June 9, 1993

Mr. Brian J. J. Choy, Director
Office of Environmental Quality Control
220 S. King Street, 4th Floor
Honolulu, Hawaii 96813

CHAPTER 343, HRS
Environmental Assessment/Determination
Negative Declaration

Recorded Owner/ Applicant: Peter Abolila and Julie Boyd Gratz
Agent: Francis F. Montillo
Location: 45-209 Mahalani Circle, Kaneohe, Oahu
Tax Map Key: 4-9-58: 20
Proposed Action: Construct a New Dwelling Approximately 20 Feet From the Vegetation Line
Determination: A Negative Declaration Is Issued

Attached and incorporated by reference is the environmental assessment prepared by the applicant for the project. Based on the significance criteria outlined in Chapter 200, State Administrative Rules, we have determined that preparation of an Environmental Impact Statement is not required.

Approved
LORETTA K. C. CHEE
Acting Director of Land Utilization

LKCC:ak
Enclosures
G:SVleqgq.dt
ENVIRONMENTAL ASSESSMENT

I. GENERAL INFORMATION

A. Applicant: Peter Abolila & Julie Boyd Gratz
   45-209 Mahalani Circle, Kaneohe, HI 96744
   Tel. 236-3808

B. Fee Owner: Peter Abolila & Julie Boyd Gratz

C. Agent: Francis P. Montillo, Architect
   F.P. Montillo Associates, 430 Kaliolu Street, #804, Honolulu, HI 96815, Tel. 926-3528

D. Tax Map Key: 4-5-58:20

E. Lot Area: 5050 Square Feet

F. Agencies Consulted: City and County of Honolulu
   Department of Land Utilization
   Environmental Affairs Branch

II. DESCRIPTION OF THE PROPOSED ACTION

A. General Description:

1. Replace the existing obsolete residence with a new residence. The existing structure has no setback from the seawall and only a four (4) foot setback from the street. The proposed new structure will be more conforming with the new land use regulations by providing a 20 foot setback from the seawall and the required 10 foot setback from the street.

2. The subject parcel has approximately 44% of its total area within the required 40 foot Shoreline Setback, as a result of its irregular shape.

3. Location map attached, with Schematic Design Variance Documents.

4. Approval of Variance from 40 foot setback to 20 foot setback is requested.
B. Technical Characteristics

1. Use is single family residence.
2. Schematic Design Variance Drawings attached.

III. AFFECTED ENVIRONMENT

A. The Subject Site is a 5050 square foot parcel located on the outer perimeter of a traffic circle, and the Northern property line of which is formed by an existing stone seawall approximately eight feet high. All of the lots on this seawall are 5000 square feet, more or less.

B. There are no known geologically hazardous land conditions.

C. Coastal views provided by photographs attached.

D. The Project Site is located on Kaneohe Bay, on a seawall which has been in existence for the past Fifty (50) years. There are no publicly owned beaches or beach parks near the the project site.

E. Location and site map attached.

IV. IMPACTS

The proposed project will have no detrimental effect on the environment, since it merely replaces an existing residential structure which has no Shoreline Setback with a new residential structure leaving a 20 foot Shoreline Setback. The residence is connected to an existing sewer line.

V. ALTERNATIVES

Building a new residence within the the limited area defined by the present Shoreline Setback regulation on this small, irregularly shaped lot will not meet the needs of the Owners and their Family. If the requested variance is not obtainable, the only remaining alternative would be to keep the existing house where it is, and repair and/or rebuild it, with a second story addition within the required setbacks, to the maximum extent permitted by the Land Use Ordinance.
VI. RESPONSE TO HAWAII STATE AGENCIES DRAFT EA COMMENTS.

A. Office of Environmental Quality Control (Letter dated March 10, 1993) requesting "description of the project's social and economic characteristics".

1. The proposed new residence will not affect public access to Kaneohe Bay.

2. We estimate Construction of this new residence to take approximately six (6) months.

3. The social and economic effects on the local community will be to positively increase the property values of the adjacent home owners properties, since we are replacing the existing deteriorating residence with a new residence. We estimate the total project costs to be approximately Four Hundred Thousand Dollars ($400,000.00)

B. Department of Land and Natural Resources (Letter dated March 12, 1993) requesting that "...a shoreline certification or re-certification should be conducted".

