	489	3	DANIELLS/CURELL/CAIRES SUBDIVISION	Halei	8/10/2004
2.2777	490	3	KOKOMO HI SUBDIVISION	Halei	7/28/2004
3.1967	491	3	LEVAL TRACT	Waikuku	9/7/2004
3.1870	492	3	B.B.C. WAIOHULI SUBDIVISION	Kihai	9/9/2004
2.2658	493	3	R & H SUBDIVISION	Kula	10/9/2004
2.2366	494	3	FEVELLA SUBDIVISION	Makawao	11/18/2004
2.2843	495	3	R VON TEMPSKY-T. BUCHANAN - LOMONGO SUBDIVISION	Kula	11/30/2004
2.2642	496	3	KAILUA HOUSE SUBDIVISION	Halei	12/2/2004
2.2792	497	3	JN AND RS SUBDIVISION	Halei	12/15/2004
2.2113	498	3	MACKIE SUBDIVISION	Halei	12/29/2004
2.2650	499	3	LILIKOI FARM LOTS	Halei	12/30/2004
2.2691	500	3	KULA LODGE EXTENSION	Kula	2/25/2005
3.2110	501	3	WAILUKU HEIGHTS	Waikuku	4/26/2005
2.2261	502	3	ARAFILES SUBDIVISION	Halei	5/16/2005
3.1690	503	3	WAILUKU HEIGHTS	Waikuku	5/23/2005
2.2659	504	3	KUIAHA-PAIWELA HOMESTEADS	Halei	6/30/2005
6.0148	505	3	LAND COURT CONSOLIDATION 179	Lanae	8/22/2005
5.0657	506	3	PAPAHAKU RANCHLANDS SUBDIVISION	Molokai	8/25/2005
2.2505	507	3	OLINDA VISTA SUBDIVISION	Makawao	9/14/2005
2.2818	508	3	HUELO HIJ SUBDIVISION	Halei	10/29/2005
4.0898	509	3	WAHKULU HOUSE LOTS	Lahaina	10/25/2005
2.2820	510	3	HOOLAWA POINT SUBDIVISION	Halei	12/6/2005
3.2057	511	3	KIHEI FARM SUBDIVISION	Kihai	12/14/2005
2.2831	512	3	PULEHUKI-KAMEHAMEKI HOMESTEADS	Kula	3/23/2006
2.2855	513	3	GARCIA SUBDIVISION	Halei	5/13/2006
2.2687	514	3	HONOKALA FARM SUBDIVISION	Halei	5/13/2006
2.2301	515	3	WOLFORD SUBDIVISION I	Halei	6/28/2006
2.2907	516	3	SERLE SUBDIVISION	Halei	8/4/2006
2.2867	517	3	BIJK SUBDIVISION	Makawao	8/7/2006
3.2165	518	3	THE MILLYARD SUBDIVISION	Waikuku	8/21/2006
2.2834	519	3	KEAWAKAIU BEACH LOTS	Kihai	8/31/2006
2.2248	520	3	TAKTANI FARM LOT SUBDIVISION NO. 2	Halei	9/27/2006
2.2693	521	3	TAKTANI FARM LOT SUBDIVISION NO. 2	Halei	11/14/2006
2.2689	522	3	LAND COURT APPLICATION 1531	Kula	11/29/2006
2.2262	523	3	STICE SUBDIVISION	Makawao	12/19/2006
2.2694	524	3	TEXEIRA AND MEDEIROS SUBDIVISION	Kula	12/19/2006
1.0279	525	3	HANA AGRICULTURAL PARK - UNIT II	Hana	3/6/2007
2.2231	526	3	HALEAKALA HOMESTEADS	Makawao	3/9/2007
2.2844	527	3	KAHUI PONO SUBDIVISION NO. III	Halei	3/16/2007
2.2846	528	3	KUIAHA-KAUPAKULUA HOMESTEADS	Halei	3/16/2007
3.2138	529	3	KAMAOLE HOUSE LOTS	Kihai	3/30/2007
1.0269	530	3	WAIOHONU-KAKO HOMESTEADS	Halei	4/18/2007
2.2698	531	3	PARTITION OF HIJ KUAI ANA O PEAHI	Halei	6/1/2007
1.0273	532	3	WAIOHONU-KAKO HOMESTEADS	Hana	6/7/2007
2.2798	533	3	ALAE 3 AND 4 HOMESTEADS	Kula	8/19/2007
2.2390	534	3	LAND COURT APPLICATION 342	Kula	8/29/2007
2.2888	535	3	BIJK SUBDIVISION	Makawao	8/29/2007
4.0904	536	3	WAHKULU HOUSE LOTS	Lahaina	8/22/2007
2.2941	537	3	PARTITIONING OF PARCEL 25	Halei	8/8/2007
3.2159	538	3	VATES SUBDIVISION	Waikuku	8/21/2007
2.2845	539	3	KULAMALU OFFSITE RESERVOIR SUBDIVISION II	Makawao	9/13/2007

