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LAND USE COMMISSION
STATE OF HAWAII

2020 AUG 26 A 10: 07

Attorney for Petitioner
RCFC KEHALANI, LLC

BEFORE THE LAND USE COMMISSION

STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. A89-642
)	
C. BREWER PROPERTIES, INC.	)	PETITIONER RCFC KEHALANI, LLC'S
	)	JOINDER IN PETITIONERS WAILUKU
To Amend the Agricultural Land Use District	)	PLANTATION LLC, EDGAR SOMERA,
Boundary into the Urban Land Use District	)	FAY SOMERA, LARRY S. SKY,
for approximately 626 Acres Situate at	)	DAYONG ZHAO, XIU XIANG FANG,
Wailuku and Piihana, Maui, Hawaii, Tax	)	BONG HWA SHI JORDAN, WENXIAO
Map Key Nos.: 3-5-01: Portion 01, Portion	)	LIU and ELISE TRAVIS' MOTION FOR
17; 3-4-07:02; 3-3-01:33, 39, and Portion 16;	)	ORDER BIFURCATING DOCKET NO.
3-4-32:10, 18 and Portion 01	)	A89-642, FILED AUGUST 11, 2020;
	)	DECLARATION OF RANDALL F.
	)	SAKUMOTO; EXHIBITS "1"- "5";
	)	CERTIFICATE OF SERVICE
)	
	)	Hearing Date: September 9 – 10, 2020
)	

**PETITIONER RCFC KEHALANI, LLC'S JOINDER IN
PETITIONERS WAILUKU PLANTATION LLC, EDGAR SOMERA,
FAY SOMERA, LARRY S. SKY, DAYONG ZHAO, XIU XIANG FANG,
BONG HWA SHI JORDAN, WENXIAO LIU and ELISE TRAVIS' MOTION
FOR ORDER BIFURCATING DOCKET NO. A89-642, FILED AUGUST 11, 2020**

Petitioner RCFC KEHALANI, LLC ("RCFC Kehalani"), by and through its attorneys,
McCorryston Miller Mukai MacKinnon LLP, hereby respectfully submit its joinder in Petitioners
Wailuku Plantation LLC, Edgar Somera, Fay Somera, Larry S. Sky, Dayong Zhao, Xiu Xiang

Fang, Bong Hwa Shi Jordan, Wenxiao Liu and Elise Travis’ (collectively, “Movants”) Motion For Order Bifurcating Docket No. A89-642, (the “Motion to Bifurcate”), filed August 11, 2020.

I. BACKGROUND

C. Brewer Properties, Inc., as the original petitioner in this matter, successfully amended the Agricultural Land Use District Boundary for two separate, non-contiguous parcels of real property under a single Land Use Commission (“LUC”) docket. The non-contiguous parcels were broken down as follows: approximately 547 acres commonly known as the “Wailuku Project District” and approximately 79 acres commonly known as the “Piihana Project District.” As a result, two separate developments – each contemplated as its own project district – were covered by that certain Findings of Fact, Conclusions of Law, and Decision and Order, Docket No. A89-642, filed January 30, 1990 (the “D&O”) by the LUC. **Exhibit 1** attached hereto is Exhibit A to the D&O, showing the petition area in this docket. The parcels which collectively comprise the petition area have been shaded in color for convenience. **Exhibit 2** attached hereto is an aerial photo outlining the approximate boundaries of the Wailuku Project District and the Piihana Project District. **Exhibit 1** and **Exhibit 2** demonstrate, among other things, the fact that Piihana Project District and Wailuku Project District are geographically noncontiguous and distinct properties.

At the September 26, 2019 LUC meeting, the LUC received a status update from counsel for RCFC Kehalani and Movants. In short, the LUC was informed that the majority of the lots in the Wailuku Project District had already been sold and are owned in fee by numerous unrelated landowners. By that time, approximately 1,723 units had already been completed, and another 378 units were pending or under construction. **Exhibit 3** attached hereto is a map of the Wailuku Project District which provides more detailed information on the development of the Wailuku Project District as of August 25, 2020, as it shows the approximate locations and number of units

of the various residential subdivision developments within the Wailuku Project District. **Exhibit 4** attached hereto is an aerial photo of the Wailuku Project District as of August 2020, which provides a current visual image of the significant level of development within the Wailuku Project District. In contrast, our understanding is that the Piihana Project District remains largely undeveloped as of today.

Based upon the fact that there has not been and there will no longer be any connection or coordination between the Wailuku Project District and the Piihana Project District, the LUC suggested that the parties consider taking steps necessary to separate or “bifurcate” Docket No. A89-642 into two different dockets.

