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ASHFORD & WRISTON LLP  
A Limited Liability Law Company  
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LĀNA`I RESORTS, LLC

LAND USE COMMISSION  
STATE OF HAWAII

2016 SEP -2 P 1:18

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of

LĀNA`I RESORTS, LLC

To consider further matters relating to an Order  
To Show Cause as to whether certain land located  
at Mānele, Lāna`i, should revert to its former  
Agricultural and/or Rural land use classification  
due to Petitioner's failure to comply with  
Condition No. 10 of the Land Use Commission's  
Findings of Fact, Conclusions of Law, and  
Decision and Order filed April 16, 1991. Tax  
Map Key No. 4-9-002:049 (por.), formerly Tax  
Map Key No. 4-9-002:001 (por.).

DOCKET NO. A89-649


**PETITIONER LĀNA`I RESORTS,  
LLC's LIST OF EXHIBITS;  
CERTIFICATE OF SERVICE**

**PETITIONER LĀNA`I RESORTS, LLC's LIST OF EXHIBITS**

COMES NOW, LĀNA`I RESORTS, LLC, d.b.a. Pūlama Lāna`i, by and through its  
attorneys, BENJAMIN A. KUDO and CLARA PARK of ASHFORD & WRISTON LLP, and  
hereby submits the following List of Exhibits in the above-entitled action.

Lāna`i Resorts, LLC reserves the right to amend its List of Exhibits and the witnesses to whom exhibits are assigned, and identify any additional exhibits not expressly identified above in response to any pleadings, arguments, exhibits, issues and witnesses identified by any party.

DATED: Honolulu, Hawai`i, September 2, 2016.

  
\_\_\_\_\_  
BENJAMIN A. KUDO  
CLARA PARK  
Attorneys for  
LĀNA`I RESORTS, LLC

DOCKET NO./PETITIONER: DOCKET NO. A89-649 PETITION OF LĀNA`I RESORTS, LLC – To consider further matters relating to an Order To Show Cause as to whether certain land located at Mānele, Lāna`i, should revert to its former Agricultural and/or Rural land use classification due to Petitioner’s failure to comply with Condition No. 10 of the Land Use Commission’s Findings of Fact, Conclusions of Law, and Decision and Order filed April 16, 1991. Tax Map Key No. 4-9-002:049 (por.), formerly Tax Map Key No. 4-9-002:001 (por.).

PARTY: LĀNA`I RESORTS, LLC (“LANAI RESORTS”)

**LIST OF EXHIBITS**

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
<b>Original Application -- 1989-1991</b>			
1	All exhibits from 1989 – 1991 are included as Lanai Resorts’ exhibits		
2	All transcripts from 1989 – 1991 are included as Lanai Resorts’ exhibits		
<b>1993-1996 Order to Show Cause Hearings</b>			
3	All exhibits of Order to Show Cause Hearing are included as Lanai Resorts’ exhibits		
4	All transcripts of Order to Show Cause Hearing are included as Lanai Resorts’ exhibits		
<b>2004 Hawai`i Supreme Court Case</b>			
5	Lanai Company, Inc. v. Land Use Commission, 105 Hawai`i 296, 97 P.3d 372 (2004)		
<b>2006 Remand Proceedings</b>			

Petitioner reserves the right to amend its LIST OF EXHIBITS, and to identify and introduce, in addition to the exhibits listed herein, any additional exhibits, in response and in rebuttal to any pleadings, arguments, exhibits, issues and witnesses identified by any party. In addition to the exhibits stated herein, Petitioner reserves the right to refer to and use any and all exhibits submitted and entered into evidence by all parties to this proceeding.

