

WALTON D.Y. HONG

LAW OFFICES OF

**WALTON D.Y. HONG**

ATTORNEY AT LAW  
A Law Corporation  
3135 AKAHI STREET, SUITE A  
LIHUE, KAUAI, HAWAII 96766-1106

TELEPHONE (808) 245-4757  
TELECOPIER (808) 245-5175

LAND USE COMMISSION  
STATE OF HAWAII

November 21, 2016

2016 NOV 23 A 9:14

Land Use Commission  
State of Hawaii  
P. O. Box 2359  
Honolulu, HI 96804-2359

**Re: Docket No. A76-418, Kiahuna Mauka Partners, LLC**

Gentlemen:

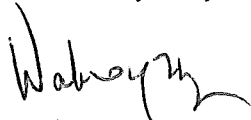
We enclose for filing, the original and two copies of the 2016 Annual Status Report of Kiahuna Mauka Partners, LLC, on Conditions to Decision and Order of Land Use Commission.

A pdf copy of the enclosed will be also be emailed to the Director.

Please return the extra filed copies to us for our records.

If there are any questions, please feel free to contact me.

Yours very truly,

  
Walton D. Y. Hong

WDYH:ckf  
Encl.  
cc: Client

2016 NOV 23 A 9:14

WALTON D. Y. HONG  
A Law Corporation

WALTON D. Y. HONG 890-0  
3135 Akahi Street, Suite A  
Lihue, HI 96766

Attorney for Kiahuna Mauka Partners, LLC

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

In the Matter of the Petition	)	DOCKET NO. A76-418
	)	
of	)	2016 ANNUAL STATUS
	)	REPORT OF KIAHUNA MAUKA
MOANA CORPORATION	)	PARTNERS, LLC, ON CONDITIONS
	)	TO DECISION AND ORDER OF
To Amend the Agricultural Land Use	)	LAND USE COMMISSION;
District Boundary into the Urban Land Use	)	CERTIFICATE OF SERVICE
District for Approximately 457.54 Acres of	)	
Land Situated at Poipu, Island of Kauai,	)	
State of Hawaii, TMK: 2-8-14: 05, 07, 08,	)	
POR. 19, 20, 21, 26-36; 2-8-15: 77; 2-8-29:	)	
1-94.	)	
	)	

2016 ANNUAL STATUS REPORT OF  
KIAHUNA MAUKA PARTNERS, LLC, ON CONDITIONS  
TO DECISION AND ORDER OF LAND USE COMMISSION

Comes now KIAHUNA MAUKA PARTNERS, LLC, a Hawaii limited liability company, and respectfully submits this 2016 Annual Status Report for the period from August 1, 2015 through July 31, 2016, with respect to compliance with the conditions imposed on the properties formerly owned by Sports Shinko (Kauai) Co., Ltd., by the Decision and Order of the Land Use Commission of the State of Hawaii (herein the "Commission") dated and filed July 7, 1977, as amended by (a) the Commission's Decision and Order dated July 3, 1978, (b) the Commission's two Orders Granting Motion to Amend Conditions, each dated December 13, 1979, (c) the Commission's Order Granting In Part Movant Knudsen's Motion to Confirm Satisfaction of and to Partially Delete or Modify Condition Imposed by the Land Use Commission dated October 16, 1995, (d) the Commission's Order Granting In Part Movant Sports Shinko's Motion to Confirm Satisfaction of and to Partially Delete or Modify Conditions Imposed by the Land Commission dated October 16, 1995, (e) the Commission's

Order Granting First Hawaiian Bank, Trustee of the Eric A. Knudsen Trust's Amendment to Motion to Modify Condition Imposed by Land Use Commission (the Modification Order") dated and entered on August 5, 1997, and (f) Order Granting Kiahuna Mauka Partners, LLC's Motion To Amend Or Modify Condition No. 9 of Decision And Order, As Amended In August 5, 1997, dated March 18, 2004 and entered March 25, 2004, (collectively, the "Decision and Order"), which Decision and Order imposed certain Conditions (the "Conditions") on the reclassified lands.

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I. GENERAL PROGRESS OF THE PROJECT

As noted in prior Annual Status Reports, Kiahuna Mauka Partners, LLC, was formed by the owners of the respective parcels to effect a single representative to manage and represent project-wide issues before agencies such as the Commission. Kiahuna Mauka Partners, LLC, accordingly submits this Annual Status Report on behalf of its members, as owners and developers of the respective parcels under consideration.

