

CARLSMITH BALL LLP

STEVEN S.C. LIM  
DEREK B. SIMON  
ASB Tower, Suite 2100  
1001 Bishop Street  
Honolulu, Hawai'i 96813  
Tel. No.: (808) 523-2500  
Facsimile No.: (808) 523-0842

LAND USE COMMISSION  
STATE OF HAWAII

2018 DEC 21 A 10:07

Attorneys for Petitioner  
KEVIN M. BARRY AND MONICA S.  
BARRY, TRUSTEES OF THE BARRY  
FAMILY TRUST DATED NOVEMBER 15,  
2006

**BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII**

**In the Matter of the Petition of**

KEVIN M. BARRY AND MONICA S.  
BARRY, TRUSTEES OF THE BARRY  
FAMILY TRUST DATED NOVEMBER 15,  
2006

To Amend the Land Use District Boundary of  
Certain Lands Situated at Kea'au, Puna,  
County and State of Hawai'i, Consisting of  
0.51 Acres from the Conservation District to  
the Agricultural District, Tax Map Key No. (3)  
1-5-059:059

**DOCKET NO. A18-806**

**AMENDED AFFIDAVIT OF DEREK B.  
SIMON ATTESTING TO SERVICE OF  
PETITION FOR LAND USE DISTRICT  
BOUNDARY AMENDMENT, FILED  
DECEMBER 19, 2018; CERTIFICATE  
OF SERVICE**

AMENDED AFFIDAVIT OF DEREK B. SIMON ATTESTING TO SERVICE OF  
PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT, FILED  
DECEMBER 19, 2018

DEREK B. SIMON, being first duly sworn on oath, deposes and says:

1. Affiant is one of the attorneys for Petitioners KEVIN M. BARRY AND  
MONICA S. BARRY, TRUSTEES OF THE BARRY FAMILY TRUST DATED NOVEMBER

15, 2006 (“**Petitioners**”), is licensed to practice law in the State of Hawai‘i, is duly authorized to make this affidavit, and does so upon personal knowledge and belief.

2. KEVIN M. BARRY AND MONICA S. BARRY, TRUSTEES OF THE BARRY FAMILY TRUST DATED NOVEMBER 15, 2006 are Petitioners for a State of Hawai‘i Land Use District Boundary Amendment, for certain lands consisting of 0.51 Acres, situate at Kea‘au, Puna, County and State of Hawai‘i, and presently identified by Tax Map Key No. (3) 1-5-059:059, from the State Land Use Conservation District to the Agricultural District.

3. In compliance with Section 15-15-48(a), Hawai‘i Administrative Rules (“**HAR**”), Affiant has, on December 20, 2018, served a file-stamped copy of the Petition for Land Use District Boundary Amendment by depositing the same in the United States mail, postage paid, or by hand delivery, to each of the following persons, addressed as follows:

LEO R. ASUNCION, JR., AICP [Via Hand Delivery]  
Acting Director  
Office of Planning  
State of Hawai‘i  
235 South Beretania Street, 6th Floor  
Honolulu, HI 96813

DAWN TAKEUCHI-APUNA, ESQ. [Via Hand Delivery]  
Deputy Attorney General  
Department of the Attorney General  
425 Queen Street  
Honolulu, HI 96813

Attorney for State of Hawai‘i Office of  
Planning

MICHAEL YEE, DIRECTOR [Via U.S. Mail, postage prepaid]  
Department of Planning, County of Hawai‘i  
Aupuni Center  
101 Pauahi Street, Suite 3  
Hilo, HI 96720

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

[Via U.S. Mail, postage prepaid]

Attorney for County of Hawai'i Planning  
Department

JOSEPH CLARKSON, CHAIR  
Windward Planning Commission  
County of Hawai'i  
Aupuni Center  
101 Pauahi Street, Suite 3  
Hilo, HI 96720

[Via U.S. Mail, postage prepaid]

ANGELIC MALIA HALL, ESQ.  
Deputy Corporation Counsel  
Department of Corporation Counsel  
County of Hawai'i  
Hilo Lagoon Centre  
101 Aupuni Street, Unit 325  
Hilo, HI 96720

[Via U.S. Mail, postage prepaid]

Attorney for County of Hawai'i Windward  
Planning Commission

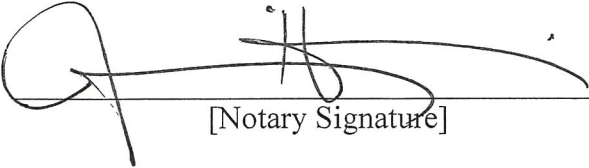
4. This Affidavit is provided in compliance with HAR § 15-15-50(c)(5)(C).

