

CARLSMITH BALL LLP

STEVEN S.C. LIM 2505
DEREK B. SIMON 10612
ASB Tower, Suite 2100
1001 Bishop Street
Honolulu, HI 96813
Tel No. 808.523.2500
Fax No. 808.523.0842

LAND USE COMMISSION
STATE OF HAWAII

2018 NOV -8 P 2:09

Attorneys for
WAIKOLOA HIGHLANDS, INC.

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition Of
WAIKOLOA MAUKA, LLC

To Amend the Agricultural Land Use District
Boundary Into the Rural Land Use District for
Approximately 731.581 Acres in South Kohala
District, Island of Hawaii, Tax Map Key No.
(3) 6-8-02:016 (por.)

DOCKET NO. A06-767

**ERRATA STATEMENT REGARDING
EXHIBIT NUMBERING AND EXHIBIT
COPIES FOR WAIKOLOA
HIGHLANDS, INC.'S MOTION FOR
ISSUANCE OF A SUBPOENA AND
SUBPOENAS DUCES TECUM, FILED
NOVEMBER 7, 2018; EXHIBIT A;
CERTIFICATE OF SERVICE**

**ERRATA STATEMENT REGARDING EXHIBIT NUMBERING AND EXHIBIT
COPIES FOR WAIKOLOA HIGHLANDS, INC.'S MOTION FOR ISSUANCE OF A
SUBPOENA AND SUBPOENAS DUCES TECUM, FILED NOVEMBER 7, 2018**

WAIKOLOA HIGHLANDS, INC. (“WHI”), by and through its legal counsel
CARLSMITH BALL LLP, hereby submits this Errata Statement to: (1) correct the exhibit
numbering for the exhibits submitted in connection with WHI’s Motion for Issuance of a
Subpoena and Subpoena Duces Tecum, filed November 7, 2018 (the “**Exhibits**”); and (2) to
provide two additional copies of the subpoena and subpoenas duces tecum (for a total of three
each) included among the Exhibits as required pursuant to Hawai‘i Administrative Rule § 15-15-
69(c).

The correct numbering of the Exhibits should reflect as follows:

<u>Exhibit</u>	<u>Exhibit Number</u>
Excerpts from the Transcript of the State of Hawai'i Land Use Commission's October 25, 2018 Hearing, prepared by Jean McManus	<u>Exhibit 39</u>
Three copies of Subpoena for Representative of County of Hawai'i Office of Housing and Community Development	<u>Exhibit 40</u>
Three copies of Subpoena Duces Tecum County of Hawai'i, Office of Housing and Community Development	<u>Exhibit 41</u>
Three copies of Subpoena Duces Tecum County of Hawai'i, Mayor's Office	<u>Exhibit 42</u>

In addition, two additional copies of Exhibit 40, Exhibit 41 and Exhibit 42 are provided herein as Exhibit A. Counsel regrets any inconvenience caused by these oversights.

DATED: Honolulu, Hawai'i, November 8, 2018.



STEVEN S.C. LIM
DEREK B. SIMON

Attorneys for
WAIKOLOA HIGHLANDS, INC.

EXHIBIT A

**(EXHIBIT 40 to Motion for
Issuance of a Subpoena
and Subpoenas Duces
Tecum)**

CARLSMITH BALL LLP

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BEFORE THE LAND USE COMMISSION
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(3) 6-8-02:016 (por.)

DOCKET NO. A06-767

SUBPOENA FOR REPRESENTATIVE OF
COUNTY OF HAWAI'I OFFICE OF
HOUSING AND COMMUNITY
DEVELOPMENT

**SUBPOENA FOR REPRESENTATIVE OF COUNTY OF HAWAI'I OFFICE OF
HOUSING AND COMMUNITY DEVELOPMENT**

THE STATE OF HAWAI'I:

TO THE SHERIFF of the State of Hawai'i or his Deputy, any Police Officer, or any
person not less than 18 years of age and not a party in the above-entitled matter.