At the December 4, 2019 LUC meeting, counsel for RCFC Kehalani and Movants provided a brief update on the status of the bifurcation process. RCFC Kehalani reported that because the master homeowners’ association for the Wailuku Project District is the Kehalani Community Association (“KCA”), RCFC Kehalani briefed the KCA board of directors about the Motion to Bifurcate, and obtained their approval to provide a current list of the KCA members to the Movants’ counsel to facilitate the proper service of the Motion to Bifurcate on all KCA members.

At the December 4, 2019 LUC meeting, the LUC raised the question of how the conditions contained in the D&O would be allocated between the Wailuku Project District and the Piihana Project District if a bifurcation were to be approved. RCFC Kehalani explained that there are fifteen conditions in the D&O. With the sole exception of condition number 9 – which specifically identifies and pertains solely to the Piihana Project District – all other conditions apply to the reclassification of both project districts. Accordingly, upon approval of the requested bifurcation, the D&O conditions applicable to the Piihana Project District would be the current D&O

conditions 1 through 15; and the D&O conditions applicable to the Wailuku Project District would be the current D&O conditions 1 through 8 and 10 through 15.

Since the December 4, 2019 LUC meeting, RCFC Kehalani has taken further actions in support of the effort to bifurcate the current D&O, including the following:

- RCFC Kehalani coordinated with the KCA's managing agent, Hawaiiana Management Company, to verify the accuracy of the list of current KCA members and their respective addresses. A copy of Hawaiiana Management Company's letter dated August 17, 2020, to LUC Executive Officer Daniel Orodener is attached as **Exhibit 5**.
- RCFC Kehalani arranged for the posting of the Motion to Bifurcate on the KCA's website (<http://kehalani.org/>).
- RCFC Kehalani worked closely with Movants' counsel on the service of the Motion to Bifurcate in an effort to ensure timely and proper service on all of the KCA members.
- RCFC Kehalani also conferred with Movants' counsel to address any questions received from KCA members in response to the service of the Motion to Bifurcate.

II. CONCLUSION

Based upon the foregoing, including the fact that there will be no substantive changes to the rights or obligations of either the owners in the Wailuku Project District or the Piihana Project District, RCFC Kehalani respectfully requests that the LUC grant the Motion to Bifurcate.

DATED: Honolulu, Hawai'i, August 26, 2020.



RANDALL F. SAKUMOTO

Attorney for Petitioner
RCFC KEHALANI, LLC

BEFORE THE LAND USE COMMISSION

STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. A89-642
)	
C. BREWER PROPERTIES, INC.	)	DECLARATION OF RANDALL F.
	)	SAKUMOTO; EXHIBITS "1"- "5"
To Amend the Agricultural Land Use District)	
Boundary into the Urban Land Use District)	
for approximately 626 Acres Situate at)	
Wailuku and Piihana, Maui, Hawaii, Tax)	
Map Key Nos.: 3-5-01: Portion 01, Portion)	
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3-4-32:10, 18 and Portion 01)	
)	
)	

DECLARATION OF RANDALL F. SAKUMOTO

I, RANDALL F. SAKUMOTO, hereby declare:

1. I am licensed to practice law in all courts of the State of Hawai'i.
2. I am an attorney with the law firm of McCorrison Miller Mukai MacKinnon LLP, attorneys for Petitioner RCFC KEHALANI, LLC, as referenced above in this matter.
3. This declaration is submitted in support of Petitioner RCFC Kehalani, LLC's Joinder in Petitioners Wailuku Plantation LLC, Edgar Somera, Fay Somera, Larry S. Sky, Dayong Zhao, Xiu Xiang Fang, Bong Hwa Shi Jordan, Wenxiao Liu and Elise Travis' Motion For Order Bifurcating Docket No. A89-642, filed August 11, 2020.
4. As an attorney at McCorrison Miller Mukai MacKinnon LLP, I have personal knowledge of the filings in the above-referenced case and access to records and files kept in the normal course of the business conducted by McCorrison Miller Mukai MacKinnon LLP.
5. Attached hereto as **Exhibit 1** is a true and correct copy of **Exhibit A** to that certain Findings of Fact, Conclusions of Law, and Decision and Order, Docket No. A89-642, filed

January 30, 1990, with shading and notations added to help identify the approximate locations of the Wailuku Project District and Piihana Project District.

6. Attached hereto as **Exhibit 2** is a true and correct copy of an aerial photo outlining the approximate boundaries of the Wailuku Project District and the Piihana Project District.

