

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 13, 2012

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 11HD-196

HAWAII

Reconsideration of Rent for Milolii-Hoopuloa Residential Leases, Phase I, Consisting of Twelve (12) General Leases for Residential Purposes at Milolii and Hoopuloa, South Kona, Hawaii, Tax Map Key: (3) 8-9-014: 001-013 and 8-9-014: 016.

APPLICANT:

Milolii Ho’opuloa Fishing Village Association (MHFVA), a Hawaii non-profit corporation, representing Lessees in Phase I, of the Milolii-Hoopuloa Residential Leases.

LEGAL REFERENCE:

Act 62, Session Laws of Hawaii 1982, as amended by Act 83, Session Laws of Hawaii 1984, and Chapter 171, Hawaii Revised Statutes.

LOCATION:

Portion of Government lands of Milolii-Hoopuloa Houselots, Phase I, situated at Milolii and Hoopuloa, South Kona, Hawaii, identified by Tax Map Keys: (3) 8-9-014: 001-013 and 8-9-004: 016, as shown on the attached map labeled **Exhibit A**.

AREA:

1.6182 acres, or 70,488 square feet, more or less.

ZONING:

State Land Use District: Conservation (Milolii Village Special Subzone)
County of Hawaii CZO: Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES ___ NO x

CURRENT USE STATUS:

TAX MAP KEY NO.	GENERAL LEASE NO.	LESSEE	AREA (Square Feet)
(3) 8-9-004: 016	S-4967	CHANG, Clement Sr.	10,000
(3) 8-9-014: 001	S-4956	AKIU, Antonio M.	7,627
(3) 8-9-014: 002	S-4957	KUAHUIA, Louis Jr.	5,000
(3) 8-9-014: 003	S-4958 (cancelled)	BILLINGS, Pacita	5,000
(3) 8-9-014: 004	S-4959	FORCUM, Mabel K. (deceased)	5,000
(3) 8-9-014: 005	S-4960	KAHELE, Leilani M. (deceased)	5,000
(3) 8-9-014: 006	S-4961	HALENA, Dora K.	5,000
(3) 8-9-014: 007	S-4962	OLSEN, Rose	5,000
(3) 8-9-014: 008	S-4963	CASUGA, Amoe (deceased)	5,000
(3) 8-9-014: 010	S-4964	BANIAGA, Sheldyn E.	5,000
(3) 8-9-014: 011	S-4965	KUAHUIA, Raymond K. Sr.	4,980
(3) 8-9-014: 013	S-4966	LLANES, Delfredo J. Jr. (deceased)	7,881
		Total:	70,488

CHARACTER OF USE:

Residential purposes as the lessee's principal domicile purposes.

LEASE TERM:

Sixty-five (65) years, commencing on July 12, 1985 and expiring on July 11, 2050. First rental reopening was scheduled for July 12, 2010.

ANNUAL RENTAL:

Current:

\$132.00 per annum, payable in semi annual installments of \$66.00, due on the 30th of November and 31st of May of each and every year.

Proposed:

1. \$1.00 per annum, MHFVA proposal.
2. \$132.00 per annum, keeping the annual rent unchanged.
3. \$440.00 per annum, In-House valuation by Staff appraiser. **(Exhibit B)**
4. \$480.00 per annum (Minimum Rent Policy for New Dispositions, May 13, 2005), payable in semi annual installments of \$240.00, due on November 30th and May 31st of each and every year.
5. Fair market value, to be determined by independent licensed appraiser.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

At the 25th and 45th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Not applicable.

DCCA VERIFICATION:

Not applicable. Applicants as individuals are not required to register with DCCA.

The Milolii Hoopulua Fishing Village Association, a Domestic Non-profit Corporation, registered with DCCA on June 17, 2011.

REMARKS:

Milolii-Hoopulua Residential State Lease:
Phase I, General Lease Nos. S-4956 to 4967.

