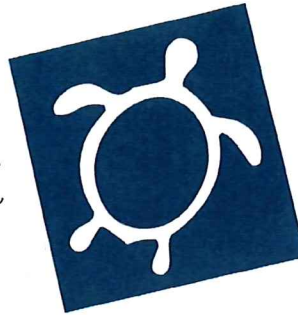


# Environment



Hawai'i  
*a monthly newsletter*

## *The Lowdown On the Highlands*

**W**hat's going on with the Waikoloa Highlands development?

It's been more than a decade since the owners of land near Waikoloa Village sought approval from the Land Use Commission and Hawai'i County to subdivide 731 acres and develop nearly 400 house lots on the site. And it's been longer than that since anyone has actually put so much as a spade in the ground there in furtherance of any development project there.

In this month's cover story, we take a look at the stalled-out project and the, well, unusual principals behind it.

Also in this issue, we report on the most recent meeting of the Western Pacific Fishery Management Council and its dyspepsia over the expansion of the Papahānaumokuākea Marine National Monument.

## Waikoloa Highlands Development At Standstill, 8 Years After LUC Action

**M**ore than eight years ago, the state Land Use Commission reclassified a 731-acre parcel just upslope of the village of Waikoloa, in the South Kohala district of the Big Island. It shifted the land use classification from Agricultural to Rural at the request of the landowners, to comply with zoning conditions imposed by the Hawai'i County Council.

As with the redistricting decision in the case of 'Aina Le'a, the beleaguered proposed development a few miles down the road, the LUC imposed another series of conditions on the developers of Waikoloa Highlands. Chief among them was the requirement that full "build-out" — i.e., all infrastructure in place, final subdivision approval in hand, and intersection improvements completed

— be achieved by June 10, 2018, ten years from the date of LUC approval."

Nowadays, anyone driving on Waikoloa Road past the land that was the subject of the LUC petition would be hard pressed to see any meaningful change in the landscape from what it was in 2006, when the then-landowner, Waikoloa Mauka LLC, submitted the redistricting petition. A rustic rail fence with rock bollards erected by the previous owner in the early 1990s, when a luxury golf-course subdivision was first proposed for the site — before the state Supreme Court banned such uses on land in the Agricultural District — has largely succumbed to the elements and a wildfire. Still standing is the impressive

*continued to page 4*

### IN THIS ISSUE

2

*New & Noteworthy: Pepe'ekeo Updates*

3

*Wild Swings in Tax Revenue  
From Waikoloa Mauka Lands*

6

*Original Waikoloa Highlands Partners  
Share History of Cocaine Trafficking*

7

*Council Lobbies for Compensation  
To Those Hurt by Monument Expansion*

10

*Council Maintains Status Quo  
For Bigeye Quota Transfers*

12

*Resolution of Tuna Treaty Impasse  
May Aid American Samoa Canneries*



Gates denoting the entrance to "Highlands Golf Estates," a subdivision planned in the 1990s but never built, flank the drive leading now to land where Waikoloa Estates is proposed to be built.



## Wild Fluctuations in Tax Revenue On Waikoloa Highlands Property

In January 2014, the Hawai'i County Department of Finance prepared a list of those properties it intended to auction on January 16 for failure to pay property taxes. Ten of the 76 parcels belonged to Waikoloa Mauka, LLC.

At virtually the last minute, on January 12, the back taxes, penalties, and interest — amounting to \$1,275,870.30 — were paid off. And the payment wasn't from Waikoloa Mauka, according to a source in the Finance Department, but rather from one of its creditors, fearful that the auction would impair the value of land securing its notes.

Not included in the properties proposed for sale at auction was the 731-acre parcel where Waikoloa Mauka plans to build its Waikoloa Highlands subdivision and the 2,153-acre parcel across Waikoloa Road to the north.

To be clear, large tax arrearages did build up on those parcels as well from 2009 to 2012. By July 2012, taxes, penalties, and interest charged by the Finance Department on the smaller of the two lots came to \$135,283.84. Most of that (\$105,897.22) was in taxes, with \$9,119.34 in penalties and \$20,267.68 in interest.

