McCORRISTON MILLER MUKAI MacKINNON LLP

RANDALL F. SAKUMOTO 4848
LISA W. CATALDO 6159
CATHERINE A. TASCHNER 9585
Five Waterfront Plaza, 4th Floor
500 Ala Moana Boulevard
Honolulu, Hawai'i 96813
Telephone: (808) 529-7300
Facsimile: (808) 524-8293

Attorneys for Petitioners
PIILANI PROMENADE SOUTH, LLC and
PIILANI PROMENADE NORTH, LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of KAONOULU RANCH to Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 88 acres at Kaonoulu, Makawao-Wailuku, Maui, Hawai'i; Tax Map Key Nos. (2) 2-2-02: por. 15 and 3-9-01:16	Docket No. A94-706 PETITIONERS' REPLY MEMORANDUM IN SUPPORT OF THEIR MOTION TO DISMISS THE ORDER TO SHOW CAUSE PROCEEDING, FILED FEBRUARY 1, 2019; CERTIFICATE OF SERVICE

PETITIONERS' REPLY MEMORANDUM IN SUPPORT OF THEIR MOTION TO DISMISS THE ORDER TO SHOW CAUSE PROCEEDING, FILED FEBRUARY 1, 2019

Petitioners PIILANI PROMENADE SOUTH, LLC and PIILANI PROMENADE NORTH, LLC (collectively, "Piilani"), seek an order dismissing the Order to Show Cause ("OSC") proceeding (the "OSC Proceeding").

I. ANALYSIS

In support of this Reply, Piilani hereby incorporates and adopts by reference their Memorandum in Opposition to Intervenors' Motion to Conduct Phase II of Contested Case

Pending Since 2012, and for Final Decision, Filed December 3, 2018 ("Intervenors' Motion"), filed January 10, 2019 and the evidence filed in support thereof, and their Memorandum in Opposition to Intervenors' Motion to Strike Portions of the Petitioners' Responses Attempting to Improperly Submit Evidence, Filed January 31, 2019, filed February 5, 2019.

A. Petitioners' "Original Plan" Was Not Rejected in Phase I

Since July 2018, Piilani and Honua'ula Partners, LLC ("Honua'ula") have consistently represented to the State of Hawai'i Land Use Commission (the "Commission") that they would develop the real property at issue under Docket A94-706 (the "Petition Area") in substantial compliance with the representations made to the Commission in 1995 (the "Original Plan"). The Original Plan was to develop a 123-lot commercial and light industrial subdivision within the Petition Area.[1]

Intervenors' Memorandum in Opposition to Petitioners' Motion to Dismiss the Order to Show Cause Proceeding, Filed 2/1/2019, filed February 7, 2019 ("Intervenors' MIO") improperly mischaracterizes statements from Piilani's Motion to Dismiss the Order to Show Cause Proceeding ("Motion to Dismiss") in an attempt to argue that Piilani had previously presented the Original Plan to the Commission during Phase I of the OSC Proceeding, and that the Commission had previously rejected the Original Plan in Phase I. This argument is without factual support or merit.

[1] Piilani owns six of the seven tax map key parcels (collectively, the "Piilani Parcels") encumbered by the Findings of Fact, Conclusions of Law, and Decision and Order issued on February 10, 1995 (the "D&O"). The seventh parcel encumbered by the D&O is owned by Honua'ula (the "Honua'ula Parcel"). The Honua'ula Parcel and the Piilani Parcels collectively comprise the Petition Area.

The record plainly shows that the Commission considered a retail project in Phase I of the OSC Proceeding. For example, each of the Proposed Phase I findings state that Piilani will develop a retail project.[2] This is significantly different than the Original Plan, which is a light industrial project. Because the Original Plan was not presented in Phase I of the OSC Proceeding, it could not have been rejected by the Commission.

Mr. Harry Lake of Koa Partners, LLC conducted a public outreach process with the intent of soliciting community feedback on the Original Plan. Throughout this public outreach process, Mr. Lake stated that "***community members expressed their interest*** in development concepts that reflected cultural sensitivity, open space, use of the property for affordable and senior housing, and, generally, uses other than light industrial uses." Declaration of Harry Lake ¶ 12 (emphasis added). Intervenors' MIO mischaracterizes this statement to suggest that Piilani is attempting to incorporate these uses into the Original Plan, when in fact Mr. Lake was only reporting on the community's expressed interest.