Act 62, Session Law of Hawaii 1982 was enacted into law by then Governor Ariyoshi on May 10, 1982. The law was enacted to provide lands to relocate village residents or descendents of the Milolii-Hoopulua community, which was destroyed as a result of the 1926 Mauna Loa eruption. Act 62 authorizes the Department of Land and Natural Resources to award long-term residential leases to residents of Milolii and provides

criteria whereby residency can be established for those who were actually displaced by the 1926 lava flow.

During the 1984 Legislative session, an amendment to Act 62 was passed, giving the Milolii Development exemption from “all statutes, ordinances, charter provisions, and rules of any government agency relating to zoning of land, and the construction of units thereon.”

At its meeting of June 22, 1984, Item H-2, the Board of Land and Natural Resources approved Amendment to Administrative Rules, Title 13, Chapter 2 and Conservation District Use Application for establishment of the Milolii Village Special Subzone, Subzone Boundary Amendment, and Subdivision for Residential Purposes at Milolii-Hoopuloa, Hawaii.

At its meeting of December 28, 1984, Item F-3, the Land Board approved the issuance of direct leases for residential purposes, Milolii and Hoopuloa, South Kona, Hawaii.

At its meeting of April 26, 1985, Item F-2, the Land Board awarded twelve (12) grandfathered residences residential leases at Milolii, Phase I, pursuant to Act 62, Session Laws of Hawaii 1982, as amended by Act 83, Session Laws of Hawaii 1984.

A Milolii-Hoopuloa community association was originally formed under the name of Pa’a Pono Milolii. For over 20 years, Paa Pono Milolii served as a representative of the community association. Most recently, Paa Pono Milolii experienced some internal problems and was involuntarily dissolved. In February 2003, a Pa’a Pono Milolii was reestablished, but research indicated that its purpose was not the same as originally created or intended as a representative of the Milolii residential lessees. As a result, by letter dated June 30, 2011, staff was notified of the formation of a “new” association to represent the lessees of the Milolii-Hoopuloa community under the name of the Milolii Ho’opuloa Fishing Village Association (MHFVA), a domestic non-profit corporation, which registered with DCCA on June 17, 2011. **(Exhibit C)**

No government agencies or community interest groups were solicited for comments, as there will be no new dispositions or change in land use.

On December 9, 2010, the Chairperson approved the Staff Appraiser’s In-House Valuation Recommendation of the Milolii, Phase I, Residential Lease rent. The recommended annual rent for the subject leases were determined to be \$440 per annum, effective July 12, 2010.

Staff is of the understanding that there are four feasible options for rental rates to be charged uniformly to all the leases. The options are: (1) \$132 per year, unchanged from current rate, (2) \$440 per year, which is the in-house valuation as approved by the Chairperson, which is just under the current minimum rent for other new leases and permits, (3) minimum rent of \$480 per year, or (4) a rent based on the fair market rate,

however, the State leasehold properties do not have any county sewer, water and/or electricity. The only public utility available in the area is telephone service.

At its meeting of October 24, 2008, under agenda D-10, the Land Board approved the reconsideration of rent over a similar State residential development of the Maunalaha General Leases on Oahu, using the minimum rent policy at \$480 per year.

ANALYSIS:

On May 13, 2005, the Land Board established a Minimum Rent Policy that stated, among other things, that the Minimum Rent for New Dispositions shall be \$480 per year for leases. Leases are typically issued via public auction to for profit organizations or directly to non-profits. The subject leases were issued directly as a result of Act 62, Session Laws of Hawaii 1982, and all other laws to the contrary notwithstanding, including Chapter 171, Hawaii Revised Statutes. This option does not conflict with the lease negotiation clause, which stipulates rents shall not be established from fair market values or comparisons to neighboring properties.

On December 7, 2010, Staff Appraiser's In-House Valuation determined the annual rental to be \$440 per annum.