On July 23, 2012, the entire arrearage was paid off on that parcel. The arrearage on the larger one was dealt with four months later, in November 2012. By then, the total amount owed came to \$143,631.64.

Since then, Waikoloa Mauka and its successor, Waikoloa Highlands, Inc., have kept current on their taxes, missing payment due dates by days only on a few occasions.

However, with the property taxes having been reduced on those two parcels together to less than \$750 a year, paying them should not be a problem.

Property taxes on the 731-acre lot were \$73,756.39 a year in 2006, immediately following its sale to Waikoloa Mauka. On the larger lot, taxes in 2006 were \$40,832.34.

By 2016, they had been reduced to \$189.63 and \$557.78, respectively.

Even though the County Council and Land Use Commission have approved zoning changes that should, if anything, have increased the value of the smaller property, the county's tax revenue took a nosedive. (A staffer with the county Finance Department explained that regardless of zoning changes, tax rates won't change until work actually starts.)

The dramatic reduction in the tax bill is a result of Stephan Martirosian, a principal of Waikoloa Mauka, having applied for an agricultural use rate starting in 2011 for the larger lot and 2013 for the smaller one.

The application to be taxed at the rate for pasture use on the Highlands lot was dated August 8, 2012, 16 days after the accumulated taxes and penalties on the property had been paid.

Meanwhile, on a 10-acre Agriculture-zoned lot at the corner of Waikoloa Road and Pua Melia Street — the only Hawai'i property still owned by Waikoloa Mauka, LLC — taxes went unpaid from 2010, the year the parcel was carved out of a larger lot, until June of 2015, by which time the arrearage (taxes, penalties, interest) came to \$19,045.48. In that same period, the annual

bill went from \$2,552.60 to \$2,819.40, where it now stands.

For this property, at least, no agricultural use has been declared, meaning that although it is 1.4 percent the size of the Highlands parcel, the property tax on it is nearly 15 times that of the larger parcel.

A question arises as to why tax bills could be allowed to go unpaid years without the properties being put up for auction at county tax sales. A staffer at the Finance Department stated that as a general rule, the county will consider properties for sale after two years of delinquencies. However, he added, "it depends on the tax collectors." The Big Island has three collectors, each of whom is responsible for the tax sales in their area of jurisdiction, he continued.

"Just because something is delinquent over two years, it doesn't mean it'll be on the tax sale," he said. Other factors come into play, and, he added, "Especially if it is land only, sometimes it will be delinquent for a while before the tax collectors put it up for sale."

— P.T.

Property Taxes and Payments for Waikoloa Mauka Land

Year	Tax	Penalty	Interest	When paid
<b>Parcel 16: 731 acres</b>				
2005	\$8,401.07			
2006	\$73,756.39			
2007	\$73,756.39			
2008	\$73,756.39	\$3,678.82	\$2,433.96	8/3/09
2009	\$73,756.39	\$7,375.64	\$12,981.12	7/23/12
2010	\$27,607.61	\$2,760.76	\$6,073.67	7/23/12
2011	\$27,607.61	\$2,670.76	\$2,429.47	7/23/12
2012	\$27,607.61	\$1,380.39	\$455.53	7/23/12; 5/13/13
2013	\$189.63			
2014	\$189.63	\$9.48		8/14/14; 2/25/15
2015	\$189.63			
2016	\$189.63			
<b>Parcel 17: 2153 acres</b>				
2005	\$593.96			
2006	\$40,832.34			
2007	\$40,832.34			
2008	\$40,832.34	\$2,041.52	\$10,106.01	8/12/11; 2/8/12; 11/21/12
2009	\$40,832.34	\$4,083.24	\$16,169.61	11/21/12
2010	\$36,749.19	\$3,674.92	\$9,701.78	11/21/12
2011	\$503.51	\$50.36	\$66.46	11/21/12
2012	\$503.51	\$25.18	\$8.31	11/21/12; 2/5/13
2013	\$557.78			
2014	\$557.78	\$27.89		8/18/14; 2/25/15
2015	\$557.78			
2016	\$557.78			
<b>Parcel 10: 10.7 acres</b>				
2010	\$2,552.60	\$255.26	\$1,544.32	6/15/15
2011	\$2,552.60	\$255.26	\$1,207.38	6/15/15
2012	\$2,552.60	\$225.26	\$870.44	6/15/15
2013	\$2,827.73	\$282.78	\$591.00	6/15/15
2014	\$2,827.73	\$282.78	\$217.74	6/15/15
2015	\$2,819.40	\$281.94	\$279.12	8/25/16
2016	\$1,268.73	\$140.97		8/25/16

