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COUNTY COUNCIL

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

November 7, 2017

Mr. Kaala Buenconsejo, Director
Department of Parks and Recreation
County of Maui
Wailuku, Hawaii 96793

Dear Mr. Buenconsejo:

**SUBJECT: LEASES OF COUNTY RECREATIONAL SPACE TO
HAWAIIAN KAMALI`I, INC. AND NA KAI EWALU
(KAHULUI) (PRL-34)**

The Parks, Recreation, Energy, and Legal Affairs Committee is in receipt of County Communication 17-436, from you, transmitting proposed resolutions to grant leases of County recreational space to Hawaiian Kamali`i, Inc. and Na Kai Ewalu for the properties on which their canoe hales are located, comprising 9,135 square feet and 8,709 square feet, respectively, in Kahului, Maui, Hawaii.

May I please request the following:

1. The Warranty Deed dated May 18, 1994, conveying tax map key (2) 3-7-008:017 ("Parcel 17"), comprising 91,950 square feet, from A&B-Hawaii, Inc. to the County of Maui, provides, at page 2:

TO HAVE AND TO HOLD the above described land unto the Grantee, its successors and assigns forever, **to be used, however, for park and recreational purposes, one of which purposes must consist of organized Hawaiian outrigger canoeing activities (and activities ancillary to Hawaiian outrigger canoeing activities)**, it being mutually understood and agreed by the parties hereto that said land is granted and accepted **upon the express condition that in the event the same shall be abandoned for purposes of organized Hawaiian outrigger canoeing activities or shall fail to be substantially used for organized Hawaiian outrigger canoeing**

activities for a period of twenty-four (24) consecutive months, then said land shall automatically revert to the Grantor, its successors and assigns. (Emphasis added.)

The "License to Occupy" dated December 21, 1994, granted exclusive use to Hawaiian Canoe Club, Inc. and Hawaiian Kamali'i, Inc. for Hale Site "A" and Hale Site "B", each consisting of 4,200 square feet, plus a ten-foot perimeter around each; non-exclusive use of the remaining land on Parcel 17, consisting of 83,550 square feet; and non-exclusive use of an access and utility easement on a separate parcel.

- a. Assuming the parcel is 91,950 square feet and the two leases cover a combined area of 17,844 square feet, the remaining 74,106 square feet will no longer be incorporated in a property agreement with the canoe clubs. Will removing the bulk of Parcel 17 from the property agreement (previously a license, now leases) with the canoe clubs have any effect on the County's ownership of the remainder of Parcel 17? Is it sufficient that the purpose of the 17,844 square feet of the parcel remains for canoe club use? Please confirm that the uses proposed in the leases meet the requirement of substantial use as set forth in the deed. If additional Hawaiian outrigger canoeing activities other than those contemplated in the leases are planned, please identify these activities. Please also identify any other park and recreational uses of Parcel 17.
- b. Is the access easement across property identified for real property tax purposes as tax map key (2) 3-7-008:008 needed by the canoe clubs any longer? Please explain.
- c. It is my understanding that there have been homeless and security-related issues at Hoaloha Park requiring increased clean-ups and patrols. Will the change in the land covered by the proposed leases with Hawaiian and Na Kai Ewalu alter the County's or the canoe clubs' responsibilities in this regard? Please explain.

2. The tax map key identified in both proposed resolutions and both proposed leases is (2) 2-3-008:017, which appears to be comprised of 5.007 acres owned by Warren S. Molina at 0 Anuhea Place. The tax map key identified in the License to Occupy and related Warranty Deed is (2) 3-7-008:017, comprising 91,950 square feet at 0 W. Kaahumanu Avenue. If the latter tax map key is correct, please revise both proposed resolutions and proposed leases accordingly.
3. Please consider revising the third WHEREAS paragraph of the proposed resolution for Hawaiian Kamali'i, Inc. ("Hawaiian") as shown in Ramseyer format below, including two new WHEREAS paragraphs to follow:

WHEREAS, Hawaiian Canoe Club, Inc., Hawaiian Kamali'i, Inc. [desires to replace its existing extended license, originally entered] and the County of Maui entered into a "License to Occupy" dated December 21, 1994[, and extended on January 1, 2015 by exercising its option to extend to December 31, 2034, with the proposed Lease in Exhibit "1";] and recorded with the Bureau of Conveyances, State of Hawaii, on January 5, 1995; and

