

WILLIAM W.L. YUEN 1359

DENTONS US LLP
1001 Bishop Street, Suite 1800
Honolulu, Hawaii 96813
Telephone: (808) 524-1800
Facsimile: (808) 524-4591
Email: william.yuen@dentons.com



Attorney for Petitioner
RCFC KALOKO HEIGHTS, LLC,
KALOKO HEIGHTS B1A HOLDINGS, LLC, and
KALOKO HEIGHTS INVESTORS, LLC

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

Y-O LIMITED PARTNERSHIP

To Amend the Agricultural Land Use District Boundary to the Urban Land Use District for Approximately 408.719 Acres of Land at Kaloko and Kohanaiki, North Kona, Hawaii, Hawaii TMK Nos.: (3) 7-3-09:19, 20 and 57 to 62.

DOCKET NO. A81-525

**PETITIONER'S THIRD
SUPPLEMENTAL MEMORANDUM IN
SUPPORT OF MOTION FOR
EXTENSION OF TIME TO APPLY FOR
REDISTRICTING OF PHASE II;
DECLARATION OF WILLIAM W. L.
YUEN; EXHIBITS 39 THROUGH 43;
CERTIFICATE OF SERVICE**

**PETITIONER'S THIRD SUPPLEMENTAL MEMORANDUM IN SUPPORT OF
MOTION FOR EXTENSION OF TIME TO APPLY FOR
REDISTRICTING OF PHASE II**

RCFC KALOKO HEIGHTS, LLC, a Delaware limited liability company, KALOKO HEIGHTS B1A HOLDINGS, LLC, a Delaware limited liability company, and KALOKO HEIGHTS INVESTORS, LLC, a Delaware limited liability company, Successor Petitioner ("**Petitioner**") to Y-O Limited Partnership ("**Y-O**") in the above-captioned docket, by and through its attorneys Dentons US LLP, submits this Third Supplemental Memorandum in

Support of Motion for Extension of Time to Apply for Redistricting of Phase II, to present additional information and documents regarding Petitioner’s development progress.

On November 22, 2022, Petitioner filed a Motion for Extension of Time to Apply for Redistricting of Phase II with the State of Hawaii Land Use Commission (“**Commission**”) to extend the time for Petitioner to request redistricting of approximately 195.246 acres, immediately across Hina Lani Street now identified as Hawaii TMK (3) 7-3-09:19, comprising Phase II of the Kaloko Heights Project (the “**Project**”). On January 4, 2023, Petitioner filed a Supplemental Memorandum in Support of Motion for Extension of Time to Apply for Redistricting of Phase II, to present additional information and documents to describe Petitioner’s development progress and schedule for future development. On January 6, 2023, Petitioner filed a Second Supplemental Memorandum in Support of Motion for Extension of Time to Apply for Redistricting of Phase II, to present additional information and documents to describe Petitioner’s development progress and schedule for future development.

Since Petitioner filed the Second Supplemental Memorandum, the Office of Planning and Sustainable Development has requested copies of archeological studies and plans Petitioner’s predecessors prepared and submitted to the State of Hawaii Department of Land and Natural Resources, Historic Preservation Division (“**SHPD**”). The purpose of this Third Supplemental Memorandum is to present copies of archeological studies and plans to the Commission and the parties.

ARCHEOLOGICAL REPORTS

Petitioner and its predecessors have obtained all necessary approvals of the archaeological plans for Phase I of the Project. SHPD has approved the Project’s Archeological Inventory Survey, data recovery plan, archaeological preservation plan, burial treatment plan and grading plan for Phase I of the Project in accordance with the requirements of HRS Chapter

6E. Petitioner previously filed the approval letters and now files the studies, plans and reports that SHPD approved. Petitioner also attaches a complete Exhibit List describing all 43 exhibits.