The respective parcels owned by the members of Kiahuna Mauka Partners, LLC (herein "KMP") were originally acquired on or about April 10, 2003. Since their acquisition, the members have proceeded diligently, continue to be in various stages of planning, design and construction, and are moving forward in an expeditious manner. While necessary to recognize that the economic realities of each member's project will dictate the timing of that project's development, the project-wide issues are being addressed collectively, including water, sewerage, traffic, wire utilities and overall entitlements. As will be shown in this report, substantial progress has and will continue to be made towards completion of the project.

As set forth in the Order Granting (1) Kiahuna Mauka Partners, LLC's Motion To Amend Or To Modify Condition No. 9 Of Decision And Order, As Amended in August 5, 1997, dated March 18, 2004, Condition No. 9b of the Decision and Order of the Land Use Commission of the State of Hawaii (herein the "Commission") dated and filed July 7, 1977, as amended, Condition No. 9b thereof was further amended that:

“9b. Sports Shinko or any subsequent owner of the properties (the ‘Sports Shinko Property’) identified by TMK Nos. (4) 2-8-14:8, 28, 32, 33, 34, and 35; and (4) 2-8-15:77, as shown on the map attached hereto as Exhibit ‘A’ and made a part hereof, and consisting of approximately 179 acres, will substantially commence the development and construction ‘on or before’ or not later than August 5, 2009, of not less than three hundred (300) single-family residential homesites and/or multi-family residential units on the currently undeveloped portions of the Sports Shinko Property, as evidenced by the issuance by the County of Kauai of a final subdivision approval (in the case of single-family homesites) or the initial building permit for such construction (in the case of multi-family residential units), and in accordance with the terms

and conditions of the Agreement Regarding Conditions of Approval dated December 24, 2003 by and among Kiahuna Mauka Partners, LLC, Stacey T. J. Wong, as and in the capacity of the Successor Trustee of the Eric A. Knudsen Trust, and County of Kauai. \* \* \* “

The Kiahuna Mauka Partners, LLC's owners have invested substantial effort and have expended funds in excess of \$66 million to provide for infrastructure and other improvements for the required housing units to be developed on the properties. KMP has received ground altering permits for all five of its projects, and has received final subdivision approvals or has been issued building permits by the County of Kauai for 306 single-family residential homesites (lots) and multi-family residential units, which exceeds the 300 required under Condition 9b.

A summary of the five projects and their current status are as follows:

(a) Project 1, Poipu Beach Estates, is a 106-lot single-family residential subdivision. It has obtained final subdivision approval from the Kauai Planning Commission. The subdivision has been completed, and the final subdivision map registered with the Office of the Assistant Registrar of the Land Court of the State of Hawaii. To date, 26 homes have received certificates of occupancy, 20 homes have been issued building permits and are under construction, and 15 additional homes are in the design review and permitting process for a total of 51 homes anticipated to be completed in 2017

(b) Project 2, Royal Palms at Poipu, is a 164-unit condominium project, which has received its land use permits from the County of Kauai, and is currently under review by the County of Kauai for Class IV permits.. It has completed the common sewer line for the Kiahuna Mauka Partners and other users of the wastewater treatment plant for the area. The project site was sold to Welk Properties, which expects to break ground in 2017.

(c) Project 3, Pili Mai, is a 191-unit condominium project which received its land use and grading permits, from the County of Kauai. Infrastructure and site work has been completed, and building permits for 128 units were issued by the County. Two (2) buildings comprised of 13 units each have been completed.

(d) Project 4, Kiahuna Poipu Golf Resort, is a 280 multi-family and 2 single family unit project, for which land use permits have been issued by the County of Kauai. The main roadway and utilities through the project have been completed.

(e) Project 5, Wai`nani at Poipu, is a 70-lot single-family subdivision. The project received final subdivision approval from the Kauai Planning Commission, and construction of the roadway and underground utilities up to and within the subdivision have been completed. Twenty (20) homes have been built and issued certificates of occupancy and have been sold to individual owners or are for sale. Twenty-two lots are in various stages

of permitting approval, and 13 homes are currently under construction. One completed residence is a model home for sales purposes.

