

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

March 22, 2024

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

PSF No.:23OD-086

OAHU

Grant of Term, Non-Exclusive Easement, Immediate Right-of-Entry and Revocable Permit to Robert Howard Merriman and Cynthia Louise Merriman for Seawall and Filled Land Located at Kaneohe, Koolaupoko, Oahu, Identified as TMK: (1) 4-4-021: seaward of 034 & 035. Supplemental Submittal Prepared Pursuant to Request of the Board.

APPLICANTS:

Robert Howard Merriman and Cynthia Louise Merriman, husband and wife, as tenants by the entirety of the abutting residential parcel.

PRIOR BOARD ACTION:

This matter was previously considered by the Board at its meeting on January 26, 2024, under Agenda Item D-4. At that meeting, the Board voted to approve Agenda Item D-4 in part, as amended, and defer in part for sixty days. The January 26, 2024, Board submittal is attached as **Exhibit A** and is hereby incorporated in its entirety into the present submittal by reference.

LEGAL REFERENCE:

Sections 171-13, 171-16(d), 171-17, 171-53(b), 171-55, 171-151 through 171-156, and 343-5, Hawaii Revised Statutes (HRS), as amended. Act 84, Session Laws of Hawaii 1999. Act 261, Session Laws of Hawaii, 2000. Act 129, Session Laws of Hawaii, 2005.

LOCATION:

Portion of filled land located in Kaneohe, Koolaupoko, Oahu, identified by Tax Map Key:

(1) 4-4-021: seaward of 034 and 035, as shown and discussed in **Exhibit A**.

REMARKS:

At its meeting on January 26, 2024, the Board considered the Applicants' request for an easement disposition for the filled land and seawall on the subject property under Agenda Item D-4. At that meeting, the Board deferred decision making on the easement request for up to sixty days, approved the grant of a sixty-day Right-of-Entry permit as a temporary resolution of the subject encroachment while the Board's decision is pending, and requested that Staff provide additional information on the status of land dispositions and rental determinations in the Kaneohe Bay region.

The purpose of this supplemental submittal is to respond to the Board's request for additional information to aid the Board in its decision making.

The land disposition requested by the Applicants is a twenty-five-year term, non-exclusive easement for an area of filled land and a seawall abutting the Applicants' private residential property, as shown on the maps contained in **Exhibit A**. The seawall and filled land were constructed by the U.S. Army Corps of Engineers and have been in place since approximately 1939. Research conducted by Staff at the direction of the Board shows that the requested disposition is compatible with land use policy for the area as established by the Board and the Legislature and comports with controlling statutes. In fact, the disposition requested by the Applicants is a less-intensive land use and is subject to greater oversight than the majority of land dispositions that currently exist in the area pursuant to Board and legislative direction. The majority of the currently existing shoreline land dispositions in Kaneohe Bay, including those for the two properties that abut the subject property on each side, are fifty-five-year term, exclusive-use easements for piers and associated structures along with the State submerged land on which they are located. These dispositions allow for exclusion of the public, eliminate the requirement for approval of the Legislature and the Governor, and are valued at a lower-than-standard rate based on the tax assessed value of the abutting fast land. In contrast, the present Applicants are requesting a twenty-five-year term, nonexclusive easement that will be subject to approval by the Legislature and the Governor and valued based on an appraisal of the fair market value of the land subject to the easement, which appraisal will be paid for by the Applicants.

Further, based on the extensive scientific and engineering research that has been conducted in Kaneohe Bay, it is clear that the Bay and its immediate environment have been so significantly altered by human intervention over the last hundred-plus years that any reversal of the current Board-approved and legislatively mandated land management policy would not result in the restoration of natural conditions and would not improve public access to the shoreline. Rather, abandonment of the current land management policy system would result in significant loss of income to the Beach Restoration Special Fund and to the beneficiaries of the public land trust, upheaval of management responsibilities for the structures and improvements that currently exist on the Kaneohe Bay shoreline and elsewhere, and transfer of great costs and wide-ranging land management responsibilities

from the private property owners who directly benefit from the shoreline improvements to the State. If such a reversal of policy were to include removal of existing structures surrounding Kaneohe Bay, it would further result in unquantifiable harm to this fragile marine environment.

Finally, Staff notes that denial of the Applicants' request for an easement covering the filled land and seawall that abut their private, residential property would result in significant hardship to the Applicants and would place the Applicants in a different and worse position than other similarly situated property owners in the area. As it currently stands, the Applicants' filled land and seawall constitute an unresolved encroachment into the shoreline area. Section 33-222-19, Hawaii Administrative Rules, prohibits certification of a shoreline where unauthorized encroachments are present. Without a certified shoreline, the Applicants would be unable to secure virtually any State or County permits for repair, maintenance, or renovation of their private, residential property, including areas such as the residence itself that do not directly affect the shoreline area. Denial of the requested easement would also deprive the State of a significant amount of rental income to which it is entitled for this shoreline encroachment and which the Applicants are willing to pay. It is notable that this Board submittal was initiated by a proactive request by the Applicants to resolve the shoreline encroachment that was discovered after their purchase of the subject property and is not the result of an enforcement or other action imposed upon the Applicants by the Department.

Historical Dredging and Fill in Kaneohe Bay

During the first half of the Twentieth Century, approximately 13,000,000 cubic meters of reefal¹ material was dredged from Kaneohe Bay, with most dredging activity taking place pursuant to U.S. Army Corps of Engineers (USACE) permits from 1939 through 1945 to create channels for the movement of large ships and seaplanes and to construct the military installation then known as Kaneohe Bay Naval Air Station and currently known as Marine Corps Base Hawaii. During this period alone, approximately 11,630,000 cubic meters of reefal material was excavated from Kaneohe Bay. Of the total 13,000,000 cubic meters of material dredged since 1927, approximately 1,700,000 cubic meters was dumped at documented sites in the Bay, 4,700,000 cubic meters was used for fill or construction purposes, and 6,600,000 cubic meters was dumped at undocumented sea locations or otherwise unaccounted for. A study of the nature and rate of sedimentation in Kaneohe Bay conducted by the Hawaii Institute of Geophysics for USACE found that a significant portion of the unaccounted-for excavated material was likely dumped in the Bay. (Hollett, K.J., Moberly, R. Sedimentation, dredging, and spoil disposal in a subtropical estuarine lagoon. *Geo* 4, 31–42 (1982). <https://doi.org/10.1007/BF02380497>)

This early-Twentieth Century dredging of Kaneohe Bay irreversibly altered the geology and bathymetry of the area. According to research published by the Department's Division of Aquatic Resources, physical changes include alterations to 5% of the Bay's northern

¹ "Reefal" means of or pertaining to a reef, mound, ridge, or buildup of sediment or sedimentary rock, most commonly produced by organisms that secrete shells such as corals.

shoreline, 68% of the central shoreline, and 88% of the southern shoreline, where the subject property is located. (Hunter CL. 1993. Living resources of Kane‘ohe Bay. Habitat evaluation. In: *Main Hawaiian Islands resource investigation*. Honolulu: Hawaii Department Land Natural Resources, Division of Aquatic Resources.) A significant portion of the dredged reefal material was used to fill in shoreline areas, which became sites for residential construction.

Later human-induced impacts including discharge of sewage over several decades, land runoff and sedimentation due to rapid urbanization, overfishing, and introduction of invasive marine species have contributed to depletion of the natural resources of the Bay. (Bahr et al. (2015), The unnatural history of Kane‘ohe Bay: coral reef resilience in the face of centuries of anthropogenic impacts. PeerJ 3:e950; DOI 10.7717/peerj.950)

Amnesty Program

Board Approval

At its meeting on May 15, 1998, under Agenda Item D-3, the Board unanimously approved a plan to address the problem of unauthorized piers in Kaneohe Bay (Amnesty Program). By this time, many shorefront property owners had either constructed piers or purchased properties with piers already in place. Most of the Kaneohe Bay piers lacked proper State authorization and lack of staff resources made enforcement of the State’s land use laws difficult if not impossible. The problem persisted for several decades without direct action by the State and lead to the presence of approximately 200 unauthorized piers in and around Kaneohe Bay as of the Amnesty Program’s adoption.

The goal of the Amnesty Program was to provide owners of unauthorized piers with the required permits to achieve compliance with State’s land use laws, collect fair compensation for the use of State submerged lands on behalf of the beneficiaries of the State’s public land trust, establish equity in the use of public lands, and ultimately resolve Kaneohe Bay’s illegal pier problem. The Board’s unanimous approval of the Amnesty Program represented strong support for this public policy of incentivizing private property owners to normalize their out-of-compliance shoreline land uses. **(Exhibit B)**

Legislative Approval

Act 261 (2000)

After the Board first authorized the Amnesty Program, the Legislature passed House Bill 3001, Senate Draft 1, which was necessary enabling legislation to implement the program. This measure was signed by the Governor and enrolled as Act 261, Session Laws of Hawaii 2000. **(Exhibit C-1)** Act 261 authorized the Board to issue Kaneohe Bay pier leases through direct negotiation, waived the requirement that piers remain open to public use, and eliminated the requirement for approval of pier leases by the Legislature and the Governor. It is notable that throughout the entire legislative hearing and vote process in both chambers, this measure received only one “No” vote in committee and only one “No” vote upon Final Reading, both from the same Senator. **(Exhibit C-2)**

In its written testimony in support of this measure to the respective House Standing

Committees on Ocean Recreation and Marine Resources and Finance and the respective Senate Standing Committees on Water, Land, and Hawaiian Affairs and Ways and Means, the Department stated, in relevant part, “the Department, in carrying out our responsibilities in the regulation of the Conservation District and in the management of public lands and as directed by the Board of Land and Natural Resources, has initiated a project to bring piers into conformance with State laws and to ensure appropriate revenue generation for beneficiaries of the Public Land Trust (or ceded lands).” Similarly, in Standing Committee Report No. 3341, the Senate Committee on Ways and Means stated, “Your Committee finds that the measure will assist the Department of Land and Natural Resources in its efforts to bring piers into conformance with state laws and generate revenues for Public Land Trust beneficiaries.”

Act 129 (2005)

Once the Amnesty Program was initiated, several procedural challenges to program implementation became clear and resulted in low participation rates even while there was widespread interest from property owners. By 2004, interest in the Amnesty Program was high from Kaneohe Bay property owners and the Department was faced with an immense workload caused by the number of Amnesty Program participants who were dissatisfied with the lease rental calculation method approved by the Board in 2001 and who chose to pursue independent appraisals. The Department also received an unusually large number of applications for additional easements to resolve additional Kaneohe Bay shoreline encroachments including seawalls, filled land, and boat ramps that were discovered in the process of awarding pier leases under the Amnesty Program. The work required to manage the large number of individual appraisals overwhelmed staff capacity and, along with the time required for the conduct of each appraisal, caused extreme delays in land dispensations under and related to the Amnesty Program. At this time, the Amnesty Program was set to expire within a year and it became evident that the Program would expire before most applied-for leases were awarded. Program participants were frustrated by the cost of appraisals, which at the time ranged from \$2,000 to \$3,000, relative to the fair market consideration paid, which ranged from \$500 to \$2,000². At this time, it also became evident that many eligible Kaneohe Bay property owners were declining to participate in the Amnesty Program at all because of the cost involved and the seeming futility of applying for a land disposition that could not be timely granted.

Therefore, the Department requested certain modifications and a two-year extension to enable completion of the land dispositions sought under the Amnesty Program, which otherwise would have expired before Program goals were achieved. The Legislature responded by unanimously passing House Bill 1659, Conference Draft 1, which was signed by the Governor and enrolled as Act 129, Session Laws of Hawaii, 2005. (**Exhibits D-1 and D-2**)

Act 129 not only extended the effective period of the Amnesty Program, it also applied the

² All but one Amnesty Program participant opted for a one-time payment of consideration instead of annual rental payments.

Program to properties in additional locations across the State and endorsed a novel method of valuing pier leases under the Program specifically to spur greater participation by interested property owners.³ At the House floor vote to pass this measure on Final Reading, three of the four members representing the Kaneohe area stood to make remarks expressing bipartisan support for the Amnesty Program and praising the Department’s efforts to enter into leases. The Representative from the Forty-Eighth District representing Heeia, Haiku Valley, Kapunahala, and Kaneohe stated, “Mr. Speaker, to prompt procrastinating pier owners who desire to enter into leases with the State for their private noncommercial piers, the Department of Land and Natural Resources is urged to commence using the prevailing real property tax assessment value of the fast land in determining the lease rent for a lease of the State submerged land or land beneath tidal water entered into after July 1, 2006. Mr. Speaker, I urge my colleagues to support this measure.” **(Exhibit E)**

Going forward after approval of Act 129, the Amnesty Program did, in fact, employ the alternative valuation method provided for in the legislation to determine lease rent and was able to successfully serve all interested Kaneohe Bay property owners before its final expiration in 2007. It is again notable that there were zero dissenting votes on Act 129 throughout the entire bicameral legislative process. However, staff clarifies that the easement that is the subject of the present request, if approved, will be independently appraised pursuant to HRS Section 171-17.

Environmental Assessment and Finding of No Significant Impact

Implementation of the Amnesty Program required Land Division (OCCL was once part of Land Division, before reorganizing and separating from Land in March 2004) to process a master Conservation District Use Application including an Environmental Assessment for all participating properties. The Office of Environmental Quality Control (OEQC) approved the Final Environmental Assessment (FEA) and issued a Finding of No Significant Impact (FONSI) by letter dated April 24, 2001. The FEA, along with the FONSI letter, for the Amnesty Program were published in The Environmental Notice on May 8, 2001.⁴ **(Exhibit F)**

The FEA found that the immediate shoreline area in the vicinity of Kaneohe Bay is generally composed of mudflats, with some thin terrigenous-based⁵ beach areas which are generally inaccessible by foot to the general public and that water quality is often impaired due to turbidity from sediments. The FEA further found that the shoreline has been

³ The purpose of using tax assessed value to determine the value of pier leases was to expedite the process and encourage greater participation in the Amnesty Program by eliminating the appraisal requirement. Although this method of valuation did result in a lower per square foot value for State submerged land, achieving lower lease rent costs was not the purpose of the change in valuation method.

⁴ Please note that the subject parcel is included in the Project Area considered under the FEA, which is specified as Nuupia Pond (Kaneohe Marine Corps Base-Hawaii) to Waikane, Oahu and identified as various parcels within Tax Map Key plats (1) 4-4-007, 014, 016, 018, 021, 022, and 337; 4-5-001, 006, 007, 047, 058, and 104; 4-6-001, 003, 022, and 023; 4-7-09, 010, 014, 017, 019, 024, 030, and 041; 4-8-005; and 4-9-001 and 003.

⁵ “Terrigenous-based beach areas” refers to shoreline areas composed of material eroded from the land as opposed to a beach composed of material originating in the sea and deposited onto the land by wave action.

extensively altered over the past hundred years with seawalls, channels, dredging, small inlets, piers, jetties, and boat harbors and that, because “recreational beach resources are poor to non-existent,” the area is not actively sought-out for beach recreation and is better suited toward boating activities, fishing, and crabbing. Further, the FEA found that any “impacts to marine substrate and marine biota would have likely occurred at the time the piers and other encroachments were constructed.” When considering the question of removal of encroaching structures, the FEA found that removal would likely cause greater disturbances to the ecological system and that the preferred course of action in Kaneohe Bay is to work with existing pier owners to bring them into compliance with State land use law.

The FEA included comments from multiple federal, State, and county agencies on the previously published Draft Environmental Assessment which were received in the thirty-day comment period required under section 343-5(c), HRS, prior to the OEQC’s approval of the FEA and issuance of FONSI letter. Comments relevant to the Board’s present request are included, in relevant part, here.

The Office of Hawaiian Affairs commented: “The Office of Hawaiian Affairs is concerned about the State’s past failure to collect rent for the Kaneohe Bay Piers and supports this current effort to resolve the unauthorized pier problem. . . . This project is located on state submerged lands which constitute ‘ceded’ land subject to the [Public Land Trust]. Therefore, OHA is entitled to 20% of the pro rata share of the revenues generated from the rents from pier users. By failing to collect rent for the use of these State lands, the State of Hawaii risks breaching the trust.”

The Division of Forestry and Wildlife commented: “We have reviewed this CDUA application for the subject above and do not have any objections to the proposed project, as the inventory and survey of approximately 200 existing piers to determine their status as legal, nonconforming, or unauthorized along Kaneohe Bay will not impact any of DOFAW’s management programs.”

The Historic Preservation Division commented: “According to the documentation, the Department wishes to resolve the unauthorized pier problem in Kaneohe Bay. The goal of this action is to provide owners of unauthorized piers with the required permits to achieve compliance with the State’s land use laws. Since no new structures are proposed and any improvements will be made to the existing piers, we believe that the approval of this permit will have ‘no effect’ on significant historic sites.”

The Department of the Army, U.S. Army Engineer District, Honolulu commented: “We will not require individual owners of the existing piers, who wish to retain them, to apply for and obtain Department of the Army (DA) permit authorizations for those structures. However, any new work in waters of the U.S., such as repair, modification, or removal of existing piers, or installation of new piers, may require a DA permit. Any individual or entity intending to conduct such work should first contact this office to obtain a determination of DA permit requirements for their planned activity.”

Master Conservation District Use Application

After OEQC published Land Division’s FEA and FONSI, the Board considered Land Division’s Master Conservation District Use Application (CDUA) at its meeting on July 13, 2001, under Agenda Item D-32. At this meeting, the Board unanimously approved the CDUA in an amended form that included additional provisions that established timelines for participation, requested an Attorney General opinion on provision of credits for pier owners who had historically complied with State land use laws, and notice requirements for non-participating pier owners. The CDUA cites legislation, discussed further below, that authorizes the Board to “lease, by direct negotiation and without recourse to public auctions, state submerged lands or lands beneath tidal waters for private residential noncommercial piers on such terms and conditions as may be prescribed by the board.” It is notable for the present purpose that the Amnesty Program applied only to piers and docks in Kaneohe Bay and not to seawalls, boat ramps, and other structures. The Amnesty Program specified that these additional structures would still be subject to individual dispositions through the standard easement process, although participating pier owners could opt to include resolution of additional, associated structures in their applications for disposition through the Amnesty Program. **(Exhibit G)**

The CDUA, as unanimously approved by the Board, includes the FEA findings and conclusions, summarizes the outcome of a public meeting held on implementation of the proposed Amnesty Program, and delineates the Department’s proposed process for implementing the Amnesty Program to meet programmatic objectives to resolve the illegal pier problem in the greater portion of Kaneohe Bay, to establish equity in the use of public lands, and to generate revenues for the State. The CDUA also includes a discussion of alternatives to the Amnesty Program considered by the Department. Significantly, the “No Action” alternative to maintain the unauthorized status quo of over 200 structures was rejected because it was contrary to the intent of the Board’s unanimous approval of the Amnesty Program. The “Removal” alternative, in which unauthorized structures would be removed, was rejected because it was “likely to cause a greater disturbance to the ecological system.”

The CDUA found that impacts of the existing shoreline structures on public access “are not significant since the shore area of Kaneohe Bay is not actively sought out for beach recreation” and most recreational activity in the Bay takes place inside of the Bay itself, in areas which require watercraft for access. The CDUA further found that recreational beach resources in the Bay are poor to non-existent, the proposed land use is compatible with the region, and the Amnesty Program is an appropriate use of submerged land given the physical conditions and historic uses of the area. Finally, the CDUA found that the Amnesty Program “will not be significantly detrimental to the public health, safety and welfare of the general public, and will, in fact, improve public health safety and welfare by resolving a long-standing land use problem.”

Addressing the potential revenue to be generated by the Amnesty Program, the CDUA found that the Amnesty Program comports with the public policy established by the Legislature in Act 84, Session Laws of Hawaii 1999, known as the Beach Act, which

enables the Department to seek out and use income generated by lease of coastal lands for purposes of beach restoration across the State. The Beach Act established the Beach Restoration Special Fund, authorized the Department to lease public coastal lands under the Board's jurisdiction for the purpose of generating revenues for the Special Fund, authorized the Department to undertake appropriate shoreline development to generate income for the Special Fund, and authorized the Department to designate suitable coastal lands for the purpose of such income generation. Act 84 is codified as sections 171-151 through 171-156, HRS, which remain operative and unamended through the present. Through the CDUA, Land Division requested and the Board approved the deposit of Amnesty Program revenues, minus the 20% pro rata share designated for OHA, into the Beach Restoration Special Fund.

Issuance of Leases

At its meeting on August 24, 2001, under Agenda Item D-29, the Board unanimously approved the issuance of 150 leases for private residential noncommercial piers on the shoreline surrounding Kaneohe Bay pursuant to the Amnesty Program. These leases were all in the form of exclusive-use easements for a term of fifty-five years, required posting of a performance bond in the amount of \$20 per square foot of land under lease, and offered the option of payment of annual rent or a one-time payment for the total cost of the lease. Because these dispositions were issued pursuant to the Amnesty Program, they were not subject to approval of the Legislature and the Governor. It is once again notable that the Board's approval of these 150 leases was unanimous. **(Exhibit H)**

Current State Shoreline Dispositions in Kaneohe Bay

Neighboring Properties

The Board requested information on land dispositions for the two parcels that abut the subject property on either side. These two parcels, respectively identified as TMK (1) 4-4-021:033 and TMK (1) 4-4-021:036 (Neighboring Properties), have similar physical characteristics to the subject property and were awarded pier leases under the Amnesty Program. However, the land dispositions for the Neighboring Properties differ from the current easement request in certain respects, namely the fee-simple sale of filled land and seawall and the exclusivity of the use of the encroachment.

Each of the Neighboring Properties contains filled land enclosed by the same seawall that borders the filled land abutting the subject private property. It is likely that the fill and seawall on the neighboring properties were constructed by the U.S. Army Corps of Engineers in 1939 along with the fill and seawall on the subject parcel. The filled land and seawall at the Neighboring Properties were sold by the State in fee simple to the respective private property owners via direct sale without public auction in actions approved by the Board on November 21, 1986, under Agenda Item F-16 **(Exhibit I)** and July 28, 2000, under agenda item D-5 **(Exhibit J)**. The respective filled land sales were recorded in the Bureau of Conveyances as Land Office Deed (LOD) Nos. 28,447 and 27,788 and the filled land was consolidated into the Neighbor Properties. Both Neighbor Properties were awarded 55-year, exclusive pier leases in 2001 under the Amnesty Program through Land Division's Master Conservation District Use Application.

Greater Kaneohe Bay Shoreline

As of the writing of the present supplemental submittal, there are 204 current and active State shoreline dispositions in Kaneohe Bay. **(Exhibit K)** The majority of these, 135, are exclusive use pier/ dock easements, and most were granted pursuant to the Amnesty Program approved by the Board and implemented by the Legislature as discussed above. Most of the remaining dispositions are easements for shoreline encroachments including seawalls, filled land, and boat ramps that were discovered through the process of awarding pier leases under the Amnesty Program and were awarded through the standard easement process, like the request made by the present Applicant. The majority of the total Kaneohe Bay shoreline dispositions are concentrated in the southern portion of the Bay, in the vicinity of the subject property. **(Exhibits L-1 and L-2)**

Considering the extremely large number of pier/ dock easements issued under the Amnesty Program, it was impossible to conduct a thorough analysis of all lease documents in the time given. However, a review of several leases for parcels near to the subject property reveals that the lease documents appear to contain similar or identical provisions and illustrates the respective rights and obligations of the property owners as Lessees and State as Lessor. The reviewed lease documents contain provisions for breach and termination as follows. In the case of breach or failure to perform obligations by the Lessee, the State may, after notice and failure to cure, immediately enter the leased premises, terminate the lease, pursue any available remedies for breach of contract, and order removal of improvements at the Lessee's expense or take possession of improvements at the State's discretion. Under lease terms, the State may take the leased property by condemnation subject to reduction in rent in the case where only a portion of the property is condemned, and compensation to the Lessee for the proportionate value of improvements not removed by the Lessee. The State also retains the right to withdraw premises or any part thereof for specified reasons subject to proportional reduction in rent and liability for damages to improvements. However, should the State exercise its rights to condemnation or withdrawal, the premises, as State submerged lands, will become the responsibility of the State and the State, via the Board, will assume management responsibilities for the land and any improvements remaining on the land.

The obligations of the Lessees vis a vis the leased premises include: payment of consideration; liability for payment of taxes, rates, and assessments of every description assessed by authority of law; provision and payment for any utility services including sewer, gas, refuse collection, or other charges for the land; maintaining strictly clean, sanitary, and orderly conditions; prevention of waste, nuisance, strip, or unlawful, improper, or offensive use; maintenance of trees; compliance with all state, federal, and municipal laws; provision of access for inspection by the Lessor; prohibition of unauthorized improvements; ownership of all improvements and removal of all improvements at the Lessee's expense at the termination of the lease, subject to discretion of the Lessor; repair and maintenance of all improvements; restriction of use to solely private and noncommercial; indemnification and defense of the State from any claim or demand for loss, liability, or damage; assumption of the State's costs in any litigation to which the State is made party without fault on the State's part; provision of liability

insurance covering the entire leased premises and improvements as well as roadways or sidewalks on or adjacent to the premises; payment of a performance bond or one-time payment in the amount of two-times the annual lease rent in consideration of the lease, to be paid to the State as damages for breach; acceptance of lien on behalf of the State on all improvements; exclusion of hazardous materials, prevention of escape, disposal, or release of hazardous materials and liability for testing, remediation, or damages caused by hazardous materials; compliance with statutes governing historic property and human remains; indemnification and defense of the State as to any claims for harm, taking, damages, loss of land, or specific performance arising from the existence and effect of improvements on lateral erosion on shoreline land in either direction along the shore; and pollution control and corrective action in the event of contamination of the ocean, streams, or waterways.

In summary, the current land disposition program redirects the land management costs and obligations for the leased State shoreline land away from the State and to the private owners of the properties that benefit from the leases. In addition, since the project area is composed of ceded lands, the leases generate revenue for beneficiaries of the public land trust, including a legislatively mandated share of lease revenue dedicated to the Office of Hawaiian Affairs. Were the State to assume management responsibility for the leased lands, the State would by necessity assume the land management costs and liability for the parcels and improvements thereon and would deprive the Public Land Trust of a substantial, stable, and predictable amount of revenue.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and §§11-200.1-15 and -16, HAR, this project is expected to have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis action.
2. Authorize the continued applicability of the subject requests in the event of a change in the ownership of the abutting parcels described as Tax Map Key: (1) 4-4-021:034 and 035, provided that the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Authorize the issuance of a right-of-entry permit to Robert Howard Merriman and Cynthia Louise Merriman covering the subject area for encroachment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;

- B. Posting of a removal bond during the effective period of the right-of-entry permit;
 - C. Removal of the subject encroachment, if required, within the period determined by the Chairperson;
 - D. Commencement of the right-of-entry on the Board date, for a term of one year or until the issuance of the revocable permit described in recommendation 4 below, whichever is sooner; provided that the Chairperson may extend the right-of-entry for additional one-year periods for good cause shown; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the issuance to Robert Howard Merriman and Cynthia Louise Merriman of a revocable permit covering the subject area for encroachment purposes, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - B. Posting of a removal bond during the effective period of the revocable permit;
 - C. Removal of the subject encroachment, if required, within the period determined by the Chairperson;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance to Robert Howard Merriman and Cynthia Louise Merriman of a 25-year term, non-exclusive easement covering the subject area for encroachment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the

real property described as Tax Map Key: (1) 4-4-021;034 and 035, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the State, as Grantor, of such transaction in writing, and shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;

- C. Posting of notice at least once statewide and once in the City & County of Honolulu in accordance with section 171-16(d), HRS;
- D. Review and approval by the Department of the Attorney General;
- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
- F. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.

Respectfully Submitted,



Rebecca L. Anderson
Shoreline Specialist

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson

KEM

ET

AMENDED

DEFERRED

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

January 26, 2024

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

PSF No.:23OD-086

OAHU

Grant of Term, Non-Exclusive Easement, Immediate Right-of-Entry and Revocable Permit to Robert Howard Merriman and Cynthia Louise Merriman for Seawall and Filled Land Located at Kaneohe, Koolaupoko, Oahu, Identified as Tax Map Key: (1) 4-4-021: seaward of 034 & 035.

APPLICANT:

Robert Howard Merriman and Cynthia Louise Merriman, husband and wife, as tenants by the entirety of the abutting residential parcel.

LEGAL REFERENCE:

Sections 171-13, 171-16(d), 171-17, 171-53(b), and 171-55, Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Portion of filled land located in Kaneohe, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-4-021: seaward of 034 and 035, as shown on Exhibits A-1 and A-2.

AREA:

3,400 square feet, more or less, to be reviewed and approved by the Department of Accounting and General Services, Survey Division.

in part as amended, and deferred in part

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

January 26, 2024, KH

EXHIBIT A

ZONING:

State Land Use District: Conservation
City & County of Honolulu LUO: Residential A [for the abutting private property]

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Unencumbered with unauthorized easements.

TERM, NON-EXCLUSIVE EASEMENT:

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair, replace, and remove existing seawall and filled land over, under, and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market value, subject to review and approval by the Chairperson.

TERM:

Twenty-five (25) years.

The Land Division has reduced the term for which shoreline easements are granted from 55 to 25 years in response to sea level rise projections disclosed in the Hawaii Sea Level Rise Vulnerability and Adaptation Report adopted by the State Climate Change Mitigation and Adaptation Commission and pursuant to the recommendation of the Office of Conservation and Coastal Lands. Landward migration of the shoreline is currently occurring as a direct result of sea level rise. This will progressively expose immobile shoreline structures to an evolving combination of destructive effects from erosion, chronic flooding, and wave inundation. The intention of the term reduction is two-fold: (1) to reduce the potential for accidents and liabilities resulting from dysfunctional shoreline structures by more frequently reviewing and managing shoreline structures and (2) to

facilitate a general process of managed retreat from the shoreline.

MONTHLY RENTAL FOR RIGHT-OF-ENTRY AND REVOCABLE PERMIT:

Monthly rental amount \$1180.00 for right-of-entry and revocable permit has been calculated by staff and has been reviewed and approved by the Chairperson. **(Exhibit B)**

REMOVAL BOND:

Applicant shall be required to post a removal bond in an amount to be determined by Land Division in consultation with Engineering Division, subject to approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR") §§11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an Environmental Assessment pursuant to General Exemption Type 1, which applies to “[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing.” Specifically, the subject request is exempt under Part 1, Item 39, which exempts the “[c]reation or termination of easement, covenants, or other rights in structures or land.” The subject request is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the requirements of section 1-200.1-17, HAR.

DCCA VERIFICATION:

Not applicable. Applicants are individual, residential landowners and are not required to register with DCCA for this purpose.

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards at Applicants’ own cost;
2. Pay monthly rent as determined by the Department and approved by the Board in consideration of the right-of-entry and revocable permit;
3. Post a removal bond in an amount to be determined by Land Division in consultation with Engineering Division and subject to approval by the Chair;
4. Pay for an appraisal to determine one-time payment in consideration of the easement;

5. Pay for publication of public notice at least once statewide and in the City & County of Honolulu by publication pursuant to section 171-16(d), HRS; and
6. Remove all encroaching structure or items in the event that the easement is not consummated.

JUSTIFICATION FOR REVOCABLE PERMIT:

The land disposition recommended to the Board in this matter is an orderly process that uses a series of permits structured to allow for immediate use and occupancy and proceed on a direct course to a to a long-term lease, subject to conditions that benefit the State. The land disposition presented in the present submittal as one of the two options recommended to the Board is a three-stage process encompassing:

1. Issuance of a right-of-entry permit for a period of up to six months. This allows the Applicants to immediately legitimize occupancy of the public land in question, begin repair and maintenance of the encroaching seawall and filled land without undue delay and without cost to the State, and begin preparations for the Applicants' obligations under future land dispositions.¹ The right-of-entry permit includes requirements for payment of monthly rent, provision to the Department of a removal bond or equivalent securitized funds, indemnification of the State, and provision of liability insurance by the Applicants. The purpose of the removal bond is to ensure that there are funds available to remove the encroachment from State land in the event that the Legislature or Governor does not approve the easement authorized by the Board.
2. Issuance of a revocable permit for no longer than one year. This allows Land Division time to complete the administrative processes that underlie the grant of easement including approval of the easement contract by the Department of the Attorney General, completion of the appraisal (at the Applicants' cost) to determine the lump-sum payment for value of the easement, and statewide publication of notice of the land disposition while the Applicants maintain the same obligations for rent payments, removal costs, indemnification, and provision of liability insurance.
3. Issuance of an easement. This final step cannot be executed without prior completion of the prerequisites stated above. Therefore, the interim disposition through revocable permit is necessary.

The interim revocable permit step is limited in its duration and essential in its utility. While the revocable permit is in effect, the Applicant assumes the costs of maintaining the subject

¹ The Applicants' obligations under a revocable permit and easement include obtaining a survey to confirm the size of the disposition area, obtaining a cost estimate for removing the shoreline protection structure which determines the amount of the removal bond, and procurement through Land Division of an appraisal to determine the lump-sum value of the easement.

parcel of State land and the liability for any damages caused on or by the Applicants' use of the land during the often-lengthy process of consummating the easement.

REMARKS:

The Applicants are owners of the residential properties located at TMK: (1) 4-4-021:034 and 035, which abut a portion of filled land located within the State Shoreline Conservation District. The filled land has an approximate area of 3,400 square feet; contains landscaping, trees, and personal property; and is enclosed on two sides by a seawall that connects to fencing which surrounds the back side of the residential property along the record boundaries of the two parcels.

The purpose of the present submittal is to resolve this encroachment on State land through issuance of an easement preceded by a right-of-entry permit and revocable permit.

The Applicants submitted a Shoreline Encroachment Information Sheet and supporting documentation to the Office of Conservation and Coastal Lands (OCCL). In response, OCCL determined that the encroachments were likely constructed in 1939 pursuant to Department of Army Permit No. 800.6-152 and are therefore a "legal fill." Since the encroachment was constructed pursuant to a valid permit prior to the enactment of Conservation District rules, OCCL determined that the encroachment is non-conforming. **(Exhibit C)**

After the OCCL determination, the Applicants contacted Land Division seeking an easement for the filled land and seawall.

The filled land at issue is, for practical purposes, part of the back yard of the subject residential property. It is approximately the same grade and height and is covered with the same grass lawn and landscaping as the abutting residential parcel. **(Exhibit D)** The filled land is bounded on the makai (west) side and the north side with the concrete masonry seawall encroachment. The seawall connects on the north and south sides to fences which fully enclose the residential property and the filled land within a gated yard. There is no practical means of public access available to the filled land. **(Exhibit E)**

There is no beach in the area where the filled land is located. The encroaching seawall constitutes the shoreline boundary of the filled land and OCCL has found that the tidal area is a mixture of reef rubble and dredged material. Public recreation such as fishing, diving, surfing, and boating takes place offshore of the parcel. There is a public shoreline access right of way located approximately 300 feet north of the subject property at the end of Malae Place, a nearby neighborhood street.

The subject property is located in a residential area and is bounded on both sides by other residential properties that also include filled land and seawalls, which were likely constructed under the same 1939 Department of Army permit. Removal of the subject encroachments would not increase access to the shoreline and may have a negative effect on the surrounding residential properties.

Comments on this proposed land disposition were requested from the following agencies: DLNR Division of Aquatic Resources, DLNR State Historic Preservation Division, DLNR Office of Conservation and Coastal Lands, City & County of Honolulu Department of Planning and Permitting, and the Office of Hawaiian Affairs. The City & County of Honolulu Department of Planning and Permitting stated that it has no objections to this proposed disposition. OCCL responded that it has no objections and supports this easement.

Pursuant to the 1939 Department of Army permit and correspondence with OCCL, the filled land and seawall were permitted at the time they were originally constructed. Therefore, staff does not recommend a fine for unauthorized encroachment.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and §§11-200.1-15 and -16, HAR, this project is expected to have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis action.
2. Authorize the continued applicability of the subject requests in the event of a change in the ownership of the abutting parcels described as Tax Map Key: (1) 4-4-021:034 and 035, provided that the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Authorize the issuance of a right-of-entry permit to Robert Howard Merriman and Cynthia Louise Merriman covering the subject area for encroachment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Posting of a removal bond during the effective period of the right-of-entry permit;
 - C. Removal of the subject encroachment, if required, within the period determined by the Chairperson;
 - D. Commencement of the right-of-entry on the Board date, for a term of one year or until the issuance of the revocable permit described in

recommendation 4 below, whichever is sooner; provided that the Chairperson may extend the right-of-entry for additional one-year periods for good cause shown; and

- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the issuance to Robert Howard Merriman and Cynthia Louise Merriman of a revocable permit covering the subject area for encroachment purposes, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - B. Posting of a removal bond during the effective period of the revocable permit;
 - C. Removal of the subject encroachment, if required, within the period determined by the Chairperson;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance to Robert Howard Merriman and Cynthia Louise Merriman of a 25-year term, non-exclusive easement covering the subject area for encroachment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 4-4-021;034 and 035, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the State, as Grantor, of such transaction in writing, and shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;

- C. Posting of notice at least once statewide and once in the City & County of Honolulu in accordance with section 171-16(d), HRS;
- D. Review and approval by the Department of the Attorney General;
- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
- F. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.

Respectfully Submitted,



Rebecca L. Anderson
Shoreline Specialist

APPROVED FOR SUBMITTAL:

KEM



Dawn S. N. Chang, Chairperson

RT

Land Board Meeting: January 26, 2024; D-4 Approved as amended.

Approved in part, as amended, and deferred in part. The Board approved the issuance of an immediate management right-of-entry permit to the applicant for up to 60 days but deferred action on the request for the revocable permit and easement. The Board directed staff to return to the Board within 60 days with a report on the nature of the easements on the properties abutting the applicant's property, including the terms (duration) therefore, as well as to provide information as to the availability of a removable bond.

TMK (1) 4-4-021:034 and 035



EXHIBIT A-1

TMK (1) 4-4-021:034 and 035



EXHIBIT A-2



To: Dawn N. S. Chang, Chairperson

Through: Russell Y. Tsuji, Administrator

From: Land Division, Appraisal Section


Date: November 27, 2023

Subject: Robert Howard Merriman and Cynthia Louise Merriman Shoreline Revocable Permit

A shoreline revocable permit valuation was prepared for the property below and is summarized as follows:

Reference: PSF No. 23OD-086
 Applicant: Robert Howard Merriman and Cynthia Louise Merriman
 TMK: (1) 4-4-021:034
 Area: 3,400 square feet, more or less
 Effective Date: Upon Board Approval
 Recommended Value: **\$1,180 per month**

The undersigned finds that the valuation was completed in accordance with the assignment.



 Dawn N. S. Chang, Chairperson

Nov 27, 2023

 Date

EXHIBIT B

TMK	440210340000
Assessed Land Value (\$)	2213900
Land Area (sf)	10631
Unit Rate Land Value (\$/sf)	208.2494591
50% Off For Submerged Lands	104.1247296
Encroachment Area (sf)	3400
Encroachment Land Value (\$)	354024.0805
Annual Rent @ 4 to 8%	0.04
Recommended Annual Value	14160.96322
Monthly rent	1180.080268

JOSH GREEN, M.D.
GOVERNOR | KE KA'ĀINA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KA'ĀINA



KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
OFFICE OF CONSERVATION AND COASTAL LANDS
P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
LAURA H.E. KAUKIA
FIRST DEPUTY
M. KALEO MAHUEL
DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:CM

Encroachment: OA 23-08

Robert and Cynthia Merriman
[REDACTED]
Kaneohe, HI 96744

May 4, 2023

SUBJECT: Determination of Shoreline Encroachment for Seawall and Filled Lands
Located at [REDACTED] Kaneohe, Oahu; Tax Map Key (TMK):
(1) 4-4-021:seaward of 034

Dear Mr. and Mrs. Merriman,

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL), has reviewed the Shoreline Encroachment Information Sheet package seeking to resolve an encroachment on State Lands seaward of the subject property. Your package included the information sheet, a shoreline survey map identifying the encroachment, an aerial photo dated February 8, 1968, and photos of your property. The survey map identified approximately 2,500 square feet of encroaching area consisting of a seawall and filled land built on State submerged lands.

Based on the information provided and review of a January 20, 2004 memorandum from OCCL to Land Division having no objections to the subject encroachments and supporting a disposition, it appears that although the seawall and filled land may have been constructed makai of the high-water line, the encroachments appear to be a "legal fill" that may have been done in 1939 under a Department of Army Permit no. 800.6-152 (see **Exhibit 1**) prior to the Conservation District rules being promulgated. The OCCL regulates land use within the Conservation District pursuant to the Hawaii Administrative Rules, Chapter 13-5. The OCCL has determined that since the seawall and filled land areas were constructed prior to the Conservation District rules, the encroachments are considered non-conforming.

Since the encroachments are determined to be non-conforming, it does not require a Conservation District Use Permit (CDUP) from our office, but please be advised that any future proposed work and/or repair to the structure may require a review and possibly authorization from the Department or the Board of Land and Natural Resources. For more information regarding the rules and regulations of the Conservation District, please

EXHIBIT C

Robert and Cynthia Merriman
Seawall and filled lands

Encroachment OA 23-08

review the Hawaii Administrative Rules, Chapter 13-5, on our website at <https://dlmr.hawaii.gov/occl/files/2013/08/HAR-13-5-2021.pdf>.

Although a CDUP is not required for the seawall and filled land area, a land disposition may be needed to resolve the encroachments. Please contact the Land Division to assess whether a disposition may be needed.

Should you have any questions regarding this correspondence, please contact Cal Miyahara of our office at (808) 798-6147 or calen.miyahara@hawaii.gov.

Sincerely,

S Michael Cain


Michael Cain, Administrator
Office of Conservation and Coastal Lands

CC: ODLO
City-Department of Planning and Permitting

Robert and Cynthia Merriman
Seawall and filled lands

Encroachment OA 23-08


LINDA LINGLE
GOVERNOR OF HAWAII



PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON
DEPUTY DIRECTOR - LAND

ERNEST Y.W. LAU
DEPUTY DIRECTOR - WATER



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES IMPROVEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:PB/MM

JAN 20 2004

File Number Encroachment: OA-04-18

MEMORANDUM:

TO: Robert M. Ing, Land Agent
Land Division

FROM: Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

**Subject: Shoreline Encroachment (Seawall/Fill) at [REDACTED]
Kaneohe, Oahu, Hawaii, TMK: (1) 4-4-21:34&35**

Office of Conservation and Coastal Lands (OCCL) staff has reviewed the submitted documentation for this case. The encroachment in question is a seawall and fill material located Makai of the homeowner's property line. The structure is Makai of the metes and bounds of the parcel in question and thus constitutes an encroachment onto State of Hawaii land. In the questionnaire, the area of the encroachment is identified as 143 square feet. However, based on the submitted survey map, total area of the encroachment is approximately 2,593 square feet.

OCCL staff was unable to locate any construction permit or other land use authorization permits at the State or at the City and County of Honolulu for the seawall. However, DLNR does not consider the encroachment a Conservation District violation and will not be asking for an after-the-fact Conservation District Use Application to cure this matter.

In June 2000, we issued a letter to the then Oahu District Land Agent (Charlene Unoki) regarding a shoreline encroachment on the abutting parcel #36. In that case, the State was able to sell the land to the abutting property owner because the land was considered to be "legal fill" that was apparently done in 1939 under a Department of the Army Permit # 800.6-152, issued to Kaneohe Ranch. It is likely that this land was part of that historic fill operation, although the abutting landowner has submitted no documentation to that effect.

Exhibit 1

Robert and Cynthia Merriman
Seawall and filled lands

Encroachment OA 23-08

The Board of Land and Natural Resource (BLNR) recently established a policy to allow the disposition of shoreline encroachments by either removal or issuance of an easement. In carrying-out this policy, the Department established criteria to guide decision-making over specific cases. The criteria are as follows:

1. Protect/preserve/enhance public shoreline access;
2. Protect/preserve/enhance public beach areas;
3. Protect adjacent properties;
4. Protect property and important facilities/structures from erosion damages;
and
5. Apply "no tolerance" policy for recent or new unauthorized shoreline structures

In addition, the Department developed a "Shoreline Encroachment Information Sheet" that is intended to provide the State with additional information to guide the Department's decisions on the disposition of shoreline encroachments. This form has been completed and submitted.

Surrounding Land Uses:

The surrounding uses are residential.

Beach Resources:

OCCL determined that the tidal area is a mixture of reef rubble and dredged material. There are no sandy beaches in the area.

Public Access:

There is an easement on the north side of the property, which abuts the Stoutemeyer property.

Effect of Removing the Encroachment on:

Beach Resources: The removal of the encroachment would have no benefit to the public. Public recreation such as fishing, diving, surfing and boating takes place offshore of the parcel.

Public Access: OCCL staff has determined that public access would not be enhanced by removal of the encroachments provided that public access is not prohibited on the north side of the property along the easement.

Affect on Adjacent Properties: Removal of the encroachment would affect the two abutting landowners as the seawall in question also fronts their parcels.

Upon review and careful consideration of the information gathered in this case, staff has determined that the encroachment would have no adverse impacts on natural resources, including beach resources. Therefore, the OCCL has no objections to the encroachment remaining in place. Pursuant to Chapter 171, the

Robert and Cynthia Merriman
Seawall and filled lands

Encroachment OA 23-08

landowner is required to obtain a land disposition for the use of public lands, and may be subject to a \$500 fine for the encroachment. If the landowner does not pursue a disposition, they will be required to remove the encroachment.

We hope this letter helps resolve some of the outstanding issues. Please feel free to contact me at 587-0381 should you have any questions on this matter.

Aloha,

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal
Lands

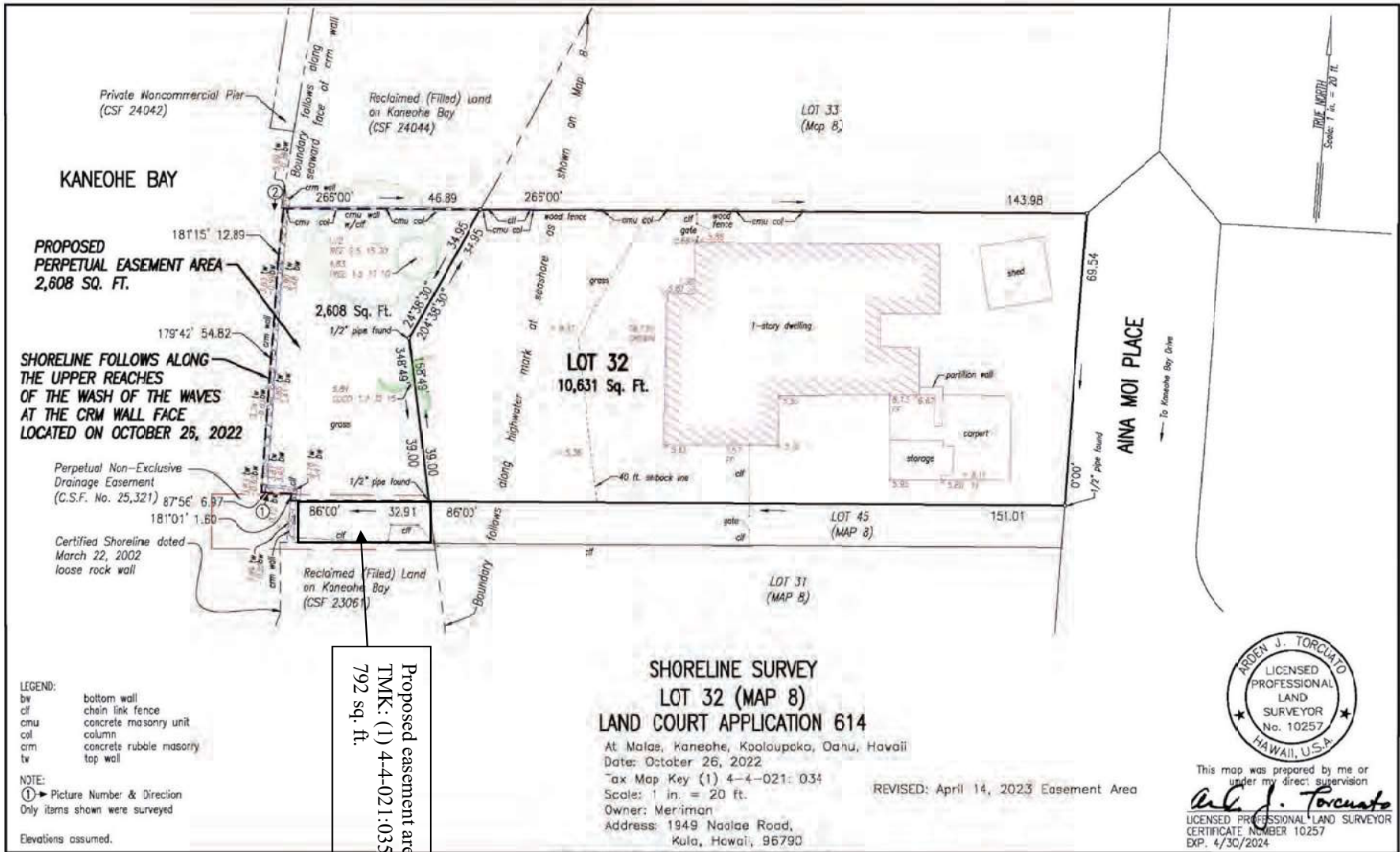
Cc: Oahu Board Member
Chairperson's Office

#1 10/26/2022 1:38 p.m.



