

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

March 11, 2024

Public testimony received by the Planning Department as of March 11, 2024, 9:00 am for the March 12, 2024, Planning Commission Meeting regarding the following item:

- H.1. In the Matter of Petitions to Appeal Planning Director's Determination in Regard To The Applications of Try Slow, LLC Shoreline Setback Applications and Determinations, SSD-2023-45, SSD-2023-46, SSD-2023-47, and SSD-2023-48, Received on July 24, 2023, The Hale Makai Cottages, located at 4400 Oneone Road, Hanalei, Kaua'i, Hawai'i, identified by Kaua'i TMK No. (4) 5-8-008:034, containing 39,000.00 square feet.

March 8, 2024

Donna Apisa
Chair
Planning Commission of the County of Kauai
c/o Kaaina Hull,
Planning Director and Clerk of the Commission
4444 Rice Street, Suite A473
Lihue, Hawaii, 96766

Planning department Re: March 12, 2024, Planning Commission Hearing:

In Re the Applications of Try Slow, LLC -23 ,JUL 2023 (. Shoreline Setback Applications and Determinations, SSD 2023-45. SSD 2023-46, SSD 2023-47 and SSD 2023-48

Dear Planning Commission Chair Apisa, Vice Chair Gerald Ako, and Commissioners,

Pursuant to Chapter 9,

Rules of Practice and Procedure of the Kauai County Planning Commission and Chapter 8, Article 27.13 Appeal of the Director's Determination, Kauai County Code. 1987 as amended; Appellants Robin Yasuoka Sedgwick , and in my individual capacity file this Petition for Appeal regarding Try Slow, LLC Shoreline Setback Determination Exemptions, File No. SSD 2023-45, SSD 2023-46, SSD 2023-47 and SSD-2023- 48 dated S/23/2023. TMK 5-8-8:034 noticed on the Planning Commission Agenda March 12th, 2024.

Chapter 8, Section 27.13 Appeal of the Director's Determination:

Any person who **can show that a direct probable harm to his or her person or his or her properly interest, or probable public: harm could occur from the decision may appeal any Shoreline Setback** Determination, Approval. Denial or Determination of inapplicability by the Director to the Commission in accordance with the Commission's Rules of Practice and Procedure.

Chapter 9, Appeals from Actions of the Planning Director 1- 9- 1 Applicability

b) Any person who can show that a direct probable harm to his or her person or his or her properly interest. or improbable public: harm could occur from the decision may petition to appeal any Shoreline Setback Determination, Approval, Denial or Determination of Inapplicability by the Director pursuant to Chapter 8. Article 27 of the Kauai County Code.

Petition for Appeal:

Appellant
Robin Yasuoka Sedgwick, individually
P.O. Box 838 Koloa, HI. 96756
808-657-9010
thebird1@cox.net

1) Petitioner
Robin Yasuoka Sedgwick

2) Identification of property and appellant's interest

The property is identified by the applicant.

Try Slow LLC
4400 Oneone Road.
Hanalei Hi 96756

Robin Yasuoka Sedgwick is a 4th generation Kauaian with family roots dating back to the North Shore for over 145 years. Robin has owned the property adjacent (4411 Oneone) to the proposed applicant (4400 Oneone) for 23 years and currently lives in Kauai.

This is a very special place for Robin as is for her own daughters, as a young girl in the early 70's Robin grandparents and aunties would take her to the beach at Anchorage Point.

Many family celebrations, graduations, holidays, birthdays, years of time on the beach, including years during the great flood of 2018-2019 and during Covid 2020 -2022 were spent celebrating the history of the Nienemoto and Yasuoka family roots.

As many / families and Japanese immigrants stayed silent in generations past, many of the original immigrants that came to Kauai, have been ran off their properties by mainlanders or forced to sell.

The proposed settlement for a 5ft pathway along the Lava rock wall adjacent to applicant property, to the beach should not be allowed: (See arial map)

- 1) This parcel was NEVER a public easement even back in the 70's and 80's. It was trespassing that no one bothered to stop.
- 2) Hi. State abandoned their access to the easement / measuring point between cottage 1 - 2 on the beach as GPS and other technologies replaced the need for the manual survey in the 60's, 70's & 80's
- 3) The ocean in front of Anchorage Point (proposed beach access see map of renovation of cottages) is very dangerous as a daily rip current from west to East cuts through the coral reef and has been responsible for drowning and other swimmers having to be saved from the open ocean. Just last week at nearby Lumahai Beach a fatal drowning occurred.
- 4) The current beach **easement is 30 yards away to the West**, with Direct access to "Baby Beach" with picnic tables and a safe place to swim and walk for miles to Tunnels Beach and beyond.
- 5) Current public access to the east 30 yards away through Hanalei Colony Resort / public Coffee Shop access via parking lot.
- 6) When County approved the relocation of the parking zone for the cottages (2008), the Burmeister abandoned any rights to the 20x30 area in front of by driveway. Parking in this area is already compromised with too many cars on properties on Oneone as zoning for parking has been ignored for years at any given time there is 12-13 cars for residents in such a small area.

- 7) Proposed Pathway at the end of Oneone is a Parking nightmare and could prohibit emergency vehicles from entering 4411 Oneone,
- 8) Since 1990's nearly 30-40 feet of beach has eroded in front of Anchorage Point , locals ride ATV on the beach, leave trash, drug usage has a history of crystal methane usage at night in a very quiet neighborhood. Back in the 90's the cottages and illegal beach access were the favorite hang out of drug dealers, parties until 3am and larceny.
- 9) Fire pits, underage drinking, drug use are already visible at night in front of the easement on Alamoo Rd / Alealea 30 yards to the West currently is taking place.

Objection to: Settlement between Caren Diamond and Try Slow LLC. February 9th, 2024

STIPULATION, RECOMMENDATION, AND ORDER APPROVING WITHDRAWAL OF APPEAL RE: Permits to perform work on the 4 cottages TMK No. (4) 5-8-008:034

WHEREAS, on July 24, 2023, Petitioners Malama Kua'aina and Caren Diamond ("Petitioners") submitted their Petition to Appeal, pursuant to Chapter 8, Article 27, Section 27.13 of the Kaua'i County Code, the determinations of the Planning Department of the County of Kaua'i ("Respondent") concerning the Shoreline Setback Determination Applications submitted by Try Slow, LLC ("Applicant"), numbered SSD-2023-45, SSD-2023-46, SSD-2023-47, and SSD-2023-48, for the property located at 4400 Oneone Road, Hanalei, Kaua'i, Hawai'i, identified by TMK No. (4) 5-8-008:034 (the "Appeal"); and WHEREAS, the Kaua'i Planning Commission accepted the Appeal, which was assigned Contested Case File No. CC-2024-3 and referred to Hearings Officer Harlan Kimura, Esq. for contested case proceedings pursuant to Chapter 6 of the Kaua'i Planning Commission's Rules of Practice and Procedure; and WHEREAS, after initial attempts by the Parties to resolve informally the issues raised by the Appeal were unsuccessful, the contested case hearing was scheduled for January 22 and 23, 2024, with additional hearing dates, if needed, scheduled for February 12 and 13, 2024; and WHEREAS, the contested case hearing was not concluded on January 22 and 23, 2024, and Petitioners and Applicant thereafter engaged in good faith settlement negotiations in an attempt to resolve the Appeal; and WHEREAS, Petitioners and Applicant reached agreement on a resolution that was satisfactory to all Parties, and drafted the Conditional Settlement Agreement ("Agreement") **that was executed by all Parties and became effective on February 12, 2024.**

INTRODUCTION This contested case challenges County of Kauai, Department of Planning's ("the Planning Department's") decision, through its Director, to approve of four separate exemptions from the requirement for Shoreline Setback Determinations ("Exemptions"), one for each of four Transient Vacation Rental ("TVR") cottages on a single oceanfront parcel. The property at 4400 Oneone Road, TMK number (4) S-8-008:034 (the "Property"), which was recently purchased by Applicant Try Slow, LLC ("the Applicant"), has been the subject of enforcement actions, controversy, and litigation for decades. **It has not had a shoreline survey certified since 1980**, and vegetation artificially planted in 2004 has privatized public land and made lateral access along the beach unsafe or impossible for large periods of the year.

The previous owner Klaus Burmeister indeed walled off the property at the end of Oneone as the pathway was never a public easement but a state-owned easement that dates to the 60's for measuring the shoreline (see satellite map). That Hi State easement was abandoned decades

ago and the County had approved the relocation of the parking for the four cottages on property also owned by the Burmeister's at the corner of Onene and Alealea nearly 17 years ago.

The abandonment of the easement is in accordance with HI State Law

According to **Hawaii Revised Statutes Section 523A(15)**, generally speaking, property is presumed to be abandoned five years after the owner has a right to demand the property or after the obligation to pay or distribute the property arises.

An easement provides permanent access rights for the benefit of the owner of a "land-locked" parcel. Sometimes, an easement may already exist in your land's title history, but it was never enforced. Sometimes, an easement can be created by continuous use over a long period of time.

To make a successful claim for adverse possession Hawaii, must meet both of the following criteria:

1. Occupy the property for at least 20 continuous years.
2. The property must not be more than five acres.

Yes, a long period of nonuse is sufficient to terminate an easement if it is accompanied by other evidence of intent to abandon the easement (e.g., the easement holder erects a permanent structure blocking off the easement. **This is best illustrated by the County refusing to pick up weekly trash (in front of 4411 Onone driveway / Easement) or the County grading company that will not grade the dirt road as its not on county property.**

Easements will continue indefinitely unless terminated by an express agreement, abandonment, merger, or a lack of necessity. Easements may generally be terminated when the easement holder and the easement owner agree in writing to end the easement. Dec 4, 2023

3) Zoning Ordinance

Article 27 Shoreline setback Ordinance Chapter 8 Section 8-27

The Coastal Zone Management Act HRS 205 A1 including but not limited to part 3.

Environmental impact Statements HRS 3.1 but not limited.

4) Factual Background

Try Slow has misrepresented its impact on the community,

Try Slow failed to seek input from neighbors,

Try Slow LLC was asked to postpone hearing,

Try Slow LLC misrepresented its intentions.

Robin Yasuoka Sedgwick has owned adjacent property for 23 years.

Diamond has failed to provide accurate testimony regarding impact of the beach, current state of erosion on the beach at Anchorage Point and has access to "Baby Beach" with easement in front of Diamond favorite beach. In Summary there is plenty of beach access for Diamond to enjoy.

The Cottages were never a public pathway or easement to the beach.

5) Planning Director Action:

Deny Settlement Agreement with Caren Diamond and Try Slow LLC in its entirety. Require a Shoreline Survey and SMA and other environmental reports for permit for any new work performed that has not been done since 1980.

The beach at Anchorage Point has eroded over 30-40 feet since the early 80's and the current setback by law should be followed in accordance HI State law and within the 2008 settlement with the County regarding a TVR permit for the cottage nearly in the ocean.

6) Conclusoon

Robin Yasuoka Sedgwick respectively ask the Planning Commission to deny applicant Settlement Agreement with Diamond and deny any work on the cottages until such time the litigation, Diamond vs Try Slow LLC is concluded on the merits of the dispute.

Any public access along the lava rock wall should be denied or public access on Oneone for any further settlement discussions.

Robin Sedgwick









DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

March 11, 2024

Public testimony received by the Planning Department as of March 11, 2024, 9:00 am for the March 12, 2024, Planning Commission Meeting regarding the following item:

- H.2. In the Matter of the Petition of Friends of Māhā'ulepu To revoke Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit PDU-2015-7, Variance Permit V-2015-1 and Special Management Area Use Permit SMA(U)-2015-6 issued to Coco Palms Hui, LLC for use at Wailua, Kaua'i, Tax Map Keys 4-1-003: 004 (por.), 005, 007, 011, and 017 and 4-1-005: 014 and 017.

From: Mark A Ombrello <ombrello@hawaii.edu>
Sent: Sunday, March 10, 2024 1:29 PM
To: Planning Department
Subject: Petition to Revoke Coco Palms Permits

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To whom it may concern,

I am a Kaua'i resident and Professor of History at KCC. Please take action to revoke permits currently held by the current owners/developers of Coco Palms. They have acted in bad faith and will continue to do so if unchecked. There are too many bad outcomes which will drastically diminish the quality of life on Kauai. For example, just imagine tacking on an extra hour of commute time each way every day for the rest of our lives. But just as important, let's listen to Native Hawaiian voices. No more Coco Palms craziness. Revoke those permits!

Sincerely,
Mark Ombrello

Mark Ombrello PhD
History Faculty
University of Hawai'i, Kaua'i Community College
3-1901 Kaumuali'i Highway
Lihu'e, Hawai'i 96766-9500
Phone: (808) 631-7128
Office: Faculty 2 Building Room 104

From: Judith's Email <jcwhite54@gmail.com>
Sent: Sunday, March 10, 2024 1:37 PM
To: Planning Department
Subject: Coco Palms permits

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Kauai Planning Dept and Kauai County Council,

I strongly support the revocation of permits held by the current owners/ developers of Coco Palms. 30 years is more than enough time to be futzing around with this sacred parcel. It's embarrassing and disrespectful. Please do the Pono thing, and revoke these permits.

Mahalo nui,
Judith C. White, Psy.D.
Waipouli

Sent from my iPad

From: Valerie Weiss <valerieweiss31@gmail.com>
Sent: Sunday, March 10, 2024 1:46 PM
To: Planning Department
Subject: Coco Palms Hotel

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha

Please revoke the building permits for this unneeded project located in the very worst spot on our island.

If not for the countless exceptions to permitting laws and regulations granted to these developers by the County and State – no hotel would ever be approved. The tsunami zone and coastal impacts, the inland flooding that now occurs, the traffic, the hundreds of burial sites, the deep historical significance, the ancient fishponds, the already existing stench of a sewer system that's either dysfunctional or already overcapacity, the lack of housing for the nonexistent workforce that must be imported – are just a few of the development challenges.

The developers/owners have already demonstrated their lack of concern for the place, and for its cultural and historical significance.

Lots of promises made by the developer and their representatives, and **promises broken** by the same folks.

The developers are not acting in a pono fashion and have ignored the regulations for this historical site. This is no longer a proper place for a resort due to population levels, traffic gridlock for nearby residents and anyone else trying to get through the East Side. Plus the rising ocean has not been properly considered and this project is going to be directly impacted by that sooner than later.

Can we please look at the big picture and revoke the permits?

Mahalo.

Valerie Weiss, Wailua Homesteads.

From: Eliel Starbright <elielstarbright@gmail.com>
Sent: Sunday, March 10, 2024 2:39 PM
To: Planning Department
Subject: I strongly support the "Petition to Revoke" Coco Palms Hotel is on the Kauai

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Reference: Planning Commission, H. General Business, item 2 - Petition to Revoke. For the past year they've used adjacent state-owned public lands without a valid lease or permit (trespassing). They constantly grade and grub without permits and without the required archeological observer present. These incredibly important lands deserve preservation and community stewardship. Instead, in pursuit of a hotel pipe-dream that has long passed, these sacred lands are being trashed and desecrated. Eliel ,Kapaa

From: PAMELA BURRELL <pamelaburrell@mac.com>
Sent: Sunday, March 10, 2024 2:42 PM
To: Planning Department
Subject: Planning Commission, H. General Business, item 2 - Petition to Revoke.

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Planning Department,

I am in strong support of the "Petition to Revoke" the various permits held by the owners/developers of Coco Palms.

Enough is enough already - these permits are out of date, the developer/owner has not acted on the permits in a timely manner, and it is way past time for the Kaua'i Planning Commission to revoke the permits and make them start over.

When will this end??

Regards,
Pamela Burrell, Kalihiwai, Kaua'i

From: PAMELA BURRELL <pamelaburrell@mac.com>
Sent: Sunday, March 10, 2024 2:43 PM
To: Planning Department
Subject: Planning Commission, H. General Business, item 2 - Petition to Revoke.

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Planning Department,

I am in strong support of the "Petition to Revoke" the various permits held by the owners/developers of Coco Palms.

Enough is enough already - these permits are out of date, the developer/owner has not acted on the permits in a timely manner, and it is way past time for the Kaua'i Planning Commission to revoke the permits and make them start over.

When will this end??

Regards,
Pamela Burrell, Kalihiwai, Kaua'i

From: Maria Maitino <mmaitino@gmail.com>
Sent: Sunday, March 10, 2024 2:56 PM
To: Planning Department
Subject: Reference: Planning Commission, H. General Business, item 2 - Petition to Revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To the Planning Directors,

I am sending testimony in SUPPORT of "Petition to Revoke" the various permits held by the owners/developers of Coco Palms. The permits are out of date, the developer/owner has not acted on the permits in a timely manner, and it is way past the time for the Kaua'i Planning Commission to revoke the permits.

They had their chance, many chances, to do what they were supposed to do, if they wanted to develop Coco Palms into a hotel. They have gotten away with illegal actions. We don't need another hotel development. We can't give them one more chance.

Revoke their permits!!

Thank you,
Maria Maitino
Kilauea, Kauai

From: Bernard Lassalle <b.lassalle808@gmail.com>
Sent: Sunday, March 10, 2024 3:01 PM
To: Planning Department
Subject: NO to Coco Palms development!

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Nuff already!!

These developers have broken multiple laws and created negative environmental impacts!

Please do not approve any development plans. Return this property to the people of Kauai!

Thank you,

Bernard Lassalle

808-264-2399

Sent by phone

From: Lorraine Newman <alohalorraine@gmail.com>
Sent: Sunday, March 10, 2024 3:02 PM
To: Planning Department
Subject: Planning Commission, H. General Business, item 2 - Petition to Revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Kakau,

Please stop the madness and revoke the permits held by the current developer.

There is no longer any real and lasting benefit to the island to allow the continued abuse of the privilege you have accorded these developers.

They are in breach of their agreements (well documented), and it is their own fault that they didn't do proper due diligence when they bought in.

They have been given more than enough time to achieve their stated goal, which was always at the island's expense environmentally, culturally and realistically in terms of traffic, landfill waste and infrastructure in general.

It is now legally within the planning department's rights to revoke the permits.
Now is the time.

Mahalo,
Lorraine Newman
Kilauea

From: Dave Cunningham <cunnida@roadrunner.com>
Sent: Sunday, March 10, 2024 3:06 PM
To: Planning Department
Subject: RE: Coco Palms

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To Whom It May Concern;

It has been over thirty years! Broken promises, bad faith behavior and years of lies. Enough is enough.

A Hawaiian Cultural Center would be a much better use for the land. We have enough tourist facilities, condos, activities and hotels. Let's do something for the people who live here, love here and treat here with respect. The tourists might even learn that this is not Disneyland!

--

:Dave Cunningham
Hanapepe, HI
310-505-8155

From: David Dinner <gentlewaver@gmail.com>
Sent: Sunday, March 10, 2024 3:19 PM
To: Planning Department
Subject: Planning Commission, H. General Business, item 2 - Petition to Revoke.

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

If this Coco Palms fiasco were a movie, it would be an Academy Award comedy. But it has become very unfunny, and has reached the point of complete frustration to the citizens of Kaua'i in all areas of the island. The longer this persists, the more people are becoming angered at our government for allowing the lies, inaction, illegal action, and back door deals to continue. It is past time to revoke the permits and let's plan a project that will enhance Kaua'i. Mahalo for your consideration.

Aloha
David
Kilauea

David Dinner, DDS, LMT
President Elect, Rotary Club of Hanalei Bay, 2024-25.
Biodynamic,
Craniosacral Work, and Stillness Touch, Certified.
gentlewaver@gmail.com
808 639 7845

From: d g <danilfrisco@gmail.com>
Sent: Sunday, March 10, 2024 3:29 PM
To: Planning Department
Subject: Planning Commission H General Business, Item 2 - Petition to Revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Please support the "Petition to Revoke" the various permits held by the owners/developers of Coco Palms. These permits are out of date, the developer/owner has not acted on the permits in a timely manner, and it is way past time for the Kaua'i Planning Commission to revoke the permits and make them start over. The Petition to Revoke is being sponsored by the 501c3 Friends Of Maha'ulepu (FOM) on behalf of numerous residents who live in and/or have ancestors ties to the impacted area.

Thank you for your support!

From: linda@kauaidesign.com
Sent: Sunday, March 10, 2024 3:31 PM
To: Planning Department
Subject: Re: Planning Commission, H. General Business, item 2 - Petition to Revoke.

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear County Commisioners,

I am writing in **strong** support of the "Petition to Revoke" the various permits held by the owners/developers of Coco Palms. Enough is enough already - these permits are out of date, the developer/owner has not acted on the permits in a timely manner, and it is way past time for the Kaua'i Planning Commission to revoke the permits and make them start over. The Petition to Revoke is being sponsored by the 501c3 Friends Of Maha'ulepu (FOM) on behalf of numerous residents who live in and/or have ancestors ties to the impacted area.

The owners/developers have not acted in good faith and their time is **UP!**

Reef Capital and RP21, the Utah based owners and current would-be developers, represented by lobbyist/attorney Mauna Kea Trask (who also represents the billion dollar south-side Kukui'ula Development Company LLC) – should close up, sell the property to the county or a community based nonprofit – and go home.

Wailuanuiaho'āno is literally the birth place of Hawaiian royalty. These incredibly important lands deserve preservation and community stewardship. Instead, in pursuit of a hotel pipe-dream that has long passed, these sacred lands are being trashed and desecrated. Reef Capital, RP21 and or their contractor/surrogates, have been dumping, grading, and grubbing on conservation land and on state owned lands without permits, AND cutting down coconut trees of historical importance without permits, AND entering, occupying, and fencing off state lands without permits.

In testimony before the Board of Land and Natural Resources, 55 of the 60 people who submitted testimony in support of the owner/developer – are not long-time community members but rather Utah based employees, partners, investors, friends, or relatives of the developer/owner Reef Capitol, RP21, and related entities. However this fact is not apparent from the testimony since none of these individuals disclosed their relationship with the owners/developers. A cursory read of the testimony would lead most to believe these are local residents testifying in support of their community. However with Google as a friend the truth becomes apparent.

Government agencies need to stop looking the other way and stop accepting the excuses and downright lies offered by the owner and developer. The owner/developer needs to realize this is not Utah, fold up their tent, sell out at fair market value to the county or community based non-profit, and leave.