The Intervenors contend that the doctrine of *res judicata* precludes Piilani from affirming its commitment to develop the Piilani Parcels in substantial compliance with the Original Plan. The doctrine of *res judicata* provides that:

> The judgment of a court of competent jurisdiction is a bar to a new action in any court between the same parties or their privies concerning the same subject matter, and precludes the relitigation, not only of the issues which were actually litigated in the first action, but also of all grounds of claim and defense which might have been properly litigated in the first action but were not litigated or decided.

---

[2] See State of Hawai'i Office of Planning's Proposed Findings of Fact, Conclusions of Law, and Decision and Order on Petitioners' Failure to Perform According to Conditions Imposed on the Petition, Finding of Fact ¶ 16; Intervenors' Proposed Findings of Fact for Phase One, Finding of Fact ¶ 13; Piilani's Findings of Fact and Conclusions of Law and Decision and Order, Finding of Fact ¶ 19.

In re Bishop, 36 Haw. 403, 416 (Haw. Terr. 1943). Here, there has been no final judgment of any claim by a court; accordingly, the doctrine of *res judicata* does not apply. Even assuming, *arguendo*, that it does apply, the doctrine of *res judicata* cannot prohibit Piilani from affirming its commitment to develop the Piilani Parcels in substantial compliance with the Original Plan. Piilani's right to develop the Piilani Parcels in compliance with the D&O is a vested entitlement that cannot be "rejected" by the Commission during Phase I of the OSC Proceeding, or now.

B. The Motion to Dismiss Is Not Barred Under Equitable Doctrines

The Commission lacks equity jurisdiction to adjudicate equity issues. Equity jurisdiction is reserved to the circuit courts. Hawai'i Revised Statutes ("HRS") § 603-21.7 (granting circuit courts "original and exclusive jurisdiction" of suits in equity); see also 4000 Old Pali Rd. Partners v. Lone Star of Kauai, Inc., 10 Haw. App. 162, 189, 862 P.2d 282, 294 (1993) (noting that the burden to initiate the appropriate proceedings in the circuit court is on the party who wishes to adjudicate the equity issues).

Intervenors misinterpret Citizens Against Reckless Development v. Zoning Board of Appeals of City & County of Honolulu, 114 Hawai'i 184, 159 P.3d 143 (2007) to argue that the Commission is permitted to apply the doctrine of laches. In that case, the Hawai'i Supreme Court affirmed the determination of the ***circuit court*** that the "equitable principles of laches can be applied to such a petition [for a declaratory ruling]." Id. at 192, 159 P.3d at 151. The case did not recognize the authority of the Zoning Board of Appeals to apply the doctrine of laches as the Intervenors imply.

i. The Doctrines of Waiver and Judicial Estoppel Are Inapplicable

The Intervenors' argument that the Motion to Dismiss must be denied under the doctrines of waiver and judicial estoppel is without merit. Intervenors contend that certain statements

made by Piilani in 2013 when requesting a stay on Phase II of the OSC Proceeding demonstrate that Piilani waived any argument relating to substantial commencement. Intervenors' MIO at 5-6. "[A] waiver is either 'a voluntary and intentional relinquishment of a known right[ ] or such conduct as warrants an inference of the relinquishment of such right.'" In re Contested Case Hearing on Water Use Permit Application Originally Filed by Kukui (Molokai), Inc., 143 Hawai'i 434, 441, 431 P.3d 807, 814 (2018) (citations omitted), as corrected (Dec. 14, 2018). Piilani made no statements voluntarily and intentionally relinquishing its right to assert that substantial commencement of use of the land occurred, or that it waived its right to raise any other arguments. Intervenors provide no actual statements by Piilani constituting relinquishment of its rights.

Rather, Intervenors' waiver argument depends on certain statements by Piilani as "warrant[ing] an inference of the relinquishment of such right." Id. at 441, 431 P.3d at 814. Specifically, Intervenors have noted that Piilani stated the following:

- "Although mass grading permits were obtained by Piilani prior to the commencement of Phase I, no significant grading or other construction has occurred." Piilani Promenade South, LLC and Piilani Promenade North, LLC's Motion to Stay Phase II of the Order To Show Cause Proceeding ("Motion to Stay") at 4.

- "Given that there is and will be no construction activity on the Piilani Parcels . . . ." Motion to Stay at 5.