1. A shoreline survey is being prepared, and certification application will be filed, by RM Towill Corporation, Civil Engineers.

Copies of these, and other state agency letters submitted to the department of Land Utilization during the thirty day draft EA period are attached for your review and information.

VII OWNERS' CLOSING STATEMENT

The new house, if built as designed, would lessen the non-conformance of the existing house by leaving the required Ten (10) foot setback from the street where there is now less than 4 feet, and by leaving a Twenty (20) foot setback from the seawall where there is now none. This request would not alter the character of the neighborhood or challenge the reasonableness of the Zoning Code. Virtually, all the adjacent neighbors residences, along the seawall, substantially encroach within the required Forty (40) foot shoreline setback.

FPMA, 430 Kaliu Street #804, Honolulu, HI 96815, Phone 808.926.3528
MEMORANDUM

TO: MR. DONALD A. CLEGG, DIRECTOR
DEPARTMENT OF LAND UTILIZATION

FROM: C. MICHAEL STREET, DIRECTOR AND CHIEF ENGINEER

SUBJECT: ENVIRONMENTAL ASSESSMENT (EA)
ABOLILA/BOYD GRATZ RESIDENCE
PROJECT WITHIN THE SHORELINE SETBACK
TMK: 4-5-58:20

February 5, 1993

We have reviewed the subject EA and have the following comments:

1. The EA should address the storm water discharge associated with construction activities on water quality of the receiving waters.

2. The EA should also state what structural or non-structural best management practices (BMP) will be provided to control and reduce the discharge of pollutants as outlined in the National Pollutant Discharge Elimination System (NPDES) regulations (40 CFR Part 122, Subpart B for municipal storm sewer system).

C. Michael Street
Director and Chief Engineer
TO: DONALD A. CLEGG, DIRECTOR
DEPARTMENT OF LAND UTILIZATION

FROM: KAZU HAYASHIDA, MANAGER AND CHIEF ENGINEER
BOARD OF WATER SUPPLY

SUBJECT: YOUR MEMORANDUM OF FEBRUARY 3, 1993 REGARDING THE
ENVIRONMENTAL ASSESSMENT, 93/SV-1(DT), FOR A PROPOSED
SHORELINE SETBACK VARIANCE FOR THE ABOLILA/BOYD GRATZ
RESIDENCE, TMK: 4-5-25: 20, MAHALANI CIRCLE

Thank you for the opportunity to comment on the proposed shoreline setback variance for the Abolila/Boyd Gratz residence.

We have no objections to the proposal. The shoreline setback variance will not impact our water facilities in the area.

If you have any questions, please contact Bert Kuoka at 527-5235.
February 16, 1993

TO:        DONALD A. CLEGG, DIRECTOR
            DEPARTMENT OF LAND UTILIZATION

FROM:      WALTER M. OZAWA, DIRECTOR

SUBJECT:   ENVIRONMENTAL ASSESSMENT, CHAPTER 343, HRS
            PROJECTS WITHIN THE SHORELINE SETBACK
            TAX MAP KEY 4-5-58: 20
            PROJ. REF. NO. 93/SV-1(DT)

We have reviewed the Environmental Assessment for the
Abolina/Boyd Gratz Residence project and find that
redevelopment of the single-family residence will not have
any impact on recreational resources.

WALTER M. OZAWA, Director

WMO: ei

We Add Quality to Life
February 16, 1993

The Honorable Donald A. Clegg
Director
Department of Land Utilization
City and County of Honolulu
650 South King Street
Honolulu, Hawaii  96813

Dear Mr. Clegg:

Subject: Abolla/Boyd Gratz Residence [93/SV-1(DT)]

The applicant proposes to build a new single-family house within the shoreline setback area. The new house would replace an existing, nonconforming house that is built up to the shoreline.

The applicant states that if all front, side and shoreline setbacks are imposed, the resulting buildable area would be 1,500 square feet. Assuming that a two-story house is constructed, this would result in a 3,000 square-foot residence. Therefore, the 40-foot shoreline setback does not seem unreasonable.

We are sympathetic to the concerns of the applicant. However, to uphold the purposes of the shoreline setback provision of Chapter 205A, HRS, new structures replacing nonconforming structures should be built mauka of the shoreline setback area wherever possible. Further, you may recall that our 1991 report, Recommendations For Improving the Hawaii Coastal Zone Management Program, advocated a minimum shoreline setback of 40 feet from the shoreline in urban areas.