If not for the countless exceptions to permitting laws and regulations granted to these developers by the County and State – no hotel would ever be approved. The tsunami zone and coastal impacts, the inland flooding that now occurs, the traffic, the hundreds of burial sites, the deep historical

significance, the ancient fishponds, the already existing stench of a sewer system that's either dysfunctional or already overcapacity, the lack of housing for the nonexistent workforce that must be imported – are just a few of the development challenges.

The developers/owners have already demonstrated their lack of concern for the place, and for its cultural and historical significance.

They've cut down 70 to 100 coconut trees from a historical coconut grove without the necessary permissions from the state. They dumped these trees on conservation zoned lands and then used heavy machinery to grub and grade, again without the legal permits (I personally witnessed this and have video footage to prove it).

For the past year they've used adjacent state-owned public lands without a valid lease or permit (trespassing). They constantly grade and grub without permits and without the required archeological observer present. I drive by this area daily and personally witness this activity (and yes I have pictures).

They've failed to abide by the required county approved construction debris management plan. Their permits propose putting 45-50 hotel parking places on state publicly owned lands. They've not conducted and have no plans to conduct an environmental impact statement (EIS) even though the development has a direct impact on sensitive coastal areas, includes areas now on the National Register of Historical Places, and is home to various threatened species of native birds. I could go on...

The Utah developers previous "representative" who first appeared before the Kaua'i Planning Commission in 2022, is a convicted felon. He committed mortgage fraud on victims in Nevada, Montana, and Hawai'i. He was convicted of Conspiracy to Commit Mail, Wire and Bank Fraud in the Nevada District Court on 4/30/13. Needless to say, once this information came to light, this fellow no longer appears before the Planning Commission nor any public body. He seems to have just faded away into the background.

The answer is community ownership and community stewardship. The County, State, OHA, and/or our friends in Washington DC could partner and make this happen. Kamehameha Schools, other Hawaiian Trusts, other private nonprofit Kanaka-led community organizations, and/or other national trusts and foundations could likewise purchase, preserve and manage these incredibly important lands. There are uberwealthy individuals living on Kaua'i who could purchase these lands and partner with local nonprofit community groups.

I live just blocks away from the former Coco Palms property and have testified countless times on this issue. Show some backbone. **Enough is enough!**

Linda Pizzitola
KauaiDesign.com
808.635.3703

From: judie@aloha.net
Sent: Sunday, March 10, 2024 3:49 PM
To: Planning Department
Subject: H General Business #2 Petition to Revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Department,

I am writing to testify that I strongly believe that hotel development of the old Coco Palms site is the worst possible thing for this area. The area has terrible traffic conditions. The developers have drug this on beyond reason. I strongly support the Petition to Revoke.

Thank you.

Judie Hoeppner

808 639 0212

From: Lorna Holmes <lholmes@hillsdale.edu>
Sent: Sunday, March 10, 2024 3:51 PM
To: Planning Department
Subject: Planning Commission, H. General Business, item 2 - Petition to Revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Commission,

Please vote to revoke the lapsed permits to develop the Coco Palms Hotel property. The developer and owner never acted on the permits in a timely manner, and it is past time to revoke them, and at the least make them start over. Leaving the property in this state is unconscionable.

Mahalo,
Lorna Holmes
Honolulu 96817

From: Teresa Landreau <terlandreau@gmail.com>
Sent: Sunday, March 10, 2024 3:59 PM
To: Planning Department
Subject: Support revocation of expired Coco Palm permits

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

I write in strong support of the “Petition to Revoke” the various permits held by the owners/developers of Coco Palms. Enough is enough already - these permits are out of date, the developer/owner has not acted on the permits in a timely manner, and it is way past time for the Kaua’i Planning Commission to revoke the permits and make them start over. Mahalo nui loa. Please do the right thing.

From: Leslie Larsen <leslie.larsen@icloud.com>
Sent: Sunday, March 10, 2024 4:13 PM
To: Planning Department
Subject: Planning Commission, H. General Business, item 2 - Petition to Revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Kaua'i Planning Commission,

I strongly support the "Petition to Revoke" all permits, agreements or arrangements made with the current developers/owners of what has been known as Coco Palms (Reef Capital and RP21, the Utah based owners and current would-be developers, represented by lobbyist/attorney Mauna Kea Trask)

This land, Wailuanuia'hano, is sacred, a pearl in the strand of Kaua'i Heiau. It is of immense cultural and educational significance for both locals and tourists. It should be preserved as such for and by the community.

It is an environmentally fragile wetlands at the mouth of Wailua River that should be restored and protected to improve the health of the eco system and in preparation for rising water levels. Wetlands are part of Nature's systems to handle surges.

It is not an investment opportunity to be exploited by investors who already shown true colors and have not acted in good faith.

A tourist development there with flushing toilets, sewage, added black water, is an environmental disaster in the making. It is also a traffic nightmare with the added cars entering and exiting at one of Kaua'i most congested traffic snarls.

Please preserve this land and support the Petition to Revoke, sponsored by 501c3 Friends of Maha'ulepu (FOM).

Once it's gone there no getting it back. It is precious please preserve it.

Mahalo Nui Loa,
Leslie Larsen
14 year resident Anahola

From: Anita Harburg <anita.harburg@yahoo.com>
Sent: Sunday, March 10, 2024 4:36 PM
To: Planning Department
Subject: Planning Commission, H. General Business, item 2 - Petition to Revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

I support the "Petition to Revoke " the various permits held by the owners/developers of Coco Palms. These permits are out of date and the developer/owner has not acted on the permits in a timely manner. The actions the owner/developers have taken violated conditions of permits including cutting down palm trees, illegal grubbing and use of State land.

It is time to revoke the permits now.

Thank you,

Anita Anderson
4462 Imua Pl
Kilauea 96754

[Sent from Yahoo Mail for iPhone](#)

From: Richard Janik <rjj5000@outlook.com>
Sent: Sunday, March 10, 2024 4:53 PM
To: Planning Department
Subject: Planning Commission, H. General Business, item 2 - Petition to Revoke.

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Sir/Madam:

Enough already. Revoke the planning permit for Coco Palms Redevelopment.
30 years and counting, revoke the permit. The citizens of Kauai have spoken.

Richard J Janik, MD

4548 Ekolu St.

Lihue, HI 96766

March 12, 2024

Richard J Janik

From: GINNY Abbate <grammabear92629@yahoo.com>
Sent: Sunday, March 10, 2024 5:09 PM
To: Planning Department
Subject: Coco Palms

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

I vigorously support the revoking of permits to the owners and developers of Coco Palms as they have violated numerous requirements. In addition the property should belong to the Hawaiians with ancestral history to the land. Thank you
Virginia Abbate

Sent from my iPhone

From: laurel francis <lafxoxo@yahoo.com>
Sent: Sunday, March 10, 2024 5:13 PM
To: Planning Department
Subject: Petition to Revoke ; item 3

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Please please stop the
Coco Palms development whose
Permits are out date and contrary to the needs and will of the people of our beloved island.
Thank you.
Laurel Francis, Kilauea
Sent from my iPhone

From: Georgia Hoopes <hoopesgeorgia@gmail.com>
Sent: Sunday, March 10, 2024 6:25 PM
To: Planning Department
Subject: Coco Palms Developer Permits

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

When you look at the ruins of what once was Coco Palms, "Why?!", comes to mind. It's been decades of decay and neglect. The latest group of developers have proven that they don't care for the land and don't respect the cultural significance and sacredness it holds for the local community. I personally feel tortured by their disregard. What are they doing besides desecration of cultural sites? What has happened and continues to happen is unacceptable. Their permits must be revoked.

Mahalo for your consideration.

Georgia Hoopes, Kalaheo

From: sheri macaya <sherimacaya@yahoo.com>
Sent: Sunday, March 10, 2024 8:31 PM
To: Planning Department
Subject: Planning Commission, H. General Business item 2- Petition to Revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

We strongly oppose the hotel development on the Coco Palms property.

We strongly support the Petition to Revoke the various permits held by the owners/developers of Coco Palms. These permits are out of date, the developer/owner has not acted on the permits in a timely manner, and it is very much past time for the Kauai planning commission to revoke the old permits and make them start over.

These incredibly important lands deserve preservation and community stewardship. This area is the birth place of Hawaiian royalty! These sacred lands have been trashed and desecrated. There has been dumping, grading, grubbing, and cutting of coconut trees of historical importance on conservation land and state owned land without permits.

There are so many reasons that this is not the right place for the Coco Palms development. The tsunami zone and coastal impacts, the Island flooding that now occurs, the traffic, the hundreds of burial sites, the deep historical significance, the ancient fishponds, the already existing stench of sewer system that's either dysfunctional or already over capacity, the lack of housing for the nonexistent workforce that must be imported- are just a few of the development challenges.

The developers/owners have already demonstrated their lack of concern for the place, and for it's cultural and historical significance. They've used adjacent state-owned public lands without a valid lease or permit. That is trespassing! They have failed to abide by the required county approved construction debris management plan. They haven't conducted and have no plans to conduct an environmental impact statement or EIS even though the development has a direct impact on sensitive coastal areas, includes areas now on the National Register of Historical Places, and is home to various threatened species of native birds.

The answer here is community ownership and stewardship. The time of endless permit extensions is over. Kamehameha Schools, other Hawaiian Trusts, and other private nonprofit Kanaka-led community organizations, and other national trusts and foundations could purchase, preserve and manage these incredibly important lands. The County, State, OHA, and/or our friends in Washington DC could partner and make this happen. There are ultra wealthy individuals living on Kauai who could help purchase these lands and partner with local nonprofit community groups.

Stewardship is a much better solution for this area than development. Help us do the right thing and revoke the permits for the Coco Palms development.

Sincerely,

Robert and Sheri Macaya
Kapaa

From: Jordynn Haumea-Thronas <jkht@hawaii.edu>
Sent: Sunday, March 10, 2024 8:35 PM
To: Planning Department
Subject: Planning Commission, H. General Business, item 2 - Petition to Revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha mai kākou,

I am emailing in support of the revocation of permits for Coco Palms LLC. These permits are out of date, the developer/owner has not acted on the permits in a timely manner, and the Kaua'i Planning Commission must revoke the permits and require the developer to start over the permitting process AND complete an environmental assessment since one has NEVER been done and approved to the parcel.

Mahalo,

Kamāli'i Haumea-Thronas

From: Bruce hultgren <bhultgren01@gmail.com>
Sent: Sunday, March 10, 2024 8:49 PM
To: Planning Department
Subject: Support petition to revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Please revoke the permits held by the developers of Coca Palms. These permits are long out of date. The holders have demonstrated time and again that they are both incompetent and uncaring about the environment.

Revoke these permits now, please.

If any project should be considered on this site, it should have new permits and new developers. This has gone on for way too long.

Bruce L Hultgren

From: Ellen Ebata <hawaiiellie@gmail.com>
Sent: Sunday, March 10, 2024 10:50 PM
To: Planning Department
Subject: Planning Commission, H. General Business, item 2 - Petition to Revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Commission,

A simple request: PLEASE REVOKE THE PERMITS OF
COCO PALMS' CURRENT DEVELOPERS, Coco Palms Hui LLC
and RP 21 Coco Palms LLC.

Surely you yourselves must see the wisdom and necessity of engaging
in this action. Add a huge serving of courage to the mix and plans for
what those parcels are really meant to become, can start to gel.

Public parking on the north and south sides of the development on public trust ceded
lands are planned but they do not have an RP for the Kuamoo parcel and their alternate
parking area would contaminate
historic fish ponds and violate the 25-foot buffer zone required.

A requirement for a shoreline managed area permit is a 5-year+
RP (Shoreline Management Rules 1.4 Subsection A) which the
developers do not have.

Therefore, the permit letter was issued on a categorically flawed
legal basis, the developers were never qualified candidates and
THEIR PERMITS MUST BE REVOKED.

Any State land determinations should be accompanied by an Environmental
Assessment/Environmental Impact Statement -
planned construction of this magnitude most certainly warrants
one but an EIS has never been done!

A conditional/ critical habitat plan has never been developed for
endangered seabirds which make the area home; nor has
guidance been sought from Fish & Wildlife.

Gridlock traffic has plagued the road fronting the area - an added
lane has eased the issue but the traffic generated by a large resort

cannot be handled by the current infrastructure.

Coastal erosion does not discriminate. Waves are already pounding against the wall across the street. What plans have the developers submitted for dealing with the advancing destruction of climate catastrophe?

The problems of the planned development are legion. By not taking decisive steps to make this all pono, you play Russian Roulette with one of the most sacred sites in all of Hawaii, where alii were born, lived and engaged in work and play.

The developers have been sitting on these sacred lands for years without fulfilling requirements or properly completing construction. Is this land banking rather than allowing the community its rightful use of these sacred grounds? Sure seems like it.

PLEASE REVOKE THE PERMITS OF THE DEVELOPERS OF
COCO PALMS AND DO IT NOW.

Thank you for your attention to this matter.

Sincerely,

Ellen Ebata
Kauai resident

From: Sylvia Partridge <sylpartridge@yahoo.com>
Sent: Sunday, March 10, 2024 10:57 PM
To: Planning Department
Subject: No permits to Coco Palms developers

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha to the Planning Department,

I object to any permits being issued to the current developers. They have not satisfied legal requirements and apparently are incapable of doing so.

Sylvia Partridge
3800 Kamehameha Rd., # 22
Princeville, HI 96722

[Sent from Yahoo Mail for iPhone](#)

From: Charlee kaleiohi <charlee.kaleiohi@gmail.com>
Sent: Monday, March 11, 2024 12:05 AM
To: Planning Department
Subject: Coco Palms - PETITION TO REVOKE!

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Kaua'i Planning Commission,

I am addressing you folks to show my support during Tuesday's March 12, 2024 Agenda General Business Item 2 - PETITION to REVOKE! I'm writing and pleading to you Chair, Vice-Chair, and members of the Kauai Planning Commission's board to understand the detrimental implications that these developers will attract with the construction of a resort on and in one of the birth places of Hawaiian Royalty and LEADERSHIP in Wailuanuiaho'āno, Kaua'i. Hawai'i is not Disneyland/world, we cannot always be the most "happiest and magical place on earth" this place is not meant to accommodate every and anyone that comes here when ever they feel like it. We the descendants and future of Kaua'i have to think about our own people and what we NEED to do for them to make Kaua'i the most HAPPIEST and MAGICAL place on earth, for them and their keiki! As of now in this day and age Kaua'i and Hawai'i as a whole isn't very "happy or as magical" as it used to feel like when I was a kaikamahine running along the shores and streets of my own hometown, but rather now feels to be more repulsive and a hefty expense we're required to pay if we want to remain and preserve what little we have left in and of our Kaua'i's Native and Local Communities. I appreciate you taking the time to view my testimony and consider my support for General Business Item 2 - PETITION to REVOKE during your vote, malama pono and a hui hou.

Mahalo Piha,
Char-Lee Kaleiohi

From: Gloria Matsuba <matsuba.gy@gmail.com>
Sent: Monday, March 11, 2024 1:18 AM
To: Planning Department
Subject: Planning Commission, H. General Business, item 2 - Petition to Revoke.

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Members of Planning Commission,

That you continue to discuss the Coco Palms Development Project is so disappointing. Why even "discuss" building a 350 room hotel on sacred grounds by those who have already shown their disrespect of the land by destroying 70 coconut trees, i.e. coco palms? Why even "discuss" a project which the community overwhelmingly opposes? Of course you are familiar with the traffic congestion of that narrow corridor as well as the safety issues that it presents. Several decades ago, Kauai was warned that a tsunami generated in the Aleutian Islands was headed toward the island. Schools released students, businesses released workers, even the state and county released nonessential workers to seek safety at home or in shelters. The moment that the tsunami was predicted to hit Kauai, the Wailua Bridge was packed with cars. Fortunately, there was no tsunami. Kauai was spared. However, Kauai was not spared in 1992 when we were the target for Hurricane Iniki which wreaked havoc on the island. Hundreds of houses and buildings were demolished; trees were splintered and denuded; roadways were damaged. More than 30 years later, the ruins that were Coco Palms remain to remind us of the devastation we endured in loss of lives and property and opportunity.

Members, be sensitive to the signs of the land. Help educate those who are not familiar with the culture, the land, the ocean to keep them out of harm's way. Too many unsuspecting visitors lose their lives on the island because they are unprepared for or unaware of or cannot conceive the power of nature. Lulled by her beauty, they swim too far or climb too high. It behooves you to take care of the land, the people, the culture of Hawaii. You can do that by revoking the permit to develop an area that is not meant to be developed but to be what it is - a sacred site for all to experience.

Mahalo from a life-long Kauai resident nearing her 80th birthday and submitting testimony for the first time. I pray that what I say counts.

Gloria Matsuba
matsuba.gy@gmail.com

From: Eden Marie Peart <edenmariepeart@gmail.com>
Sent: Monday, March 11, 2024 2:57 AM
To: Planning Department
Subject: Testimony- Coco Palms

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Planning Commission,

Friends of Maha`ulepu ihas submitted important concerns and recommendations in the Petition to Revoke Coco Palms Development Permits — which are supported by science and the local community, including myself.

Thank you for acknowledging and responding accordingly, and revoking these permits.

With aloha,
Eden Peart
4704 Hauaala Rd
Kapaa, HI 96746

Sent from my iPhone

From: Rick Gerding <rickg1991@icloud.com>
Sent: Monday, March 11, 2024 7:45 AM
To: Planning Department
Subject: Coco palms petition to revoke

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Time to clean up the act here. Enough of this eyesore and dishonesty from developers. Shut this down for good and make a park for the the people of Kauai. Elvis is gone and not coming back!

Rick Gerding

From: Louise Arakaki <louisearakaki@gmail.com>
Sent: Monday, March 11, 2024 7:52 AM
To: Planning Department
Subject: CocoPalms

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha and thank you for your service to the community

While I appreciate the complexity of many of the decisions that you make, the decisions around Coco Palms revival should not be hard- IT IS TIME TO REVOKE THE OUTDATED PERMITS AND START OVER

I got married after Iniki and just celebrated my 30th anniversary- needless to say, much has changed in those three decades. When I arrived in 1973 Coco Palms was an active hotel, the population was around 30,000 and Wailua Bay had a real beach plus area for parking- to say things are different now is an understatement.

We have learned much since the start of the Hawaiian renaissance of the importance of cultural integrity - where Coco Palms is situated is important to our host culture. It is also located at an already congested traffic area and the effects of sea level rise are evident. Infrastructure at Lydgate is woefully insufficient for current needs, let alone the addition of increased population density.

Please, please, please have the moral and political strength to JUST SAY NO- It is time to reconsider the facts in the light of today's reality.

Thank you for your consideration in this important matter

Sincerely,

Louise Arakaki
Kapahi resident

From: teresa tico <haenagirl@gmail.com>
Sent: Monday, March 11, 2024 8:22 AM
To: Planning Department
Subject: Written Testimony re: item H2, FOM Petition to Revoke, Planning Commission Mtg 3/12/2024

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To Kauai Planning Commissioners:

I am writing in my individual capacity, as a resident of the County of Kauai,
in support of the Petition To Revoke (Coco Palms) Permits filed by Friends of Maha'ulepu.

In reviewing the Planning Director's reasons for recommending denial of the Petition, I have to ask, "How much longer will the County continue to give Coco Palms developers extensions to fulfill legally required conditions that should have been met years (indeed, decades) ago? We've indulged the developers far too long when deadlines have not been met. **It's past time to revoke the permits.**

Further, the current developer **does not** have rights to the Revocable Permits (RPs) for the State land parcels upon which the County has approved permits. As of December 31, 2023, all RPs expired. To date, the Land Board has not issued any RPs for these State owned parcels.

I Ola Wailuanui, a Hawaii non profit organization, has applied for the RPs and is under consideration by DLNR. Why is the County allowing the Coco Palms developers to proceed with permits for land the developers do not own, control, or have rights to? This is not right, nor is it legal.

Grant the Petition to Revoke. If the developers have to start over, they will be required to comply with all current laws, not an obsolete Iniki Ordinance that has no relevance in today's world.

Mahalo,
Teresa Tico, Attorney
PO Box 220
Hanalei, HI 96714
(808) 639-9080

Puali'ili'imaikalani Rossi-Fukino
356 Likeke Place
Kapa'a, Kaua'i, HI 96746
March 11, 2024

To The Members of Kaua'i's Planning Commission:

Aloha mai kākou,

I am writing on behalf of my 'ohana and in my capacity as president of I Ola Wailuanui (IOW) to address agenda item H.2 in regards to the revocation of permits issues to Coco Palms Hui, LLC, and RP 21, LLC. My 'ohana and I strongly support the Petition to Revoke the various permits held by the owners/developers of Coco Palms. Not only are these permits out of date, the developer/owner has not acted on the permits in the time granted to them. Now is the time for the Kaua'i Planning Commission to do what is pono, to show support for the community that they represent, and revoke the permits and make the developer/owner start over. We are asking that you please take the time and consideration to truly think about what is best for this 'āina. We have a kuleana to honor and protect this 'āina momona for our community and for further generations.

As a cultural practitioner and lineal descendent of Wailua, I am very concerned with the lack of respect shown by the developer/owner towards the community, towards the iwi kūpuna, towards the culture of our people, and towards the future generations of cultural practitioners. I truly do not understand why this has gone on for so long.

There has been a clear history of abuse to this 'āina. Our group, I Ola Wailuanui, has a vision to work with the community to protect this place that honors the people of Kaua'i. We do not have the capacity to accommodate more people, more cars, and more development. Now is the time for healing, for restoration, and for doing what is pono for this land.

Mahalo for your consideration.

Me ke aloha,

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines, positioned above the printed name.

Pua Rossi-Fukino (and my children - Kualau Rossi-Fukino and 'Ilikeha Rossi-Fukino)

CADES SCHUTTE
A Limited Liability Law Partnership

CALVERT G. CHIPCHASE 7757
MAUNA KEA TRASK 8418
KEOLA WHITAKER 11200
1000 Bishop Street, Suite 1200
Honolulu, HI 96813-4212
Telephone: (808) 521-9200
Fax: (808) 521-9210

Attorneys for
RP21 COCO PALMS LLC, a Utah Limited Liability
Company and COCO PALMS HUI, LLC a Hawaii
Limited Liability Company

BEFORE THE PLANNING COMMISSION
OF THE
COUNTY OF KAUAI

In the Matter of the Petition of:

FRIENDS OF MAHAULEPU

To revoke Class IV Zoning Permit
Z-IV-2015-8, Project Development Use
Permit PDU-2015-7, Variance Permit
V-2015-1 and Special Management Area
Use Permit SMA(U)-2015-6 issued to
Coco Palms Hui, LLC for use at Wailua,
Kaua'i, Tax Map Keys 4-1-003:004 (por.),
005, 007, 011, and 017 and 4-1-005:014
and 017.