That further Affiant sayeth naught.

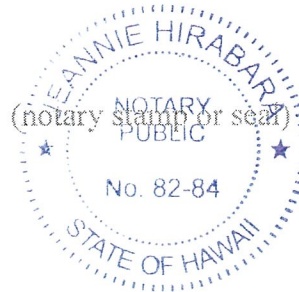
DATED: Honolulu, Hawai'i, December 21, 2018.

  
\_\_\_\_\_  
DEREK B. SIMON

The AMENDED AFFIDAVIT OF DEREK B. SIMON ATTESTING TO SERVICE OF PETITION, dated December 19, 2018, which consists of Seven (7) pages (including this page), was executed by Derek B. Simon who was subscribed and sworn to before me this 21st day of December, 2018, in the First Judicial Circuit of the State of Hawai'i.

  
[Notary Signature]

Printed Name: Jeannie Hirabara  
My commission expires: 2/7/22



CARLSMITH BALL LLP

STEVEN S.C. LIM 2505  
DEREK B. SIMON 10612  
ASB Tower, Suite 2100  
1001 Bishop Street  
Honolulu, Hawai'i 96813  
Tel. No.: (808) 523-2500  
Facsimile No.: (808) 523-0842

Attorneys for Petitioners  
KEVIN M. BARRY AND MONICA S. BARRY, TRUSTEES OF  
THE BARRY FAMILY TRUST DATED NOVEMBER 15, 2006

**BEFORE THE LAND USE COMMISSION**

**OF THE STATE OF HAWAI'I**

**In the Matter of the Petition of**

KEVIN M. BARRY AND MONICA S.  
BARRY, TRUSTEES OF THE BARRY  
FAMILY TRUST DATED NOVEMBER 15,  
2006

To Amend the Land Use District Boundary of  
Certain Lands Situated at Kea'au, Puna,  
County of Hawai'i, State of Hawai'i,  
Consisting of 0.51 Acres from the  
Conservation District to the Agricultural  
District, Tax Map Key No. (3) 1-5-059:059.

DOCKET NO. A18-806

CERTIFICATE OF SERVICE

**CERTIFICATE OF SERVICE**

I hereby certify that due service of a file-stamped copy of the Amended Affidavit of  
Derek B. Simon Attesting to Service of Petition for Land Use District Boundary Amendment,  
filed August 19, 2018, was made by depositing the same with the United States Mail, postage  
prepaid, or by hand delivery, on December 21, 2018, addressed to:

LEO R. ASUNCION, JR., AICP  
Acting Director  
Office of Planning  
State of Hawai'i  
235 South Beretania Street, 6th Floor  
Honolulu, HI 96813

[Via Hand Delivery]

DAWN TAKEUCHI-APUNA, ESQ.  
Deputy Attorney General  
Department of the Attorney General  
425 Queen Street  
Honolulu, HI 96813

[Via Hand Delivery]

Attorney for State of Hawai'i Office of  
Planning

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

[Via U.S. Mail, postage prepaid]

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

[Via U.S. Mail, postage prepaid]

Attorney for County of Hawai'i Planning  
Department

JOSEPH CLARKSON, CHAIR  
Windward Planning Commission  
County of Hawai'i  
Aupuni Center  
101 Pauahi Street, Suite 3  
Hilo, HI 96720

[Via U.S. Mail, postage prepaid]

ANGELIC MALIA HALL, ESQ.  
Deputy Corporation Counsel  
Department of Corporation Counsel  
County of Hawai'i  
Hilo Lagoon Centre  
101 Aupuni Street, Unit 325  
Hilo, HI 96720

[Via U.S. Mail, postage prepaid]

Attorney for County of Hawai'i Windward  
Planning Commission

DATED: Honolulu, Hawai'i, December 21, 2018.



---

DEREK B. SIMON

Attorneys for Petitioners  
KEVIN M. BARRY AND MONICA S.  
BARRY, TRUSTEES OF THE BARRY  
FAMILY TRUST DATED NOVEMBER 15,  
2006