The MHFVA believes setting the rents at market would present a hardship for many of the residents, especially the elderly on fixed income. Furthermore, setting rents based on comparable land value is not allowable due to a clause in the leases that states that rent, "...shall be established without comparison to the assessed fair market rental value of the leased properties of any neighboring properties at the time of the renegotiations." MHFVA is of the opinion that the In-House Appraisal is not realistic as the comparables used were of sales from nearby subdivisions which have no restrictions to whom it can be sold, whereas the Milolii leases are restricted to only qualified applicants.

The MHFVA proposes an annual lease rent of one-dollar (\$1), in the spirit of being "consistent with the Legislative intent and purpose of Act 62."

In consideration of the foregoing, staff defers to the appraiser's determination and recommends below that the Board approve the In-House valuation at \$440 per annum.

RECOMMENDATION: That the Board:

- A. Determine that the lease rent commencing July 12, 2010, under General Lease Nos. S-4956 to 4967, except for cancelled 4958, shall be:

\$440 per year based on an In-House Valuation as recommended by Staff

Appraiser and approved by the Chairperson of the Board of Land and Natural Resources on December 10, 2010, subject to:

1. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent 

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson 

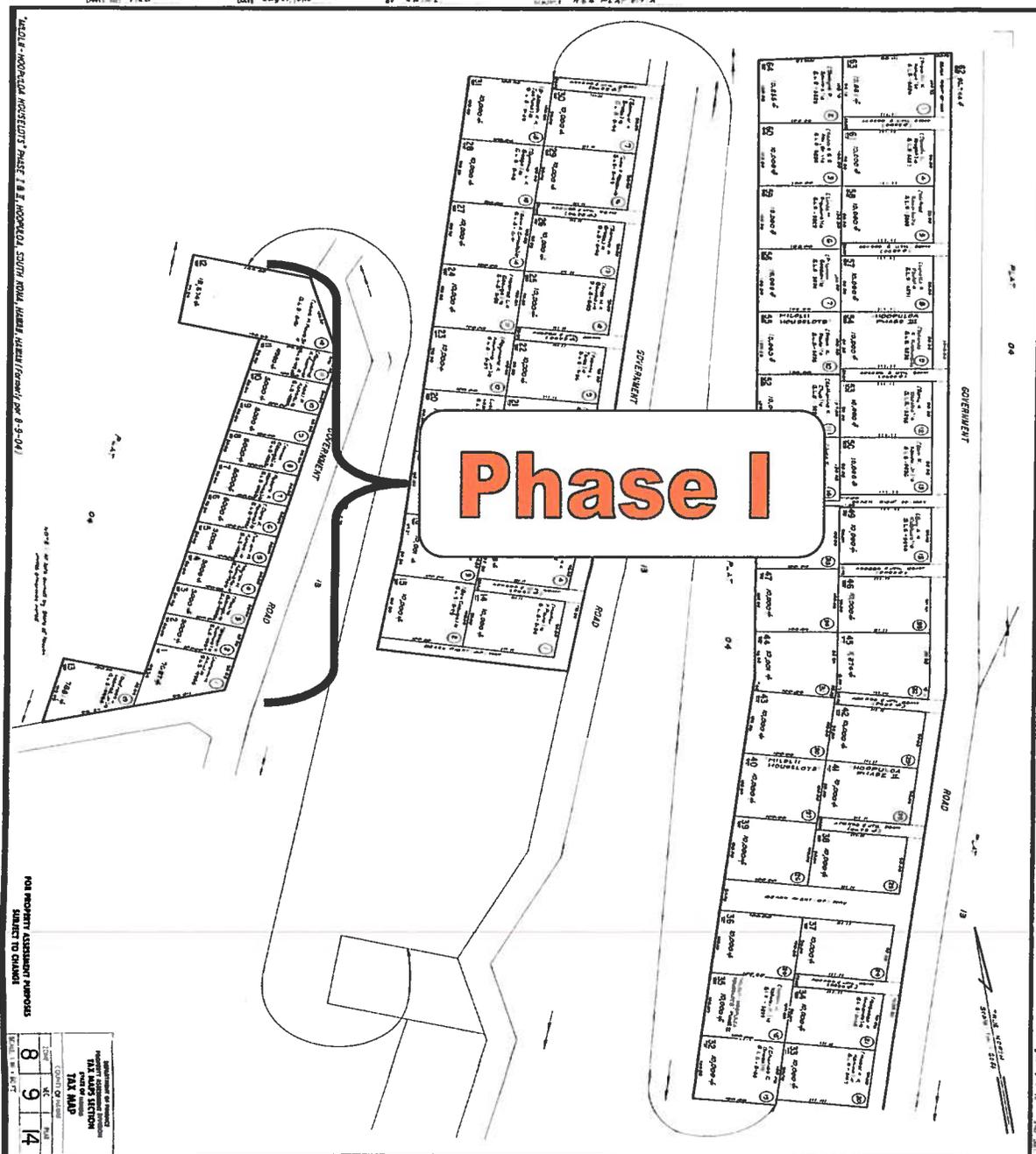


EXHIBIT A

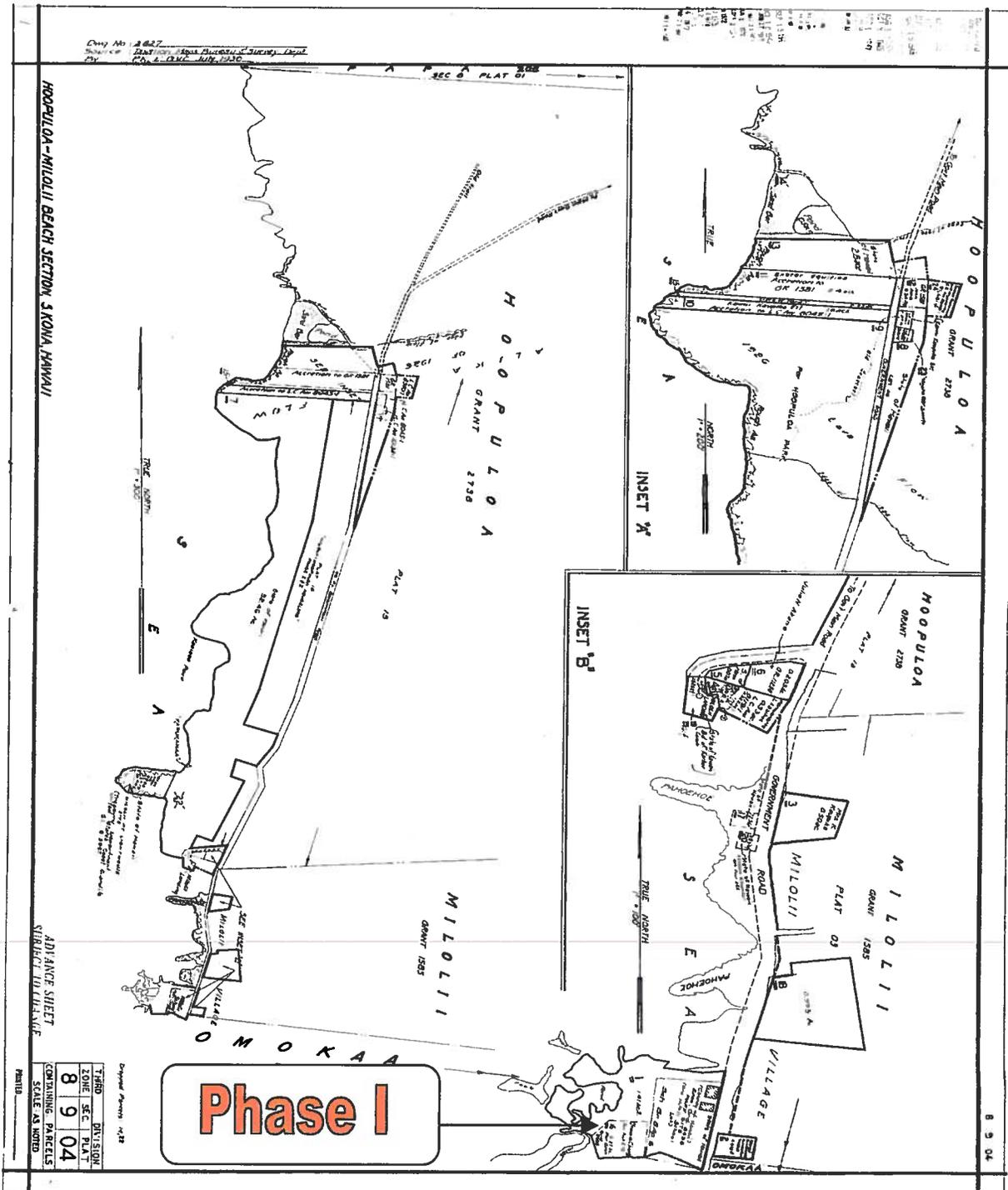


EXHIBIT A

MAIL-ADDRESS ONLY
GUTHRIE, HAWAII



WILLIAM J. AILA, JR.
Interim Chairperson
MILILII HOOPULOA FISHING VILLAGE ASSOCIATION
1780 MILILII BEACH LANE, SUITE 200
MILILII BEACH, HAWAII 96703

GLS-4966, GLS-4957, GLS-4959, GLS-4960;
GLS-4961, GLS-4962, GLS-4963, GLS-4964;
GLS-4965, GLS-4966, GLS-4967



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 611
HONOLULU, HAWAII 96809

December 7, 2010

MEMORANDUM

TO: William J. Aila, Jr., Interim Chairperson

THROUGH: Russell Y. Tsuji, Land Division Administrator

FROM: Cyrus C. Chen, Real Estate Appraisal Manager *Cyrus Chen*

SUBJECT: In-House Valuation Recommendation – Rent for Residential Lease Purposes

GL No.: Various (see Table 1)
Lessees: Various (see Table 1)
Location: Milolii Residential Lots, Milolii-Hoopuloa, S. Kona, Hawaii
Land Area: Various (see Table 1)
Tax Map Key: (3) 8-9-14: 1, 2, etal.
Char. of Use: Residential
Effective Date: July 12, 2010

We have been requested to provide annual rent on the properties referenced in Table 1 attached. The residents at Milolii Residential Lots were originally given 65-year residential leases per authority granted by the Legislature of the State of Hawaii in 1985. The rent was fixed at \$132 per annum for the first 25 years of the leases. The subject leases contain reopening provisions, which indicate that rents for the reopening period shall be negotiated between the DLNR and a recognized organization representing the lessees. The leases also state the rent shall be established without comparison to the assessed fair market rental value of the leased properties or any neighboring properties at the time of the negotiations. This document may serve as a guideline to commence negotiations.

The rental reopening date is July 12, 2010 for all the State residential leases at Milolii State Residential Lots. A previous analysis dated November 24, 2010 was approved but had the incorrect effective date. This document corrects the effective date. Staff researched comparable residential lot sales in the surrounding area and several were found at Milolii Beach Lots Subdivision located north of the subject lots. Four comparable sales were analyzed for comparison as shown on Table 2. A 5,000 sq. ft. lot was considered representative of the subject

DEC 14 2010

EXHIBIT B

lots and chosen to represent the subject as a benchmark lot. A land comparable adjustment grid was prepared to derive the lot value for the subject benchmark lot.

According to HDLO staff, the subject lots do not contain basic infrastructure such as county water, sewer or electricity but telephone service is available. Water is provided via catchment system or via a standpipe nearby and sewer service is provided by septic. Generators provide the electricity. According to HDLO staff, the comparables at Milolii Beach Lots Subdivision do have those basic services though MLS data seems to indicate that some of the lots are also on catchment water.