YOU ARE COMMANDED to Subpoena a **Representative of County of Hawai'i
Office of Housing and Community Development**, 74-5044 Ane Keohokalole Highway, Bldg.
B, 2nd Floor, Kailua-Kona, HI 96740, to personally appear before the State of Hawai'i Land Use
Commission on **November 28, 2018 at 9:00 a.m.**, at the Natural Energy Laboratory of Hawai'i

Authority, located at 73-987 Makako Bay Drive, Kailua Kona, Hawai'i 96740, to testify as a witness in connection with the above-entitled matter.

DATED: Honolulu, Hawai'i _____.

Dr. Jonathan Likeke Scheuer, Chair
State of Hawai'i Land Use Commission

ACKNOWLEDGEMENT OF SERVICE

I, _____, received this Subpoena at
_____ on _____.

Signature

RETURN OF SERVICE

SERVICE WAS MADE AS FOLLOWS:

DATE: _____

TIME: _____

PLACE: _____

COMMENTS: _____ I served the above-named person.

_____ I served this subpoena on another individual.
(explain).

DATED: _____, County of Hawai'i, _____.

NAME OF SERVER:

SIGNATURE OF SERVER

CARLSMITH BALL LLP

STEVEN S.C. LIM 2505
DEREK B. SIMON 10612
ASB Tower, Suite 2100
1001 Bishop Street
Honolulu, HI 96813
Tel No. 808.523.2500
Fax No. 808.523.0842

Attorneys for
WAIKOLOA HIGHLANDS, INC.

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition Of

WAIKOLOA MAUKA, LLC

To Amend the Agricultural Land Use District
Boundary Into the Rural Land Use District for
Approximately 731.581 Acres in South Kohala
District, Island of Hawaii, Tax Map Key No.
(3) 6-8-02:016 (por.)

DOCKET NO. A06-767

SUBPOENA FOR REPRESENTATIVE OF
COUNTY OF HAWAI'I OFFICE OF
HOUSING AND COMMUNITY
DEVELOPMENT

**SUBPOENA FOR REPRESENTATIVE OF COUNTY OF HAWAI'I OFFICE OF
HOUSING AND COMMUNITY DEVELOPMENT**

THE STATE OF HAWAI'I:

TO THE SHERIFF of the State of Hawai'i or his Deputy, any Police Officer, or any
person not less than 18 years of age and not a party in the above-entitled matter.

YOU ARE COMMANDED to Subpoena a **Representative of County of Hawai'i
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DATED: Honolulu, Hawai‘i _____.

Dr. Jonathan Likeke Scheuer, Chair
State of Hawai‘i Land Use Commission

ACKNOWLEDGEMENT OF SERVICE

I, _____, received this Subpoena at
_____ on _____.

Signature

RETURN OF SERVICE

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DATE: _____

TIME: _____

PLACE: _____

COMMENTS: _____ I served the above-named person.

_____ I served this subpoena on another individual.
(explain).

DATED: _____, County of Hawai'i, _____.

NAME OF SERVER:

SIGNATURE OF SERVER

**(EXHIBIT 41 to Motion for
Issuance of a Subpoena
and Subpoenas Duces
Tecum)**

CARLSMITH BALL LLP

STEVEN S.C. LIM 2505
DEREK B. SIMON 10612
ASB Tower, Suite 2100
1001 Bishop Street
Honolulu, HI 96813
Tel No. 808.523.2500
Fax No. 808.523.0842

Attorneys for
WAIKOLOA HIGHLANDS, INC.

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition Of

WAIKOLOA MAUKA, LLC

To Amend the Agricultural Land Use District
Boundary Into the Rural Land Use District for
Approximately 731.581 Acres in South Kohala
District, Island of Hawaii, Tax Map Key No.
(3) 6-8-02:016 (por.)