Thank you for the opportunity to comment on this application. If there are any questions, please contact Valerie McMillan at 587-2877.

Sincerely,

Harold S. Masumoto
Director
March 10, 1993

Mr. Donald Clegg, Director
Department of Land Utilization
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

Attention: Ms. Dana Teramoto

Dear Mr. Clegg:

SUBJECT: DRAFT EA FOR THE ABOLILA/BOYD GRATZ RESIDENCE, KANEHOE, KOOLAUPOKO, OAHU

We have completed our review of the subject document and have several comments to offer. When submitting the Final EA, please include the following:

- description of the project's social and economic characteristics;
- findings and reasons supporting the determination; and
- copies of any comments received throughout the 30-day Draft EA comment period and your responses to them.

If you have any questions, please call Margaret Wilson at 586-4185. Thank you.

Sincerely,

Brian J.J. Choy
Director

c: Francis Montillo
Peter Abolina
Mr. Donald A. Clegg, Director
Department of Land Utilization
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

Dear Mr. Clegg:

SUBJECT: Environmental Assessment (EA) for a Shoreline Setback Variance for the Gratz Residence, Kaneohe, Oahu, TMK: 4-5-58: 20

We have reviewed the EA information for the subject Shoreline Setback Variance application transmitted by your letter dated February 3, 1993, and have the following comments:

Brief Description:

The applicants propose to demolish an existing dwelling and construct a new single-family dwelling on an ocean-front parcel in Kaneohe, Oahu. Portions of the new dwelling would intrude approximately 20 feet into the 40-foot shoreline setback area. The existing structure has no setback from a seawall which is the property's makai border.

Division of Aquatic Resources:

The Division of Aquatic Resources comments that no significant impact to aquatic resource values is expected from the activity proposed provided precautions are taken to prevent debris, construction materials, and other possible contaminants from entering the aquatic environment.

Division of Conservation and Resources Enforcement:

The Division of Conservation and Resources Enforcement comments that they are interested in the disposition of the subject request as it relates to their shoreline enforcement efforts in this and other similar shoreline areas.

In addition, we note that contrary to what is stated in the EA, a shoreline certification or re-certification should be conducted. The applicants should consult with our Division of Land Management on this matter.
We will forward our Historic Preservation Division comments as they become available.

We have no other comment to offer at this time. Thank you for the opportunity to comment on this matter.

Please feel free to contact Steve Tagawa at our Office of Conservation and Environmental Affairs, at 587-0377, should you have any questions.

Very truly yours,

[Signature]

JOHN P. KEPELER, II
Acting Director
SHORELINE SETBACK VARIANCE APPLICATION

Address: 45-209 Mahalani Circle, Kaneohe, Hawaii 96744
Tax Map Key: 4-5-SB: 20
Owners: Peter Abolila and Julie Boyd Gratz

A. DLU Master Application Form is submitted herewith.
B. Environmental Assessment is submitted herewith.
C. Supplemental Information:
   1. Variance is proposed to Ordinance No. 92-34, Shoreline Setbacks, Chapter ____, Section _____-____-4.
   2. The property owners would be deprived of reasonable use of the land if required to comply fully with the shoreline setback rule and request that a variance to a 20 foot setback be granted, because of the following circumstances.
      a. The existing structure is of obsolete design and is inadequate to the needs of the owners and their family.
      b. Because of the small size and irregular shape of the lot, the buildable area would be reduced to a footprint of 1500 square feet, of which a minimum of 483 square feet would be needed for garage use. It is expected that in the near future there will be a total of at least four, and probably six family members living in this residence. The buildable area available within the 40 foot setback would not be adequate for the needs of the owners and their family.
      c. Because of the small lot sizes and close proximity of the houses in this neighborhood and that almost all of the houses are of wood construction, it is very important to erect masonry fire walls on the property lines. However, if this is done and the 40 foot setback is adhered to, the owners would be almost completely cut off not only from any view from the property, but also from ventilation. All of the houses along this seawall are either built directly on top of the seawall or very close to it, and many of them have second floors.