If no date is given for payment, the taxes were paid on time. Hawai'i County bills property taxes semi-annually, with payment due February 15 and August 15 of each year. Penalties are late fees equal to 10 percent of tax owed and do not accrue. Interest continues to accrue at 1 percent per month until payment is made.



*Waikoloa from page 1*

rock-wall gate marking what was to be the entrance to the Waikoloa Highlands golf community.

Yet the most recent annual reports submitted by the owners' planning consultant, Sidney Fuke, to the LUC and the Hawai'i County Planning Department state that plans are moving forward.

In the report to the LUC, dated February 29, 2016, Fuke recites the conditions the Hawai'i County Council imposed on the landowner when it approved time extensions for the project in 2007 and again in 2013. To date, he continued, "tentative subdivision approval was issued on April 5, 2007; the on-site infrastructure construction plans have been prepared; the construction plans for the roundabout improvements at the Waikoloa Road/Paniolo intersection have been completed; right-of access to the site has been issued to the U.S. Army Corps of Engineers for the purpose of conducting remedial investigation and removal of any residual munitions ...; and efforts to dedicate 10+ acres of land situated proximate to the subject site to the County of Hawai'i for a community center and park are on-going. This is to help address the County rezoning park and recreation fair share requirement for the proposed 398-lot subdivision."

Fuke goes on to identify the conditions of LUC approval and the extent to which his client has complied with them.

Regarding project completion: "The commission required that the project be completed no later than ten years of the date of the commission's decision or June 10, 2018. 'Buildout' was defined as having completed the backbone infrastructure to allow for the sale of individual lots," Fuke writes.

"Notwithstanding the county's rezoning time extension of 50 lots by March 21, 2018, and the balance by March 21, 2023, the petitioner understands that the more stringent performance requirement of buildout by June 10, 2018 is binding. The basic on-site construction plans have been completed. The petitioner will thus work towards fulfilling that performance requirement.

**"Although nothing physical has occurred on the ground to date, the petitioner has been working diligently to secure a development partner, as well as trying to address other conditions of approval ..."** (emphasis in original).

Throughout the LUC hearings, none of the parties representing Waikoloa Mauka

said anything about needing to secure a "development partner." Instead, the impression given to the commissioners, in copies of federal tax filings and accountants' statements, was one of a company that at the time had assets of more than \$60 million, more than sufficient to undertake the cost of development, estimated at \$44.8 million by the R.M. Towill Corporation.

Another condition of LUC approval is that the petitioner notify the commission if there is any change in ownership. "There has been no change of ownership relative to the petitioned area," Fuke stated in the February report.

In fact, however, the land has changed hands. On October 14, 2014, the petitioner Waikoloa Mauka, LLC, organized in Delaware, executed a quitclaim deed conveying title to the petition area and an additional 2,153-acre parcel on the north side of Waikoloa Road to Waikoloa Highlands, Inc., a company incorporated in Colorado just four days earlier. The declared purchase price for the land — whose market value was estimated by the county's Finance Department at \$7,957,100 — came to an even \$1,000.

When informed of the transfer, Fuke replied that he was still dealing with the same person he had always dealt with on this project, Stephan Martirosian, and knew nothing about any change in ownership.