#2 10/26/2022 1:41 p.m.





44-4 Aina Moi Place, Kaneohe
F.B. 12139

LEAPS & BOUNDARIES, INC.
2016 WATERHOUSE ST., STE. 101 PH. (808) 484-5701
HONOLULU, HI 96819 EMAIL: SURVEYS@LEAPSANDBOUNDARIES.COM

11" x 17"

EXHIBIT E

JAA

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

May 15, 1998

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

REGARDING: Adoption of a Strategic Action Plan to Bring
Piers in Kaneohe Bay into Conformance with
State Land Use Laws

APPLICANT: Department of Land and Natural Resources
Land Division
1151 Punchbowl Street, Room 220
Honolulu, Hawaii 96813

BACKGROUND:

Studies indicate that there are close to 200 shoreline structures including piers, docks and/or platforms located on submerged land in Kaneohe Bay on the island of Oahu (Exhibit 1). The majority of these structures were built without State, County or Federal permits and are considered illegal.

On August 22, 1980, the Department of Land and Natural Resources published, "A Report on Regulation Compliance of Land Use in the State of Hawaii Conservation District: A Study of Piers in Kaneohe Bay".

The purpose of this report was to resolve citizen complaints so that all structures (piers) in Kaneohe Bay would be in compliance with State permit regulations.

The study area for this report extended from Kealohi Point to Nuupia Pond and included all pier structures within this area (Exhibit 2). A boat was used to photograph piers from the water and photos were keyed to Tax Map Keys. The identification of owners was obtained by response to letters that were sent to those individuals whose properties were adjacent to pier structures and who did not have a Conservation District Use Permti (CDUP).

The report identified nine (9) categories of piers (or cases) in Kaneohe Bay (Exhibit 3). The information was confirmed by

evaluating permit records and from responses to a phone survey that was completed when the landowner called the Department after receiving the letter.

At this point, the effort to address the illegal pier problem in Kaneohe Bay ended. Enforcement of the violations was not pursued nor were permits (CDUA or Revocable Permit) issued.

The equitable use of public lands in the Kaneohe Bay area, the collection of permit and rental fees, and the impact of piers on conservation resources remain the primary issues leading to the Administration's decision to take action.

The problem of illegal piers in Kaneohe Bay surfaced as an issue once again during the 1998 Legislative Session with Senate Resolution No. 8. The Resolution requests the DLNR to delay the increase in rent for private piers and buoys in Kaneohe Bay until an inventory is completed (Exhibit 4). The reason for the delay is the question of fairness with respect to those individuals in compliance and paying monthly fees and those who do not have permits and therefore are not paying monthly fees.

PRESENT PLAN:

The DLNR will initiate the process to bring piers in Kaneohe Bay into conformance with State land use laws.

For a current and accurate count on existing piers in Kaneohe Bay, the City and County of Honolulu, Department of Land Utilization's (DLU) photographic inventory of piers, developed in 1992, for Kaneohe Bay, was reviewed. The area from Nuupia Pond at the Kaneohe Marine Corps Base up to the Waikane area was inventoried (Exhibits 5 & 6).

The methodology used in the 1980 report was applied in the current inventory to match a pier or other structure to a property Tax Map Key and then a property owner (Exhibit 7).

The strategic action plan's first objective is the identification of all structures that do not have a CDUP and/or Revocable Permit and or documentation that the structure is nonconforming. A pier is considered nonconforming if the abutting land owner can prove that it was constructed prior to October 1, 1964, the effective date of the Conservation District.

A form letter and survey will be sent to property owners whose properties abut structures for which there are no permits on record with the Department (Exhibits 8 & 9). The survey asks for information regarding permits for their respective piers and for site plans with structural dimensions.

All piers built after October 1, 1964 which cannot be proven to be nonconforming uses are considered unauthorized. There may also be nonconforming piers for which the abutting property owner is not paying rent to the State.

A one time opportunity to participate in an "Amnesty Program" will be offered to those owners of piers who choose to participate. The Amnesty Program's primary objective is to resolve the illegal pier problem in Kaneohe Bay by offering all owners of illegal piers with an alternative process for obtaining compliance with State land use laws. "Amnesty", according to Webster's Dictionary is "the act of an authority (as a government) by which general pardon of an offense is granted often before trial or conviction to a large group of individuals".

For this project, the Department is proposing a modified version of amnesty. Through the Department's Hearing Officer/Administrative Penalty System (HOAPS), property owners with unpermitted piers will be offered a one time opportunity to resolve the violation of having an unauthorized structure on State owned conservation land.

Upon payment of a nominal fee for the violation and consent to a land disposition with the Department for the use of State land, these individuals will be allowed to keep and maintain the piers. Information on the Amnesty Program will be provided via the form letter as well as a press release from the Department.

Hearing Officer/Administrative Penalty System (HOAPS)

Staff from the Land Division will work with the Division of Conservation and Resources Enforcement (DOCARE) to develop a standardized form to be distributed to property owners with unauthorized piers. The form will explain the nature of the violation (e.g., violation of Chapters 183C and 171, HRS) and will assess an administrative fine to include staff's billable hours for the program.

As an incentive for owners of piers to participate in the Amnesty Program, no administrative penalty will be imposed. The focus of the program is to bring unauthorized piers into conformance with the laws, while generating revenue and establishing equity in the use of public lands within the project area.

Master Conservation District Use Permit (CDUP) Application

A Master application for a CDUP will be processed by the Planning Branch of the Land Division, for the purpose of compliance with Chapter 183C, HRS. Concurrently, Board approval to issue Revocable Permits (RPs) to cooperating pier owners will be sought. All piers, including nonconforming piers will be covered in the Master CDUP.

The Department will hold a public hearing to solicit testimony on the program. Other agencies of the State, County and Federal governments will be asked to provide input and to make recommendations. Consultation with the Office of Environmental Quality Control regarding the need to prepare an Environmental Assessment (EA) will be obtained. A staff report for final action by the Board will be prepared for this project.

If pier owners cooperate and complete the HOAPS process, DLNR will not seek the removal of piers. Once the Master CDUP is issued by the Board, the Oahu District Land Office will begin the process of issuing RPs to the pier owners. It is likely that the Oahu District Land Office will prepare one Board submittal for the disposition of public lands in the project area for all of the structures. Individual RPs will then be issued to participants of the Department's Amnesty Program.

Non-participants

It is anticipated that there will be pier owners who choose not to participate in the Amnesty Program. These individuals will be placed as a group into a separate category and the violations processed accordingly.

Removal of the illegal structures and the imposition of fines in excess of those imposed under the Amnesty Program may be enforced for non-participants. A property owner may claim that they did not construct the pier, or have knowledge of permitting requirements at the time the property was purchased. This issue may force the Department into a position where it will be required to remove the structures at considerable cost and time to the State.

PROJECT METHODOLOGY:

✓ A. Data Collection (Completed):

1. Identification of project boundaries from the Kaneohe side of Kaneohe Marine Corps Air Base to Waikane Valley.
2. Piers were defined as any structure protruding into the Conservation District.
3. Identification of piers by Tax Map Key cross referenced to property owners and address through the Real Property Tax Index.
4. Review DLNR files to see if pier is permitted - i.e., has a CDUP and/or RP.
5. Assignment of a case number.

✓ B. Survey and Data Analysis (two months):

1. Letters to owners asking for participation in inventory project, and if applicable, in the Amnesty Program.

- ✓ 2. Request property owner to complete survey to confirm categorization of piers and to submit legal documents, permits and site plans for the pier(s), with structural dimensions.
- ✓ 3. Determination if pier is legal, nonconforming, or unauthorized as follows:
 - a. A legal pier has a CDUP and RP.
 - b. A nonconforming pier has documentation proving that it was constructed prior to October 1, 1964.
 - c. A nonconforming pier without a RP.
 - d. Unauthorized pier built after October 1, 1964 without CDUP and RP or having one permit but not the other.
- C. ✓ Resolution of Unauthorized Piers through HOAPS and a Master application for a CDUP (four months):
 1. Process unauthorized piers through HOAPS and Amnesty Program.
 2. Process Master application for CDUP of unauthorized and nonconforming piers.
 3. For non-participants, process as violations of Chapter 183C and/or 171, HRS with fines imposed and orders for removal of illegal structures (State may have to remove piers if adjacent property owners do not participate in program).
- D. ✓ Process and Issue Revocable Permits by Oahu District Land Office (one month):
 1. Amnesty Program participants who have paid fines will be included in one Board submittal via the Master CDUP listing all of the piers and RPs to be issued.
 2. Staff appraiser to prepare the appraisal reports for all piers involved in the Amnesty Program.
 3. Upon approval of Master CDUP, each pier owner must obtain an RP from Oahu District Land Office.

DISCUSSION:

The inventory of existing piers in Kaneohe Bay has been compiled by reviewing the photographs available at DLU. All structures which can be identified as piers are linked to a Tax Map Key. The Tax Map Keys were cross referenced with the Realty Directory, 1997 edition, for the names and addresses of property owners, and CDUP and RP records checked.

Property owners will be contacted by letter to ascertain whether the pier is legal, illegal or nonconforming. This process is expected to take two months after the letters and questionnaires are sent and the Amnesty Program publicized. Staff will also take

this time to characterize and categorize the piers with respect to their legal status.

Processing of the violations through the HOAPS program and for the Master application for a CDUP, including the RPs, will begin for Amnesty Program participants. Due to processing requirements on the CDUP, it is anticipated that four months will be required to complete these portions of the action plan.

The final step will be the issuance of individual RPs by the Oahu District Land Office which is expected to take about thirty (30) days.

For non-participants, the State will begin the removal of piers from State land pursuant to a demolition permit from the Chairperson. Implementation of this step is dependent on the availability of staff resources and funds to pay demolition crews.

Adoption of the strategic action plan will establish a logical and workable process to guide the State's efforts in addressing the illegal pier problem in Kaneohe Bay and provide an equitable solution for those individuals whose piers are on public lands. Other issues with respect to the social, economic and environmental impact of the existing piers in Kaneohe Bay will be discussed in more detail within the context of the Master CDUP.

Staff, therefore, recommends the following:

RECOMMENDATION:

That the Board of Land and Natural Resources (Board) affirm the strategic action plan prepared by the Land Division to implement the process for resolving the problem of illegal piers in Kaneohe Bay.

*Authority to permit or the same
but to best serve intent of State*

Respectfully Submitted,

Lauren Tanaka Samuel J. Lemmo
LAUREN TANAKA and SAMUEL J. LEMMO
Staff Planners *SL*

Attachment(s)

Approved for Submittal

for *Michael D. Wilson*
MICHAEL D. WILSON, CHAIRPERSON
Board of Land and Natural Resources

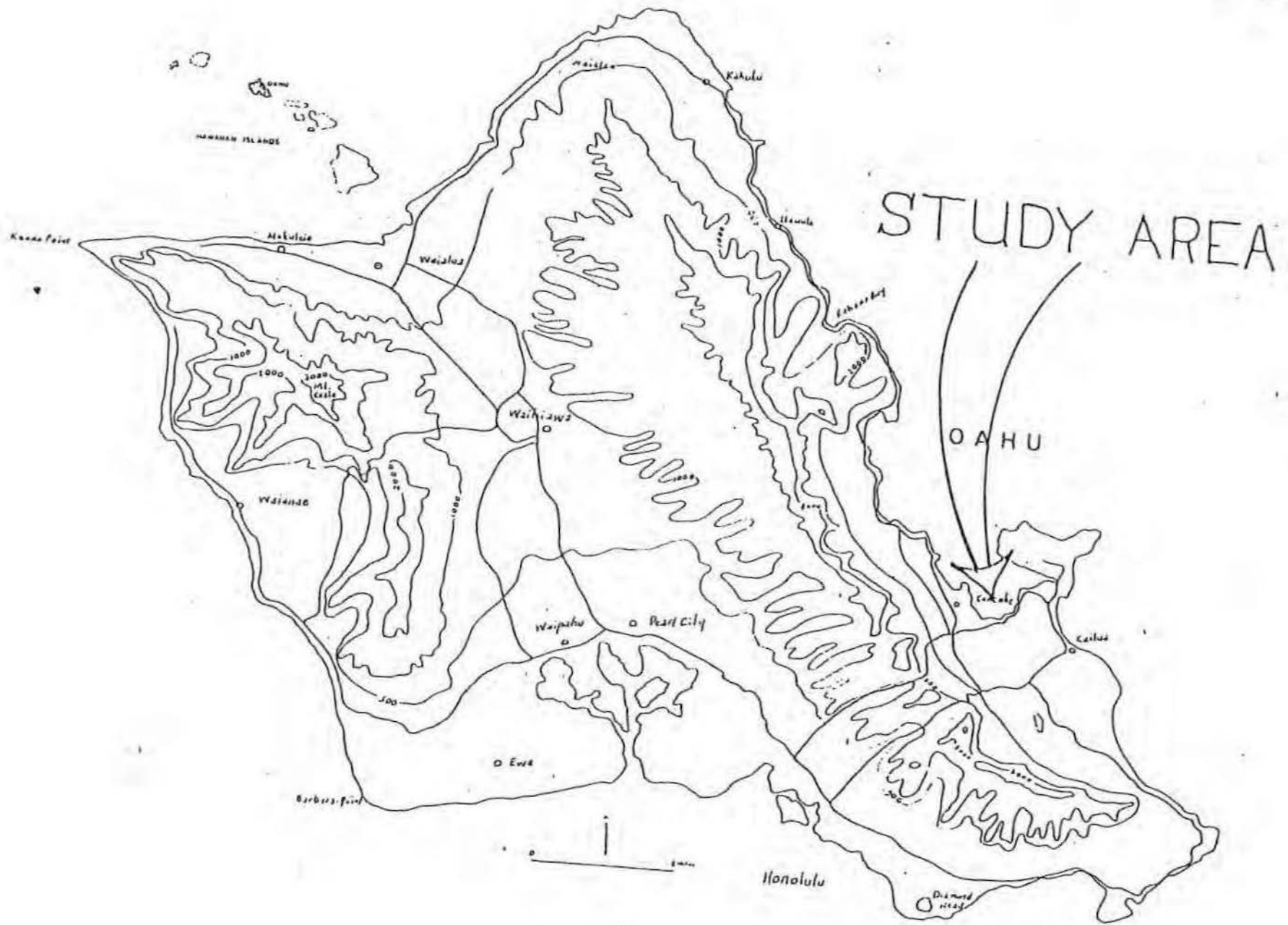


EXHIBIT 1

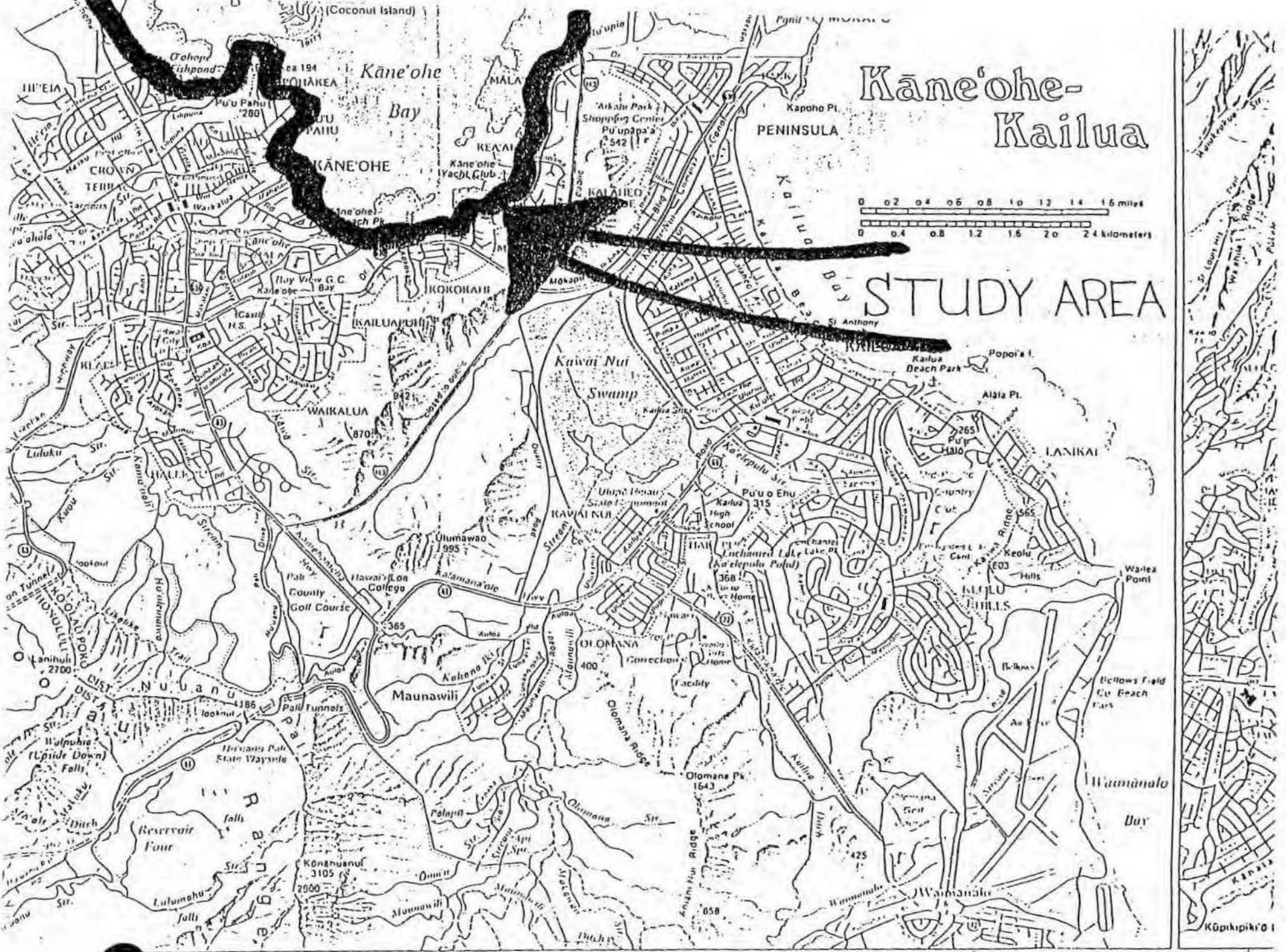


EXHIBIT 2

**Kaneohe Bay Pier Project
State of Hawaii
Department of Land & Natural Resources
Planning Branch, Land Division**

The 1980 Report, "A Study of Piers in Kaneohe Bay" established the following nine (9) categories of cases:

- (1) Built on or after September 18, 1964; possesses approved Conservation District Use Permit (CDUP) and current Revocable Permit.
- (2) Built before September 18, 1964; possesses a current Revocable Permit.
- (3) Built on or after September 18, 1964; possesses an approved CDUP, but no current Revocable Permit.
- (4) Built before September 18, 1964; possesses DOT and/or Army Corps Permit(s). No Revocable Permit.
- (5) Built on or after September 18, 1964; possesses DOT and/or Army Corps Permit(s). No approved CDUP or current Revocable Permit.
- (6) No permits found; has not responded to letter of inquiry.
- (7) No permits found; has responded to letter of inquiry.
- (8) Pier built on land under questionable jurisdiction and/or ownership.
- (9) Pier built adjacent to State land.

EXHIBIT 3

MAR 04 1998

SENATE RESOLUTION

REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO
DELAY THE INCREASE IN RENT FOR PRIVATE PIERS AND BUOYS
UNTIL THE INVENTORY IS COMPLETE.

1 WHEREAS, the Department of Land and Natural Resources
2 through the Land Division is responsible for monitoring private
3 piers and buoys on state land and setting rental fees in
4 Kaneohe Bay; and
5

6 WHEREAS, the Land Division requested objective appraisers
7 to review the entire pier situation and come up with fair value
8 for monthly fees on these private piers; and
9

10 WHEREAS, the Land Division is in the process of taking a
11 complete inventory of the private piers and buoys on state land
12 in Kaneohe Bay, the inventory is not complete and the Division
13 admits that although there are only eighteen permits, aerial
14 photographs indicate at least five times as many piers and
15 buoys actually exist; and
16

17 WHEREAS, the fact that many of these piers were built
18 before 1984, before permits were required, does not excuse
19 those "grandfathered" piers from paying monthly fees; and
20

21 WHEREAS, it is unfair for those who are in compliance with
22 the law to have to pay an increase in monthly fees while there
23 are still many persons who are also obligated to the State but
24 have not been identified; now, therefore,
25

26 BE IT RESOLVED by the Senate of the Nineteenth Legislature
27 of the State of Hawaii, Regular Session of 1998, that the
28 Department of Land and Natural Resources is requested to delay
29 the increase of monthly rental fees on private piers and buoys
30 on state land in Kaneohe Bay until the Land Division has
31 completed its inventory of those piers and buoys and can
32 identify all those obligated to the State for monthly rental
33 fees, and not simply those currently holding permits; and
34

35 BE IT FURTHER RESOLVED that a certified copy of this
36 Resolution be transmitted to the Chairperson of the Board of
37 Land and Natural Resources.
38
39
40
41

OFFERED BY: 

EXHIBIT 4

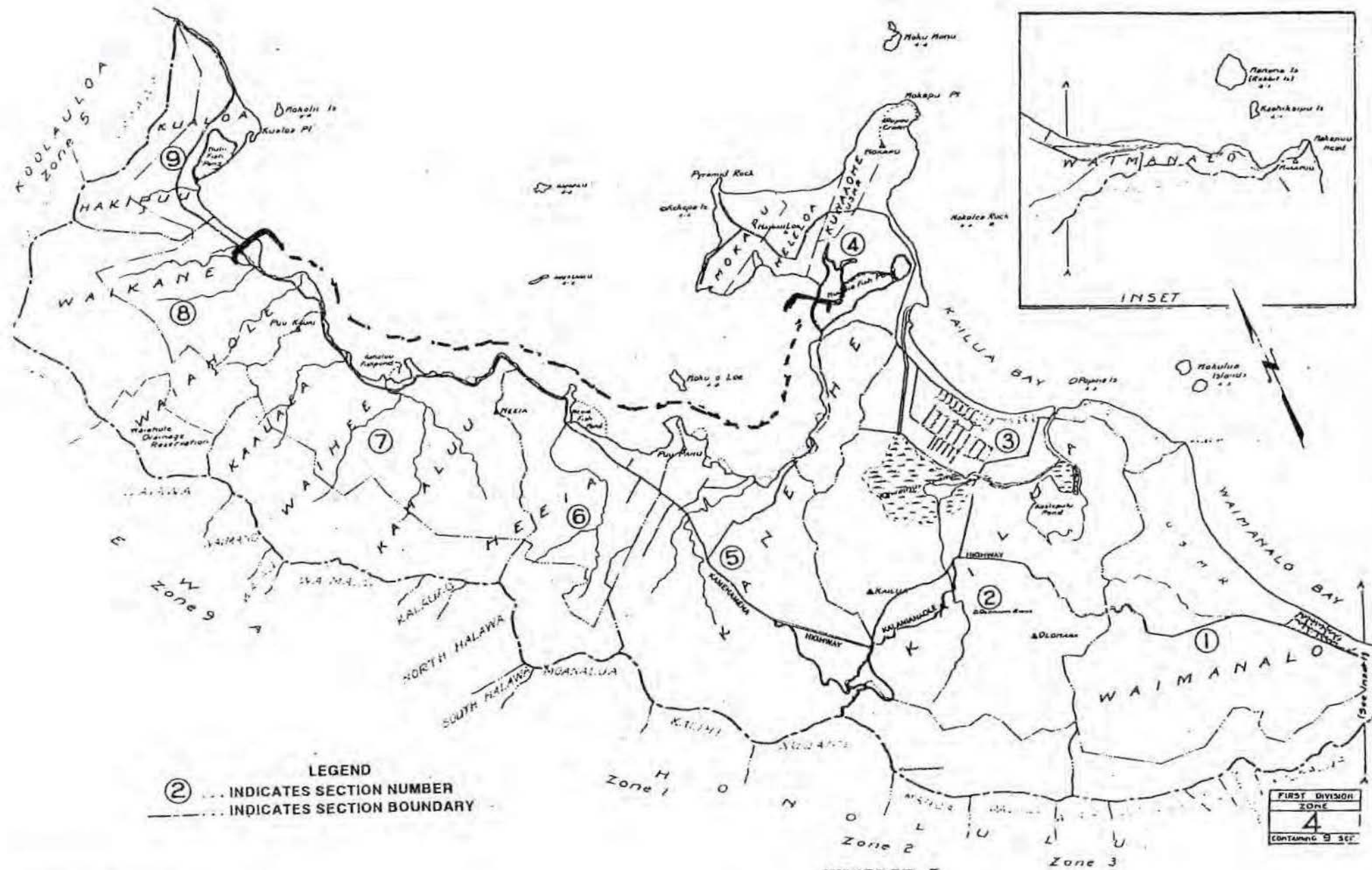


EXHIBIT 5

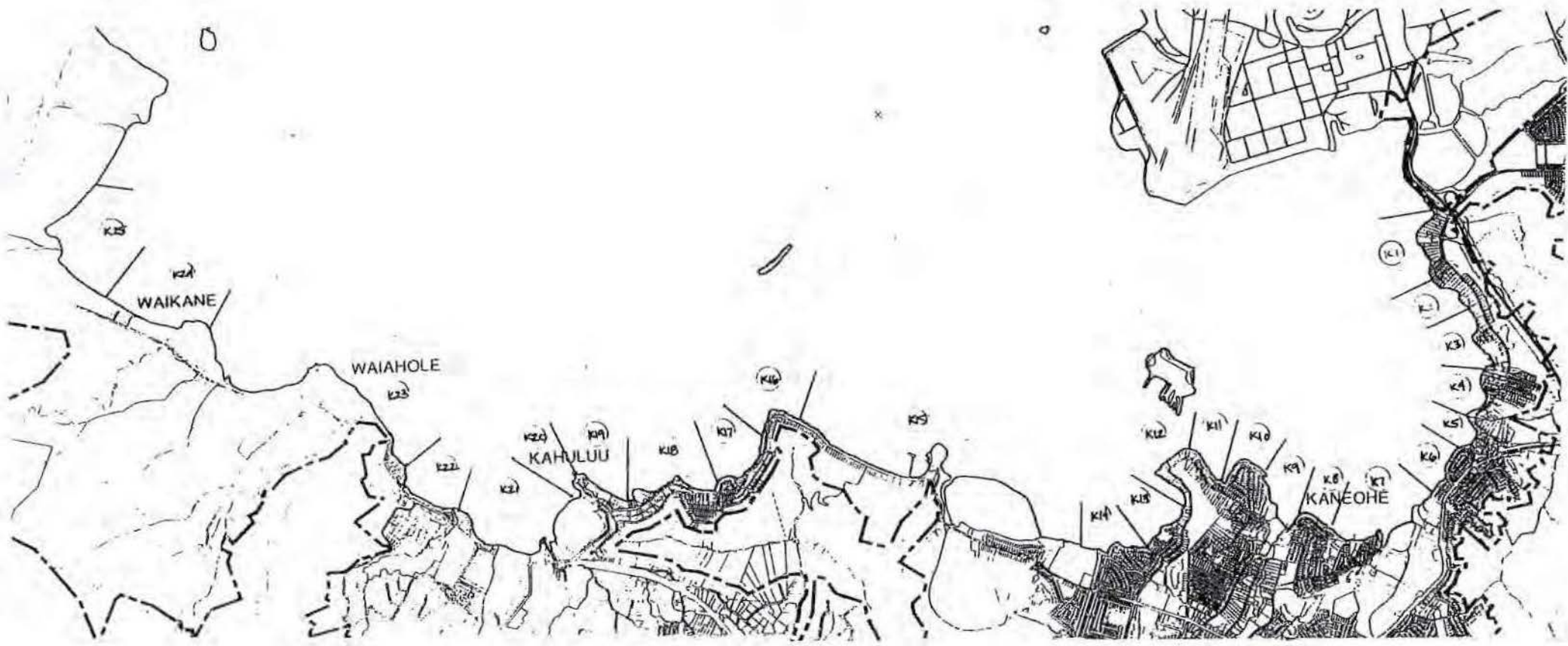


EXHIBIT 6

4-4-07:03	K-1	Small pier	Wallace T. Yamamoto Trust	44-271 Kaneohe Bay Dr. Kaneohe, HI 96744	
4-4-07:07	K-1	Medium pier	Mr. and Mrs. Gregory A. Lee	2524 Waimao Rd. Honolulu, HI 96816	
4-4-07:17	K-1	Small pier	Mr. and Mrs. Roger W. Buecher	44-311/A Kaneohe Bay Dr. Kaneohe, HI 96744	
4-4-07:22	K-1	Low lying pier	Duarte Norberto	970 N Kalaheo Ave. A/100 Kailua, HI 96734	
4-4-07:23	K-1	Small pier	Robert Paul Freitas	44-329 Kaneohe Bay Dr. Kaneohe, HI 96744	
4-4-07:24	K-1	Low lying dock	Mr. and Mrs. Robert H. Armstrong	80 Sand Island Rd 209 Honolulu, HI 96819	
4-4-21:12	K-1	Low lying dock; deck	Charles F. Greenwald	JL Cikini IV/20 AB Menteng Jakarta 10330 000 Indonesia	
4-4-21:11	K-1	Low lying dock	IJ Management Corp.	1314 S. King St. Honolulu, HI 96814	
4-4-21:33	K-2	Low lying dock	Sakae Family Trust	44-008 Aina Moi Pl. Kaneohe, HI 96744	
4-4-21:36	K-2	Small dock	Mr. and Mrs. Thomas B. Sellers	44-001 Aina Moi Pl. Kaneohe, HI 96744	R.P. S-6706
4-4-21:53	K-2	Small pier	Mr. and Mrs. Richard Ethington	44-204 Mahe Pl. Kaneohe, HI 96744	
4-4-06:12	K-3	Pier	Colene S. Wong Trust	44-443 Kaneohe Bay Dr. Kaneohe, HI 96744	
4-4-22:06	K-3	Wooden staircase (?)	Leonard A. Jaffe	44-014 Aunioapa Pl. Kaneohe, HI 96744	
4-4-22:07	K-3	Short pier	Barbara C. Wong	44-010 Aunioapa Pl. Kaneohe, HI 96744	
4-4-22:09	K-3	Pier against wall	Gilbert D Kobatake Trust	44-004 Aunioapa Pl. Kaneohe, HI 96744	
4-4-22:10	K-3	Small dock	Mr. and Mrs. John C. Walker, Jr.	44-002 Aunioapa Pl. Kaneohe, HI 96744	
4-4-37:04,03	K-3	Small dock; low lying dock	Mr. and Mrs. Paul M. T. Yim	44-535A Kaneohe Bay Dr. Kaneohe, HI 96744	
4-4-37:05	K-3	Low lying dock; small pier	H. Q. Pang Associates	1418 Alewa Dr. Honolulu, HI 96817	
4-4-37:12	K-4	Small dock (?); platform deck	Mary J. Porter Trust	44-547 Kaneohe Bay Dr. Kaneohe, HI 96744	

Total: 193 Piers
20 with Revocable Permits
25 with CDUPs
1 other, 1 withdrawn, 1 incomplete

4-4-37:48	K-4	Platform deck (?)	Thomas M. Pico Trust	44-002 Hulukai Pl. Kaneohe, HI 96744	
4-4-37:33	K-4	Pier; pier	Frank H. Barton	44-004 Malukai Pl. Kaneohe, HI 96744	
4-4-16:17	K-4	Pier w/ concrete posts	Mr. and Mrs. Edward K. Yamashiro	45-552 Kanehameha Hwy. Kaneohe, HI 96744	
4-4-16:11	K-4	Pier at bottom of steps	Constance Lau Trust	44-621 Kaneohe Bay Dr. Kaneohe, HI 96744	
4-4-16:10	K-4	Large pier	Ferdinand F. Hedemann Trust	P.O. Box 3708 Honolulu, HI 96811	
4-4-14:02	K-5	Wooden ramp	Lou Ellen Tomlinson	P.O. Box 9791 Jackson, WY 83002-9791	
4-4-14:03	K-5	Pier	Stratford Whiting	3868 Poka St. Honolulu, HI 96816	
4-4-14:52	K-5	Large pier w/ railing	Elizabeth M. Lum	44-647/A Kaneohe Bay Dr. Kaneohe, HI 96744	
4-4-14:04,23	K-5	Pier	Doris H. B. Andrews	46-255 Kahuhipa St. 802/A Kaneohe, HI 96744	
4-4-14:11	K-5	Pier	Mr. and Mrs. David G. Nottage	44-653 Kaneohe Bay Dr. Kaneohe, HI 96744	
4-4-14:26	K-5	Pier	Mr. and Mrs. David Y. F. Lung	44-024 Kaimalu Pl. Kaneohe, HI 96744	
4-4-14:27	K-5	Pier	Bay View Realty Trust	44-024 Kaimalu Pl. Kaneohe, HI 96744	
4-4-14:28	K-5	Concrete pier (?)	Ted W. Maly	44-025 Kaimalu Pl. Kaneohe, HI 96744	
4-4-18:86	K-5	Pier	Aileen Y. Kitaoka	44-221A Mikiola Dr. Kaneohe, HI 96744	
4-4-18:85	K-5	Pier	Mr. and Mrs. Harris H. Hara	44-221 Mikiola Dr. Kaneohe, HI 96744	
4-4-18:105	K-6	Pier	Ronald W. K. Yee	2328 Nuuanu Ave. Honolulu, HI 96817	
4-4-18:83	K-6	Pier	Jack H. Watanabe Trust	58 Kawananaoka Pl. Honolulu, HI 96817	R.P. S-5577
4-4-18:82	K-6	Pier	Patricia F. Watanabe	44-233 Mikiola Dr. Kaneohe, HI 96744	R.P. S-6554
4-4-18:80	K-6	Pier	Francis I. Tsuzuki	44-235 Mikiola Dr. Kaneohe, HI 96744	

4-4-18:79	K-6	Pier	Dexter H. Yamada Trust	44-239 Mikiola Dr. Kaneohe, HI 96744	
4-4-18:78	K-6	Low lying dock	Randall Erickson	44-243 Mikiola Dr. Kaneohe, HI 96744	
4-4-18:76	K-6	Platform on pilings	Mr. and Mrs. Herbert A. Silva	44-247 Mikiola Dr. Kaneohe, HI 96744	
4-4-18:74	K-6	Pier	Dorothy S. Nakama	45-255 Mikiola Dr. Kaneohe, HI 96744	
4-4-18:72	K-6	Pier	Mabel G. L. Wong	2417 Round Top Dr. Honolulu, HI 96822	
4-4-18:71	K-6	Pier	Louise Eulalia Hedlund	44-263 Mikiola Dr. Kaneohe, HI 96744	
4-4-18:70	K-6	Pier	Charles K. Keliikipi, Jr.	HC 01 Box 361 Kaunakakai, HI 96748	
4-4-18:69	K-6	Pier	E. K. Yamashiro Trust	45-552 Kamehameha Hwy. Kaneohe, HI 96744	
4-5-104:21	K-6	Pier (Lic# 88-B)	Quon Yee Yuen Pui Trust	5323 Kilauea Ave. Honolulu, HI 96816	R.P. S-5418
4-5-104:23	K-6	Pier	Mr. and Mrs. David O. Hiona	45-005 Kikeke Pl. Kaneohe, HI 96744	
4-5-104:24	K-6	Pier	Matsunaga Kaoru Trust	1446 E. Alewa Dr. Honolulu, HI 96817	
4-5-104:45	K-7	Dilapidated pier	Young Womens Christian Association	1040 Richards St. Honolulu, HI 96813	
4-5-07:25	K-7	Small pier (?)	Mr. and Mrs. Stanley Fujisaka	45-004 Holowai St. Kaneohe, HI 96744	
4-5-06:05	K-7	Long wooden pier	Habilitat Inc.	P.O. Box 801 Kaneohe, HI 96744	
4-5-06:66	K-7	Wooden pier	Mary A. Bigelow	45-001 Kuhonu Pl. Kaneohe, HI 96744	
4-5-58:41	K-8	Long pier on concrete pilings	Asanoma Family Trust	45-039 Mahalani Cir. Kaneohe, HI 96744	R.P. S-5422
4-5-58:39	K-8	Pier	Roy F. Kuboyama	2620 Anuenue St. Honolulu, HI 96822	
4-5-58:38	K-8	Pier	Sweet Trust	45-107 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:37	K-8	Dilapidated pier	Mr. and Mrs. Craig S. Kagawa	45-109 Mahalani Cir. Kaneohe, HI 96744	

4-5-58:36	K-8	Dilapidated pier	Brian L. Sadaoka	45-113 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:35	K-8	Pier	James Y. Kananda	45-115 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:34	K-8	Deck w/ railing	Stanley T. Holt Trust	45-117 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:33	K-8	Pier (rev. pmt. S-6546)	Mr. and Mrs. Conrad B. Bush	45-119 Mahalani Cir. Kaneohe, HI 96744	R.P. S-6546
4-5-58:32	K-8	Pier	Mr. and Mrs. Roland E. Morrison	45-123 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:31	K-8	Pier	Winfred T. O'Rourke	45-127 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:29	K-8	Dock, pier and seawall	Richard K. S. Pang	3402 Niolopua Dr. Honolulu, HI 96817	
4-5-58:28	K-8	Pier	Magdalena Agundez	45-133 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:27	K-8	Pier	Mr. and Mrs. Robert K. Fox	45-135 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:26	K-8	Pier	Robert Lai	45-137 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:25	K-8	Pier	Mildren Mitsue Yanagihara	45-139 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:24	K-8	Pier	Ritsuko Miura	45-201 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:23	K-8	Pier	Henry Park, Sr. Trust	45-203 Mahalani Cir. Kaneohe, HI 96744	R.P. S-5413
4-5-58:22	K-8	Large pier; small pier	Edith H. Cassidy	45-205 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:21	K-9	Pier	Dagmar L. Kau	45-207 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:20	K-9	Pier w/ deck	Peter Aholila	45-209 Mahalani Cir. Kaneohe, HI 96744	
4-5-58:18	K-9	Pier; deck	Thomas Nakandakare	45-213 Mahalani Cir. Kaneohe, HI 96744	R.P. S-5415
4-5-58:17	K-9	Pier	Alvin H. Maeda	45-215 Mahalani Cir. Kaneohe, HI 96744	R.P. S-5416
4-5-53:53	K-9	Pier	Mr. and Mrs. George A. Morris	45-302 Puuloko Pl. Kaneohe, HI 96744	

4-5-53:54	K-9	Pier	Mr. and Mrs. Archie K. Komac	45-303 Puuloko Pl. Kaneohe, HI 96744	
4-5-53:56	K-9	Pier	Mr. and Mrs. Richard C. Kodota	45-311 Puuloko Pl. Kaneohe, HI 96744	
4-5-47:120	K-9	Wooden pier (TMK?)	Edwin N. Tasaki Trust	45-046 Springer Pl. Kaneohe, HI 96744	
4-5-47:119	K-9	Pier	Mr. and Mrs. Joseph Fah Chun	45-038 Springer Pl. Kaneohe, HI 96744	
4-5-47:118	K-9	Pier	Ronald G. S. Au	1712 Laukahi St. Honolulu, HI 96816	
4-5-47:116	K-9	Pier on concrete	Mr. and Mrs. Oliver K. Akau	P.O. Box 890 Wailuku, HI 96793	
4-5-47:129	K-10	Pier	Re-land USA Corp.	7-11-5 Honcho Funabashi-shi Chiba 273 Japan	
4-5-47:94	K-10	Pier; protruding wall	Mario Valdastrri, Jr.	45-007 Kahanahou Pl. Kaneohe, HI 96744	
4-5-47:80	K-10	Pier	Annie Chang St. Morris	45-159 Kahanahou Cir. Kaneohe, HI 96744	
4-5-47:56	K-10	Pier	Michael G. Jacobs	45-167 Kahanahou Cir. Kaneohe, HI 96744	
4-5-47:83	K-10	Pier	Victor C. Fagerroos Trust	45-205A Kahanahou Cir. Kaneohe, HI 96744	
4-5-47:52	K-10	Pier	W. E. Lord Family Trust Estate	45-215 Kahanahou Cir. Kaneohe, HI 96744	
4-5-47:51	K-10	Small pier	Audrey B. Sexton Trust	45-221 Kahanahou Cir. Kaneohe, HI 96744	
4-5-47:47	K-10	Platform (rev. pmt. S-6545)	Zaha Kyoku Trust	45-247/A Kahanahou Cir. Kaneohe, HI 96744	R.P. S-6545
4-5-47:44	K-10	Platform/deck	Jack P. Huizingh	45-269/A Kahanahou Cir. Kaneohe, HI 96744	
4-5-47:90	K-10	Pier	Violet D. Gaspar Trust Estate	1 Kokee Pl. Honolulu, HI 96825	
4-5-01:14	K-11	Stacks of concrete	Francis M. G. Gilbert Trust	40 Lumahai St. Honolulu, HI 96825	
4-5-01:15	K-11	Stack of concrete; dock	Helen T. Wong	45-062 Lilipuna Rd. Kaneohe, HI 96744	

4-5-01:17	K-11	Pier	Clyde K. Yoshioka Trust	45-054 Lilipuna Rd. Kaneohe, HI 96744	R.P. S-5735
4-5-01:18	K-11	Pier	Paul T. Noto	45-052 Lilipuna Rd. Kaneohe, HI 96744	R.P. S-5414
4-5-01:20	K-11	Pier	James S. Togami Trust	45-046 Lilipuna Rd. Kaneohe, HI 96744	
4-5-01:25	K-11	Pier	Robert M. Fox	4224 Waialai Ave. 5/395 Honolulu, HI 96816	
4-5-01:27	K-11	Pier	Thelma K. Grote Trust	45-028 Lilipuna Rd. Kaneohe, HI 96744	
4-5-01:29	K-11	Pier	Henry H. Shigekane	831 16th Ave. Honolulu, HI 96816	
4-5-01:30	K-11	Pier	Charles E. Stone III	45-024 Lilipuna Rd. Kaneohe, HI 96744	
4-5-01:35	K-11	Pier	Mr. and Mrs. Harold M. H. Mau	45-010 Lilipuna Rd. Kaneohe, HI 96744	
4-5-01:37	K-11	Pier	Violet Y. C. Chun Trust	1014 Kinau St. Honolulu, HI 96814	
4-6-01:13	K-12	Pier	Joseph P. O'Reilly Trust	46-013 Lilipuna Rd. Kaneohe, HI 96744	
4-6-01:12	K-12	Pier	Watson W. Goldsmith	46-023 Lilipuna Rd. Kaneohe, HI 96744	
4-6-01:11	K-12	Pier	Shoji Kitami	3-4-19 Otacho Suma Kobe 654 Japan	
4-6-01:10	K-12	Pier	Shigeko Makino	2222 Kalakaua Ave. 1208 Honolulu, HI 96845	R.P. S-6752
4-6-01:09	K-12	Pier	Richard H. Van Horn Trust	46-035 Lilipuna Rd. Kaneohe, HI 96744	
4-6-01:08	K-12	Pier (rev. pmt. 5-0705)	Nahoahana O' Huelani	1380 Lusitana St. 1014 Honolulu, HI 96813	R.P. S-6705
4-6-01:29	K-12	Pier	Otome M. Myers	46-055 Lilipuna Rd. Kaneohe, HI 96744	
4-6-01:26	K-12	Pier	Todd W. Johnson	46-071 Lilipuna Rd. Kaneohe, HI 96744	
4-6-01:24	K-12	Pier	David K Shiroma Trust	46-083 Lilipuna Rd. Kaneohe, HI 96744	R.P. S-5412

4-6-01:23	K-12	Low lying dock	Marcus D. E. Rosehill	46-089 Lilipuna Rd. Kaneohe, HI 96744	
4-6-01:22	K-12	Protruding platform	Richard T. Kozuma	46-093 Lilipuna Rd. Kaneohe, HI 96744	
4-6-01:21,53	K-13	State of Hawaii	Hugh Y. Okuda	46-099 Lilipuna Rd. Kaneohe, HI 96744	
4-6-01:07,52	K-13	State of Hawaii	Geoffrey Hamilton	46-107 Lilipuna Rd. Kaneohe, HI 96744	
4-6-01:06	K-13	Small pier	Kenneth D. Simon	46-109 Lilipuna Rd. Kaneohe, HI 96744	
4-6-01:03	K-13	Small pier	Siegfried Schuster	46-133 Lilipuna Rd. Kaneohe, HI 96744	
4-6-03:36	K-13	Pier	Mr. and Mrs. Evans H. M. Yim	P.O. Box 844 Kaneohe, HI 96744	
4-6-03:89	K-13	Pier	Harold Rice	46-079 Keoe Way Kaneohe, HI 96744	
4-6-03:87	K-13	Pier	Mr. And Mrs. James T. Fujioka	46-083 Keoe Way Kaneohe, HI 96744	
4-6-03:79	K-13	Pier	Susan D. Langsner	46-193 Nakao Pl. Kaneohe, HI 96744	
4-6-03:77	K-13	Pier	Margret M. Ciupak	1133 Makaiwa St. Honolulu, HI 96816	
4-6-03:75	K-14	Pier	Mr. and Mrs. Paul A. Schraff	46-190 Nakao Pl. Kaneohe, HI 96744	
4-6-23:43	K-14	Pier	Maiiana B. Meyer	4340 Kaikoo Place Honolulu, HI 96816	
4-6-23:46	K-14	Pier	Samuel Kaomea	46-139 Yacht Club Pl. Kaneohe, HI 96744	R.P. S-5711
4-6-23:48	K-14	Pier	Dayton F. Caple	46-145 Yacht Club Pl. Kaneohe, HI 96744	
4-6-23:49	K-14	Small pier	Mr. and Mrs. Harry H. Yamada	46-149 Yacht Club Pl. Kaneohe, HI 96744	
4-6-23:50	K-14	Small pier	Stanley K. Kaneshiro Trust	46-153 Yacht Club Pl. Kaneohe, HI 96744	
4-6-23:51	K-14	Pier	Mr. and Mrs. Dennis D. McCann	46-155 Yacht Club Pl. Kaneohe, HI 96744	
4-6-22:02	K-14	Pier	Yudo Yamamoto	P.O. Box 25083 Honolulu, HI 96825	

4-6-22:22	K-14	Pier	Frank E. Ceccarelli	46-002 Nana Pl. Kaneohe, HI 96744	
4-6-22:23	K-14	Pier (rev. pmt. S-5082)	Edward T. Strickland	46-001 Nana Pl. Kaneohe, HI 96744	
4-6-22:24	K-14	Pier	William D. Drake	46-003 Nana Pl. Kaneohe, HI 96744	
4-6-22:25	K-14	Pier (rev. pmt. S-5357)	Porter Trust 1989	46-005 Nana Pl. Kaneohe, HI 96744	
4-6-22:26	K-14	Pier	Mr. and Mrs. Robert G. Sawinski	46-007 Nana Pl. Kaneohe, HI 96744	R.P. S-6836
4-7-19:06	K-15	Ramp; steps	Mr and Mrs. Charles Chun, Sr.	47-011 Kamehameha Hwy. Kaneohe, HI 96744	
4-7-19:08	K-15	Pier	Norman K. Kato	P.O. Box 4599 Kaneohe, HI 96744	
4-7-19:16	K-15	Large pier	Rose C. Au Hoy Trust	47-029 Kamehameha Hwy. Kaneohe, HI 96744	
4-7-19:22	K-16	Pier	Gordon Y. Imata	979 Kaahue St. Honolulu, HI 96825	
4-7-19:24	K-16	Pier	Mr. and Mrs. Melvin Y. S. Chang	640 Kumukahi Pl. Honolulu, HI 96825	
4-7-19:30	K-16	Steps from seawall	Pershing H. M. Williams	47-054 Kamehameha Hwy. Kaneohe, HI 96744	
4-7-19:34	K-16	Large pier	S.Y. Yamanaka Ltd.	3014 Ala Puaala Pl. Honolulu, HI 96818	
4-7-19:47	K-16	Small catamaran platform	Stanley L. E. Ho	47-077 Kamehameha Hwy. Kaneohe, HI 96744	
4-7-19:59	K-16	Pier	Winona S. H. Stevens Trust	47-097 Kamehameha Hwy. Kaneohe, HI 96744	
4-7-19:64	K-16	Dilapidated boat house	James G. G. Chock	2148 Liliha St. Honolulu, HI 96817	
4-7-19:67	K-16	Wooden pier; wooden boat house	Clifford K. Miller	46-313 Hololio Pl. Kaneohe, HI 96744	
4-7-19:69	K-16	Wooden ramp; platform	Mr. and Mrs Richard K. M. Pang	47-112 Kamehameha Hwy. Kaneohe, HI 96744	
4-7-19:71	K-16	Wooden plank; concrete bricks	Douglass T. K. Pang	712 Ainapo St. Honolulu, HI 96825	
4-7-19:73	K-16	Boat house; catamaran platform	Tita C. Pang	1570 Alewa Dr. Honolulu, HI 96817	

4-7-30:01	K-17	Large platform	Samuel K. Makua	47-193 Kamehameha Hwy. Kaneohe, HI 96744	
4-7-30:15	K-17	Low lying pier	Mr. and Mrs. Frank E. Medrano	47-237 Mionio Lp. Kaneohe, HI 96744	
4-7-30:16	K-17	Large platform	Gregory Family Trust	Kailua-Kona, HI 96745	
4-7-30:18	K-17	Large platform	Richard Y. Sakimoto Trust	2905 Manoa Rd. Honolulu, HI 96822	
4-7-30:19	K-17	Wooden platform	Burt T. Kaminaka	47-259 Mionio Lp. Kaneohe, HI 96744	R.P. S-5420
4-7-30:20	K-17	Large pier	Alvin M. W. Lum	2190 N. King St. Honolulu, HI 96819	R.P. S-5417
4-7-30:21	K-18	Platform	Mr. and Mrs. David Gomes, Jr.	P.O. Box 4041 Kaneohe, HI 96744	
4-7-09:01	K-18	Small pier; large pier	Virginia K. W. Black	P.O. Box 4383 Kaneohe, HI 96744	
4-7-09:02	K-18	Small pier; large pier	Margaret L. Parker Trust	47-359/H Kamehameha Hwy. Kaneohe, HI 96744	
4-7-09:07	K-18	Platform	Mr. and Mrs. Larry S. Saizon	47-377/C Kamehameha Hwy. Kaneohe, HI 96744	
4-7-09:16	K-19	Pier	Martha H. McCabe	47-070/D Laenani Dr. Kaneohe, HI 96744	
4-7-10:03	K-19	Pier	Alice Peterson	91-1456 Renton Rd. 7 Ewa Beach, HI 96706	
4-7-10:34	K-19	Sm. catamaran platform; sm. pier	Frank Ryder, Jr. Trust	47-016 Laenani Dr. Kaneohe, HI 96744	
4-7-10:36	K-19	Small pier	Walter K. Quan	47-018 Lihikai Dr. Kaneohe, HI 96744	
4-7-10:45	K-20	Small pier	Robert M. Fox	4224 Waiālae Ave. S/395 Honolulu, HI 96816	
4-7-10:53	K-20	Small pier (canal?)	Doris Lechner Trust	2909 Waiālae Ave. 25 Honolulu, HI 96826	
4-7-41:05	K-21	Large pier	James D. Schufeldt	P.O. Box 1176 Kaneohe, HI 96744	
4-7-41:17	K-21	Large pier; boat platform	James D. Schufeldt	P.O. Box 1176 Kaneohe, HI 96744	
4-7-41:07	K-21	Pier	Melodie Aduja	47-315 Kamehameha Hwy. Kaneohe, HI 96744	

KANEOHE BAY PIERS

TMK	PHOTO #	DESCRIPTION		STATUS
4-7-41:09	K-21	Platform w/ roof	Larry A. Lopez	47-661 Kamehameha Hwy. Kaneohe, HI 96744
4-7-41:10	K-21	Platform w/ railing	Adam Costa Trust Estate	47-663 Kamehameha Hwy. Kaneohe, HI 96744
4-7-41:11	K-21	Pier	John L. Zeller	P.O. Box 390981 Keanohou, HI 96739
4-7-14:15	K-21	Small pier	Sergio H. Parubrub Trust	47-325 Ahuimanu Rd. Kaneohe, HI 96744
4-7-14:05	K-21	Small Pier	Mr. and Mrs. George W. Clarke	3291 Pinaoula St. Honolulu, HI 96822
4-7-14:04	K-21	Pier; boat ramp	George S. Odo	1018 Hoawa Lane Honolulu, HI 96826
4-7-17:14	K-22	Wooden ramp	Mr. and Mrs. Rand J. Pellegrino	16 Kainehe St. Kailua, HI 96734
4-7-17:15	K-22	Wooden pier	Marcelino J. Avecilla	3286 Loulu St. Honolulu, HI 96822
4-7-17:18	K-22	Patio w/ roof; pier	Jacques L. Hough	47-653 Ahilana Rd. Kaneohe, HI 96744
4-7-24:03	K-22	Small pier	Emma I. Yoshida Trust	47-709 Kamehameha Hwy. Kaneohe, HI 96744
4-7-24:31	K-22	Small pier	William G. Alfonso	730 Makaleka Ave. #606 Honolulu, HI 96816
4-7-24:12	K-23	Pier	Nelliam W. Sen	36 Puu Ikena Pl. Honolulu, HI 96821
4-7-24:14	K-23	Ramp	Mr. and Mrs. Claude F. Horan	47-849 Kamehameha Hwy. Kaneohe, HI 96744
4-7-24:18	K-23	Large pier	Lin Chong Hee	47-857 Kamehameha Hwy. Kaneohe, HI 96744
4-7-24:21	K-23	Large pier	Kirby W. K. Loo Trust	1402 Lusitana St. Honolulu, HI 96813
4-7-24:22	K-23	Large pier	Mr. and Mrs. Deen I. Morita	47-865 Kamehameha Hwy. Kaneohe, HI 96744
4-7-24:29	K-23	Large pier	Joseph J. Phillips	3418 Kepuhi St. Honolulu, HI 96815

KANEOHE BAY PIERS

TMK	PHOTO#	DESCRIPTION	STATUS	
4-7-24:26	K-23	Pier	Michael J. Suchomel	440 Maono Lp. Honolulu, HI 96821
4-7-24:27	K-23	Pier	Craig T. Nakamura	47-895 Kamehameha Hwy. Kaneohe, HI 96744
4-8-03:13	K-24	Pier	Elizabeth L. M. Marks	City and County of Honolulu
4-8-03:20	K-24	Pier	Alexandra A. Williams	509 Pakala St. Honolulu, HI 96825
4-8-03:01	K-24	Small pier	Elizabeth L. M. Marks	City and County of Honolulu
4-9-01:26	K-25	Catamaran platform	Ernst S. Reese	P.O. Box 135 Kaneohe, HI 96744
4-9-03:02	K-25	Pier; pier; pier	J & M Fam Morris	P.O. Box 1118 Kaneohe, HI 96744

STATE OF HAWAII
Department of Land and Natural Resources
Planning Branch
Land Division
Honolulu, Hawaii

REF:PB:LT

In reply, please refer to:
File No.:
TMK:

Mr. and Mrs.