3. Granting this variance is in the public interest for the following reasons. Because of space requirements of the owners family, building a new house within the limits of a 1500 square foot footprint is not a practical option. The owner therefor is left with remaining options of either keeping the existing house with no setback from the seawall and only four feet setback from the street, or rebuilding with a 20 foot setback from the seawall and the required 10 foot setback from the street.

   Also, because the lots are so small, if the 40 foot setback is applied to this neighborhood the eventual effect will be to devalue all of the properties all along the seawall, thereby decreasing the tax base.

4. This variance would not alter the character of the neighborhood in any detrimental way. To the contrary, it would be an improvement. All of the houses along this
seawall are either built directly onto the seawall or have less than a 20 foot setback. Very few have the required 10 foot setback from the street.

Nor would this variance challenge the reasonableness of the shoreline setback ordinance. The stated purpose of the ordinance, "to protect and preserve the natural shoreline, especially sandy beaches, ... preserve open space along the shoreline ", does not logically apply to the subject property nor to the area where it is located. The shoreline of the property is defined by a vertical stone seawall approximately eight feet high which has been in existence at least since 1932. The property is located on a narrow inlet which is lined on both sides by seawalls and there are no natural shorelines or sandy beaches in or near the area. Public access to the waterfront is provided through three well defined access ways spaced around Mahalani Circle.

5. At the time the present owners took title, there was a provision in the ordinance for a 20 foot setback which clearly applied to this property. During the last two weeks of February, 1992, the owners consulted with the Department of Land Utilization on three separate occasions to be sure that the plans were proceeding in accord with the existing regulation. Although the new regulation had been introduced three months prior to our consultations, we were not advised of the pending changes. Had we been so informed, we could have applied under the previous rules since the changes were not approved until April 27, 1992.

Plans of the proposed construction based on a 20 foot setback are submitted herewith. It has been previously determined that a certified shoreline survey will not be required.
ENVIRONMENTAL ASSESSMENT

I General Information
A. APPLICANT: Peter Abolina & Julie Boyd Gratz
   45-209 Mahalani Circle, Kaneohe, HI 96744
   Tel. 236-3808
B. FEE OWNER: Peter Abolina & Julie Boyd Gratz
C. AGENT: Francis P. Mantilla, Architect
   430 Kailua St., Apt. 804, Honolulu, HI 96815
D. TAX MAP KEY: 4-5-58: 20
E. LOT AREA: 5050 square feet
F. AGENCIES CONSULTED: Department of Land Utilization
   Environmental Affairs Branch

II DESCRIPTION OF THE PROPOSED ACTION
A. General Description:
   1. Replace existing obsolete residence with new residence.
      Existing structure has no setback from the seawall and only 4
      feet setback from the street. Proposed new structure would
      have 20 feet setback from the seawall and the required 10
      foot setback from the street.

   2. Subject parcel has approximately 44% of its total area
      within the specified 40 foot Shoreline Setback.

   3. Location map attached.

   4. Approval of variance from 40 foot setback to 20 foot
      setback required.

B. Technical Characteristics:
   1. Use is single family residence.
   2. Layout drawing attached.
   3. Construction drawing attached.

III AFFECTED ENVIRONMENT
A. Subject site is a 5050 square foot parcel located on the
   outer perimeter of a traffic circle, and the Northern property
   line of which is formed by an existing stone seawall
   approximately eight feet high. All of the lots on this seawall
   are 5000 square feet, more or less.

B. There are no known geologically hazardous land conditions.

C. Coastal views provided by photographs attached.

D. Project site is located on Kaneohe Bay, on a seawall which
   has been in existence for more than 50 years. There are no
   publicly owned beaches or beach parks near the project site.

E. Location and site map attached.

IV IMPACTS
The proposed project will have no detrimental effect on the
environment, since it merely replaces an existing residential
structure which has no shoreline setback with a new residential
structure leaving a 20 foot shoreline setback. The residence is connected to an existing sewer line.

V ALTERNATIVES
Since building a new residence within the limited area defined by the present Shoreline Setback regulation on this small, irregularly shaped lot will not meet the needs of the owners and their family, if the requested variance is not obtainable the only remaining alternative would be to keep the existing house where it is, and repair and/or rebuild it to the extent permitted by the law.

The new house, if built as designed, would lessen the non-conformance of the existing house by leaving the required 10 foot setback from the street where there is now less than 4, and by leaving a 20 foot setback from the seawall where there is now none.