Summary of Archaeological Studies and Plans Submitted to SHPD

Date of Transmittal or SHPD Approval	Plan Approved
October 2005	Revised Archeological Inventory Survey transmitted to SHPD (Exhibit 39)
October 24, 2005	SHPD approval of Archaeological Inventory Survey (Exhibit 33)
December 2005	Revised Final Data Recovery Plan transmitted to SHPD (Exhibit 40)
June 2006	Final Preservation Plan transmitted to SHPD (Exhibit 42)
June 15, 2006	SHPD approval of Final Data Recovery Plan for 26 sites (Exhibit 34)
June 15, 2006	SHPD approval of Final Preservation Plan for 12 sites (Exhibit 35)
October 2006	Burial Treatment Plan transmitted to SHPD (Exhibit 43)
November 6, 2006	SHPD approval of Burial Treatment Plan for 7 sites, noted prior approval of Hawaii Island Burial Council (Exhibit 36)
April 24, 2009	Data Recovery Report transmitted to SHPD (Exhibit 41)
April 9, 2018	Confirmation to SHPD that interim construction buffer fencing has been installed at sites 10714 (Road to the Sea), 10722, 10736, 10740, 10745, 10749 and 10754 (Exhibit 37)
May 29, 2018	SHPD determination that no historic properties would be affected by the proposed grading of approximately 57 acres in Kaloko Heights Phase I (Exhibit 38)

DATED: Honolulu, Hawaii, January 31, 2023.



WILLIAM W.L. YUEN
 Attorney for Petitioner
 RCFC KALOKO HEIGHTS, LLC,
 KALOKO HEIGHTS B1A HOLDINGS,
 LLC, and KALOKO HEIGHTS
 INVESTORS, LLC

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**DECLARATION OF WILLIAM W.L.
YUEN**

DECLARATION OF WILLIAM W.L. YUEN

I, WILLIAM W.L. YUEN, hereby declare:

1. I am a partner in the firm of Dentons US LLP, located at 1001 Bishop Street, Suite 1800, American Savings Tower, Honolulu, Hawaii, 96813, am duly admitted to practice law in the State of Hawaii, and am the attorney for Petitioner, RCFC KALOKO HEIGHTS, LLC, KALOKO HEIGHTS INVESTORS, LLC and KALOKO HEIGHTS B1A HOLDINGS, LLC (“**Petitioner**”) in the above-referenced Docket.
2. I make this Declaration upon my personal knowledge and belief, and I am competent to testify to the matters set forth in the Third Supplemental Memorandum in Support of Motion for Extension of Time to Apply for Redistricting of Phase II.
3. Attached as Exhibit 39 is a true copy of the Revised Archeological Survey of the North Portion of the Kaloko Heights Project in Kohanaiki and Kaloko, Hawaii dated October 2005, prepared by Scientific Consultant Services, Inc. (“**SCS**”), transmitted to the State of Hawaii Department of Land and Natural Resources, Historic Preservation Division (“**SHPD**”).
4. Attached as Exhibit 40 is a true copy of the Revised Data Recovery Plan for Kaloko Heights dated December 2005, prepared by SCS and transmitted to SHPD.

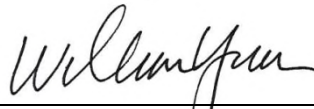
5. Attached as Exhibit 41 is a true copy of the Data Recovery Report dated April 2009, prepared by SCS and transmitted to SHPD.

6. Attached as Exhibit 42 is a true copy of Preservation Plan for Kaloko Heights dated January 7, 2006, prepared by SCS and transmitted to SHPD.

7. Attached as Exhibit 43 is a true copy of Burial Treatment Plan for Kaloko Heights dated October 2006, prepared by SCS and transmitted to SHPD.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Honolulu, Hawaii, on January 31, 2023.