Dear _____:

The Land Division of the Department of Land and Natural Resources is conducting an inventory of private piers on State land. State lands and the Conservation District are all lands makai of the vegetation line or the upper reaches of the wash of the waves. All piers in the area between Kaneohe Marine Corps Air Station to Kualoa are being surveyed for the purpose of identifying compliance with existing State laws.

Pursuant to Chapter 183C, Hawaii Revised Statutes, and Chapter 13-5, Hawaii Administrative Rules, relating to the regulation of land use in the Conservation District, and Chapter 171, Hawaii Revised Statutes, relating to the disposition of State lands, we are asking for your participation in this inventory.

Your property abuts a pier. Permission for the pier must be obtained from the Board of Land and Natural Resources, and following approval, the specific use must be legally disposed of. A Conservation District Use Permit (CDUP) and a Revocable Permit (RP) obtained through the Land Division are required to establish the pier's legal status.

Data obtained from landowners will allow the Land Division to place all piers into one of the following three categories:

1. "Legal piers" are those for which both permits have been obtained from the Board;
2. "Nonconforming piers" are those built prior to the establishment of the Conservation District in October, 1964 and there is no CDUP, but has an RP;
3. "Unauthorized piers" are those for which one or no permits were obtained. These structures are in violation of State laws.

Owners of unauthorized piers are being asked to participate in an Amnesty Program as a one time offer to resolve violations and bring piers into conformance with State land use laws. The program's objectives are to simultaneously process the violations, obtain Board approval for the Master CDUP and State land use dispositions to issue the RP's.

The State will then establish the fair value for monthly rental payments for the use of State lands. A nominal fine will also be levied to resolve the violation.

Please write to the Land Division, P.O. Box 621, Honolulu, Hawaii 96809 or call us at 587-0432 to provide information and/or documentation on your pier's status.

Should you choose not to participate in the inventory and Amnesty Program, you may be subject to fines under Chapters 171 and 183C, Hawaii Revised Statutes, and payment of back rent for the use of State lands. In addition, the State may take action to remove the pier from public land to bring resolution to this long standing issue.

If you have any questions about the inventory and/or Amnesty Program, please contact Lauren Tanaka of the Planning Branch at 587-0385.

Very truly yours,

DEAN UCHIDA, Administrator
Land Division

REPORT TITLE:

Noncommercial Piers

DESCRIPTION:

Allows the board of land and natural resources to lease, by direct negotiation and without recourse to public auction, state submerged lands or lands beneath tidal waters for private residential noncommercial piers. Deletes the requirement that leases for sunbathing and swimming piers on public lands be open to the public with signs indicating the public's right to use the pier. Deletes the requirement that easements or leases for noncommercial piers be approved by the governor and the legislature. (SD1)

EXHIBIT C-1

HOUSE OF REPRESENTATIVES	H.B. NO.	3001
TWENTIETH LEGISLATURE, 2000		H.D. 2
STATE OF HAWAII		S.D. 1

A BILL FOR AN ACT

RELATING TO NONCOMMERCIAL PIERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 171, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§171- Private residential noncommercial piers.
5 Notwithstanding any limitations to the contrary, the board of
6 land and natural resources may lease, by direct negotiation and
7 without recourse to public auction, state submerged lands or
8 lands beneath tidal waters for private residential noncommercial
9 piers on such terms and conditions as may be prescribed by the
10 board."

11 SECTION 2. Section 171-36, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Except as otherwise provided[,] by law, the following
14 restrictions shall apply to all leases:

15 (1) Options for renewal of terms are prohibited;

16 (2) No lease shall be for a longer term than sixty-five

17 years, except in the case of a residential leasehold
18 which may provide for an initial term of fifty-five
19 years with the privilege of extension to meet the

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		S.D. 1

1 requirements of the Federal Housing Administration,
2 Federal National Mortgage Association, Federal Land
3 Bank of Berkeley, Federal Intermediate Credit Bank of
4 Berkeley, Berkeley Bank for Cooperatives, or Veterans
5 Administration [requirements]; provided that the
6 aggregate of the initial term and extension shall in no
7 event exceed seventy-five years;

8 (3) No lease shall be made for any land under a lease which
9 has more than two years to run;

10 (4) No lease shall be made to any person who is in arrears
11 in the payment of taxes, rents, or other obligations
12 owing the State or any county;

13 (5) No lease shall be transferable or assignable, except by
14 devise, bequest, or intestate succession; provided that
15 with the approval of the board of land and natural
16 resources, the assignment and transfer of a lease or
17 unit thereof may be made in accordance with current
18 industry standards, as determined by the board;

19 provided further that prior to the approval of any
20 assignment of lease, the board shall have the right to
21 review and approve the consideration to be paid by the
22 assignee and may condition its consent to the
23 assignment of the lease on payment by the lessee of a

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1 premium based on the amount by which the consideration
2 for the assignment, whether by cash, credit, or
3 otherwise, exceeds the depreciated cost of improvements
4 and trade fixtures being transferred to the assignee;
5 provided further that with respect to state
6 agricultural leases, in the event of foreclosure or
7 sale, the premium, if any, shall be assessed only after
8 the encumbrances of record and any other advances made
9 by the holder of a security interest are paid;

10 (6) The lessee shall not sublet the whole or any part of
11 the demised premises except with the approval of the
12 board; provided that prior to the approval, the board
13 shall have the right to review and approve the rent to
14 be charged to the sublessee; provided further that in
15 the case where the lessee is required to pay rent based
16 on a percentage of its gross receipts, the receipts of
17 the sublessee shall be included as part of the lessee's

18 gross receipts; provided further that the board shall
 19 have the right to review and, if necessary, revise the
 20 rent of the demised premises based upon the rental rate
 21 charged to the sublessee including the percentage rent,
 22 if applicable, and provided that the rent may not be
 23 revised downward;

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- 1 (7) The lease shall be for a specific use or uses and shall
 2 not include waste lands, unless it is impractical to
 3 provide otherwise; and
- 4 (8) Mineral and metallic rights and surface and ground
 5 water shall be reserved to the State[; and
- 6 (9) No lease of public lands, including submerged lands,
 7 nor any extension of any such lease, shall be issued by
 8 the State to any person to construct, use, or maintain
 9 a sunbathing or swimming pier or to use the lands for
 10 such purposes, unless such lease, or any extension
 11 thereof, contains provisions permitting the general
 12 public to use the pier facilities on the public lands
 13 and requiring that a sign or signs be placed on the
 14 pier, clearly visible to the public, which indicates
 15 the public's right to the use of the pier. The board,

16 at the earliest practicable date, and where legally
17 possible, shall cause all existing leases to be amended
18 to conform to this paragraph. The term "lease", for
19 the purposes of this paragraph, includes month-to-month
20 rental agreements and similar tenancies]."

21 SECTION 3. Section 171-53, Hawaii Revised Statutes, is
22 amended by amending subsection (c) to read as follows:

23 "(c) The board, with the prior approval of the governor and

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1 the prior authorization of the legislature by concurrent
2 resolution, may lease state submerged lands and lands beneath
3 tidal waters under the terms, conditions, and restrictions
4 provided in this chapter; provided that the authorization of the
5 legislature shall not be required for leases issued under chapter
6 190D; and provided further that the approval of the governor and
7 authorization of the legislature shall not be required for any
8 grant of easement or lease of state submerged lands or lands
9 beneath tidal waters used for moorings, cables, [or]
10 pipelines[;], or noncommercial piers; provided further that this
11 exemption shall not apply to easements for cables used for
12 interisland electrical transmission or slurry pipelines used for
13 transportive materials, mined at sea, or waste products from the
14 processing of the same.

15 The lease shall provide that the lands shall be reclaimed at
16 the expense of the lessee. Title to the reclaimed lands shall
17 remain in the State."

18 SECTION 4. Statutory material to be repealed is bracketed.
19 New statutory material is underscored.

20 SECTION 5. This Act shall take effect upon its approval;
21 provided that the authority granted to the department of land and
22 natural resources to enter into lease agreements with owners of
23 private residential noncommercial piers shall be repealed on June

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		S.D. 1

1 30, 2005, and the amendments made by sections 1, 2, and 3 of this
2 Act to the Hawaii Revised Statutes, shall be repealed as of that
3 date and sections 171-36(a) and 171-53(c), Hawaii Revised
4 Statutes, shall be reenacted in the form in which they read on
5 the day prior to the effective date of this Act; provided further
6 that any lease agreement executed pursuant to this Act prior to
7 June 30, 2005, or any lease extension executed thereon after the
8 repeal of this Act, shall remain exempt from section 171-
9 36(a)(9), Hawaii Revised Statutes, after the repeal of this Act.

HB 3001 HD 2 SD 1

RELATING TO NONCOMMERCIAL PIERS

By Representative(s) ITO / GOODENOW / CATALANI / AHU ISA / TAKAI / MEYER

Keywords: CONSERVATION OF NATURAL RESOURCES, Department of land & natural resources, GOVERNOR, LEGISLATURE, MARINE RESOURCES, PUBLIC LANDS, SUBMERGED LANDS

Report Title: Noncommercial Piers

Description: Allows the board of land and natural resources to lease, by direct negotiation and without recourse to public auction, state submerged lands or lands beneath tidal waters for private residential noncommercial piers. Deletes the requirement that leases for sunbathing and swimming piers on public lands be open to the public with signs indicating the public's right to use the pier. Deletes the requirement that easements or leases for noncommercial piers be approved by the governor and the legislature. (SD1)

1-27-00 H Introduced and passed First Reading
 1-31-00 H Referred to the committees on 1. OMR 2. FIN ,
 referral sheet 8
 2- 4-00 H Bill scheduled to be heard by OMR on Wednesday,
 02-09-00 at 9:00 A.M. in House conference room 312.
 2- 9-00 H The committee on OMR recommends that the measure be
 PASSED, WITH AMENDMENTS.
 2- 9-00 H The votes in OMR were as follows:6 Ayes: Rep.(s)
 Takumi, Schatz, Cachola, Morita, Auwae, Meyer; Ayes
 with reservations: Rep.(s) ; none Noes: Rep.(s) ;
 and 2 Excused: Rep.(s) Garcia, Kanoho
 2-17-00 H Reported from the committee on OMR (Stand. Com. Rep.
 No. 266-00) as amended in (HD 1), recommending
 passage on Second Reading and referral to the
 committee on FIN
 2-17-00 H Passed Second Reading as amended in (HD 1) and
 referred to the committee on FIN
 2-17-00 H The vote was as follows: 40 aye(s), with none
 voting no and Representative(s) Chang, Hamakawa,
 Herkes, Kanoho, Kawakami, Menor, Nakasone, Okamura,
 Saiki, Souki, Takamine excused
 2-22-00 H Bill scheduled to be heard by FIN on Thursday, 02
 /24/00 at 4:00 p.m. in House conference room 308.
 2-24-00 H The committee on FIN recommends that the measure be
 PASSED, WITH AMENDMENTS.
 2-24-00 H The votes in FIN were as follows:15 Ayes: Rep.(s)
 Takamine, Kawakami, Ahu Isa, Catalani, Espero,
 Goodenow, Kahikina, Kanoho, Nakasone, Schatz,
 Suzuki, Yamane, Fox, Marumoto, Meyer; Ayes with
 reservations: Rep.(s) Moses; none Noes: Rep.(s) ;

EXHIBIT C-2

- and 1 Excused: Rep.(s) Luke
- 3- 3-00 H Reported from the committee on FIN (Stand. Com. Rep. No. 759-00) as amended in (HD 2), recommending passage on Third Reading
- 3- 3-00 H Forty-eight (48) hours notice 03-07-00
- 3- 7-00 H Passed Third Reading as amended in (HD 2)
- 3- 7-00 H The vote was as follows: 46 aye(s), with none voting no and Representative(s) Cachola, Garcia, Meyer, Okamura, Santiago excused
- 3- 7-00 H Transmitted to Senate
- 3- 9-00 S Received from House (Hse. Com. No. 307)
- 3- 9-00 S Passed First Reading and referred to 1. WLH 2. WAM
- 3-10-00 S Bill scheduled to be heard by WLH on 03-15-00 at 2:00 p.m. in conference room 225.
- 3-15-00 S The committee on WLH recommends that the measure be PASSED, WITH AMENDMENTS.
- 3-15-00 S The votes in WLH were as follows: 4 Ayes: Senator(s) Hanabusa, Tanaka, Matsuura, Nakata; Ayes with reservations: Senator(s) ; none Noes: Senator(s) ; and 3 Excused: Senator(s) Chun, Kanno, Anderson
- 3-21-00 S Reported from WLH (Stand. Com. Rep. No. 2833) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM
- 3-21-00 S Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM.
- 4- 3-00 S Bill scheduled for decision making by WAM on 04-06-00 at 9:30 a.m. in conference room 211.
- 4- 6-00 S The committee on WAM recommends that the measure be PASSED, UNAMENDED.
- 4- 6-00 S The votes in WAM were as follows: 10 Ayes: Senator(s) Fukunaga, Levin, Buen, Chun, Chun Oakland, M. Ige, Kawamoto, Nakata, Tam, Taniguchi; Ayes with reservations: Senator(s) ; 1 Noes: Senator(s) Anderson; and 2 Excused: Senator(s) D. Ige, Iwase
- 4- 7-00 S Reported from WAM (Stand. Com. Rep. No. 3341) with recommendation of passage on Third Reading
- 4- 7-00 S 24 hours notice 04-11-00
- 4-11-00 S Report adopted; Passed Third Reading. Ayes, 22. Noes, 1 (Anderson). Excused, 2 (Buen, Bunda).
- 4-11-00 S Transmitted to House
- 4-11-00 H Returned from Senate (Sen. Com. No. 579) in amended form (SD 1)
- 4-17-00 H House agrees to Senate amendment(s)
- 4-17-00 H Passed Final Reading as amended in (SD 1)
- 4-17-00 H The vote was as follows: 41 aye(s), with none voting no and Representative(s) Cachola, Herkes, Kaho`ohalahala, Meyer, Okamura, Pendleton, Rath, Takai, Takamine, Whalen excused
- 4-19-00 S Received notice of House agreement and passage on Final Reading (Hse. Com. No. 676).

4-19-00

H Transmitted to Governor

6-22-00

S Act 261, 06-20-00, (Gov. Msg. No. 366)

6-22-00

H Act 261, on 06-20-00 (Gov. Msg. No. 244)

A BILL FOR AN ACT

RELATING TO NONCOMMERCIAL PIERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in May of 1998, the
2 board of land and natural resources approved a plan to address
3 unauthorized piers in Kaneohe bay after several decades of non-
4 enforcement. Nearly two hundred shorefront property owners in
5 Kaneohe bay had piers, many of which were built before
6 statehood. Many of the pier owners, as well as countless others
7 statewide, were unaware that their piers lacked proper
8 authorization from the State and were considered illegal.
9 As a result, the Governor signed Act 261, Session Laws of Hawaii
10 (SLH) 2000, on June 20, 2000, which established a new section
11 under chapter 171, Hawaii Revised Statutes, to read:

12 **"Private residential noncommercial piers.**

13 Notwithstanding any limitations to the contrary, the
14 board of land and natural resources may lease, by
15 direct negotiation and without recourse to public
16 auction, state submerged lands or lands beneath tidal
17 waters for private residential non-commercial piers



1 on such terms and conditions as may be prescribed by
2 the board."

3 The legislature further finds that an amnesty program was
4 therefore established in 2000 and 2001 to provide noncommercial
5 pier owners with the appropriate permits for legal authorization
6 and to resolve the illegal pier problem in Kaneohe bay. The
7 legislature also finds that as of January 1, 2005, only twelve
8 out of one hundred sixty Kaneohe bay pier owners had obtained a
9 new lease, with an additional fifty cases in the process of
10 approval with no guarantee of completion before the deadline of
11 June 30, 2005, due to the difficulties and time constraints
12 involved in obtaining all of the required surveys, appraisals,
13 and additional documentation. The legislature further finds
14 that additional time is needed to negotiate long-term leases
15 with private noncommercial pier owners across the state, in
16 areas such as Wailupe, Niuiki Circle, and Port Lock, given the
17 disproportionate attention paid primarily to Kaneohe bay pier
18 owners in the implementation of Act 261, SLH 2000.

19 The purpose of this Act is to:

- 20 (1) Allow noncommercial pier owners more time to negotiate
21 leases of state submerged lands or lands beneath tidal

1 waters by extending the repeal date of Act 261, SLH
 2 2000, from June 30, 2005, to June 30, 2007; and
 3 (2) Urge DLNR to commence using the prevailing real
 4 property tax assessment value of the fast land in
 5 determining the lease rent for the submerged land lease
 6 entered into after July 1, 2006, to prompt
 7 procrastinating pier owners who desire to enter into
 8 leases with the State.

9 SECTION 2. Act 261, Session Laws of Hawaii 2000, as
 10 amended by Act 68, Session Laws of Hawaii 2002, section 2, as
 11 amended by Act 103, Session Laws of Hawaii 2002, section 1, is
 12 amended by amending section 5 to read as follows:

13 "SECTION 5. This Act shall take effect upon its approval;
 14 provided that:

15 (1) The authority granted to the department of land and
 16 natural resources to enter into lease agreements with
 17 owners of private noncommercial piers shall be
 18 repealed on June 30, [~~2005~~] 2007;

19 (2) The amendments made by sections 1 and 3 of this Act to
 20 the Hawaii Revised Statutes, shall be repealed as of
 21 June 30, [~~2005~~] 2007, and section 171-53(c), Hawaii
 22 Revised Statutes, shall be reenacted in the form in

1 which it read on the day prior to the effective date
2 of this Act;

3 (3) The amendment made by section 2 of this Act to section
4 171-36(a), which deleted paragraph (9), shall be
5 repealed as of June 30, [~~2005~~,] 2007, and paragraph
6 (9) shall be reenacted in the form in which it read on
7 June 19, 2000; and

8 (4) Any lease agreement executed pursuant to this Act
9 prior to June 30, [~~2005~~,] 2007, or any lease extension
10 executed thereon after the repeal of this Act, shall
11 remain exempt from section 171-36(a)(9), Hawaii
12 Revised Statutes, after the repeal of this Act."

13 SECTION 3. To prompt procrastinating pier owners who desire
14 to enter into leases with the State for their noncommercial
15 piers, the department of land and natural resources is urged to
16 commence using the prevailing real property tax assessment value
17 of the fast land in determining lease rent for a lease of the
18 state submerged land or land beneath tidal water entered into
19 after July 1, 2006.

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 5. This Act shall take effect on June 29, 2005.

Hawaii State Legislature 2005 Legislative Session

HB1659 HD1 SD1 CD1

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Measure Title: RELATING TO NONCOMMERCIAL PIERS.
Report Title: Noncommercial Piers
Description: Allows noncommercial pier owners more time to negotiate leases of state submerged lands or lands beneath tidal waters by extending the repeal date of Act 261, SLH 2000, from June 30, 2005 to June 30, 2007. (HB1659 CD1)
Package: None
Companion:
Introducer(s): ITO, CHONG, KANOHO, MEYER, THIELEN, Fox
Current Referral: WLA

Date		Status Text
1/27/2005	H	Introduced and Pass First Reading
1/31/2005	H	Referred to WLO, referral sheet 7
2/22/2005	H	Bill scheduled to be heard by WLO on Friday, 02-25-05 at 8:30 am in House conference room 423.
2/25/2005	H	The committees on WLO recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 6 Ayes: Representative(s) KanoHo, Berg, Evans, Morita, Meyer, Thielen; Ayes with reservations: none; 0 Noes: none; and 3 Excused: Representative(s) Schatz, Carroll, Waters.
3/2/2005	H	Reported from the committee on WLO (Stand. Com. Rep. No. 747) as amended in (HD 1), recommending passage on Second Reading and placement on the calendar for Third Reading.
3/3/2005	H	Passed Second Reading as amended in (HD 1); placed on the calendar for Third Reading with none voting no and Representative(s) Arakaki, Finnegan, Herkes, Morita excused.
3/8/2005	H	Passed Third Reading with none voting no and Representative(s) Caldwell, Lee excused.
3/8/2005	H	Transmitted to Senate.
3/10/2005	S	Received from House (Hse. Com. No. 298).
3/10/2005	S	Passed First Reading.
3/10/2005	S	Referred to WLA.
3/24/2005	S	The committee(s) on WLA has scheduled a public hearing on 03-30-05 at 2:45 pm in conference room 212.
3/30/2005	S	The committee(s) on WLA recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WLA were as follows: 3 Aye(s): Senator(s)

		Kokubun, Hooser, English; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) Fukunaga, Hemmings.
4/7/2005	S	Reported from WLA (Stand. Com. Rep. No. 1406) with recommendation of passage on Second Reading, as amended (SD 1) and placement on the calendar for Third Reading.
4/7/2005	S	Report adopted; Passed Second Reading, as amended (SD 1).
4/7/2005	S	48 Hrs. Notice 04-12-05.
4/12/2005	S	Passed Third Reading, as amended (SD 1). Ayes, 25; Aye(s) with reservations: none . Noes, 0 (none). Excused, 0 (none). Transmitted to House.
4/12/2005	H	Returned from Senate (Sen. Com. No. 631) in amended form (SD 1).
4/14/2005	H	House disagrees with Senate amendment (s).
4/15/2005	S	Received notice of disagreement (Hse. Com. No. 606).
4/18/2005	H	House conferees appointed: KanoHo Chair; Schatz, Meyer.
4/18/2005	S	Senate Conferees appointed: Kokubun, Chair; Hooser, Co-Chair(s); Hemmings.
4/18/2005	H	Received notice of Senate conferees (Sen. Com. No. 717).
4/19/2005	H	House conferee(s) added: Representative(s) Chong.
4/20/2005	S	Received notice of appointment of House conferees (Hse. Com. No. 662).
4/20/2005	S	Received notice of change in conferees (Hse. Com. No. 667).
4/20/2005	H	Bill scheduled for Conference Committee Meeting on Thursday, 04-21-05 at 2:50 pm in conference room 312.
4/22/2005	H	Conference Committee Meeting will reconvene on Monday 04-25-05 at 1:00 pm in conference room 312.
4/25/2005	H	Conference Committee Meeting will reconvene on Wednesday 04-27-05 at 1:00 pm in conference room 312.
4/27/2005	S	The Conference committee recommends that the measure be PASSED, WITH AMENDMENTS. The votes of the Senate Conference Managers were as follows: 3 Aye(s): Senator(s) Kokubun, Hooser, Hemmings; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
4/28/2005	H	The Conference Committee recommends that the measure be Passed, with Amendments. The votes were as follows: 3 Ayes: Representative(s) KanoHo, Chong, Meyer; Ayes with reservations: none; 0 Noes: none; and 1 Excused: Representative(s) Schatz.
4/28/2005	H	Reported from Conference Committee (Conf Com. Rep. No. 74) as amended in (CD 1).
4/28/2005	S	Reported from Conf. Com. as amended CD 1 (Conf. Com. Rep. No. 74).
4/28/2005	S	48 Hrs. Notice (as amended CD 1) 05-03-05.
4/29/2005	H	Forty-eight (48) hours notice Tuesday, 05-3-05.
5/3/2005	S	Passed Final Reading, as amended (CD 1). 25 Aye(s); Aye(s) with reservations: none . 0 No(es): none. 0 Excused: none.
5/3/2005	H	Passed Final Reading as amended in (CD 1) with none voting no and none

		excused.
5/5/2005	S	Received notice of passage on Final Reading in House (Hse. Com. No. 776).
5/4/2005	H	Received notice of Final Reading (Sen. Com. No. 800).
5/5/2005	H	Transmitted to Governor.
6/16/2005	S	Act 129, 6/16/2005 (Gov. Msg. No. 948).
6/16/2005	H	Act 129, on 6/16/2005 (Gov. Msg. No. 328).

\$ = Appropriation measure

ConAm = Constitutional Amendment

to assist in the financing of one's retirement. Individual Retirement Accounts have been in place for a much longer time and are already protected from creditor claims in the Hawaii Revised Statutes. This bill would add that same protection to Roth IRAs."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 477, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO EXEMPTING ROTH INDIVIDUAL RETIREMENT ACCOUNTS FROM ATTACHMENT OR SEIZURE," passed Final Reading by a vote of 51 ayes.

At 3:02 o'clock p.m., the Chair noted that the following bills passed Final Reading:

H.B. No. 553, HD 1, SD 1, CD 1
 H.B. No. 1709, SD 1, CD 1
 H.B. No. 125, HD 2, SD 1, CD 1
 H.B. No. 1295, HD 2, SD 2, CD 1
 H.B. No. 332, HD 1, SD 2, CD 1
 H.B. No. 164, HD 1, SD 1, CD 1
 H.B. No. 477, HD 1, SD 1, CD 1

Conf. Com. Rep. No. 73 and H.B. No. 785, HD 1, SD 1, CD 1:

On motion by Representative M. Oshiro, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 785, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 74 and H.B. No. 1659, HD 1, SD 1, CD 1:

Representative M. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1659, HD 1, SD 1, CD 1, pass Final Reading, seconded by Representative B. Oshiro.

Representative Ito rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ito's written remarks are as follows:

"Mr. Speaker, I rise in support of Conference Committee Report No. 74, Relating to Noncommercial Piers.

"Mr. Speaker, as you may remember, during the 2000 legislative Session this Body passed House Bill 1711, which was signed into law by the Governor and became Act 261, Session Laws of Hawaii 2000. However, the authority granted to the Department of Land and Natural Resources to enter into lease agreements with owners of private residential noncommercial piers shall be repealed on June 30, 2005.

"Mr. Speaker, within Kaneohe Bay itself there are nearly two hundred piers, many of which were constructed before October 1, 1964, when the first regulatory measures were effectuated concerning piers. Many of these pier owners, as well as countless others statewide, were unaware that their piers lacked proper authorization from the State and were considered illegal. Since the enactment of Act 261, Session Laws of Hawaii 2000, only twelve out of 160 Kaneohe Bay pier owners had obtained a lease as of January 1, 2005. An additional 50 pier owners are in the process of having their leases approved with no guarantee that their application will be completed before the

June 30, 2005 deadline, due to the difficulties and time constraints involved in obtaining all of the required surveys, appraisals, and additional documentation.

"Mr. Speaker, these are only the pier owners in Kaneohe Bay. There are many more private noncommercial pier owners across the State yet to negotiate their leases with the State.

"Mr. Speaker, House Bill 1569 will extend Act 261, Session Laws of Hawaii 2000, by two years to June 30, 2007. This will permit not only the private noncommercial pier owners, as well as the Department of Land and Natural Resources, more time to negotiate leases of state submerged lands or lands beneath tidal waters.

"Mr. Speaker, to prompt procrastinating pier owners who desire to enter into leases with the State for their private noncommercial piers, the Department of Land and Natural Resources is urged to commence using the prevailing real property tax assessment value of the fast land in determining the lease rent for a lease of the State submerged land or land beneath tidal water entered into after July 1, 2006.

"Mr. Speaker, I urge my colleagues to support this measure."

Representative Chong rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Chong's written remarks are as follows:

"Mr. Speaker, I am in strong support. This issue has been around and has affected my district for many years, and I believe that this extension will help to provide more time for a fair resolution. I ask that my fellow Members support this bill."

Representative Meyer rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Meyer's written remarks are as follows:

"I want to thank everyone in this Chamber for supporting this important piece of legislation. Without the extension offered in this bill, many owners of non-commercial piers would have been left high and dry. The two-year extension will give the extra time needed for the 80% of pier owners who have not yet executed long-term leases on the submerged lands under their piers. Most of the pier owners are in various stages of completing their paperwork and ordering or waiting for surveys to be completed so they can finalize negotiations with DLNR. The passage of this bill will create a win-win situation for the pier owner and DLNR."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1659, HD 1, SD 1, CD 1, entitled: "A BILL FOR AN ACT RELATING TO NONCOMMERCIAL PIERS," passed Final Reading by a vote of 51 ayes.

Conf. Com. Rep. No. 75 and H.B. No. 1430, HD 2, SD 2, CD 1:

On motion by Representative M. Oshiro, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 1430, HD 2, SD 2, CD 1, entitled: "A BILL FOR AN ACT RELATING TO SOLID WASTE CONTROL," passed Final Reading by a vote of 51 ayes.



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

APR 24 10:35

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref.:PB:TC

File: OA-3017B

MEMORANDUM

To: Genevieve Salmonson, Director
Office of Environmental Quality Control

From: Dean Y. Uchida, Administrator *[Signature]*
Land Division, Department of Land and Natural Resources

Subject: Final Environmental Assessment (EA)/Finding of No Significant
Impact (FONSI) for the Kaneohe Bay Piers Project TMK: Various
Parcels, Kaneohe, Oahu

The Department of Land and Natural Resources has reviewed the comments received during the 30-day public comment period that began on February 7, 2001, for the subject project. We have determined that this project will not have significant environmental effects, and have therefore issued a FONSI. Please publish this notice in the May 8, 2001 OEQC Environmental Notice.

We have enclosed a completed OEQC Bulletin Publication Form and four copies of the Final EA for the project. Comments on the draft EA were sought from relevant county agencies, and were included in the final EA.

Please contact Traver Carroll of our Planning Branch at 587-0439 if you have any questions on this matter.

Enclosures

51

EXHIBIT F

MAY 8 2001

FILE COPY

2001-05-08-0A-FEA-

FINAL ENVIRONMENTAL ASSESSMENT
FOR THE (KANEHOE BAY PIER) PROJECT

Pursuant to Chapter 343, Hawaii Revised Statutes, as amended,
And in accordance with Title 11, Chapter 200,
Hawaii Administrative Rules

Department of Land and Natural Resources
Land Division
May 2001

Y4986 3.11.1

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SUMMARY INFORMATION

Applicant: Land Division, Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Contact Persons: Traver Carroll
Planning Branch of the Land Division
Phone No.: (808) 587-0439

Approving Agency: Land Division, Department of Land and Natural Resources

Proposed Action: Provide recreational boat pier owners in Kaneohe Bay with permits pursuant to Chapters 171 and 183C, Hawaii Revised Statutes (HRS), and Title 13, Chapter 5, Hawaii Administrative Rules (HAR).

Description of Project:

Inventory and survey approximately 200 existing piers, to determine their status as legal, nonconforming, or unauthorized. Provide owners with required permits to achieve compliance with the State's land use laws. Prepare and process a Master Conservation District Use Permit application to include all owners of unauthorized piers who have agreed to participate in an "Amnesty Program" wherein the Board will pardon the unauthorized pier use. This EA also is intended to cover the issuance of leases for the use of submerged land. [Note: This program does not include encroachments other than unauthorized piers, such as seawalls, fill, boats ramps, steps, etc. The State will continue to deal with these encroachments on a case-by-case basis.]

Project Area: Nuupia Pond (Kaneohe Marine Corps Base-Hawaii) to Waikane, Oahu

Tax Map Keys:

Various parcels within: (plats)

(1) 4-4-07,14,16,18,21,22,37;

4-5-01,06,07,47,58,104;

4-6-01,03,22,23;

4-7-09,10,14,17,19,24,30,41;

4-8-05; and 4-9-01,03

CHAPTER 1

INTRODUCTION AND PROJECT DESCRIPTION

1.1 ENVIRONMENTAL ASSESSMENT DOCUMENT

In May 1998, the Board of Land and Natural Resources approved a plan to address the problem of unauthorized piers in Kaneohe Bay, island of Oahu. Many shorefront property owners who have ocean-related recreational interest such as boating, swimming, and fishing have constructed piers. Most of these piers lack proper authorization from the State and are therefore considered to be illegal. This problem has persisted for several decades without direct action by the State. Lack of staff resources has made the enforcement of the all of the State's established land use laws difficult.

The goal of this program is to provide owners of unauthorized piers with the required permits to achieve compliance with the State's land use laws and ultimately resolve the illegal pier problem in Kaneohe Bay.

To induce participation in the program from owners of these unauthorized piers, an "Amnesty Program" was created which essentially pardons individuals possessing an unauthorized pier. [Note: This program does not include encroachments other than unauthorized piers, such as seawalls, fill, boats ramps, steps, etc. The State will continue to deal with these encroachments on a case-by-case basis.]

It is not the intent of the Department to pardon "any" action that results in a violation of the State's land use laws. In this case, however, the Department decided that the pier problem was so extensive in Kaneohe Bay that it required a completely different solution than the conventional case-by-case approach to enforcement problems. The Department offered amnesty to unauthorized pier owners who were willing to participate and offered to prepare the necessary permits and environmental documents, in order to increase the likelihood of participation. Another factor considered by the Department was the environment in Kaneohe Bay, which is ideally suited for pier development. Marine and coastal conditions provide an ideal situation for pier development. The long barrier reef, which stretches from Kaneohe Marine Air Force Base northward along the windward coast, provides shelter and calm seas, which are necessary

conditions to maintain structures of these types. As such, from an environmental perspective, the Department feels that pier development is not inconsistent with conservation objectives.

To fulfill the objectives of the Kaneohe Bay Pier Project, the Department, on behalf of participants, will prepare the required documents for two permits: a Conservation District Use Permit (CDUA) establishing the land use for recreational boat piers in the Conservation District (Chapter 183C, Hawaii Revised Statutes, and Title 13, Chapter 5, Hawaii Administrative Rules), and a lease for the land disposition (Chapter 171, Hawaii Revised Statutes). These permits are required because Kaneohe Bay is considered State zoned Conservation land as well as State submerged land. The areas offshore of Kaneohe Bay are, therefore, under the jurisdiction of the Department of Land and Natural Resources.

The purpose of this EA is to identify cooperative individuals with unauthorized piers in Kaneohe Bay and then group them into one Master Conservation District Use Application (past practice for Kaneohe Bay has been to grant after-the-fact approvals on a case-by-case basis). It is the goal of the Department to provide a global solution to the pier dilemma in Kaneohe Bay for the reasons cited above. This is a complex matter due to the fact that are both authorized and unauthorized piers in the Bay. In addition, there are individuals with unauthorized piers that have not yet come forward to participate in the process and several who have chosen not to participate. Nevertheless, the Department is willing to grant amnesty to those who are willing to work with the Department in bringing their piers into conformance by also agreeing to a land disposition. Those individuals who do not participate in the program will lose their piers.

Generally, if a property owner accepts a lease for a pier, this sets the terms of public liability insurance and rent for the use of the submerged land. As part of the comprehensive public liability insurance policy, an individual agrees to indemnify the State from and against all claims and demands for damages. The pier owner is then responsible for the maintenance of the pier structure and the State land on which it sits. The process ends with the collection of rents by the Department's fiscal office.

For the purposes of this project, a pier is defined as any structure built within the Conservation District on State Submerged Land. (The Conservation District was established on September 18, 1964. Piers built before this date would be considered legal nonconforming (grandfathered). These piers only require a lease agreement with the State. Piers built after this date require both a CUA and Lease.)

Under the original action plan approved by the Board in 1998 for the Amnesty Program, a pier's status would be determined according to the date it was constructed and the kind of approval held by the landowner. All piers would then be placed into one of three categories: legal, nonconforming, or unauthorized.

A legal pier is pier built after September 18, 1964. For a pier to be considered a legal pier, the property owner would be required to possess a Revocable Permit and a Conservation District Use Application. A nonconforming pier is a pier built prior to September 18, 1964 for which the property owner has a Revocable Permit. An unauthorized pier is a pier built either before or after September 18, 1964 and has one permit but not the other, or no permits from any government authority. In all cases, supporting documentation is required to make a determination on the pier's legal status.

A 1992 photographic index of Oahu's shoreline compiled by the City and County of Honolulu was utilized to develop an inventory of more than 200 shoreline structures, including piers, docks, rocks, and ramps in Kaneohe Bay.

The project area includes the shoreline properties from south of Nuupia Pond (adjacent to the Kaneohe Marine Corps Base - Hawaii) and extends to Waikane, Oahu (Exhibits 1-2).

These structures were linked to the land parcel with which they were associated (Exhibit 3). TMKs were used to identify current property owners, and for recordation purposes each pier was assigned a case no. Pier files were subsequently filed according to TMK numbers.

The Department sent a certified letter to each of the 193 property owners identified in the initial inventory providing information about the Kaneohe Bay Pier Project and the "Amnesty Program" initiated by the Land Division (Exhibit 4). Since this time additional piers have been identified and the State has

made every attempt to contact all known pier owner by letter, meetings or other means.

A survey form was also enclosed (Exhibit 5). The survey requested information about the pier, including what year the pier was built, whether its construction had been authorized, and if the landowner would like to participate in the program. The information also served to confirm the existence of a pier adjoining an individual's property.

In addition to this, Land Division staff conducted an exhaustive search of CDUA files, Revocable Permit files and other source of potential material to obtain as much pertinent information as possible on piers in Kaneohe Bay. This information was compiled and placed in individual files according to TMK numbers. These files are available for review at the Land Division Office, Department of Land and Natural Resources, 1151 Punchbowl Street, Honolulu, Hawaii.

Of the approximately 200 letters and survey forms sent to pier owners initially identified in the inventory, 145 surveys were returned and 55 did not respond. 95 pier owners knew what year their pier was built, 90 asked to participate in the Amnesty Program, 3 did not know, 30 had no answer, others said the question was not applicable, and 7 said no, either because they had no pier, they will dismantle the pier or they had a current Revocable Permit for it. A telephone log was also kept. Since this time, the Department has received additional survey forms.

Survey responses revealed that the methodology for categorizing the piers would be problematic. Approximately two-thirds of the respondents to the pier survey did not know what year their pier was built, nor did they possess the documents to support the claim of when the pier was built. In some cases, a pier was built on reclaimed land, which had been disposed of, by sale or lease by the Department. In other cases, an owner had permission for the pier from one agency, such as the Army Corps of Engineers, but did not know if a CDUA and/or Revocable Permit were also required from the Department. There were many cases in which the respondent represented that they were unaware of the need for a CDUP.

To complete the inventory, staff from the Land Division inspected each pier and measured its length, width, and height above the water. Sketches were drawn to illustrate the shape of the structure and photographs were taken for documentation

purposes. A description of materials used for its construction and unique characteristics were also noted. These files are available for review at the Land Division Office, Department of Land and Natural Resources, 1151 Punchbowl Street, Honolulu, Hawaii.

Because current pier owners may not have records of their piers, the Department reviewed its files and identified every CDUP issued for piers in Kaneohe Bay. All Revocable Permits issues for a pier in Kaneohe Bay have also been compiled. In addition to the information submitted by respondents, and information compiled during site inspections, the Department has sufficient information about piers in Kaneohe Bay to proceed with this EA and Master Conservation District Use Application.

Another final round of letters was sent to all known pier owners in the study area to ascertain and/or confirm the pier owner's willingness to participate in the program and to glean any additional information to help the Department categorize its cases (Exhibit 6).

For those individuals that choose not to participate in the Amnesty Program, the Department will pursue a long-term program to remove the piers. Due to the cost of removal, the Department will investigate ways to recoup demolition expenses from the abutting landowners who refused to participate in the program. If an abutting landowner decides that they will remove the pier, they should notify the Department of their intentions and coordinate demolition with the State to ensure that natural resources are protected and the site is cleared of all debris. This might involve a follow-up site inspection by Land Division staff to also verify that the pier was removed.

In addition, this program does not include encroachments other than unauthorized piers, such as seawalls, fill, boats ramps, steps, etc. The Department will continue to deal with these encroachments on a case-by-case basis. As such, if a pier owner has other encroachments, the encroachments must be resolved individually, before the pier owner is issued a lease for the pier. However, if a pier owner who has other encroachments wishes to include their pier in the Master CDUA, they may do so by notifying the Department.

In addition to issues relating to permitting, the Department must develop an equitable lease rent for pier owners in Kaneohe Bay. Upon filing of the CDUA, a public hearing will be held to solicit public comments on the program. The matter will then be brought to the attention of the Board of Land and Natural Resources for decision-making. If the Board approves the permit, then lease documents will be prepared to start the land disposition process.

The Department of Land and Natural Resources will have accomplished its objective for the resolution of illegal piers in Kaneohe Bay. Owners of permitted piers will be able to make improvements to their piers and residence subject to other requirements related to shoreline certifications and County building code.

Section 1.2 Identification of Proposing Agency

The Land Division of the Department of Land and Natural Resources is the proposing agency for the actions described in this document.

Section 1.3 Identification of Approving Agency

The Land Division of the Department of Land and Natural Resources is the approving agency for the actions described in this document.

Section 1.4 Identification of Agencies, Citizen Groups, and Individuals Consulted

Federal, State and County Agencies

The U.S. Army Corps of Engineers, Pacific Ocean Division; the State Department of Transportation - Harbors Division; the State Office of Environmental Quality Control; the City and County of Honolulu - Department of Facility Maintenance, Department of Planning and Permitting

Section 1.5 Description of the Proposed Action

The Department of Land and Natural Resources wishes to resolve the unauthorized pier problem in Kaneohe Bay, which has persisted for several decades. There are approximately 200 piers in the Bay, many of which do not have proper government

authorization. To induce participation in the program from owners of these unauthorized piers, an "Amnesty Program" was created which essentially pardons individuals who possess an unauthorized pier, should they cooperate with the State to legalize the pier. [Note: This program does not include encroachments other than unauthorized piers, such as seawalls, fill, boats ramps, steps, etc. The State will continue to deal with these encroachments on a case-by-case basis.]

The ultimate goal of this program is to provide owners of unauthorized piers with the required permits to achieve compliance with the State's land use laws and ultimately resolve the illegal pier problem in Kaneohe Bay.