Permit Nos. Z-IV-2015-8, PDU-2015-7, V-
2015-1, SMA(U)-2015-6

REPLY TO PETITIONER FRIENDS OF
MAHAULEPU'S MEMORANDUM IN
OPPOSITION TO RP21 COCO PALMS
LLC AND COCO PALMS HUI LLC'S
PETITION FOR INTERVENTION AND
REPLY TO OPPOSITION TO
PETITIONER'S SUPPLEMENT TO
PETITION; DECLARATION OF MAUNA
KEA TRASK; EXHIBITS "27"- "30"

CERTIFICATE OF SERVICE

Planning Commission Hearing:
Date: March 12, 2024
Time: 9:00 a.m.
Place: Lihue Civic Center Rm. 2A-2B

**REPLY TO PETITIONER FRIENDS OF MAHAULEPU'S MEMORANDUM
IN OPPOSITION TO RP21 COCO PALMS LLC AND COCO PALMS HUI
LLC'S PETITION FOR INTERVENTION AND REPLY TO OPPOSITION TO
PETITIONER'S SUPPLEMENT TO PETITION**

I. INTRODUCTION

On or about November 27, 2023, FRIENDS OF MAHAULEPU, a domestic non-profit corporation ("**FOM**") filed its Petition for Revocation of Permit Nos. Z-IV-2015-8, PDU-2015-7, V-2015-1, SMA(U)-2015-6 (the "**Permits**") Issued to Coco Palms Hui, LLC, (the "**FOM Petition**").

On or about January 9, 2024, FOM filed a Supplement to the FOM Petition (the "**FOM Supplement**").

On February 20, 2024, RP21 COCO PALMS LLC ("**RP21**") and COCO PALMS HUI, LLC ("**Hui**") filed its (1) Petition for Intervention; and (2) Memorandum in Opposition to the FOM Petition (the "**RP21 and Hui Petition and Opposition**").

On February 27, 2024, RP21 and Hui filed its Opposition to FOM's, Supplement to Petition for Revocation of Permits Issued to Coco Palms Hui LLC dated January 9, 2024 (the "**RP21 and Hui Opposition to FOM Supplement**").

On March 1, 2024, FOM filed an Opposition to RP21 and Hui's Petition for Intervention and Reply to Opposition to Petitioner's Supplement to Petition (the "**FOM Opposition and Reply**").

A majority of the arguments made in the FOM Opposition and Reply have already been conclusively addressed by RP21 and Hui in the RP21 and Hui Petition and Opposition and the RP21 and Hui Opposition to FOM Supplement, which RP21

and Hui incorporate herein by reference including: (1) Hui is the current lessee of the state land identified as the coconut grove; (2) RP21 and Hui's rights have vested; (3) RP21 and Hui have the requisite interest in the state lands included within the Historic Coco Palms Resort District; (4) RP21 and Hui have complied with Condition 3 "SHPD requirements"; (5) Conditions 5 and 20 relating to the "beach loop" shuttle are not illegal and RP21 and Hui are compliant therewith; (6) Construction commenced as required by Condition 15; (7) RP21 and Hui can and will comply with all parking requirements; (8) the 2015 TIAR can be updated; (9) Condition 14 "affordable housing" has not been violated; and (10) Condition 17 "demolition" was met. RP21 and Hui respectfully submit this reply to correct the inaccuracies and address the new arguments contained in the FOM Opposition and Reply.¹

II. ARGUMENT

A. RP21 and Hui's Intervention is Not Procedurally Defective

Intervention proceedings are governed by Chapter 4 of the Rules of Practice and Procedure of the Kaua'i Planning Commission ("**Commission Rules**"). Under Commission Rule 1-4-1:

All Persons who have hold interest in the land, who lawfully reside on the land, or who otherwise can demonstrate that they will be so directly and immediately affected by the proposed application that their interest in the Proceeding is clearly distinguishable from that of the general

¹ Although not raised in any of FOM's pleadings, RP21 and Hui want to address the findings in the Planning Director's Report concerning compliance with Permit Condition No. 5. First, the final building plans for the Seashell restaurant do not deviate substantially from the conceptual plans presented to the Department of Land and Natural Resources. *See*, Declaration of Mauna Kea Trask at ¶9. Second, due to the nature of the shoreline and location and historic nature of the Seashell restaurant and accessory structures thereto, a certified shoreline or other shoreline survey is not required.

*public **shall** be admitted as Parties-Intervenors upon timely written application for intervention (emphasis added).*

RP21 and Hui have established their standing as required under Commission Rule 1-4-1. *See*, RP21 and Hui Petition and Opposition, section II.B. at 5-6 and section III.A. at 7-9, and Exhibits 5-9; and RP21 and Hui Opposition to FOM Supplement, section II.A. at 2-4. Upon establishing its standing, the Commission Rules provide that RP21 and Hui **shall** be admitted as Parties-Intervenors.

The County of Kaua'i Planning Commission ("**Commission**") is holding a hearing on FOM's Petition. The intent and purpose of the Commission Rules is to, "provide a systematic and democratic method of conducting meetings and hearings in order to insure [sic.] that all persons and parties will have an opportunity to participate in an open and orderly manner." *See*, Commission Rule 1-1-1. Nothing in the Commission Rules prohibits intervention at the initial reasonable cause hearing stage of the revocation process described in Commission Rule 1-12-5, nor do the Commission Rules allow holding RP21 and Hui's Petition to Intervene in abeyance. In fact, Commission Rule 1-4-8 requires all petitions to intervene be reviewed and decided by the Commission **prior to the commencement** of the hearing. Thus, RP21 and Hui's Petition to Intervene at this stage of the proceedings must be reviewed and granted prior to conducting a hearing on FOM's Petition.

B. Hui is the Lessee of the Coconut Grove

As detailed in the RP21 and Hui Petition and Opposition, Hui is the lessee of General Lease No. S-4878 covering Tax Map Key ("**TMK**") No. (4) 4-1-003-005 by mesne assignment under the Assignment of Lease and Easements effective as of

July 17, 2014, as approved by the Board of Land and Natural Resources (“**BLNR**”) at its meeting held May 25, 2018. *See*, RP21 and Hui Petition and Opposition Exhibit 6 at 21. Further, as fee owner of the parcels identified as TMK Nos. (4) 4-1-003:004, 007 and TMK No. (4) 4-1-005:014, RP21 is the holder of five other State leases and easements that are tied to the private hotel property, including: (1) GL 4645 (a term non-exclusive easement for access and utility purposes); (2) GL 4244 (a term non-exclusive easement for sewer purposes); (3) Land Office Deed (“**LOD**”) 28180 (a perpetual easement for drainage ditch, pedestrian walkways, lagoon and culvert purposes); (4) LOD 27442 (a perpetual easement for sewer purposes); and (5) LOD 12850 (a perpetual easement for road purposes). *See* RP21 and Hui Petition and Opposition Exhibit 7 at 7.

Any confusion regarding the assignment issue is due to the fact that the paperwork formally consenting to the assignment and amending the lease for the coconut grove, along with any attendant easements and land dispositions, has been held up for years. However, on February 29, 2024, the Kaua’i District Office of the Land Division of the Department of Land and Natural Resources provided RP21 and Hui with the preliminary approved Consent to Quitclaim Assignment of Lease and Easement, and the Amendment of State of Hawaii Lease and Easements both signed and approved by the Attorney General’s Office. *See*, Exhibit 27 and Declaration of Mauna Kea Trask (“**Trask Dec.**”) at ¶7. These documents have been sent out to the necessary parties for signature and eventual recordation. Trask Dec. at ¶8.

C. **RP21 and Hui Did Not Grade or Grub in Conservation Lands**

FOM asserts that RP21 and Hui illegally graded and grubbed within the mauka portion of the parcel identified as TMK No. (4) 4-1-003-004. The subject area is located within the State Land Use Conservation District. *See*, FOM Opposition at Exhibit 32.

First, neither the County of Kaua'i Planning Department ("**Department**") nor the Commission have jurisdiction to regulate land use and zoning within the Conservation District. *See*, Hawai'i Revised Statutes ("**HRS**") §205-5(a). None of the subject permits sought to be revoked pertain to this area, and any alleged activities that occurred in the Conservation District must be addressed separately by the State of Hawai'i Office of Conservation and Coastal Lands ("**OCCL**"). *Id.*

Second, no such grading or grubbing occurred. Attached as Exhibit 28 is RP21 and Hui's response to the OCCL Notice of Alleged Violation and Order (ENF KA-23-30). Exhibit 28 is a full and accurate description of what really happened. In short, at the request of neighbors and with the help of a Native Hawaiian traditional and customary practitioner, RP21 and Hui paid for and substantially completed a significant clean-up of this area which had, over the years, turned into a nuisance and area of criminal activity containing dozens of derelict vehicles and tons of trash. RP21 and Hui would have completed the clean-up if they hadn't been wrongfully accused of illegal activities and forced to stop. What Mr. Hooser observed

was the clean-up of this area, not its destruction. This matter is pending before the OCCL and will be resolved appropriately.

D. RP21 and Hui's Rights Have Vested

RP21 and Hui never claimed that their vested rights excused them from complying with their permit obligations. However, RP21 and Hui have established that no permit conditions have been violated. Instead, FOM's Petition is a thinly disguised attempt to revoke the Permits simply because they don't want the historic Coco Palms hotel to be repaired and restored. To this end, the Commission cannot revoke the permits simply because a small group of individuals oppose the restoration of Coco Palms at any cost.

E. RP21 and Hui Have Complied With Conditions 5 and 20

RP21 and Hui did not "acknowledge" that the "beach loop" shuttle" may trigger compliance with DLNR or HRS Chapter 343 requirements. In fact, RP21 and Hui explicitly said that HRS Ch. 343 review doesn't apply because the "beach loop" is on County land and falls under County EIS exemptions. *See*, RP21 and Hui Petition and Opposition at 12-13.

Neither RP21 nor Hui are proposing to use the County park lands for commercial purposes. Instead, the Commission is requiring them to shuttle hotel guest all along the coconut coast as a traffic mitigation measure. RP21 and Hui have provided clear dated pictures showing that the County park lands are not makai of the shoreline and are not state lands.

F. RP21 and Hui Complied With Condition 28

In 2016, Hui, while under different management, consulted with the U.S. Fish and Wildlife Service (“FWS”). *See*, Exhibit 29. At that time, Hui contracted with Reginald David to interface and consult with FWS on its behalf.

Upon resuming the repair and restoration of Coco Palms, RP21 and Hui again engaged Reginald David to act as their consultant. *See*, Exhibit 30. Based upon his prior contact with FWS, an updated survey for waterbirds performed on August 30, 2023, and guidance from FWS’ Animal Avoidance and Minimization Measures (USFWS-PIFWO, 2023), Mr. David conducted an Endangered Avian Resource Assessment at the Coco Palms Hotel and created a training module for working at Coco Palms. *Id.* Thus, RP21 and Hui are in full compliance with Condition 28.

V. CONCLUSION.

FOM is steadfast against the repair and restoration of the Historic Coco Palms Resort District. Whether unintentional or not, FOM’s Petition and their related pleadings are thick with factual inaccuracies and invective, and thin on evidence and legal precedent.

Taken as a whole, FOM has clearly failed to sustain its burdens of proof, production and persuasion to show that it has standing to file their Petition and that the Commission should issue an Order to Show Cause.

Accordingly, the Planning Commission should:

A. Admit RP 21 and Hui as Intervenor;

- B. Deny FOM's Petition; and
- C. Grant such further relief as may be just.

DATED: Līhu'e, Hawai'i, March 11, 2024.

CADES SCHUTTE LLP
A Limited Liability Law Partnership



CALVERT G. CHIPCHASE IV
MAUNA KEA TRASK
KEOLA WHITAKER

Attorneys for
RP21 COCO PALMS LLC, and
COCO PALMS HUI, LLC

BEFORE THE PLANNING COMMISSION
OF THE
COUNTY OF KAUAI

In the Matter of the Petition of:

FRIENDS OF MAHAULEPU

To revoke Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit PDU-2015-7, Variance Permit V-2015-1 and Special Management Area Use Permit SMA(U)-2015-6 issued to Coco Palms Hui, LLC for use at Wailua, Kaua'i, Tax Map Keys 4-1-003:004 (por.), 005, 007, 011, and 017 and 4-1-005:014 and 017,

Permit Nos. Z-IV-2015-8, PDU-2015-7, V-2015-1, SMA(U)-2015-6

DECLARATION OF MAUNA KEA TRASK

DECLARATION OF MAUNA KEA TRASK

I, MAUNA KEA TRASK, hereby declare as follows:

1. I make this declaration based upon personal knowledge, and I am competent to testify to the matters set forth herein.
2. I am a partner at the law firm of Cades Schutte and one of the attorneys for RP21 COCO PALMS LLC, a Utah Limited Liability Company ("RP21") and COCO PALMS HUI, LLC a Hawaii Limited Liability Company ("Hui").
3. Attached as Exhibit 27 are true and accurate copies of: (1) Amendment of State of Hawaii Lease and Easements; and (2) Consent to Quitclaim Assignment

of Lease and Easement, both preliminarily approved and signed by Deputy Attorney General Colin J. Lau on February 13, 2024.

4. Attached as Exhibit 28 is a true and accurate copy of RP21 and Hui's response to the Office of Conservation and Coastal Lands ("**OCCL**") Notice of Alleged Violation & Order dated April 19, 2023 ("**ENF KA-23-30**").

5. Attached as Exhibit 29 is a true and accurate copy of an email exchange that occurred in July 2016 between Chad Waters of Hui and Adam Griesemer of the U.S. Fish and Wildlife Service ("**FWS**") regarding coordination and consultation between Hui and FWS concerning ESA technical assistance for the Coco Palms Project.

6. Attached as Exhibit 30 is a true and accurate copy of AECOS No. 1791 Endangered Avian Resources Assessment at the Coco Palms Hotel, Wailua Kauai dated October 27, 2023, as revised.

7. On February 29, 2024, Cades Schutte Office Manager Billie Hairston went to the Kaua'i District Office of the Land Division of the Department of Land and Natural Resources and picked up the preliminarily approved Consent to Quitclaim Assignment of Lease and Easement, and the Amendment of State of Hawaii Lease and Easements attached here as Exhibit 27.

8. On or about March 4, 2024, the Cades Schutte Kaua'i office mailed said documents out to the necessary parties for signature and eventual recordation.

9. I consulted with the architect of record and I am of the information and belief that the final building plans for the Seashell restaurant do not deviate

substantially from the conceptual plans presented to the Department of Land and Natural Resources.

I declare under penalty of perjury that the foregoing is true and accurate.

DATED: Lihue, Hawai'i, March 11, 2024.



MAUNA KEA TRASK

to Coco Palms Hui LLC, a Delaware limited liability company, as assignee, consent thereto given by the Board of Land and Natural Resources by instrument recorded in the Bureau as Document No. _____ ("Easement No. S-4244"); and

B. Unrecorded Grant of Easement No. S-4645 dated August 20, 1980, to Island Holidays, Ltd., dba Coco Palms Resort Hotel, a Hawaii corporation, and by mesne assignment assigned by that certain Quitclaim Assignment of Lease and Easements effective as of May 6, 2016, recorded in the Bureau as Document No. _____, to Coco Palms Hui LLC, a Delaware limited liability company, as assignee, consent thereto given by the Board of Land and Natural Resources by instrument recorded in the Bureau as Document No. _____ ("Easement No. S-4645"); and

C. Grant of Easement dated July 11, 1983, by and between the State of Hawaii, by its Board of Land and Natural Resources, Grantor, and Fort Associates Limited Partnership, a Texas limited partnership doing business in Hawaii, as Grantee, recorded in the Bureau in Liber 18081, Page 205 (Land Office Deed S-27,442), and by mesne assignment assigned by that certain Quitclaim Assignment of Lease and Easements effective as of May 6, 2016, recorded in the Bureau as Document No. _____, to Coco Palms Hui LLC, a Delaware limited liability company, as assignee, consent thereto given by the Board of Land and Natural Resources by instrument recorded in the Bureau as Document No. _____ (the "1983 Sewer Easement"); and

D. Grant of Easement dated June 13, 1955, by and between the Territory of Hawaii, Grantor, and Island Holidays, Limited, a Hawaii corporation, as Grantee, recorded in the Bureau in Liber 2972, Page 357 (Land Office Deed 12850), and by mesne assignment assigned by that certain Quitclaim Assignment of Lease and Easements effective as of May 6, 2016, recorded in the State of Hawaii, Bureau of Conveyances ("Bureau") as Document No. _____, to Coco Palms Hui LLC, a Delaware limited liability company, as assignee, consent thereto given by the Board of Land and Natural Resources by instrument recorded in the Bureau as Document No. _____ ("1955 Easement"), and together with Easement No. S-4244, Easement No. S-4645, and the 1983 Sewer Easement, collectively referred to as the "Coco Palms State of Hawaii Lease and Easement"; and

WHEREAS, the Grantee desires that the Coco Palms State of Hawaii Lease and Easement be amended; and

WHEREAS, the Board of Land and Natural Resources, at its meeting held on May 25, 2018, has approved the amendment to the Coco Palms State of Hawaii Lease and Easement for the purpose of allowing the Coco Palms State of Hawaii Lease and Easement to run with the land.

NOW, THEREFORE, the Grantor and Grantee covenant and agree that:

1. Easement No. S-4244 at paragraph 6, Assignments, etc., the paragraph shall be deleted in its entirety and replaced with the following:

"This easement shall run with the land and shall inure to the benefit of the respective real property described as Tax Map Key: (4)4-1-003:007, providing that the Grantee shall be required to carry liability insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee's estate, shall notify the Grantor in writing when this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document.

The Grantee shall not mortgage or pledge the premises, any portion, or any interest in this easement without the prior written approval of the Chairperson of the Board of Land and Natural Resources and any mortgage or pledge without such approval shall be null and void."

2. Easement No. S-4645 at paragraph 6, Assignments, etc., the paragraph shall be deleted in its entirety and replaced with the following:

"This easement shall run with the land and shall inure to the benefit of the respective real property described as Tax Map Key: (4)4-1-003:007, providing that the Grantee shall be required to carry liability insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee's estate, shall notify the Grantor in writing when

this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document.

The Grantee shall not mortgage or pledge the premises, any portion, or any interest in this easement without the prior written approval of the Chairperson of the Board of Land and Natural Resources and any mortgage or pledge without such approval shall be null and void."

3. 1955 Easement shall be amended to add the following:

"This easement shall run with the land and shall inure to the benefit of the respective real property described as Tax Map Key: (4)4-1-003:007, providing that the Grantee shall be required to carry liability insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee's estate, shall notify the Grantor in writing when this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document."

4. 1983 Sewer Easement at paragraph 6, the paragraph shall be deleted in its entirety and replaced with the following:

"This easement shall run with the land and shall inure to the benefit of the respective real property described as Tax Map Key: (4)4-1-003:007, providing that the Grantee shall be required to carry liability insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee's estate, shall notify the Grantor in writing when this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document."

The Grantee shall not mortgage or pledge the premises, any portion, or any interest in this easement without the prior written approval of the Chairperson of the Board of Land and

Natural Resources and any mortgage or pledge without such approval shall be null and void."

IN CONSIDERATION THEREOF, the Grantor and Grantee further agree that this Amendment of Coco Palms State of Hawaii Lease and Easement is subject to all the covenants and conditions in the Coco Palms State of Hawaii Lease and Easement, except as herein provided.

This Amendment, read in conjunction with the Coco Palms State of Hawaii Lease and Easement sets forth the entire agreement between the Grantor and Grantee; and the Coco Palms State of Hawaii Lease and Easement as amended and modified hereby shall not be altered or modified in any particular except by a memorandum in writing signed by the Grantor and Grantee. In the event of any conflict between the terms of the Coco Palms State of Hawaii Lease and Easement and this Amendment, the latter shall control, however all other terms not addressed in the Amendment shall remain in full force and effect.



IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused these presents to be executed the day, month, and year first above written.

STATE OF HAWAII

Approved by the Board of
Land and Natural Resources
at its meeting held on
May 25, 2018.

APPROVED AS TO FORM:


COLIN J. LAU
Deputy Attorney General

Dated: 2/13/24

By _____
DAWN N.S. CHANG
Chairperson
Board of Land and
Natural Resources

GRANTOR

COCO PALMS HUI LLC, a Delaware
limited liability company

By: Reef Private Equity LLC, a
Utah limited liability company

By: _____

Its Manager

GRANTEE

STATE OF

)

) SS.

COUNTY OF

)

On this _____ day of _____, 20____,
before me personally appeared _____,
to me personally known, who, being by me duly sworn or affirmed,
did say that such person executed the foregoing instrument as
the free act and deed of such person, and if applicable in the
capacity shown, having been duly authorized to execute such
instrument in such capacity.