DOCKET NO./PETITIONER: DOCKET NO./PETITIONER: DOCKET NO. A89-649 PETITION OF LĀNA`I RESORTS, LLC – To consider further matters relating to an Order To Show Cause as to whether certain land located at Mānele, Lāna`i, should revert to its former Agricultural and/or Rural land use classification due to Petitioner’s failure to comply with Condition No. 10 of the Land Use Commission’s Findings of Fact, Conclusions of Law, and Decision and Order filed April 16, 1991. Tax Map Key No. 4-9-002:049 (por.), formerly Tax Map Key No. 4-9-002:001 (por.).

PARTY: LĀNA`I RESORTS, LLC (“LANAI RESORTS”)

**LIST OF EXHIBITS**

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
6	All exhibits of 2006 remand proceedings are included as Lanai Resorts’ exhibits		
7	All transcripts of 2006 remand proceedings are included as Lanai Resorts’ exhibits		
<b>2016 Intermediate Court of Appeals Remand</b>			
8	<u>Lanaians for Sensible Growth v. Lanai Resorts, LLC</u> , 137 Hawai`i 298, 369 P.3d 881 (App. 2016)		
<b>New Exhibits</b>			
9	PUC Island Map		
10	Lāna`i Water System Map		
11	Cross-Section Aquifer Illustration		
12	Lāna`i Water Use Development Plan 2011		
13	Maui County Water Use Development Plan 1990, Lāna`i Section		
14	State Water Resource Protection Plan, June 2008		

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PARTY: LĀNA`I RESORTS, LLC (“LANAI RESORTS”)

**LIST OF EXHIBITS**

<b>EXHIBIT NUMBER</b>	<b>DESCRIPTION</b>	<b>PARTY: OBJECTIONS</b>	<b>ADMIT</b>
15	2013 Update of the Hawaii Water Reuse Survey and Report		
16	Lāna`i Planning Commission June 18, 2014 Agenda and Minutes		
17	Letter dated July 8, 2014 from Craig Nakamura to LPC re Condition #23		
18	Lāna`i Planning Commission July 16, 2014 Amended Agenda and Minutes		
19	Testimony dated July 16, 2014 from Craig Nakamura to LPC re Agenda Item C.1., Condition #23		
20	Lāna`i Planning Commission Findings of Fact, Conclusions of Law, and Decision and Order Granting a State Land Use Commission Special Use Permit and a Project District Phase II Approval for A Reverse Osmosis Desalination Facility and Distribution System dated January 21, 2015		
21	Maui County Ordinance 3885		
22	Maui County Ordinance 2133		

Petitioner reserves the right to amend its LIST OF EXHIBITS, and to identify and introduce, in addition to the exhibits listed herein, any additional exhibits, in response and in rebuttal to any pleadings, arguments, exhibits, issues and witnesses identified by any party. In addition to the exhibits stated herein, Petitioner reserves the right to refer to and use any and all exhibits submitted and entered into evidence by all parties to this proceeding.

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PARTY: LĀNA`I RESORTS, LLC (“LANAI RESORTS”)

**LIST OF EXHIBITS**

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
23	Maui County Ordinance 2066		
24	All Periodic Water Reports – Temperature and Chlorides		
25	All Periodic Water Reports – High/Low Water Levels		
26	All Periodic Water Reports – Pumpage		
27	Summary of Average Annual Groundwater Pumpage, 1948 to 2016		
28	LUC’s Findings of Fact, Conclusions of Law, and Decision and Order dated April 16, 1991		
29	LUC’s October 13, 1993 Order to Show Cause		
30	LUC’s Findings of Fact, Conclusions of Law, and Decision and Order dated May 17, 1996 – Re: OSC Condition No. 10		
31	LUC’s Order Vacating 1996 Cease and Desist Order; Denying Office of Planning’s Revised Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order Filed April 16, 1991; and Granting Petitioner’s Motion for Modification of Condition No. 10, with Modifications dated January 25, 2010		

Petitioner reserves the right to amend its LIST OF EXHIBITS, and to identify and introduce, in addition to the exhibits listed herein, any additional exhibits, in response and in rebuttal to any pleadings, arguments, exhibits, issues and witnesses identified by any party. In addition to the exhibits stated herein, Petitioner reserves the right to refer to and use any and all exhibits submitted and entered into evidence by all parties to this proceeding.