1.0921	540	3	MAILEPAI HUI LAND	Lahaina	10/26/2007
2.2759	542	3	VIRGINIA CAIRES SUBDIVISION	Halei	3/19/2008
2.2939	543	3	WAIOHULI-KEOKEA HOMESTEADS	Kula	8/14/2008
4.0892	544	3	WAHUKU HOUSE LOTS	Lahaina	9/29/2008
1.0276	545	3	HANA AGRICULTURAL PARK - UNIT II	Hana	10/28/2009
3.2112	546	3	WAIOHULI-KEOKEA BEACH HOMESTEADS	Khei	2/19/2009
2.2887	547	3	LINDSAY SUBDIVISION	Halei	4/13/2009
1.0242	548	2	KIPAHULU KAI SUBDIVISION	Hana	9/10/2009
2.2646	549	3	HARRIMAN SUBDIVISION	Halei	6/29/2009
3.2049	550	3	KAMAOLE HOMESTEADS	Khei	6/30/2009
2.1723	551	3	KAMEHAMEHA-PULERUIKO HOMESTEADS	Kula	8/4/2009
4.0894	552	3	KALINUOHUA AWARD	Lahaina	8/10/2009
2.2654	553	3	OMAOPIO HOMESTEADS	Kula	12/16/2009
2.2859	554	3	PHILLIPS MAUKA SUBDIVISION, PHASE II	Kula	5/24/2010
2.2888	555	3	EDWARD F. NELSON, SR. TRUST SUBDIVISION	Halei	10/15/2010
2.2643	556	3	KAHUI PONO SUBDIVISION NO. II	Halei	12/28/2010
3.2190	557	3	SKY LEWIS SUBDIVISION	Kihei	3/17/2011
1.0192	559	3	LOWD NUI SUBDIVISION	Hana	
1.0243	560	3	KIPAHULU KAI SUBDIVISION	Hana	
1.0244	561	2	KIPAHULU KAI SUBDIVISION	Hana	
1.0256	562	3	HANA AGRICULTURAL PARK SUBDIVISION	Hana	
1.0264	563	3	NORDGREN SUBDIVISION	Hana	
1.0296	564	3	COON SUBDIVISION	Hana	
1.0282	565	3	NAHIKU OCEAN VIEW FARM LOT SUBDIVISION	Hana	
2.2244	566	3	CAMERON KALUANUI SUBDIVISION	Makawao	
2.2578	567	3	KULAIKI SUBDIVISION	Kula	
2.2622	568	3	JOE DECOITE SUBDIVISION	Halei	
2.2692	569	3	HONOKALA SUBDIVISION	Halei	
2.2732	570	3	A. TAM SUBDIVISION	Kula	
2.2733	571	3	KA'ONO'ULU LOTS	Kula	
2.2764	572	3	SING SUBDIVISION	Halei	
2.2768	573	3	KULA ORCHARDS	Kula	
2.2785	574	3	JOHN A. ROBELLO SUBDIVISION	Kula	
2.2806	575	3	MANAWAI HOMESTEADS	Halei	
2.2811	576	3	KUIAHA-PAUWELA HOMESTEADS	Halei	
2.2819	577	3	HALEAKALA HOMESTEADS	Makawao	
2.2830	578	3	A.L. & P. PHILLIPS SUBDIVISION	Kula	
2.2861	579	3	GROVE RANCH AGRICULTURAL SUBDIVISION NO. 2	Makawao	
2.2885	580	3	PURDY SUBDIVISION	Kula	
2.2915	581	3	HALEAKALA RANCH HOMESTEADS	Makawao	
2.2926	582	3	WAIOHULI-KEOKEA HOMESTEADS	Kula	
2.2929	583	3	HAROLD SUBDIVISION	Halei	
2.2938	584	3	PARTITION OF HUI KUAI AINA O PEAHI	Halei	
2.2962	585	3	WAIKOHA HOMESTEADS	Kula	
2.2974	586	3	WAIOHULI-KEOKEA HOMESTEADS	Kula	
2.2982	587	3	HARVEY-GRONQUIST-HOMESLEY SUBDIVISION	Halei	
2.3002	588	3	EMILY DO REGO SUBDIVISION	Makawao	
2.3014	589	3	KRENK SUBDIVISION	Halei	
2.3017	590	3	D. T. HILL SUBDIVISION	Makawao	
2.3021	591	3	KUIAHA-PAUWELA HOMESTEADS	Halei	
2.3025	592	3	HALEAKALA HOMESTEADS	Makawao	
2.3026	593	3	LAND COURT APPLICATION 1326	Kula	
2.3031	594	3	OMAOPIO EHIKU SUBDIVISION	Kula	
3.1644	595	3	K. WATANABE LOTS	Waikuku	
3.1647	596	3	KA NIHAHO ACRES SUBDIVISION	Kona	
5.2052	597	3	COUNTRY CLUB LOTS SUBDIVISION	Pala	
3.2119	598	3	WAIOHULI-KEOKEA BEACH HOMESTEADS	Khei	
3.2142	599	3	MONTAGUE SUBDIVISION	Pala	
3.2150	600	3	WAILUKU BEACH LOTS	Waikuku	
3.2155	601	3	WAILUKU BEACH LOTS	Waikuku	
4.0867	602	3	WAHUKU HOUSE LOTS (SECOND SERIES)	Lahaina	