Notary Public, State of

My commission expires: _____

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Tax Map Key Nos. (4) 4-1-003:005,
005 portion, 017 portion,
039 portion, 044 portion

CONSENT is hereby given by the STATE OF HAWAII, by its Board of Land and Natural Resources, Lessor under the following:

2. Unrecorded Grant of Easement No. S-4244 dated May 13, 1969, leased to Island Holidays, Ltd., a Hawaii corporation,

and by mesne assignment assigned by that certain Assignment of Lease and Easements effective as of July 17, 2014, recorded in the Bureau as Document No. _____, to PR II Coco Palms LLC, a Delaware limited liability company, as assignee, consent thereto given by the Board of Land and Natural Resources by instrument recorded in the Bureau as Document No. _____ ("Easement No. S-4244"); and

3. Unrecorded Grant of Easement No. S-4645 dated August 20, 1980, to Island Holidays, Ltd., dba Coco Palms Resort Hotel, a Hawaii corporation, and by mesne assignment assigned by that certain Assignment of Lease and Easements effective as of July 17, 2014, recorded in the Bureau as Document No. _____, to PR II Coco Palms LLC, a Delaware limited liability company, as assignee, consent thereto given by the Board of Land and Natural Resources by instrument recorded in the Bureau as Document No. _____ ("Easement No. S-4645"); and

4. Grant of Easement dated July 11, 1983, by the State of Hawaii, by its Board of Land and Natural Resources, Grantor, and Fort Associates Limited Partnership, a Texas limited partnership doing business in Hawaii, as Grantee, recorded in the Bureau in Liber 18081, Page 205 (Land Office Deed S-27,442), and by mesne assignment assigned by that certain Assignment of Lease and Easements effective as of July 17, 2014, recorded in the Bureau as Document No. _____, to PR II Coco Palms LLC, a Delaware limited liability company, as assignee, consent thereto given by the Board of Land and Natural Resources by instrument recorded in the Bureau as Document No. _____ (the "1983 Sewer Easement"); and

5. Grant of Easement dated June 13, 1955, by the Territory of Hawaii, Grantor, and Island Holidays, Limited, a Hawaii corporation, as Grantee, recorded in the Bureau in Liber 2972, Page 357 (Land Office Deed 12850), and by mesne assignment assigned by that certain Assignment of Lease and Easements effective as of July 17, 2014, recorded in the State of Hawaii, Bureau of Conveyances ("Bureau") as Document No. _____, to PR II Coco Palms LLC, a Delaware limited liability company, as assignee, consent thereto given by the Board of Land and Natural Resources by instrument recorded in the Bureau as Document No. _____ ("1955 Easement"), and together with Lease No. S-4878, Easement No. S-



4244, Easement No. S-4645, and the 1983 Sewer Easement, collectively referred to as the "Coco Palms State of Hawaii Lease and Easement");

to the Quitclaim Assignment of Lease and Easements effective as of May 6, 2016, recorded in the Bureau as Document No. _____ from PR II COCO PALMS LLC, a Delaware limited liability company, whose principal place of business and mailing address is c/o PGIM Real Estate, 101 California Street, Suite 4000, San Francisco, CA 94111, as "Assignor" to COCO PALMS HUI LLC, a Delaware limited liability company, whose address is 2600 N Ashton Blvd, Suite 200, Lehi, UT 84043 and/or Cades Schutte, P.O. Box 1205, Lihue, HI 96766, as "Assignee"; SUBJECT, HOWEVER, to the provisions of Section 171-21, Hawaii Revised Statutes, as amended, relating to the rights of holder of security interest.

IT IS UNDERSTOOD that except as provided herein, should there be any conflict between the terms of said Coco Palms State of Hawaii Lease and Easement, and the terms of the assignment, the Coco Palms State of Hawaii Lease and Easement shall control; and further, that except as provided herein, this consent shall not in any manner be construed as varying in any respect the terms and conditions of the Coco Palms State of Hawaii Lease and Easement; and also that no further assignment of any interest under the Coco Palms State of Hawaii Lease and Easement shall be made without the written consent of the Board of Land and Natural Resources being first obtained and endorsed thereon.

FURTHERMORE, Assignor hereby acknowledges that the Lessor's consent to assignment of the Coco Palms State of Hawaii Lease and Easement, does not release the Assignor from any and all responsibilities, obligations, liabilities, and claims respecting or arising under or out of said Coco Palms State of Hawaii Lease and Easement. _____

IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be duly executed this _____ day of _____, 20____.


Approved by the Board of Land and Natural Resources at its meeting held on May 25, 2018.

STATE OF HAWAII

By _____
DAWN N.S. CHANG
Chairperson
Board of Land and
Natural Resources

APPROVED AS TO FORM:

LESSOR or GRANTOR


COLIN J. LAU
Deputy Attorney General

PR II COCO PALMS LLC, a Delaware limited liability company

Dated: 2/13/24

By: _____
Name: _____
Title: _____

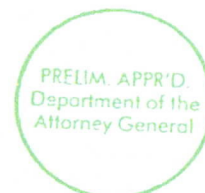
ASSIGNOR

COCO PALMS HUI LLC, a Delaware limited liability company

By: Reef Private Equity LLC, a Utah limited liability company

By: _____
Its Manager

ASSIGNEE



STATE OF

)

) SS.

COUNTY OF

)

On this _____ day of _____, 20____,
before me personally appeared _____,
to me personally known, who, being by me duly sworn or affirmed,
did say that such person executed the foregoing instrument as
the free act and deed of such person, and if applicable in the
capacity shown, having been duly authorized to execute such
instrument in such capacity.

Notary Public, State of

My commission expires: _____



STATE OF

)

) SS.

COUNTY OF

)

On this _____ day of _____, 20____,
before me personally appeared _____,
to me personally known, who, being by me duly sworn or affirmed,
did say that such person executed the foregoing instrument as
the free act and deed of such person, and if applicable in the
capacity shown, having been duly authorized to execute such
instrument in such capacity.

Notary Public, State of

My commission expires: _____

Calvert G. Chipchase
1000 Bishop Street, Suite 1200
Honolulu, Hawai'i 96813-4212
Direct Line: (808) 521-9220
Direct Fax: (808) 540-5021
Email: cchipchase@ca-des.com

Mauna Kea Trask
P.O. Box 1205
Lihue, Hawai'i 96766
Direct Line: (808) 521-9297
Direct Fax: (808) 540-5015
Email: mtrask@ca-des.com

May 19, 2023

U.S. MAIL AND EMAIL: michael.cain@hawaii.gov

Mr. Michael Cain
Administrator
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
Kalanimoku Building, Room 131
1151 Punchbowl Street
Honolulu, Hawaii 96813

Re: Alleged unauthorized land uses in the Conservation District
Kapa'a, Kawaiahu, Kaua'i
Tax Map Key No. (4) 4-1-003:004
(ENF: KA-23-30)

Dear Mr. Cain:

On behalf of RP21 Coco Palms LLC ("**RP21**"), please accept this response to the Department of Land and Natural Resources ("**DLNR**"), Office of Conservation and Coastal Lands ("**OCCL**") Notice of Alleged Violation & Order dated April 19, 2023 ("**ENF KA-23-30**") regarding alleged work done within the Hawai'i State Land Use Conservation District Protective Subzone without prior authorization.

According to ENF KA-23-30, OCCL received information that machinery had been used to clear trees and vegetation and to grub and grade on Tax Map Key ("**TMK**") (4) 4-1-003:004 (the "**Property**"). After a thorough investigation, RP21 has determined that "land use" as defined by Hawaii Administrative Rules ("**HAR**") §13-5-2 did not occur. As explained below, RP21 was only engaged in cleaning the Property, which constitutes land and resource management under HAR § 13-5-22 P-13 (A-1) and does not require prior authorization.

I. BACKGROUND

Sometime between 2013 and 2020, a portion of the Property was cleared by groups of homeless without the approval of the landowner and turned into an encampment. This assessment is substantiated by pictometry data from the County of Kauai ("**County**") Real Property Tax website. *See* Exhibit "1." The encampment contained trash, personal and household effects and many small structures and derelict vehicles. *See* Declaration of Noa Mau-Espirito. The

encampment grew as the County and the Department of Hawaiian Homelands (“**DHHL**”) removed homeless from their properties located near Lydgate beach park.

From July 30, 2021 to October 27, 2021, representatives of DLNR Land Division engaged in email communications with individuals associated with RP21 regarding the homeless who were occupying multiple parcels in the area, including the Property and a neighboring parcel owned by the State and identified as TMK No. (4) 4-1-003-048. *See* Exhibit “2.” At that time, DLNR noted that the largest encampment appeared to be on the Property. *Id.*

DLNR subsequently cleared the homeless encampment located on State property. *See* Exhibit “3.” Although it was a tremendous service to the community to remove the encampment from State property, the homeless relocated their encampment to land owned or otherwise controlled by RP21, including the Property.

From July 14, 2022, to July 21, 2022, representatives from Kauai Police Department (“**KPD**”) and representatives of RP21 discussed clearing the encampment on the Property. *See* Exhibit “4.” On July 18, 2022, and July 22, 2022, RP21 documented the extent of the encampment. *See* Exhibits “5” and “6” respectively. As these pictures show, the homeless created two new entrances to the Property and closed off a third entrance. *See* Exhibit “5.” Using these entrances, the homeless removed vegetation, stockpiled abandoned vehicles and cleared other portions of the Property. *See* Exhibits “5” and “6.”

In the fall of 2022, RP21 notified the homeless that it would clear the Property. Beginning in September 2022, RP21 removed several tons of trash from the Property. *See* Exhibits “7” and “8.” From November 2022 to January 2023, RP21 removed seventy-nine vehicles, white goods, loose tires, car batteries and other material to Resource Recover Solutions, LLC in Puhi for proper disposal. *See* Exhibit “9.” RP21 did not excavate earthen material, fill or combination thereof. RP21 did not remove vegetation by scraping, dislodging or uprooting the vegetation in a manner that breaks the topsoil.

Cleaning the Property was temporarily halted during the winter of 2022-2023 because the weather made it difficult for equipment to enter the area. During this time, the homeless began to return to the Property.

Because even a short break in activity on the Property resulted in immediate reoccupation, KPD advised RP21 to place physical barriers around the Property. To accomplish this goal without altering the land, RP21 brought to the Property green waste from the hotel site to be mulched on the Property and transported back to the hotel site. The intent was to complete the mulching within thirty days and in such a way as to not cause a permanent change to the land.

In the spring of 2023, RP21 began clearing the rest of the encampment and transporting green waste from the hotel site to the Property to be mulched.

On or about April 7, 2013, a representative of I Ola Wailuanui flew a drone over the Property. *See* Exhibit “10.” Shortly thereafter, RP21 received ENF KA-23-30 and stopped all work as requested by OCCL. Since the issuance of ENF KA-23-30, the homeless have started to return to the Property. *See* Exhibit “11.”

II. RESPONSE

1. No “Land Use” Occurred in Violation of HAR §13-5-2.

For years, the Property was occupied by homeless who cleared, grubbed, cut trees and otherwise violated State law and engaged in criminal activity. *See* Exhibit “12.” Neighbors have witnessed the homeless clearing and grubbing the Property for ingress and egress to expand the encampment. *Id.*

“Grading” means the excavation of earth material, fill or combination thereof. HAR § 13-5-2. “Grubbing” means the removal of vegetation by scraping, dislodging or uprooting vegetation that breaks the topsoil. *Id.* RP21 did not grade any portion of the Property or grub any portion of the Property. Removing trash and green waste, including vehicles, tires, debris and organic matter, like leaves and branches, falls under the category of permissible land management.

As Exhibits “1,” “5” – “8” and “12” show, the bare ground depicted in the drone video was not caused by RP21 but instead was the result of the unauthorized encampment. The encampment is well documented. *See* Exhibits “2,” “3,” “4” and “12.” Moving green waste to the Property to be used as a barrier as it is mulched and then removed did not constitute a “land use” pursuant to HAR §13-5-2, because the material did not, and would not have, remained on the land more than thirty days.

2. OCCL Has Been Given Incorrect Information.

I Ola Wailuanui has advocated against the development of Coco Palms. I Ola Wailuanui is currently suing the Board of Land and Natural Resources for declaratory and injunctive relief over the renewal of revocable permits for the use of State lands related to the Coco Palms hotel. *See* 1CCV-22-0001495. I Ola Wailuanui is pursuing its own plan to use the hotel site for a “Hawaiian Cultural Center.” *See* Exhibit “10.” We understand that it benefits I Ola Wailuanui to claim that RP21 violated State law.

The information provided by I Ola Wailuanui is not correct, however. The information shows the Property at a single point in time. It does not show what led to the condition of the Property.

III. CONCLUSION

RP21 did not grade or grub the Property. RP21 engaged in land and resource management by cleaning up the Property. RP21 respectfully asks OCCL to close the investigation.

Mr. Michael Cain
Office of Conservation and Coastal Lands
May 19, 2023
Page 4

If you have questions or require additional information, please contact us via email at cchipchase@cales.com or mtrask@cales.com or by phone at (808) 521-9220 or (808) 521-9297.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal stroke.

Calvert G. Chipchase
and
Mauna Kea Trask
for

CADES SCHUTTE
A Limited Liability Law Partnership

Enclosures
cc: Client
7811152 v10

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS

DECLARATION OF NOA KANEALII-IO-PONOI MAU-ESPIRITO

I, NOA KANEALII-IO-PONOI MAU-ESPIRITO, hereby declare and state the following:

1. I am a native Hawaiian born and raised on the island of Kaua'i. I am a descendant of the aboriginal people who occupied the ahupuaa of Wailua prior to 1778.
2. I am a lineal and cultural descendant of the ahupuaa and people of the ahupuaa of Wailua.
3. Since around 2015 I have been taking care and of and restoring the ili o papaalae and ili o papa kihapiilani of Wailua within portions of that certain parcel of land identified as Tax Map Key ("TMK") No. (4) 4-1-003-004 (the "Property"). Also identified as a portion of the land granted to Iosiah Kaumualii in the Great Mahele.
4. During my time down at the Property I have seen a homeless camp become established and grow. The homeless camp contained trash, abandoned vehicles, structures and other materials that were harmful to the aina.
5. Attached hereto as Exhibit "1" is a true and accurate copy of four (4) photographs that depict the growth of the homeless camp located on the Property from March 2013 to October 2021.
6. Attached hereto as Exhibit "5" are true and accurate copies of six (6) photographs that depict portions of the homeless camp located on the Property on July 18, 2022.

7. Attached hereto as Exhibit "6" are true and accurate copies of five (5) photographs that depict portions of the homeless camp located on the Property on July 22, 2022.

8. Attached hereto as Exhibit "7" are true and accurate copies of four (4) photographs that depict portions of the homeless camp as it was being cleaned up on the Property on September 21, 2022.

9. Attached hereto as Exhibit "8" are true and accurate copies of nine (9) photographs that depict portions of the homeless camp as it was being cleaned up on the Property on November 23, 2022.

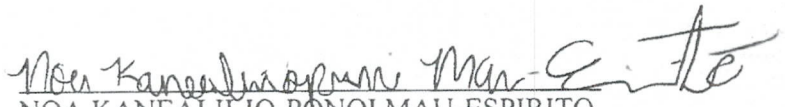
10. I was present during the cleanup of the Property by RP21 beginning in the fall of 2022 and continuing to April 2023. I also helped in the cleanup.

11. I have seen the pictures and evidence contained in the Notice of Alleged Violation dated April 19, 2023 and identified as ENF KA-23-30.

12. At no time did the landowner RP21 or its contractors grade or grub on the Property. Any and all bare ground on the Property was either pre-existing due to the homeless camp or was the result of tire and equipment tracks removing abandoned vehicles and other trash from the Property.

13. I declare under the penalty of perjury that the above is true and accurate to the best of my knowledge.

DATED: Lihue, Hawai'i, May 13, 2023.


NOA KANEALII-IO-PONOI MAU-ESPIRITO

2013.03.12 - Koki Rd. County RPT Pictometry



03/12/2013

2020.08.02 - Koki Rd. County RPT Pictometry



08/02/2020

2020.12.03 - Koki Rd. County RPT Pictometry



12/03/2020

2021.10.28 - Koki Rd. County RPT Pictometry





Archie McDonnel <archie@reefpe.com>

Coco Palms contact

13 messages

Neustein, Alison <alison.neustein@hawaii.gov>
To: "Archie@stillwaterep.com" <Archie@stillwaterep.com>
Cc: "Yasutake, Kurt E" <kurt.e.yasutake@hawaii.gov>

Fri, Jul 30, 2021 at 4:32 PM

Aloha Archie-

Feel free to contact me or Kurt (cc'd) with any questions or info regarding the Coco Palms.

I will wait to hear from the local property manager regarding the squatters.

Thank you-

Alison Neustein
DLNR District Land Agent
808-274-3491
[3060 Eiwa Street, Room 208](#)
[Lihue, HI 96746](#)
Alison.neustein@hawaii.gov

Archie McDonnel <archie@stillwaterep.com>
To: "Neustein, Alison" <alison.neustein@hawaii.gov>
Cc: "Yasutake, Kurt E" <kurt.e.yasutake@hawaii.gov>, jongibb3@gmail.com, Parker Enloe <parker@stillwaterep.com>

Thu, Aug 5, 2021 at 5:41 PM

Alison,
After a call with our on island contact (Jon Gibb who is copied), like to start coordinating this effort. I spoke with Jon briefly about this and he was going to get me some photos of the vagrants and trash. Jon said if we can do a joint effort as you mentioned on the phone, that would be the best and probably the easiest way to tackle this issue. Can you detail what the joint effort would entail a bit more for us?

Thanks

Archie McDonnel

Stillwater Equity Partners

160 W. Canyon Crest Rd. | Alpine, UT 84004
o-385.429.2480 | c-801.718.7761
Archie@stillwaterep.com

[Quoted text hidden]

Thu, Aug 5, 2021 at 6:48 PM

Neustein, Alison <alison.neustein@hawaii.gov>

To: Archie McDonnell <archie@stillwaterep.com>

Cc: "Yasutake, Kurt E" <kurt.e.yasutake@hawaii.gov>, "jongibb3@gmail.com" <jongibb3@gmail.com>, Parker Enloe <parker@stillwaterep.com>

Hi Archie-

So apparently the squatters are on several parcels in the area. I cannot say at this time definitively exactly where all the camps are located—I was told that the most built up encampment appears to be on the Coco Palms Hui parcel(s). The property TMKs that were pointed out to me by the county's housing agency director are:

- (4) 4-1-003:048, 10.76 acs., owner listed as DLNR;
- (4) 4-1-003:004, 18.88 acs., owner listed as Coco Palm Hui;
- (4) 4-1-009:002, 13.34 acs., owner listed as State of Hawai'i—EO'd to the University of Hawaii

I am going out there on Monday to look at 1 Parcel that is under the jurisdiction of the University of Hawaii to confirm with them where their property boundaries are. If there are in fact squatters on their parcel, we will coordinate with them as well.

I will also see about possibly flying a drone over the area to survey the camps, but I think there may be some areas that are too wooded to show anything.

I will have to coordinate with your representatives along with DOCARE (dept. of conservation and resources enforcement), the county police, Jun Yang with DOT highways (since they help the State with the clean-up of homeless camps), the local and State homeless coordinators as well.

It is a bit of a process that takes some planning, but at least we can get started.

If Jon wants to meet me on Monday as well, I will be in the area around 11:30, so before or after would work.

I guess we get started and then go from there.

Let me know if you have any other questions.

Alison Neustein

District Land Agent

DLNR, Land Division

3060 Eiwa Street, Room 208

Lihue, HI 96766

Ph: 808-274-3491

Fax: 808-274-3535

Email: Alison.neustein@hawaii.gov

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Wed, Oct 13, 2021 at 2:31 PM

Neustein, Alison <alison.neustein@hawaii.gov>

To: Archie McDonnell <archie@stillwaterep.com>

Cc: "Yasutake, Kurt E" <kurt.e.yasutake@hawaii.gov>, "jongibb3@gmail.com" <jongibb3@gmail.com>, Parker Enloe <parker@stillwaterep.com>

Aloha Archie-

The DLNR just got approval to begin the clean-up starting Nov 1st at 8:00am. We expect our crew to be onsite for 7-10 days. Will you be able to clear your property during that time as well? I am going to be coordinating with the different

State and County agencies. Date may change depending on how DOCARE thinks we should handle the activist group, but it will be no later than 11/8.

Feel free to contact me with any questions.

Thank you-

Alison Neustein

District Land Agent

DLNR, Land Division

3060 Eiwa Street, Room 208

Lihue, HI 96766

Ph: 808-274-3491

Fax: 808-274-3535

Email: Alison.neustein@hawaii.gov

From: Archie McDonnel <archie@stillwaterep.com>

Sent: Thursday, August 5, 2021 11:41 AM

To: Neustein, Alison <alison.neustein@hawaii.gov>

Cc: Yasutake, Kurt E <kurt.e.yasutake@hawaii.gov>; jongibb3@gmail.com; Parker Enloe <parker@stillwaterep.com>

Subject: [EXTERNAL] Re: Coco Palms contact

Alison,

[Quoted text hidden]

[Quoted text hidden]

Parker Enloe <parker@stillwaterep.com>

Thu, Oct 14, 2021 at 9:21 AM

To: "Neustein, Alison" <alison.neustein@hawaii.gov>

Cc: Archie McDonnel <archie@stillwaterep.com>, "Yasutake, Kurt E" <kurt.e.yasutake@hawaii.gov>, "jongibb3@gmail.com" <jongibb3@gmail.com>

Hey Alison,

We will try and make it work so we can do the cleanup at the same time. Do you who you'll be using to do the cleanup work ? We wouldn't mind getting a bid from the same group.

[Quoted text hidden]

--

Parker Enloe

Neustein, Alison <alison.neustein@hawaii.gov>

Thu, Oct 14, 2021 at 2:07 PM

To: Parker Enloe <parker@stillwaterep.com>

Cc: Archie McDonnel <archie@stillwaterep.com>, "Yasutake, Kurt E" <kurt.e.yasutake@hawaii.gov>, "jongibb3@gmail.com" <jongibb3@gmail.com>

The State is using HTM contractors. We plan on having a crew of approximately 15 people and expect the work to take a week. I contacted the State and local community outreach already and will be posting notice to vacate tomorrow (10/15). I

have given them until the 27th to leave the area. I do NOT want the people in the area knowing our actual clean up date in order to avoid the Hawaiian sovereignty protesters from showing up.

Also, on a side note, we got complaints regarding one of the canals on your property being clogged. Apparently, it is affecting the flow of water draining to the river. Can you please look into this?

Let me know if you need anything else.

[Quoted text hidden]



NOV and closure Coco Palms (part 1) - signed_Page_1.jpg
714K

Neustein, Alison <alison.neustein@hawaii.gov>

Fri, Oct 15, 2021 at 8:35 PM

To: Parker Enloe <parker@stillwaterep.com>

Cc: Archie McDonnell <archie@stillwaterep.com>, "Yasutake, Kurt E" <kurt.e.yasutake@hawaii.gov>, "jongibb3@gmail.com" <jongibb3@gmail.com>

Aloha-

We are confirmed for Nov 1 clean up. I gave notice and told the people in the area that we will be out there to clean on Oct 27. We would prefer it if they don't know the actual clean up dates—this way they can have their protestors show up on days we won't be there. I spoke to our Enforcement Division and they recommend that you speak with KPD and the Sheriff's office in order to coordinate the clean-up as well. I expect there to be a presence from the activist group/Noah and his army, and don't want to have issues with them moving people back and forth to and from our properties.