WHEREAS, Hawaiian Kamali'i, Inc., doing business as Hawaiian Canoe Club, exercised its option to extend the License to Occupy until December 31, 2034; and

WHEREAS, Hawaiian Kamali'i, Inc. wishes to enter into the proposed Lease attached hereto as Exhibit "1" and terminate its License to Occupy; and

4. Each proposed lease has a provision that permits lessee to mortgage or create a security interest in the premises (Exhibit C, paragraph 8). Please explain the need for or desirability of such a provision.
5. The Department of Commerce and Consumer Affairs website reflects the name of the nonprofit corporation is "Na Kai Ewalu," not "Na Kai Ewalu Canoe Club" (see attached). Please revise all references in the second proposed resolution accordingly.
6. Please consider revising the third and fourth WHEREAS paragraphs in the Na Kai Ewalu proposed resolution as shown in Ramseyer format below:

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WHEREAS, Na Kai Ewalu [Canoe Club] had no lease with the County and was using the property described in Exhibit "1" pursuant to Hawaiian [Kamali'i's lease] Kamali'i, Inc.'s "License to Occupy" dated December 21, 1994, and now desires to be a direct Lessee; and

WHEREAS, [Na Kai Ewalu previously used the property described in Exhibit "1" pursuant to a license issued by the County to Hawaiian Kamali'i, Inc. but now] both Hawaiian Kamali'i, Inc.[,] and Na Kai Ewalu desire to operate with individual property agreements with the County; and

I would appreciate receiving your response by **November 20, 2017**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Maggie Clark at ext. 7661, Carla Nakata at ext. 7659, or Pauline Martins at ext. 8039).

Sincerely,



DON S. GUZMAN, Chair
Parks, Recreation, Energy, and Legal
Affairs Committee

prl:ltr:034apr01:cmn

Attachment

cc: Mayor Alan M. Arakawa
Roxanne Teshima, Grants Coordinator, Department of Parks and Recreation
Jerrie Sheppard, Deputy Corporation Counsel

DCCA State of Hawaii

Downloaded on November 4, 2017.

The information provided below is not a certification of good standing and does not constitute any other certification by the State.

Website URL: <http://hbe.ehawaii.gov/documents>

Business Information

MASTER NAME	NA KAI EWALU
BUSINESS TYPE	Domestic Nonprofit Corporation
FILE NUMBER	97707 D2
STATUS	Active
PURPOSE	TO PROMOTE AND PERPETUATE THE ART AND CULTURE OF HAWAIIAN VALUES THROUGH EDUCATION AND CANOE RELATED ACTIVITIES.
PLACE INCORPORATED	Hawaii UNITED STATES
INCORPORATION DATE	Nov 7, 1994
MAILING ADDRESS	P O BOX 330226 KAHULUI, Hawaii 96733 UNITED STATES
TERM	PER
AGENT NAME	JACOB FREEMAN
AGENT ADDRESS	PO BOX 2985 WAILUKU, Hawaii 96793 UNITED STATES

Annual Filings

FILING YEAR	DATE RECEIVED	STATUS
2017	Oct 3, 2017	Processed
2016	Oct 6, 2016	Processed
2015	Jan 7, 2016	Processed
2014	Jan 26, 2015	Processed
2013	Oct 9, 2013	Processed
2012	Mar 27, 2013	Processed
2011	Dec 6, 2011	Processed
2010	Feb 9, 2011	Processed
2009	Aug 17, 2010	Processed
2008	Apr 7, 2009	Processed
2007	Apr 7, 2009	Processed
2006	Apr 7, 2009	Processed
2005	Aug 4, 2006	Processed
2004	Dec 27, 2004	Processed
2003	Jan 16, 2004	Processed
2002		Not Required
2001	Mar 5, 2002	Processed
2000		Processed
1999		Processed

Officers

NAME	OFFICE	DATE
BALL, KEONE	P	Oct 1, 2017
NELSON, ANTHONY	V	Oct 1, 2017
JUNG,ASHLEY	S	Oct 1, 2016
HAMILL,PETER	T	Oct 1, 2016
TRISHA DAUNHAUER	D	Oct 1, 2017
STICE,TRACY	D	Oct 1, 2016
MAY, AMANDA	D	Oct 1, 2017
CUTILLO, STEPHEN	D	Oct 1, 2017
EVANGELISTA, SUSANNAH	D	Oct 1, 2017