DOCKET NO. A06-767

SUBPOENA *DUCES TECUM* COUNTY
OF HAWAI'I, OFFICE OF HOUSING
AND COMMUNITY DEVELOPMENT;
EXHIBIT "A"

**SUBPOENA DUCES TECUM COUNTY OF HAWAI'I, OFFICE OF HOUSING AND
COMMUNITY DEVELOPMENT**

THE STATE OF HAWAI'I:

TO THE SHERIFF of the State of Hawai'i or his Deputy, any Police Officer, or any
person not less than 18 years of age and not a party in the above cited matter.

YOU ARE COMMANDED to Subpoena the **Custodian of Records of County of
Hawai'i, Office of Housing and Community Development**, 50 Wailuku Drive, Hilo, Hawaii
County, HI 96720, to have available for release, copying and/or inspection all documents as
described in Exhibit A attached hereto on November 16, 2018 at 8:30 a.m. at the County of

Hawai`i, Office of Housing and Community Development, 50 Wailuku Drive, Hilo, Hawai`i
County, HI 96720.

DATED: Honolulu, Hawai`i, _____.

Dr. Jonathan Likeke Scheuer, Chair
State of Hawai`i Land Use Commission

EXHIBIT “A”

True and correct copies of files relating to the following:

1. that certain Affordable Housing Agreement by and between Waikoloa Highlands, Inc. (“**WHI**”) and the County of Hawai‘i (“**County**”), dated December 1, 2016;
2. the June 1, 2017 conveyance of approximately 11.7 acres of land (the “**AH Parcel**”) by WHI to Plumeira at Waikoloa, LLC (“**PWL**”) by way of Warranty Deed, which was recorded in the State of Hawai‘i Bureau of Conveyances (the “**Bureau**”) on January 29, 2018, as Regular System Document No. A-66030880;
3. that certain Affordable Housing Release Agreement by and between WHI and the County, dated July 20, 2017;
4. the April 24, 2018 conveyance of the AH Parcel from PWL to Pua Melia LLC (“**PML**”) by way of Warranty Deed, which was recorded in the Bureau on May 11, 2018, as Regular System Document No. A-67050158;
5. PML’s proposed mixed-use development on the AH Parcel;
6. any negotiations between the County and PWL and/or PML regarding the provision of affordable housing in the Waikoloa area; and
7. any other matters directly relevant and material to the Commission’s Order to Show Cause, filed July 3, 2018.

ACKNOWLEDGEMENT OF SERVICE

I, _____, received this Subpoena at
_____ on _____.

Signature

RETURN OF SERVICE

SERVICE WAS MADE AS FOLLOWS:

DATE: _____

TIME: _____

PLACE: _____

COMMENTS: _____ I served the above-named person.

_____ I served this subpoena on another individual.
(explain).

DATED: _____, County of Hawai'i, _____.

NAME OF SERVER:

SIGNATURE OF SERVER

CARLSMITH BALL LLP

STEVEN S.C. LIM 2505
DEREK B. SIMON 10612
ASB Tower, Suite 2100
1001 Bishop Street
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Tel No. 808.523.2500
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Attorneys for
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BEFORE THE LAND USE COMMISSION
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In the Matter of the Petition Of
WAIKOLOA MAUKA, LLC

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DOCKET NO. A06-767

SUBPOENA *DUCES TECUM* COUNTY
OF HAWAI'I, OFFICE OF HOUSING
AND COMMUNITY DEVELOPMENT;
EXHIBIT "A"

**SUBPOENA DUCES TECUM COUNTY OF HAWAI'I, OFFICE OF HOUSING AND
COMMUNITY DEVELOPMENT**

THE STATE OF HAWAI'I:

TO THE SHERIFF of the State of Hawai'i or his Deputy, any Police Officer, or any
person not less than 18 years of age and not a party in the above cited matter.