Let me know if you have any questions.

Alison Neustein

District Land Agent

DLNR, Land Division

3060 Eiwa Street, Room 208

Lihue, HI 96766

Ph: 808-274-3491

Fax: 808-274-3535

Email: Alison.neustein@hawaii.gov

[Quoted text hidden]

Archie McDonnel <archie@stillwaterep.com>

Mon, Oct 18, 2021 at 12:40 AM

To: "Neustein, Alison" <alison.neustein@hawaii.gov>

Cc: Parker Enloe <parker@stillwaterep.com>, "Yasutake, Kurt E" <kurt.e.yasutake@hawaii.gov>, "jongibb3@gmail.com" <jongibb3@gmail.com>

Thanks for the update. We will have some internal discussions this week and be back to you shortly.

[Quoted text hidden]

[Quoted text hidden]

Neustein, Alison <alison.neustein@hawaii.gov>

Tue, Oct 26, 2021 at 2:51 PM

To: Archie McDonnel <archie@stillwaterep.com>

Cc: Parker Enloe <parker@stillwaterep.com>, "Yasutake, Kurt E" <kurt.e.yasutake@hawaii.gov>, "jongibb3@gmail.com" <jongibb3@gmail.com>

Hi Archie-

I just wanted to touch base with you regarding the squatter eviction. Are you planning on clearing your parcels Nov 1?

[Quoted text hidden]

Archie McDonnel <archie@stillwaterep.com>

Tue, Oct 26, 2021 at 3:18 PM

To: "Neustein, Alison" <alison.neustein@hawaii.gov>

Cc: Parker Enloe <parker@stillwaterep.com>, "Yasutake, Kurt E" <kurt.e.yasutake@hawaii.gov>, "jongibb3@gmail.com" <jongibb3@gmail.com>

Alison,

Yes we plan on mobilizing on the 1st as well. We are in talks with the group that has the property under contract working out logistics. I will hopefully have a better idea today

[Quoted text hidden]

[Quoted text hidden]

Neustein, Alison <alison.neustein@hawaii.gov>

Wed, Oct 27, 2021 at 5:16 PM

To: Parker Enloe <parker@stillwaterep.com>

Cc: Archie McDonnel <archie@stillwaterep.com>, "jongibb3@gmail.com" <jongibb3@gmail.com>, "Akana, Brad K" <brad.k.akana@hawaii.gov>

Aloha-

I just wanted to reach out regarding the Coco Palms eviction. This eviction is being blown up and I have already heard from the squatters that they DO NOT plan on leaving the area. These are Hawaiian activists that will most likely need to be arrested. KPD and the Sheriff do not have extra man power to just dispatch officers last minute. You need to coordinate with them ASAP. There has been a lot of community resistance to this eviction and I have already been contacted by the Governor's office, a State Representative as well as County council members. DLNR has our publicist flying in to cover the eviction and I imagine the Garden Isle will be reporting on it as well. Please be sure to have your plan in order prior to Monday. Our State parcels are set to be cleared starting Nov 1 and if you are not planning on being present and clearing your area at the same time, we will not be able to prevent the people we evict from the State land from going on to Coco Palms private parcels.

Feel free to contact me with any questions/concerns.

Alison Neustein

District Land Agent

DLNR, Land Division

3060 Eiwa Street, Room 208

Lihue, HI 96766

Ph: 808-274-3491

Fax: 808-274-3535

Email: Alison.neustein@hawaii.gov

[Quoted text hidden]

Jon Gibb <jongibb3@gmail.com>

Wed, Oct 27, 2021 at 9:47 PM

To: "Neustein, Alison" <alison.neustein@hawaii.gov>

Cc: Parker Enloe <parker@stillwaterep.com>, Archie McDonnel <archie@stillwaterep.com>, "Akana, Brad K" <brad.k.akana@hawaii.gov>

Hi everyone,

I was able to speak with Captain Green, Lt Brady and left a message for Detective Deblaik whom I've worked with in the past.

We're all set for the county side and enforcement there.

With the amount of protesting and with our experience in the past we're going to have our full team mobilized later on to allow protesting to simmer down and thereby put our team at ease.

Last time we had threats against crew members on site and off and people trying to follow cars.

With that our first steps are going to be blocking access to 1 access point, fencing and blocking the other sides, installing no trespass signs and getting the first steps of junk removal going.

We will certainly be needing KPDs help on enforcement for trespassing and will keep issuing warnings, then follow with arrests should KPD deem it necessary.

I'll be sure to update with more information on when machinery will be landing and crew as the schedule gets iron clad.

I have one more call with detective deblaik to confirm our approach and after that we should be dialed in to mobilize while your crew is there Alison.

Many thanks and talk soon,

-Jon Gibb

(808) 720-0222

Sent from my iPhone

On Oct 27, 2021, at 11:16 AM, Neustein, Alison <alison.neustein@hawaii.gov> wrote:

[Quoted text hidden]

Neustein, Alison <alison.neustein@hawaii.gov>

Wed, Oct 27, 2021 at 10:03 PM

To: Jon Gibb <jongibb3@gmail.com>

Cc: Parker Enloe <parker@stillwaterep.com>, Archie McDonnel <archie@stillwaterep.com>, "Akana, Brad K" <brad.k.akana@hawaii.gov>

OK—We posted notice giving them until 10/27 and the squatters/protestors actually were expecting us today, so hopefully by Monday things will have calmed down (as long as nobody lets them know we are really coming on Monday). DOCARE will coordinate with KPD and the Sheriff as well.

[Quoted text hidden]



Making Hawai'i a Great Place to Live!

Department of Land and Natural Resources

Ka 'Oihana Kumuwaiwai 'Āina

[Home](#) » [DOCARE](#), [Land](#), [Main](#), [News Releases](#), [slider](#) » 11/01/21-KOKI ROAD HOMELESS ENCAMPMENT DISMANTLED

11/01/21-KOKI ROAD HOMELESS ENCAMPMENT DISMANTLED

Posted on Nov 1, 2021 in [DOCARE](#), [Land](#), [Main](#), [News Releases](#), [slider](#)

DEPARTMENT OF LAND AND NATURAL RESOURCES News Release

DAVID Y. IGE
GOVERNOR

SUZANNE D. CASE
CHAIRPERSON

For Immediate News Release: November 1, 2021

KOKI ROAD HOMELESS ENCAMPMENT DISMANTLED



To view video please click on photo or view at this link: <https://vimeo.com/641324360>

(Kapa'a, Kaua'i) – Several dozen people who'd established long term camps on state conservation lands on Koki Road in Wailua moved out today.

More than a month ago they were warned by the DLNR Land Division to vacate the property, which is adjacent to the former Coco Palms Resort and tucked into a neighborhood with homes directly across the road.

Kauai district land agent Alison Neustein said everyone involved in today's operation has empathy for people who find themselves houseless. "However, State conservation lands are clearly not the place for these large encampments. For example, the Koki Road site is in a flood zone, so it has potential human safety issues." Neighbors report during flooding in 2018 water was half-way up the sides of their homes.

Over the past year, DLNR has received several complaints about the encampment. Neighbors, on a hill overlooking the encampment had complained about noise and smoke from campfires. Neustein notes there are no sanitary facilities on the land, though the campers had brought in portable toilets and put up a shower house. She added one resident had to shut off her water service after getting extraordinarily high bills and suspected one of the campers was stealing her water.

More than a dozen officers from the DLNR Division of Conservation and Resources Enforcement (DOCARE) and State Sheriffs oversaw the operation. They pitched in to help some campers get their heavier personal belongings up to the road. Campers kept what they wanted and identified items that will be stored for 30 days before disposal, if unclaimed. A trio of DOCARE officers even used a portable pump to inflate the tires on one car so it could be driven out of the area.

As contract work crews loaded up trucks with rubbish and materials the campers didn't want to keep, several of the workers taped eviction notices and additional no-trespassing warnings to the guava trees in the camp. The complete cleanup of the parcel is expected to take all week.

Other than a few verbal disputes between campers the eviction was peaceful. One activist who'd announced his intention to enter the closed area was cited by DOCARE officers and then left the area.

"We all understand how difficult and expensive it is to find housing on Kauai, though some of these folks have refused offers of shelter or transitional housing and will likely show up elsewhere. We have to do our jobs and uphold the laws and rules which preclude these encampments on public lands," Neustein said.

###

Media contact:

Dan Dennison
Senior Communications Manager
Hawaii Department of Land and Natural Resources



Archie McDonnel <archie@reefpe.com>

Kauai, Coco Palms property

13 messages

Darren Rose <drose@kauai.gov>

Thu, Jul 14, 2022 at 9:28 PM

To: Archie McDonnel <archie@stillwaterep.com>

Aloha Archie

Recently I was contacted by John Gibb's who related he was hired by Coco Palms Hui, LLC and is requesting assistance from KPD in removing the homeless population from the Kauai, Coco Palms property. I wanted to touch base with you to ensure Coco Palms Hui, LLC understands how large of a task this is and to find out what Coco Palms Hui, LLC plans are to secure the property to prevent the homeless from returning.

From my understating Coco Palms Hui, LLC owns the parcels fronting Kuhio Hwy and leases two parcels from the State of Hawaii. On the attached map, I identified the Coco Palms Hui, LLC property as # 1 and the leased State of Hawaii parcels as #2 and #3. Please correct me if I'm wrong regarding the above information. I recently did a site visit to get a better understanding of the homeless population residing on the property. I also attached a few photographs so you can have an idea of what was observed.

Parcel # 1 / Site A: Approximately 25 campsites and 3 derelict vehicles. The site is accessed from Haleilio Road and Apana Road. There was no fencing to prevent individuals from accessing the property.

Parcel # 1 / Site B: A single campsite. The site is accessed from Kuamoo Road. There's a gate, but its damaged.

Parcel 2: Vehicles are unable to access this parcel due to the numerous coconut trees on the parcel. No campsites were observed.

Parcel # 3 / Site C: Approximately 10 campsites and 20 derelict vehicles. The site is accessed from Kuamoo Road. There's no fence to prevent individuals from accessing the property.

Parcel # 3 / Site D: Approximately 5 campsites and 10 derelict vehicles. The site is accessed from Koki Road. Some fencing in the area, but not adequate to prevent unauthorized access.

Parcel # 3 / Site E: Three structures and approximately 100 derelict vehicles. A tractor was in the area, and it appeared to have been recently used to expand the area for placing more derelict vehicles. The site is accessed from Koki Road. Some fencing in the area but not adequate to prevent unauthorized access.

In 2018, a similar situation occurred on Coco Palms property. A Writ of Possession was obtained by the prior owner and the Sheriff's Office evicted everyone from the property. There was no follow-up to secure the property by the prior owner and the homeless population returned a short time later. KPD can assist with the removal of the individuals residing illegally on Coco Palms property, but suggest that Coco Palms Hui, LLC consult with their attorney to see if the same process as in 2018 should be followed. KPD also recommends that a plan secure the property is developed and implemented prior to any eviction operation. It's suggested that adequate fencing be installed along with hiring staff to monitor the property. If the entire property isn't properly secured and managed the homeless population will start to return within days. Let me know if you have any questions and if Coco Palms Hui, LLC has plans to move forward with the removal of the homeless on Coco Palms property. Thanks

Darren D. Rose

Lieutenant

Kaua'i Police Department/ Patrol Services Bureau

3990 Kaana Street, Suite 200/ Lihue, HI 96766

P: (808) 241-1638 E: drose@kauai.gov



13 attachments



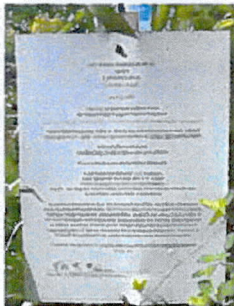
Parcel 1, Site A entrance.jpg
152K



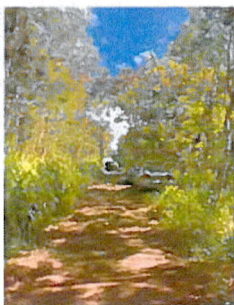
Parcel 1, Site A..jpg
158K



Parcel 1, Site B.jpg
156K



Parcel 3, Koki Road.jpg
100K



Parcel 3, Site C entrance.jpg
157K



Parcel 3, Site C.jpg
118K



Parcel 3, Site D..jpg
156K



Parcel 3, Site D.jpg
147K



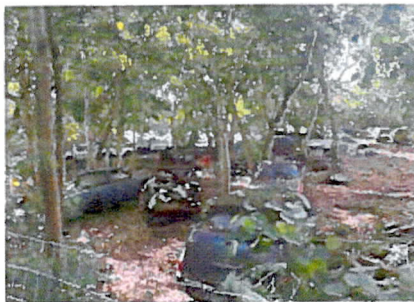
Parcel 3, Site E structure.jpg
121K



Parcel 3, Site E. structure.jpg
134K



Parcel 3, Site E..jpg
160K



Parcel 3, Site E.jpg
168K



Coco Palms map.pdf
758K

Archie McDonnell <archie@reefpe.com>

To: Darren Rose <drose@kauai.gov>

Cc: Parker Enloe <parker@reefpe.com>, Jon Gibb <jongibb3@gmail.com>

Fri, Jul 15, 2022 at 11:13 AM

Hey Lieutenant Rose,

Ownership is aware and Jon Gibbs has been hired by ownership to clean the property up. We are aware of the scope that is needed. As for securing the site, the ownership group worked directly with Jon and I was not part of those conversations. I have copied Parker Enloe and Jon on this email and they might be able to help you understand the steps that will be taken to secure the property after the clean up efforts.



Archie McDonnel
Development Project Manager
Reef Private Equity
160 W Canyon Crest Rd | Alpine, UT 84004
DIRECT 801-216-8850 | MOBILE 801-718-7761
Archie@reefpe.com

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[Quoted text hidden]

Parker Enloe <parker@reefpe.com>
To: **Archie McDonnel** <archie@reefpe.com>

Fri, Jul 15, 2022 at 12:26 PM

Can you forward me the map he is referring to.

[Quoted text hidden]

--

Parker Enloe

Archie McDonnel <archie@reefpe.com>
To: **Parker Enloe** <parker@reefpe.com>

Fri, Jul 15, 2022 at 1:05 PM



Archie McDonnel
Development Project Manager
Reef Private Equity
160 W Canyon Crest Rd | Alpine, UT 84004
DIRECT 801-216-8850 | MOBILE 801-718-7761
Archie@reefpe.com

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[Quoted text hidden]












13 attachments



Parcel 1, Site A entrance.jpg
152K



Parcel 1, Site A..jpg
158K

-  **Parcel 1, Site B.jpg**
156K
-  **Parcel 3, Koki Road.jpg**
100K
-  **Parcel 3, Site C entrance.jpg**
157K
-  **Parcel 3, Site C.jpg**
118K
-  **Parcel 3, Site D..jpg**
156K
-  **Parcel 3, Site D.jpg**
147K
-  **Parcel 3, Site E structure.jpg**
121K
-  **Parcel 3, Site E. structure.jpg**
134K
-  **Parcel 3, Site E..jpg**
160K
-  **Parcel 3, Site E.jpg**
168K
-  **Coco Palms map.pdf**
758K

Parker Enloe <parker@reefpe.com>

Fri, Jul 15, 2022 at 2:31 PM

To: Archie McDonnell <archie@reefpe.com>, Mitch Burton <mitchburton73@msn.com>
Cc: Darren Rose <drose@kauai.gov>, Jon Gibb <jongibb3@gmail.com>

Aloha Lieutenant Rose,

Thanks for your work in putting this map and the photos together. We've also been talking to a neighbor that has recently sent some photos as well. We understand this is going to take a large combined effort to remove the homeless that are illegally occupying the Coco Palms Property.

A few clarifying points. Coco Palms Hui LLC no longer owns any of the property associated with Coco Palms. RP21 Coco Palms LLC (an entity formed by the lender on Coco Palms) acquired the property at the foreclosure auction last year and the deed finally recorded in May of this year (there are a lot of hoops to jump through for foreclosures in Hawaii that delayed the recording of the deed). Our company (Reef Capital Partners) is the manager of RP21. We've asked Jon Gibb to provide us with a proposal to put up a fence, clear, and help remove all of the debris and junked cars that are on the site. We'd like to work in conjunction with KPD to enforce the evictions needed. The 2018 writ of possession was obtained by Coco Palms Hui which was the prior owner's entity. We've talked to our attorneys and they've advised the county records showing RP21 as the legal owner should be sufficient to prove ownership. The Property is under contract to sell to developers with capital available to turn Coco Palms back into a resort. Together with them, we are working on the last few building permits to be able to begin construction. Their hopes were to handle the removal of the trespassers at the same time they started construction, but we now see the need to speed things along to better the community. I've cc'd Mitch Burton from their group to bring him in the loop as well.

Parker Enloe

On Fri, Jul 15, 2022 at 9:13 AM Archie McDonnell <archie@reefpe.com> wrote:

[Quoted text hidden]

Jon Gibb <jongibb3@gmail.com>

Fri, Jul 15, 2022 at 4:11 PM

To: Parker Enloe <parker@reefpe.com>

Cc: Archie McDonnell <archie@reefpe.com>, Mitch Burton <mitchburton73@msn.com>, Darren Rose <drose@kauai.gov>

Hello officer Rose,

Thank you again for your help and time catching up in regards to the clean up.

I appreciate the head count on the campsites and cars as well.

Our intention and game plan is to first notify any and all trespassers then begin a consistent and constant pressure on site to keep people out.

We know that KPD has a consistent work load everyday and does not want to interfere with what the community needs on a day to day level.

Our biggest ask from KPD would be on initial trespass warnings just to have witnesses and mitigate any reactions from squatters in the interim.

After we have our initial trespass warnings issued we will then begin our machine clean up work on a daily basis in which myself and my crew will be making sure people are out and off property.

As you mentioned the homeless will return quickly, as we work through our clean up we will be finishing with a solid fence as in previous experiences on earlier stages with more homeless returning they will attempt to destroy any fencing.

So in the interim we will block off access via boulders or junked vehicles at the end of each work day until the returning homeless begins to fade over the scope of our clean up.

Please consider me accessible anytime Lt. Rose for anything I can be of help with as I am located here on Kauai.

My crew has been briefed and we are getting our needed machinery back to our site and off other jobs in anticipation of our start time.

Many thanks as always everyone and talk soon,

-Jon Gibb

(808) 720-0222

Darren Rose <drose@kauai.gov>

Fri, Jul 15, 2022 at 5:38 PM

To: Jon Gibb <jongibb3@gmail.com>, Parker Enloe <parker@reefpe.com>

Cc: Archie McDonnell <archie@reefpe.com>, Mitch Burton <mitchburton73@msn.com>

Jon

Do you have a timeframe on when you would like to start the removal of the trespassers? I would also like to meet with you so we can develop a plan.

Lt Rose

From: Jon Gibb <jongibb3@gmail.com>

Sent: Friday, July 15, 2022 10:11 AM

To: Parker Enloe <parker@reefpe.com>

Cc: Archie McDonnell <archie@reefpe.com>; Mitch Burton <mitchburton73@msn.com>; Darren Rose <drose@kauai.gov>

Subject: Re: Kauai, Coco Palms property

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

[Quoted text hidden]

Darren Rose <drose@kauai.gov>

Fri, Jul 15, 2022 at 7:37 PM

To: Parker Enloe <parker@reefpe.com>, Archie McDonnell <archie@reefpe.com>, Mitch Burton <mitchburton73@msn.com>

Cc: Jon Gibb <jongibb3@gmail.com>

Parker

Would it be possible to get a copy of the 2018 Writ of Possession and the judgment from the courts? If you, have it great, if not we can still move forward. I will be meeting next week with my supervisors so we can develop plan on how to assist in the removal of the trespassers. Have a good weekend.

Lt. Rose

From: Parker Enloe <parker@reefpe.com>
Sent: Friday, July 15, 2022 8:32 AM
To: Archie McDonnell <archie@reefpe.com>; Mitch Burton <mitchburton73@msn.com>
Cc: Darren Rose <drose@kauai.gov>; Jon Gibb <jongibb3@gmail.com>
Subject: Re: Kauai, Coco Palms property

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Lieutenant Rose,

Thanks for your work in putting this map and the photos together. We've also been talking to a neighbor that has recently sent some photos as well. We understand this is going to take a large combined effort to remove the homeless that are illegally occupying the Coco Palms Property.

A few clarifying points. Coco Palms Hui LLC no longer owns any of the property associated with Coco Palms. RP21 Coco Palms LLC (an entity formed by the lender on Coco Palms) acquired the property at the foreclosure auction last year and the deed finally recorded in May of this year (there are a lot of hoops to jump through for foreclosures in Hawaii that delayed the recording of the deed). Our company (Reef Capital Partners) is the manager of RP21. We've asked Jon Gibb to provide us with a proposal to put up a fence, clear, and help remove all of the debris and junked cars that are on the site. We'd like to work in conjunction with KPD to enforce the evictions needed. The 2018 writ of possession was obtained by Coco Palms Hui which was the prior owner's entity. We've talked to our attorneys and they've advised the county records showing RP21 as the legal owner should be sufficient to prove ownership. The Property is under contract to sell to developers with capital available to turn Coco Palms back into a resort. Together with them, we are working on the last few building permits to be able to begin construction. Their hopes were to handle the removal of the trespassers at the same time they started construction, but we now see the need to speed things along to better the community. I've cc'd Mitch Burton from their group to bring him in the loop as well.

Parker Enloe

On Fri, Jul 15, 2022 at 9:13 AM Archie McDonnell <archie@reefpe.com> wrote:

Hey Lieutenant Rose,

Ownership is aware and Jon Gibbs has been hired by ownership to clean the property up. We are aware of the scope that is needed. As for securing the site, the ownership group worked directly with Jon and I was not part of those conversations. I have copied Parker Enloe and Jon on this email and they might be able to help you understand the steps that will be taken to secure the property after the clean up efforts.

Archie McDonnel

Development Project Manager

Reef Private Equity

160 W Canyon Crest Rd | Alpine, UT 84004

DIRECT 801-216-8850 | MOBILE 801-718-7761

Archie@reefpe.com Image removed by sender.