The following process for implementing the Amnesty Program was developed to meet its objectives to resolve the illegal pier problem in the greater portion of Kaneohe Bay, to establish equity in the use of public lands and to generate revenues for the State:

1. An inventory verifying the pier's existence, current owners and addresses of the adjoining property, the date of its construction, permits currently held and/or authorization from other agencies, and interest in participating in the Amnesty Program.
2. Ground proofing of the inventory by surveying each pier to provide documentation for the case files. The surveys consisted of measuring each pier and recording its length, width, and height above water, with rough sketches made to illustrate its shape, and photographs taken. Materials used for its construction and other existing structures were also noted. These files are available for review at the Land Division Office, Department of Land and Natural Resources, 1151 Punchbowl Street, Honolulu, Hawaii.
3. Preparation of a Master Conservation District Use Permit application pursuant to Chapter 183C, Hawaii Revised Statutes, and Title 13, Chapter 5, Hawaii Administrative Rules, and an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes, and Title 11, Chapter 200, Hawaii Administrative Rules. A public hearing before the Board of Land and Natural Resources will be scheduled during the public review process.

4. Detailed survey data submitted by pier owners will be used by the State's Appraiser to establish the fair value of the lease payments for the use of submerged lands.
5. Letters to be sent to all owners affected by the project to verify their continued participation in the Amnesty Program and as to the status of the Master CDUA and EA.
6. Review by the Board of Land and Natural Resources of the Master CDUA and the request for issuance leases pursuant to Chapter 171, Hawaii Revised Statutes.

CHAPTER 2

DESCRIPTION OF THE AFFECTED ENVIRONMENT

2.1 General Description of the Area

Kaneohe Bay is the northernmost barrier reef in the world and the only barrier reef in the Hawaiian Islands, extending across the mouth of the Bay to include the northwest Mokolii Passage and the southeast Kaneohe Passage, also referred to as the Sampan Channel.

The surface area of Kaneohe Bay at mean sea level is approximately 11,000 acres, or about 8.0 miles long by 2.6 miles wide. There are five major islands in the Bay, Moku o Loe (Coconut Island), Mokoli'i (Chinaman's Hat), Kapapa, Ahu o Laka, and Kekepa (Turtle Back Rock).

Kaneohe Bay has three inshore to offshore zones: a fringing reef zone, a lagoon zone, and a barrier reef complex and three types of reef: fringing reefs, patch reefs, and a barrier reef. Fringing reefs are found in the inshore zone around the shoreline except in areas where freshwater streams enter the Bay or where dredging activities have modified them. Patch reefs are found in the lagoon zone with most of them concentrated near the two channels that bisect the barrier reef. These reefs are round to irregular in shape where coral grows off the inner floor of the Bay and reaches up near the surface.

Most of the recreational activity centers around the central barrier reef flat that extends across the mouth of the Bay and includes the channels at the southern and northern ends, the sand flat and Kapapa Island. The shallow portion of the barrier reef is approximately 3 miles long by 1.2 miles wide.

From 1939 to 1945, the U.S. Navy dredged Mokolii Channel to approximately 10 meters. From 1939 to 1940, the U.S. Navy also dredged a ship channel that extends the length of the Bay and connects the Kaneohe Marine Corps Base - Hawaii with the Mokolii Channel to provide deep draft ship access between the Bay and the open ocean.

The immediate shoreline area in the vicinity of the piers in Kaneohe Bay is generally composed of mudflats, with some thin terrigenous-based beach areas, generally inaccessible by foot to

the general public. Water quality is often impaired due to turbidity from sediments. Because of the generally flat broad terrain, the shoreline areas are either completely submerged at high tide, or dry.

The shoreline of Kaneohe Bay has been extensively altered over the past 100 years with seawalls, channels, dredging, small inlets, piers, jetties, and boat harbors.

Recreational beach resources in the Bay are poor to non-existent. The area is better suited towards boating activities, fishing and crabbing.

2.2 Land Use and Zoning

In the past 200 years, the Kaneohe Bay area has undergone dramatic changes and continues to change as urbanization progresses. The area was used for the cultivation of taro, followed by rice and pineapple, and ended with grazing for pasture purposes. The use of irrigation ditches and water diversions to central Oahu reduced stream flows and have contributed to the deforestation, erosion and siltation in the Bay.

From 1928 to 1945, 280 acres of the Bay was filled to expand Mokapu Peninsula and from 1939 to 1945, approximately 15 million cubic yards of reef material was dredged from the Bay to construct the Kaneohe Naval Air Station and for housing development. These activities were the primary contributor to its degradation.

From 1940 to 1988, the Kaneohe area changed from a rural to residential community. In 1940, the population was 5,387 and by 1988 it had increased to 54,903 requiring more houses, streets and sewers, creating more paved areas and less vegetated areas. The population of windward Oahu was estimated to be the largest during this time.

In addition to the dredging of channels, private inlets for moorings to provide small boat access to shoreline house lots have contributed to the changes in the original coastline. Portions of the shoreline are bordered by sea walls built to control erosion and provide moorings for small boats.

The State land use designation for the islands within Kaneohe Bay, the fishponds, and all submerged land is Conservation with both Protective and Resource subzone designations (See Exhibit 2).

Within the watershed, the Conservation lands are generally along the slopes and crest of the Koolau Mountains including some mauka valleys, and on the upper slopes of the other ridges. The northern portion which includes Waiahole, Waikane, Hakipuu, and Kualoa are in the agricultural district, and the remaining lands are designated Urban.

Federal, State, and local jurisdictions overlap in the land use regulations affecting coastal areas. The lack of adequate resources had made the implementation and enforcement of the State's established regulations and controls difficult. This is just one reason why the problem has persisted for so long.

2.3 Water Quality

Construction in the shoreline area is responsible for increased runoff and sedimentation particularly on the southeastern portion of the Bay. During heavy storms, large deposits of sediment and freshwater have negatively affected coral reef growth where fine sediment is kept in suspension, reducing the clarity of the waters. Much of the material that was removed from the patches and fringing reefs were used to fill in old fishponds along the shoreline or were dumped back into the deeper parts of the Bay. The cumulative impacts have resulted in a highly modified extant marine community leaving little of the original reef structures and shoreline as it was before 1920.

Until 1977-1978, sewage was discharged into the bay from the Kaneohe sewage treatment plant and continues to occur periodically through the outfalls as "bypasses" and as seepage from the aging sewer collection system in urban Kaneohe.

In addition, many streams in the southern portion of the watershed were lined with concrete channels to protect houses built on natural flood plains from periodic flooding causing a reduction of ground water recharge and increase in sediment and freshwater storm runoff flowing into the Bay.

The health of the Kaneohe Bay ecosystem depends chiefly on the water quality in the streams, estuaries, and the Bay. Urbanization of the watershed is the most significant factor affecting water quality. The Bay and its watersheds have served as a living laboratory to analyze the influence of land use on tropical marine resources. However the carrying capacity of the ecosystem for further urban development based on responses to specific parameters is unknown. Changes in reef community structure indicate the ecosystem may be approaching its adaptive limits. Conservative land use decisions controlling future urbanization may be needed.

2.4 Geographical Features

Based on physical characteristics and human activity, the Bay has three distinctive northern to southern geographic sections. In the southern section, commercial, residential, and industrial development and associated activities are far greater than in the north.

In the central section, because of easy access from Heeia Kea Harbor there is a significant amount of recreational activity and use of the central barrier reef flat and sand flat. The only major public boat ramp and harbor, Heeia Kea Harbor is the point of origin of most of the commercial and recreational fishing activities.

The most oceanic section of the Bay is the northeastern portion where there is a large influx of ocean water over deeper parts of the barrier reef and the Mokoli'i Channel. It is also the most rural both on land and water with people pursuing quieter activities such as fishing.

2.5 Marine Environment

Over the last 40 to 60 years, most of the shoreline and marine habitats have been heavily modified. The greatest changes resulted from the extensive dredging beginning in the late 1930's continuing through 1949. A lot of the material that was removed from the patch and fringing reefs were used to fill old fishponds along the shoreline or were dumped back into deeper parts of the Bay. In addition to the dredging and filling, much of the shoreline has been modified with the building of retaining walls, piers, and jetties.

Besides the structural modifications that degraded the marine habitat, urban growth has adversely impacted the marine community. Secondly treated sewage was released into the southeast sector of the Bay from 1963 through 1978. This nutrient loading caused an increase in certain components of the marine fauna at the expense of others. The substratum characteristics of much of Kaneohe Bay combined with elevated nutrient loading and freshwater influences have favored the development of larger particulate-feeding animal species, such as sponges, tunicates, and barnacles.

In the past, the Bay had one of the largest estuaries on Oahu and has significant value as a marine and freshwater fish nursery area. At one time, there was a diverse population of reef fish in the Bay, including kumu, maomao, and hinalea. Open water fish such as akule, opelu, oio, mullet, nehu, weke, papio and omaka find their way into the southern portion of the Bay. In deeper waters, commercial fishing boats occasionally work the area to catch fish bait, or nehu.

The organisms found in the shallow southeastern reef areas are all species common to that portion of the Bay. None of these organisms are considered rare or endangered. Many of the shoreline species are forms that are tolerant of lowered salinities and are able to thrive in habitats of low environmental quality with minimal disruption.

2.6 Historic, Archaeological and Cultural Resources

Kaneohe Bay's significant historical and cultural features are its fishponds. In the Hawaiian cultural tradition, fishponds were primarily rock walls and used to cultivate fish. In the 19th century, there were 30 fishponds identified in Kaneohe Bay. From 1946 to 1948, 9 fishponds were filled to create land for housing development. Today, only five fishponds are considered intact. Four of the ponds are Kahuluu Fishpond, Heeia Fishpond, Moli Fishpond, and Kanohuluiwi Fishpond.

Most of the other historic, archaeological, and cultural areas of concern are found in the vicinity of coastal ponds and marshes. Nuupia Ponds, adjacent to the Kailua Regional WWTP, is an important wildlife habitat for the Hawaiian Stilt.

CHAPTER 3

SUMMARY OF IMPACTS, MITIGATION MEASURES AND ALTERNATIVES CONSIDERED

3.1 Summary of Impacts

The Kaneohe Bay Pier project does not involve the use of additional natural resources or State Lands. The purpose of the project is to provide owners of unauthorized piers with the required permits to achieve compliance with the State's land use laws and ultimately resolve the illegal pier problem in Kaneohe Bay. Therefore, any impacts resulting from the legalization of piers in Kaneohe Bay would have already occurred. This being said, the presence of existing piers does create some level of environmental impact and change to natural resources. In addition, future maintenance of boat piers could result in minor impacts to the environment, which should be disclosed, evaluated and mitigated.

Existing Piers

There are approximately 200 piers in Kaneohe Bay. Some of these piers were authorized and constructed under a Conservation District Use Application, but the majority were not.

The Department conducted site visits to verify the presence of piers as well as the type and size of the piers. This information is contained in files within the DLNR, Land Division.

Piers in Kaneohe Bay are constructed of different materials and come in a variety of shapes and sizes. Generally, wooden pier platforms are constructed on top of either wood or concrete pilings. Pier sizes vary, from small docks, abutting a seawall, to long shore perpendicular piers. Floating piers are also present in the Bay. In addition, some docks are made of fiberglass.

These piers impact the environment because they: 1) occupy public space (shore area), 2) introduce a visual element to the shore area, and 3) impact marine substrate and biota. [Note: Any impacts to marine substrate and marine biota would have likely occurred when the pier was constructed. These impacts are difficult or impossible to assess today.]

In terms of the impact to public space, the DLNR is of the opinion that such impacts are not significant since the shore area of Kaneohe Bay is not actively sought-out for beach recreation. Most of the recreational activity centers around the central barrier reef flat that extends across the mouth of the Bay and includes the channels at the southern and northern ends, the sand flat and Kapapa Island. The shallow portion of the barrier reef is approximately 3 miles long by 1.2 miles wide.

The immediate shoreline area in the vicinity of the piers in Kaneohe Bay is generally composed of mudflats, with some thin terrigenous-based beach areas, generally inaccessible by foot to the general public. Water quality is often impaired due to turbidity from sediments. Because of the generally flat broad terrain, the shoreline areas are either completely submerged at high tide, or dry.

Recreational beach resources in the Bay are poor to non-existent. The area is better suited towards boating activities, fishing and crabbing. The existing piers are not expected to impact fishing and crabbing activities.

Visual impacts are difficult to analyze due to the different ways people view the natural and built environments. A pier may be aesthetically appealing to some viewers and unappealing to others. The effect of building a pier on a pristine shoreline would certainly be negative. However, The shoreline of Kaneohe Bay has been extensively altered over the past 100 years with seawalls, channels, dredging, small inlets, piers, jetties, and boat harbors. Piers have become an integral feature along the Kaneohe Bay shoreline and their effect on the visual quality of the area is not presently a concern.

Pier Maintenance

If a Conservation District Use Application and land dispositions are finally issued to pier owners, it is anticipated that some pier maintenance work would be conducted. Impacts resulting from pier maintenance could involve increases in turbidity and disturbance of bottom sediments, if pier foundations are removed and replaced. In addition, impacts to the marine environment could occur from improper construction methods, resulting in the discharge of toxic substances and debris into the water.

Overall, impacts from pier repairs can be minimized with proper mitigation measures.

Beneficial Impacts

This program could have a positive environmental impact in two ways. First, pier owners would be able to repair existing dilapidated structures in the Bay. Secondly, monies generated from the leasing of piers in Kaneohe Bay would be dedicated to the State's Special Beach Restoration Fund. These monies would be used towards the improvement of degraded beach areas to the benefit of the general public.

It is the intent of DLNR to dedicate revenues received from pier lease rents in Kaneohe Bay to the Beach Restoration Fund.

3.2 Proposed Mitigation Measures

The approximately 200 piers in Kaneohe Bay are existing structures and for this program, no new structures are proposed. Any improvements that will be made to the existing piers will not cause adverse impacts to the environment.

For pier repairs, the following mitigation measures should be followed:

1. Fabrication and assembly of new decks should take place, as much as possible, on fast land.
2. Wooden and other parts treated with preservative, paint, varnish, antifoulant, or other protective coatings, or fabricated from volatile materials such as fiberglass resin, should be cured or dried for a least one week before they are placed in contact with the water.
3. Pier owners must prevent liquid and solid wastes, debris and rubbish from washing, blowing or blowing into the water.
4. Any filling of submerged land is prohibited expressly without separate approval.

5. Pier foundation replacement should be coordinated with the appropriate State and Federal agencies to ensure that impacts to marine substrate, coral, or other marine organisms is avoided or minimized.

3.3 Alternatives Considered

The alternatives considered to the proposed action were the "No Action" alternative and the "Removal" alternative.

The "No Action" alternative would be to do nothing, leaving the 200 structures unauthorized and illegal. However, this alternative is contrary to the intent of the Board in its approval of the action plan for the project.

The other alternative would be to remove the existing piers, an action likely to cause a greater disturbance to the ecological system (Studies have shown that piers provide a small contribution to habitat value by enhancing the fish population through the deliberate placement of hard substrate).

The preferred alternative, therefore, is to work with existing pier owners to bring them into conformance with State land use laws, resulting in the legalization of piers in Kaneohe Bay.

CHAPTER 4
DETERMINATION AND FINDINGS OF NO SIGNIFICANT IMPACT TO THE
ENVIRONMENT (FONSI)

In accordance with provisions set forth in Chapter 343, Hawaii Revised Statutes, and the significance criteria in Section 11-200-12 of the Department of Health Administrative Rules, it has been determined that, based on the fact that the purpose of the project is to provide owners of unauthorized piers with the necessary permits to bring them into compliance with State land use laws, the implementing actions described herein are not expected to result in significant social, economic, cultural, or environmental impacts. The proposed issuance will not have any significant adverse effects on the environment.

Although some minor, short-term impacts are expected to occur from pier maintenance, these impacts, if properly mitigated, would be negligible.

- 1) The project will not involve an irrevocable commitment to loss or destruction of any natural or cultural resource.

No loss or destruction of any resources will be involved as the land use is preexisting. No new structures are proposed and no alterations to the land will be made, except for routine maintenance. The project represents the State's commitment to preserve and enhance the natural, cultural, and recreational resources within Kaneohe Bay.

In addition, monies generated from lease rents could be utilized for beach restoration projects, which will enhance the beneficial use of the environment by replacing sections of lost beaches, and providing enhanced opportunities for recreation (beach use and access to the sea), cultural expression and ecological processes.

- 2) The project will not curtail the range of beneficial uses of the environment.

The approximate 200-shoreline structures are preexisting; therefore, there will be no additional environmental impacts resulting from implementation of this program. The Department expects that minor improvements will be made to individual piers after they are permitted. However, these improvements are not expected to result in adverse effects to the physical, social and cultural, and economic values for the area.

The restoration of the historical Kokokahi Pier at the Kokokahi YWCA is the only pier in which major construction work is proposed. It is severely deteriorated, consisting of concrete and steel pilings with a wood framed deck.

The loss and displacement of some marine life is expected, but the marine populations from adjacent areas may re-establish themselves within a period of time. Construction activity will cause turbidity and an increase in the nutrient will result in a temporary reduction of oxygen due to anoxic sediments impacting the surrounding marine environment.

Traffic noise from the heavy construction vehicles traveling to and from the site will comply with the noise control provisions in Title 11, Chapter 42, of the Health Department's administrative rules.

Any impacts associated with its restoration are expected to provide useful benefits to the public by giving access to the Bay's resources, for boating, fishing, swimming, and crabbing activities. Other impacts will be short-term and are not expected to result in significant adverse effects.

- 3) The project does not conflict with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, Hawaii Revised Statutes, and any revisions thereof and amendments thereto, court decisions, or executive orders.

There is no conflict with the environmental policies, goals and guidelines of the State. In fact, the program seeks to enhance the efforts of the State to meet the responsibilities to protect and preserve the natural and biological values of the existing environment and shoreline structures.

- 4) The project will not substantially affect the economic or social welfare of the community or State.

Implementation of the project's action plan will not result in significant adverse impacts that will affect the community's social or economic welfare. After the permits are issued to the owners of the piers and improvements are completed, the economic value of the residential property and the larger community will be enhanced.

The collection of rental fees for the revocable permits will have positive economic impacts of statewide significance and for beach restoration.

- 5) The project will not substantially affect the public health.

Legalization of the piers will have a positive impact on the public's health and safety. The site inspections conducted identified a number of piers that are no longer safe for public use. In some cases, the owner is no longer interested in maintaining the pier and has left it to further deteriorate; in other cases, approval for a building permit could not be secured to make improvements to it.

- 6) The project will not involve substantial secondary impacts, such as population changes or have effects on public facilities.

Implementation of the Amnesty Program is not expected to have primary or secondary impacts as the use is preexisting.

- 7) The project will not involve substantial degradation of environmental quality.

The program's objective is to formally establish an existing land use and will not substantially degrade the environmental quality of the Kaneohe Bay area. It is expected that there will be little, if any, activity that will compromise the integrity of the marine environment and the surrounding residential community.

- 8) The project does not have a cumulative effect on the environment, nor does it involve a commitment for larger actions.

The Kaneohe Bay Pier Project and its component, the Amnesty Program seeks to provide owners of existing piers with an alternate method to obtain the land use permits. Any impacts associated with the existing pier structures are negligible. The project does not involve any commitment to the occurrence for larger actions.

- 9) The project does not substantially affect a rare, threatened, or endangered species, or its habitat.

There are no rare, threatened, or endangered species known to exist within the project area.

- 10) The project will not detrimentally affect air or water quality or ambient noise levels.

There is expected to be no major activities affecting air or water quality and noise levels. With the exception of the restoration of the Kokokahi Pier, no major improvements are proposed at this time.

- 11) The project is located within an environmentally sensitive area such as a flood plain and tsunami zone.

The project area is located within the Flood Emergency Management Agency (FEMA) hazard zone and within the Civil Defense Inundation Zone. The shoreline areas are subject to storm wave and tsunami inundation.

- 12) The project will not substantially affect scenic vistas and view planes identified in county or state plans or studies.

The views of Kaneohe Bay from Kaneohe Bay Drive are largely blocked by the residential development. No scenic views of ocean or mountain resources will be affected.

- 13) The project does not require substantial energy consumption.

Other than energy and resources for pier repairs, no additional energy requirements are foreseen.

Chapter 5

List of All Permits and Approvals Required

The Board of Land and Natural Resources is responsible for governing land use on all lands located in the Conservation District, whether publicly or privately-owned, and administering and exercising control over the public lands of the State.

Submerged lands are public State-owned lands within the Conservation District. Land use requests for conditional use of these submerged lands require the Board to act and decide as both the regulator of the Conservation District and the land manager of public lands. The authorization and documentation for a pier requires approval by the Board for a CDUA as well as the land disposition.

Recreational boat piers built after September 18, 1964, require Board approval of a Conservation District Use Permit and a lease for land disposition. Both permits are administered by the Department of Land and Natural Resources, pursuant to Chapters 171 and 183C, Hawaii Revised Statutes.

The Coastal Zone Management Act created special management areas (SMA). Any "development" within the SMA requires an SMA permit from the City and County of Honolulu's Department of Planning and Permitting. Piers are located seaward of the shoreline and are therefore, not within the County Special Management Area.

A U.S. Army Corps permit would be required for work within navigable waters of the United States of America. Pier foundation replacement would require consultation with the U.S. Army Corps District Engineer to determine applicable permit requirements.

If the U.S. Army Corps requires an individual permit for pier repairs, a permit (401 Water Quality Certification) would also be required from the State Department of Health, Clean Water Branch.

Chapter 6
Comments and Responses of Early Consultation

Federal, State and County Agencies

The U.S. Army Corps of Engineers, Pacific Ocean Division, the State Department of Transportation - Harbors Division; the State Office of Environmental Quality Control; the City and County of Honolulu - Department of Facility Maintenance, Department of Planning and Permitting; and the Division of Boating and Ocean Recreation and the Land Division of the Department of Land and Natural Resources were consulted during the preparation of this document.

Citizen Groups

Staff from the Land Division made informal presentations of the Kaneohe Bay Pier project and the Amnesty Program to the Kaneohe Neighborhood Board and the Kaneohe Regional Council.

To date, there are no written comments or responses received regarding the early consultation provisions of section 11-200-9(a)(1), Hawaii Administrative Rules.

Chapter 7
Comment Letters to Draft EA and Responses

RECEIVED
LAND DIVISION
PHONE (808) 594-1888

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FAX (808) 594-1865

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAP'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

February 22, 2001

Mr. Dean Y. Uchida, Administrator
Land Division
Department of Land and Natural Resources
P. O. Box 621
Honolulu, HI 96809

Subject: Conservation District Use Application (Board Permit) OA-3017B for
Kaneohe Bay Piers Project, Kaneohe, Oahu

Dear Mr. Uchida:

Thank you for the opportunity to comment on the above referenced project.

The Office of Hawaiian Affairs is concerned about the State's past failure to collect rent for the Kaneohe Bay Piers and supports this current effort to resolve the unauthorized pier problem.

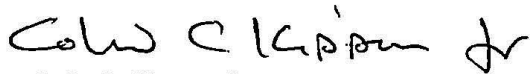
As you may be aware, the Public Land Trust consists of those lands acquired under Sections 5(f) of the Admission Act. Chapter 10-13.5, Hawaii Revised Statutes, states:

"Twenty per cent of all revenue derived from the public land trust shall be expended by the office for the betterment of the conditions of native Hawaiians."

This project is located on state submerged lands which constitute "ceded" lands subject to the trust. Therefore, OHA is entitled to 20% of the pro rata share of the revenues generated from the rents from pier users. By failing to collect rent for the use of these lands, the State of Hawaii risks breaching the trust.

If you have any questions, please contact Sharla Manley, assistant policy analyst at 594-1944, or e-mail her at sharlam@oha.org.

Sincerely,

A handwritten signature in black ink that reads "Colin C. Kippen Jr". The signature is written in a cursive style with a small "jr" at the end.

Colin C. Kippen, Jr.
Deputy Administrator

CK: sam

cc: Board of Trustees
Randall K. Ogata



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref:PB:TC

File: OA-3017B

Colin Kippen, Deputy Administrator
Office of Hawaiian Affairs
711 Kapiolani Blvd., Suite 500
Honolulu, HI 96813

SUBJECT: Conservation District Use Application (CDUA) OA-3017B

Thank you for your letter dated February 22, 2001, commenting on the subject CDUA and Draft Environmental Impact Statement (DEIS). We offer the following responses in the respective order of your comments:

The Land Division has also been concerned about the State's past failure to collect rent for the Kaneohe Bay Piers. This CDUA and DEIS are part of an attempt to find a resolution to a problem, which has persisted for several decades.

The Land Division is aware of the fact that the project is located on "ceded" lands subject to the Public Land Trust, and fully expects that OHA will receive the pro rata share of the revenues, generated from the rents from pier users, to which it is entitled.

Your letter along with this response will be reproduced in the forthcoming Final Environmental Impact Statement. We appreciate your interest and participation in the public review phase of the environmental review process.

Sincerely,

Dean Y. Uchida, Administrator
Land Division

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

RECEIVED
650 SOUTH KING STREET • HONOLULU, HAWAII 96813
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JEREMY HARRIS
MAYOR



RANDALL K. FUJIKI, AIA
DIRECTOR
LORETTA K. C. CHEE
DEPUTY DIRECTOR

2001/CLOG-603(RY)

March 8, 2001

Mr. Dean Y. Uchida
Administrator, Land Division
Department of Land and Natural Resources
State of Hawaii
PO Box 621
Honolulu, Hawaii 96809

Dear Mr. Uchida:


Subject: Conservation District Use Application (Board Permit)
For Kaneohe Bay Piers Project, Kaneohe, Oahu

We have the following comment for your consideration:

Affected pier owners should be notified that any portion of the piers located mauka of the certified shoreline may be within City jurisdiction, and if so, are subject to City permits and approvals not covered under the Conservation District Use Permit. Thank you for the opportunity to comment.

If you have any questions, please contact Raymond Young of our staff at 527-5839.

Sincerely yours,


RANDALL K. FUJIKI, AIA
Director of Planning and Permitting

RKF:lh
7773



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
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CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref:PB:TC

File: OA-3017B

Randall K. Fujiki, AIA
Director of Planning & Permitting
City & County of Honolulu
650 South King Street
Honolulu, HI 96813

SUBJECT: Conservation District Use Application (CDUA) OA-3017B
Kaneohe Bay Piers Project

Thank you for your letter dated March 8, 2001, commenting on the subject CDUA and Draft Environmental Impact Statement (DEIS). We offer the following response to your comments:

Because a shoreline survey is an integral part of the Conservation District land leasing process, the Land Division and pier owners will automatically be made aware of any portions of piers that may be within City jurisdiction, and therefore are subject to City permits and approvals.

Your letter along with this response will be reproduced in the forthcoming Final Environmental Impact Statement. We appreciate your interest and participation in the public review phase of the environmental review process.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Uchida".

Dean Y. Uchida, Administrator
Land Division

Suspense Date: March 3, 2001

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawaii

MEMORANDUM

To: William Devick, Administrator
From: Richard Sixberry, Aquatic Biologist
Subject: Comments on Conservation District Use Permit OA-3017 (B)

Comments Requested By: Dean Uchida, Land Division

Date of Request: 2/7/01

Date Received: 2/9/01

Summary of Project

Title: Kaneohe Bay Piers Project

Proj.: DLNR

Location: Kaneohe Bay, Oahu

Brief Description:

The Department of Land and Natural Resources seeks to resolve the unauthorized pier problem in Kaneohe Bay, which has persisted for several decades. An "Amnesty Program" has been created to pardon the owners of the unauthorized piers with rental agreement for use of State land.

Comments:

If State leases are issued for these structures, we suggest that any construction or maintenance of these piers or submerged lands be submitted to the Department for review to protect the recreational values of surrounding waters and nearby baitfish utilized by the State's commercial fishing industry.

We also note that lease of submerged lands for pier purposes may require, pursuant to Section 171-36 (a) (9), HRS "a sign or signs be placed on the pier, clearly visible to the public, which indicates the public's right to use of such pier".



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
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RESOURCES ENFORCEMENT
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref:PB:TC

File: OA-3017B

William Devick, Administrator
Division of Aquatic Resources (DAR)
1151 Punchbowl St., Room 330
Honolulu, HI 96813

SUBJECT: Conservation District Use Application (CDUA) OA-3017B

Thank you for your letter dated March 1, 2001, commenting on the subject CDUA and Draft Environmental Impact Statement (DEIS). We offer the following responses in the respective order of your comments:

The Land Division will refer any applications for CDUA amendments for maintenance or additional construction of piers to the DAR for review.

Regarding the placement of signs on the piers indicating the public's right to use the pier, this has been a condition of the presently issued Revocable Permits. The Amnesty Program will involve fifty-five (55) year leases with no "public pier" condition.

Your letter along with this response will be reproduced in the forthcoming Final Environmental Impact Statement. We appreciate your interest and participation in the public review phase of the environmental review process.

Sincerely,

Dean Y. Uchida, Administrator
Land Division

Division of Forestry & Wildlife


1151 Punchbowl Street, Rm. 325 • Honolulu, HI 96813 • (808) 587-0166 • Fax: (808) 587-0160

February 9, 2001

MEMORANDUM

TO: Traver Carroll
Land Division

THRU: Dean Uchida, Administrator
Land Division

FROM: Michael G. Buck, Administrator 
Division of Forestry and Wildlife

SUBJECT: **Request for Comments - CDUA OA - 3017B, Kaneohe Bay Piers
Project Oahu.**

We have reviewed this CDUA application for the subject above and do not have any objections to the proposed project, as the inventory and survey of approximately 200 existing piers to determine their status as legal, nonconforming, or unauthorized along Kaneohe Bay will not impact any of DOFAW's management programs. Thank you for the opportunity to comment.

C: Oahu DOFAW Branch



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 821
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref:PB:TC

File: OA-3017B

Michael G. Buck, Administrator
Division of Forestry & Wildlife (DOFAW)
Department of Land & Natural Resources
1151 Punchbowl Street, Room 325
Honolulu, HI 96813

SUBJECT: Conservation District Use Application (CDUA) OA-3017B
Kaneohe Bay Piers Project

Thank you for your letter dated February 9, 2001. We acknowledge that you do not have any objections to the proposed project and that it will not impact any of DOFAW's management programs. Your letter along with this response will be reproduced in the forthcoming Final Environmental Impact Statement. We appreciate your interest and participation in the public review phase of the environmental review process.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Uchida".

Dean Y. Uchida, Administrator
Land Division

DOCARE-18	DOCARE-18	File Number	3017B-OA
Applicant	DEPARTMENT OF LAND & NATURAL RESOURCES		
Contact	TRAVER CARROLL, 587-0439		
Location	VARIOUS PARCELS, KOOLAUPOKO, OAHU		
Project Summary	PROVIDE RECREATIONAL BOAT PIER OWNERS IN KANEOHE BAY WITH PERMITS		
Project Description	LAND DIVISION PROPOSES TO INVENTORY AND SURVEY APPROX 200 EXISTING PIERS AND THEN PROVIDE OWNERS WITH THE REQUIRED PERMITS TO ACHIEVE COMPLIANCE WITH STATE LAND USE LAWS		
Branch Assigned	OAHU	Date Referred	2/14/01 Date Due: 2/28/01
Instructions	REVIEW THE ATTACHED APPLICATION AND COMMENT WITH RESPECT TO DOCARE'S CURRENT AND FUTURE PROGRAMS. NO SITE INSPECTION IS NEEDED. IF NO RESPONSE IS RECEIVED, LAND DIVISION WILL ASSUME THAT THERE ARE NO COMMENTS.		
Branch Report Number		Officer Assigned	
Date Assigned		Date of Inspection	
Has Work Been Initiated	Yes <input type="checkbox"/>	No	<input type="checkbox"/>
Describe			
Were Any Discrepancies Noted	Yes <input type="checkbox"/>	No	<input type="checkbox"/>
Remarks			
Is Approval Recommended	Yes <input type="checkbox"/>	No	<input type="checkbox"/>
Notes			
Final Disposition	NO COMMENT - OAHU BRANCH <i>[Signature]</i>		



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
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BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref:PB:TC

File: OA-3017B

Gary D. Moniz, Administrator
Division of Conservation & Resources Enforcement
Department of Land & Natural Resources
1151 Punchbowl Street, Room 311
Honolulu, HI 96813

SUBJECT: Conservation District Use Application (CDUA) OA-3017B
Kaneohe Bay Piers Project

Thank you for your letter dated February 14, 2001. We acknowledge that you do not have any comments regarding the proposed project. Your letter along with this response will be reproduced in the forthcoming Final Environmental Impact Statement. We appreciate your interest and participation in the public review phase of the environmental review process.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Uchida".

Dean Y. Uchida, Administrator
Land Division



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

February 9, 2001

Ref: LD/BC

MEMORANDUM

TO: Dean Y. Uchida, Administrator, Land Division
ATTN: Traver Carroll
FROM: Barry Cheung, Oahu District Land Office
SUBJECT: Request for comments - CDUA Application
Kaneohe Bay Piers Project

I have no comment.

bc



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref:PB:TC

File: OA-3017B

Charlene E. Unoki, Supervising Land Agent
Oahu District Branch
Department of Land & Natural Resources
1151 Punchbowl Street, Room 220
Honolulu, HI 96813

SUBJECT: Conservation District Use Application (CDUA) OA-3017B
Kaneohe Bay Piers Project

Thank you for your letter dated February 9, 2001. We acknowledge that you do not have any comments regarding the proposed project. Your letter along with this response will be reproduced in the forthcoming Final Environmental Impact Statement. We appreciate your interest and participation in the public review phase of the environmental review process.

Sincerely,

Dean Y. Uchida, Administrator
Land Division

BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII



GILBERT S. COLDMA-AGARAN, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEPUTIES
JANET E. KAWELO
LUNNEL NISHIOKA

RECEIVED
LAND DIVISION

2001 APR 17 A 11: 11

DEPT. OF LAND AND NATURAL RESOURCES
HISTORIC PRESERVATION DIVISION

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
Kakuhikewa Building, Room 555
601 Kamokila Boulevard
Kapolei, Hawaii 96707


AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND RESOURCES
ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND
STATE PARKS

April 12, 2001

MEMORANDUM

LOG NO: 27258
DOC NO: 0104EJ09

TO: Dean Uchida, Administrator
Land Division

FROM: Don Hibbard, Administrator 
Historic Preservation

SUBJECT: Chapter 6E-8 Historic Preservation Review – Conservation District Use
Application Kane`ohe Bay Piers Project
Kane`ohe, Ko`olaupoko, O`ahu
TMK: Offshore

According to the documentation, the Department wishes to resolve the unauthorized pier problem in Kane`ohe Bay. The goal of this action is to provide owners of unauthorized piers with the required permits to achieve compliance with the State's land use laws. Since no new structures are proposed and any improvements will be made to the existing piers, we believe that the approval of this permit will have "no effect" on significant historic sites.

Should you have any questions, please feel free to contact Sara Collins at 692-8026 or Elaine Jourdane at 692-8027.

EJ:jk



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 821
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
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BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref:PB:TC

File: OA-3017B

Don Hibbard, Administrator
Historic Preservation
Department of Land & Natural Resources
Kakuhihewa Building, Room 555
601 Kapolei Boulevard
Kapolei, HI 96707

SUBJECT: Conservation District Use Application (CDUA) OA-3017B
Kaneohe Bay Piers Project

Thank you for your letter dated April 12, 2001. We acknowledge that you do not have any objections to the proposed project, because no new structures are proposed and that the permit will have no effect on significant historic sites. Your letter along with this response will be reproduced in the forthcoming Final Environmental Impact Statement. We appreciate your interest and participation in the public review phase of the environmental review process.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean Y. Uchida".

Dean Y. Uchida, Administrator
Land Division

**DLNR-LAND DIVISION
ENGINEERING BRANCH**

Ref: PB:TC

COMMENTS

DLNR's objective of legalizing the existing piers in Kaneohe Bay to resolve the unauthorized pier problem does not affect our current projects.



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref:PB:TC

File: OA-3017B

Andrew M. Monden, Chief Engineer
Engineering Branch
Department of Land & Natural Resources
1151 Punchbowl Street, Room 221
Honolulu, HI 96813

**SUBJECT: Conservation District Use Application (CDUA) OA-3017B
Kaneohe Bay Piers Project**

Thank you for your letter dated March 20, 2001. We acknowledge that you do not have any objections to the proposed project and that it will not affect any of the Engineering Branch's current projects. Your letter along with this response will be reproduced in the forthcoming Final Environmental Impact Statement. We appreciate your interest and participation in the public review phase of the environmental review process.

Sincerely,

Dean Y. Uchida, Administrator
Land Division



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, HONOLULU
FORT SHAFTER, HAWAII 96859-5440

RECEIVED
LAND DIVISION

February 27, 2001

2001 MAR -2 A 9 19

Regulatory Branch

Mr. Dean Y. Uchida
Administrator, Land Division
Department of Land and
Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Dear Mr. Uchida:

Thank you for providing a review copy of the Conservation District Use Application (CDUA, OA-3017B) and Draft Environmental Assessment (DEA) for the Kaneohe Bay Pier Project, Kaneohe, Oahu, which addresses the status of the approximately 200 existing piers in Kaneohe Bay. We have reviewed the documents with respect to the Corps' authority to issue Department of the Army (DA) permits under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

We will not require individual owners of the existing piers, who wish to retain them, to apply for and obtain Department of the Army (DA) permit authorizations for those structures. However, any new work in waters of the U.S., such as repair, modification, or removal of existing piers, or installation of new piers, may require a DA permit. Any individual or entity intending to conduct such work should first contact this office to obtain a determination of DA permit requirements for their planned activity.

Should you have questions regarding this response, please contact Mr. Peter Galloway of my regulatory staff at 438-8416 (fax 438-4060). File number 200100134 has been assigned to this project.

Sincerely,

George P. Young, P.E.
Chief, Regulatory Branch



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref:PB:TC

File: OA-3017B

George P. Young, P.E.
Chief, Regulatory Branch
U.S. Army Engineer District, Honolulu
Fort Shafter, HI 96858-5440

SUBJECT: Conservation District Use Application (CDUA) OA-3017B
Kaneohe Bay Piers Project

Thank you for your letter dated February 27, 2001, commenting on the subject CDUA and Draft Environmental Impact Statement (DEIS). We offer the following response to your comments:

The Land Division will require landowners seeking authorization to: a.) repair, modify, or remove existing piers; or b.) install a new pier; to contact your office to obtain a determination of Department of the Army requirements for their planned activity.

Your letter along with this response will be reproduced in the forthcoming Final Environmental Impact Statement. We appreciate your interest and participation in the public review phase of the environmental review process.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Uchida".

Dean Y. Uchida, Administrator
Land Division

REFERENCES

City and County of Honolulu, Department of Design and Construction, and Department of Environmental Services. Final Environmental Impact Statement for the Kailua-Kaneohe-Kahaluu Facilities Plan prepared by Wilson Okamoto & Associates, Inc. February 2000.

State of Hawaii, Department of Land and Natural Resources, Planning Office. A Report on Regulation Compliance of Land Use in the State of Hawaii Conservation District: A Study of Piers in Kaneohe Bay. August 22, 1980.

State of Hawaii, Office of Planning. Kaneohe Bay Regional Council Evaluation conducted by the 1997 Kaneohe Bay Task Force. January 1998.

State of Hawaii, Office of State Planning. Kaneohe Bay Master Plan prepared by the Kaneohe Bay Master Plan Task Force. May 1992.

U.S. Army Engineer District, Honolulu. Kaneohe Bay Recreation Study of the Kaneohe Bay Urban Water Resources Study prepared by H. Mogi-Planning & Research, Inc. March 1977.

U.S. Army Corps of Engineers, Pacific Ocean Division. Oahu Coastal Zone Atlas representing the Hawaii Coral Reef Inventory Island of Oahu, Part C prepared by AECOS Inc. 1981.

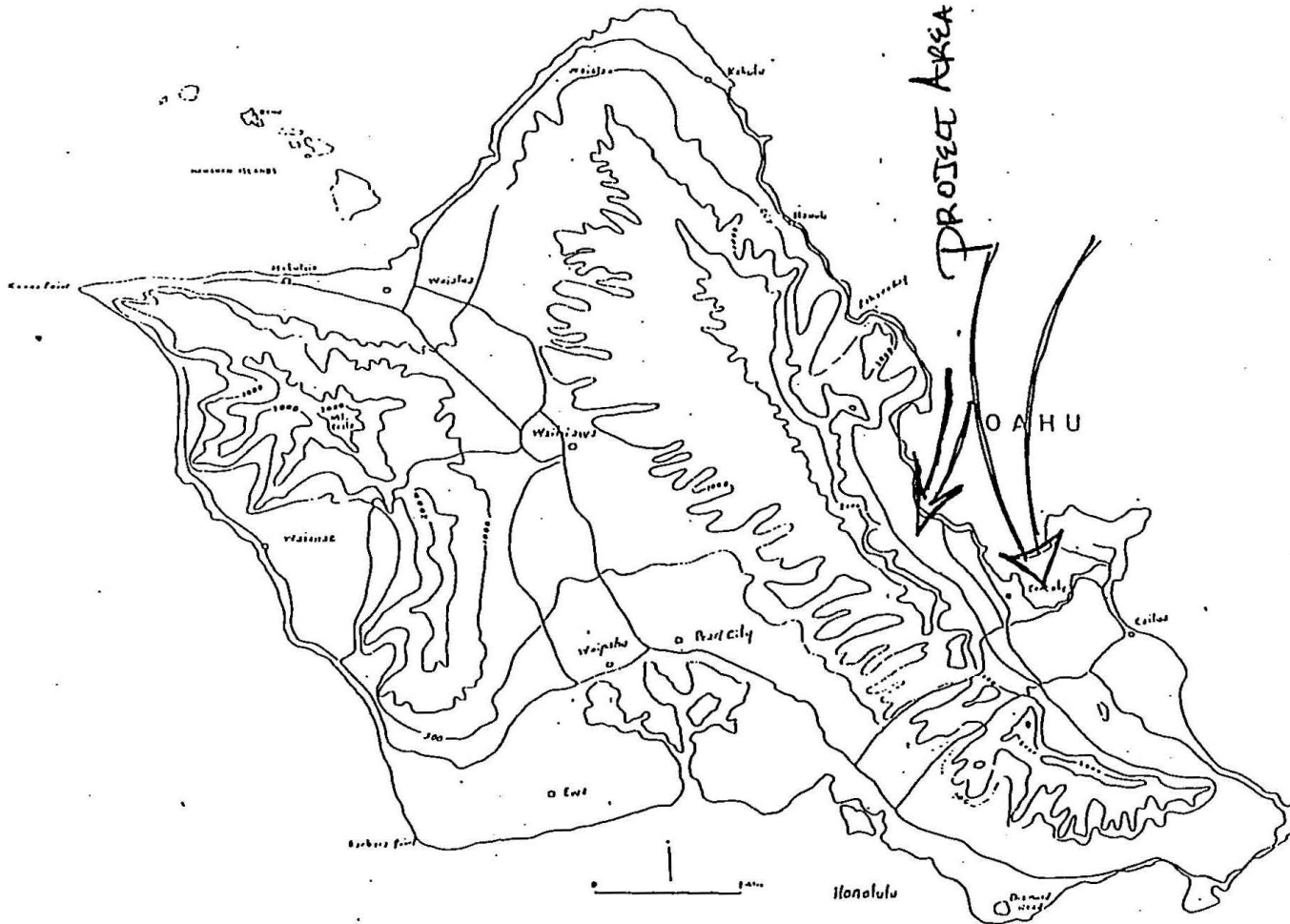
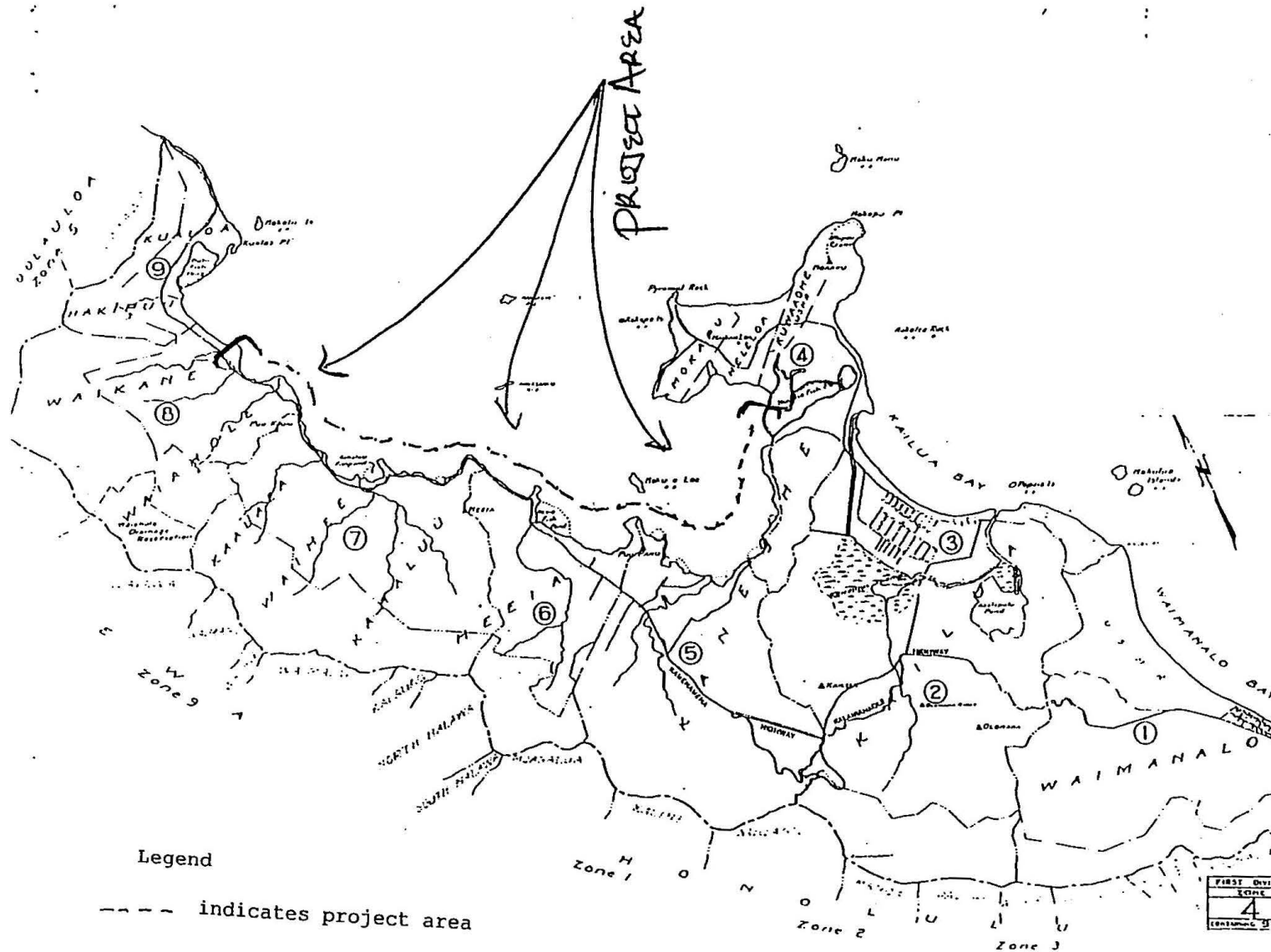