YOU ARE COMMANDED to Subpoena the **Custodian of Records of County of
Hawai'i, Office of Housing and Community Development**, 50 Wailuku Drive, Hilo, Hawaii
County, HI 96720, to have available for release, copying and/or inspection all documents as
described in Exhibit A attached hereto on November 16, 2018 at 8:30 a.m. at the County of

Hawai`i, Office of Housing and Community Development, 50 Wailuku Drive, Hilo, Hawai`i
County, HI 96720.

DATED: Honolulu, Hawai`i, _____.

Dr. Jonathan Likeke Scheuer, Chair
State of Hawai`i Land Use Commission

EXHIBIT "A"

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1. that certain Affordable Housing Agreement by and between Waikoloa Highlands, Inc. ("**WHI**") and the County of Hawai'i ("**County**"), dated December 1, 2016;
2. the June 1, 2017 conveyance of approximately 11.7 acres of land (the "**AH Parcel**") by WHI to Plumeira at Waikoloa, LLC ("**PWL**") by way of Warranty Deed, which was recorded in the State of Hawai'i Bureau of Conveyances (the "**Bureau**") on January 29, 2018, as Regular System Document No. A-66030880;
3. that certain Affordable Housing Release Agreement by and between WHI and the County, dated July 20, 2017;
4. the April 24, 2018 conveyance of the AH Parcel from PWL to Pua Melia LLC ("**PML**") by way of Warranty Deed, which was recorded in the Bureau on May 11, 2018, as Regular System Document No. A-67050158;
5. PML's proposed mixed-use development on the AH Parcel;
6. any negotiations between the County and PWL and/or PML regarding the provision of affordable housing in the Waikoloa area; and
7. any other matters directly relevant and material to the Commission's Order to Show Cause, filed July 3, 2018.

ACKNOWLEDGEMENT OF SERVICE

I, _____, received this Subpoena at
_____ on _____.

Signature

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SERVICE WAS MADE AS FOLLOWS:

DATE: _____

TIME: _____

PLACE: _____

COMMENTS: _____ I served the above-named person.

_____ I served this subpoena on another individual.
(explain).

DATED: _____, County of Hawai'i, _____.

NAME OF SERVER:

SIGNATURE OF SERVER

**(EXHIBIT 42 to Motion for
Issuance of a Subpoena
and Subpoenas Duces
Tecum)**

CARLSMITH BALL LLP

STEVEN S.C. LIM 2505
DEREK B. SIMON 10612
ASB Tower, Suite 2100
1001 Bishop Street
Honolulu, HI 96813
Tel No. 808.523.2500
Fax No. 808.523.0842

Attorneys for
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BEFORE THE LAND USE COMMISSION
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District, Island of Hawaii, Tax Map Key No.
(3) 6-8-02:016 (por.)

DOCKET NO. A06-767

SUBPOENA *DUCES TECUM* COUNTY
OF HAWAI'I, MAYOR'S OFFICE;
EXHIBIT "A"

SUBPOENA DUCES TECUM COUNTY OF HAWAI'I, MAYOR'S OFFICE

THE STATE OF HAWAI'I:

TO THE SHERIFF of the State of Hawai'i or his Deputy, any Police Officer, or any person not less than 18 years of age and not a party in the above cited matter.

YOU ARE COMMANDED to Subpoena the **Custodian of Records of County of Hawai'i, Mayor's Office**, 25 Aupuni Street, Suite 2603, Hilo, Hawaii County, HI 96720, to have available for release, copying and/or inspection all documents as described in **Exhibit A** attached hereto on **November 16, 2018 at 8:30 a.m.** at the County of Hawai'i, Mayor's Office located at 25 Aupuni Street, Suite 2603, Hilo, Hawai'i County, HI 96720.

DATED: Honolulu, Hawai'i, _____.

Dr. Jonathan Likeke Scheuer, Chair
State of Hawai'i Land Use Commission

EXHIBIT “A”

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1. that certain Affordable Housing Agreement by and between Waikoloa Highlands, Inc. (“**WHI**”) and the County of Hawai‘i (“**County**”), dated December 1, 2016;
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ACKNOWLEDGEMENT OF SERVICE

I, _____, received this Subpoena at
_____ on _____.