Due to the superior infrastructure of the comps, a negative 25% adjustment was applied. The agricultural zoning of the comps is determined to be superior to the subject's Open zoning and adjusted downward. The other factors of comparison such as location, access/frontage, and physical characteristics were considered similar and no adjustments were warranted. A size adjustment was applied last. To derive rent, a 4% residential rate of return was applied to the subject benchmark lot value.

The derived rent is considered applicable to all subject leases regardless of lot size. During a similar reopening negotiation involving Maunaloa residential leases in Honolulu in 2008, representatives of the Maunaloa lessors expressed concern that since historically all lessees were paying the same rent, offering rents that differed between lessees would potentially create resentment, animosity and possible jealousy amongst the lessees. Therefore, staff feels it prudent to derive a rent which would be applied to all subject leases.

Therefore, as of the effective date, the recommended annual rent for the subject leases is determined to be \$440 per annum as presented on the attached Table 2.

Special Assumptions and Limiting Conditions

- 1) This document does not take the place of an appraisal and does not constitute an appraisal, which adheres to the Uniform Standards of Professional Appraisal Practice.
- 2) Neither the subject properties nor comparable properties were inspected by the staff appraiser.

Approved/Disapproved:

Paul D. Amey
for William J. Aila, Jr., Interim Chairperson

12/9/10
Date

cc: District Branch Files
Central Files

EXHIBIT B

Table 1

Milolii General Leases

GL No.	Lessee	Use	Effective Date	Tax Map Key	Deeded Area (acres)
4956	Antonio Makaana Aiku	Residential	7/12/2010	(3) 8-9-14: 1	0.175
4957	Louis Kuahula	Residential	7/12/2010	(3) 8-9-14: 2	0.115
4958	Mabel K. Forum	Residential	7/12/2010	(3) 8-9-14: 4	0.115
4959	Lolani Maullii Kahele	Residential	7/12/2010	(3) 8-9-14: 5	0.115
4961	Dana K. Halema	Residential	7/12/2010	(3) 8-9-14: 6	0.115
4962	Rose M. Olsen	Residential	7/12/2010	(3) 8-9-14: 7	0.115
4963	Arnos Casuga	Residential	7/12/2010	(3) 8-9-14: 8	0.116
4964	Elizabeth Sheldyn Banlaga	Residential	7/12/2010	(3) 8-9-14: 10	0.115
4965	Raymond Kukulu Kuahula, Sr.	Residential	7/12/2010	(3) 8-9-14: 11	0.114
4966	Deirdra J. Llanes, Jr.	Residential	7/12/2010	(3) 8-9-14: 13	0.101
4967	Clement Chang, Sr.	Residential	7/12/2010	(3) 8-9-14: 16	0.23

EXHIBIT B

COMPARABLE FEE SIMPLE LAND TRANSACTIONS ADJUSTMENT SCHEDULE
Milolii-Hoopuloa Hoqueleia Beneficiary
Milolii-Hoopuloa, South Kane, Hawaii
Tax Map Key (C) 8-9-14; various