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PARTY: LĀNA`I RESORTS, LLC (“LANAI RESORTS”)

**LIST OF EXHIBITS**

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
32	CV of Tom Nance		
33	CV of John Stubbart		
34	CV of Allan Schildknecht		
35	CV of Mike Donoho		
36	CV of Bruce Plasch		
37A-Z*	Charts, graphics and/or other materials associated with testimony of Tom Nance		
38A-Z*	Charts, graphics and/or other materials associated with testimony of John Stubbart		
39A-Z*	Charts, graphics and/or other materials associated with testimony of Allan Schildknecht		
40A-Z*	Charts, graphics and/or other materials associated with testimony of Seril Shimizu		

Petitioner reserves the right to amend its LIST OF EXHIBITS, and to identify and introduce, in addition to the exhibits listed herein, any additional exhibits, in response and in rebuttal to any pleadings, arguments, exhibits, issues and witnesses identified by any party. In addition to the exhibits stated herein, Petitioner reserves the right to refer to and use any and all exhibits submitted and entered into evidence by all parties to this proceeding.

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PARTY: LĀNA`I RESORTS, LLC (“LANAI RESORTS”)

**LIST OF EXHIBITS**

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
41A-Z*	Charts, graphics and/or other materials associated with testimony of Mike Donoho		
42A-Z*	Charts, graphics and/or other materials associated with testimony of Kurt Matsumoto		
43A-Z*	Charts, graphics and/or other materials associated with testimony of Bruce Plasch		
44A-Z	Rebuttal Exhibits		

\*Charts, graphics and/or other materials associated with the testimony of these witnesses are still being developed and have not been identified. However, once these exhibits are finalized, Petitioner will amend and identify the exhibits in an amended exhibit list.

Petitioner reserves the right to amend its LIST OF EXHIBITS, and to identify and introduce, in addition to the exhibits listed herein, any additional exhibits, in response and in rebuttal to any pleadings, arguments, exhibits, issues and witnesses identified by any party. In addition to the exhibits stated herein, Petitioner reserves the right to refer to and use any and all exhibits submitted and entered into evidence by all parties to this proceeding.



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LĀNA`I RESORTS, LLC

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DOCKET NO. A89-649

**CERTIFICATE OF SERVICE**


CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the **PETITIONER LĀNA`I RESORTS, LLC's LIST OF EXHIBITS; CERTIFICATE OF SERVICE** was served upon the following as indicated below:

BRYAN C. YEE, ESQ. DAWN TAKEUCHI APUNA, ESQ. Department of the Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawaii 96813 Attorney for State Office of Planning	Via U.S. Postal Mail
LEO R. ASUNCION, Jr., AICP, Director RODNEY Y. FUNAKOSHI Office of State Planning 235 South Beretania Street, 6 <sup>th</sup> Floor Honolulu, Hawaii 96813	Via U.S. Postal Mail

WILLIAM SPENCE, Director Planning Department, County of Maui 2200 Main Street One Main Plaza, Suite 315 Wailuku, HI 96793	Via U.S. Postal Mail
PATRICK K. WONG, ESQ. MICHAEL HOPPER, ESQ. CALEB ROWE, ESQ. Office of the Corporation Counsel 200 South High Street Wailuku, Hawaii 96793	Via U.S. Postal Mail
DAVID KOPPER, ESQ. LI'ULA NAKAMA, ESQ. Native Hawaiian Legal Corporation 1164 Bishop Street, Suite 1205 Honolulu, Hawaii 96813 Attorney for Intervenor LANAIANS FOR SENSIBLE GROWTH	Via U.S. Postal Mail

DATED: Honolulu, Hawaii, September 2, 2016.

  
 BENJAMIN A. KUDO  
 CLARA PARK  
 Attorneys for  
 LANA'I RESORTS, LLC