7. Attached hereto as **Exhibit 3** is a true and correct copy of a map of the Wailuku Project District showing the approximate locations and number of units of the residential subdivision developments within the Wailuku Project District.

8. Attached hereto as **Exhibit 4** is a true and correct copy of a map of an aerial photo of the Wailuku Project District as of August 2020.

9. Attached hereto as **Exhibit 5** is a true and correct copy of a letter dated August 17, 2020, from Hawaiiana Management Company to Daniel Orodener, Executive Officer of the State Land Use Commission.

I, RANDALL F. SAKUMOTO, declare under penalty of law that the foregoing is true and correct.

Executed this 26th day of August, 2020, at Honolulu, Hawai'i.


RANDALL F. SAKUMOTO

RECEIVED

STATE OF HAWAII
LAND USE COMMISSION

ORIGINAL

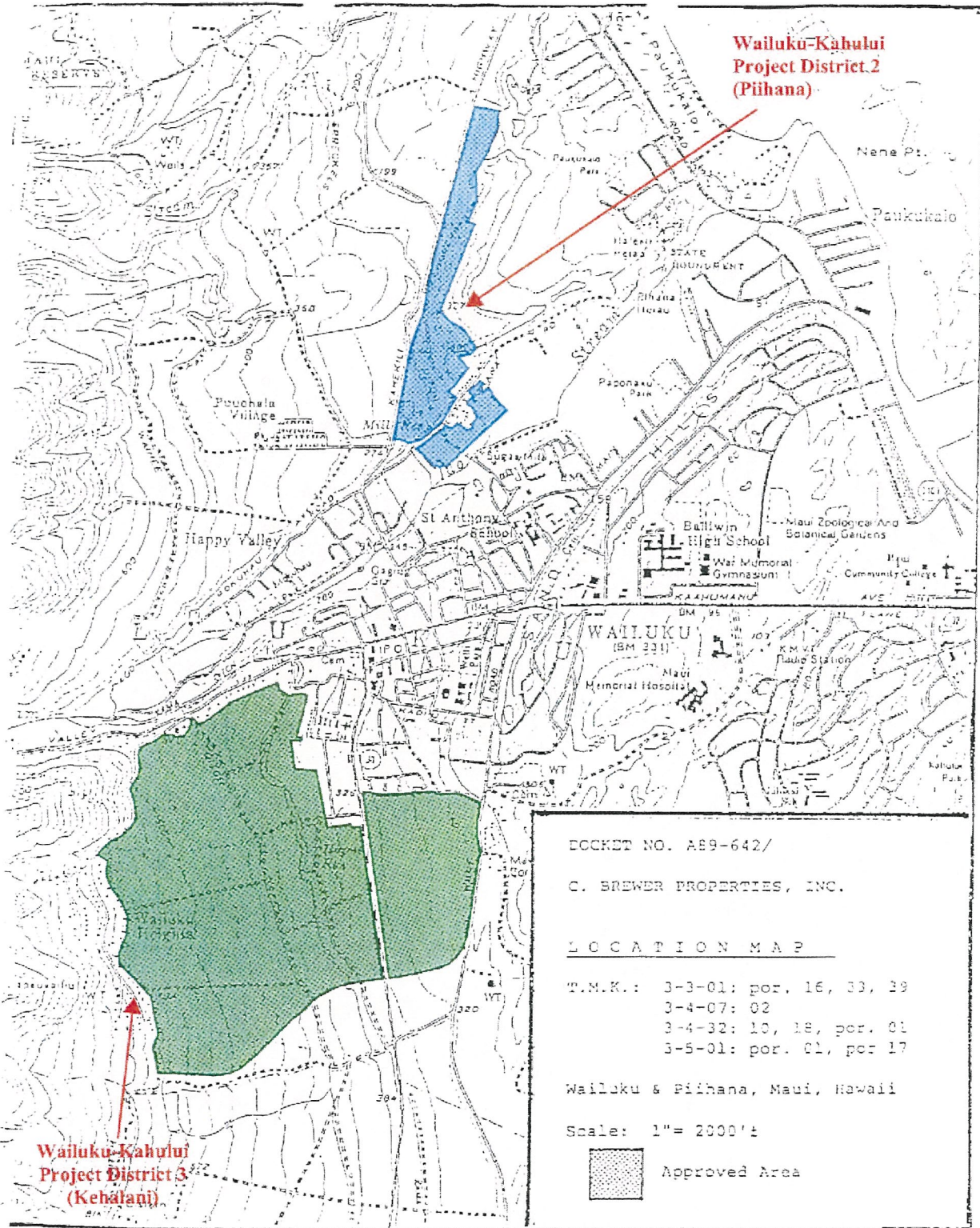


Exhibit A

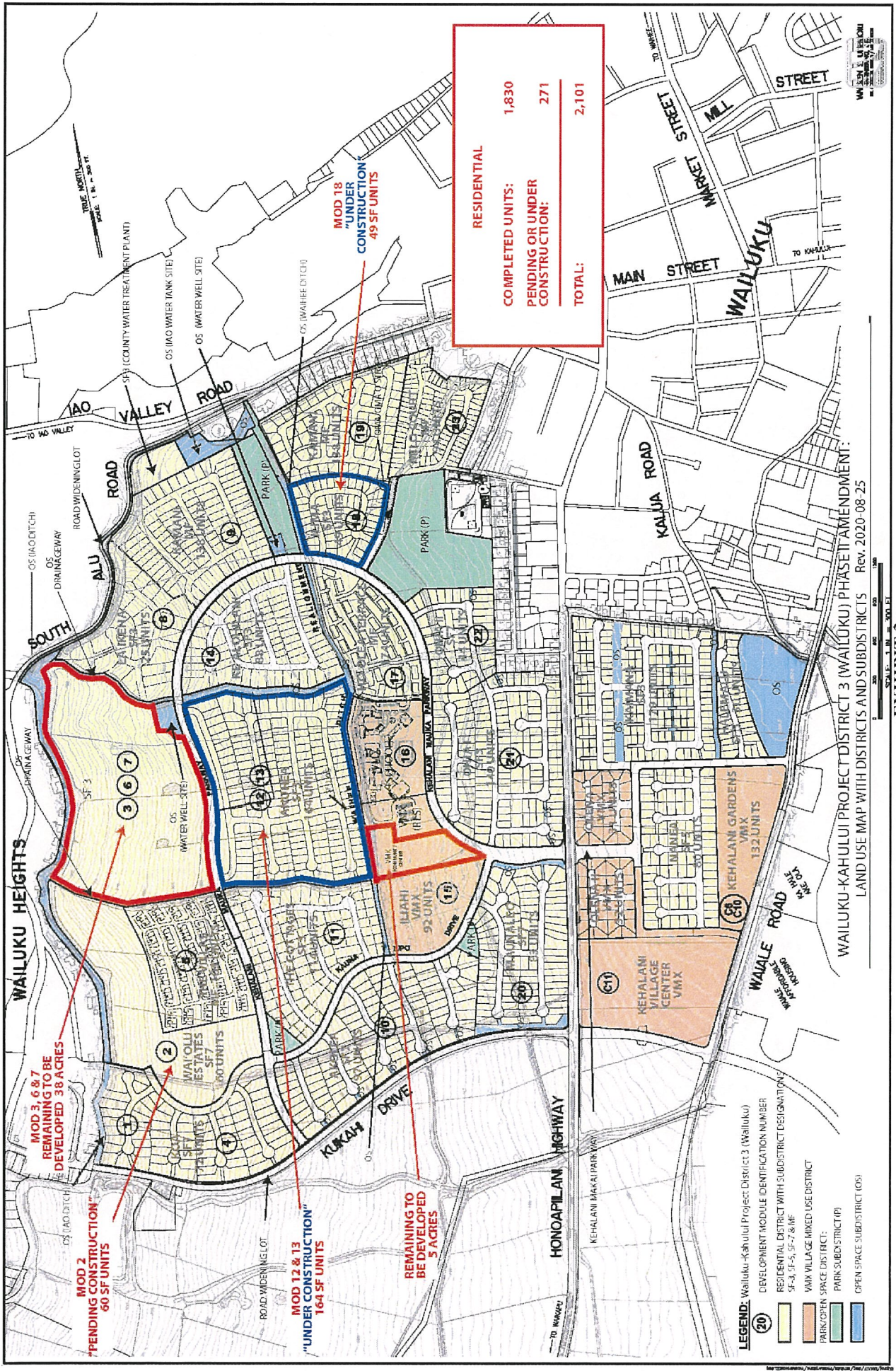
EXHIBIT "A"

EXHIBIT 1



WAILUKU, MAUI

EXHIBIT 2



RESIDENTIAL	
COMPLETED UNITS:	1,830
PENDING OR UNDER CONSTRUCTION:	271
TOTAL:	2,101

MOD 2
"PENDING CONSTRUCTION"
60 SF UNITS

MOD 3, 6 & 7
REMAINING TO BE DEVELOPED
38 ACRES

MOD 12 & 13
"UNDER CONSTRUCTION"
164 SF UNITS

REMAINING TO BE DEVELOPED
5 ACRES

MOD 18
"UNDER CONSTRUCTION"
49 SF UNITS

WAILUKU-KAHULUI PROJECT DISTRICT 3 (WAILUKU) PHASE II AMENDMENT:
LAND USE MAP WITH DISTRICTS AND SUBDISTRICTS Rev. 2020-08-25