Transaction Number	Subject	1	2	3	4
Third Division, Tax Map Key	8-9-14&04; various	8-8-8; 77	8-8-8; 82	8-9-17-22	8-9-0; 82
Address/Sited	Government Road	Ehiku Ave.	Ehiku Place	Ehiku Ave.	Ehiku Ave.
Location	Milolii	Milolii Beach Lots	Milolii Beach Lots	Milolii Beach Lots	Milolii Beach Lots
Land Area - Square Feet	5,000	7,500	7,650	10,000	7,500
Land Area - Acres	0.115	0.172	0.176	0.230	0.172
Zoning	Open	A-5B	A-5B	A-5B	A-5B
Transaction Date		5-Oct-10	15-Sep-10	24-Jun-10	4-May-10
Instrument		Deed	Deed	Deed	Deed
Transaction Price/Value		\$20,100	\$31,000	\$22,000	\$28,500
Cash Equivalent Sale Price		\$20,100	\$31,000	\$22,000	\$28,500
Indicated Fee Value Per SF		\$2.68	\$4.06	\$2.20	\$3.80
Terms of Sale Adjustment		1.00	1.00	1.00	1.00
Adjusted Price		\$22,976	\$44,055	\$22,200	\$33,500
Time Adjustment Factor		1.00	1.00	1.00	1.00
Time Adjusted Price Per SF		\$2,897	\$4,405	\$2,220	\$3,350
Adjustments (%)					
Location		0%	0%	0%	0%
Access/Frontage		0%	0%	0%	0%
Infrastructure		-25%	-25%	25%	-25%
Zoning		-10%	-10%	10%	-10%
Physical Characteristics		0%	0%	0%	0%
Net Adjustments (%)		-35%	-35%	-35%	-35%
Adjusted Unit Value		\$1.74	\$2.63	\$1.48	\$2.30
Size Adjustment (80% curve)		1.06	1.07	1.11	1.05
Size Adjusted Unit Value		\$1.84	\$2.81	\$1.64	\$2.41
Weighting Factor		0.30	0.20	0.20	0.30
Product		\$2,555	\$5,620	\$3,320	\$3,723

Range of Value \$1.50 to \$2.81

Mean Unit Value \$2.77 per sq. ft.

Weighted Unit Value \$2.16 per sq. ft.

Concluded Unit Value \$2.20 per sq. ft.

Indicated Site Value \$2.20 per sq. ft. x 5,000 sf = \$11,000

Rounded \$11,000

Rent @ 4% \$440

EXHIBIT B

January 13, 2012

7002

Miloli'i Fishing Village Association
87-1049 Mamalaha Highway
Captain Cook, HI 96704
June 30, 2011

RECEIVED

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Mr. William J. Aila
Chairperson
Board of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

Re: Ground Rent for General Leases Numbers S-4956, 4957, & 4959-4967; Milolii Residential Lots, Milolii-Hoopuloa, S. Kona Hawaii.

Aloha Chairman Aila:

The residents of Miloli'i have formed the Miloli'i Fishing Village Association and have registered with the State of Hawaii. This Association will be representing the lessees of the Miloli'i Residential Lots in lease rental negotiations with the DLNR. We have the authorization of the eleven (11) lessees who have a rental reopening date of July 12, 2011 (Phase 1), and are in the process of obtaining the authorization of Phase 2 and 3 lessees. We hope this meets with the Board's approval.

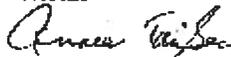
Your department is proposing an increase, from \$132 to \$440 per annum, that was based on your "In-House Valuation Recommendation" dated December 7, 2010. We feel that the valuation analysis, and therefore the increase, is too high because:

1. It is not "consistent with the legislative intent and purposes of Act 62."
2. In the valuation, four comparable sales were used from a nearby subdivision. This is like comparing apples to oranges. Lessees can only sell their leases to descendants of the "Ho'opuloa Refugees", whereas the owners of the "comps" can sell to anyone. No negative adjustment factor was applied to account for this major difference in the "comps."
3. A 4% residential rate of return was used; why not 1%, 2%, or 3%?
4. There have been approximately seven (7) lease sales over the past 25 years in the Miloli'i Residential Lots, and they were not mentioned in the analysis.

Miloli'i is the last fishing village in Hawai'i nei. I doubt that any member of your Board has visited the Miloli'i Residential Lots. We would like to invite all of you to visit us, so that you can see for yourselves that the "In-House Valuation" has nothing to do with reality. In the spirit of being "consistent with the legislative intent and purposes of Act 62," we would like to propose an annual lease rent of \$1 per annum.

Me ka hui'aha'a,

Mrs. Annie Tai Sec
President



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LAND DIVISION
HIL O HAWAII

EXHIBIT C