- The Commission's determination that Piilani would violate the D&O "was based not on actual construction or development, but rather on a proposed plan to develop the property." Piilani Promenade South, LLC and Piilani Promenade North, LLC's Memorandum in Opposition to Intervenors' Motion to Conclude Contested Case at the Earliest Practicable Time ("Piilani's MIO to Motion to Conclude") at 3.

- "Piilani has not begun any active development of the Piilani Parcels. Thus, while there was an intention to develop the Piilani Promenade Project, and plans were made for said project, no actual development of the land at issue has commenced." Id. at 5.

Intervenors' Motion at 10; Intervenors' Reply to the Parties' Responses to Intervenors' Motion, filed January 31, 2019 at 11. The basis of Intervenors' inference argument is thus that grading or construction equates to substantial commencement of the use of the land.

As Piilani has repeatedly argued, grading or construction is not synonymous with substantial commencement of "use of the land." DW Aina Le'a Dev., LLC v. Bridge Aina Le'a, LLC, 134 Hawai'i 187, 214, 339 P.3d 685, 712 (2014) (recognizing "preparation of plans and studies" and infrastructure work as considerations of whether substantial commencement of use of the land occurred). Accordingly, any statement by Piilani as to grading or construction is not dispositive of whether substantial commencement of use of the land occurred, and therefore such statements cannot demonstrate that Piilani relinquished its right to assert that substantial commencement of use of the land has occurred.

Even assuming *arguendo* that the Commission determines that grading or construction is necessary to substantially commence use of the land, there was no intention by Piilani to waive its right to raise the argument of substantial commencement. "Waiver can take place only by the intention of the party and such an intention must be clearly made to appear." Anderson v. Anderson, 59 Haw. 575, 587, 585 P.2d 938, 945 (1978). Rather than addressing substantial commencement, Piilani's statements were intended to argue that a Motion to Amend would be an appropriate tool to address the violations, rather than proceeding to Phase II. Motion to Stay at 3-4.

With regard to judicial estoppel, Piilani's prior statements as to lack of significant construction activities are not contrary to its current position that substantial commencement of use of the land has already occurred. Given that the doctrine of judicial estoppel prevents parties from arguing inconsistent or mutually exclusive positions, this doctrine is inapplicable to this

case. Roxas v. Marcos, 89 Hawai'i 91, 124, 969 P.2d 1209, 1242 (1998). Moreover, the Commission should apply judicial estoppel "***with restraint in egregious cases only*** and with clear regard for the facts of the particular case." 28 Am. Jur. 2d Estoppel and Waiver § 68 (2018) (emphasis added). Here, Piilani's statements are not inconsistent and its positions are also not mutually exclusive. In 2013, Piilani explained that significant construction had not occurred, and it would be inefficient to proceed to Phase II of the OSC Proceeding when Piilani intended to file a Motion to Amend. Motion to Stay at 3; Piilani's MIO to Motion to Conclude at 10. Because substantial commencement of use of the land does not require construction to occur and can be shown through actions such as preparation of plans and studies, there is no inconsistency in Piilani's position that it substantially commenced use of the land and that significant grading or construction had not yet occurred.

ii. Petitioners' Motion to Dismiss Is Not Barred Under the Laches Doctrine

The Intervenors' use of the laches doctrine is absurd under these circumstances. Two components must exist before the doctrine of laches will apply: "First, there must have been a delay by the plaintiff ***in bringing his claim***, and that delay must have been unreasonable under the circumstances. Second, that delay must have resulted in prejudice to the defendant." Pelosi v. Wailea Ranch Estates, 91 Hawai'i 522, 540, 985 P.2d 1089, 1107 (App. 1999) (emphasis added) (citations omitted), aff'd, 91 Hawai'i 478, 985 P.2d 1045 (1999). Here, the Intervenors' argument is that Piilani delayed in raising its argument that the Commission did not file written findings of fact as to Phase I of the OSC Proceeding within 365 days of the issuance of the OSC. Intervenors' MIO at 7.

Regarding the first component, Piilani has not brought a claim but rather has filed a motion that dismissal of the OSC Proceeding is necessary. As to the second component,

Intervenors argue that Piilani's recent challenge of the Commission's authority has caused them significant prejudice. The lapse of time has no impact on the fact that the Commission was obligated to file written findings of fact under its own rules and chose not to do so. As has already been argued, the Commission's decision not to file written findings of fact as to Phase I was separate from its decision to grant the stay on Phase II. The Intervenors, moreover, are fully capable of responding to Piilani's legal argument that the Commission did not act in accordance with its own rules. The common examples of prejudice, such as loss of evidence, including fading memories or deaths, are irrelevant to contesting such a legal argument. Even Piilani's cure of the violations adjudicated in Phase I is irrelevant to whether or not the Commission complied with its obligation to file written findings of fact within 365 days of the issuance of the OSC.