Signature

RETURN OF SERVICE

SERVICE WAS MADE AS FOLLOWS:

DATE: _____

TIME: _____

PLACE: _____

COMMENTS: _____ I served the above-named person.

_____ I served this subpoena on another individual.
(explain).

DATED: _____, County of Hawai'i, _____.

NAME OF SERVER:

SIGNATURE OF SERVER

CARLSMITH BALL LLP

STEVEN S.C. LIM 2505
DEREK B. SIMON 10612
ASB Tower, Suite 2100
1001 Bishop Street
Honolulu, HI 96813
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Attorneys for
WAIKOLOA HIGHLANDS, INC.

BEFORE THE LAND USE COMMISSION
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In the Matter of the Petition Of

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Approximately 731.581 Acres in South Kohala
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(3) 6-8-02:016 (por.)

DOCKET NO. A06-767

SUBPOENA *DUCES TECUM* COUNTY
OF HAWAI'I, MAYOR'S OFFICE;
EXHIBIT "A"

SUBPOENA DUCES TECUM COUNTY OF HAWAI'I, MAYOR'S OFFICE

THE STATE OF HAWAI'I:

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DATED: Honolulu, Hawai'i, _____.

Dr. Jonathan Likeke Scheuer, Chair
State of Hawai'i Land Use Commission

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5. PML’s proposed mixed-use development on the AH Parcel;
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7. any other matters directly relevant and material to the Commission’s Order to Show Cause, filed July 3, 2018.

ACKNOWLEDGEMENT OF SERVICE

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_____ on _____.

Signature

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DATE: _____

TIME: _____

PLACE: _____

COMMENTS: _____ I served the above-named person.

_____ I served this subpoena on another individual.
(explain).

DATED: _____, County of Hawai'i, _____.

NAME OF SERVER:

SIGNATURE OF SERVER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition Of

WAIKOLOA MAUKA, LLC

To Amend the Agricultural Land Use District
Boundary Into the Rural Land Use District for
Approximately 731.581 Acres in South Kohala
District, Island of Hawaii, Tax Map Key No.
(3) 6-8-02:016 (por.)

DOCKET NO. A06-767

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a filed copy of the foregoing was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by regular or certified mail as noted:

MICHAEL YEE, DIRECTOR
Department of Planning, County of Hawai'i
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, HI 96720

U.S. CERTIFIED MAIL-RETURN RECEIPT
REQUESTED, POSTAGE PREPAID

JOSEPH K. KAMELAMELA, ESQ.
Corporation Counsel
Department of the Corporation Counsel
County of Hawai'i
Hilo Lagoon Centre,
101 Aupuni Street, Unit 325
Hilo, HI 96720

U.S. CERTIFIED MAIL-RETURN RECEIPT
REQUESTED, POSTAGE PREPAID

Attorneys for County of Hawai'i Department
of Planning

LEO R. ASUNCION, JR.
Director
Office of Planning, State of Hawai'i
235 S. Beretania Street, Suite 600
Honolulu, HI 96813

HAND DELIVERY

DAWN TAKEUCHI APUNA, ESQ.
Deputy Attorney General
Department of the Attorney General, State of
Hawai'i
425 Queen Street
Honolulu, HI 96813

HAND DELIVERY

Attorneys for Office of Planning, State of
Hawai'i

Mr. Kevin C. Kellow
Manager
Waikoloa Mauka, LLC
1200 S. Brand Blvd. #202
Glendale, CA 91204

U.S. MAIL, POSTAGE PREPAID

DATED: Honolulu, Hawai'i, November 8, 2018.



STEVEN S.C. LIM
DEREK B. SIMON

Attorneys for
WAIKOLOA HIGHLANDS, INC.