In addition to the foregoing five projects, Kiahuna Fund, LLC, has also completed a 2-lot subdivision in the project area, which accesses through Project 1. This has received final subdivision approval from the Kauai Planning Commission, and approval of the Land Court of the State of Hawaii

As noted in the 2003/2004 Annual Status Report, the 2004-2005 Annual Status Report, the 2005/2006 Annual Status Report, the 2007 Annual Status Report, the 2008 Annual Status Report, the 2009 Annual Status Report, the Amended 2009 Annual Status Report, the 2010 Annual Status Report, the 2011 Annual Status Report, the 2012 Annual Status Report, the 2013 Annual Status Report of Kiahuna Mauka Partners, LLC, and the combined 2014-2015 Annual Status Report of Kiahuna Mauka Partners, LLC, the representations of the original petitioner Moana Corporation was that the project would ultimately consist of 300 single family lots and 1,150 multi-family units, for a total unit count of 1,450 units. Due to the changes in market conditions and other circumstances in the intervening years, KMP and the Eric A. Knudsen Trust believed that an increase in the number of single family units and decrease in the number of multi-family units would better meet the needs of the area, and reached an understanding as to the increase and reallocation of the single family units and decrease in the multi-family units. While there may be a continued need to adjust the allocation in the future, in no event will the total units exceed 1,450 units, and may even result in a decrease in the number of total units upon final build-out. The reallocation of single family and multi-family units, nonetheless, remains consistent with the intent and approvals of the project, without any adverse impacts.

## II. STATUS OF COMPLIANCE WITH CONDITIONS

### Condition Nos. 1, 2, 3, 4 and 6

**Current Status:** As reported in the preceding 2002/2003 Annual Status Report, the 2003/2004 Annual Status Report, the 2004/2005 Annual Status Report, the 2005-2006 Annual Status Report, the 2007 Annual Status Report, the 2008 Annual Status Report, the 2009 Annual Status Report, the Amended 2009 Annual Status Report, the 2010 Annual Status Report, the 2011 Annual Status Report, the 2012 Annual Status Report, the 2013 Annual Status Report and the combined 2014 and 2015 Annual Status Report, each of these Conditions have been previously satisfied as confirmed by (a) the Commission's Order Granting in Part Movant Knudsen's Motion to Confirm Satisfaction of and to Partially Delete or Modify Condition Imposed by the Land Use Commission dated October 16, 1995, and (b) the Commission's Order Granting in Part Movant Sports Shinko's Motion to Confirm Satisfaction of and to Partially delete or Modify Condition Imposed by the Land Use Commission dated October 16, 1995.

Condition No. 5

5. *That the Petitioner make the recreational and other amenities of the development such as the golf course, clubhouse, swimming facilities, tennis courts, and theater and cultural center available for public use at reasonable usage fees.*

**Current Status:** The existing recreational amenities on the reclassified lands, including the Kiahuna Golf Club and Kiahuna Tennis Club, which includes the swimming pool and eight regulation tennis courts, are and have been available since their inception for public use at reasonable usage fees. The Kiahuna Golf Club's eighteen-hole course is also available from its inception for public use at reasonable competitive green fees. Although the golf and tennis facilities are not within the control of KMP, it anticipates no change in this practice.

Condition No. 7

7. *That Petitioner commission and complete a comprehensive archaeological and biological study with actual inventories of archaeological sites and flora and fauna on the subject property, and that the Petitioner preserves any archaeological sites which archaeologist conducting such archaeological study believes to be significant and worthy of preservation and protect and preserve the present habitats of any blind, eyeless, big-eyed hunting spiders and blind terrestrial sandhoppers which the biologist conducting the biological study believes to be worthy of preservation. The Petitioner may commission such archaeological and biological study to any archaeologist and biologist or firm connected therewith who is qualified to conduct such a study to satisfy the foregoing condition. The Petitioner may apply to the County of Kauai for rezoning of the subject property before the completion of the archaeological and biological study; provided that no actual work on any portion of the subject property begins until the archaeological and biological study for that portion to be worked on has been completed. Actual work on any portion of the subject property may be commenced by Petitioner upon certification by the archaeologist and biologist that the area for which work is to commenced does not contain any archaeological sites deemed significant and worthy of preservation, nor contains any habitats of any blind, eyeless, big-eyed hunting spiders and blind terrestrial sandhoppers deemed worthy of preservation.*

**Current Status:** As shown in the 2009 Amended Status Report, the 2010 Annual Status Report, the 2011 Annual Status Report, and the 2012 Annual Status Report, this condition has been fulfilled. As noted in the prior Annual Status Reports, a comprehensive Archaeological and Biological Survey of the Proposed Kiahuna Golf Village Area, dated September 1978, was prepared for the petitioner Moana Corporation by Archaeological Research Center of Hawaii, Inc., towards meeting this condition.