Exhibit 1

Draft Environmental Assessment
for the Kaneohe Bay Pier Project



102

Exhibit 2

Draft Environmental Assessment
 for the Kaneohe Bay Pier Project

KOOLAUPOKO - OAHU

1181

DOCUMENT CAPTURED AS RECEIVED



Draft Environmental Assessment
for the Kaneohe Bay Pier Project

Exhibit 2 2010

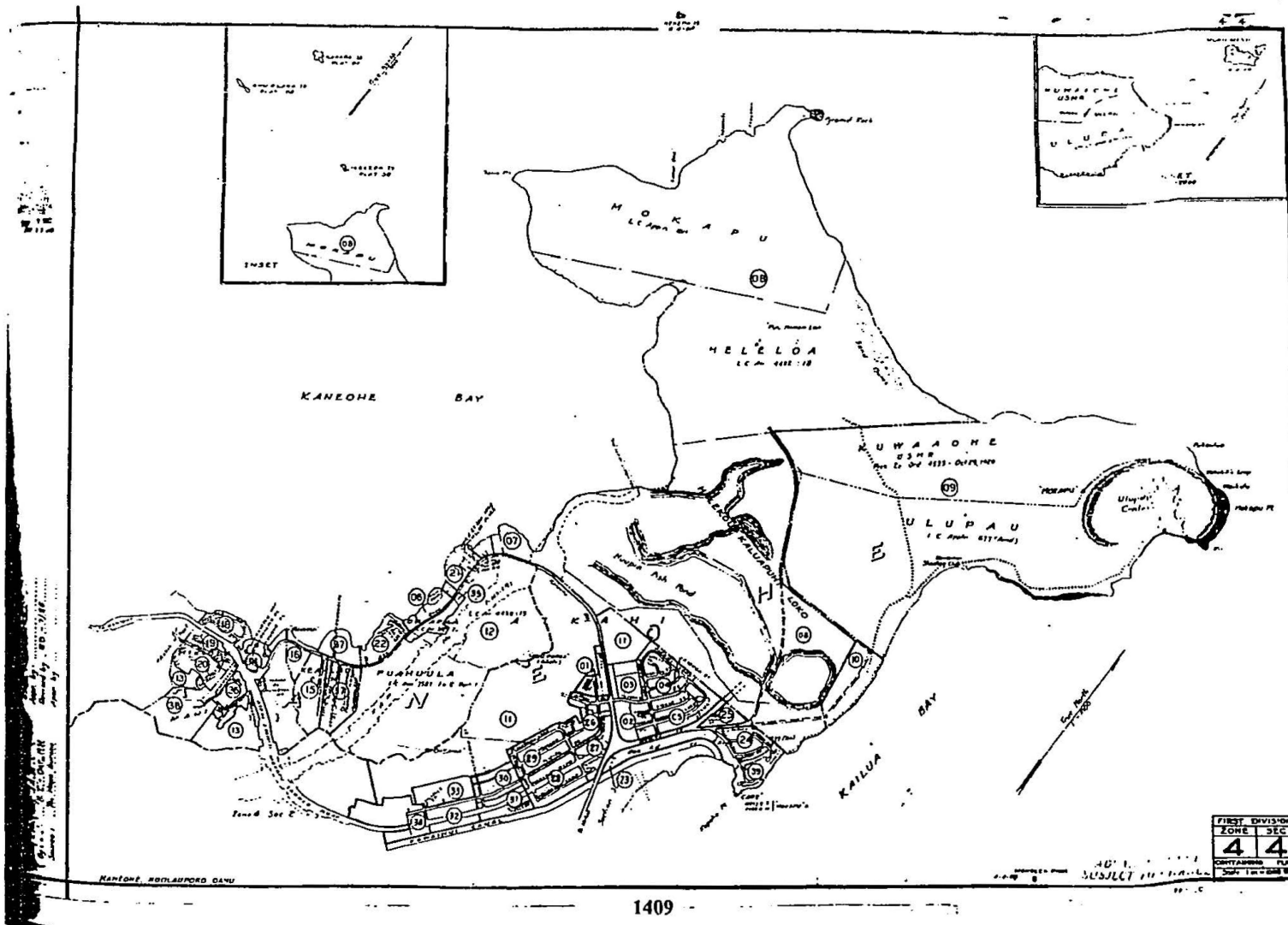


Exhibit 3

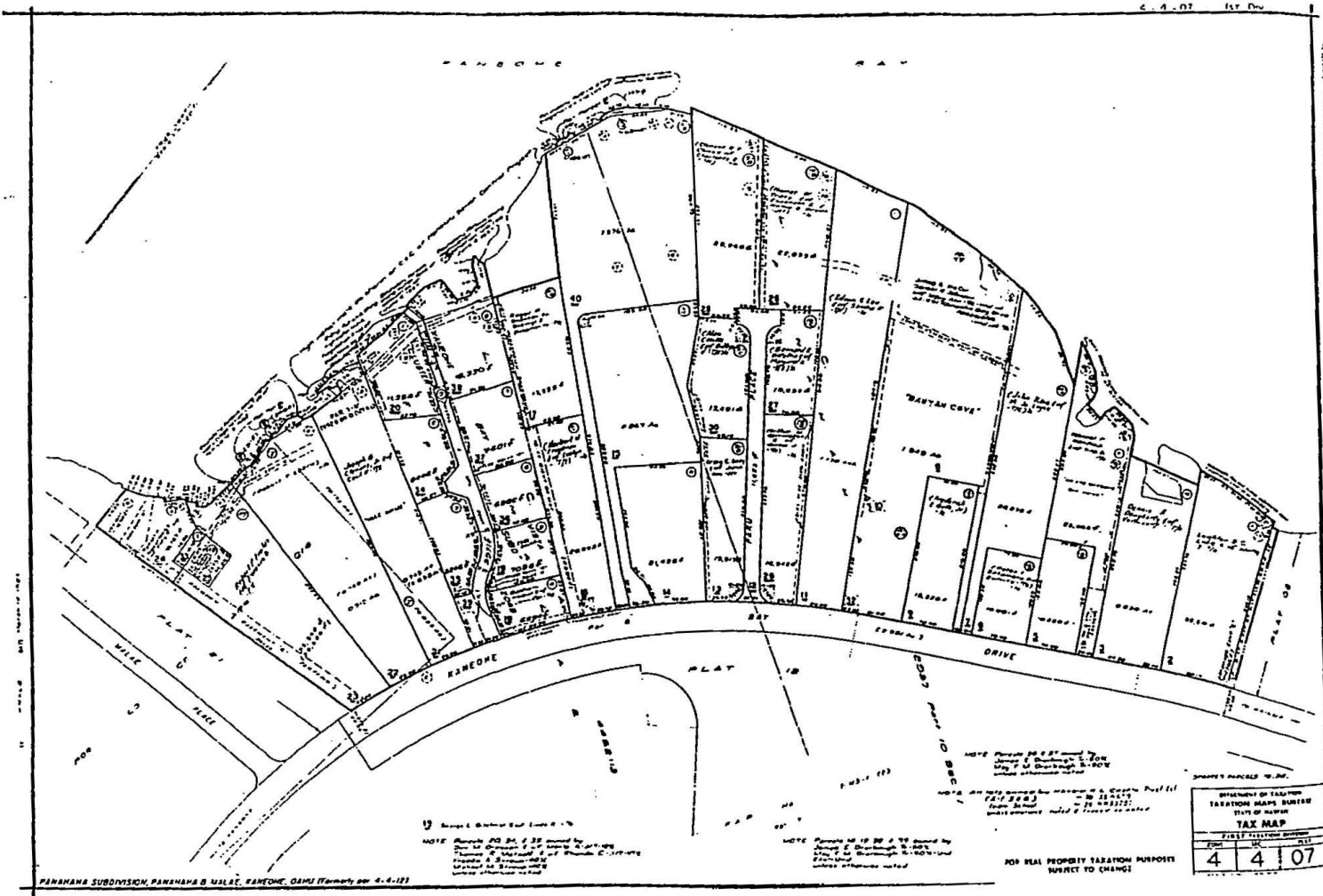
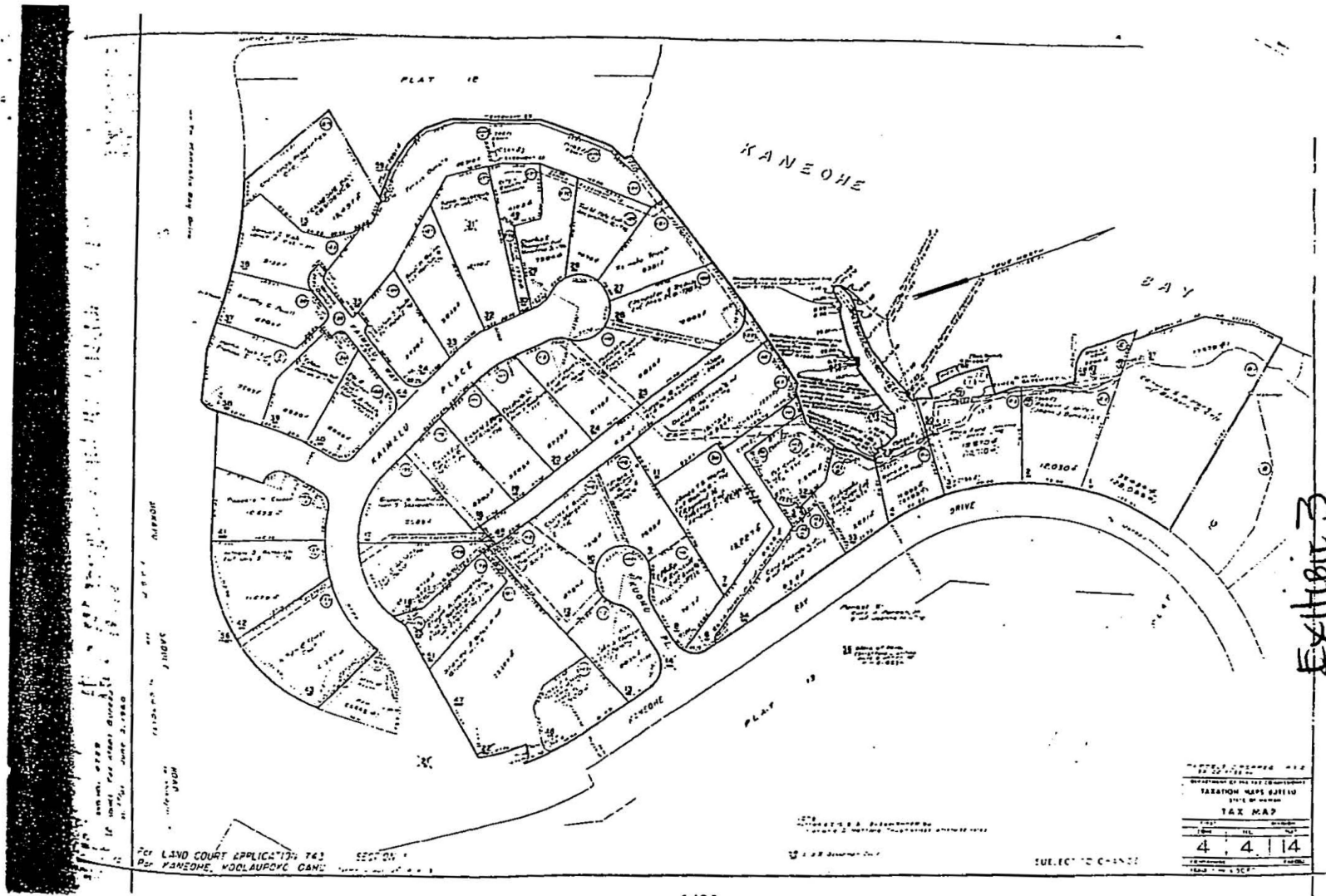


Exhibit 3

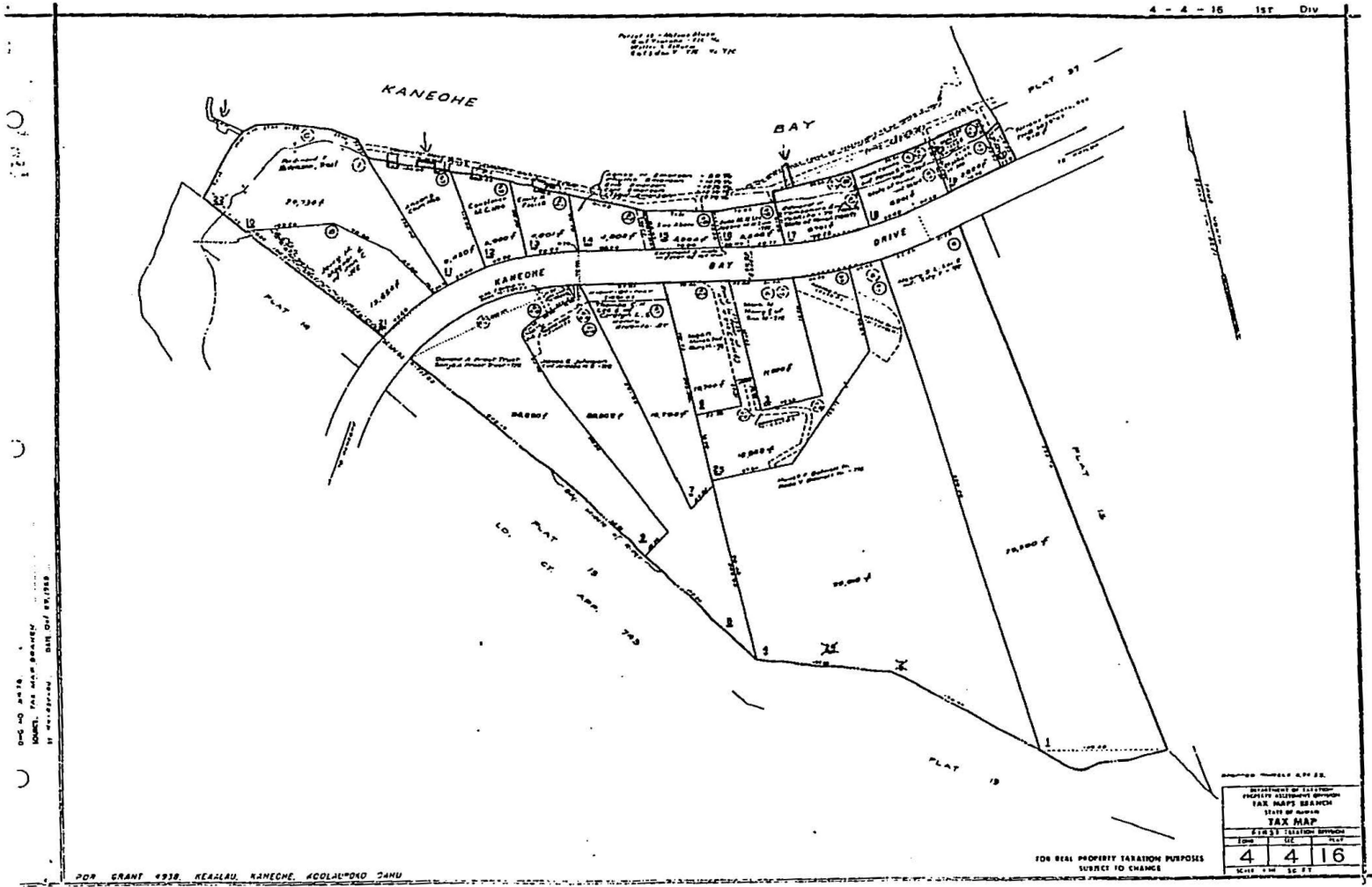


FOR LAND COURT APPLICATION 743 SECTION 1
 OF KANEHOE, MOLOKAU COUNTY, HAWAII

STATE OF HAWAII
 DEPARTMENT OF THE REVENUE
 TITLES SECTION

DEPARTMENT OF THE REVENUE	
TAXATION MAPS SECTION	
TAX MAP	
DATE	ISSUED
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4 - 4 - 16 1st Div

EXHIBIT 3

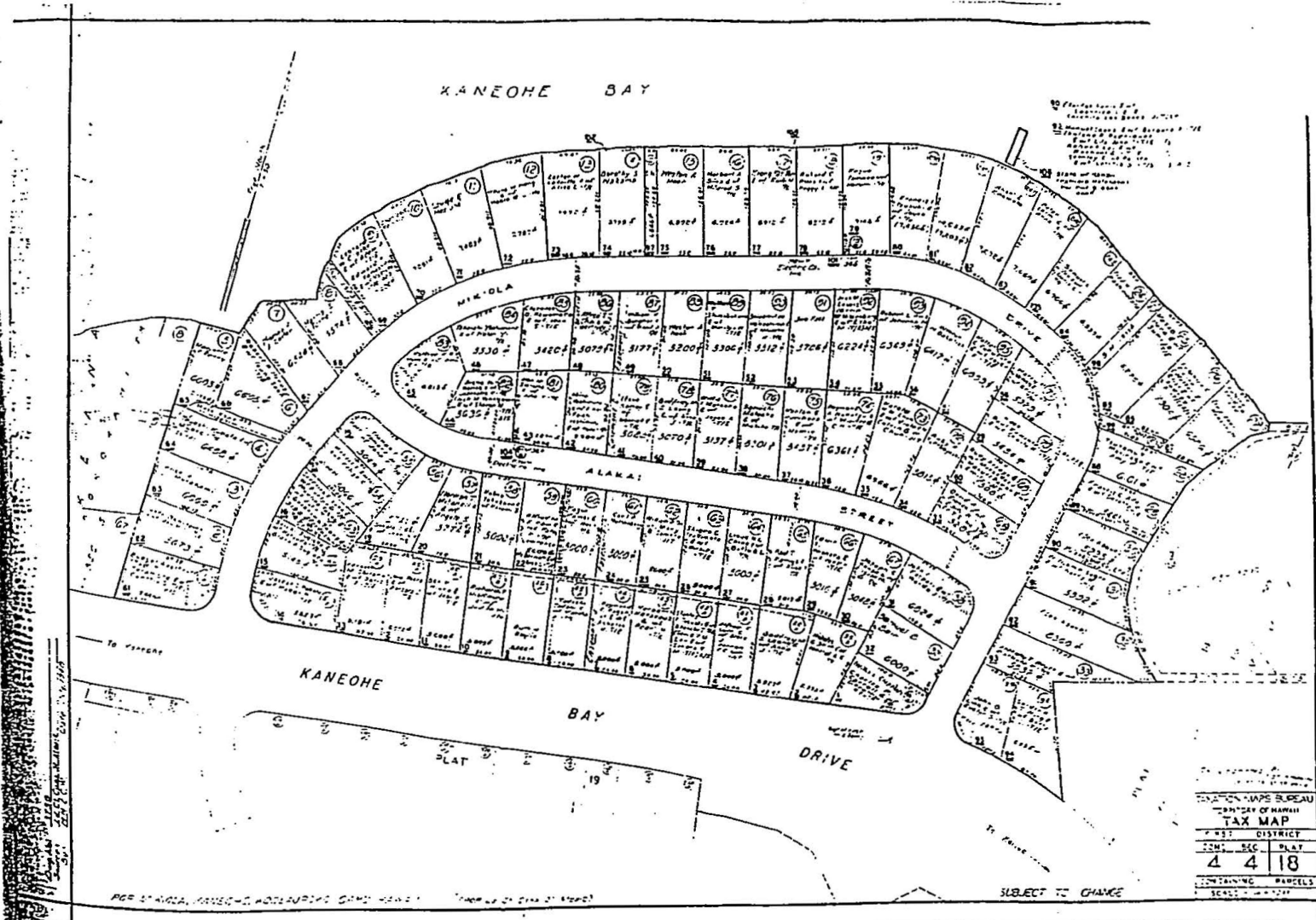
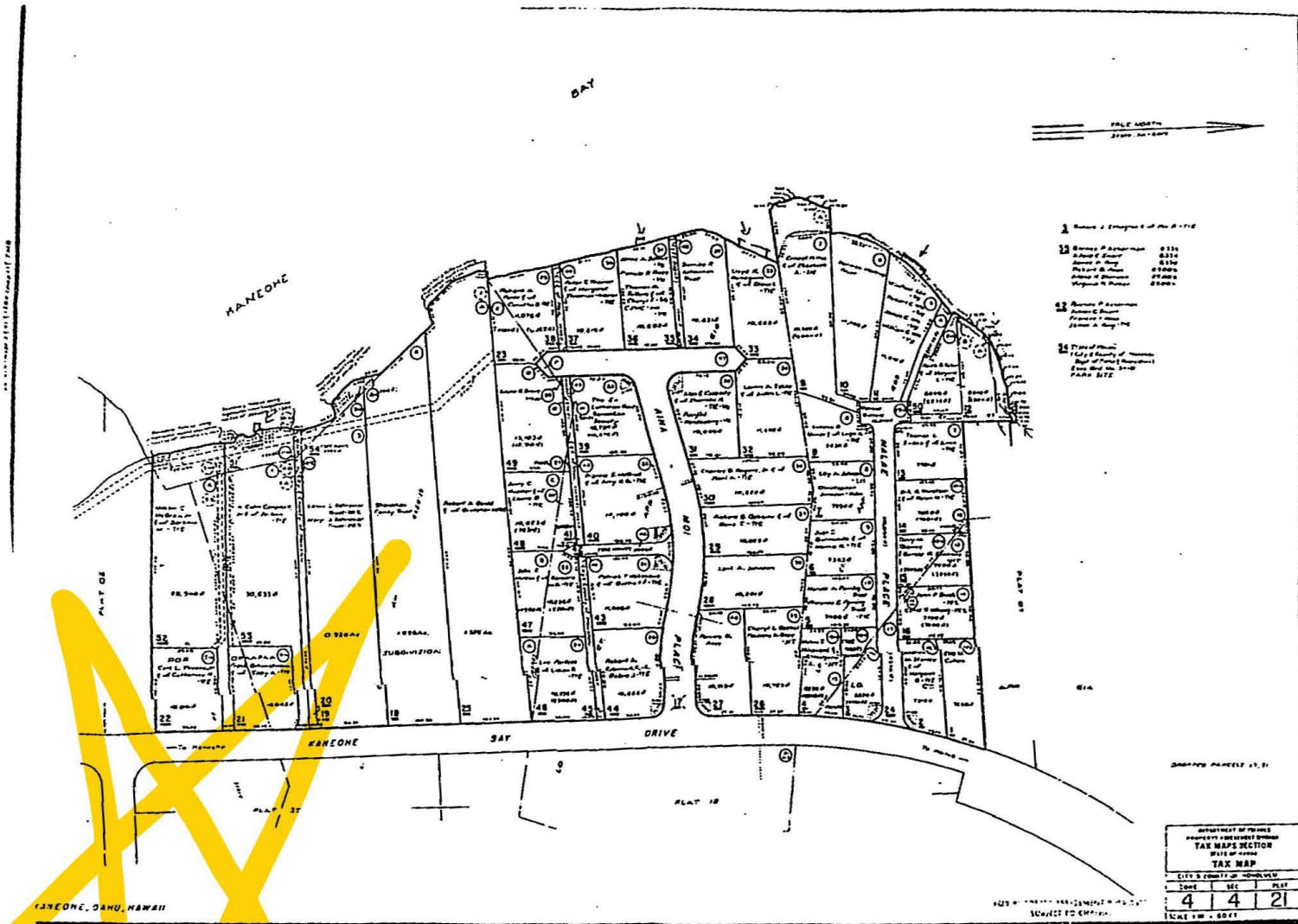


Exhibit 2

TERRITORY MAPS BUREAU		
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TAX MAP		
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CONTAINING		PARCELS
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SUBJECT TO CHANGE



5000
Exhibit 3

1430

DOCUMENT CAPTURED AS RECEIVED

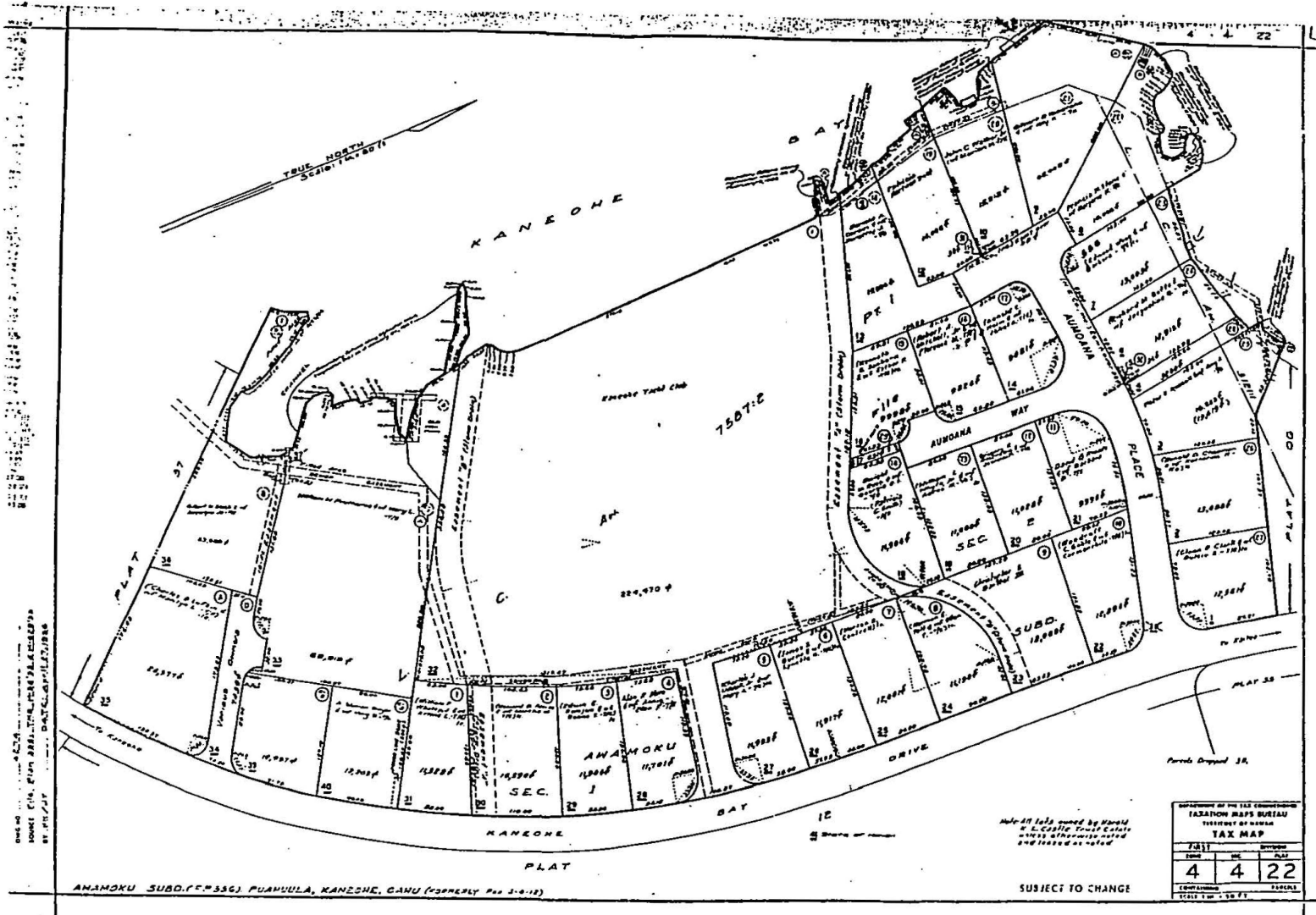
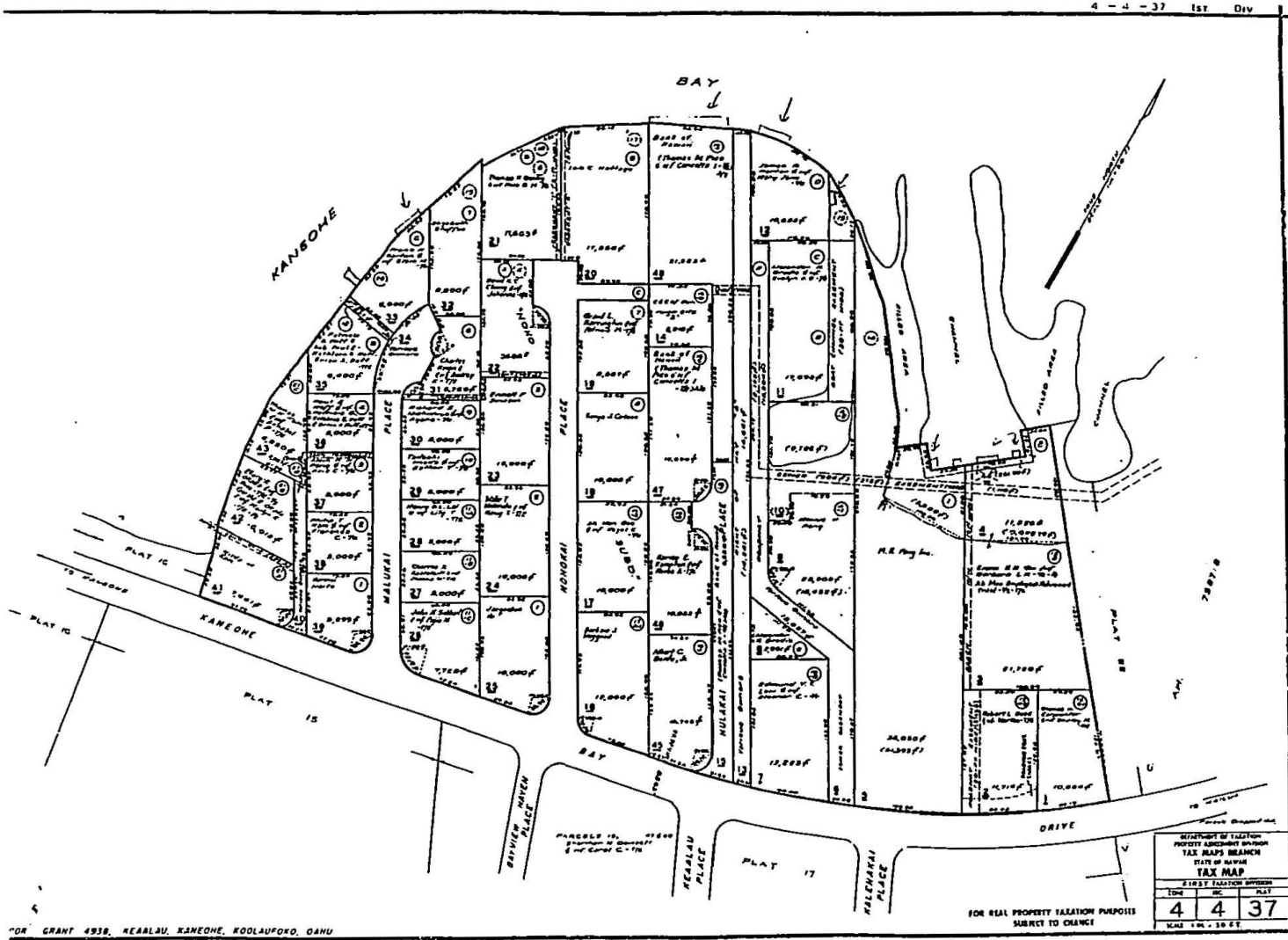


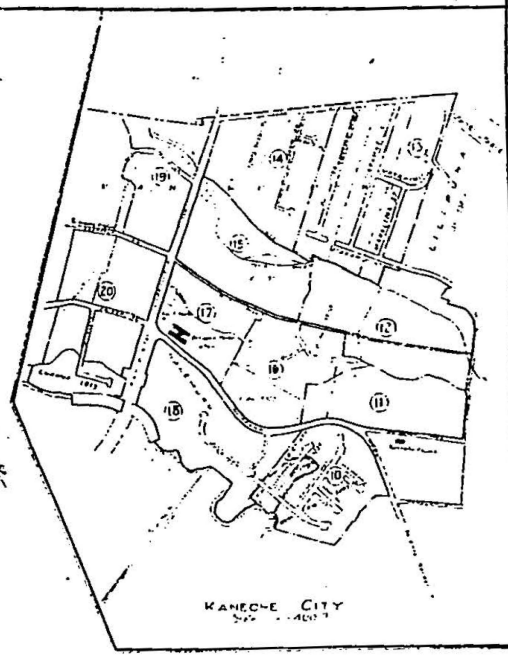
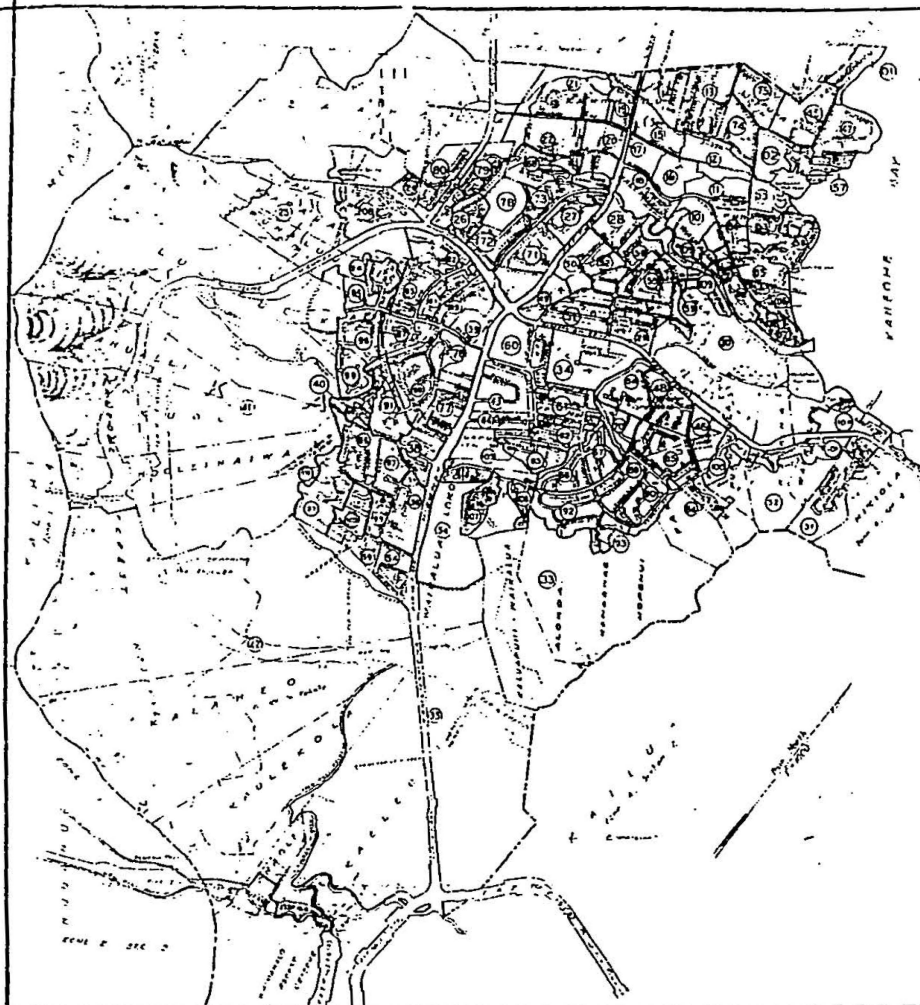
Exhibit 3



"OR" GRANT 4939, KEAHLAU, KANEONE, KOOLAUPONO, OAHU

Exhibit 3

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DEPARTMENT OF TAXATION		
TAXATION MAPS BUREAU		
STATE OF HAWAII		
TAX MAP		
FIRST CLASSIFICATION		
700	50	1
4	5	1
SCALE 1" = 1000 FT.		

FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE

EXHIBIT 3

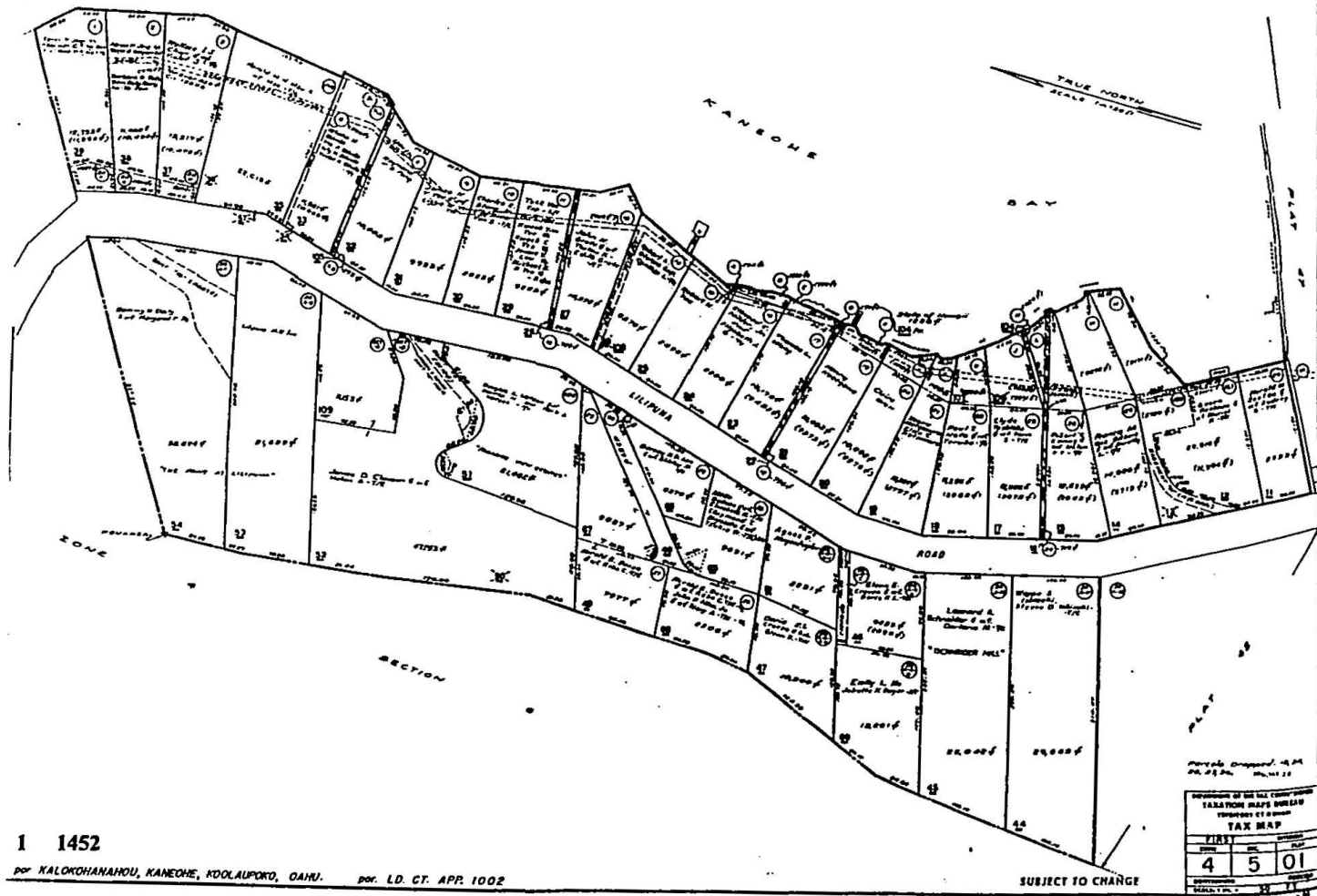
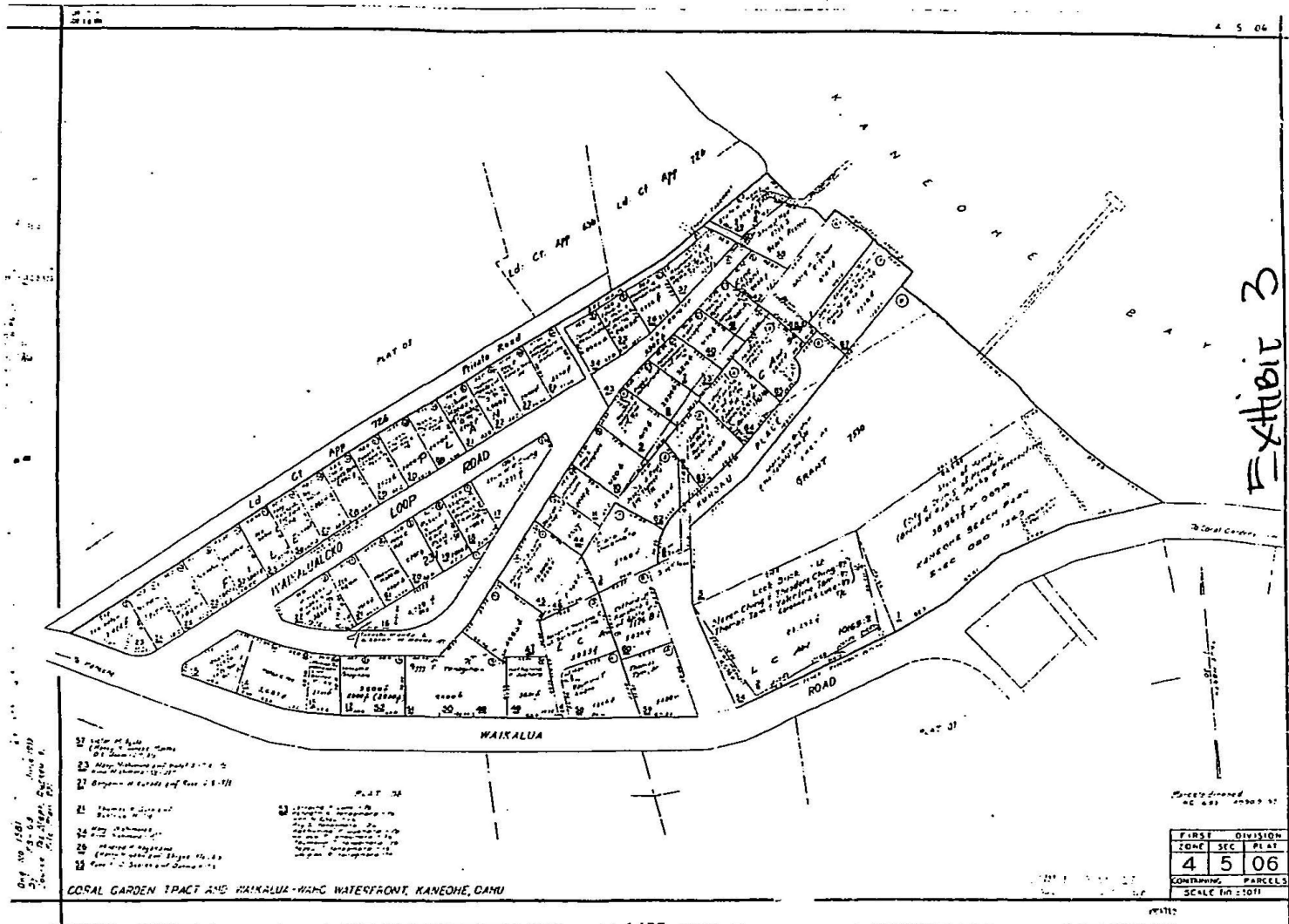


Exhibit 3



- 21. [Illegible]
- 22. [Illegible]
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- 27. [Illegible]

PLAT 56
 [Illegible text]

COSAL GARDEN TRACT AND WAIKALUA-WAHO WATERSFRONT, KANEHOE, MAUI

FIRST DIVISION		
TONY	SEC.	PLAT
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CONTAINING PARCELS		
SCALE 1/4" = 100'		