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[Quoted text hidden]

Parker Enloe <parker@reefpe.com>

Fri, Jul 15, 2022 at 7:48 PM

To: Darren Rose <drose@kauai.gov>

Cc: Archie McDonnel <archie@reefpe.com>, Jon Gibb <jongibb3@gmail.com>, Mitch Burton <mitchburton73@msn.com>

Yes. I have that in my files and I'll track it down and send it to you.

[Quoted text hidden]

--

Parker Enloe

Parker Enloe <parker@reefpe.com>

Sun, Jul 17, 2022 at 11:05 PM

To: Darren Rose <drose@kauai.gov>

Cc: Archie McDonnel <archie@reefpe.com>, Jon Gibb <jongibb3@gmail.com>, Mitch Burton <mitchburton73@msn.com>



Squatters appeal denied

Aloha Lt. Rose,

Attached is the appeal denial from when the squatters appealed the eviction ruling. When I'm back in the office tomorrow I'll track down the original ruling.

[Quoted text hidden]

--

Parker Enloe

Jon Gibb <jongibb3@gmail.com>

Tue, Jul 19, 2022 at 8:20 PM

To: Parker Enloe <parker@reefpe.com>

Cc: Darren Rose <drose@kauai.gov>, Archie McDonnel <archie@reefpe.com>, Mitch Burton <mitchburton73@msn.com>

Good afternoon everyone,

Just wanted to touch base.

Our proposed scope of work is nearly complete and scheduling is nearly finished to begin work within the next 2-3 weeks with our first piece of equipment, then fill in over time as we pick up steam and any protests burn out.

We would be able to serve notice before that time with the conjunction of KPD and their recommendations on timing etc to go along with our proposed schedule, our intention is to begin vamping up property presence consistently over a 6 to 8

week period.

We intend to follow up the initial clearing with property mowing to let any potential returning squatters or trespassers know that the property will not be without presence any longer and everyone will be removed consistently.

I will be sure to follow up after that scope of work outline is finished to review and schedule our start date.

Looking forward to getting the area cleared and open soon,

-Jon Gibb

(808) 720-0222

[Quoted text hidden]

In Success,
Jon"Jay" Gibb III
(808) 720-0222
JonGibb.com

Darren Rose <drose@kauai.gov>

Thu, Jul 21, 2022 at 9:22 PM

To: Jon Gibb <jongibb3@gmail.com>, Parker Enloe <parker@reefpe.com>

Cc: Archie McDonnell <archie@reefpe.com>, Mitch Burton <mitchburton73@msn.com>

Jon

A reminder KPD officers will be meeting you tomorrow at 7 am, to assist with the trespass warnings. The meeting location is the old Brick Oven Pizza parking lot. I will also be attending so we can discuss the follow up to remove individuals that failed to leave.

Lt. Rose

From: Jon Gibb <jongibb3@gmail.com>

Sent: Tuesday, July 19, 2022 2:20 PM

To: Parker Enloe <parker@reefpe.com>

Cc: Darren Rose <drose@kauai.gov>; Archie McDonnell <archie@reefpe.com>; Mitch Burton <mitchburton73@msn.com>

Subject: Re: Kauai, Coco Palms property

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Good afternoon everyone,

Just wanted to touch base.

Our proposed scope of work is nearly complete and scheduling is nearly finished to begin work within the next 2-3 weeks with our first piece of equipment, then fill in over time as we pick up steam and any protests burn out.

We would be able to serve notice before that time with the conjunction of KPD and their recommendations on timing etc to go along with our proposed schedule, our intention is to begin vamping up property presence consistently over a 6 to 8 week period.

We intend to follow up the initial clearing with property mowing to let any potential returning squatters or trespassers know that the property will not be without presence any longer and everyone will be removed consistently.

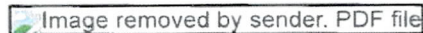
I will be sure to follow up after that scope of work outline is finished to review and schedule our start date.

Looking forward to getting the area cleared and open soon,

-Jon Gibb

(808) 720-0222

On Sun, Jul 17, 2022 at 5:06 PM Parker Enloe <parker@reefpe.com> wrote:

 Image removed by sender. PDF file

Squatters appeal denied

[Quoted text hidden]

[Quoted text hidden]

Jon Gibb <jongibb3@gmail.com>

Thu, Jul 21, 2022 at 10:47 PM

To: Darren Rose <drose@kauai.gov>

Cc: Parker Enloe <parker@reefpe.com>, Archie McDonnell <archie@reefpe.com>, Mitch Burton <mitchburton73@msn.com>

Good afternoon everyone,

Yes we're all set for tomorrow morning and looking forward to it.
I'll be sure to follow up by email to you all (owner side) for how it goes with Lt Rose tomorrow and the issuance of the warnings.

Talk soon and looking forward to getting the property cleaned up,

-Jon Gibb

(808) 720-0222

Sent from my iPhone

On Jul 21, 2022, at 3:22 PM, Darren Rose <drose@kauai.gov> wrote:

[Quoted text hidden]



~WRD0001.jpg

1K

























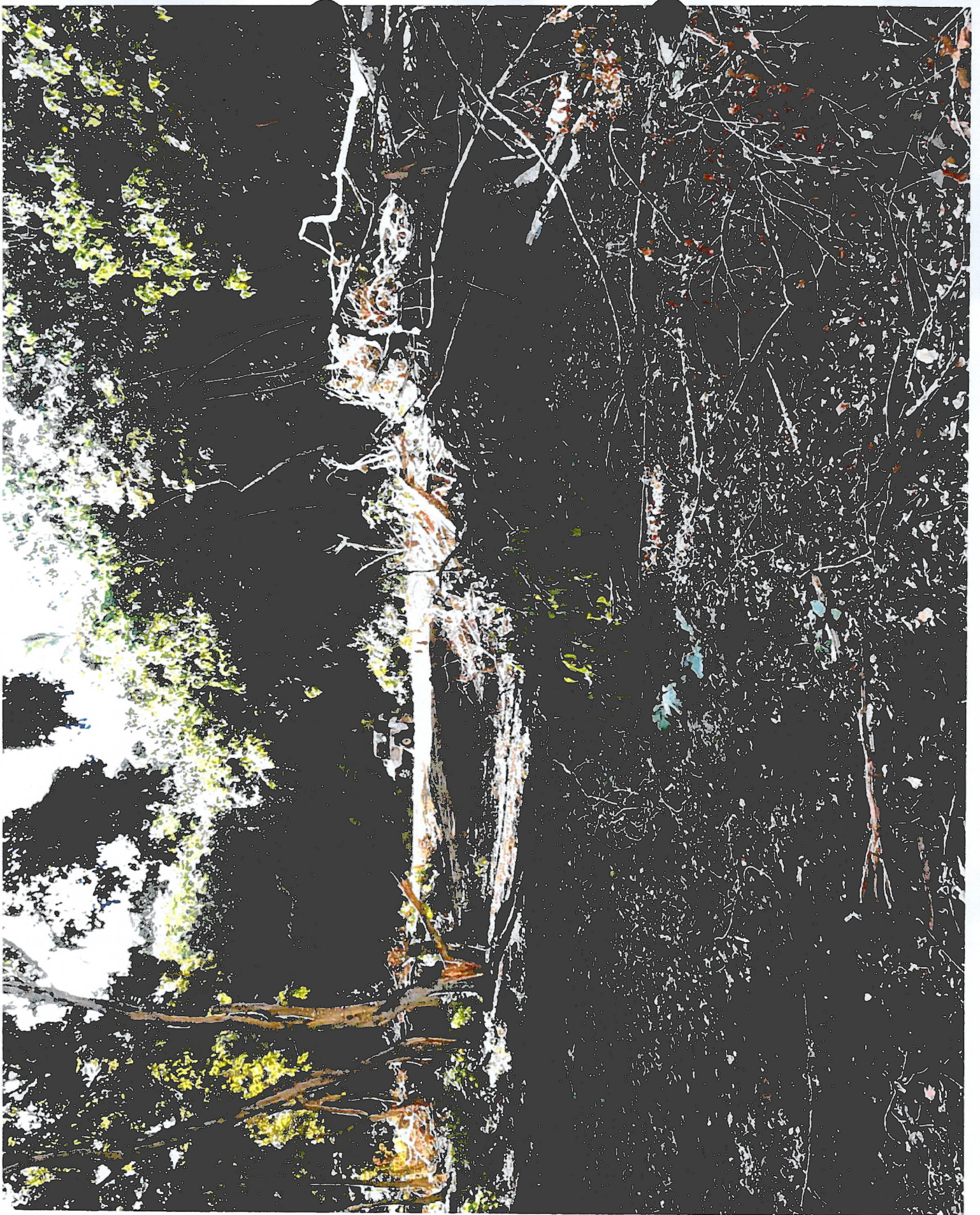
























Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|-----------|-------------|
| 11/4/2022 | 189967 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 | |

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|--------------|--|-----------------|----------------|
| | | Paid Visa | | 11/4/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, XXXX Unknow, Gray NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, XXXX Unknown, Red NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, XXXX Unknown, Red NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 3 | PHOTO | Photo Processing Sales Tax | 10.00 4.712% | 30.00T 9.90 |

WE APPRECIATE AND THANK YOU FOR YOUR
BUSINESS.

| | |
|------------------|-----------|
| Total | \$219.90 |
| Payments/Credits | -\$219.90 |
| Balance Due | \$0.00 |

Resource Recovery Solutions, LLC

3951 Puhi Road
 Lihu'e, HI 96766
 Phone: (808)245-6919
 Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|-----------|-------------|
| 11/5/2022 | 189987 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | |

PAID
11/07/2022

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|--------------|--|-----------|-----------|
| | | Paid Visa | | 11/5/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Nissan Unknown, Blue NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Ford Unknown, White NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Ford Unknown, Black NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Honda Unknown, Silver NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Honda Unknown, Silver NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |

WE APPRECIATE AND THANK YOU FOR YOUR BUSINESS.

Total

Payments/Credits

Balance Due

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|-----------|-------------|
| 11/5/2022 | 189987 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | |

PAID
11/07/2022

| | Manual RR | P.O. No. | Terms | Due Date |
|----------|--------------|--|-----------|-----------|
| | | Paid Visa | | 11/5/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Honda Unknown, Silver NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 15 | PHOTO | Photo Processing | 10.00 | 150.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Nissan 4DSD, Silver NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Mazda 4DSD, White NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Chevrolet SUV, Blue NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Hyundai 4DSD, Blue NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |

WE APPRECIATE AND THANK YOU FOR YOUR BUSINESS.

Total

Payments/Credits

Balance Due

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|-----------|-------------|
| 11/5/2022 | 189987 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | |

PAID
11/07/2022

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|-----------------|--|----------------|-----------------|
| | | Paid Visa | | 11/5/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Chrysler PT Cruiser, Gray NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Hyundai 4DSD, Silver NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Toyota Pickup, Black NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Unknown 4DSD, Silver NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | RVW - WAIVER | Residential Vehicle - Waiver, Release & Indemnity Agreement Form XXXX, Ford Ranger, Red NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 5 | WAIVER, RELE... | Waiver, Release & Indemnity Fee Sales Tax | 5.00 4.712% | 25.00T 50.65 |

WE APPRECIATE AND THANK YOU FOR YOUR BUSINESS.

| | |
|-------------------------|--------------------|
| Total | \$1,125.65 |
| Payments/Credits | -\$1,125.65 |
| Balance Due | \$0.00 |

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|-----------|-------------|
| 11/9/2022 | 190031 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | |

PAID
11/09/2022

| Quantity | Item | Item/Description | Unit Rate | Amount |
|----------|-----------------|--|-----------|--------|
| 1 | PV | Private Tower Vehicle XXXX, Unknown Pickup, Tan NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 2 | TIRE | Loose Tire Disposal - | 0.00 | 0.00T |
| 1 | PV | Private Tower Vehicle XXXX, Nissan 4DSD, Gray NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Nissan 4DSD, Silver NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 2 | TIRE | Loose Tire Disposal - | 0.00 | 0.00T |
| 9 | PHOTO | Photo Processing | 10.00 | 90.00T |
| 9 | WAIVER, RELE... | Waiver, Release & Indemnity Fee | 5.00 | 45.00T |
| 1 | PV | Private Tower Vehicle XXXX, Hyundai 4DSD, Black NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Unknown Pickup, Purple NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | SCRAP | Miscellaneous Metal Disposal - Vehicle Frames & Parts | 50.00 | 50.00T |
| 1 | PV | Private Tower Vehicle XXXX, Chevrolet S10, White/Red NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |

WE APPRECIATE AND THANK YOU FOR YOUR BUSINESS.

Total

Payments/Credits

Balance Due

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|-----------|-------------|
| 11/9/2022 | 190031 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | |

| | Manual RR | P.O. No. | Terms | Due Date |
|----------|-----------|---|-----------|-----------|
| | | Paid Visa | | 11/9/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 2 | TIRE | Loose Tire Disposal - | 0.00 | 0.00T |
| 1 | PV | Private Tower Vehicle XXXX, Chevrolet Pickup, Black NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Chevrolet Pickup, Black NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Subaru 4DSD, Silver NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| | | Sales Tax | 4.712% | 34.16 |

WE APPRECIATE AND THANK YOU FOR YOUR
BUSINESS.

| | |
|------------------|-----------|
| Total | \$759.16 |
| Payments/Credits | -\$759.16 |
| Balance Due | \$0.00 |

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 11/10/2022 | 190040 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | |

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|-----------------|--|-----------|-----------|
| | | Paid Visa | | 11/9/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | PV | Private Tower Vehicle XXXX, Scion XB, Black NO LICENSE PLATE NO VITALS OBTAINED | 60.00 | 60.00T |
| 1 | NON-METAL DE... | Non-Metal Debris Disposal - Trash Found In Vehicle | 120.00 | 120.00T |
| 2 | TIRE | Loose Tire Disposal - | 0.00 | 0.00T |
| 1 | WAIVER, RELE... | Waiver, Release & Indemnity Fee | 5.00 | 5.00T |
| 1 | PHOTO | Photo Processing | 10.00 | 10.00T |
| | | Sales Tax | 4.712% | 9.19 |

WE APPRECIATE AND THANK YOU FOR YOUR
BUSINESS.

| | |
|------------------|-----------|
| Total | \$204.19 |
| Payments/Credits | -\$204.19 |
| Balance Due | \$0.00 |

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 11/16/2022 | 190128 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Luka Lo'i |

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|-----------------|---|-----------|------------|
| | | Jon Gibb | | 11/16/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | PV | Private Tower Vehicle 2004, Nissan Xterra, Brown NO LICENSE PLATE 5N1ED28TX4C605633 | 60.00 | 60.00T |
| 5 | PHOTO | Photo Processing | 10.00 | 50.00T |
| 5 | WAIVER, RELE... | Waiver, Release & Indemnity Fee | 5.00 | 25.00T |
| 1 | MIN. PICK-UP | Miscellaneous Metal Disposal - Minimum Pick-Up Load - Scrap Found In Vehicle | 15.00 | 15.00T |
| 1 | PV | Private Tower Vehicle 2003, Ford Ranger, Black KDV433 1FTZR45E63TA31166 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 1995, Chevrolet S10, Purple JDT734 1GCCS14Z7S8123529 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 1997, Nissan Pickup, Maroon NO LICENSE PLATE 1N6SD16Y0VC410820 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2001, Nissan Xterra, Yellow JJW054 5N1ED28Y01C536930 | 60.00 | 60.00T |
| | | Sales Tax | 4.712% | 18.38 |

**WE APPRECIATE AND THANK YOU FOR YOUR
BUSINESS.**

| | |
|-------------------------|------------------|
| Total | \$408.38 |
| Payments/Credits | -\$408.38 |
| Balance Due | \$0.00 |

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 11/21/2022 | 190183 |

| Customer Name | Source Location/Notes |
|---|---|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Luka Lo'i Driver - Jon Gibb |

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|-----------------|--|-----------|------------|
| | | Paid Visa | | 11/21/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | PV | Private Tower Vehicle XXXX, Chevrolet S10, Red NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 9 | WAIVER, RELE... | Waiver, Release & Indemnity Fee | 5.00 | 45.00T |
| 9 | PHOTO | Photo Proccssing | 10.00 | 90.00T |
| 1 | PV | Private Tower Vehicle 2004, BMW X5, Silver NO LICENSE PLATE 5UXFB53554LV04281 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Chevrolet Malibu, Blue NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | NON-METAL DE... | Non-Metal Debris Disposal - Trash Found In The Vehicles | 30.00 | 30.00T |
| 1 | PV | Private Tower Vehicle 1997, Jeep Grand Cherokee, Red NO LICENSE PLATE 1J4FX5857VC765697 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Nissan MPVH, White NO LICENSE PLATE NO VI OBTAINED | 60.00 | 60.00T |
| 2 | SCRAP | Miscellaneous Metal Disposal - Vehicle Frame | 60.00 | 120.00T |
| 1 | PV | Private Tower Vehicle XXXX, Ford Sport Trac, Silver NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |

WE APPRECIATE AND THANK YOU FOR YOUR BUSINESS.

Total

Payments/Credits

Balance Due

Resource Recovery Solutions, LLC

3951 Puhi Road

Lihu'e, HI 96766

Phone: (808)245-6919

Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 11/21/2022 | 190183 |

| Customer Name | Source Location/Notes |
|---|---|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Luka Lo'i Driver - Jon Gibb |

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|------|---|-----------|------------|
| | | Paid Visa | | 11/21/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | PV | Private Tower Vehicle 2002, Chevrolet S10, White KTU016 1GCCS14B628198882 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2005, GMC Sierra, Black NO LICENSE PLATE 1GTEK11T252171295 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Ford Sport Trac, Blue NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| | | Sales Tax | 4.712% | 38.87 |

WE APPRECIATE AND THANK YOU FOR YOUR BUSINESS.

| | |
|-------------------------|------------------|
| Total | \$863.87 |
| Payments/Credits | -\$863.87 |
| Balance Due | \$0.00 |

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 11/22/2022 | 190198 |

| Customer Name | Source Location/Notes |
|---|---|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Jon Gibb Driver - Luka Lo'i |

| Quantity | Item | Item/Description | Unit Rate | Amount |
|----------|-----------------|--|-----------|---------|
| 1 | PV | Private Tower Vehicle 2001, Honda Accord, Black JPA778 JHMC656401C025642 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 1999, Honda Accord, Silver NO LICENSE PLATE JHMC65543XC053901 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 1994, Chevrolet Camaro, Red NO LICENSE PLATE 2G1FP22S6R2172537 | 60.00 | 60.00T |
| 18 | WAIVER, RELE... | Waiver, Release & Indemnity Fee | 5.00 | 90.00T |
| 18 | PHOTO | Photo Processing | 10.00 | 180.00T |
| 1 | PV | Private Tower Vehicle XXXX, Chevrolet Blazer, Black NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2002, Cadillac Escalade, Black NO LICENSE PLATE 1GYEK63N22R116058 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2001, Jeep Cherokee, Black NO LICENSE PLATE 1J4FF48S41L590994 | 60.00 | 60.00T |

WE APPRECIATE AND THANK YOU FOR YOUR BUSINESS.

Total

Payments/Credits

Balance Due

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 11/22/2022 | 190198 |

| Customer Name | Source Location/Notes |
|---|---|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Jon Gibb Driver - Luka Lo'i |

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|-----------------|---|-----------|------------|
| | | Paid Visa | | 11/22/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | PV | Private Tower Vehicle 2005, Honda Civic, Silver NO LICENSE PLATE 2HGES16515H605545 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2000, Honda Odyssey, Black NO LICENSE PLATE 2HKRL1852YH519618 | 60.00 | 60.00T |
| 1 | NON-METAL DE... | Non-Metal Debris Disposal - Trash Found In Vehicle | 30.00 | 30.00T |
| 1 | PV | Private Tower Vehicle 1997, Ford F150, Green NO LICENSE PLATE 1FTDF17W4VKB89179 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2003, Hyundai Accent, Black NO LICENSE PLATE KMHCG35C13U273437 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2002, Honda Accord, Black NO LICENSE PLATE JHMCG56742C001792 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2004, Cadillac CTS, Red KBS086 1G6DM577740157068 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Ford F150, White NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |

**WE APPRECIATE AND THANK YOU FOR YOUR
BUSINESS.**

Total

Payments/Credits

Balance Due

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 11/22/2022 | 190198 |

| Customer Name | Source Location/Notes |
|---|---|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Jon Gibb Driver - Luka Lo'i |

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|------|---|-----------|------------|
| | | Paid Visa | | 11/22/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | PV | Private Tower Vehicle 2003, Cadillac CTS, Black NO LICENSE PLATE 1G6DM57N930123677 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Dodge Pickup, Black NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Dodge SUV, Green NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2003, Dodge Durango, Maroon KCX199 1D4HS48N13F576026 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2003, Jeep Grand Cherokee, Gray KBF064 1J4GW48S33C552650 | 60.00 | 60.00T |
| | | Sales Tax | 4.712% | 65.03 |

WE APPRECIATE AND THANK YOU FOR YOUR BUSINESS.

Total \$1,445.03

Payments/Credits -\$1,445.03

Balance Due \$0.00

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 11/23/2022 | 190216 |

| Customer Name | Source Location/Notes |
|---|---|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Luka Lo'i Driver - Jon Gibb |

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|-----------------|--|-----------|------------|
| | | Paid Visa | | 11/23/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | PV | Private Tower Vehicle 1998, Chevrolet Blazer, Blue KZV512 1GNCT18W0K228684 | 60.00 | 60.00T |
| 8 | PHOTO | Photo Processing | 10.00 | 80.00T |
| 8 | WAIVER, RELE... | Waiver, Release & Indemnity Fee | 5.00 | 40.00T |
| 1 | PV | Private Tower Vehicle 1994, Honda Accord, White NO LICENSE PLATE 1HGCD7254RA058611 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2001, Honda Odyssey, Silver NO LICENSE PLATE 2HKRL18611H531354 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Chrysler Town & Country, White NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 1996, Chevrolet GMT - 400, Green KRG562 1GCEC19M3TE259369 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Chevrolet Pickup, Blue NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |

WE APPRECIATE AND THANK YOU FOR YOUR BUSINESS.