Additionally, an Inventory Survey Report, Data Recovery Report and Preservation Plans for identified Preserves were submitted and approved by the State Historic Preservation Division of the Department of Land and Natural Resources (herein "SHPD").

This resulted in four archaeological preserves, totaling approximately 11 acres, and their metes and bounds descriptions were established pursuant to agreement with SHPD and the Kauai Historic Preservation Review Commission.

Preservation Plans were prepared for these four Preserves, and those plans have been approved by SHPD, as well, fully completing the archaeological requirements for the KMP project. An easement granting public access, as required by SHPD, has been recorded, and actual implementation of public access to and interpretive signage of Preserve 1 is available and is used by the public.

A flora survey and a fauna survey, covering all KMP project sites, was completed and submitted to the County of Kauai on or about March 29, 2004. As no endangered or threatened species were found, no further work is planned in this area. With respect to the habitats of any blind, eyeless, big-eyed hunting spiders and blind terrestrial sandhoppers, and despite finding none of these spiders and sandhoppers in at least the past eight years, KMP has established areas identified as critical habitats to support these species should they reappear.

#### Condition No. 8

*8. That to whatever extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Petitioner hire Kauai contractors so long as they are reasonably competitive with other contractors, and employ residents of Kauai in the temporary construction and permanent hotel related jobs. The Commission understands that the Petitioner may have to employ non-Kauai residents for particular skilled jobs when no Kauai resident possess such skills. However, the Petitioner shall cooperate with, and utilize, whatever government training programs may be available so that Kauai residents can be trained to fill such jobs. For the purposes of this condition, the Commission relieves the Petitioner of this requirement if he is subjected to anti-competitive restraints on trade or other monopolistic practices.*

**Current Status:** Pursuant to the foregoing condition, KMP has used Kauai businesses as much as reasonably possible. Where the needed services were not available from Kauai based firms, businesses doing work in the State of Hawaii were utilized, with Kauai-based personnel used as much as possible.

The Kauai businesses, or firms using Kauai personnel, used by KMP to date include, but are not limited to Cultural Surveys Hawaii; Goodfellow Brothers; Law Offices of Walton D. Y. Hong; Law Offices of Belles, Graham, Proudfoot and Wilson; Greg Kamm Planning & Management; Camp Consulting, LLC; Irrigation Technology Corporation; Unlimited Construction Services, Inc.; Kauai Nursery and Landscaping, Inc.; No Ka Oi Plants; David Rita Equipment Rental; Scientific Consulting Services, Inc.; Coral Sea Construction, LLC; and Management Services Kauai (Moana Palama); and Ka'iwa Construction. Where non-Kauai contractors were used, these contractors employed Kauai-based sub-contractors where available, supplemented by Hawaii based sub-contractors, as much as possible.

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KMP's members will endeavor to meet this condition on a continuing basis by using Kauai firms or Hawaii-based firms with Kauai personnel as much as such firms are available and able to provide the required work and are competitive in pricing.

Condition No. 9

9. *As of the effective date of this amendment, Petitioner has completed 90 single-family residential homesites, 48 multi-family residential units, an appropriate portion of the convenience commercial complex and the recreational and other amenities planned for the development, as well as all off-site and on-site improvements and landscaping servicing the same as provided by the original Condition No. 9.*

\* \* \* [Paragraph 9a refers to lands under the control of the Eric A. Knudsen Trust, and is not applicable hereto.]

9b. *Sports Shinko or any subsequent owner of the properties (the "Sports Shinko Property") identified by TMK Nos. (4) 2-8-14: 8, 28, 32, 33 34, and 35 and (4) 2-8-15:77, as shown on the map attached hereto as Exhibit "A" and made a part hereof, and consisting of approximately 179 acres, will substantially commence the development and construction "on or before" or "not later than" August 5, 2009, of not less than three hundred (300) single-family residential homesites and/or multi-family residential units on the currently undeveloped portions of the Sports Shinko Property as evidenced by the issuance by the County of Kauai of a final subdivision approval (in the case of single-family homesites) or the initial building permit for such construction (in the case of multi-family residential units), and in accordance with the terms and conditions of the Agreement Regarding Conditions of Approval dated December 24, 2003 by and among Kiahuna Mauka Partners, LLC, Stacey T. J. Wong, as and in the capacity of the Successor Trustee of the Eric A. Knudsen Trust, and County of Kauai. Sports Shinko or subsequent owners of the Sports Shinko Property shall report annually on the progress of its development and compliance with these conditions as they relate to the Sports Shinko Property. The annual report of Sports*