1455

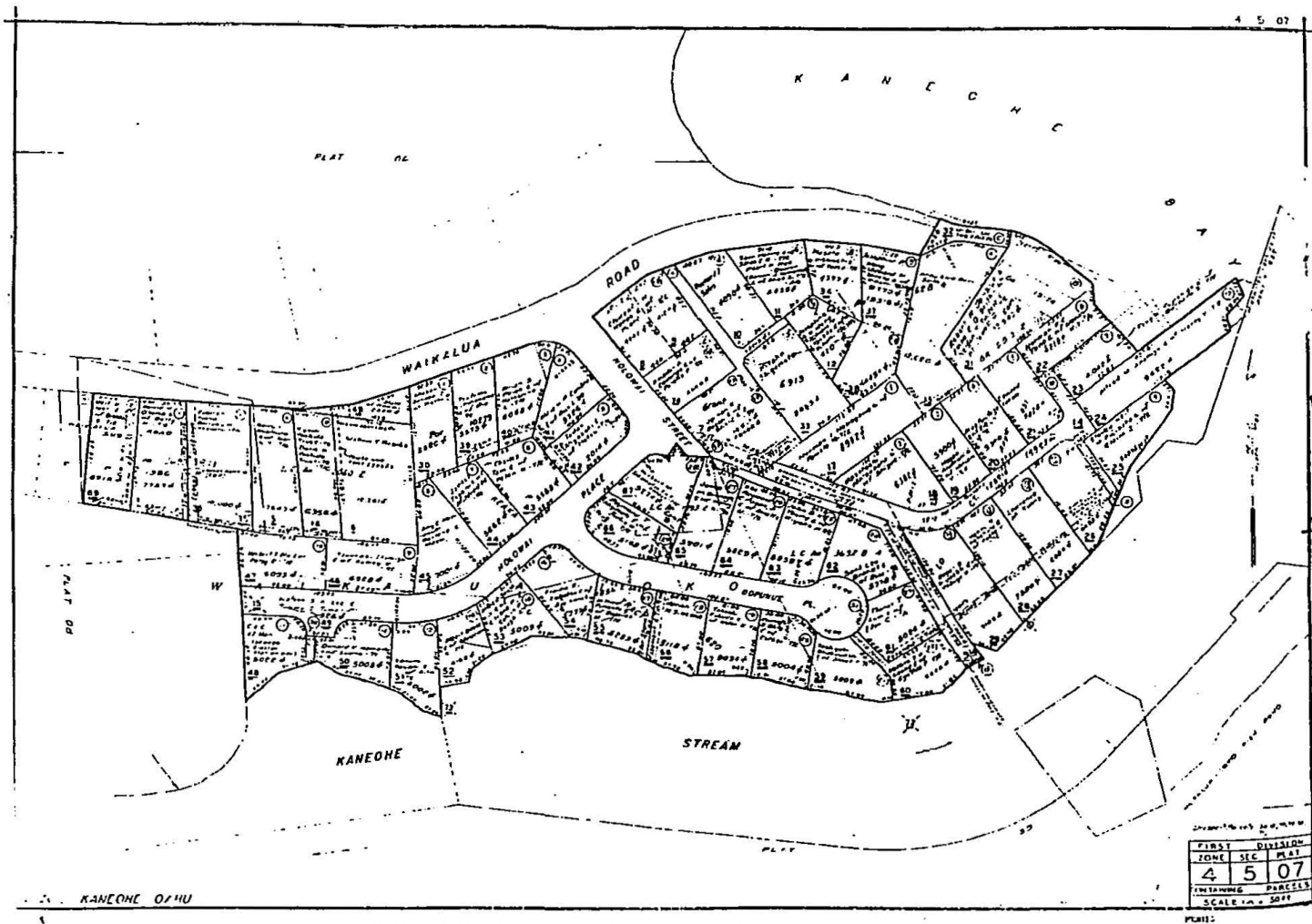


EXHIBIT 3

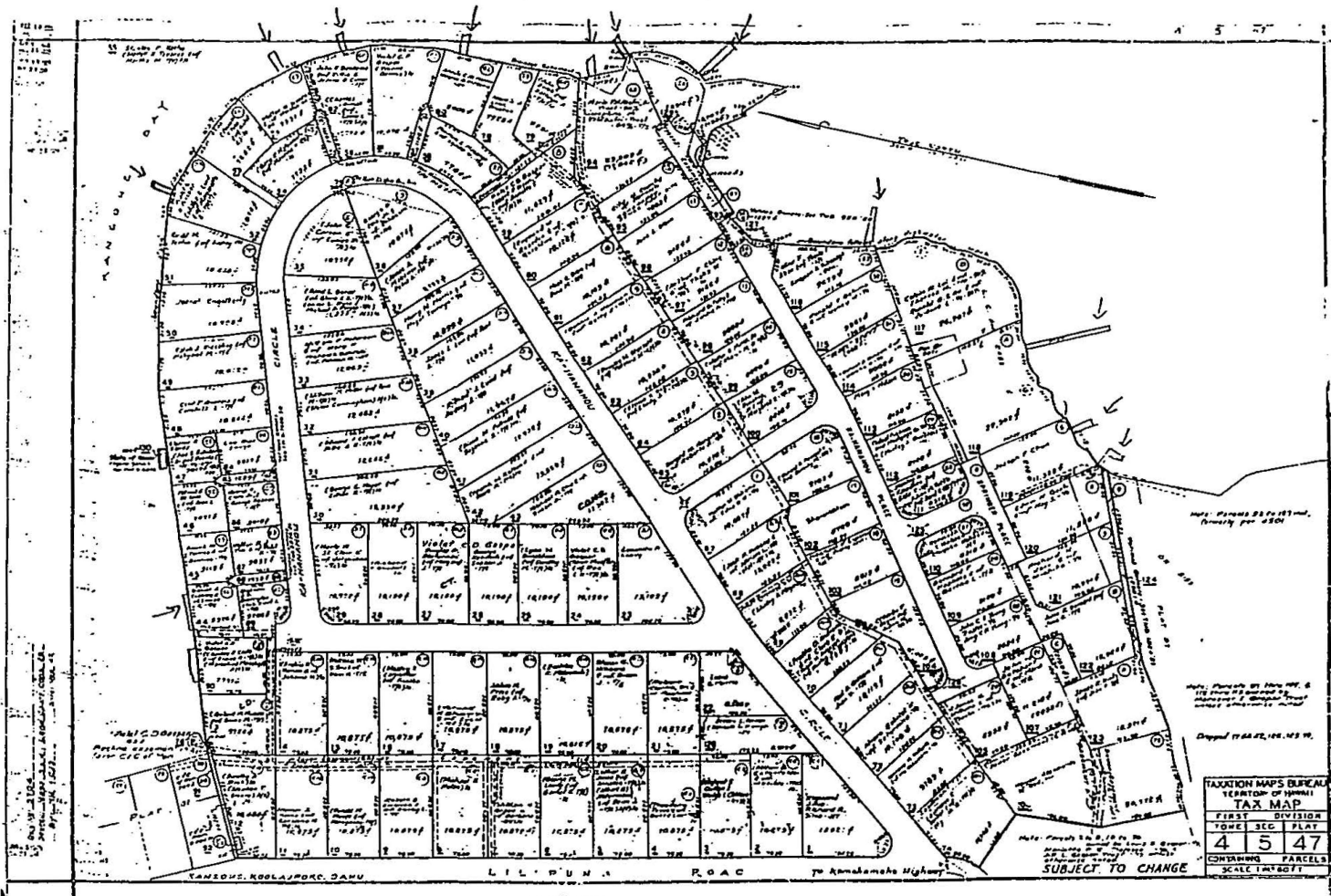


EXHIBIT 3

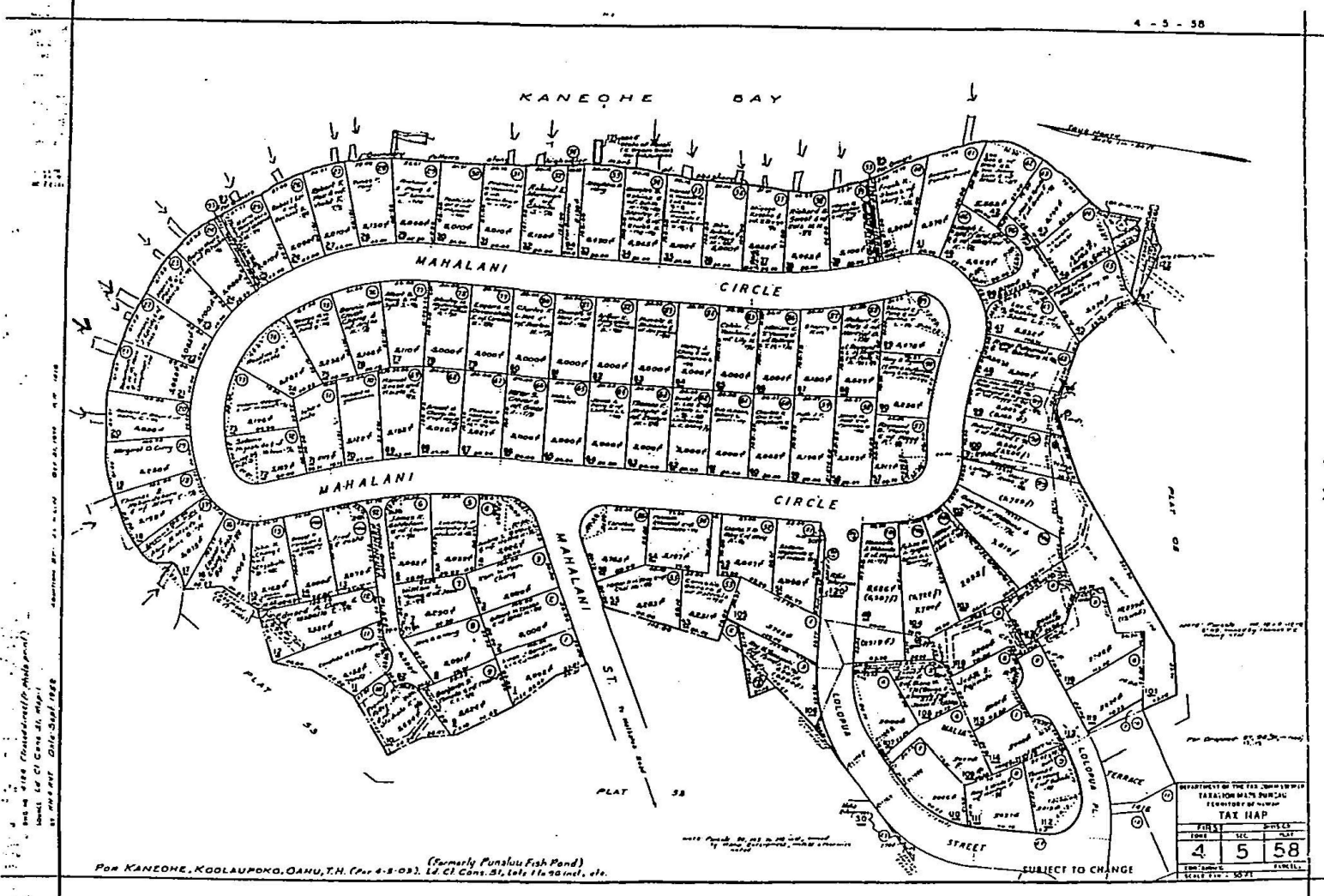


Exhibit 3

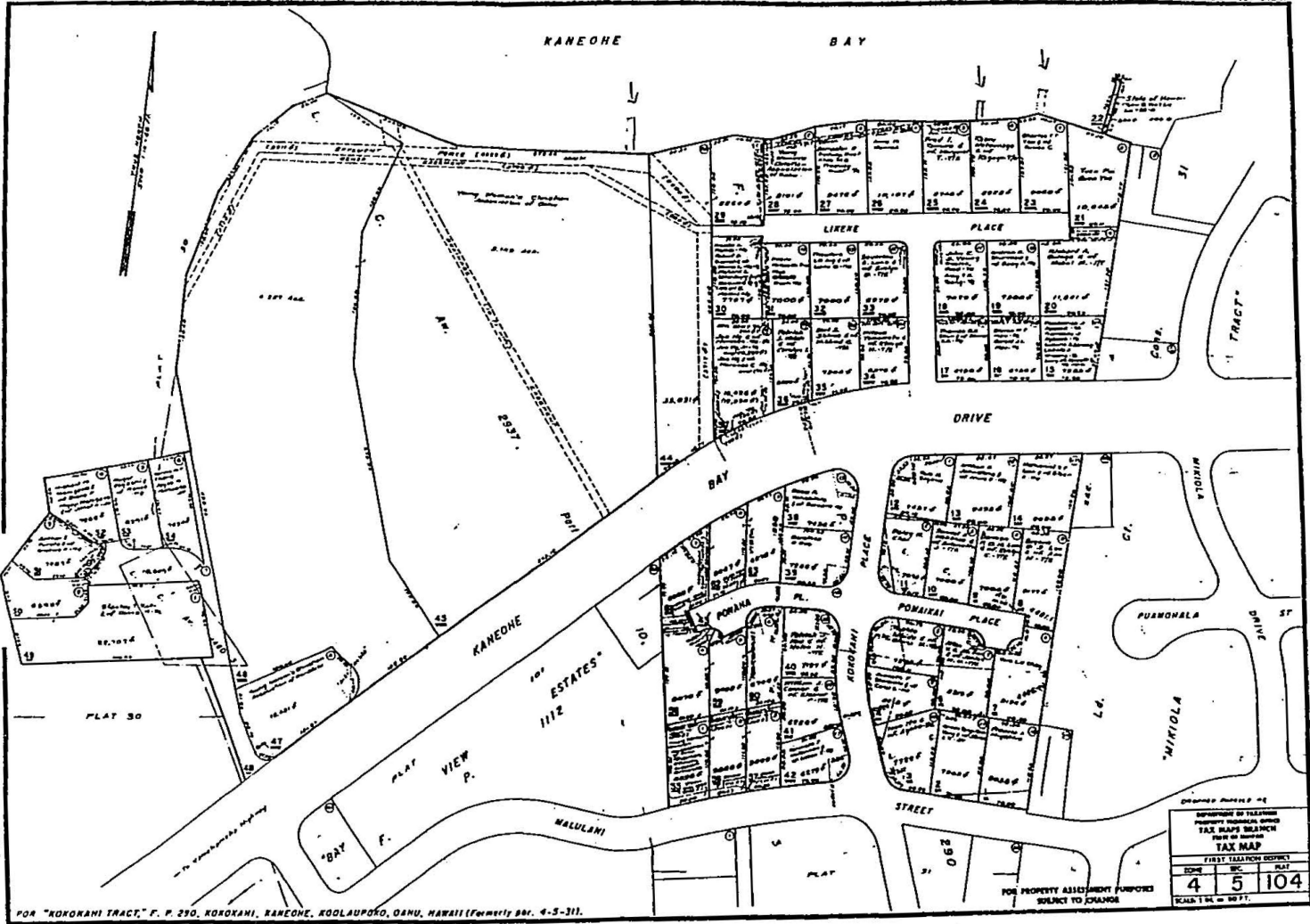


Exhibit 3

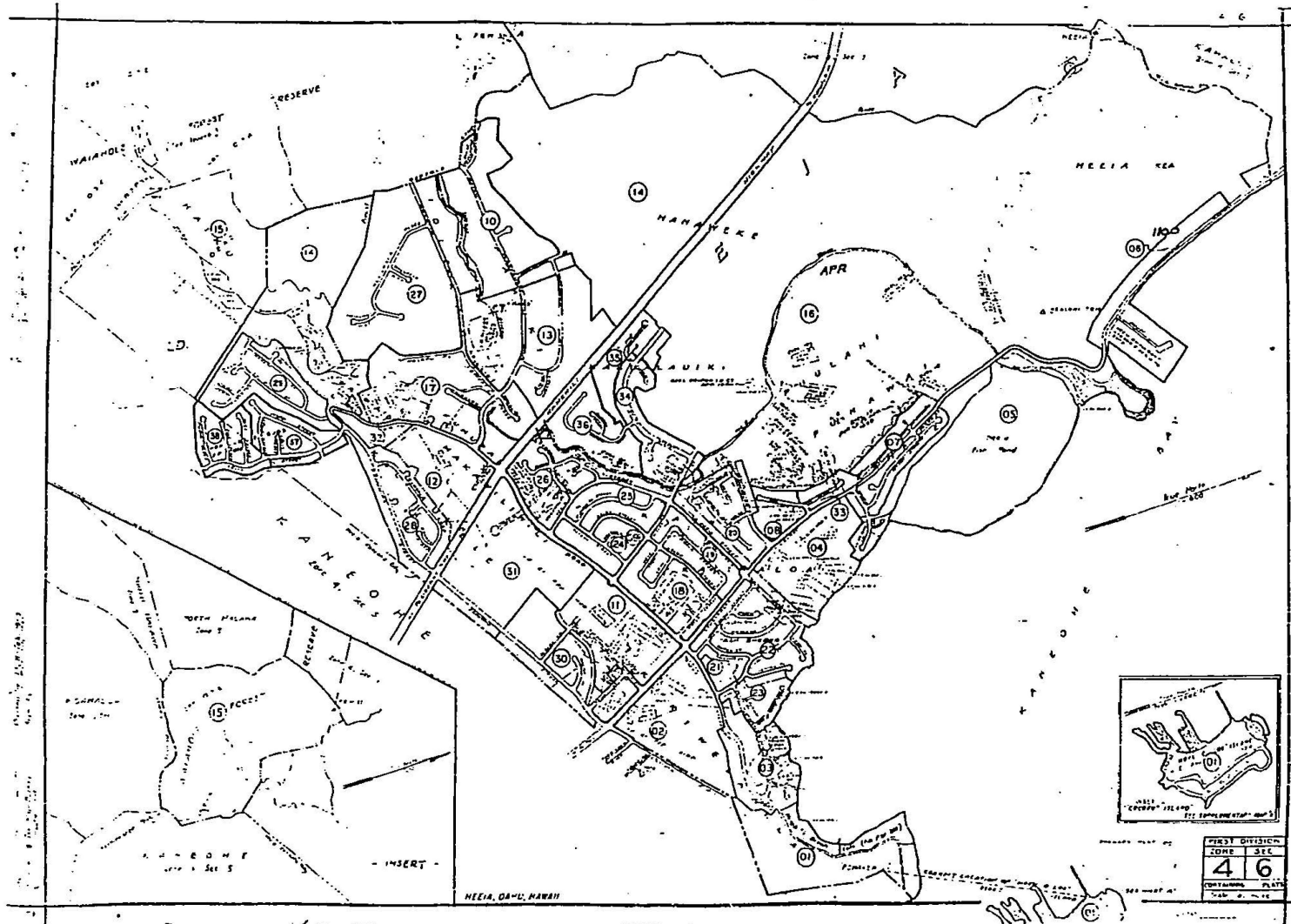


Exhibit 3

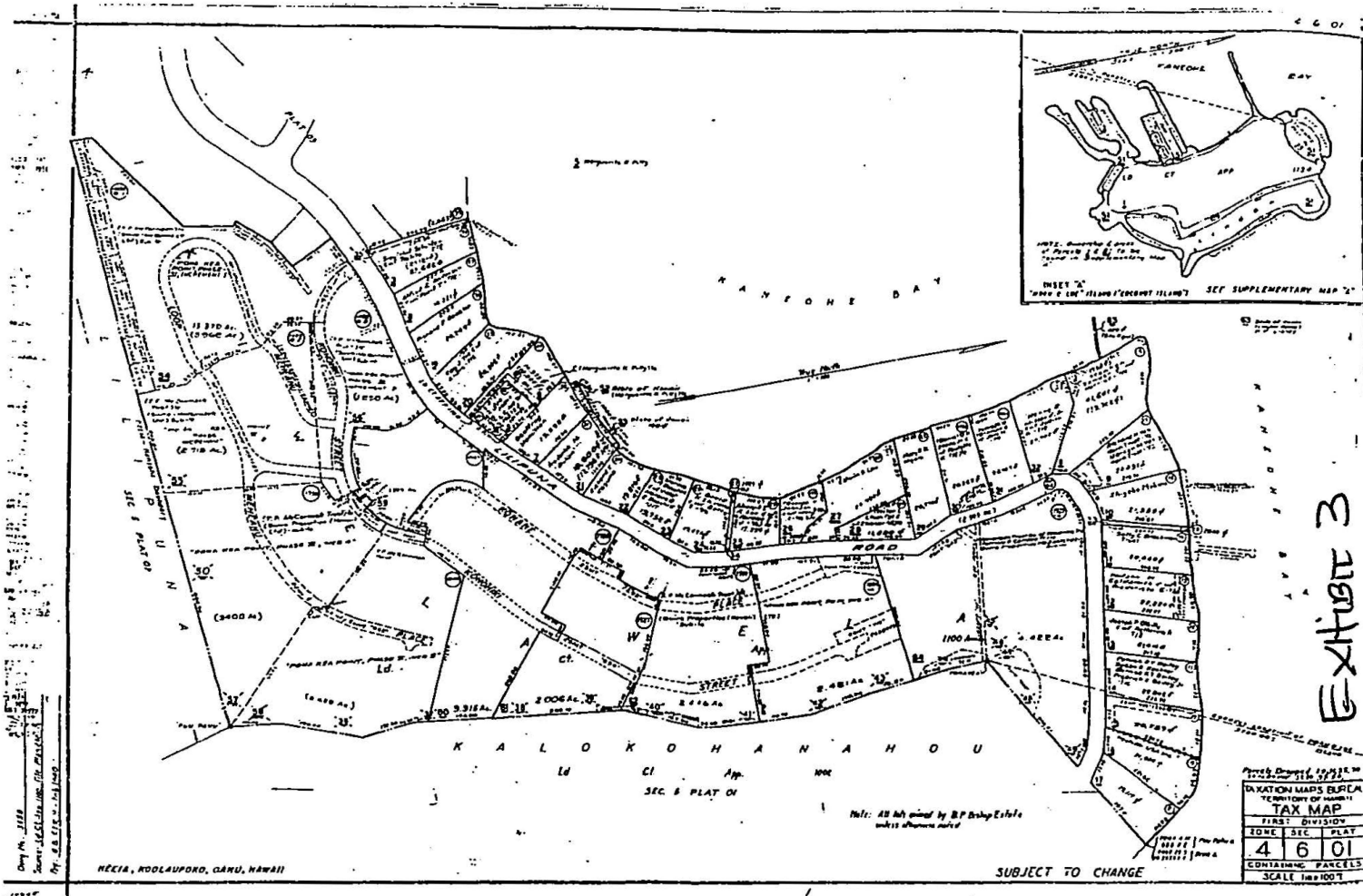
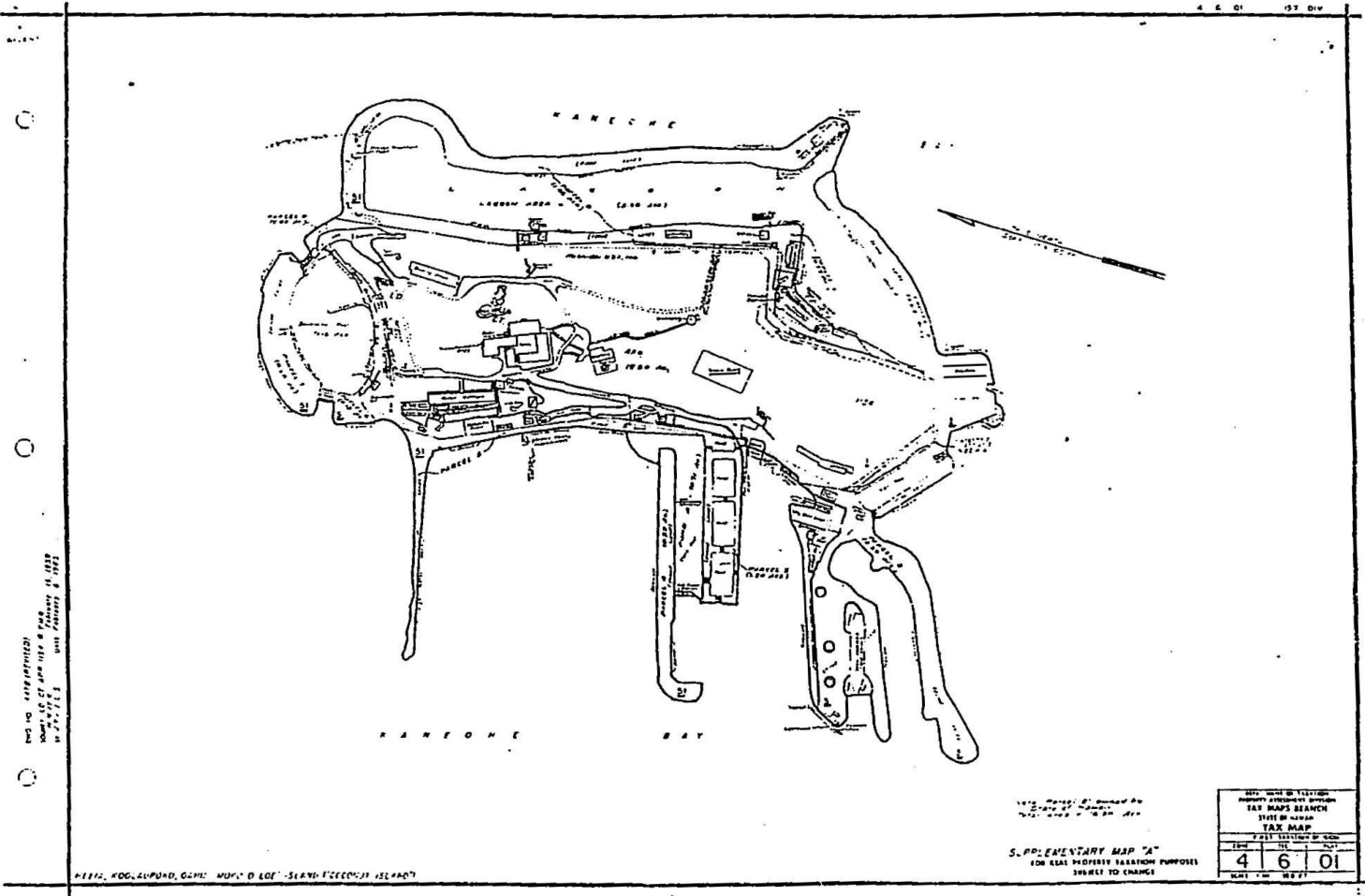


EXHIBIT 3



COPY TO INTERPRETERS
NOV. 26 1971
BY A.P. / J.L.S.
DATE February 6 1972

MEAS. KOC. 40' 0" D. 24" H. 10' 0" S. 45' 0" E. 15' 0" S. 45' 0" E. 15' 0" S. 45' 0" E.

THIS MAP IS A REPRODUCTION
OF THE ORIGINAL DRAWING
DATE: FEBRUARY 6 1972
BY A.P. / J.L.S.

S. PP. PRELIMINARY MAP "A"
FOR REAL PROPERTY VALUATION PURPOSES
SUBJECT TO CHANGE

PROPERTY APPRAISAL DIVISION TAX MAPS BRANCH STATE OF ALABAMA TAX MAP		
1971	1972	1973
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SCALE: AS SHOWN		

Exhibit 3

DOCUMENT CAPTURED AS RECEIVED

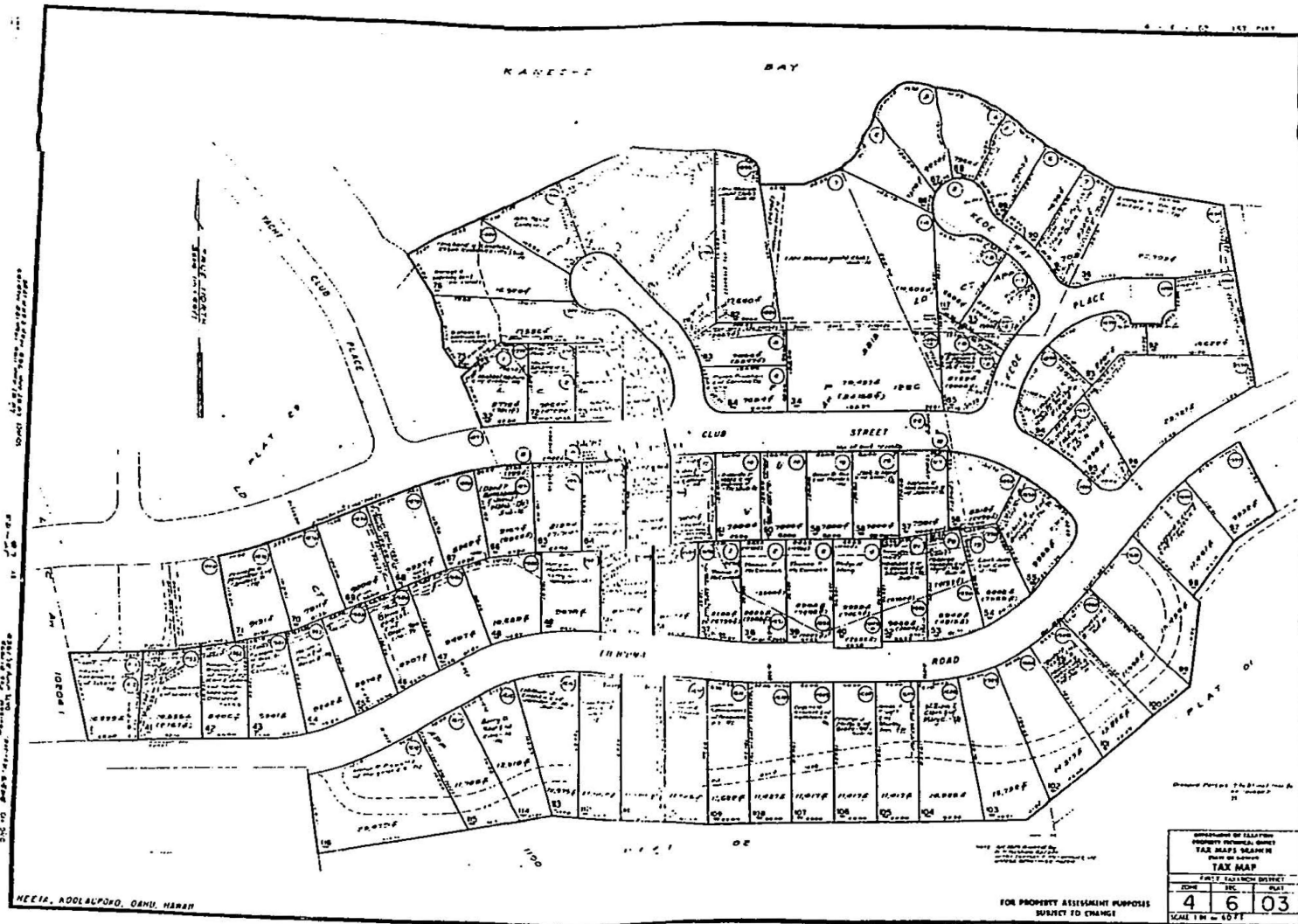


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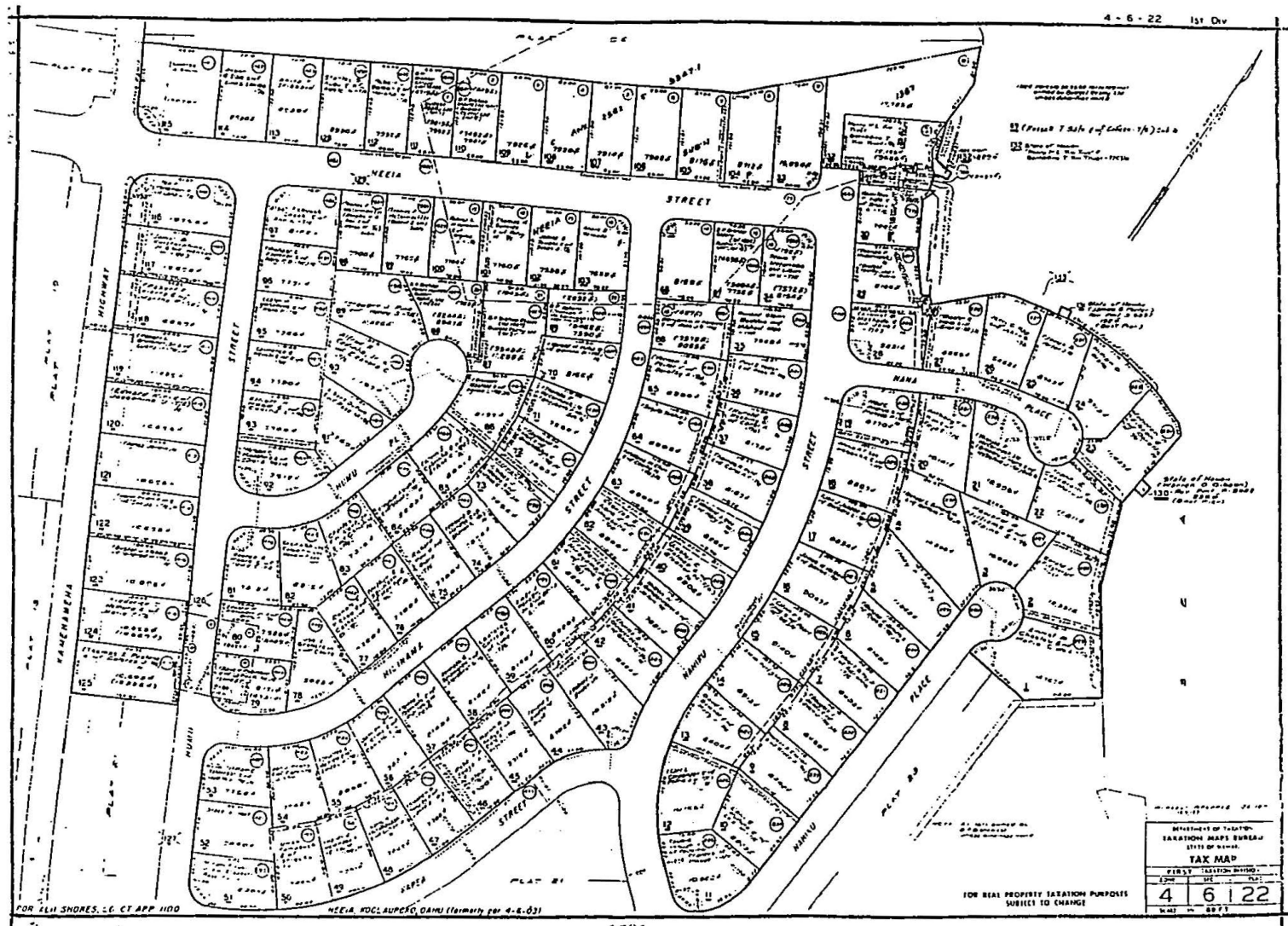
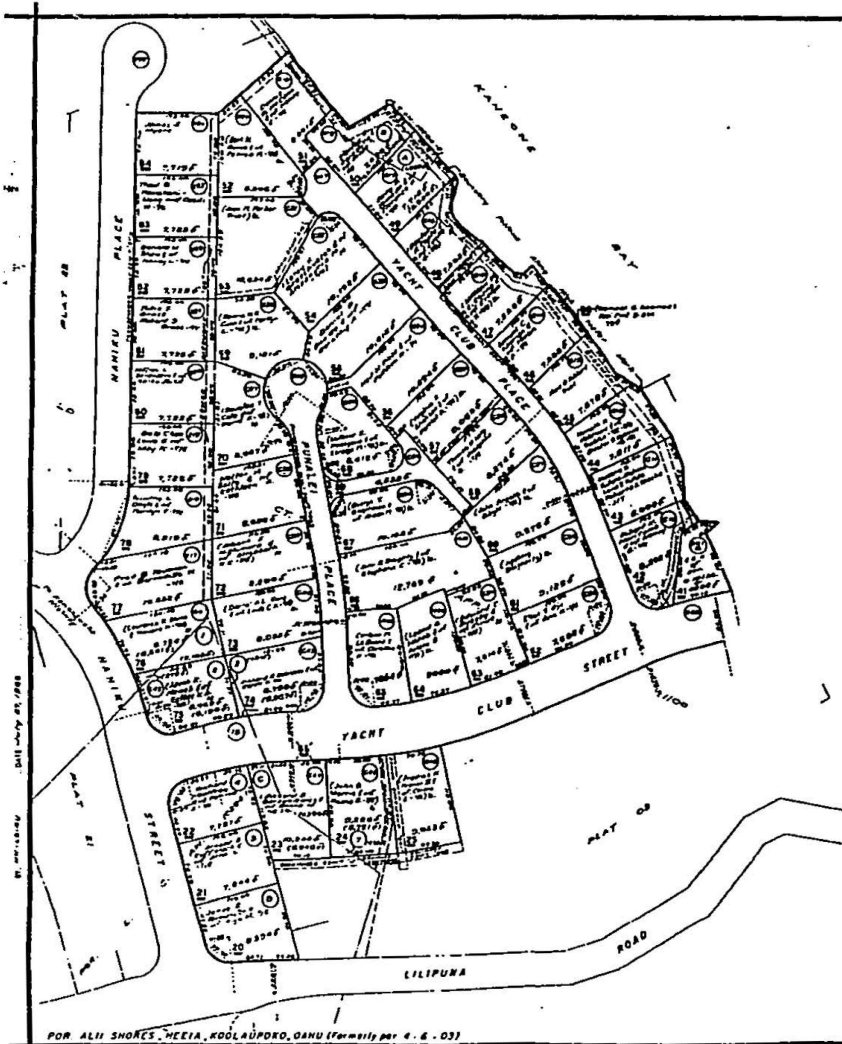


EXHIBIT 3



FOR ALII SHORES, HEAIA, KOOLAUPONO, OAHU (formerly par. 4. & . 03)

NOTE: All lots owned by
 B. H. Bishop Estate
 unless otherwise noted

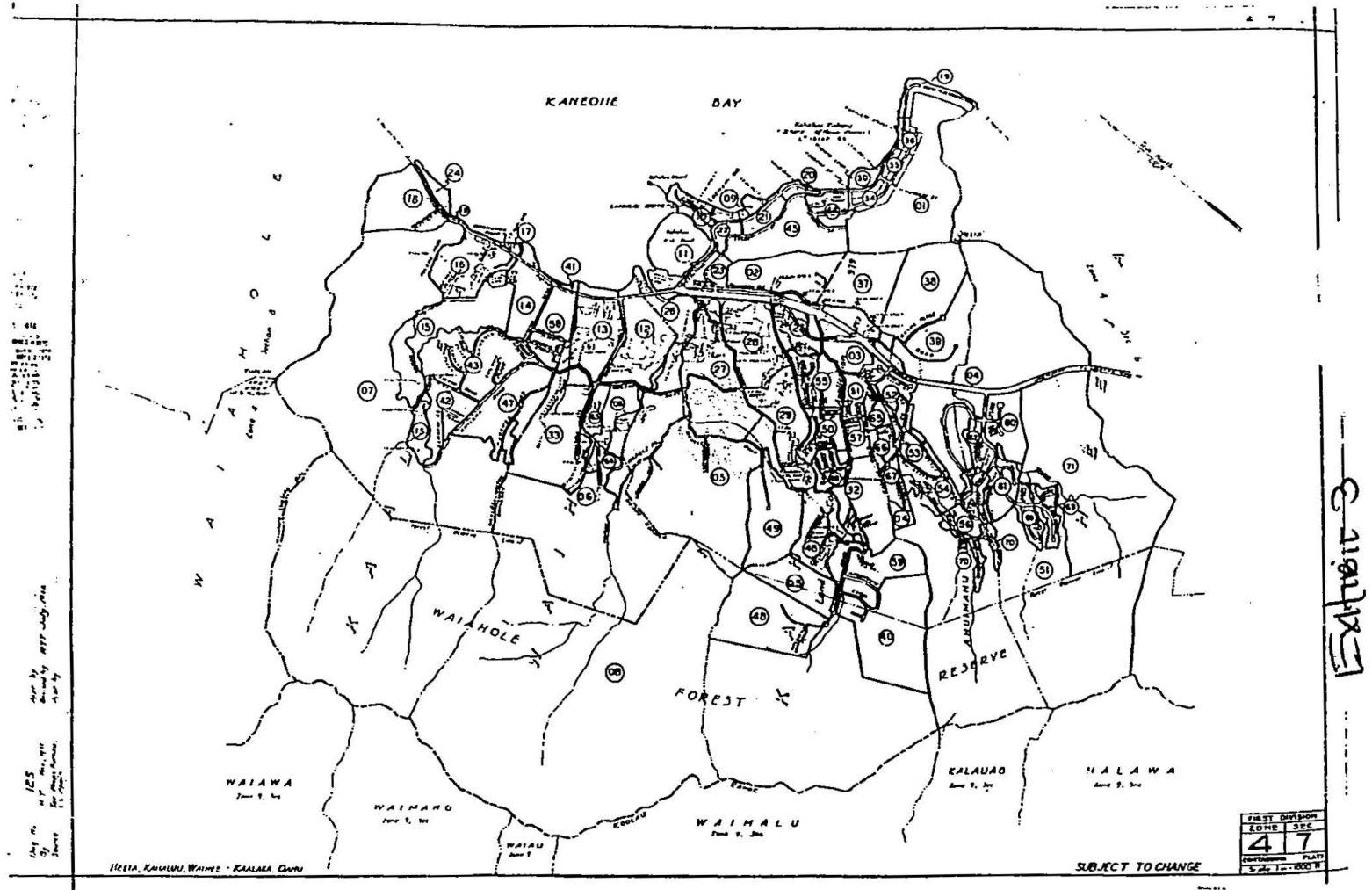
See Special Provisions
 in Chapter 210, Statutes and
 Ordinances of Oahu

Approved: [Signature]
 20th Dec 23
 28th Dec 23

FOR REAL PROPERTY TAXATION PURPOSES
 SUBJECT TO CHANGE

DEPARTMENT OF LAND AND NATURAL RESOURCES		
PROPERTY ASSESSMENT DIVISION		
TAX MAP		
TAX MAP NO.		
4	6	23
SCALE 1/4" = 100'		

EXHIBIT 3



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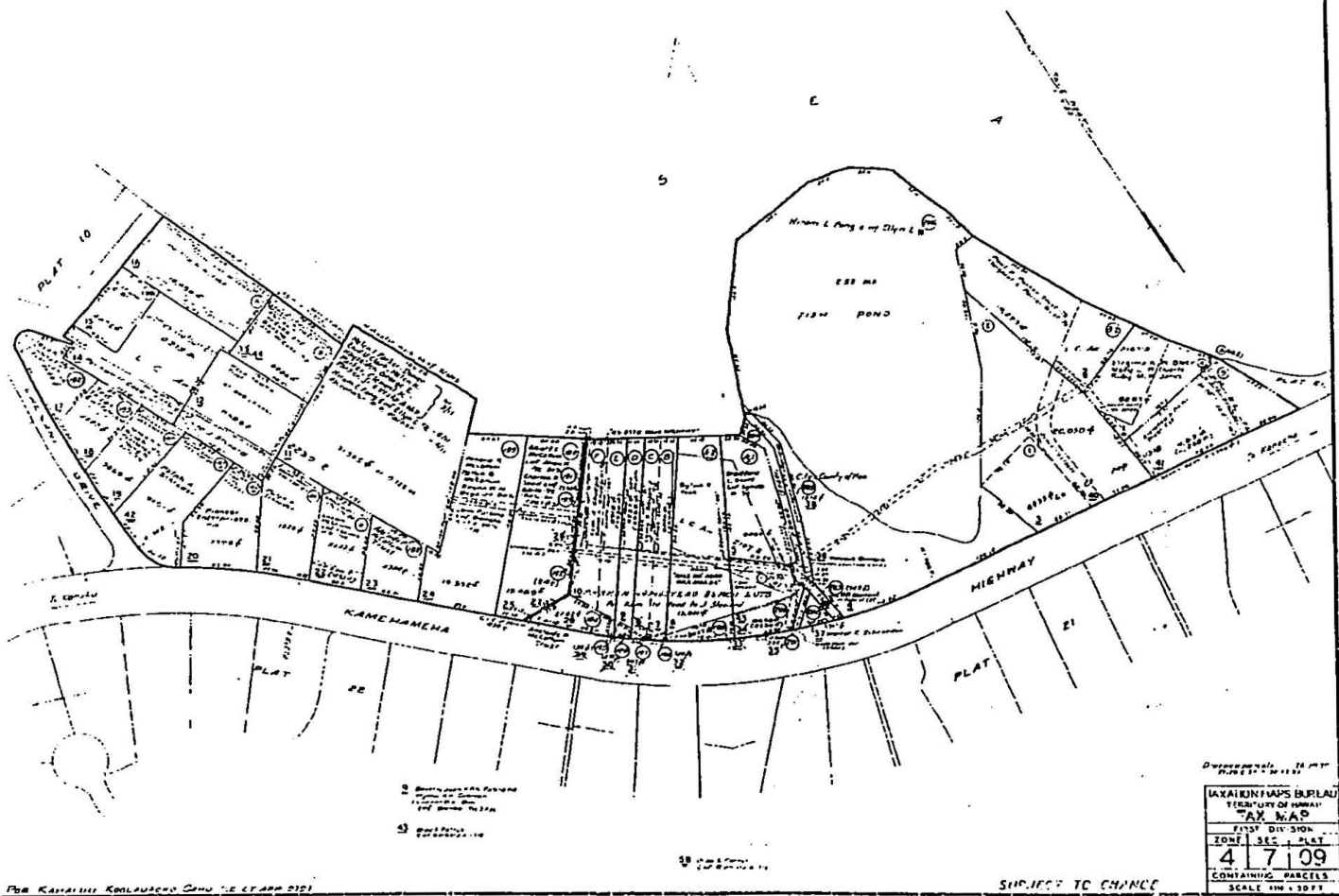
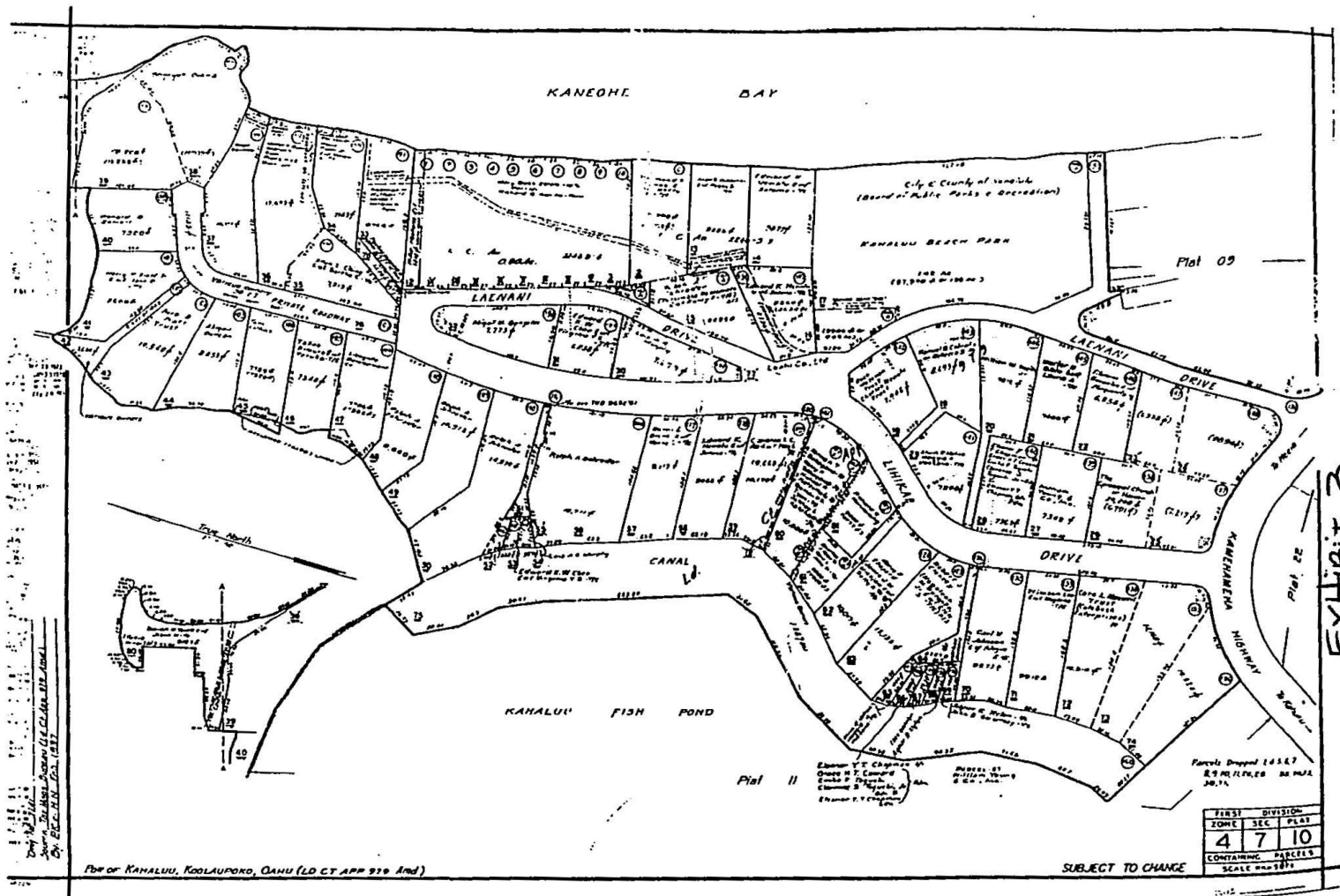


Exhibit 3



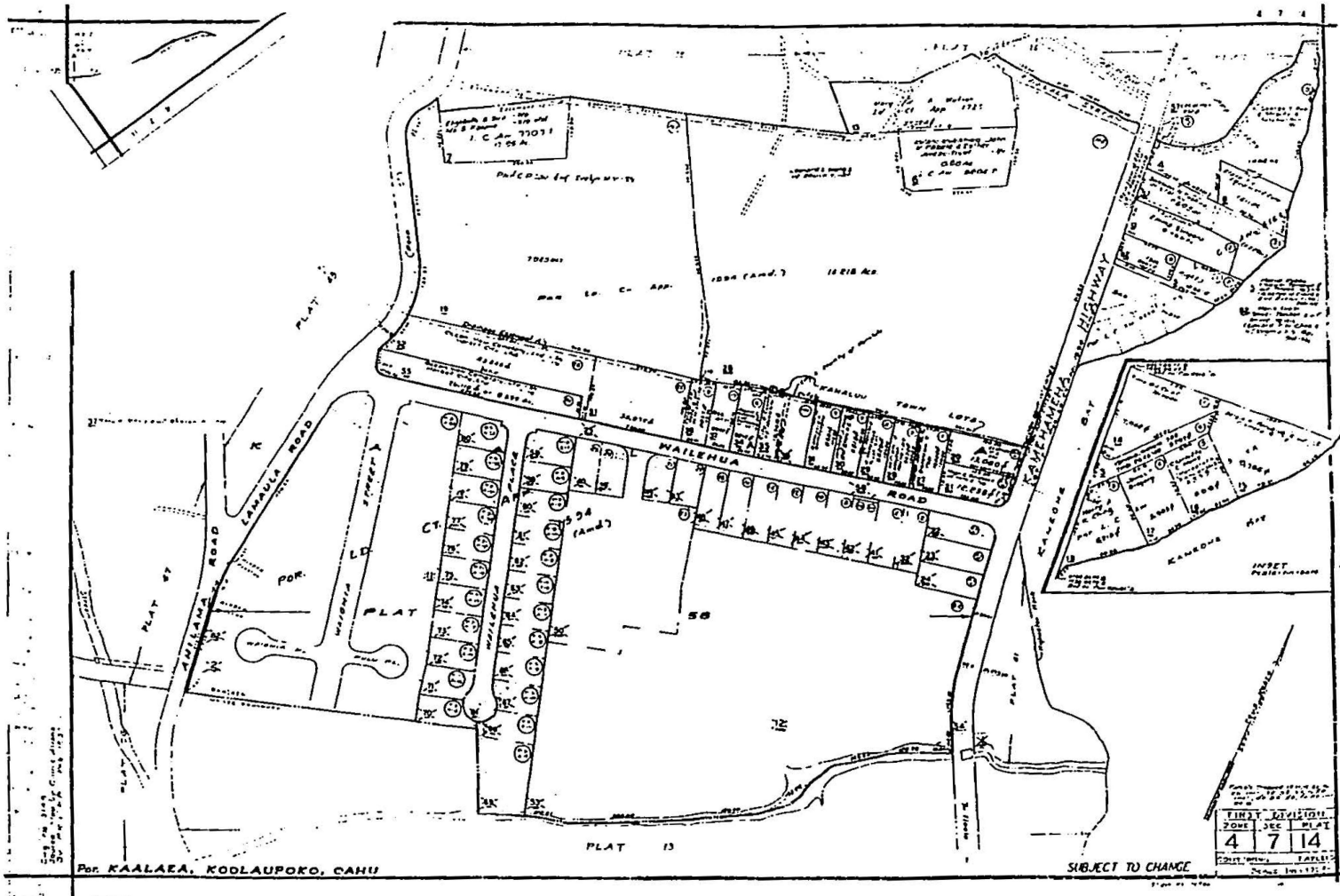


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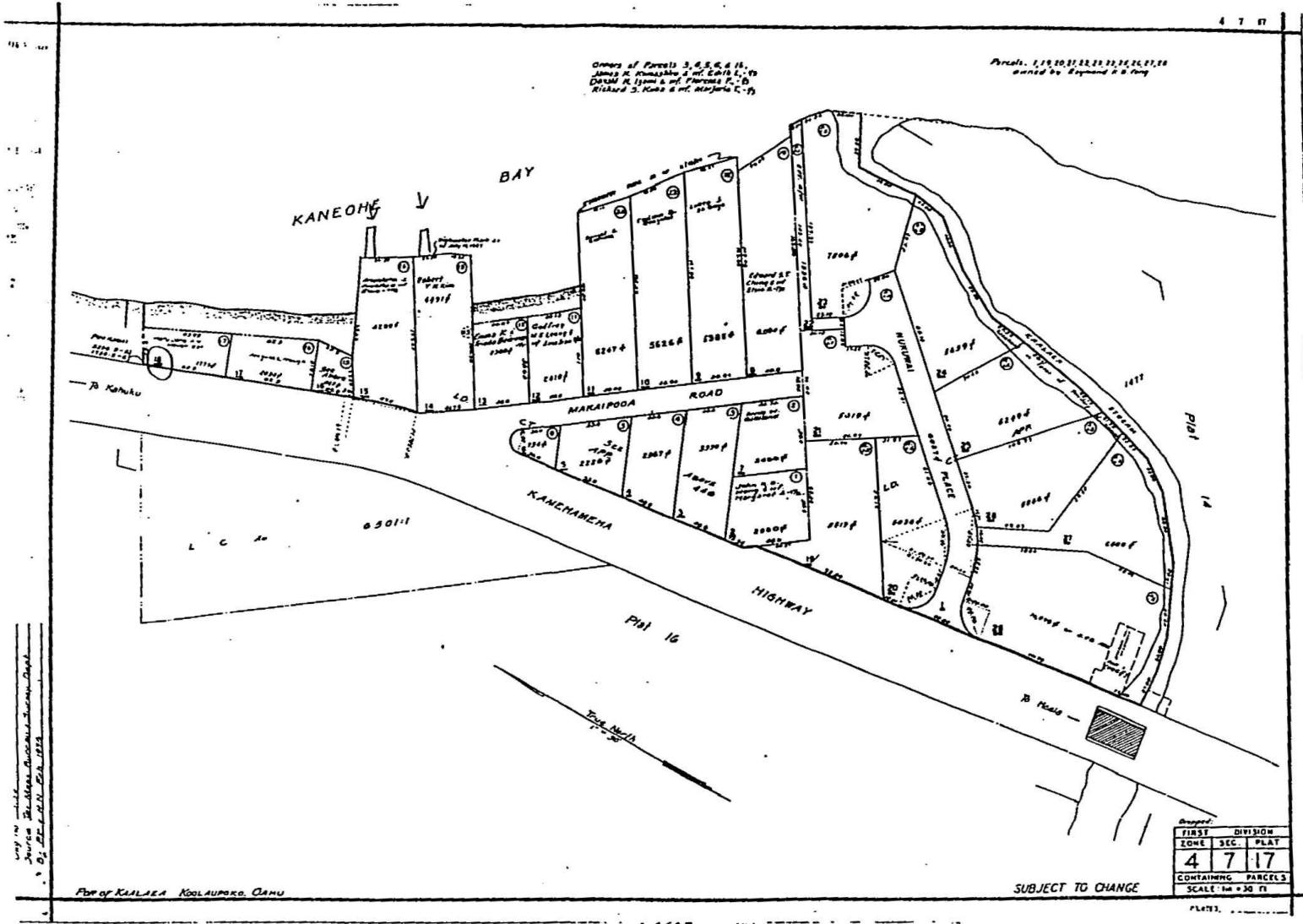