Total

Payments/Credits

Balance Due

Resource Recovery Solutions, LLC

3951 Puhī Road
Lihū'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 11/23/2022 | 190216 |

| Customer Name | Source Location/Notes |
|---|---|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Luka Lo'i Driver - Jon Gibb |

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|------|--|-----------|------------|
| | | Paid Visa | | 11/23/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | PV | Private Tower Vehicle 1989, GMC Sierra, Black KWE508 2GTFK29KXK1553329 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 1988, GMC GMT - 400, Burnt KBR914 1GTDK14H9JZ518347 | 60.00 | 60.00T |
| | | Sales Tax | 4.712% | 28.27 |

**WE APPRECIATE AND THANK YOU FOR YOUR
BUSINESS.**

| | |
|-------------------------|------------------|
| Total | \$628.27 |
| <i>Payments/Credits</i> | <i>-\$628.27</i> |
| Balance Due | \$0.00 |

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 11/25/2022 | 190229 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Jon Gibb |

| Quantity | Item | Item/Description | Unit Rate | Amount |
|----------|-----------------|--|-----------|------------|
| | Manual RR | P.O. No. | Terms | Due Date |
| | | Paid Visa | | 11/25/2022 |
| 1 | PV | Private Tower Vehicle XXXX, Chevrolet S10, Gold NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 4 | TIRE | Loose Tire Disposal - Tires Attached To Vehicle | 0.00 | 0.00T |
| 6 | WAIVER, RELE... | Waiver, Release & Indemnity Fee | 5.00 | 30.00T |
| 6 | PHOTO | Photo Processing | 10.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Dodge Pickup, White NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |
| 2 | SCRAP | Miscellaneous Metal Disposal - Vehicle Considered As Scrap | 60.00 | 120.00T |
| 3 | SCRAP | Miscellaneous Metal Disposal - Half Of A Vehicle | 30.00 | 90.00T |
| 8 | TIRE | Loose Tire Disposal | 20.00 | 160.00T |
| 1 | PV | Private Tower Vehicle 2000, Honda Civic, Black JJP354 1HGEJ6222YL116932 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle 2008, Chrysler Town & Country, White MSF366 2A8HR44H08R671016 | 60.00 | 60.00T |
| 1 | PV | Private Tower Vehicle XXXX, Unknown Pickup, White NO LICENSE PLATE NO VIN OBTAINED | 60.00 | 60.00T |

WE APPRECIATE AND THANK YOU FOR YOUR BUSINESS.

Total

Payments/Credits

Balance Due

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 11/25/2022 | 190229 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Jon Gibb |

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|-------|--|-----------------|-----------------|
| | | Paid Visa | | 11/25/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | PV | Private Tower Vehicle 2001, Ford F150, Black NWA356 1FTRW08L21KD78671 | 60.00 | 60.00T |
| 1 | SCRAP | Miscellaneous Metal Disposal - Commerical Vehicle Part Sales Tax | 90.00 4.712% | 90.00T 42.88 |

**WE APPRECIATE AND THANK YOU FOR YOUR
BUSINESS.**

Total \$952.88

Payments/Credits -\$952.88

Balance Due \$0.00

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|------------|-------------|
| 12/12/2022 | 190449 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Jon Gibb |

| Manual RR | | P.O. No. | Terms | Due Date |
|-----------|-----------------|--|-----------------------------|----------------------------|
| | | Paid Visa | | 12/12/2022 |
| Quantity | Item | Item/Description | Unit Rate | Amount |
| 1 | PV | Private Tower Vehicle 2006, Nissan Altima. Gold KYC770 1N4AL11D55C177156 | 60.00 | 60.00T |
| 4 | TIRE | Loose Tire Disposal - | 0.00 | 0.00T |
| 1 | BATTERIES | Battery Disposal - | 0.00 | 0.00T |
| 2 | PHOTO | Photo Processing | 10.00 | 20.00T |
| 2 | WAIVER, RELE... | Waiver, Release & Indemnity Fee | 5.00 | 10.00T |
| 1 | PV | Private Tower Vehicle XXXX, Toyota Pickup, Blue/White NO LICENSE PLATE NO VIN OBTAINED Sales Tax | 60.00 4.712% | 60.00T 7.07 |

WE APPRECIATE AND THANK YOU FOR YOUR
BUSINESS.

Total \$157.07

Payments/Credits -\$157.07

Balance Due \$0.00

Resource Recovery Solutions, LLC

3951 Puhi Road
Lihu'e, HI 96766
Phone: (808)245-6919
Fax: (808)245-6918

Invoice

| Date | Invoice No. |
|-----------|-------------|
| 1/18/2023 | 190923 |

| Customer Name | Source Location/Notes |
|---|-----------------------|
| Jon Gibb 6196 Hawili Rd Kapaa, HI 96746 (808) 710-0222 | Driver - Kahai Higa |

| Quantity | Item | Item/Description | Unit Rate | Amount |
|----------|-----------------|--|-----------|--------|
| 1 | PV | Private Tower Vehicle 1983, GMC Pickup, Black KDH508 1GTGK24M1DJ509628 | 60.00 | 60.00T |
| 4 | TIRE | Loose Tire Disposal - | 0.00 | 0.00T |
| 1 | BATTERIES | Battery Disposal - | 0.00 | 0.00T |
| 3 | WAIVER, RELE... | Waiver, Release & Indemnity Fee | 5.00 | 15.00T |
| 3 | PHOTO | Photo Processing | 10.00 | 30.00T |
| 1 | PV | Private Tower Vehicle 2013, Chrysler 200, Grey KBD310 1C3CCBBB9DN63317 | 60.00 | 60.00T |
| 4 | TIRE | Loose Tire Disposal - | 0.00 | 0.00T |
| 1 | BATTERIES | Battery Disposal - | 0.00 | 0.00T |
| 1 | PV | Private Tower Vehicle 1998, Nissan Frontier, Black JRP935 1N6DD26Y7WC302632 | 60.00 | 60.00T |
| 4 | TIRE | Loose Tire Disposal - | 0.00 | 0.00T |
| 1 | BATTERIES | Battery Disposal - | 0.00 | 0.00T |
| | | Sales Tax | 4.712% | 10.60 |

WE APPRECIATE AND THANK YOU FOR YOUR
BUSINESS.

| | |
|-------------------------|------------------|
| Total | \$235.60 |
| Payments/Credits | -\$235.60 |
| Balance Due | \$0.00 |

Environment Hawai'i

a monthly newsletter

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Cover Summary

Reef Capital Investors Heading to Shoals?



A drone shot of unauthorized work on Conservation District lands owned by RP21. CREDIT: GARY HOOSER.

For the last two decades, efforts of the state and a host of would-be developers to bring new life to the old Coco Palms resort on Kaua'i have come to naught. The latest group of investors who have taken over the project seem to be headed toward the shoals as well.

Not only do they not have control over state land that they want to make a part of their operations, they are also suspected of violating laws and rules that govern land use in the most protective of the subzones within the state Conservation District.

On top of that, a non-profit group is suing to force compliance with environmental disclosure laws, while at the same time pressing forward with its own plans for a Hawaiian cultural center.

In This Issue



May 2023 PDF
April 26, 2023



Iconic Hilo
Condominium Gets
Permit to Armor Eroding Cliff
Face
April 26, 2023



Developers of Coco
Palms Site Face
Violation Allegations, Injunction
Lawsuit
April 26, 2023



LUC Grills Kona
Developer on
Compliance With
Environmental, Cultural
Regulations
April 26, 2023



Suspect Housing
Credits Won't Be Used
– At Least at Kaloko
April 26, 2023



NOAA Begins
Environmental
Scoping For Pacific Remote
Islands Sanctuary
April 26, 2023



New & Noteworthy:
'Aina Le'a; Coral Reefs
April 26, 2023



0:05 / 1:40



Gary Hooser

April 26 at 5:44 PM · 🌐

...

CocoPalms developers at work. In today's TGI newspaper Patrick Manning, managing director of Reef Capital Partners from Utah said "the DLNR has received erroneous complaints that we grubbed or graded the land. We will show the DLNR those complaints were not accurate." Excuse me? Watch the video! "Grubbing is defined as removing and disposing of all unwanted vegetative matter from underground, such as stumps, roots, buried logs, and other debris." Watch to the end as they move the debris from one conservation zoned piece of land and dump it on another piece of even more sensitive conservation wetlands. All work done without permission or state DLNR required permits. Notice all the coconut trees that were also cut down and hauled to this location, likewise without permits or authorization. See less

👍👍👍 6

3 2 1K

Like

Comment

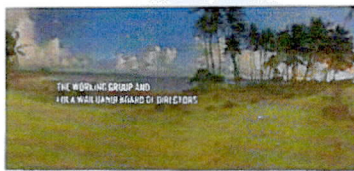


Carroll Gerow
ohh

2w



Judy Dalton



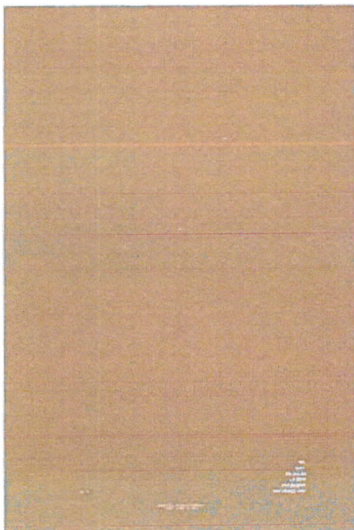
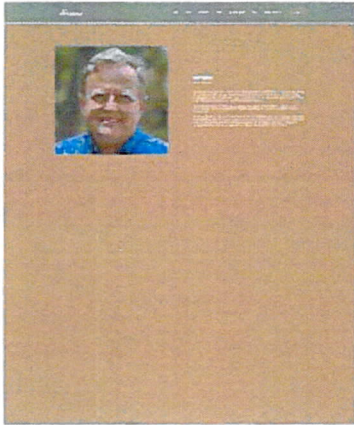
NAME
[Illegible text]



NAME
[Illegible text]



NAME
[Illegible text]







Mauna Kea Trask

Subject: FW: Tax Map Key Parcel (4) 4-1-003:004 Notice of Alleged Violation and Order Coco Palms Koki Road Site

----- Forwarded message -----

From: KevinThielen <kevinandlucy@verizon.net>

Date: Fri, Apr 21, 2023 at 10:25 AM

Subject: Tax Map Key Parcel (4) 4-1-003:004 Notice of Alleged Violation and Order Coco Palms Koki Road Site

To: alison.neustein@hawaii.gov <alison.neustein@hawaii.gov>

Cc: michael.cain@hawaii.gov <michael.cain@hawaii.gov>

Good morning Alison,

Thank you for taking the time to discuss my concerns related to the conservation site adjacent to Koki Road. As I mentioned to you per our phone conversation on April 20th, I've been witnessing the daily violations/destruction/ and improvement of this conservation site since July 2021 when we first spoke. This property had been occupied by a group of approximately 30+ squatters for many years prior to current ownership of this land. I reached out to Coco Palms as you confirmed ownership back in 2021 and Parker Enloe who is one of the Coco Palms Utah representatives has been extremely helpful and instrumental in cleaning up this site since November 2022 when Coco Palm took possession of this site.

Parker's efforts to remove the squatters started back in November 2022. Approximately 30 long time/permanent squatter were evicted, over 60,000 pounds of trash were removed and over 80 derelict vehicles were also removed from this site to address environmental hazards. The removal of the squatters has stopped the constant clearing, grubbing, tree cutting, and the illegal trash dumping by outside parties that were given the green light to dump their trash by the squatters. In addition, illegal fires and the day and night noise pollution by revving vehicles has been significantly reduced. Criminal activity such as drug dealing, domestic violence, animal cruelty, firing gun shots, daily compaction of the site by vehicles driving in and out of the site have been eliminated.

It is important to clarify that the week of July 4th 2022, I witnessed the squatters cutting numerous large trees on the site to expand their encampment and this is the reason why there is a large open area in the middle. The squatters brought heavy equipment and performed clearing and grubbing for their ingress/egress and to accommodate a larger group of squatters. They graded the large space as shown in your exhibits. Parker's group did not perform this grading on the site. I reported this activity to KPD as it was taking place and it can be confirmed by them. KPD did not stop the activity because the squatters were on private property.

The piles of trash that you see on the photos is trash that was left by the evicted squatters and it was finally being removed by Parker's contractor, Jon Gibbs on Wednesday April 19th. The reason it looks messy on your photos is because it had been raining heavy and this was the first dry day when they were able to remove the last piles of rubbish which I can see from every room in my house. Their intent was to remove the trash and bring a grinder to make mulch to rehabilitate and restore the barren site.

I also wanted to share that Parker is a responsible owner and has continue to show good faith effort to protect the site by providing me with a limited power of attorney to access the site and call KPD to remove trespassers. Also, Jon Gibbs, the on Island contractor was given authorization on April 6th to install fencing to keep the squatters out, eliminate illegal fire hazards by squatters to and prevent vehicles from driving in and out of the site.

It is important to recognize that Parker's efforts have been steady and he has done more to clean and protect this conservation site in a very short time than anyone has done in many years. It is unfortunate and frustrating that the work is being stopped by false accusations. I have an obligation to provide clarification related these violations that Coco

Palms is being put on notice. They DID NOT performed any clearing and grubbing on this site and have only improved the its condition.

Our quality of life has significantly improved since Parker started to clean this site. We are able to sleep all night without multiple interruptions and not worry about getting shot, or the continued threat fire hazards. My biggest concern now is that Coco Palms has been ordered to stop the work and that the squatters will slowly come back to the site and continue to pose a threat to our life and our livelihood.

I hope that this clarifies this huge misunderstanding. Please feel free to call me at 626-851-0239 if you have any questions or need further clarification.

Regards,

Lucy Thielen

4865 Nonou Rd. Apt. F
Kapaa, HI 96746

--

In Success,
Jon"Jay" Gibb III
(808) 720-0222
[Your Way Home](#) Site:
Real Estate Development & Micro Homes

4/5/2018

DEPARTMENT OF THE INTERIOR Mail - ESA Technical Assistance for Coco Palms Project



Griesemer, Adam <adam_griesemer@fws.gov>

ESA Technical Assistance for Coco Palms Project

Chad Waters <chad@greenewaters.com>

Wed, Jul 27, 2016 at 8:48 PM

To: "Griesemer, Adam" <adam_griesemer@fws.gov>

Cc: Tyler Greene <Tyler@greenewaters.com>, chad <chad@agorarchitects.com>, Karin Reiss <kyreiss@hawaii.edu>, Aaron Nadig <aaron_nadig@fws.gov>, Lasha-lynn Salbosa <lasha-lynn_salbosa@fws.gov>, "Cullison, Katherine" <katherine.cullison@hawaii.gov>

Adam,

I spoke with our consultant, Reginald Davis, today as he was flying out on vacation. He will be back to work the week of Aug 8th and will be meeting with us then to review. We can get back to you with our feedback after that meeting.

aloha,

Chad Waters | Managing Partner

Greenewaters

+1 (808) 348-4302

chad@greenewaters.com

www.greenewaters.com

[Quoted text hidden]

4/5/2018

DEPARTMENT OF THE INTERIOR Mail - ESA Technical Assistance for Coco Palms Project



Griesemer, Adam <adam_griesemer@fws.gov>

ESA Technical Assistance for Coco Palms Project

Griesemer, Adam <adam_griesemer@fws.gov>

Thu, Jul 28, 2016 at 9:04 PM

To: Chad Waters <chad@greenewaters.com>

Cc: Tyler Greene <Tyler@greenewaters.com>, chad <chad@agorarchitects.com>, Karin Reiss <kyreiss@hawaii.edu>, Aaron Nadig <aaron_nadig@fws.gov>, Lasha-lynn Salbosa <lasha-lynn_salbosa@fws.gov>, "Cullison, Katherine" <katherine.cullison@hawaii.gov>

Hi Chad,

Thanks for your response. I will be out of the office next week as well.

I look forward to coordinating with you following the meeting with your consultant.

Regards, Adam

[Quoted text hidden]

-

Adam Griesemer
Endangered Species Biologist
U.S. Fish and Wildlife Service
Pacific Islands Fish and Wildlife Office
7370-K Kuamoo Rd., Kapaa, HI 96746
Office: (808) 822-2175
Cell: (808) 285-8261

**Endangered avian resources assessment at the
Coco Palms Hotel, Wailua, Kauaʻi**



AECOS Inc.
45-939 Kamehameha Highway
Suite 104
Kāneʻohe, Hawaiʻi 96744

October 27, 2023
Revised 1/5/24

Endangered avian resources assessment at the Coco Palms Hotel, Wailua, Kaua'i

October 27, 2023

AECOS No. 1791

Reginald E. David and Kamryn Yoneshige

AECOS Inc.

Kamehameha Highway, Suite 104

Kāne'ohe, Hawai'i 96744

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Introduction

Reef Capital Partners is proposing to redevelop the Coco Palms Hotel (herein, the "Project"), which was severely damaged by Hurricane Iniki in September 1992. The Project site is located on Kūhiō Highway near the mouth of the Wailua River on the east side of Kaua'i (Figure 1). The area is covered with weedy vegetation and infrastructure from the original hotel. The U.S. Geological Survey (USGS) National Hydrography Dataset (NHD; USGS, nd) shows a stretch of standing water oriented north-south through the Project site. This water feature provides habitat suitable for endangered waterbirds.

AECOS Inc. was contracted by RP21 Reef Capital to conduct an endangered avian species survey of the project area. These data will be used to develop an Endangered Species training Module to be used to train managers and construction workers who will be working on the site. This report presents the results from that survey.

Site Description

The Project site is the former iconic Coco Palms Hotel in Wailua, Kaua'i. The property is bound to the east by Kūhiō Highway and overlooks Wailua Beach. To the south is Kuamo'o Road, and to the west, agricultural fields (Figure 1). The property is designated as Tax Map Keys (TMKs): (4) 4-1-003:044 por., (4) 4-1-003:017 and (4) 4-1-005:017.

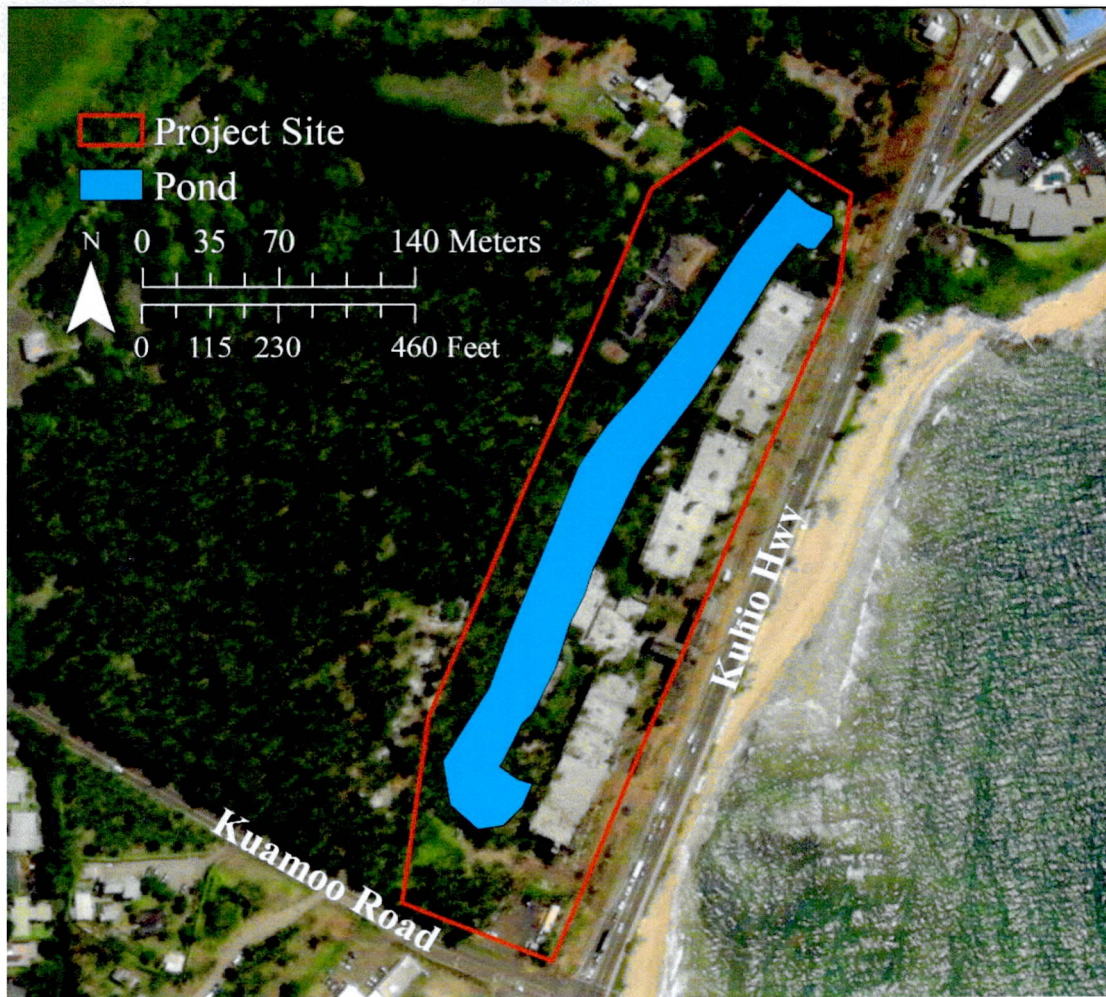


Figure 1. Map of the Project site (outlined in red) in Wailua, Kaua'i.

Methods

AECOS biologists Reginald David and Kamryn Yoneshige conducted a survey for waterbirds at the Project site on August 30, 2023. Special attention was paid to sensitive species, which includes species listed by the Endangered Species Act of 1973 as amended (ESA; see USFWS-NOAA, 2021) or by state administrative rule (HDLNR, 1998, 2015), or a biological community that may or may not be under any specific threat of extirpation, but which would be regarded as special and worthy of preservation.

Avian Survey

Three 30-minute water-dependent point-count stations were established around the pond within the Project site (Figure 2). Observations were accomplished with the aid of Leica 8 X 42 binoculars and by listening for vocalizations. Time not spent at point-count stations was used to search the area for species and habitats not seen during the point-counts. Weather conditions were ideal with unlimited visibility and winds at three to five miles-per-hour. The avian phylogenetic order and nomenclature used in this report follows the *AOU Check-List of North and Middle American Birds 2022*, and the 64th supplement to the checklist (Chesser et al., 2022, 2023).