*The Disappearing Land*

The land proposed for redistricting made up a relatively small part — roughly five percent — of the nearly 14,000 acres of land in the Waikoloa area that was purchased by Waikoloa Mauka in September 2005

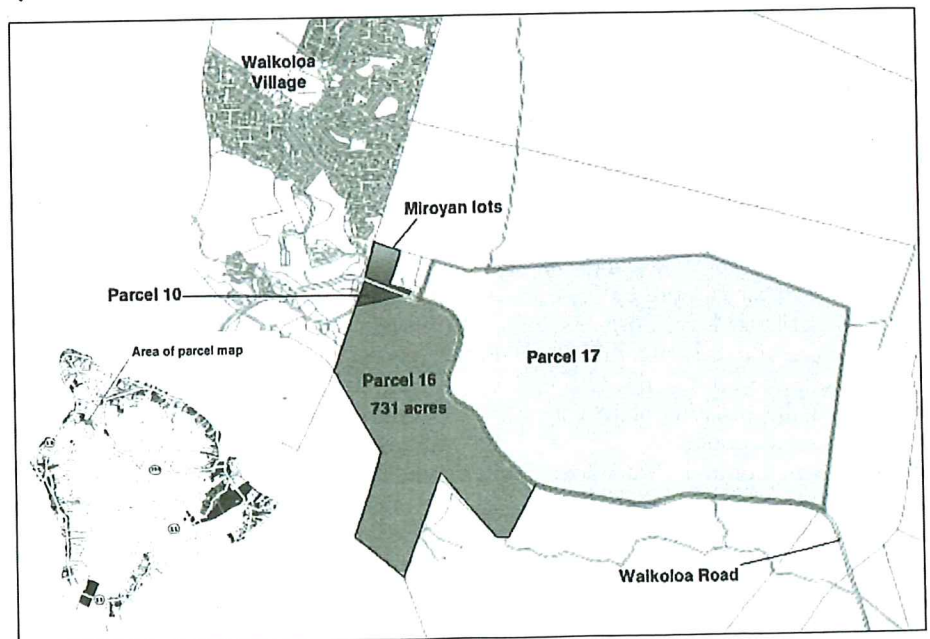
for \$56.358 million. Selling the land were two affiliated companies, Waikoloa Development Company and Waikoloa Land & Cattle Company.

Waikoloa Mauka appears to have counted on obtaining the capital for development of the Highlands project by selling off much of the property it had just acquired at a higher price than that for which it was purchased. To some extent, it succeeded. In 2007, land on the south side of Waikoloa Village totaling around 45 acres was sold for \$19.5 million to a company called Metric-Passco, which had big plans for the commercial-zoned area. (That company subsequently lost the land through foreclosure.) Other parcels along Mamalahoa Highway were sold as well, bringing in \$13 million more.

Altogether, Bureau of Conveyance records indicate that by the end of 2008, Waikoloa Mauka took in more than \$40 million in property sales.

At the same time, however, the company was burdened by debt. In 2006, it gave a \$40 million, interest-only mortgage to Morgan Stanley Mortgage Capital, Inc., secured by all 13,797 acres purchased in 2005. When Morgan Stanley published a prospectus for an offer of \$1.5 billion in securitized mortgages in June 2006, the Waikoloa Mauka note was among the mortgages in the deal.

Morgan Stanley assured investors that, "Under the Waikoloa land loan, there are upfront reserves for taxes, debt service, and pre-development costs in the amount of 100 percent of projected taxes, \$5,939,000 and \$4,000,000, respectively. Additionally, Vi-toil Corporation and Arch Ltd. have provid-





ed a full payment guarantee.” Vitoil, owned by Martirosian, and Arch, a Bahamas-based Russian oil company presided over by Vitaly Grigoriant, were the two entities making up Waikoloa Mauka LLC.

According to the prospectus, the commercial real estate brokerage C.B. Richard Ellis had appraised value of the land securing the mortgage at \$169,250,000.

The initial mortgage was released in 2008, but was replaced by a \$10 million mortgage given to another firm, Isis Lending (which later changed its name to Copia Lending). In 2009, the loan terms were extended as well as the amount borrowed — to \$17 million.

By January 2010, Waikoloa Mauka still had not turned so much as a spade of earth at the Waikoloa Highlands site. Yet it took out two more loans that month, one for \$30 million, another for \$40 million, from Intercep Ltd., based in the United Kingdom. Although Intercep was dissolved for failure to file required reports with the UK government eight days after the mortgages were recorded in Hawai'i — and more than three years after it had last checked in with the government — its director, Michael Dutton, still managed to assign the mortgages to a Ukrainian entity, IV Trading in March of 2011.