602

1806

**COUNTY COUNCIL**

COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

Councilmembers  
Alifia Atay  
Elle Cochran  
Don S. Guzman  
Riki Hokama  
Kelly T. King  
Yuki Lei K. Sugimura

January 11, 2018

David Goode, Director  
Public Works  
County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

Dear Mr. Goode:

**SUBJECT: DEFERRAL AGREEMENTS AS THEY RELATE TO  
BUDGET REVENUES-FEES, RATES, ASSESSMENTS  
AND TAXES**

This letter is a request for an update in response to a letter from yourself, dated June 4, 2012.

In the 2012 letter you state:

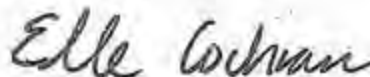
*"After our meeting with our Corporation Counsel on this issue, we are unable to respond at this time on the matter as we are:*

- 1) researching the applicability of certain agreements on the ability to seek compensation, and*
- 2) working out a formula for compensation on certain agreements.*

*Rest assured we (Department of Public Works and Corporation Counsel) are actively working on this issue as our first project (Kahanui Bridge Project) has a few parcels that are affected by the above two items that are still being researched."*

May I please request a copy of the findings that resulted from the active work done on this topic, conducted by Corporation Counsel and Public Works; and receive a response to my letter dated May 18<sup>th</sup> 2012 (see attached).

Mahalo,



ELLE K. COCHRAN  
Councilmember

ALAN M. ARAKAWA  
Mayor

DAVID C. GOODE  
Director

ROWENA M. DAGDAG-ANDAYA  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

RALPH NAGAMINE, L.S., P.E.  
Public Works Administration

RECEIVED

2012 APR 16 PM 3:12  
CARY YAMASHITA, P.E.  
Engineering Division

OFFICE OF THE MAYOR  
BRIAN HAGRID, P.E.  
Highways Division

April 16, 2012

Honorable Alan Arakawa  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Elle Cochran  
Council Member  
Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

Dear Council Member Cochran:

**SUBJECT: DEFERRAL AGREEMENTS AS THEY RELATE TO BUDGET REVENUES - FEES,  
RATES, ASSESSMENTS AND TAXES**

We are in receipt of your letter dated March 30, 2012 regarding the above-referenced subject. Upon review, we are able to offer the following responses corresponding to each item in your letter.


1. *A complete catalog of all deferral agreements island wide, along with the recorded agreements.*

**See Enclosed Disk**

2. *A list of roadway projects, both ongoing and proposed for the next 5 years, and an estimate of revenues from properties with deferral agreements located within each respective roadway project area.*

The following is a summary of ongoing and projected roadway projects anticipated for the next five years. New projects are added as needed along with notable emergency projects due to severe weather. Resurfacing and other maintenance of existing roadways is not considered roadway projects and would not in any case trigger any deferral agreement. Current and projected roadway projects are dependent upon adequate funding, timely legal acquisition of land rights and the existence of community support. A deficit in any one of these three key areas could cause lengthy or indefinite delays. Therefore, no one should speculate or rely on the completion of any particular roadway project.

APPROVED FOR TRANSMITTAL

  
\_\_\_\_\_  
Mayor Date 4/19/12

12 APR 19 P2:33  
OFFICE OF THE MAYOR  
COUNTY OF MAUI

REC'D

A



Honorable Elle Cochran, Council Member  
**SUBJECT: DEFERRAL AGREEMENTS**  
April 16, 2012  
Page 2

The estimated revenues are based on current costs of \$250 per lineal foot of property fronting the County roadway. A typical deferral agreement does not specify the exact methodology for collecting these costs. Therefore, projected revenues are also dependent on a number of factors that would include the involvement of the Department of Finance and may involve legal action for enforcement.