*Shinko to the Commission on the progress of its development and compliance with conditions will cover the undeveloped portions of the Sports Shinko Property only.*

**Current Status:** As previously noted, the KMP project area consists of five (5) developments. For the reasons stated in the Amended 2009 Annual Status Report, the 2010 Annual Status Report, the 2011 Annual Status Report, the 2012 Annual Status Report, the 2013 Annual Status Report, and combined 2014-2015 Annual Status Report, this condition has been fulfilled. There is on-going sales and construction.

In addition, the utilities lines along Poipu Road fronting the projects sites were undergrounded, and the landscaping was maintained and enhanced.

Condition No. 10

*10. If and when required by the County of Kauai, the preparation and submission to the appropriate agencies of the County of Kauai of an updated water master plan covering the then remaining undeveloped portions of the Sports Shinko Property may be imposed by the County of Kauai as a precondition to approval by the County of Kauai of any new or change in County zoning for the remaining undeveloped portions of the Sports Shinko Property or prior to approval of any County subdivision or building permit for any future development on the remaining undeveloped portions of the Sports Shinko Property, if rezoning is not required.*

**Current Status:** As noted in the prior Annual Status Reports, and in particular the 2007 Annual Status Report filed on August 13, 2007, and the 2008 Annual Status Report of Kiahuna Mauka Partners, LLC, this condition has been fully satisfied. The Water Master Plan, as originally submitted and subsequently revised to address matters raised by the Department of Water, has been approved by the Department of Water. An appropriate cost sharing agreement with the County Department of Water for the new Well F in Poipu has been entered and satisfied. Construction of the required approximately 3½ miles of pipeline extension, as well as the 500,000 gallon Omao water storage tank, have been completed and dedicated to the County Department of Water. As the water improvements contained in the approved Water Master Plan have been completed, constructed and conveyed to the County, this condition has been satisfied; this meets all water source, storage and transmission requirements for the full KMP project buildout.

Condition No. 11

*11. If and when required by the County of Kauai, the preparation and submission to the appropriate agencies of the County of Kauai of an updated master drainage plan covering the then remaining undeveloped portions of the Sports Shinko Property may be imposed by the County of Kauai as a precondition to approval by the*

*County of Kauai of any new or change in County zoning for the remaining undeveloped portions of the Sports Shinko Property or prior to approval of any County subdivision or building permit for any future development on the remaining undeveloped portions of the Sports Shinko Property, if rezoning is not required.*

**Current Status:** As noted in the past Annual Status Reports, in response to the request in the summer of 2006 by the County of Kauai for a master drainage plan, each of the internal KMP projects has provided individual drainage studies addressing the effects thereof on other potentially affected properties in compliance with applicable drainage standards. The drainage studies for Projects 1, 2, 3 and 5 have been completed and accepted. The drainage study for Project 4 has also been completed and approved by the County. All five projects have received their land use approvals from the County of Kauai.

Further, Esaki Surveying and Mapping submitted the Master Drainage Study to the Engineering Division of the Department of Public Works of the County of Kauai. Final subdivision and land use approvals have been issued by the County based on the Master Drainage Plan as submitted.

Condition No. 12

*12. If and when required by the County of Kauai, the preparation and submission to the appropriate agencies of the County of Kauai of an updated traffic impact analysis and report covering the remaining undeveloped portions of the Sports Shinko Property may be imposed by the County of Kauai as a precondition to approval by the County of Kauai of any new or change in County zoning for the remaining undeveloped portions of the Sports Shinko Property or prior to approval of any County subdivision or building permit for any future development on the remaining undeveloped portions of the Sports Shinko Property, if rezoning is not required. A copy of any such updated traffic impact analysis and report shall be submitted to the State Department of Transportation for comment prior to approval by the County of Kauai, and following approval by the County of Kauai, a copy of the approved traffic, impact analysis and report shall be filed with the State Department of Transportation.*

**Current Status:** As noted in earlier Annual Status Reports, a comprehensive Traffic Impact Assessment Report was prepared by Austin, Tsutsumi and Associates, and was submitted on March 4, 2004 to the County of Kauai and on July 28, 2004 to the State Department of Transportation for their information and review.