The parties involved — Intercep, IV Trading, and Waikoloa Mauka — were closely related. Dutton, the director of Intercep, at one point signed a satisfaction of mortgage on behalf of IV Trading. And in February 2012, the vice president of IV Trading, Remington Chase, filed with the Bureau of Conveyances notice that the loans had been satisfied and the mortgages were released. Chase, in other words, as an officer of IV Trading, was holding the notes for loans given to himself and Martirosian, as the members of Waikoloa Mauka, LLC.

The \$70 million note was off the books, but the loan held by the unrelated party, Copia, remained unsatisfied and by 2016, Waikoloa Mauka was in default. On May 26, Waikoloa Mauka signed over more than 7,000 acres of its Waikoloa holdings to a new company formed by Copia, called Waikoloa Mauka Land Corp., issuing it a deed in lieu of foreclosure. Adding up the purchase price for the dozen properties conveyed, the total value of the assignment came to \$20,645,000.

By then, however, Waikoloa Mauka LLC — the petitioner in the LUC case, and not the new Waikoloa Mauka Land Corp. — held just 10 acres: a triangular parcel at the intersection of Pua Melia Street and Waikoloa Road, abutting the Waikoloa

## Companies Mentioned in this Article

Many of the companies involved in the Waikoloa Mauka deals have similar names. Here is a brief rundown of the players:

**WAIKOLOA HIGHLANDS, INC.** This company was incorporated in Colorado on October 1, 2014. Although it owns the property where the Waikoloa Highlands subdivision is to be developed, it is not registered with the Hawai'i Department of Commerce and Consumer Affairs (DCCA). Its business address, in Glendale, California, is one shared by other Martirosian-affiliated companies.

**WAIKOLOA MAUKA, LLC.** This is the Delaware-registered limited liability corporation established in 2005 to take title to roughly 14,000 acres of lands sold by Waikoloa Land & Cattle and Waikoloa Development Co. It filed annual reports with the DCCA up through last year; the DCCA now lists it as not in good standing. It holds title to 10 acres in Waikoloa, at the intersection of Waikoloa Road and Pua Melia Street. Its business address is the same as that of Waikoloa Highlands.

**WAIKOLOA DEVELOPMENT, INC.** This corporation was formed in Colorado on October 15, 2014, and registered to do business in Hawai'i on April 20, 2016. On October 27, 2014, it took title, by means of a quitclaim deed, to a 1,700-acre parcel immediately upland of the Highlands site. In May of this year, it gave the title to Waikoloa Mauka Land Corp., one of several transactions undertaken in lieu of foreclosure against Waikoloa Mauka, LLC. It was voluntarily dissolved in September. Its business address is also in Glendale, California.

**WAIKOLOA MAUKA LAND CORPORATION.** This company was established in California in January 2015 by creditors of Waikoloa Mauka, LLC. The company shares an address with the TDA Investment Group in San Mateo. Its CEO, Garry Spanner, was also CEO of Copia Lending, LLC, formerly known as Isis Lending, LLC. In May 2016, it took title to 12 parcels previously owned by Waikoloa Mauka, LLC. It is not registered with the DCCA.

Highlands parcel.

Even after freeing themselves of more than \$20 million in debt, the landowners were not in the clear. In February 2015, Envision Entertainment Corporation — a Hollywood production company owned by Chase and Martirosian — borrowed \$1.275 million from 77 Holdings, LLC of Provo, Utah, an entity formed two months earlier, pledging the two parcels still owned by Waikoloa Highlands as collateral. The note was payable as of March 1, 2016. As of press time, no release or amendment of the mortgage had been filed with the state Bureau of Conveyances.

### Where Things Stand

The deadline for completing the “backbone infrastructure” for Waikoloa Highlands is June 10, 2018, under conditions set by the Land Use Commission. For completing work on the first 50 lots, the deadline is March 21, 2018, under conditions set by the Hawai'i County Council.

Before those deadlines can be met, the developer has to complete construction of a roundabout at the mauka entrance to Waikoloa Village, satisfy all fair-share contributions to the county (\$12,772.64 per lot),

install all utility lines, build the roadways, and obtain approval of subdivision maps, among other things.