WILLIAM W.L. YUEN

EXHIBIT LIST

Ex. No.	Description
1	Map of Hina Lani Street
2	Agreement dated July 8, 1986 between Water Commission of the County of Hawaii and Y-O Limited Partnership
3	Agreement dated June 14, 1989 between Water Commission of the County of Hawaii and Y-O Limited Partnership
4	Letter dated September 10, 1991 from the Department of Water Supply of the County of Hawaii
5	1999 Conditions for Time Extension of Kona Source Agreement II.
6	Letter dated June 27, 2013 from the Department of Water Supply of the County of Hawaii
7	Letter dated June 30, 2014 from the Department of Water Supply of the County of Hawaii
8	Letter dated March 23, 2017 from the Department of Water Supply of the County of Hawaii
9	Letter dated August 8, 2017 and bill of sale dedicating water tank, transmission lines and easements to the Department of Water Supply of the County of Hawaii
10	Limited Warranty Deed dated April 3, 2017
11	Agreement dated April 19, 2017 between HICDC and the County of Hawaii
12	Assignment of Water Units dated August 15, 2017
13	Affidavit re Subdivision Approval dated November 14, 2019
14	Affordable Housing Agreement (Credits) dated May 14, 2020
15	Kaloko Heights site plan approved by the County of Hawaii on May 8, 1984.
16	Letter dated July 19, 2017, to County of Hawai`i transmitting revised master plan
17	Kealakea-Holoholo Street Extension Final Report dated February 13, 2013
18	Phase I Topographic Survey
19	Phase I Revised Site Plan Submission
20	Letter dated September 8, 2017 from the County of Hawaii Planning Department
21	Current Kaloko Heights Phase I Site Plan (2019)
22	Submittal of subdivision application for proposed Lot 4 49 lot subdivision
23	Submittal of subdivision application for proposed Lot 7 49 lot subdivision
24	Tentative Approval of the Lot 7 subdivision (SUB-17-001748)
25	Tentative Approval of the Lot 4 subdivision (SUB-17-001779)
26	Final Construction Plan approval for subdivision improvements for a 22 lot increment of SUB-17-001748
27	Final Construction Plan approval for subdivision improvements for a 24 lot increment of SUB-17-001779
28	Hawaii Council Resolution 86-19 dated March 28, 2019
29	Hawaii Council Resolution 158-21 dated July 7, 2021
30	Hawaii County Ordinance 21-67 dated September 8, 2021
31	Hawaii County Ordinance 22-33 dated April 7, 2022
32	Hawaii Council Resolution 618-22 dated November 16, 2022

Ex. No.	Description
33	Letter dated October 2005 from State of Hawaii Department of Land and Natural Resources, Historic Preservation Division (“SHPD”)
34	Letter dated June 15, 2006 from SHPD approving the Revised Data Recovery Plan for Kaloko Heights
35	Letter dated June 15, 2006 from SHPD approving the Revised Final Preservation Plan for Kaloko Heights
36	Letter dated November 6, 2006 from SHPD approving the Revised Final Preservation Plan for burial sites at Kaloko Heights
37	Letter dated April 9, 2018 to SHPD confirming that interim construction buffer fencing has been installed at Kaloko Heights
38	Letter dated October 4, 2018 from SHPD determining that no historic properties would be affected by the proposed grading of approximately 57 acres in Kaloko Heights Phase I
39	Revised Archeological Survey of the North Portion of the Kaloko Heights Project
40	Revised Data Recovery Plan for Kaloko Heights
41	Data Recovery Report for Kaloko Heights
42	Preservation Plan for Kaloko Heights
43	Burial Treatment Plan for Kaloko Heights

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CERTIFICATE OF SERVICE

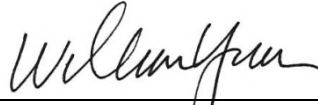
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was duly mailed via U.S. Mail, postage prepaid, or by hand delivery, or by electronic mail to the following:

<p>Lorene Maki, Planner Office of Planning State of Hawaii, Office of Planning 235 South Beretania Street, 6th Floor Honolulu, HI 96813 Email: lorene.k.maki@hawaii.gov</p>	<p>Zendo Kern, Director Planning Department County of Hawaii 101 Pauahi Street, Suite 3 Hilo, HI 96720 Email: planning@hawaiicounty.gov</p>
<p>Alison S. Kato, Esq. Dept. of the Attorney General CED 425 Queen Street Honolulu, HI 96813 Email: alison.s.kato@hawaii.gov</p>	<p>Elizabeth A. Strance Corporation Counsel Office of the Corporation Counsel County of Hawaii 101 Aupuni Street, Unit 325 Hilo, HI 96720 Email: corpcounsel@hawaiicounty.gov</p>
<p>Keith Kato, Executive Director Hawaii Island Community Development Corporation 100 Pauahi Street Suite 204 Hilo, HI 96720 Email: Keith.hicdc@gmail.com</p>	<p>Nakamoto, Okamoto & Yamamoto 187 Kapiolani Street Hilo, HI 96720 Attn: Alan Okamoto Email: alan@noyhawaii.com</p>

Dated: Honolulu, Hawaii, January 31, 2023.



WILLIAM W. L. YUEN
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LLC, and KALOKO HEIGHTS
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