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LĀNA`I RESORTS, LLC

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 THIRD AMENDED LIST OF
EXHIBITS; CERTIFICATE OF
SERVICE**


PETITIONER LĀNA`I RESORTS, LLC's THIRD AMENDED 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 Third Amended List of Exhibits in the above-entitled action.

The following exhibits were added without objection by the parties during the hearings on Lāna`i and Maui: Exhibits 41B, 45D, 48, 49A, 49B, 49C, 49D.

Lāna`i Resorts, LLC reserves the right to amend its Third Amended 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, November 23, 2016.



BENJAMIN A. KUBO
CLARA PARK
Attorneys for
LĀNA`I RESORTS, LLC

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")

THIRD AMENDED LIST OF EXHIBITS

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

Petitioner reserves the right to amend its THIRD AMENDED 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”)

THIRD AMENDED 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		
2016 Intermediate Court of Appeals Remand			
8	<u>Lanaians for Sensible Growth v. Lanai Resorts, LLC</u> , 137 Hawai`i 298, 369 P.3d 881 (App. 2016)		
New Exhibits			
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”)

THIRD AMENDED LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
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, Excerpt		
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 Grating 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		

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PARTY: LĀNA'I RESORTS, LLC ("LANAI RESORTS")

THIRD AMENDED LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
23	Maui County Ordinance 2066		
24	Periodic Water Reports – Temperature and Chlorides, 1991 - 2016		
25	Periodic Water Reports – High/Low Water Levels, 1991 - 2016		
26	Periodic Water Reports – Pumpage, 1991 - 2016		
27	Annual Groundwater Pumpage, 1948 to 2015		
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 THIRD AMENDED 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”)

THIRD AMENDED LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
32	Commission on Water Resource Management’s Lanai Water Resources Findings of Fact, dated January 31, 1990		
33	Commission on Water Resource Management’s Addendum to Lanai Water Resources Findings of Fact WMA No. L-1, dated March 15, 1990		
34	Historic Periodic Water Reports 1975 – 1990		
35	Hawaii Water Quality Plan 1990 – Excerpt		
36	CV of Bruce Plasch		
37	CV of Tom Nance		
38	CV of John Stubbart		
39	CV of Allan Schildknecht		
40	CV of Mike Donoho		
41A-Z	Charts, graphics and/or other materials associated with testimony of Mike Donoho		

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PARTY: LĀNA'I RESORTS, LLC ("LANAI RESORTS")

THIRD AMENDED LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
41A	Memorandum of Understanding Between Lanai Resorts, LLC, Castle & Cooke Properties, Inc., and U.S. Department of the Interior Fish and Wildlife Service, dated January 26, 2015		
41B	Lāna'i Fog Drip Study, May 29, 2009		
42A-Z	Charts, graphics and/or other materials associated with testimony of Kurt Matsumoto		
42A	Lāna'i Resorts, LLC 2015 Annual Report		
43A-Z	Charts, graphics and/or other materials associated with testimony of Tom Nance		
43A	Pumpage of Drinking Water Wells & Palawai Basin Wells, 1992 – June 2016		
43B	Well 1 Graphs		
43C	Well 9 Graphs		
43D	Well 14 Graphs		

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

THIRD AMENDED LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
43E	Well 15 Graphs		
43F	Weighted Average Chlorides and Pumpage of Wells in Palawai Basin		
43G	Well No. 2 & Shaft No. 3 Illustration		
43H	Well No. 2 & Shaft No. 3 Graphs		
43I	1954 Well 1 Analysis Notes		
43J	Total High Level Groundwater Pumpage on Lanai, 1926 - 2015		
43K	Results of the Well 1 and Well 2 Pump Test, dated October 10, 2016		
43L	National Brackish Groundwater Assessment, 2013 Info Sheet		
44A-Z	Charts, graphics and/or other materials associated with testimony of John Stubbart		
44A	Commission on Water Resource Management Letter to Lanai Water Advisory Committee, dated December 4, 2009		
44B	National Primary Drinking Water Regulations – Ground Water Rule Excerpts		

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PARTY: LĀNA'I RESORTS, LLC ("LANAI RESORTS")

THIRD AMENDED LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
45A-Z	Charts, graphics and/or other materials associated with testimony of Allan Schildknecht		
45A	Manele Golf Course Irrigation Plans - General		
45B	Hawaii Water Conservation Plan 2013 (Excerpts)		
45C	Irrigation Charts		
45D	Golf Courses Using Brackish Water (pre-1991)		
46A-Z	Charts, graphics and/or other materials associated with testimony of Seril Shimizu		
46A	Manele Golf Course Irrigation Plans - Mechanical		
46B	Manele Golf Course – Aerial Map		
47A-Z	Charts, graphics and/or other materials associated with testimony of Bruce Plasch		
47A	Manele Golf Course: Economic Benefits		
48	CV of Donald Thomas		

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EXHIBIT NUMBER	DESCRIPTION	PARTY: OBJECTIONS	ADMIT
49A-Z	Charts, graphics and/or other materials associated with rebuttal testimony of Donald Thomas		
49A	Donald Thomas Research Data Charts		
49B	Lāna`i Aerial Map		
49C	Lāna`i Illustrations – Stearns 1940 Study Excerpt		
49D	Drinking Water Advisory: Consumer Acceptability Advice and Health Effects Analysis on Sodium		

*Charts, graphics and/or other materials may still be developed prior to the hearing. Petitioner will amend and identify any additional exhibits in an amended exhibit list, if needed.

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BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of

LĀNA`I RESORTS, LLC

DOCKET NO. A89-649

CERTIFICATE OF SERVICE

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.).


CERTIFICATE OF SERVICE

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

<p>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</p>	<p style="text-align: right;">Via U.S. Postal Mail</p>
<p>LEO R. ASUNCION, Jr., AICP, Director RODNEY Y. FUNAKOSHI Office of State Planning 235 South Beretania Street, 6th Floor Honolulu, Hawaii 96813</p>	<p style="text-align: right;">Via U.S. Postal Mail</p>

<p>WILLIAM SPENCE, Director Planning Department, County of Maui 2200 Main Street One Main Plaza, Suite 315 Wailuku, HI 96793</p>	<p>Via U.S. Postal Mail</p>
<p>PATRICK K. WONG, ESQ. MICHAEL HOPPER, ESQ. CALEB ROWE, ESQ. Office of the Corporation Counsel 200 South High Street Wailuku, Hawaii 96793</p>	<p>Via U.S. Postal Mail</p>
<p>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</p>	<p>Via U.S. Postal Mail</p>

DATED: Honolulu, Hawaii, November 23, 2016.



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