Sports Shinko had previously contributed towards acquiring the land necessary for the construction of the Easterly Koloa Bypass Road.

In addition, KMP participated and shared in the costs of the Koloa Poipu Area Circulation Plan conducted by Charlier & Associates, Inc., in cooperation with the Koloa

Community Association, the collective development community in Koloa and Poipu, and the County of Kauai. The Koloa Poipu Area Circulation Plan was completed in early 2007 by Charlier & Associates, Inc., submitted to, and accepted by the County.

Condition No. 13

13. *Wastewater treatment for the future development upon the currently undeveloped portions of the Sports Shinko Property will be handled and processed by one or more of the following: (a) the expansion of the existing Kiahuna Wastewater Treatment Plant, (b) the development and construction upon the Sports Shinko Property of private sewage treatment facilities, or (c) a satisfactory agreement to connect into the private sewage treatment facility to be developed and constructed by Alexander & Baldwin upon adjoining property. Sports Shinko and any subsequent owner of the Sports Shinko Property will not look to the County of Kauai for the provision of wastewater treatment facilities.*

**Current Status:** This condition has been fulfilled through the expansion of the existing Kiahuna Wastewater Treatment Plant, owned and operated by HOH Utilities, LLC. KMP has completed its funding of \$2,563,000 for the upgrades and expansion for the plant according to the terms of its agreement with HOH Utilities. The upgrades and expansion of the plant have been completed and the plant is ready to accommodate full build-out of the KMP projects.

Condition No. 14

14. *All of the internal roadways within the future developments on the remaining undeveloped portions of the Sports Shinko Property will be private and therefore private, not County of Kauai, trash collection will be used for any future development on the currently undeveloped portions of the Sports Shinko Property.*

**Current Status:** KMP members have already constructed all of the proposed private roadways for the KMP projects, with only internal driveways remaining to be built. All roads within the projects on the KMP lands will remain private in accordance with this condition.

Condition No. 15

15. *Effective soil erosion and dust control measures will be implemented during future construction upon any currently undeveloped portions of the Sports Shinko Property to the satisfaction of the County of Kauai and the Department of Health, State of Hawaii.*

**Current Status:** KMP members are fully complying with this condition, as well as the County Grading Ordinance. Best Management Practices are being employed by each project as required by the respective grading permits.

Condition No. 16

16. *Sports Shinko or any subsequent owner of the Sports Shinko Property, shall fund and construct adequate civil defense measures as determined by the County of Kauai and the State Civil Defense Agency as part of the future development upon the currently undeveloped portions of the Sports Shinko Property.*

**Current Status:** As previously noted, KMP has installed the civil defense siren adjacent to the KMP Project 4 site, and it is currently in use by the State Civil Defense Agency. By letter of November 16, 2007, the State Department of Defense accepted the siren. As such, this condition has been satisfied.

Condition No. 17

17. *Sports Shinko or any subsequent owner of the Sports Shinko Property, shall notify all prospective buyers of the Sports Shinko Property of the potential odor, noise and dust pollution which may result from surrounding agricultural district lands and that the Hawaii-Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, limited the circumstances under which pre-existing farm activities may be deemed a nuisance.*

**Current Status:** All transfers of KMP properties have included the required disclosures of potential nuisances from surrounding agricultural lands. All future transfers will include similar disclosures.

Condition No. 18

18. *Absent approvals from the appropriate federal, State and County agencies, Sports Shinko or any subsequent owner of the Sports Shinko Property shall not channelize Waikomo Stream for flood control purposes. A reasonable buffer zone from the edge of Waikomo Stream shall also be provided as to any development fronting on Waikomo Stream as may be required by the County of Kauai. Within the approved stream buffer zone landscaping shall be permitted. A copy of the proposed stream buffer area along Waikomo Stream shall be submitted to [Commission on Water Resource Management of the State of Hawaii] the Department of Land & Natural Resources of the State of Hawaii, and the United States Fish & Wildlife Service for comment prior to approval by the County of Kauai.*

**Current Status:** This condition has been fulfilled. As noted in prior Annual Status Reports, KMP will not channelize Waikomo Stream, and has designated a buffer zone along the stream and submitted the same to the Department of Land and Natural Resources and the United States Fish and Wildlife Service for approval by letter of July 14, 2004. The United States Fish and Wildlife Service approved of the designated buffer zone on July 26, 2004. However, having failed to receive any response from the Department of Land and Natural Resources up to this date, KMP continued to proceed on the basis that DLNR has no objections or concerns.