With roughly a year and a half to go, odds are those deadlines won't be met.

When asked about his client's plans, Fuke told *Environment Hawai'i* only that he expected the landowner would be asking the LUC for a time extension. “Given the need to finalize construction drawings and having everything else approved, it's very likely an extension request will be made,” Fuke said.

But is the project still viable?

The company that petitioned for the redistricting, Waikoloa Mauka, LLC, no longer owns the property. The company that does own it now, Waikoloa Highlands, Inc., is apparently a stranger even to Fuke.

The movie production firm, Envision Entertainment, that has taken out the loans secured by a mortgage against Waikoloa Highlands' property, was administratively dissolved by the Wyoming secretary of state's office in March of this year, for failure to file required annual reports.

Efforts to reach Martirosian for comment were not successful by press time.

— Patricia Tummons



## Original Waikoloa Highlands Partners Share History of Cocaine Trafficking

April 24, 2007. At a meeting of the Waikoloa Village Association, Waikoloa Mauka, LLC, principal Stephan Martirosian made a short presentation on his company's plans for the area and presented a check for \$25,000 to association president Margaret Tighe. The two smiled at a photographer as they shook hands, and the snapshot made the front page of the association's newsletter, *Waikoloa Breeze*. Minutes of the meeting record Martirosian as assuring association members that his company "will eventually be developing 9,000 to 10,000 acres of the nearly 14,000 acres they acquired from the Waikoloa Development Company in mid-2005."

The notion that a prosperous businessman, with connections to global oil interests, had taken over development of the stalled-out Waikoloa Highlands subdivision was generally welcomed by the community, especially after Waikoloa Mauka agreed that it would drop plans for a golf course that some residents feared would compete with the one in their village.

Other evidence bolstered the idea that the company had near-infinite resources to carry out the development. When LUC interim director Rodney Maile was describing progress toward an agreement on the conditions of redistricting on March 19, 2008, the financial wherewithal of Waikoloa Mauka was practically a non-issue.

"The parties did not dispute the petitioner's financial capability to undertake the project," Maile told the commissioners.

The final decision and order noted, "Petitioner intends to use \$4 million in funds held by Morgan Stanley for pre-development costs for the Project. In addition, the Petitioner plans to use proceeds from sales of its properties to fund the Project. In conjunction with sale proceeds, Petitioner will also obtain funding from Arch, Ltd., one of the Petitioner's members, to complete the Project."

As evidence of the company's robust financial health, the petitioners had offered to the LUC a 2005 federal tax return for the company that claimed more than \$61 million in cash assets on Schedule M-2, "Analysis of partners' capital accounts."

Digging deeper into that same return, however, in a breakdown of Waikoloa Mauka's assets, this same \$61,365,680 value is described as "land for development,"

rather than cash. Additional tax statements submitted for the two entities making up the Waikoloa Mauka partnership provided details. Twenty percent of the company's assets — \$12,271,000 — were contributed by Vitoil and the remainder — \$49,084,000 — by Arch. (Although Waikoloa Mauka was incorporated in Delaware, Vitoil in California, and Arch in the Bahamas — all shared the same address in Glendale, California.)

What was missing in all the scrutiny was any consideration of the criminal history of Martirosian and other parties involved in the company. To be sure, the LUC does not generally consider this when it evaluates the fitness of petitioners to follow through on their commitments.

The sellers had, however, known of the unsavory ties of the individual who put the deal together. Michael Miroyan, then a part-time Hawai'i resident, claims to this day on his LinkedIn page that this was among his pinnacle achievements. But because of his criminal record, including a federal conviction for trafficking in cocaine, the landowners did not want to go forward with the sale if Miroyan's name was on the deed.

Martirosian and partner Vitaly Grigoriants, a Russian oil company president, then entered into a side agreement with Miroyan. Among other things, the agreement noted that Miroyan and/or two of his California businesses "were also buyers for 20 percent of the Buyer's ownership until sellers ran a 'background check' on Miroyan and requested that he be removed from the contract because of a felony conviction and the possibility of bad press."