Exhibit 3

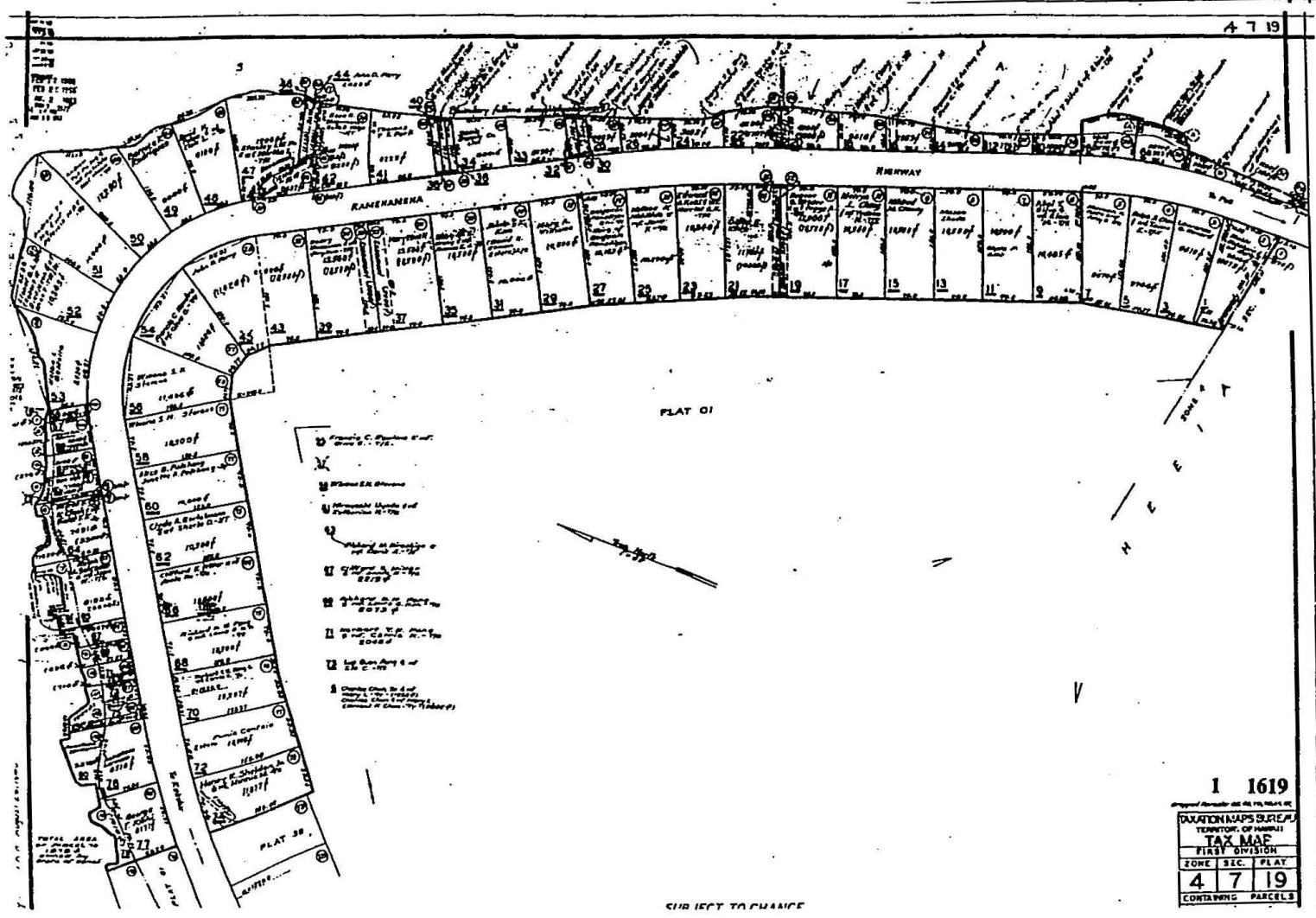


Exhibit 3

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TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FIRST DIVISION		
4	7	19
CONTAINING PARCELS		

KEEP LEFT TO CHANGE

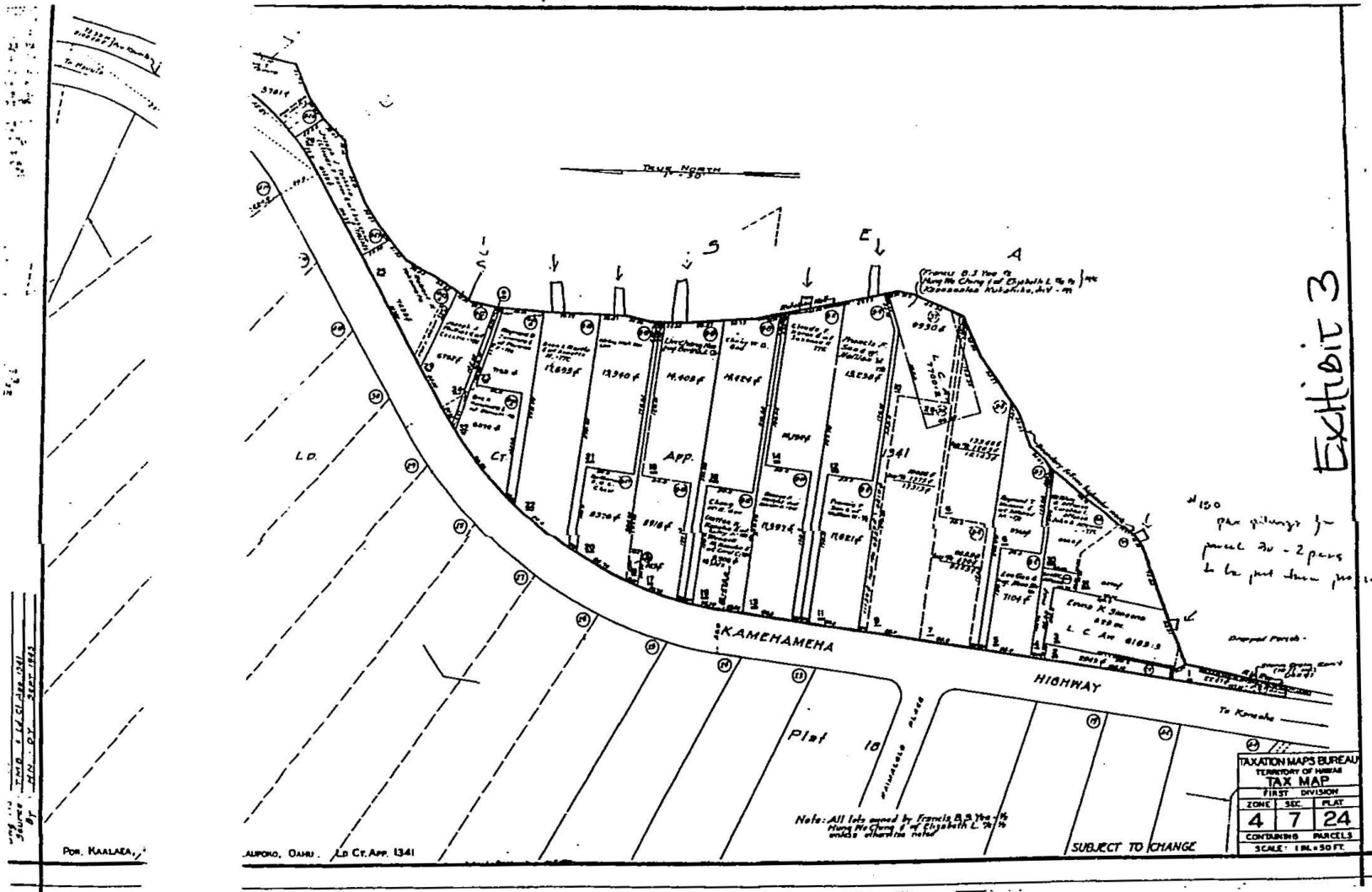


Exhibit 3

\$150
 per plat for
 parcel 20 - 2 pers
 to be put down per

Note: All lots owned by Francis B. You &
 Hung Ho Chung & Elizabeth L. You &
 and its successors

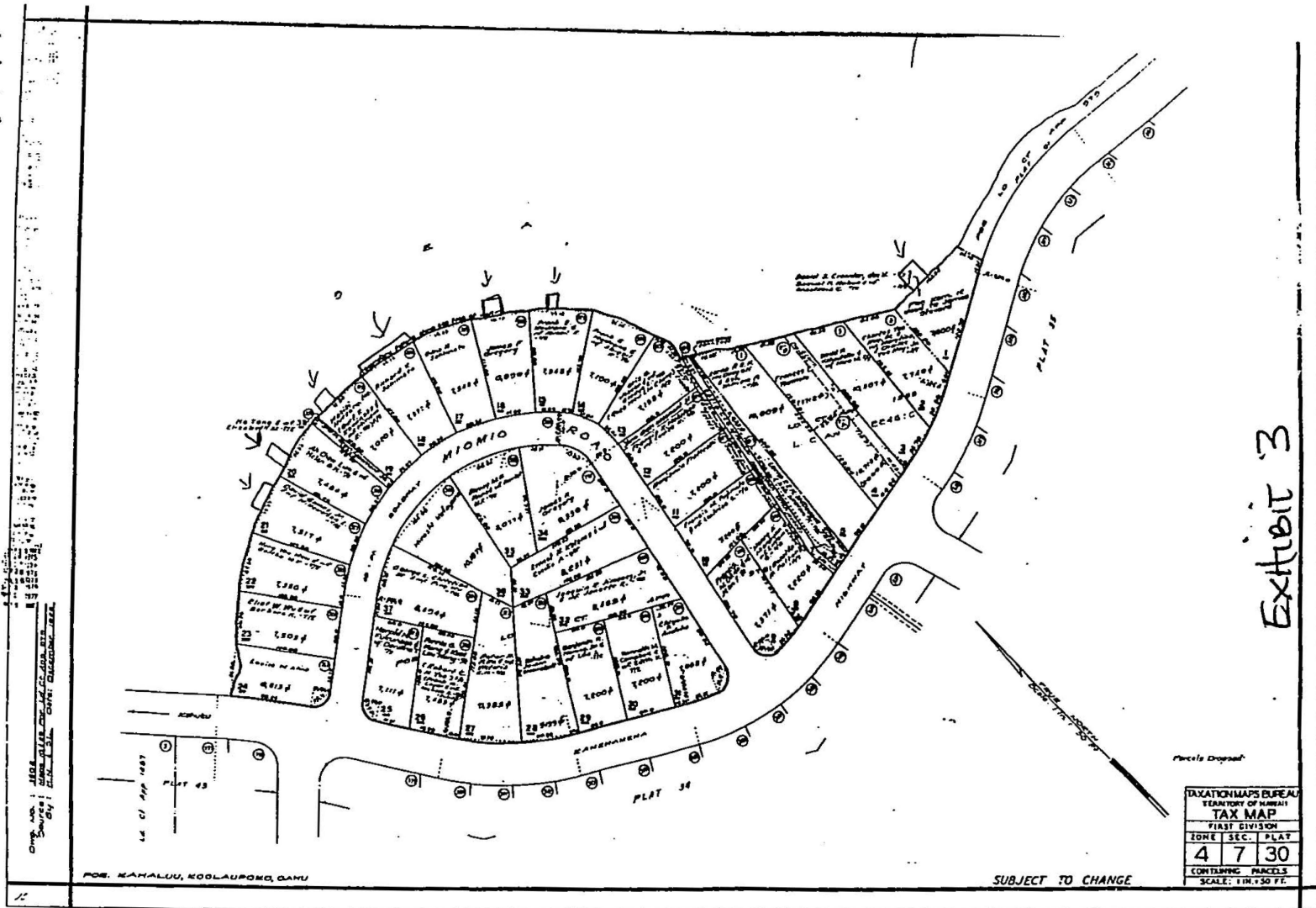


EXHIBIT 3

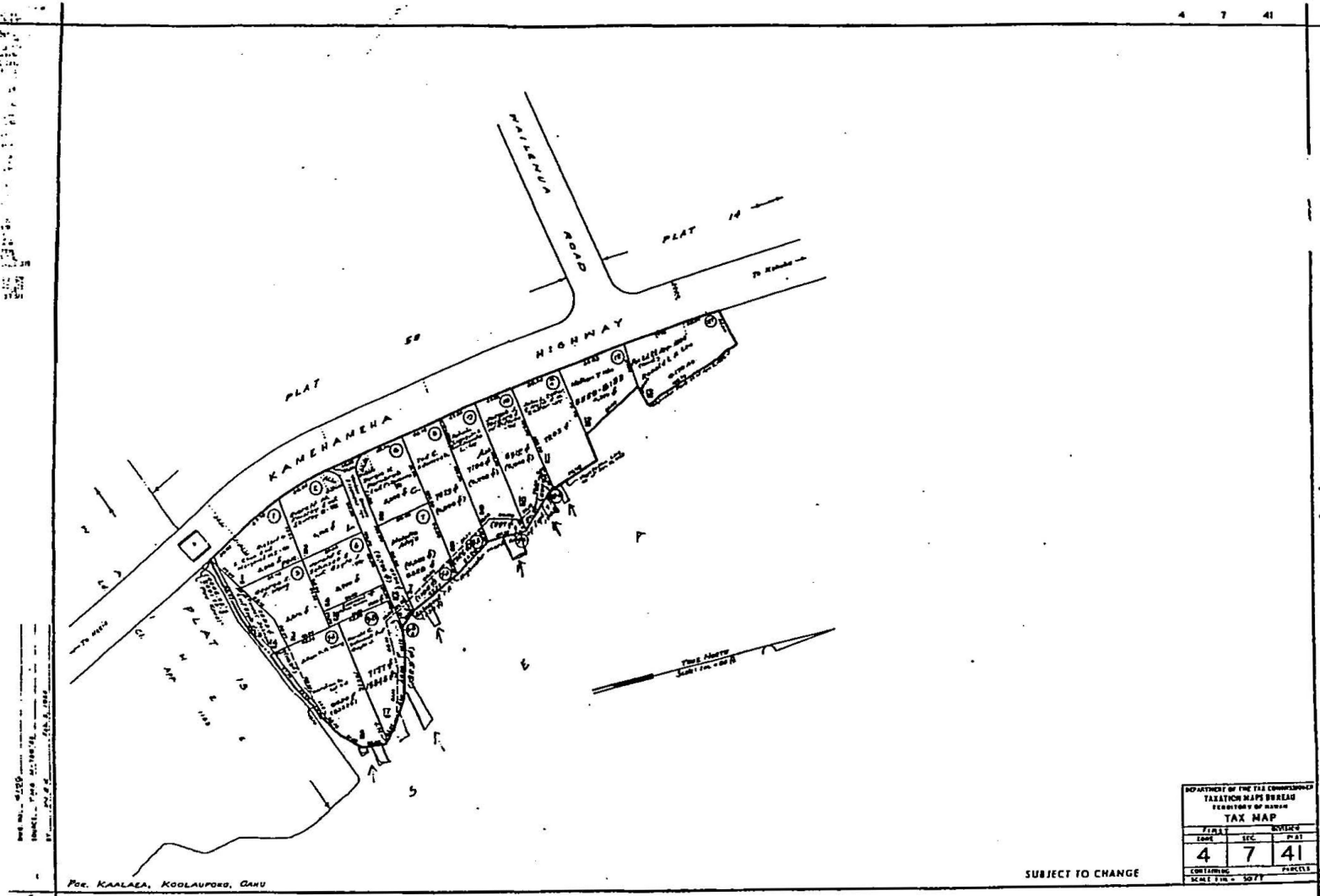


Exhibit 3

DEPARTMENT OF THE TAX COMMISSIONER		
TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
PLAT	SEC.	BLK.
4	7	41
CONTAINING		PARCELS
SCALE 1/4" = 50 FT.		

SUBJECT TO CHANGE

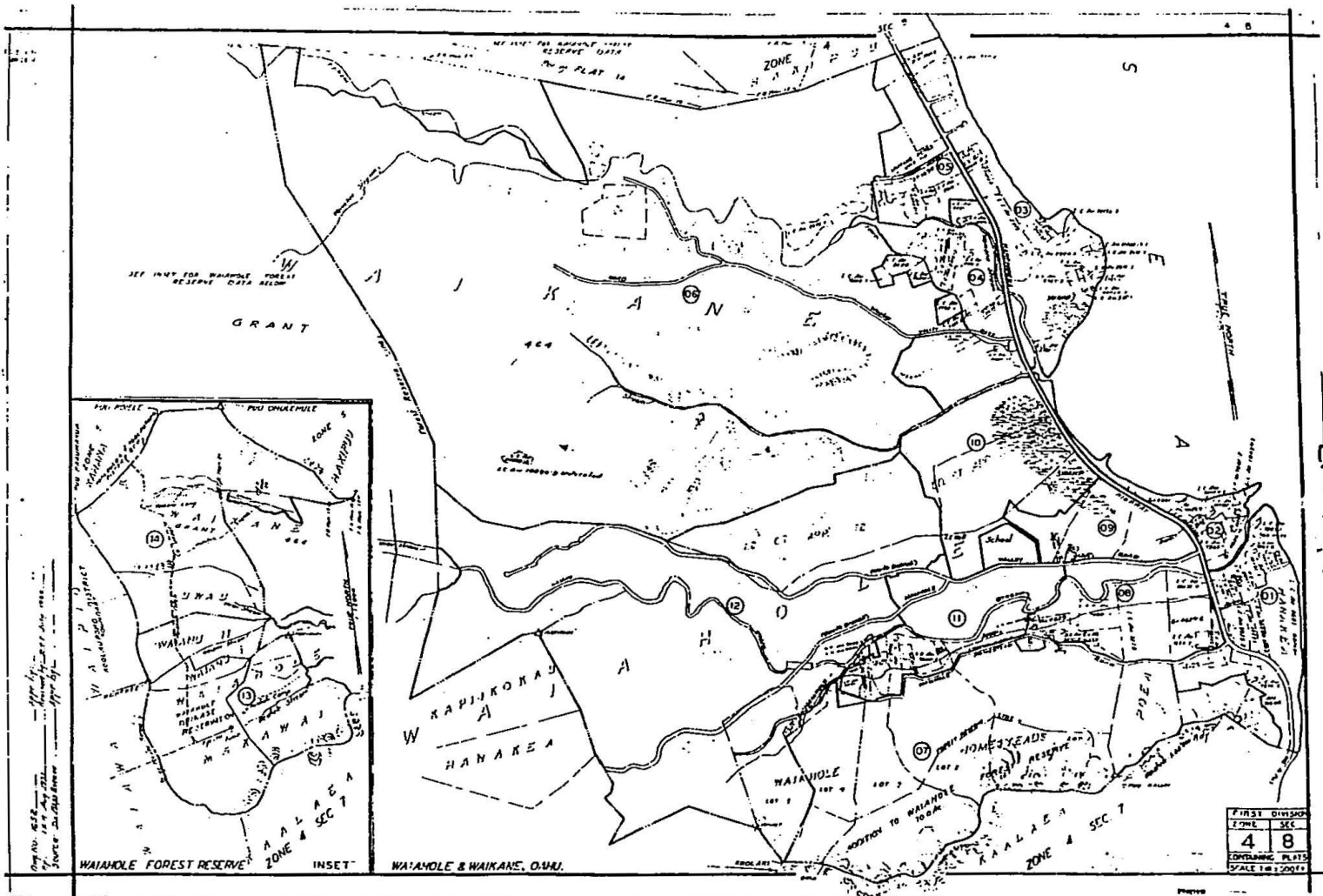


EXHIBIT 3

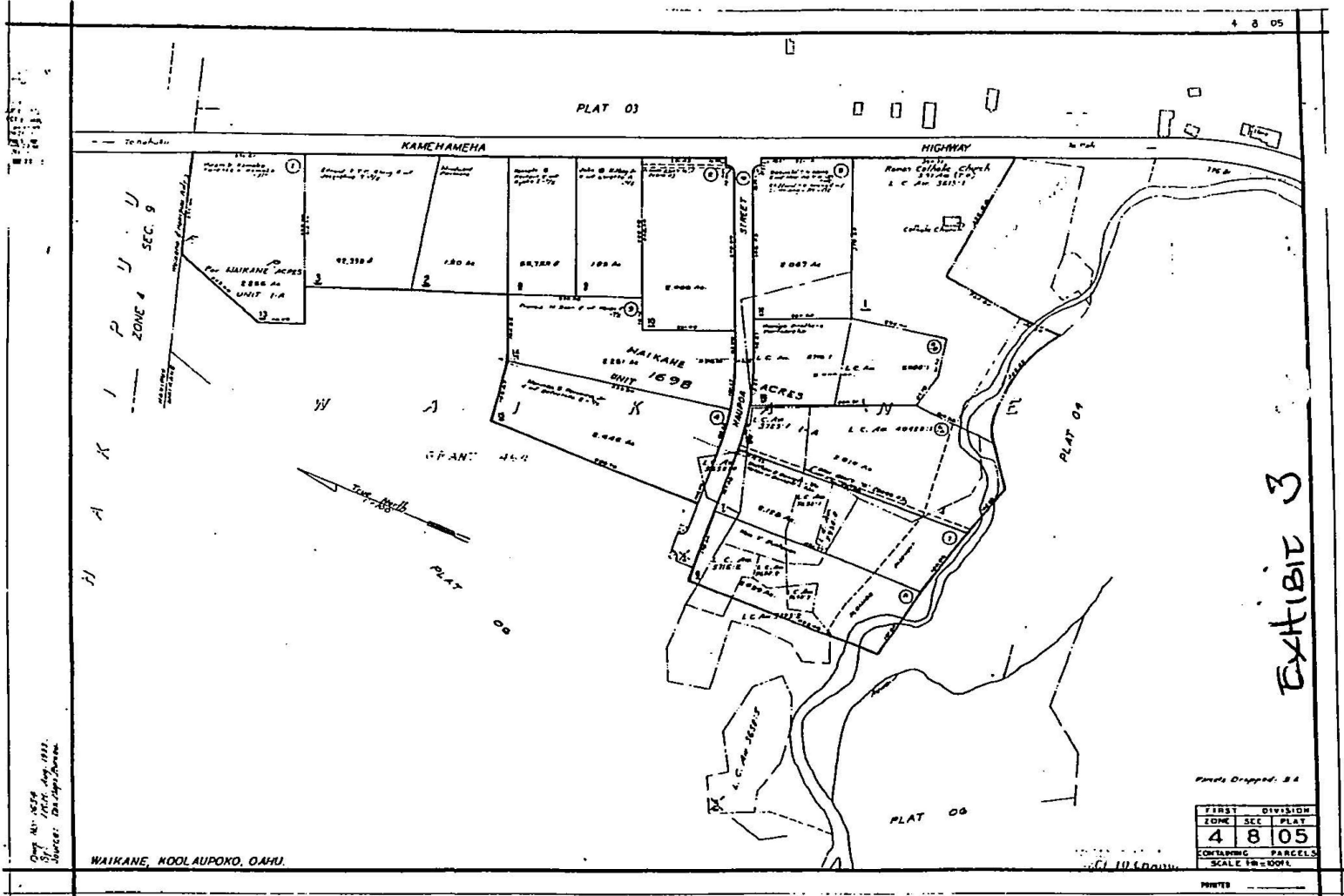


EXHIBIT 3

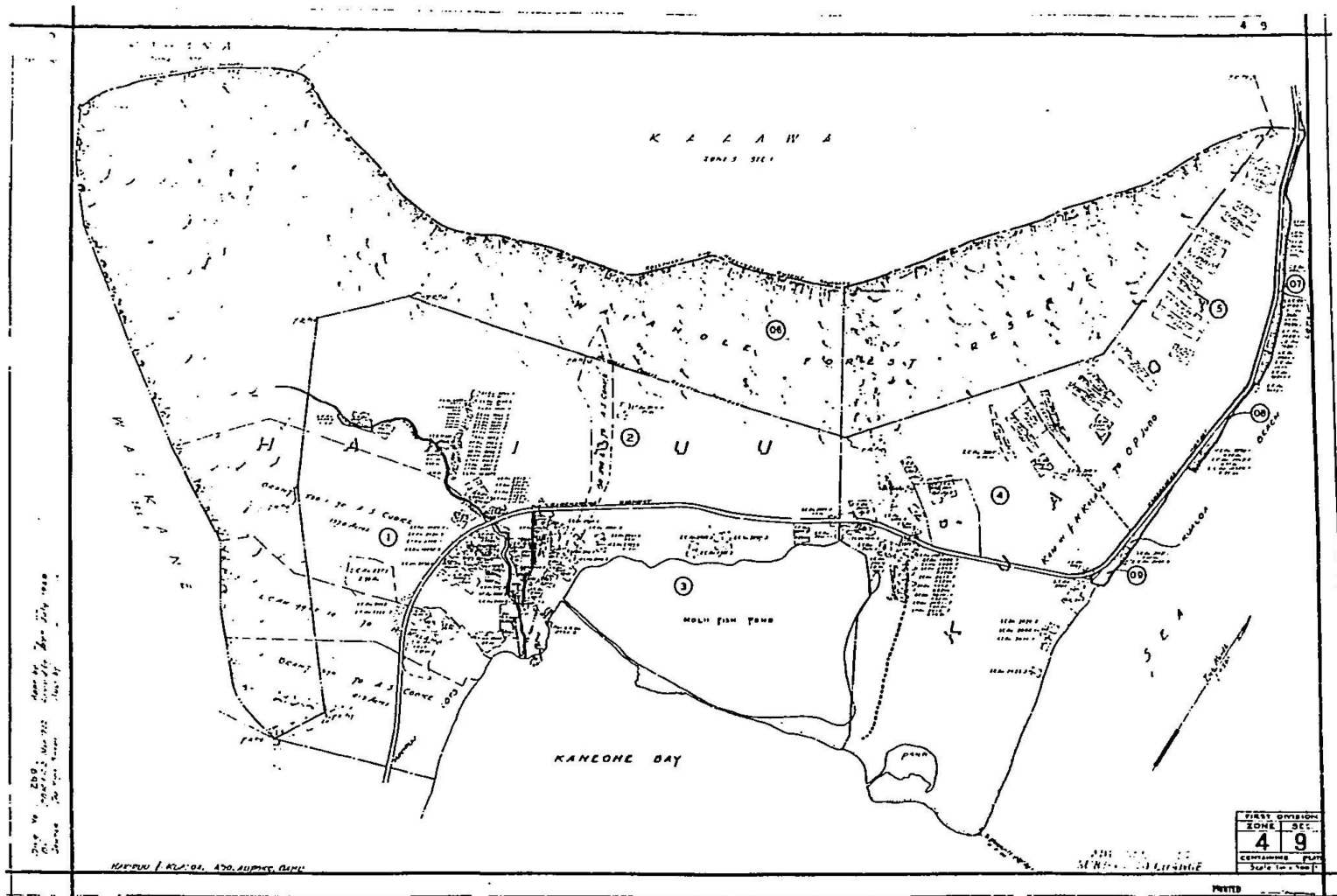


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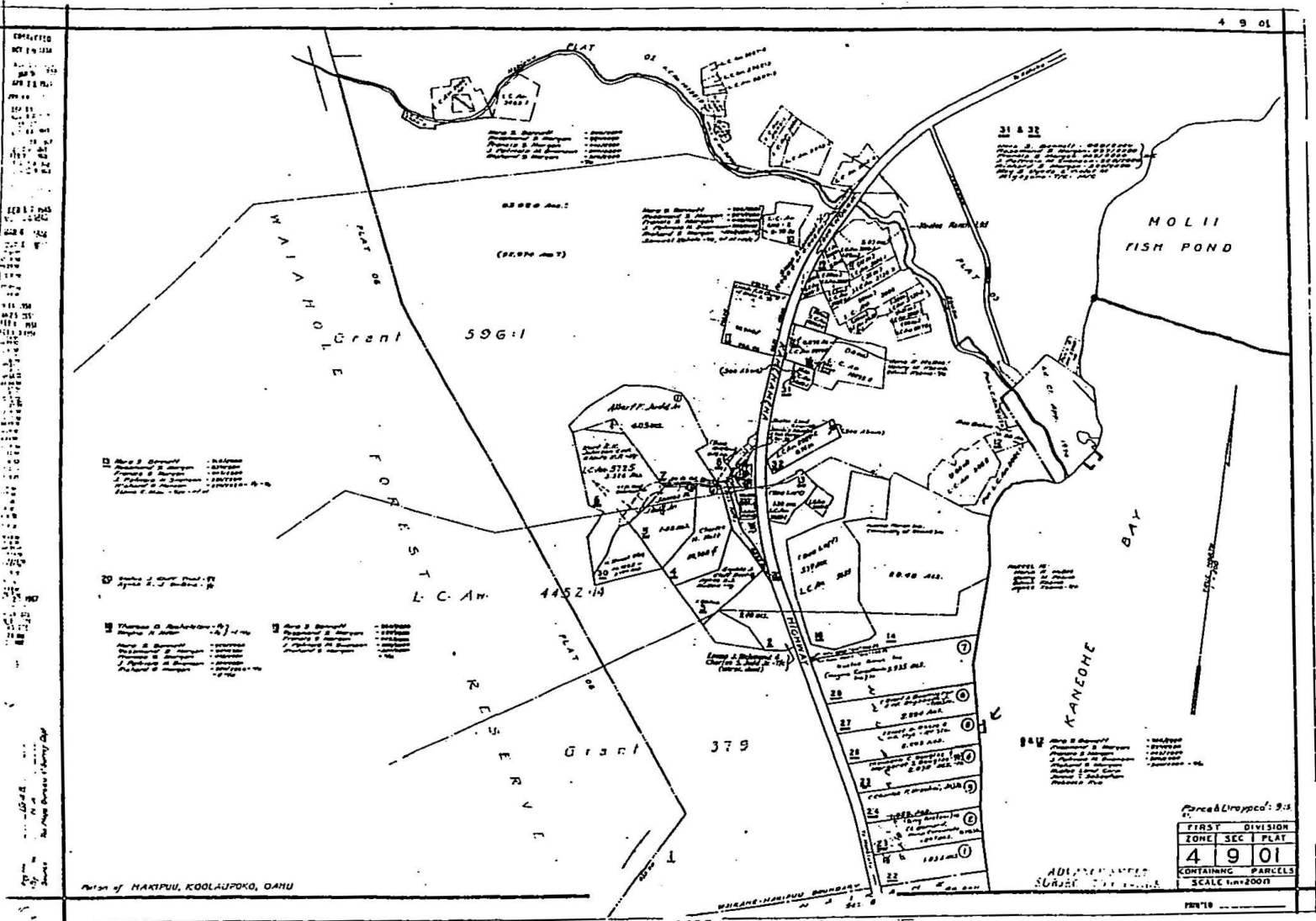
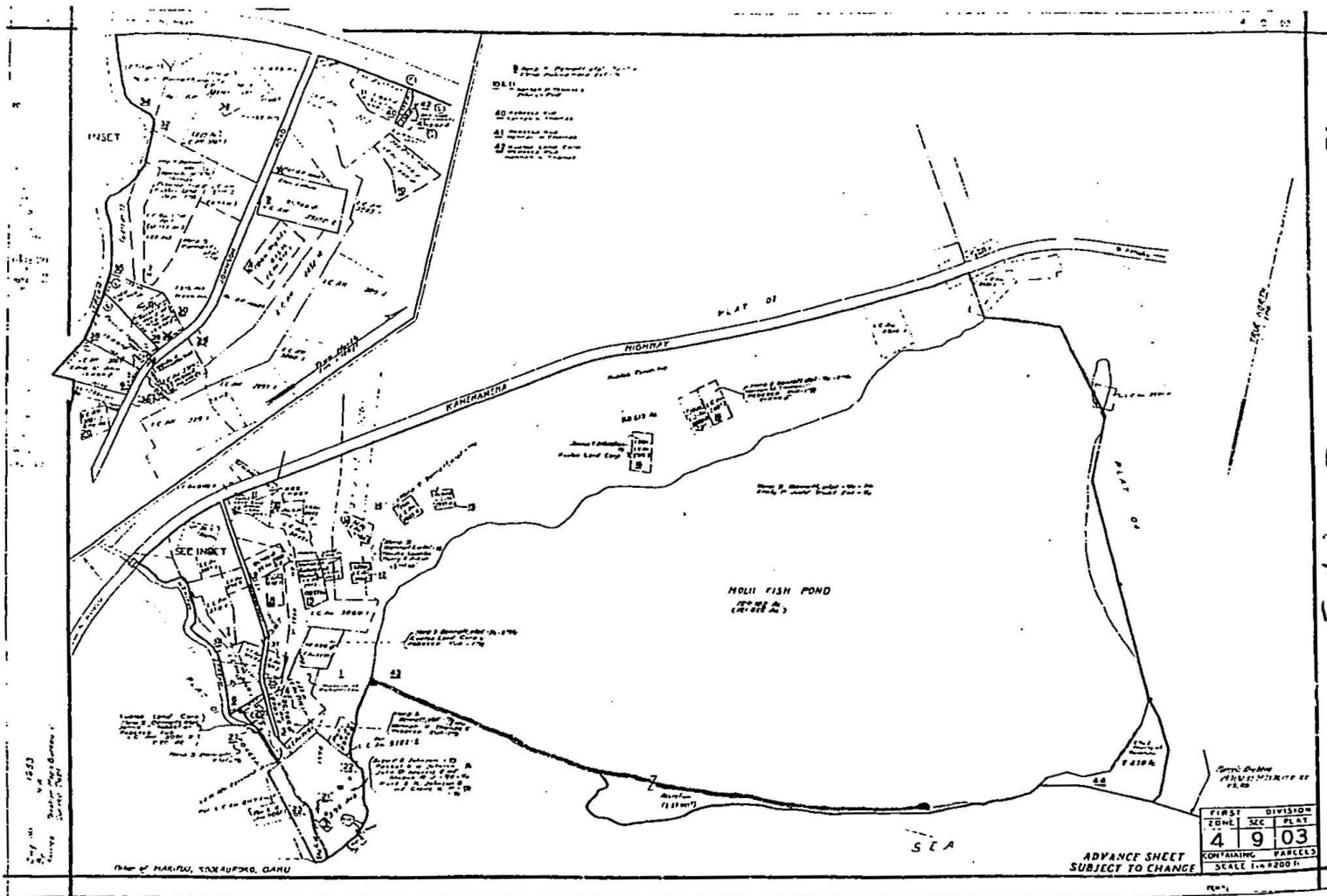


EXHIBIT 3





STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

REF:PB:LT

JUN 18 1983

In reply, please refer to:
Case No.:
& TMK:

Dear Mr.

The Land Division of the Department of Land and Natural Resources is conducting an inventory/survey of private piers on public land. Piers in the area between Kaneohe Marine Corps Air Station (Nuupia Pond) to Waikane are being inventoried to determine compliance with existing State laws.

"Public land" including submerged lands extend from the upper reaches of the waves on shore seaward; these lands are also in the Conservation District.

Your property abuts a pier structure. Permission for the pier must be obtained from the Board of Land and Natural Resources (Board) via a Conservation District Use Permit (CDUP) and a Revocable Permit (RP) approving the specific use. Both permits are required to establish the legality of the pier.

Pursuant to Chapter 183C, Hawaii Revised Statutes, and Chapter 13-5, Hawaii Administrative Rules, relating to the regulation of land use in the Conservation District, and Chapter 171, Hawaii Revised Statutes, relating to the management and disposition of public lands, we request your participation in this inventory.

Data obtained from your responses to the attached survey will be used to place all piers into one of the following three categories:

1. "Legal piers" are those for which both a CDUP and an RP have been approved by the Board;

EXHIBIT 4

2. "Nonconforming piers" are those built prior to October 1, 1964, the date the Conservation District was established, for which a government permit can be provided; and
3. "Unauthorized piers" are those that do not qualify as nonconforming or were built subsequent to the establishment of the Conservation District without a CUP and/or RP. These structures are in violation of state laws.

The Department is offering owners of unauthorized piers a one-time opportunity to participate in an "Amnesty Program" that will bring the piers into conformance with the State's land use laws.

To achieve this objective, the Amnesty Program will be administered according to the following process and schedule:

1. Unauthorized piers will be processed through the Department's Hearing Officer/Administrative Penalty system (HOAPS) with a nominal fine to be imposed. The system's purpose is the fair and speedy disposition of cases involving violations of specific rules, statutes, permit conditions, and regulations of the Department;
2. A Master application for a Conservation District Use permit to include nonconforming piers as well as unauthorized piers will be prepared and scheduled for approval by the Board of Land and Natural Resources and will be done concurrently with a request to issue revocable Permits;
3. Upon approval of the Master Conservation District Use permit that will include a list of all piers in the program, appraisal reports will be prepared by the state's Appraiser to establish the fair value for monthly rental payments for the use of public lands;
4. The Oahu District Land Office will issue individual revocable Permits to owners of legally conforming piers.

The time schedule for resolution of the violations and approval by the Board for the Master Conservation District Use Permit and Revocable permits will be about four (4) months. Issuance of Revocable permits by the Oahu District Land Office will take about one month.

EXHIBIT 4

Page 3

Please complete the enclosed survey, attach copies of documents regarding your pier's status, and return by mail within three weeks of the date of this letter to the following:

Dean Uchida, Administrator
Land Division
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809
ATTN: Lauren Tanaka

Should you choose not to participate in the inventory and Amnesty Program, or fail to respond to this offer within the three week period, violations will be processed in accordance with Chapters 183C and/or 171, Hawaii Revised Statutes. Fines will be imposed for the violations, payment of back rent for the unauthorized use of public lands may be required, and/or action may be taken for the removal of the illegal structure(s).

Please contact Lauren Tanaka at 587-0385, Planning Branch of the Land Division if you have questions.

Very truly yours,



DEAN UCHIDA, Administrator
Land Division

Enclosure

EXHIBIT 4

2/2/89
ref msg
11/1/89 Transfer
file to Lauren

STATE OF HAWAII
Department of Land and Natural Resources
Planning and Technical Services Branch
Land Division
Honolulu, Hawaii

Kaneohe Bay Pier Project
Inventory/Survey

Jan 2 10 27 AM '98

Please complete this form and return by mail to:

Dean Uchida, Administrator
Land Division
P.O. Box 621
Honolulu, Hawaii 96809
ATTN: Lauren Tanaka

Name: _____ Address: _____

Tax Map Key (TMK) of Property Where Pier is Located (if different from address completed above): _____

Phone No.: _____ Date: _____

1. Are you the owner of the property referred to by TMK in our letter?
Yes _____ No _____ If not, who is the owner? _____
Name & Address: _____
2. Is the pier located on the same TMK as indicated in our cover letter?
Yes _____ No _____
3. When was the pier built?
Month/Year _____ Do not know _____
4. Do you have a Conservation District Use Permit and/or a Revocable Permit authorizing the pier from the Department of Land and Natural Resources?
Yes _____ No _____ If yes, permit # _____

EXHIBIT 5

DOCUMENT CAPTURED AS RECEIVED

5. Do you have a permit for the pier from any other government agency?

Yes _____ No _____ If yes, permit type & # _____

6. Would you like to participate in the Amnesty Program described in our letter?

Yes _____ No _____

Please submit photocopies of documents as verification.

EXHIBIT 5



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809
January 8, 2001

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

(Name)
(Address)
(Address)

Dear :

As you may know, the Board of Land and Natural Resources (Land Board), in carrying out its responsibilities in the regulation of the Conservation District and in the management of public lands, has initiated an "Amnesty Program" to bring piers into conformance with State laws. We would like to update you on the current status and to ask for your response on your intentions regarding this program.

Act 261, SLH 2000, which was enacted into law this past year: 1) allows the Land Board to lease by direct negotiation submerged lands for private, residential non-commercial piers, 2) deletes the requirement for posting of signs on piers to allow for public use of the pier and 3) eliminates the requirement to obtain prior approval of the Governor and the Legislature for leasing of noncommercial piers. All three amendments will sunset on June 30, 2005.

The Department has drafted an environmental assessment (EA) which will be published in the OEQC Bulletin on January 23, 2001. This EA is required pursuant to Chapters 343 and 183C, HRS. You have the opportunity to comment on this EA during the 30-day comment period ending February 22, 2001. Copies will be available for viewing at the public libraries in the Kaneohe area, at the Land Division (1151 Punchbowl Street, Room 220) and at the Office of Environmental Quality Control (235 S. Beretania Street, State Office Tower, Room 702).

The Department has filed a master Conservation District Use Application (CDUA) which is required pursuant to Chapter 183C, HRS, for the use of lands in the Conservation District. We intend to request Board approval of this master CDUA in April.

Once the master CDUA is approved, a land disposition (lease document) pursuant to Chapter 171, HRS, can be issued. For the land disposition:

- 1) The fair market rent (one-time payment) shall be determined by a formula (dollar amount per square foot) that will be presented to the Land Board at a date to be determined. We will notify you of this meeting through our website

Exhibit 6

(<http://www.state.hi.us/dlnr/lmd>), area legislators and Protect Our Shoreline Ohana. You are invited to provide any comments you may have at that meeting.

- 2) You will need to (please await further instructions before proceeding with any of the following):
 - Hire and pay a licensed surveyor to prepare a map and description (in CAD)
 - Pay for document fees (\$30 per document) and rent (to be determined according to the approved formula)
 - Provide tax clearances from the State and county tax offices
- 3) The standard State lease terms and conditions require:
 - Liability insurance
 - Performance bond
- 4) The lease term recommended for Land Board approval will be 55 years.

What are the benefits of joining the Amnesty Program?

- Opportunity to legalize your pier without having to pay consultants for the preparation of an EA and CDUA, an estimated cost of \$30,000 to \$50,000.
- Waiver of back rent or fines for those who participate in the program.
- Legalization of pier enables smooth sale of property in the future.
- Five-year window of Act 261 legislation allows for direct, long-term disposition and eliminates public use requirement, both advantageous when trying to sell your property or obtain homeowners insurance for your pier.

At any time during this process, if it is found that you have non-pier encroachments or other violations, such violations will be handled separately from and prior to processing of the pier. You will be asked to complete a questionnaire which will allow us to determine whether the encroachments should be removed or legalized under an easement document.

Your options are as follows:

- 1) Join the Amnesty Program
- 2) Have the pier and any encroachments removed
- 3) For those people with DOT Permits, you have the choice of continuing with the permit without obtaining a long-term lease. You should be aware, however, that the public use requirement would still apply to your pier and may negatively impact your ability to obtain insurance.

Exhibit 6

Taking all of this into consideration, we ask that you think over your options and then complete the attached application form. Please make sure you follow the instructions carefully, as the information may be used in the legal documents to be issued. Also, please note that your positive response to participate in the Amnesty Program does not legally commit you to participating. You may decide against obtaining a land disposition for your pier up to the point where we request your signature on the legal documents. (Please note that, in this case, we would retain the \$30 document fees since the documents had been prepared.)

If you decide not to participate in the Amnesty Program, your illegal pier will be processed through the normal Departmental penalty system and will be subject to fines and/or removal of the pier.

Please return this application form by Thursday, February 22, 2001 to enable processing. If you have any information to provide or questions to ask, please contact Traver Carroll at 587-0439.

Thank you.

Sincerely,

DEAN Y. UCHIDA
Administrator

cc: Land Board Members
Representative Ken Ito
Representative Charles Djou
Senator Bob Hogue

Exhibit 6



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref:PB:TC

File: OA-3017B

Genevieve Salmonson, Director
Office of Environmental Quality Control
235 So. Beretania St., Suite 702
Honolulu, HI 96813

SUBJECT: Conservation District Use Application (CDUA) OA-3017B

Thank you for your letter dated February 22, 2001, commenting on the subject CDUA and Draft Environmental Impact Statement (DEIS). We offer the following responses in the respective order of your comments:

The Land Division has been engaged in the education of the affected Kaneohe Bay landowners from the inception of this project. We have had public meetings and are in regular contact with the landowners and we will continue to be in contact and provide education. This CDUA and EIS are part of an attempt to avoid future noncompliance.

The Land Division would like to thank you for your support for dedicating revenues, received from Kaneohe Bay piers lease rents, to the Beach Restoration Fund.

Your letter along with this response will be reproduced in the forthcoming Final Environmental Impact Statement. We appreciate your interest and participation in the public review phase of the environmental review process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dean Y. Uchida".

Dean Y. Uchida, Administrator
Land Division

BENJAMIN J. CAYETANO
GOVERNOR



FILE COPY

To: Traver

7-0950-
GENEVIEVE SALMONSON
DIRECTOR

STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

235 SOUTH BERETANIA STREET
SUITE 702
HONOLULU, HAWAII 96813
TELEPHONE (808) 586-4186
FACSIMILE (808) 586-4186

February 22, 2001

Mr. Gilbert Agaran, Chair
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Agaran:

Subject: Kāne'ohe Bay Pier Project

Thank you for the opportunity to review and comment on the subject project. We have the following comments.

1. We strongly recommend that the department properly educate all the affected Kāne'ohe Bay landowners about various Federal, State, and County regulatory requirements affecting their bayfront property. Revenues received from pier lease rents in Kāne'ohe Bay should be used for this purpose to avoid future noncompliance.
2. We also support dedicating revenues received from pier lease rents in Kāne'ohe Bay to the Beach Restoration Fund.

Should you have any questions, please call Jeyan Thirugnanam at 586-4185.

Sincerely,

A handwritten signature in cursive script that reads "Genevieve Salmonson".

Genevieve Salmonson
Director

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division/Planning Branch
Honolulu, Hawaii

Sam

2-52

File No: OA-3017B

180-Day Exp. Date: July 14, 2001

July 13, 2001

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

Regarding: Conservation District Use Application for
the Proposed Kaneohe Piers Amnesty Program

Applicant: Land Division, Department of Land and
Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Landowner: Applicant

Location: Kaneohe Bay, Nuupia Pond to Waikane, Oahu

Abutting TMKs: Various parcels within: (plats)
(1) 4-4-07, 14, 16, 18, 21, 22, 37;
4-5-01, 06, 07, 47, 58, 104;
4-6-01, 03, 22, 23;
4-7-09, 10, 14, 17, 19, 24, 30, 41;
4-8-05; and 4-9-01, 03

Area of Project/ Approximately 11,000 acres

Use: Approximately one acre of submerged land

Subzone: Resource Subzone

As amended
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

July 13, 2001. [Signature]

EXHIBIT G

Project Background:

In May 1998, the Board of Land and Natural Resources approved a plan to address the problem of unauthorized piers in Kaneohe Bay, island of Oahu. Many shorefront property owners who have ocean-related recreational interest such as boating, swimming, and fishing have constructed piers. Most of these piers lack proper authorization from the State and are therefore considered to be illegal. The problem has persisted for several decades without direct action by the State. Lack of staff resources has made the enforcement of the all of the State's established land use laws difficult.

The goal of this program is to provide owners of unauthorized piers with the required permits to achieve compliance with the State's land use laws and ultimately resolve the illegal pier problem in Kaneohe Bay.

In order to help facilitate a solution to this problem, the Governor, on June 20, 2000, signed the legislature's Act 261, which amended Chapter 171 Hawaii Revised Statutes as follows: "Private residential noncommercial piers. Notwithstanding any limitations to the contrary, the board of land and natural resources may lease, by direct negotiation and without recourse to public auction, state submerged lands or lands beneath tidal waters for private residential noncommercial piers on such terms and conditions as may be prescribed by the board."

To induce participation in the program from owners of these unauthorized piers, an "Amnesty Program" was created which essentially pardons individuals possessing an unauthorized pier. No fines will be imposed on pier owners coming forward to legalize their pier. [Note: This program does not include encroachments other than unauthorized piers, such as seawalls, fill, boats ramps, steps, etc. The State will continue to deal with these encroachments on a case-by-case basis.]