Additionally, Piilani pointed out to the Commission that the Commission had thus far failed to file written findings of fact as early as June 12, 2013. See Petitioners' Motion to Strike and Objection to Intervenors' Supplemental Memorandum in Support, filed June 12, 2013 ("Whether and when to enter [written findings of fact and conclusions of law] is wholly within the discretion of the Commission, particularly in light on the pending Motion to Stay Phase II.").

Although the lack of written findings of fact were known by all parties, Piilani reasonably did not raise the issue because the absence of written findings of fact would only be relevant if the Commission determined that it was necessary to proceed with Phase II. Phase II is currently stayed and the issue regarding the Phase I findings of fact might not have even been relevant had Intervenors not filed its Motion. Prior to the filing of Intervenors' Motion, Piilani had sought to comply with the terms of the stay. Piilani had timely filed its motion to amend in accordance with the stay. Once the Commission denied acceptance of its environmental impact statement

("EIS") in 2017, Piilani pursued development of a plan that would be substantially compliant with the Original Plan.

Piilani did not "slumber on their rights" and has been diligently working to address the violations that the Commission orally identified in Phase I of the OSC Proceeding. The particular circumstances of this case demonstrate that the doctrine of laches does not, and should not, apply to bar Piilani's Motion to Dismiss. See Pelosi, 91 Hawai'i at 540, 985 P.2d at 1107 ("The supreme court further emphasized that '[i]n suits in equity the question [of diligence] is determined by the circumstances of each particular case.'" (citations omitted)).

Intervenors also briefly argue that *res judicata* applies because Piilani did not appeal the Commission's Findings of Fact, Conclusions of Law, and Decision and Order Denying the Acceptance of a Final Environmental Impact Statement, filed July 27, 2017. Intervenors' MIO at 8. The doctrine of *res judicata* "prohibits parties from 'relitigating a previously adjudicated cause of action.'" Mortg. Elec. Registration Sys., Inc. v. Wise, 130 Hawai'i 11, 17, 304 P.3d 1192, 1198 (2013) (citations omitted), as amended (July 10, 2013). Here, Piilani has never previously litigated its contention that the Commission was required to file written findings of fact within 365 days of the filing of the OSC, and thus there is no "previously adjudicated cause of action."

Res judicata also precludes the litigation of "all grounds of claim and defense which might have been properly litigated in the first action but were not litigated or decided." Bremer v. Weeks, 104 Hawai'i 43, 53-54, 85 P.3d 150, 160-61 (2004) (citations omitted). Again, there is no true "first action," but Intervenors contend that Piilani should have argued that the Commission was obligated to file written findings of fact timely in one of the earlier motions' hearings or the related hearing on the EIS. Intervenors state that one such "first action" is the

2013 proceedings in which the Commission granted the stay on Phase II. Intervenors' MIO at 8. At the time of the 2013 proceedings, Piilani did point out to the Commission that no written findings of fact had been filed. See Petitioners' Motion to Strike and Objection to Intervenors' Supplemental Memorandum in Support, filed June 12, 2013. But, more significantly, at the time of the 2013 proceedings, the Commission still had time to file its written findings of fact within the 365-day period. The Commission granted Piilani's Motion to Stay on June 27, 2013, and the 365-day time period would run until September 10, 2013. Thus, there was no reason for Piilani to litigate this issue during the 2013 proceedings.

Piilani's argument would also not have been ***properly*** litigated in the 2017 proceedings that solely addressed whether the Commission should accept Piilani's EIS in accordance with chapter 343, HRS. The 2017 proceedings were held by the Commission because its acceptance of the EIS was "a condition precedent to approval of the request and commencement of the proposed action," which in this case was Piilani's proposed mixed use project that was contemplated in its Motion to Amend. HRS § 343-5. Contrary to Intervenors' contentions, the proceedings were held in accordance with chapter 343, HRS and were not a forum to address whether the Commission had been obligated to timely file written findings of fact. *Res judicata* does not apply in this matter to bar Piilani's Motion to Dismiss.