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In subsequent meetings with the County Planning Director, the buffer was expanded and a Declaration of Restrictive Covenant Re: Waikomo Stream Buffer, dated March 28, 2008, was recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2008-053102, and in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3730986.

Further, the County approved KMP Project 1 (Kiahuna Makai Partners' subdivision, S-2004-16), which included the Stream Buffer Zone shown on the final subdivision map, including an expanded stream buffer zone extending an additional 20 feet from the Waikomo Stream floodway beyond the buffer that was previously approved by the United States Fish and Wildlife Service.

Condition No. 19

*19. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Sports Shinko Property upon timely motion and upon provision of adequate assurance of satisfaction of these conditions by Petitioners.*

**Current Status:** KMP has met a number of the conditions of approval and has filed, but subsequently withdrew, a motion for release thereof by the Commission with appropriate documentation in support thereof.

Condition No. 20

*20. The noncompliance with or nonperformance of any remaining conditions of the Decision and Order by Sports Shinko with respect to the Sports Shinko Property will not constitute nonperformance of or noncompliance with the remaining conditions of the Decision and Order as it may concern or relate to the Knudsen Property (TMK No. (4) 2-8-14:19(por.)).*

**Current Status:** KMP acknowledges the condition that it has no responsibility as to compliance with the conditions which are applicable to the Eric A. Knudsen Trust lands.

Condition No. 21

21. *The obligations and liability of First Hawaiian Bank, as Trustee of the Eric A. Knudsen Trust under the Decision and Order are not personally binding upon nor shall resort be had to the private property of First Hawaiian Bank, or any other trustee of the Eric A. Knudsen Trust, but only the trust estate shall be bound.*

**Current Status:** This Condition is not applicable to KMP or the Sports Shinko Property.

Condition No. 22

22. *A copy of this amendment and modification to the Decision and Order shall be recorded against the subject properties with the Bureau of Conveyances of the State of Hawaii in accordance with Section 15-15-92 of the Hawaii Administrative Rules.*

**Current Status:** As previously noted, Sports Shinko complied with Condition No. 22 as applicable to the Sports Shinko Property by the filing of that certain Certificate and Amendment and Modification of Conditions dated November 17, 1997, in the Bureau of Conveyances of the State of Hawaii as Document No. 97-164842. A copy thereof was previously delivered to the Commission. A copy of the Order Granting Kiahuna Mauka Partners, LLC's Motion To Amend Or Modify Condition No. 9 Of Decision And Order, As Amended In August 5, 1997, dated March 18, 2004, has been recorded in the Bureau of Conveyances on August 25, 2005, as Document No. 2005-168955.

Dated: Lihue, Hawaii, this 21<sup>st</sup> day of November, 2016.

Respectfully submitted,

KIAHUNA MAUKA PARTNERS, LLC

By: Walton D. Hong

Name: Walton D. Hong

Its: Attorney

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were served on the following by depositing two copies of the same in the United States Postal Service, postage prepaid, addressed as follows, on this date:

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OFFICE OF PLANNING  
Attention: Jesse Souki, Director  
235 South Beretania Street, 6<sup>th</sup> Floor  
Honolulu, HI 96813

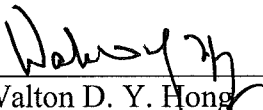
PLANNING DEPARTMENT  
COUNTY OF KAUAI  
Attention: Michael Dahilig  
                Planning Director  
4444 Rice Street  
Lihue, HI 96766

MAUNA KEA TRASK  
County Attorney, County of Kauai  
4444 Rice Street, Suite 202  
Lihue, HI 96766

JOHN HOROWITZ  
MATT GUARD  
PETER BALDWIN  
GEORGE R. ROBINSON  
Trustees of the Eric A. Knudsen Trust  
P.O. Box 759  
Kalaheo, HI 96741

TERESA TICO, Esq.  
P. O. Box 220  
Hanalei, HI 96714  
Attorney for Intervenors Walter Chang, et al.

Dated: Lihue, Hawaii, this 21st day of November, 2016.

  
\_\_\_\_\_  
Walton D. Y. Hong  
Attorney for Kiahuna Mauka Partners, LLC