1) South Kihei Road - A total of six parcels may be affected by deferral agreements. The six parcels add up to 345 lineal feet of roadway frontage for a total of \$86,250 of potential revenue.

2) Waiko Road - No deferral agreements.

3) Lower Honoapiilani Road Phase IV - This project has already been addressed in a separate correspondence and currently under review.



Thank you for your attention to this matter. Should you have any questions, please contact me at Ext. 7845.

Sincerely,

  
DAVID C. GOODE  
Director of Public Works

LM(ED12-426)  
S:\ENGIN\GTRAF\CORRESPONDENCE\Mail County Coun\CC-ECochran-Def\Agreem\_120416.wpl

Attachment

# Liens need to be removed

## VIEWPOINT

March 2, 2014

By DAVID CAIN , The Maui News

Save | 

The County of Maui holds a recorded lien on thousands of properties in Maui County which have no formula or ceiling for assessments to property owners. The administration has taken the position it can send out bills to property owners and, if left unpaid, the property can be taken through foreclosure by the county in the same fashion as property taxes.

This form of assessment by the administration violates the Maui County Charter. Assessments must be adopted by ordinance by the Maui County Council and placed in the county budget after annual public hearings. A politically appointed director cannot dictate the amounts owed.

As a bankruptcy and criminal law attorney who recently learned that I have one of these defective liens on my property, I conclude this form of infringement of land title is unconstitutional. Simply put, a government cannot record an encumbrance on a citizen's land that can lead to a taking without some form of valuation or ability for the property owner to remove the cloud on title.

The liens are a result of developers' incomplete subdivision improvements along property frontages that were deferred by the Department of Public Works through a subdivision ordinance adopted by the Maui County Council in 1974. My findings conclude that the original intent of the ordinance was to provide relief for families wishing to divide their land into parcels involving three or fewer lots.

Unknown to the public for almost four decades, the administration and corporation counsel have secretly expanded the recordation of the three or fewer lots deferral agreements to include massive tracts of land resulting in large subdivisions, commercial properties and multifamily condominiums.

Unknowingly, citizens end up picking up the developers' entire roadway improvement tab, costing taxpayers millions of dollars. The developers pay nothing. The administration and corporation counsel continue to deny any wrongdoing. The fact that these developer deferral agreements have been concealed from our elected council members and the public for 13 years speaks otherwise. The public requests for full disclosure have been deemed an interruption of a legitimate government function.

Through the exhausting efforts of West Maui resident Christopher Salem, a 13-year battle to obtain copies of these subdivision agreements from corporation counsel has been accomplished with the quiet efforts of unnamed employees of the county. One by one, thousands of properties affected by the illegitimate recorded agreements have been cataloged and plotted on Google aerial maps. The degree of manipulation of the Maui County Code is appalling.

Evidence now suggests a similar abuse has occurred with uncollected developer park fees.

The administration and corporation counsel have knowingly and intentionally shifted private developers' financial obligations to the public. This is an inexcusable violation of Section 9-12 of the Maui County Charter, which allows for government officials to be held personally liable and be removed from office for incurring a public expense in violation of the policies and procedures adopted by ordinance. It doesn't take a lawyer to figure out how the dishonorable exploitation of the Maui County Code has already resulted in public funds being spent on private developer obligations.

Mayor Alan Arakawa attempted to clean up this mess by instructing Jo Anne Johnson Winer and Salem to adopt, through legislation, a formula of assessment. Going against the mayor's wishes, corporation counsel slammed the door on a resolution to shield questionable decision-making.

For property owners, the harmful effect of these open-ended liens is just beginning to be realized. Prominent professional appraisers and real estate brokers in Maui County have denied representation of properties with these unexplainable county clouds on citizens' titles. The potential ripple effect on bank loans and real property disclosures is overwhelming.

I am stepping forward to alert my fellow citizens of the destructive impact of these unexplainable clouds on our property titles. Citizens of Maui County are called upon to demand their elected officials to investigate this administrative misconduct to prevent escalation to the courts. These developer liens must be immediately removed from our property titles.

To protect your property rights, contact Public Works Director David Goode (270-7845) and your elected representatives to demand full disclosure on the county website of all properties affected by these illegitimate county liens.

\* David Cain is an attorney who specializes in bankruptcy and criminal law. He is a partner in the Wailuku law firm Cain & Herren