But Miroyan retained a role as a shadow participant in the deal. Martirosian and his attorney, Kevin Kellow, agreed that Miroyan would receive a 20 percent ownership share in the business entity that would be formed to take title to the Waikoloa acreage.

By 2008, the relationship between Miroyan and his erstwhile partners had soured — in Hawai'i and in California, as well. In California, Vitoil, Martirosian's company, had sued Miroyan and his Golden Eagle Investments in a dispute over property held in Modesto, California, by Sperry Road Business Center, a company in which Miroyan was managing member and Vitoil had an interest. In that case and a counterclaim by Miroyan, Miroyan claimed Vitoil was attempting to defraud

him through business deals made while Miroyan was incarcerated. Vitoil also sued Miroyan in Los Angeles in a dispute over the sale of a building in which Miroyan held an interest.

Against that background, in July 2009, Miroyan sued Arch, Vitoil, and related entities in Hawai'i's 3rd Circuit Court, alleging that Arch and Vitoil "have orchestrated the transfer of portions of the [Waikoloa property] worth approximately \$35 million" and that they were "engaged, in a pattern of selling and mortgaging (at very high interest rates and points) and cross-collateralizing the properties for less than reasonable equivalent consideration and with the intent to hinder, delay, or defraud" Miroyan.

Miroyan settled with Waikoloa Mauka. The agreement transferred to Miroyan's company Hawaiian Riverbend title to about 31 acres at the mauka entry to Waikoloa Village, at the corner of Paniolo Drive and Waikoloa Road.

In spring of 2010, Waikoloa Mauka and Miroyan entered into a joint development agreement, calling for them to work together and split the costs of subdividing the parcel and making certain other improvements. The subdivision would divide Miroyan's parcel into three lots: one of six acres fronting Paniolo Drive (where Miroyan planned to develop a 78-unit condominium complex), one of 14.6 acres (where Miroyan planned to build a shopping mall), and one of 10.7 acres, which would be developed as a park and donated to the county, to satisfy the Waikoloa Highlands rezoning condition requiring a per-lot contribution of more than \$6,000 — totaling more than \$2.45 million — to support county park and recreational facilities.

In return for donating 10.7 acres of his land, the development agreement provided for Waikoloa Mauka to transfer to Hawaiian Riverbend the triangular 10.8-acre parcel on the corner of Waikoloa Road and Pua Melia Street — the only parcel that Waikoloa Mauka now owns. The agreement, if fulfilled, would thus give Miroyan control of land on both mauka corners of the main intersection leading into Waikoloa Village.

Even before the development agreement was signed, Miroyan had transferred a 50 percent interest in Hawaiian Riverbend to Tae Kai and Kenneth Kai, trustees of the Kai Family Trust. In return, Miroyan expected to receive \$527,000, of which \$300,000 was owed to Waikoloa Mauka under terms of the settlement.

Miroyan claims he was paid only \$330,000, which caused him to be unable



## Council Lobbies for Direct Compensation To Those Hurt by Monument Expansion

The Western Pacific Fishery Management Council is wasting no time seeking financial compensation for those in the fishing industry who may claim they have been harmed by President Barack Obama's expansion of the Papahānaumokuākea Marine National Monument in late August.

At its meeting last month—shortly after being advised by counsel of restrictions on lobbying legislatures or the president for funds—the council decided to send a letter to Obama highlighting the expansion's impacts on Hawai'i fishing and seafood industries and indigenous communities and requesting that the Department of Commerce mitigate those impacts through "direct compensation to fishing sectors."

The council's letter will also include a request that the ban on commercial fishing in the expansion area—which includes the waters between 50 and 200 nautical miles off the Northwestern Hawaiian Islands—be phased in. The letter will also ask for "other programs that would directly benefit those impacted from the monument expansion."

Compensation for fisheries closures in federal waters is not unprecedented. In

2005, the National Marine Fisheries Service (NMFS) reimbursed the Hawai'i Longline Association \$2.2 million for legal expenses tied to the group's lawsuit opposing a temporary closure of the swordfish fishery. Also, as part of the same \$5 million federal grant that funded the reimbursement, lobster and bottomfish fishers displaced by the Northwestern Hawaiian Islands

*"Fishermen can fish elsewhere, but to move elsewhere, there are costs."*

— Justin Hospital, PIFSC

(NWHI) Coral Reef Ecosystem Reserve established by president Bill Clinton also received hundreds of thousands of dollars in direct compensation and funds for fisheries research.