C. The Petitioners' Actions After the Commission's Oral Ruling in Phase I are Relevant to the OSC Proceeding

Intervenors' MIO argues that Piilani's position, that the proposed findings submitted after Phase I of the OSC Proceeding are no longer factually accurate, is "frivolous." See Intervenors' MIO at 9. This argument suggests that actions taken on the record are not relevant to the proceedings or findings concluding the proceedings and are directly contrary to the well-established rule that findings of fact are clearly erroneous unless there is substantial evidence in the record to support them. Shoemaker v. Takai, 57 Haw. 599, 601, 561 P.2d 1286, 1288 (1977). Although findings are supported by substantial evidence, "they may be set aside on appeal if the appellate court decides that they are against the clear weight of the evidence or otherwise reaches a definite and firm conviction that a mistake has been made." Haworth v. State, 3 Haw. App. 281, 285, 650 P.2d 583, 586 (1982). It is clear that the intervening actions following Phase I of the OSC Proceeding constitute a clear weight of the evidence contradicting the proposed findings and renders the proposed Phase I findings clearly erroneous and unsupported by substantial evidence. The post Phase I actions are therefore relevant and preclude the Commission from entering factually incorrect findings of fact.

D. The Commission Should Not Void the 1995 D&O

Intervenors argue that the Commission has the power to declare the D&O void pursuant to sections 15-15-50(c)(20)[3] and 15-15-79(a) of the Hawai'i Administrative Rules ("HAR"). Intervenors misunderstand section 15-15-50(c)(20), HAR as setting forth a "Ten Year" Rule. This section states that "in each petition for boundary amendment":

---

[3] Intervenors incorrectly cite section 15-15-50(c)(19), HAR, which actually states "An assessment of conformity of the boundary amendment to the applicable county general plans, development or community plans, zoning designations and policies, and proposed amendments required[.]"

> Petitioners submitting petitions for boundary amendment to the urban district shall also represent that development of the subject property in accordance with the demonstrated need therefor will be accomplished before ten years after the date of commission approval. In the event full urban development cannot substantially be completed within such period, the petitioner shall also submit a schedule for development of the total of such project in increments together with a map identifying the location of each increment, each such increment to be completed within no more than a ten-year period[.]

Section 15-15-50(c)(20), HAR only requires that the petitioner represent that the development will be accomplished within ten years. This section does not set a condition on the reclassification. The D&O likewise did not impose a condition setting a time frame on completion of the development of the land. This is unlike other approved district boundary amendments where the Commission chose to incorporate into a condition the language of section 15-15-50(c)(20), HAR, making it expressly clear that development must be accomplished before ten years after the date of commission approval. See Docket No. A06-767 (Waikoloa Mauka, LLC) (Condition #2 states "Petitioner shall develop the Petition Area and complete buildout of the Project no later than ten (10) years from the date of the Commission's decision and order."). Because no such condition was imposed in the D&O, there is no requirement that Piilani must complete the development of the land within ten years.

As to section 15-15-79(a), HAR, this section states "Petitioners granted district boundary amendments shall make substantial progress within a reasonable period, ***as specified by the commission***, from the date of approval of the boundary amendment, in developing the property receiving the boundary amendment." (Emphasis added). Again, the Commission did not impose condition setting a time period on the development of the land in this docket.

Intervenors attempt to stretch the specified period to be defined by the Commission's finding of fact. Intervenors' MIO at 9. The D&O Findings of Fact ("FOF") state: "Petitioner ***anticipates*** that the Project will be available for sales in the fourth quarter of 1996 and that the

entire Project can be marketed by the year 2000, ***assuming the orderly processing of necessary land use approvals and avoidance of undue delays***." FOF ¶ 23 (emphases added). This statement is an estimate by the original petitioner and cannot be deemed to set a requirement on the time frame in which development was to occur.

Moreover, the focus of section 15-15-79(a), HAR is upon a petitioner's "substantial progress within a reasonable period." The facts of the case indicate that forward progress has been ongoing since the Commission granted the boundary amendment in 1995. In 1998, the prior landowner obtained an amendment to the Kihei Makena Community Plan designating the subject parcels as Light Industrial. In 1999, the zoning was amended to Light Industrial. By 2003, the prior landowner received preliminary subdivision approval for its large lot subdivision application and, in 2006, the prior landowner received preliminary subdivision approval for the 56-lot light industrial subdivision. In 2009, the County of Maui granted final approval of the large lot subdivision subject to the prior landowner's bond obligations. After purchasing the property in 2010, Piilani deposited more than $22 million to fulfill the subdivision bond obligations.