Figure 2. Typical linear water features on the property

Results

The results from the three counts are combined. In total, we recorded seven Hawaiian Duck seven Common Gallinule, and one Hawaiian Coot.

Discussion

Although this survey concentrated on the known endangered waterbird presence on the property, several other listed seabirds overfly the site and it is also likely that the

endangered Hawaiian bat (*Lasiurus semotus*)¹, may use resources on the property on a seasonal or temporal basis, so we have addressed those potential issues in the following as well.

Recommendations presented here are partly based on U.S. Fish and Wildlife Service, Animal Avoidance and Minimization Measures (USFWS-PIFWO, 2023). Implementation of the recommendations (provided below as bulleted items) by the contractor during construction in the areas will minimize impacts to listed species to the maximum extent practicable. Attachment A contains a presentation prepared by AECOS to be used by Reef Capital as part of an endangered species, training module for working at Coco Palms.

Endangered Waterbirds

We recorded three of the four extant endangered waterbird species known on Kaua'i. These waterbird species are protected under both state and federal endangered species statutes (HDLNR, 2015; USFWS, nd). Suitable habitat for the fourth species, the endemic sub-species of the Black-necked Stilt (*Himantopus mexicanus knudseni*), is not present at the Project site. Current habitat is suitable for the species we encountered, and likely will improve following buildout.

Following are recommendations for avoiding or minimizing impacts to endangered waterbird species.

- Incorporate applicable best management practices regarding work in aquatic environments into Project design.
- Have a biological monitor that is familiar with waterbird species biology conduct Hawaiian waterbird nest surveys where appropriate habitat occurs prior to Project initiation. Repeat surveys again within 3 days of Project initiation and after any subsequent delay of work of 3 or more days (during which time the birds may attempt to nest). If a nest or active brood is found:
 - Inform AECOS biologists immediately, and they will advise and respond as is necessary.
 - Establish and maintain a 100-foot buffer around all active nests and/or broods until the chicks/ducklings have fledged. Do not conduct potentially disruptive activities or habitat alteration within this buffer area.

¹ We follow recent research on the elevation of this former sub-species to a full species (Pinzari et al. 2020).

- Refer to Attachment A for additional, site-specific avoidance and minimization measures to take.

Seabirds

Although this survey focused on endangered waterbird presence on the property, several other listed seabirds may fly over the site. Listed night-flying seabirds in Hawai'i include Hawaiian Petrel (*Pterodroma sandwichensis*), Newell's Shearwater (*Puffinus newelli*), and Band-rumped Storm-Petrel (*Hydrobates castro*). On the Island of Kaua'i, these three species nest in upland mountainous habitat. In the summer and fall, night-flying seabirds (especially fledglings) transiting to the sea from inland locations can become disoriented by exterior lighting (Telfer et al., 1987). When disoriented, seabirds may collide with man-made structures or the ground. If not killed outright, dazed or injured birds are targets of opportunity for feral mammals (Podolsky et al., 1998; Ainley et al., 2001; Day et al., 2003). The primary cause of mortality in these seabird species is predation by alien mammalian species at the nesting colonies (USFWS, 1983; Ainley et al., 2001). Collision with man-made structures is considered the second most significant cause of mortality of these seabirds in Hawai'i. When Coco Palms was still an operating hotel, the area was known for large numbers of downed seabirds (SOS, 2022). No suitable nesting habitat for seabird species occurs in the Project area.

- Deleterious impacts to transiting seabirds can be avoided if construction occurs during daylight hours, or all outdoor lighting erected for night-time construction is fully "dark sky compliant" (HDLNR-DOFAW, 2016). All permanent lighting incorporated into the redeveloped site should be fully shielded and Dark Sky compliant.

Mammalian Resources

It is possible that the endangered Hawaiian hoary bat, 'ōpe'ape'a (*Lasiurus semotus*), uses resources within the Project area. Trees suitable for roosting are present on the site. This bat species is solitary and rare but with a widespread distribution on Kaua'i. However, the Hawaiian hoary bat uses multiple roosts within a home territory (Bonaccorso, 2015), so the disturbance associated with removal of any particular tree would be minimal. An exception might be during the pupping season if a female bat carrying a pup or an unattended pup is in a tree being felled; these individuals could be unable to flee the tree.

- ## Other Resources of Potential Concern

No federally designated Critical Habitat occurs encompassing the Project site or in the Project vicinity (USFWS, 2020). Thus, modification of habitats on any part of the site will not result in an impact to federally designated Critical Habitat. No equivalent statute exists under state law.

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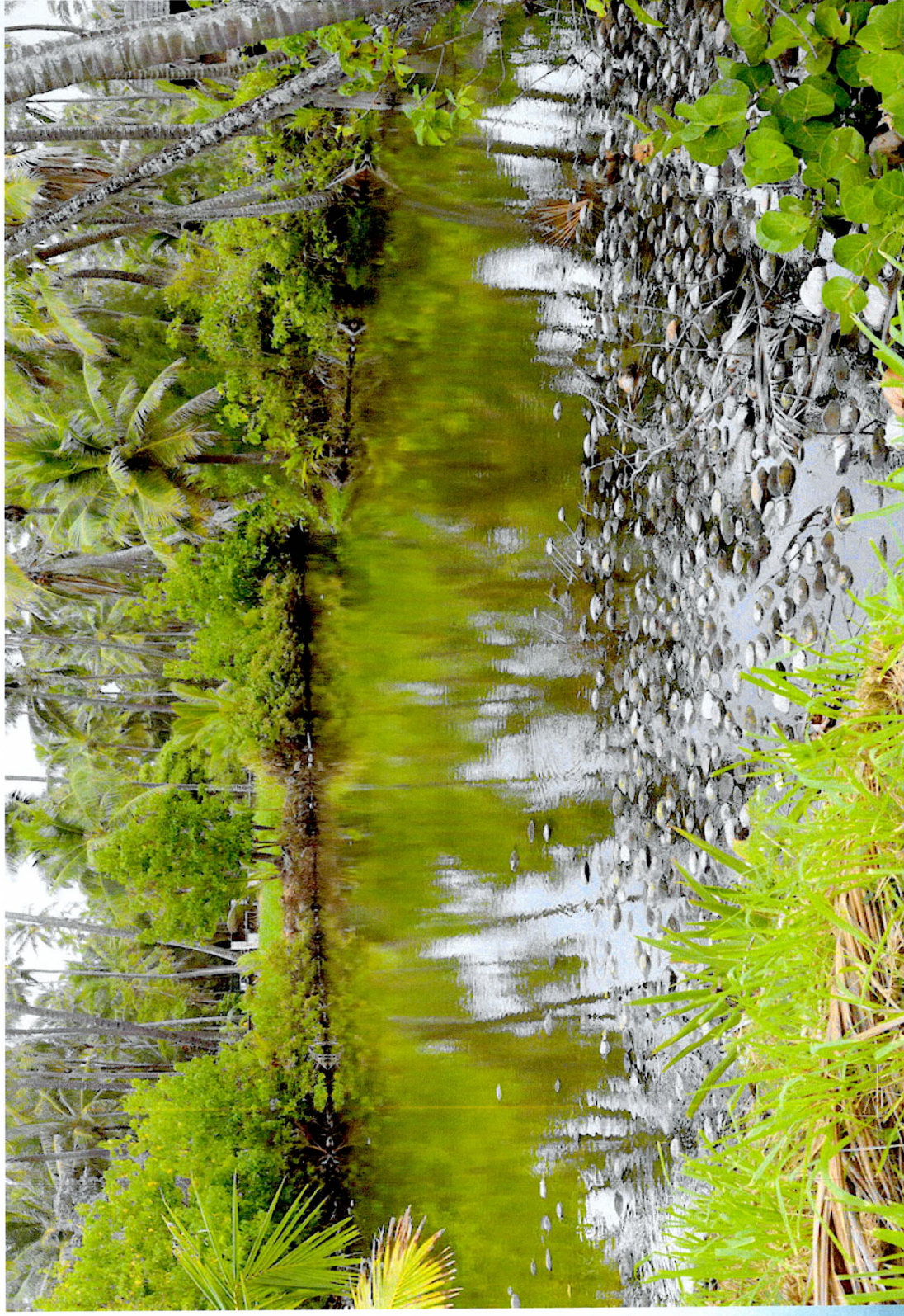
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Attachment A

Endangered Species
Awareness Training
Presentation

Reef Capital / Coco Palms Endangered Species Awareness Training 2023



Purpose of the training

- The Project site currently supports three Endangered waterbirds
- We have specific endangered species protocols in place to ensure that construction activity does not result in harm to listed species which may come onto the site from adjacent areas
- All contractors and their employees are required to follow the simple protocols
- There are potentially significant legal implications if the protocols are not followed

Regulatory Setting

- All of the species covered in this training module are protected under one or more of the following federal and State of Hawaii wildlife laws
- Federal The Endangered Species Act of 1973, as amended (ESA)
- Federal Migratory Bird treaty act (MBTA)
- State of Hawai'i - Hawaii Revised Statutes (Chapter 195-D)
- **IT IS ILLEGAL TO:**
 - “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” any species listed under any of these statutes

Agency and Endangered Species Program Contacts

Who to Call

Biological Consultants

AECOS Office: (808) 234-7770

Reggie David: (808) 937-0124, email: reggie@aecos.com

Wildlife Agencies

USFWS-Pacific Islands Fish and Wildlife Office: (808) 792-9400

Endangered Hawaiian Waterbirds

- The following endangered waterbirds currently do or could potentially use resources on the site.
- The first three are currently using the ponds

‘Alae ke‘oke‘o, Hawaiian Coot



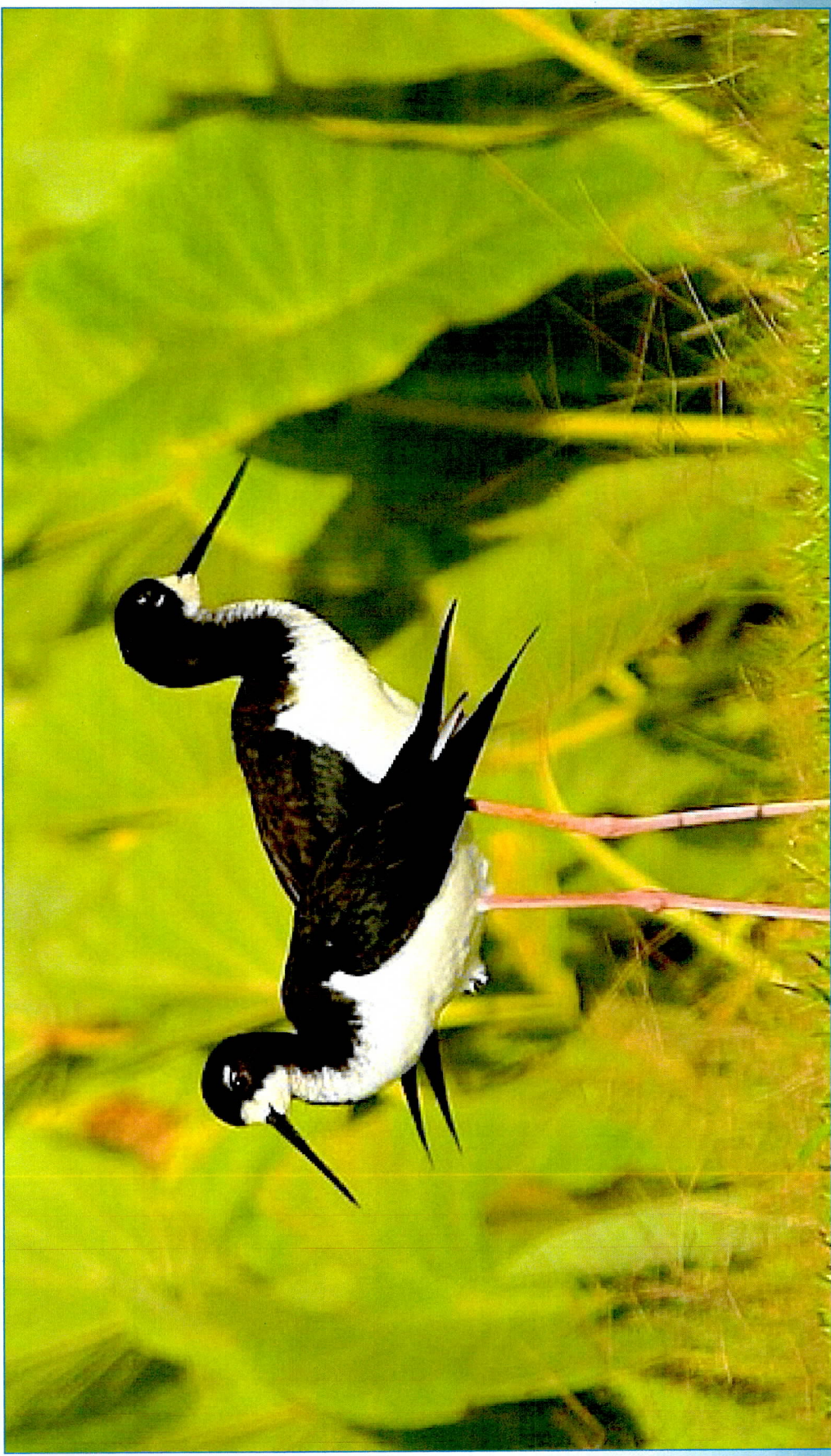
‘Alae ‘ula, Hawaiian ssp. Common Gallinule



Koloa maoli, Hawaiian Duck



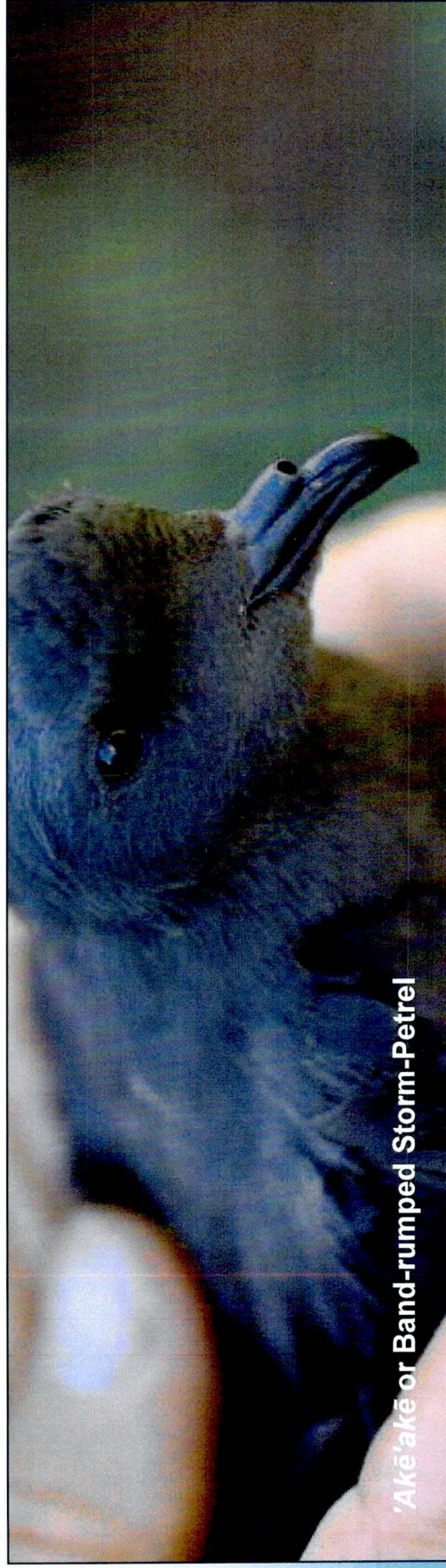
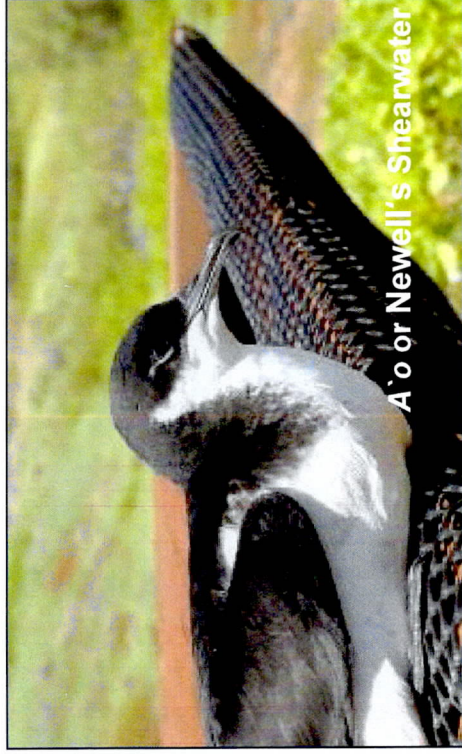
Ae`o Hawaiian ssp. Black-necked Stilt



Special Rules and Prohibitions

- No dogs or other pets are allowed on the site
- If you eat your lunches anywhere on the property, police up all of your trash, bento boxes, food scraps and soda and water bottles and remove from the site – or place in covered trash receptacles
- Do not feed or approach any animals on the site
- If you see an endangered waterbird within the active demolition site, call your supervisor. Cease all work within 50 feet until AECOS biologists notify you that work can resume.
- If an endangered Hawaiian waterbird nest is found, call your supervisor. Cease all work within 100 feet of any nests with eggs or chicks. Call AECOS numbers and we will coordinate an appropriate response.

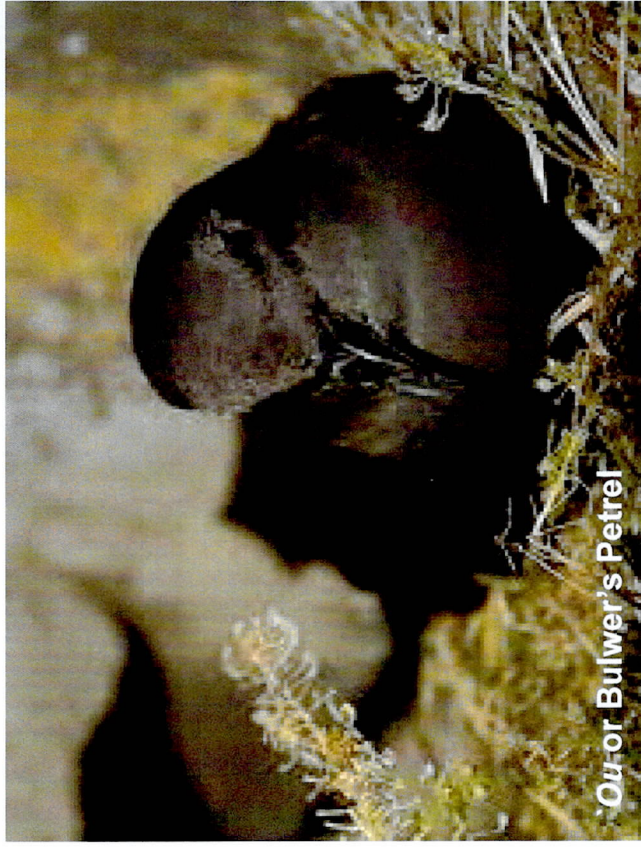
Protected Seabird Species



Additional MBTA Night-flying Seabirds



‘Ua`u kani or Wedge-tailed Shearwater



Ou or Bulwer's Petrel

Seabird Fallout Season Issues

- Night flying seabirds are often attracted to lights
- Fledgling (*keiki*) birds on their way to sea for the first time are often attracted to lights and can be confused by them
- Confused birds may collide with structures, or simply land on the ground too tired to continue flying



Seabird Fallout Season Issues cont.

- Once on the ground they cannot take off again and will die from starvation or be killed by predators if not rescued
- If the seabirds are recovered and turned into the Hawaii Wildlife Center almost 90% of them can be returned to the wild
- In the event that you see a seabird circling the lights, or find one on the ground, immediately report it to your supervisor. He/she will contact AECOS and they will respond as is needed.
- Stay with the animal until someone has spoken with AECOS
- Follow any instructions that AECOS biologists give you.

Take Home Message

- The harming of listed waterbirds and seabirds may be construed as “take” under the ESA, and/or HRS 195D.
- The minimization and avoidance of “take” to the maximum extent practicable is required under both federal and State of Hawaii endangered species statutes
- Failure to do so may result in enforcement action, which may result in significant civil and criminal penalties
- Penalties include civil fines of up to \$25,000 per incident, and criminal fines of up to \$50,000, and up to one-year federal imprisonment per incident
- **Non-compliance with any of the endangered species, rules and protocols will result in immediate disciplinary action**

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUAI

In the Matter of the Petition of:

FRIENDS OF MAHAULEPU

To revoke Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit PDU-2015-7, Variance Permit V-2015-1 and Special Management Area Use Permit SMA(U)-2015-6 issued to Coco Palms Hui, LLC for use at Wailua, Kauai, Tax Map Keys 4-1-003:004 (por.), 005, 007, 011, and 017 and 4-1-005:014 and 017.

Permit Nos. Z-IV-2015-8, PDU-2015-7, V-2015-1, SMA(U)-2015-6

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 11, 2024, RP21 LLC AND COCO PALMS HUI LLC'S OPPOSITION TO PETITIONER FRIENDS OF MAHAULEPU'S SUPPLEMENT TO PETITION FOR REVOCATION OF PERMITS ISSUED TO COCO PALMS HUI, LLC, was duly served upon the following parties as provided:

COUNTY OF KAUAI PLANNING COMMISSION (Via hand delivery)
c/o County of Kauai Planning Department
4444 Rice Street, Suite A473
Lihue, Hawai'i 96766

BIANCA K. ISAKI, ESQ. (Via email)
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Post Office Box 19205
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LANCE D. COLLINS, ESQ.

(Via email)

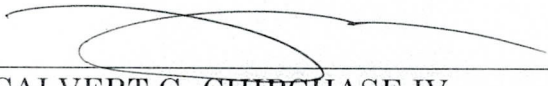
lawyer@maui.net

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Attorneys for Petitioners
FRIENDS OF MAHAULEPU,
a domestic nonprofit organization

DATED: Lihue, Hawai'i, March 11, 2024.

CADES SCHUTTE LLP
A Limited Liability Law Partnership



CALVERT G. CHIPCHASE IV
MAUNA KEA TRASK
KEOLA WHITAKER

Attorneys for
RP21 COCO PALMS LLC, and
COCO PALMS HUI, LLC