With regard to the Papahānaumokuākea Marine National Monument, after it was first established by President George W. Bush in 2006, then-Sen. Daniel Inouye inserted an earmark in the Consolidated Appropriations Act of 2007 that provided more than \$6 million to NMFS for a "capacity reduction program." That program allowed vessel owners with permits to fish

for lobster or bottomfish in the NWHI to be paid the economic value of their permits if they chose to stop fishing well ahead of the date all commercial fishing was to end in the monument, June 15, 2011.

Unlike the bottomfish and lobster fisheries, however, the Hawai'i longline fishery catches the vast majority of its haul in waters outside the U.S. Exclusive Economic Zone (EEZ) around the NWHI. And while the reserve and original monument designations permanently closed the door on the former two fisheries, this year's monument expansion merely forces the longline fleet to shift its effort eastward at a time when

it's already doing that on its own.

Even so, Wespac is pushing for a compensation package for fishers inconvenienced by the monument expansion. Whether or not it's the council's place to ask for it is questionable. In his ethics presentation to the council given shortly before it voted to ask Obama for money for the "fishing sector," National Oceanic and Atmospheric Administration (NOAA) general counsel Fred Tucher advised the council that it cannot use its federal grant to lobby any legislature or the executive branch for more money. The council could

to follow through with development plans for the property. Despite his having given mortgages to the Kai Trust, the trust did not deliver fully on the loans secured by the mortgages, Miroyan has stated in filings made to the U.S. Bankruptcy Court.

Miroyan then turned to other parties for loans, Gang Chen and Cory TerEick, securing them with additional mortgages on his Waikoloa property.

Beginning in 2014, Miroyan's creditors initiated foreclosure proceedings, resulting ultimately in Miroyan filing an emergency Chapter 11 bankruptcy petition on April 4 of this year, forestalling a foreclosure auction in the proceeding initiated by TerEick.

The recently approved reorganization plan anticipates the sale of all three of Miroyan's lots, which he claims should bring in \$7 million. That, he says, should be more than sufficient to satisfy his creditor's claims.

Meanwhile, the Hawai'i County Department of Finance has not been able to collect taxes on Miroyan's property since just after

the subdivision occurred. As of last month, the bill for taxes, interest, and penalties for all three lots stood at \$56,754.78.

But if Waikoloa Land & Cattle was concerned about Miroyan's criminal misdeeds, those of Martirosian apparently escaped notice. Yet his record, as detailed in an article published in the January 2, 2014, issue of *LA Weekly*, is at least as long as that of Miroyan.

By then, Martirosian and his current development partner, Remington Chase, had launched a film production enterprise called Envision Entertainment, Inc., incorporated in Wyoming but headquartered in the Los Angeles area. Among the films they backed are *Lone Survivor*, *End of Watch*, *2 Guns*, *Escape Plan*, *LA Weekly*, *Variety*. *LA Weekly* reporter Gene Maddaus, now with *Variety*, had done exhaustive investigative work before sitting down for an interview with the two men and their publicist.

Maddaus' article, "Drugs, Diamonds, International Intrigue — You Won't Believe Two Hollywood Producers'

Crazy Backstory," is available online. It documents, in shocking detail, the criminal lawsuits brought against both men, going back to 1989, four years after Martirosian immigrated to Los Angeles from Russia.

That year, Martirosian was arrested with four kilos of cocaine at a Border Patrol checkpoint in Texas. Again in 1993, he was accused of arranging to help transport 800 kilos of cocaine from Colombia to Florida. Martirosian told Maddaus he was only trying to buy coffee for a chain of shops in Moscow.

Chase has had additional run-ins with the law, involving everything from cocaine trafficking to forging checks to shoplifting glue.

Both men have attempted, and apparently succeeded, in getting their sentences reduced by offering their services as informers. In Martirosian's case, that included offering the FBI information on KGB activities, as evidenced in an appellate court decision on his sentencing after the Texas arrest.

— P.T.