Until the Intervenors' Motion for Order to Show Cause was filed in 2012, Piilani had been active in pre-development work. Beginning in 2010, Piilani engaged Warren S. Unemori Engineering to assist in civil engineering and land surveying services. In 2012, Piilani entered into contracts with Goodfellow Bros., Inc. for onsite and offsite construction work. At that time, Goodfellow Bros., Inc. purchased materials on behalf of Piilani to proceed with construction.

After the OSC evidentiary hearings and the Commission's February 7, 2013 oral decision under Phase I, Piilani continued to move forward in the development of the project. For example, Piilani promptly engaged consultants to work on the EIS in 2013. Although

completion of the EIS took longer than initially anticipated, the Final EIS was filed with the Commission in June 2017. Following the Commission's decision to deny the acceptance of the Final EIS on July 20, 2017, Piilani began exploring its alternatives and Piilani's efforts were reported to the Commission via its status report filed in July 2018, and again at the status hearing in December 2018.

Piilani has remained committed to the timely development of the Piilani Parcels as shown by its active and continued efforts to pursue development options, engage with the community and Intervenors, and proceed in compliance with the representations made to the Commission. Piilani has thus shown substantial progress in its development of the Piilani Parcels, to the extent permitted by the stay, since the Petition Area was reclassified in 1995.

II. CONCLUSION

For the foregoing reasons, and any adduced at the hearing, the Commission should grant Petitioners' Motion to Dismiss the Order to Show Cause Proceeding, filed on February 1, 2019, in its entirety.

DATED: Honolulu, Hawai'i, February 13, 2019.

RANDALL F. SAKUMOTO
LISA W. CATALDO
CATHERINE A. TASCHNER

Attorneys for PIILANI PROMENADE SOUTH, LLC and PIILANI PROMENADE NORTH, LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of KAONOULU RANCH to Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 88 acres at Kaonoulu, Makawao-Wailuku, Maui, Hawai'i; Tax Map Key Nos. (2) 2-2: por. 15 and 3-9-01:16	)	Docket No. A94-706 CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document will be duly served upon the following persons by electronic mail ("***EM***"), or by mailing said copy, postage prepaid, first class, in a United States post office ("***M***") or by hand delivery ("***HD***") in the manner indicated, addressed as set forth below:

DANIEL ORODENKER, Executive Officer Land Use Commission, State of Hawai'i 235 South Beretania Street Room 406, Leiopapa A Kamehameha Bldg. Honolulu, Hawai'i 96813	*Daniel.E.Orodenker@dbedt.hawaii.gov* (HD, EM)
DAWN T. APUNA, Esq. Deputy Attorney General State of Hawai'i Department of the Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai'i 96813	*Dawn.T.Apuna@hawaii.gov* (HD, EM)

LEO R. ASUNCION, JR., Director
Office of Planning, State of Hawai'i
235 South Beretania Street
Room 600, Leiopapa A Kamehameha Bldg.
Honolulu, Hawai'i 96813

Leo.R.Asuncion@hawaii.gov (HD, EM)

ANN CUA, Planning Supervisor
MICHELE CHOUTEAU MCLEAN
County of Maui
Planning Department
One Main Plaza
2200 Main Street, Suite 315
Wailuku, Maui, Hawai'i 96793

Ann.Cua@co.maui.hi.us (M, EM)
Michele.McLean@co.maui.hi.us (EM)

PATRICK K. WONG, Esq.
MICHAEL HOPPER, Esq.
KRISTIN TARNSTROM, Esq.
Department of Corporation Counsel
200 South High Street, Room 322
Wailuku, Hawai'i 96793

Pat.Wong@co.maui.hi.us (M, EM)
Michael.Hopper@co.maui.hi.us (EM)

TOM PIERCE, Esq.
P.O. Box 798
Makawao, Hawai'i 96768

Tom@mauilandlaw.com (M, EM)

BENJAMIN M. MATSUBARA, Esq.
CURTIS T. TABATA, Esq.
888 Mililani Street, Suite 308
Honolulu, Hawai'i 96813

CTabata@m-klawyers.com (HD, EM)

DATED: Honolulu, Hawai'i, February 13, 2019.

RANDALL F. SAKUMOTO
LISA W. CATALDO
CATHERINE A. TASCHNER

Attorneys for PIILANI PROMENADE SOUTH, LLC and PIILANI PROMENADE NORTH, LLC