EXHIBIT 3

- LEGEND:** Wailuku-Kahului Project District 3 (Wailuku)
- 20 DEVELOPMENT MODULE IDENTIFICATION NUMBER
 - RESIDENTIAL DISTRICT WITH SUBDISTRICT DESIGNATION
 - 5F-3, 3F-5, 3F-7 & 8F
 - VNIX VILLAGE MIXED USE DISTRICT
 - PARK/OPEN SPACE DISTRICT
 - PARK SUBDISTRICT (P)
 - OPEN SPACE SUBDISTRICT (OS)

SCALE: 1" = 300' FT

WAILUKU-KAHULUI PROJECT DISTRICT 3 (WAILUKU) PHASE II AMENDMENT

KEHALANI
Wailuku-Kahului Project District 3
August 2020



EXHIBIT 4



Hawaiiana Management Company, Ltd.
1305 N. Holocono St. Suite 3A
Kihei, HI 96753
Tel: (808) 270-3218
Fax: (808) 873-7423
Internet: www.hmcmgt.com

RECEIVED
AUG 20 2020
Dowling Company, Inc.

August 17, 2020

Via First Class Mail and
Email: daniel.e.ordenker@hawaii.gov

Mr. Daniel Ordenker
Executive Officer
State Land Use Commission
235 South Beretania Street, Suite 406
Honolulu, Hawai'i 96813

Re: In the Matter of the Petition of C. Brewer Properties, Inc.
Docket No. A89-642

Dear Mr. Ordenker:

Hawaiiana Management Company, Ltd. ("Hawaiiana") has been asked to provide this letter to the State Land Use Commission in connection with that certain Motion for Order Bifurcating Docket No. A89-642 filed on June 1, 2020 (the "Motion to Bifurcate").

Hawaiiana understands that attorney Jason McFarlin, who represents the "Petitioners" in the Motion to Bifurcate, was required to provide notice of the Motion to Bifurcate to all property owners in the Wailuku-Kahului Project District 3 (also sometimes referred to as "Kehalani"). RCFC Kehalani LLC the Declarant for Kehalani is cooperating with the Petitioners in this Bifurcation effort and has obtained authorization from the Kehalani Community Association ("KCA") Board of Directors to produce a current list of the names and addresses of all Kehalani property owners. As authorized by the KCA Board of Directors, Hawaiiana produced a listing of the KCA owners on August 4, 2020 and will produce an updated list of owners in early September 2020, to account for changes of ownership between such dates. Hawaiiana understands that the list of owners which have been and will be produced will be used solely for the purpose of mailing the notice of the Motion to Bifurcate to each of the KCA property owners.

Hawaiiana has been the property manager for Kehalani for the past 15-years. In that capacity, Hawaiiana has been and continues to be responsible for, among other things, the billing and collection of certain common area maintenance fees that are assessed to each Kehalani property owner, as members of the KCA.

EXHIBIT 5



In order to perform its job, Hawaiiana is required to know the identity and mailing address for each and every owner in Kehalani, including all changes in ownership. Each time a Kehalani property is sold, Hawaiiana receives a copy of the recorded deed from escrow and updates the list of property owners accordingly. Therefore, we are confident that the lists which Hawaiiana has produced and will produce for KCA accurately reflect the current Kehalani property owners as of the dates of such lists.

Very truly yours,

Kathy Seidman Wong
Senior Management Executive
Hawaiiana Management Company, Ltd.

Cc: RCFC Kehalani, LLC

BEFORE THE LAND USE COMMISSION

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3-4-32:10, 18 and Portion 01)	
)	
)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document will be duly served upon the following persons 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	(M)
--	-----

DAWN T. APUNA, Esq. Deputy Attorney General Department of the Attorney General 425 Queen Street Honolulu, Hawai'i 96813	(M)
---	-----

MARY ALICE EVANS, Director RODNEY FUNAKOSHI Office of Planning, State of Hawai'i 235 South Beretania Street Room 600, Leiopapa A Kamehameha Bldg. Honolulu, Hawai'i 96813	(M)
--	-----

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62 N Market Street, #305
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DATED: Honolulu, Hawai'i, August 26, 2020.


RANDALL F. SAKUMOTO

Attorney for Petitioner
RCFC KEHALANI, LLC