It is not the intent of the Department to pardon "any" action that results in a violation of the State's land use laws. In this case, however, the Department decided that the pier problem was so extensive in Kaneohe Bay that it required a completely different solution than the conventional case-by-case approach to enforcement problems. The Department offered amnesty to

unauthorized pier owners who were willing to participate and offered to prepare the necessary permits and environmental documents, in order to increase the likelihood of participation. Another factor considered by the Department was the environment in Kaneohe Bay, which is ideally suited for pier development. Marine and coastal conditions provide an ideal situation for pier development. The long barrier reef, which stretches from Kaneohe Marine Air Force Base northward along the windward coast, provides shelter and calm seas, which are necessary conditions to maintain structures of these types. As such, from an environmental perspective, the Department feels that pier development is not inconsistent with conservation objectives.

The purpose of this program is to identify cooperative individuals with unauthorized piers in Kaneohe Bay and then group them into one Master Conservation District Use Application (past practice for Kaneohe Bay has been to grant after-the-fact approvals on a case-by-case basis). It is the goal of the Department to provide a global solution to the pier dilemma in Kaneohe Bay for the reasons cited above. This is a complex matter due to the fact that there are both authorized and unauthorized piers in the Bay. In addition, there are individuals with unauthorized piers that have not yet come forward to participate in the process and several who have chosen not to participate. Nevertheless, the Department is willing to grant amnesty to those who are willing to work with the Department in bringing their piers into conformance by also agreeing to a land disposition. Those individuals who do not participate in the program will lose their piers.

Generally, if a property owner accepts a lease for a pier, this sets the terms of public liability insurance and rent for the use of the submerged land. As part of the comprehensive public liability insurance policy, an individual agrees to indemnify the State from and against all claims and demands for damages. The pier owner is then responsible for the maintenance of the pier structure and the State land on which it sits. The process ends with the collection of rents by the Department's fiscal office.

For the purposes of this project, a pier is defined as any structure built within the Conservation District on State Submerged Land. (The Conservation District was established on

September 18, 1964. Piers built before this date would be considered legal nonconforming (grandfathered). These piers only require a lease agreement with the State. Piers built after this date requires both a CDUA and Lease.

Under the original action plan approved by the Board in 1998 for the Amnesty Program, a pier's status would be determined according to the date it was constructed and the kind of approval held by the landowner. All piers would then be placed into one of three categories: legal, nonconforming, or unauthorized.

A **legal** pier is a pier built after September 18, 1964. For a pier to be considered a **legal** pier, the property owner would be required to possess a Revocable Permit and a Conservation District Use Application. A **nonconforming** pier is a pier built prior to September 18, 1964 for which the property owner has a Revocable Permit. An **unauthorized** pier is a pier built either before or after September 18, 1964 and has one permit but not the other, or no permits from any government authority. In all cases, supporting documentation is required to make a determination on the pier's legal status.

A 1992 photographic index of Oahu's shoreline compiled by the City and County of Honolulu was utilized to develop an inventory of more than 200 shoreline structures, including piers, docks, rocks, and ramps in Kaneohe Bay.

The project area includes the shoreline properties from south of Nuupia Pond (adjacent to the Kaneohe Marine Corps Base - Hawaii) and extends to Waikane, Oahu (**Exhibits 1-2**).

Letters were sent to all known pier owners in the study area to ascertain and/or confirm the pier owner's willingness to participate in the program and to glean any additional information to help the Department categorize its cases (229 letters were sent with 144 replies, of which 134 wished to join the program, 5 said they would remove their pier, and 2 said their pier was not on State land) (**Exhibit 3**).

For those individuals that choose not to participate in the Amnesty Program, the Department will pursue a long-term program to remove the piers. Due to the cost of removal, the Department

will investigate ways to recoup demolition expenses from the abutting landowners who refused to participate in the program. If an abutting landowner decides that they will remove the pier, they should notify the Department of their intentions and coordinate demolition with the State to ensure that natural resources are protected and the site is cleared of all debris. This might involve a follow-up site inspection by Land Division staff to also verify that the pier was removed.

In addition, this program does not include encroachments, other than unauthorized piers, such as seawalls, fill, boats ramps, steps, etc. The Department will continue to deal with these encroachments on a case-by-case basis. These cases are likely to include the imposition of a fine to resolve the encroachment. However, if a pier owner who has other encroachments wishes to include their pier in the Master CDUA, they may do so by notifying the Department. They will be included in the Pier Amnesty Program and issued a lease for the pier after the encroachment issues are resolved.

In addition to issues relating to permitting, the Department of Land and Natural Resources has developed an equitable lease rent for pier owners in Kaneohe Bay. Through this process, the Department will have accomplished its objective for the resolution of illegal piers in Kaneohe Bay. Owners of permitted piers will be able to make improvements to their piers and residence subject to other requirements related to shoreline certifications and County building code.

Those landowners who wish to construct a new pier will be required to apply for a Conservation District Use Permit. Both the Master CDUA and the Environmental Assessment used for this amnesty program will be available as a part of the Public Record and may be used to help landowners facilitate their application.

Description of Area/Current Use:

Kaneohe Bay is the northernmost barrier reef in the world and the only barrier reef in the Hawaiian Islands, extending across the mouth of the Bay to include the northwest Mokolii Passage and the southeast Kaneohe Passage, also referred to as the Sampan Channel.

The surface area of Kaneohe Bay at mean sea level is approximately 11,000 acres, or about 8.0 miles long by 2.6 miles wide. There are five major islands in the Bay, Moku o Loe (Coconut Island), Mokoli'i (Chinaman's Hat), Kapapa, Ahu o Laka, and Kekepa (Turtle Back Rock).

Kaneohe Bay has three inshore to offshore zones: a fringing reef zone, a lagoon zone, and a barrier reef complex and three types of reef: fringing reefs, patch reefs, and a barrier reef. Fringing reefs are found in the inshore zone around the shoreline except in areas where freshwater streams enter the Bay or where dredging activities have modified them. Patch reefs are found in the lagoon zone with most of them concentrated near the two channels that bisect the barrier reef. These reefs are round to irregular in shape where coral grows off the inner floor of the Bay and reaches up near the surface.

Most of the recreational activity centers around the central barrier reef flat that extends across the mouth of the Bay and includes the channels at the southern and northern ends, the sand flat and Kapapa Island. The shallow portion of the barrier reef is approximately 3 miles long by 1.2 miles wide.

From 1939 to 1945, the U.S. Navy dredged Mokoli'i Channel to approximately 10 meters. From 1939 to 1940, the U.S. Navy also dredged a ship channel that extends the length of the Bay and connects the Kaneohe Marine Corps Base - Hawaii with the Mokoli'i Channel to provide deep draft ship access between the Bay and the open ocean.

The immediate shoreline area in the vicinity of the piers in Kaneohe Bay is generally composed of mudflats, with some thin terrigenous-based beach areas, generally inaccessible by foot to the general public. Water quality is often impaired due to turbidity from sediments. Because of the generally flat broad terrain, the shoreline areas are either completely submerged at high tide, or dry.

The shoreline of Kaneohe Bay has been extensively altered over the past 100 years with seawalls, channels, dredging, small inlets, piers, jetties, and boat harbors.

Recreational beach resources in the Bay are poor to non-existent. The area is better suited towards boating activities, fishing and crabbing.

Land Use and Zoning

In the past 200 years, the Kaneohe Bay area has undergone dramatic changes and continues to change as urbanization progresses. The area was used for the cultivation of taro, followed by rice and pineapple, and ended with grazing for pasture purposes. The use of irrigation ditches and water diversions to central Oahu reduced stream flows and have contributed to the deforestation, erosion and siltation in the Bay.

From 1928 to 1945, 280 acres of the Bay was filled to expand Mokapu Peninsula and from 1939 to 1945, approximately 15 million cubic yards of reef material was dredged from the Bay to construct the Kaneohe Naval Air Station and for housing development. These activities were the primary contributor to its degradation.

From 1940 to 1988, the Kaneohe area changed from a rural to residential community. In 1940, the population was 5,387 and by 1988 it had increased to 54,903 requiring more houses, streets and sewers, creating more paved areas and less vegetated areas. The population of windward Oahu was estimated to be the largest during this time.

In addition to the dredging of channels, private inlets for moorings to provide small boat access to shoreline house lots have contributed to the changes in the original coastline. Portions of the shoreline are bordered by sea walls built to control erosion and provide moorings for small boats.

The State land use designation for the islands within Kaneohe Bay, the fishponds, and all submerged land is Conservation with both Protective and Resource subzone designations.

Within the watershed, the Conservation lands are generally along the slopes and crest of the Koolau Mountains including some mauka valleys, and on the upper slopes of the other ridges. The northern portion which includes Waiahole, Waikane, Hakipuu, and

Kualoa are in the agricultural district, and the remaining lands are designated Urban.

Federal, State, and local jurisdictions overlap in the land use regulations affecting coastal areas. The lack of adequate resources had made the implementation and enforcement of the State's established regulations and controls difficult. This is just one reason why the problem has persisted for so long.

Water Quality

Construction in the shoreline area is responsible for increased runoff and sedimentation particularly on the southeastern portion of the Bay. During heavy storms, large deposits of sediment and freshwater have negatively affected coral reef growth where fine sediment is kept in suspension, reducing the clarity of the waters. Much of the material that was removed from the patches and fringing reefs were used to fill in old fishponds along the shoreline or were dumped back into the deeper parts of the Bay. The cumulative impacts have resulted in a highly modified extant marine community leaving little of the original reef structures and shoreline as it was before 1920.

Until 1977-1978, sewage was discharged into the bay from the Kaneohe sewage treatment plant and continues to occur periodically through the outfalls as "bypasses" and as seepage from the aging sewer collection system in urban Kaneohe.

In addition, many streams in the southern portion of the watershed were lined with concrete channels to protect houses built on natural flood plains from periodic flooding causing a reduction of ground water recharge and increase in sediment and freshwater storm runoff flowing into the Bay.

The health of the Kaneohe Bay ecosystem depends chiefly on the water quality in the streams, estuaries, and the Bay. Urbanization of the watershed is the most significant factor affecting water quality. The Bay and its watersheds have served as a living laboratory to analyze the influence of land use on tropical marine resources. However the carrying capacity of the ecosystem for further urban development based on responses to

specific parameters is unknown. Changes in reef community structure indicate the ecosystem may be approaching its adaptive limits. Conservative land use decisions controlling future urbanization may be needed.

Geographical Features

Based on physical characteristics and human activity, the Bay has three distinctive northern to southern geographic sections. In the southern section, commercial, residential, and industrial development and associated activities are far greater than in the north.

In the central section, because of easy access from Heeia Kea Harbor there is a significant amount of recreational activity and use of the central barrier reef flat and sand flat. The only major public boat ramp and harbor, Heeia Kea Harbor is the point of origin of most of the commercial and recreational fishing activities.

The most oceanic section of the Bay is the northeastern portion where there is a large influx of ocean water over deeper parts of the barrier reef and the Mokoli'i Channel. It is also the most rural both on land and water with people pursuing quieter activities such as fishing.

Marine Environment

Over the last 40 to 60 years, most of the shoreline and marine habitats have been heavily modified. The greatest changes resulted from the extensive dredging beginning in the late 1930's continuing through 1949. A lot of the material that was removed from the patch and fringing reefs were used to fill old fishponds along the shoreline or were dumped back into deeper parts of the Bay. In addition to the dredging and filling, much of the shoreline has been modified with the building of retaining walls, piers, and jetties.

Besides the structural modifications that degraded the marine habitat, urban growth has adversely impacted the marine community. Secondarily treated sewage was released into the southeast sector of the Bay from 1963 through 1978. This nutrient loading caused an increase in certain components of the

marine fauna at the expense of others. The substratum characteristics of much of Kaneohe Bay combined with elevated nutrient loading and freshwater influences have favored the development of larger particulate-feeding animal species, such as sponges, tunicates, and barnacles.

In the past, the Bay had one of the largest estuaries on Oahu and has significant value as a marine and freshwater fish nursery area. At one time, there was a diverse population of reef fish in the Bay, including kumu, maomao, and hinalea. Open water fish such as akule, opelu, oio, mullet, nehu, weke, papio and omaka find their way into the southern portion of the Bay. In deeper waters, commercial fishing boats occasionally work the area to catch fish bait, or nehu.

The organisms found in the shallow southeastern reef areas are all species common to that portion of the Bay. None of these organisms are considered rare or endangered. Many of the shoreline species are forms that are tolerant of lowered salinities and are able to thrive in habitats of low environmental quality with minimal disruption.

Historic, Archaeological and Cultural Resources

Kaneohe Bay's significant historical and cultural features are its fishponds. In the Hawaiian cultural tradition, fishponds were primarily rock walls and used to cultivate fish. In the 19th century, there were 30 fishponds identified in Kaneohe Bay. From 1946 to 1948, 9 fishponds were filled to create land for housing development. Today, only five fishponds are considered intact. Four of the ponds are Kahuluu Fishpond, Heeia Fishpond, Moliia Fishpond, and Kanohuluiwi Fishpond.

Most of the other historic, archaeological, and cultural areas of concern are found in the vicinity of coastal ponds and marshes. Nuupia Ponds, adjacent to the Kailua Regional WWTP, is an important wildlife habitat for the Hawaiian Stilt.

Proposed Action:

The Department of Land and Natural Resources wishes to resolve the unauthorized pier problem in Kaneohe Bay, which has persisted for several decades. There are approximately 200

piers in the Bay, many of which do not have proper government authorization. To induce participation in the program from owners of these unauthorized piers, an "Amnesty Program" was created which essentially pardons individuals who possess an unauthorized pier, should they cooperate with the State to legalize the pier. [Note: This program does not include encroachments other than unauthorized piers, such as seawalls, fill, boats ramps, steps, etc. The State will continue to deal with these encroachments on a case-by-case basis.]

The ultimate goal of this program is to provide owners of unauthorized piers with the required permits to achieve compliance with the State's land use laws and ultimately resolve the illegal pier problem in Kaneohe Bay.

The following process for implementing the Amnesty Program was developed to meet its objectives to resolve the illegal pier problem in the greater portion of Kaneohe Bay, to establish equity in the use of public lands and to generate revenues for the State:

1. An inventory verifying the pier's existence, current owners and addresses of the adjoining property, the date of its construction, permits currently held and/or authorization from other agencies, and interest in participating in the Amnesty Program.
2. Ground proofing of the inventory by surveying each pier to provide documentation for the case files. The surveys consisted of measuring each pier and recording its length, width, and height above water, with rough sketches made to illustrate its shape, and photographs taken. Materials used for its construction and other existing structures were also noted. These files are available for review at the Land Division Office, Department of Land and Natural Resources, 1151 Punchbowl Street, Honolulu, Hawaii.
3. Preparation of a Master Conservation District Use Permit application pursuant to Chapter 183C, Hawaii Revised Statutes, and Title 13, Chapter 5, Hawaii Administrative Rules, and an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes, and Title 11, Chapter 200, Hawaii Administrative Rules. A public hearing was held

before a Hearing Officer appointed by the Board of Land and Natural Resources on February 27, 2001.

4. Detailed survey data submitted by pier owners will be used by the State's Appraiser to establish the fair value of the lease payments for the use of submerged lands.
5. Approval of the Master CDUA and the request for issuance of leases pursuant to Chapter 171, Hawaii Revised Statutes.

Alternatives Considered

The alternatives considered to the proposed action were the "No Action" alternative and the "Removal" alternative.

The "No Action" alternative would be to do nothing, leaving the 200 structures unauthorized and illegal. However, this alternative is contrary to the intent of the Board in its approval of the action plan for the project.

The other alternative would be to remove the existing piers, an action likely to cause a greater disturbance to the ecological system (Studies have shown that piers provide a small contribution to habitat value by enhancing the fish population through the deliberate placement of hard substrate).

The preferred alternative, therefore, is to work with existing pier owners to bring them into conformance with State land use laws, resulting in the legalization of piers in Kaneohe Bay.

Summary of Comments:

Staff has summarized substantive agency responses as follows:

DEPARTMENT OF LAND & NATURAL RESOURCES

Division of Aquatic Resources: Notes that it would like to have any applications for CDUA amendments for maintenance or additional construction of piers be referred to the DAR for review to protect the recreational values of surrounding waters and nearby baitfish utilized by the State's commercial fishing industry.

OFFICE OF HAWAIIAN AFFAIRS

The office notes that the project is located on "ceded" lands subject to the Public Land Trust, and fully expects that OHA will receive the pro rata share of the revenues, generated from the rents from pier users, to which it is entitled.

DEPARTMENT OF THE ARMY

U.S. Army Engineer District, Honolulu: Notes that landowners seeking authorization to: (a.) repair, modify, or remove existing piers; or (b.) install a new pier; are required to obtain a determination of Department of the Army requirements for their planned activity.

CITY & COUNTY OF HONOLULU

Department of Planning & Permitting: Notes that pier owners should be notified that any portion of the piers located mauka of the certified shoreline may be within City jurisdiction, and if so, are subject to City permits and approvals not covered under the Conservation District Use Permit.

PUBLIC HEARING SUMMARY

A public hearing was held at 6:00 P.M., on February 27, 2001, at the Kaneohe Community & Senior Center Auditorium. The meeting was attended by approximately sixty (60) people, with nineteen (19) of them signing-up to speak. Among those in attendance was State Representative Ken Ito.

A presentation, outlining the proposed project, was made by staff and was followed by a question and answer session. The presentation included: the methodology for determining lease-rent; the categories of piers legal, illegal, non-conforming, etc. and the fact that legal piers could remain legal, but pier-owners should check with their insurance companies; the recognition that the cost factor was of major concern to pier-owners; and the suggestion that use of a common surveyor might help to keep the cost down.

Concerns expressed by those in attendance included: people have been told that anyone who stops paying their revocable permit

monthly fee, while waiting for the amnesty process to be completed, can't get a lease for five years; is a DOT permit pier private or public; there was no public hearing on the methodology; we shouldn't be charged the same as commercial pier owners, we don't have write-offs; why should people on inlets pay; it's not fair to people that don't have piers; what's the time-frame; when will the State remove illegal piers; who is eligible, someone besides the land owner; people on the mud-flats who need longer piers, shouldn't pay the same rate as those on channels, or can the State help us get a channel; don't know if my pier is conforming, non-conforming, or legal; we need standards and definitions; we own submerged land, what's reclaimed land value; are there penalties attached; I have a seawall; what about others, besides Kaneohe; need comprehensive notification; need to coordinate with the City Department of Planning and Permitting, because we can't have concrete in the 40-foot setback; we were told to stop paying by your office, are we in violation; will the EA and CDUA be available to the public, part of the public record; according to 171-17, need an appraisal, or are you using County tax records; and what about floating and cantilevered piers?

Many of the questions were answered directly and some people were asked to speak with staff after the meeting on questions specific to their situation. The question about floating and cantilevered piers was answered inaccurately, but a letter was subsequently sent to all known pier owners explaining that these too would need to be included, and that leases would be available for them. Staff feels that with the issuance of this submittal all of the questions, so far expressed, have been answered.

Analysis:

Following review and acceptance for processing, the applicant, by letter dated February 7, 2001 was notified that:

1. The proposed use is an identified land use (R-6, Marine Construction, D-1) within the Resource subzone of the Conservation District, according to Section 13-5-22, Hawaii Administrative Rules (HAR);

2. Pursuant to Section 13-5-40 (3), HAR, a public hearing was held on February 27, 2001;
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, HAR, a finding of no significant impact (FONSI) was issued. The Final Environmental Assessment was published in the Office of Environmental Quality Control (OEQC)'s Environmental Notice's May 8, 2001 issue; and
4. In regard to Hawaii's Coastal Zone Management law (Chapter 205A, HRS), which pertains to the Special Management Area (SMA) requirements administered by the various counties, the project is outside the SMA.

The following discussion evaluates the merits of the proposed land use by applying the criteria established in Section 13-5-30, HAR.

1. The proposed land use is consistent with the purpose of the Conservation District.

The purpose of the Conservation District is to regulate land uses for the purpose of conserving, protecting, and preserving the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

The Department of Land and Natural Resources wishes to resolve the unauthorized pier problem in Kaneohe Bay, which has persisted for several decades. There are approximately 200 piers in the Bay, many of which do not have proper government authorization. To induce participation in the program from owners of these unauthorized piers, an "Amnesty Program" was created which essentially pardons individuals who possess an unauthorized pier. [Note: This program does not include encroachments other than unauthorized piers, such as seawalls, fill, boats ramps, steps, etc. The State will continue to deal with these encroachments on a case-by-case basis.]

The ultimate goal of this program is to provide owners of unauthorized piers with the required permits to achieve

compliance with the State's land use laws and ultimately resolve the illegal pier problem in Kaneohe Bay.

The Department believes that this action is consistent with the purpose of the Conservation District to protect and conserve resources.

Implementation of this program will ultimately result in rents generated from pier uses being used for beach improvements.

In terms of natural resource preservation, it should be noted that, the immediate shoreline area in the vicinity of the piers in Kaneohe Bay is generally composed of mudflats, with some thin terrigenous-based beach areas, generally inaccessible by foot to the general public. Water quality is often impaired due to turbidity from sediments. Because of the generally flat broad terrain, the shoreline areas are either completely submerged at high tide, or dry.

The shoreline of Kaneohe Bay has been extensively altered over the past 100 years with seawalls, channels, dredging, small inlets, piers, jetties, and boat harbors.

Recreational beach resources in the Bay are poor to non-existent. The area is better suited towards boating activities, fishing and crabbing. Pier development in this area is a wise use of the natural environment given the environmental and social fabric of the region.

2. The proposed land use is consistent with the objectives of the subzone of the land on which the use will occur.

The objective of the resource subzone is to develop, with proper management, areas to ensure sustained use of the natural resources of the area.

Staff believes that this action is consistent with the purpose of the Resource subzone inasmuch as it seeks to use, but also conserve the State's natural resources. Pier use will result in funds being generated in beach improvements. As noted in the preceding discussion, the areas in which the piers exist have already been significantly altered and pier use does not appear

to be inconsistent with the existing environmental and social character of the region.

3. The proposed land use complies with provisions and guidelines contained in Chapter 205A, HRS, entitled "Coastal Zone Management," where applicable.

Chapter 205A, HRS encompasses most land, water and marine areas of the State. Section 205A-2(a)(5)(a) states that it is a policy of CZM, to provide public or private facilities and improvements important to the State's economy in suitable locations. The Department believes that Kaneohe Bay is a suitable location for either public or private piers. Pier development in Kaneohe Bay does not affect beach processes or significantly affect public access.

Finally, the Department finds that the proposed project is not inconsistent with the recommendations of the State Coastal Erosion Management Plan (COEMAP), since coastal erosion and beach issues are of lesser importance in the Bay.

4. The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.

The Kaneohe Bay Pier project does not involve the use of additional natural resources or State Lands. The purpose of the project is to provide owners of unauthorized piers with the required permits to achieve compliance with the State's land use laws and ultimately resolve the illegal pier problem in Kaneohe Bay. Therefore, any impacts resulting from the legalization of piers in Kaneohe Bay would have already occurred. This being said, the presence of existing piers creates some level of environmental impact and change to natural resources. In addition, future maintenance of boat piers could result in minor impacts to the environment, which should be disclosed, evaluated and mitigated.

Existing Piers

There are approximately 200 piers in Kaneohe Bay. Some of these piers were authorized and constructed under a Conservation District Use Application, but the majority were not.

The Department conducted site visits to verify the presence of piers as well as the type and size of the piers. This information is contained in files within the DLNR, Land Division.

Piers in Kaneohe Bay are constructed of different materials and come in a variety of shapes and sizes. Generally, wooden pier platforms are constructed on top of either wood or concrete pilings. Pier sizes vary, from small docks, abutting a seawall, to long shore perpendicular piers. Floating piers are also present in the Bay. In addition, some docks are made of fiberglass.

These piers impact the environment because they: 1) occupy public space (shore area), 2) introduce a visual element to the shore area, and 3) impact marine substrate and biota. [Note: Any impacts to marine substrate and marine biota would have likely occurred when the pier was constructed. These impacts are difficult or impossible to assess today.]

In terms of the impact to public space, the DLNR is of the opinion that such impacts are not significant since the shore area of Kaneohe Bay is not actively sought-out for beach recreation. Most of the recreational activity centers around the central barrier reef flat that extends across the mouth of the Bay and includes the channels at the southern and northern ends, the sand flat and Kapapa Island. The shallow portion of the barrier reef is approximately 3 miles long by 1.2 miles wide.

The immediate shoreline area in the vicinity of the piers in Kaneohe Bay is generally composed of mudflats, with some thin terrigenous-based beach areas, generally inaccessible by foot to the general public. Water quality is often impaired due to turbidity from sediments. Because of the generally flat broad terrain, the shoreline areas are either completely submerged at high tide, or dry.

Recreational beach resources in the Bay are poor to non-existent. The area is better suited towards boating activities, fishing and crabbing. The existing piers are not expected to impact fishing and crabbing activities.

Visual impacts are difficult to analyze due to the different ways people view the natural and built environments. A pier may be aesthetically appealing to some viewers and unappealing to others. The effect of building a pier on a pristine shoreline would certainly be negative. However, The shoreline of Kaneohe Bay has been extensively altered over the past 100 years with seawalls, channels, dredging, small inlets, piers, jetties, and boat harbors. Piers have become an integral feature along the Kaneohe Bay shoreline and their effect on the visual quality of the area is not presently a concern.

Pier Maintenance

If a Conservation District Use Application and land dispositions are finally issued to pier owners, it is anticipated that some pier maintenance work would be conducted. Impacts resulting from pier maintenance could involve increases in turbidity and disturbance of bottom sediments, if pier foundations are removed and replaced. In addition, impacts to the marine environment could occur from improper construction methods, resulting in the discharge of toxic substances and debris into the water.

For pier repairs, the following mitigation measures should be followed:

1. Fabrication and assembly of new decks should take place, as much as possible, on fast land.
2. Wooden and other parts treated with preservative, paint, varnish, antifoulant, or other protective coatings, or fabricated from volatile materials such as fiberglass resin, should be cured or dried for a least one week before they are placed in contact with the water.
3. Pier owners must prevent liquid and solid wastes, debris and rubbish from washing, blowing or blowing into the water.
4. Any filling of submerged land is prohibited expressly without separate approval.

The Department has determined that the project will not be significantly detrimental to the public health, safety and welfare of the general public, and will, in fact, improve public health safety and welfare by resolving a long-standing land use problem.

DESIGNATION OF REVENUE

This program could also have positive environmental impacts. First, pier owners would be able to legally repair existing dilapidated structures in the Bay. Secondly, in 1999 the Governor signed into effect Act 84 to help facilitate the Restoration of Beach Lands. The "Beach Act" permits the Department of Land and Natural Resources to do "all things necessary, useful, and convenient in connection with restoration of beach lands." The act also established a Beach Restoration Special Fund. Under Section 171-154, HRS, Authority to lease coastal lands, "The Board, subject to this chapter, may lease public coastal lands under the Board's jurisdiction for the purpose of generating revenues to be deposited into the beach [restoration] special fund." The Beach Act also allows the Board to designate suitable coastal lands for the purpose of generating such revenues. Therefore, staff will request, in addition to approval of this Master Conservation District Use Application, that the Board designate pier leases in Kaneohe Bay as a revenue source for the Beach Restoration Special Fund.

Using revenues generated from pier leases in Kaneohe Bay would augment the State's efforts to restore Waikiki and other eroded beaches, the restoration of which benefits the public directly—by enhancing recreational resources—and particularly with Waikiki, indirectly—by inducing significant economic activity on Oahu and throughout the State. Staff believes that using the pier lease revenues for beach restoration is appropriate. This will provide a good working example of appropriate coastal development in Kaneohe Bay, which will aid in the enhancement of beaches to the benefit of the general public.

Discussion:

Staff believes the planned Kaneohe Bay pier amnesty program to provide owners of unauthorized piers with the required permits

5. Pier foundation replacement should be coordinated with the appropriate State and Federal agencies to ensure that impacts to marine substrate, coral, or other marine organisms is avoided or minimized.
5. The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.

Piers in Kaneohe Bay appear to be a compatible use of the region and are an appropriate use of submerged land given the physical conditions and historic uses of the area.

6. The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.

The Kaneohe Bay Pier project does not involve the use of additional natural resources or State Lands. The purpose of the project is to provide owners of unauthorized piers with the required permits to achieve compliance with the State's land use laws and ultimately resolve the illegal pier problem in Kaneohe Bay. Therefore, any impacts resulting from the legalization of piers in Kaneohe Bay would have already occurred. This being said, the presence of existing piers does create some level of environmental impact and change to natural resources. In addition, future maintenance of boat piers could result in minor impacts to the environment, which should be disclosed, evaluated and mitigated. However, the existing natural beauty and open space characteristics of the Bay will not be further degraded as a result of this action.

7. Subdivision of land will not be utilized to increase the intensity of land uses in the conservation district.

The proposed project does not involve the subdivision of land in the conservation district.

8. The proposed land use will not be materially detrimental to the public health, safety and welfare.

to achieve compliance with the State's land use laws and ultimately resolve the illegal pier problem is long overdue.

Staff feels the significant impacts of this program will be overwhelmingly beneficial, and that relative to the benefits that will occur, any adverse impacts will not be significant.

Staff, therefore, recommends as follows:

Recommendation:

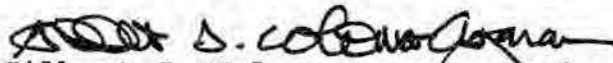
- A. That the Board of Land and Natural Resources dedicate revenues generated from the leasing of piers and granting of easements for seawalls, filled areas, boat ramps, steps, etc., as a revenue source for the Beach Restoration Special Fund; and
- B. That the Board of Land and Natural Resources APPROVE the Kaneohe Bay Pier Project, subject to the following conditions:
 1. The pier owners shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, State and county governments, and the applicable parts of Section 13-5-42, HAR;
 2. The pier owners, their successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, their successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
 3. The pier owners shall comply with all applicable Department of Health administrative rules;
 4. Before proceeding with any repair work authorized by this approval, the pier owner shall submit four copies of the construction plans to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in

- the permit application. Three copies will be returned to the pier owner. Plan approval by the Chairperson does not constitute approval required from other agencies;
5. All mitigation measures set forth in the master application materials and in the Final Environmental Assessment for this project are hereby incorporated as conditions of the permit;
 6. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the pier owner shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
 7. The pier owners understand and agree that this permit does not convey any vested rights or exclusive privilege;
 8. Pier owners with unauthorized piers, who have not yet made application for inclusion in the amnesty program and who wish to participate in same, shall make formal application to the Department's Land Division within 90 days of the approval of this application; failing to do so within the 90 days will result in the Department removing the pier at the pier owners' expense;
 9. In the event that unrecorded historic remains (i.e., artifacts, or human skeletal remains) are inadvertently uncovered during repair or operations, all work shall cease in the vicinity and the pier owner shall immediately contact the State Historic Preservation Division;
 10. Pier owners who require a lease from the State shall obtain a land disposition form from the Oahu District Land Agent for the use of State land; and
 11. Other terms and conditions as may be prescribed by the Chairperson; and

Respectfully submitted,


Traver Carroll
Staff Planner

Approved for submittal:


Gilbert S. Coloma-Agaran, Chairperson
Board of Land and Natural Resources

APPROVED AS AMENDED. The Board approved the application with conditions, modified Item A to insert "Kaneohe Bay" for clarification and appended four (4) additional conditions to the eprmit as follows:

1. Upon issuance of pier leases by the Board, the effective date of lease shall be July 13, 2001;
2. That the Department of Land and Natural Resources Land Division request an opinion from the Department of the Attorney General on whether the Department and Board may provide credit to the owners of piers who have been making lease payments in good standing.
3. That pier owners have one year from the date of the Board's decision on the Conservation District Use Application to complete all matters related to the execution of a lease including maps, liability insurance, lease payments, insurance, appraisals, and performance bonds;
4. That the Department of Land and Natural Resources Land Division shall inform those pier owners who are not paticipating in the Amnesty Program and who have authorized piers that they have ninety (90) days from July 13, 2001 to apply to be included in the program. If the Department does not receive an application to participate in the program from the owner of an unauthorized (pier?) within ninety (90) dyas of the Board's action July 13, 2001, the Department will remove the encroaching piers at the pier owner's expense. In complying with this condition, the Department will make best efforts to obtain current addresses.

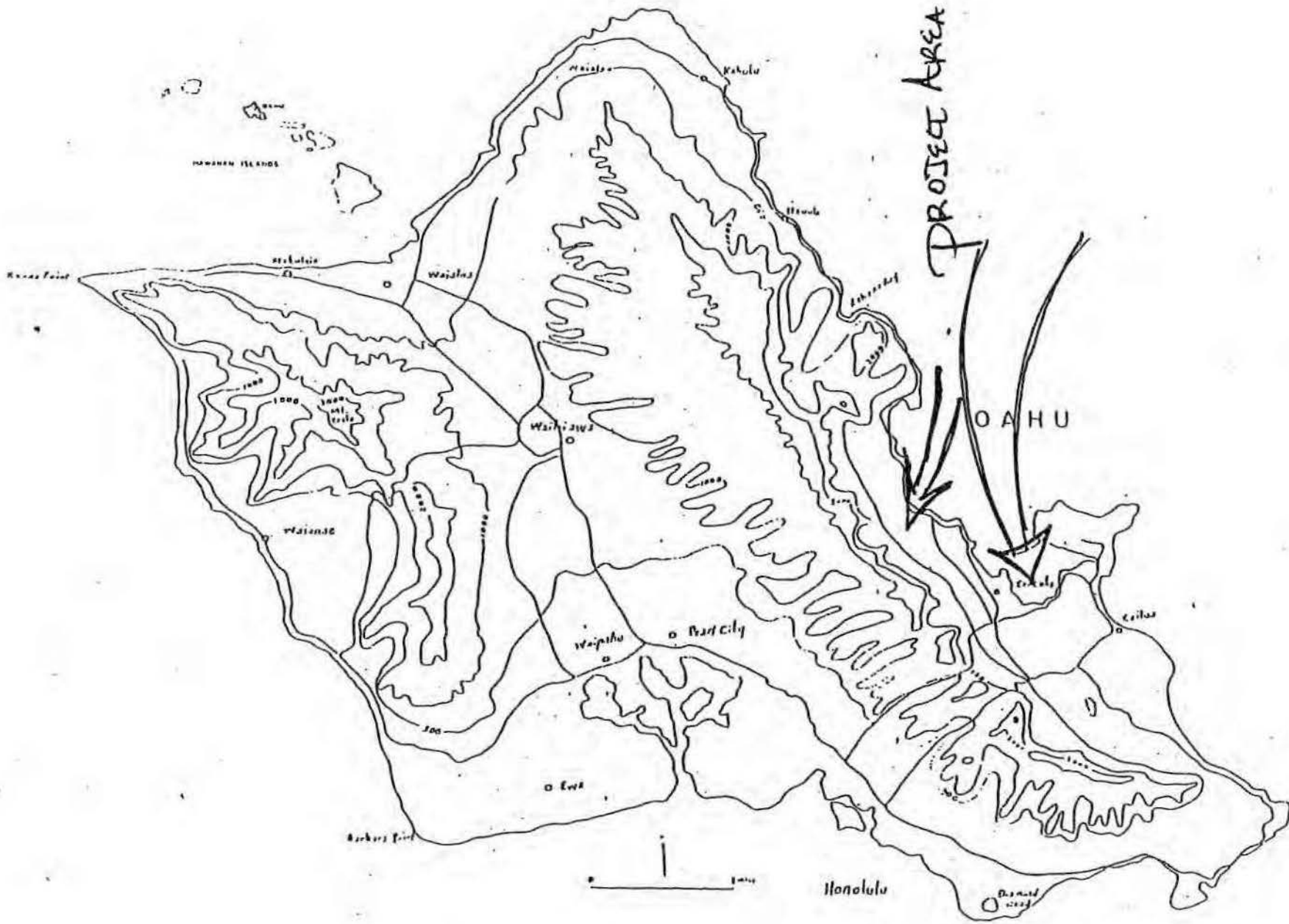
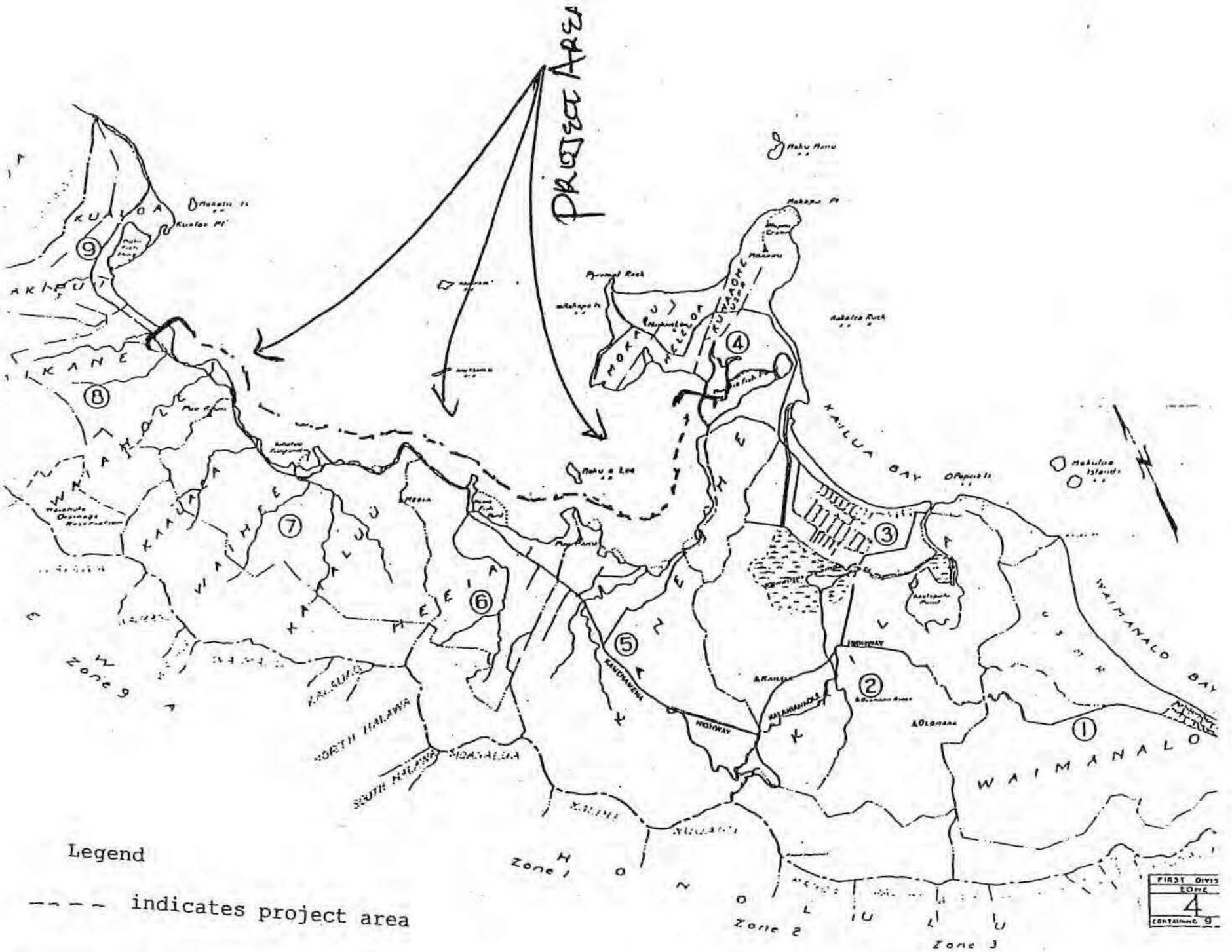


Exhibit 1

Kaneohe Bay Pier Project



Legend

--- indicates project area

FIRST DIVISION
4
CONTAINING 9



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

Monday, January 22, 2001

«ContactFirstName» «ContactLastName»
«ContactStreetAddress»
«ContactCityState» «ContactZipCode»

Dear Landowner,

Subject: Private Residential Noncommercial Pier on State Submerged Land at
«PropertyStreetAddress», TMK «TMK»

As you may know, the Board of Land and Natural Resources (Land Board), in carrying out its responsibilities in the regulation of the Conservation District and in the management of public lands, has initiated an "Amnesty Program" to bring piers into conformance with State laws. We would like to update you on the current status and to ask for your response on your intentions regarding this program.

Act 261, SLH 2000, which was enacted into law this past year: 1) allows the Land Board to lease by direct negotiation submerged lands for private, residential non-commercial piers, 2) deletes the requirement for posting of signs on piers to allow for public use of the pier and 3) eliminates the requirement to obtain prior approval of the Governor and the Legislature for leasing of noncommercial piers. All three amendments will sunset on June 30, 2005.

The Department has drafted an environmental assessment (EA) which will be published in the OEQC Bulletin on January 23, 2001. This EA is required pursuant to Chapters 343 and 183C, HRS. You have the opportunity to comment on this EA during the 30-day comment period ending February 22, 2001. Copies will be available for viewing at the public libraries in the Kaneohe area, at the Land Division (1151 Punchbowl Street, Room 220) and at the Office of Environmental Quality Control (235 S. Beretania Street, State Office Tower, Room 702

The Department has filed a master Conservation District Use Application (CDUA) which is required pursuant to Chapter 183C, HRS, for the use of lands in the Conservation District. We intend to request Board approval of this master CDUA in April.

Exhibit 3

Once the master CDUA is approved, a land disposition (lease document) pursuant to Chapter 171, HRS, can be issued. For the land disposition:

The Department has filed a master Conservation District Use Application (CDUA) which is required pursuant to Chapter 183C, HRS, for the use of lands in the Conservation District. We intend to request Board approval of this master CDUA in April.

Once the master CDUA is approved, a land disposition (lease document) pursuant to Chapter 171, HRS, can be issued. For the land disposition:

- 1) The fair market rent (one-time payment) shall be determined by a formula (dollar amount per square foot) that will be presented to the Land Board at a date to be determined. We will notify you of this meeting through our website (<http://www.state.hi.us/dlnr/lmd>), area legislators and Protect Our Shoreline Ohana. You are invited to provide any comments you may have at that meeting.
- 2) You will need to **(please await further instructions before proceeding with any of the following)**:
 - Hire and pay a licensed surveyor to prepare a map and description (in CAD)
 - Pay for document fees (\$30 per document) and rent (to be determined according to the approved formula)
 - Provide tax clearances from the State and county tax offices
- 3) The standard State lease terms and conditions require:
 - Liability insurance
 - Performance bond
- 4) The lease term recommended for Land Board approval will be 55 years.

What are the benefits of joining the Amnesty Program?

- Opportunity to legalize your pier without having to pay consultants for the preparation of an EA and CDUA, an estimated cost of \$30,000 to \$50,000.
- Waiver of back rent or fines for those who participate in the program.
- Legalization of pier enables smooth sale of property in the future.
- Five-year window of Act 261 legislation allows for direct, long-term disposition and eliminates public use requirement, both advantageous when trying to sell your property or obtain homeowners insurance for your pier.

At any time during this process, if it is found that you have non-pier encroachments or other violations, such violations will be handled separately from and prior to processing of the pier. You will

be asked to complete a questionnaire which will allow us to determine whether the encroachments should be removed or legalized under an easement document.

Your options are as follows:

- 1) Join the Amnesty Program
- 2) Have the pier and any encroachments removed
- 3) For those people with DOT Permits, you have the choice of continuing with the permit without obtaining a long-term lease. You should be aware, however, that the public use requirement would still apply to your pier and may negatively impact your ability to obtain insurance.

Taking all of this into consideration, we ask that you think over your options and then complete the attached application form. Please make sure you follow the instructions carefully, as the information may be used in the legal documents to be issued. Also, please note that your positive response to participate in the Amnesty Program does not legally commit you to participating. You may decide against obtaining a land disposition for your pier up to the point where we request your signature on the legal documents. (Please note that, in this case, we would retain the \$30 document fees since the documents had been prepared.)

If you decide not to participate in the Amnesty Program, your illegal pier will be processed through the normal Departmental penalty system and will be subject to fines and/or removal of the pier.

Please return this application form by Thursday, February 22, 2001 to enable processing. If you have any information to provide or questions to ask, please contact Traver Carroll at 587-0439.

Thank you.

Sincerely,



for Dean Y. Uchida, Administrator

STATE OF HAWAII
DEPARTMENT OF LAND & NATURAL RESOURCES

KANEOHE BAY PIER PROJECT
APPLICATION FORM

For DLNR use only:
K-Bay Case No.
Date of request:
Date entered:

INSTRUCTIONS:

This application must be completed by the property owner(s) of the land abutting the pier or the property owner's authorized representative. If there is more than one owner, then all such owners must be included on this application.

I. LOCATION

Tax map key (of property abutting the pier): _____

Abutting Property address: _____

No. and Street

City

State

Zip Code

II. AMNESTY PROGRAM

Would you like to participate in the DLNR's Amnesty Program as described in our letter attached?

Yes: _____ No (explain): _____

III. APPLICANT INFORMATION

Should a lease result from your application, the following information will be used in the preparation of the legal documents. Therefore, please include all applicable, full legal names and mailing addresses, one for each person/entity (attach additional sheets as necessary). If title is held by a trust, please include the trustee(s) name(s) and full description of the trust (e.g., Jonathan D. Smith, as Trustee of the Jonathan D. Smith Revocable Living Trust dated January 1, 2001).

1 - Applicant name: _____

1 - Mailing address: _____

No. and Street

City

State

Zip Code

1 - Phone numbers: _____
Work Home

1 - Applicant intends to hold title as:

- Individual Corporation Partnership
 Husband and Wife Limited Liability Corp. Limited Partnership
 Trust Non-Profit Corporation
 Association Joint Venture
 Limited Liability Partnership Other (specify): _____

1- For individual or husband and wife, type of tenancy:

- Tenant in Severalty Tenants in Common Joint Tenants
 Tenants by the Entirety

1 - For individual, marital status:

- Single Widow/widower Married – spouse of: _____

1 - For partnership or corporation, State of incorporation: _____

2 - Applicant name: _____

2 - Mailing address: _____
No. and Street

City State Zip Code

2 - Phone numbers: _____
Work Home

2 - Applicant intends to hold title as:

- Individual Corporation Partnership
 Husband and Wife Limited Liability Corporation Limited Partnership
 Trust Non-Profit Corporation
 Association Joint Venture
 Limited Liability Partnership Other (specify): _____

2- For individual or husband and wife, type of tenancy:

- Tenant in Severalty Tenants in Common Joint Tenants
 Tenants by the Entirety

2 - For individual, marital status:

- Single Widow/widower Married – spouse of: _____

2 - For partnership or corporation, State of incorporation: _____

IV. AGENT

If you have an attorney, consultant or other representative processing this request for you, please include the following information.

Agent name: _____
Last name First Name

Agent address: _____
No. and Street

City

State

Zip Code

Phone numbers: _____
Work Home Cellular

V. CERTIFICATION

I hereby certify that I am the legal owner of the above referenced property or that I am an authorized representative of the legal owner.

Printed Name

X _____
Signature

Printed Name

X _____
Signature

Printed Name

X _____
Signature

Dated: _____

AAA

D-29

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

August 24, 2001

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

OAHU

Issuance of 150 Leases for Private Residential Noncommercial Piers Pursuant to the Kaneohe Bay Piers Amnesty Program, Kaneohe, Koolaupoko, Oahu; Various Tax Map Keys

APPLICANTS:

List of Applicants (Exhibit A) showing, to the best of our knowledge, the owners of the properties abutting the subject piers; provided that if, prior to execution of the lease document, an Applicant changes due to confirmation of the legal owners, transfer of interests in the abutting property or other reason, then the Board hereby approves such change and no further approval shall be required.

LEGAL REFERENCE:

Section 171-53(c), Hawaii Revised Statutes, as amended and Act 261, SLH 2000.

LOCATION:

Portions of submerged Government lands fronting the properties as shown on the attached map labeled Exhibit B1-B5.

AREA:

To be determined.

ZONING:

State Land Use District: Conservation

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:

Other than those parcels encumbered by respective revocable

As Amended
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

August 24, 2001. *pon*

EXHIBIT H
ITEM D-29

permits as shown on Exhibit A, the rest of the parcels involved in this submittal are presently unencumbered land.

CHARACTER OF USE:

Private residential noncommercial pier

LEASE TERM:

Fifty-five (55) years

COMMENCEMENT DATE:

July 13, 2001 for all leases as approved by the Board on July 13, 2001, Item D-32

CONSIDERATION:

ALTERNATIVE A:

One-time payment to be determined according to the appraisal methodology approved by the Board on February 23, 2001, Item D-7, subject to review and approval by the Chairperson; OR

ALTERNATIVE B:

Annual initial rent to be determined according to the appraisal methodology approved by the Board on February 23, 2001, Item D-7, subject to review and approval by the Chairperson and with rental reopenings on the 10th, 20th, 30th, and 40th years of the lease term; provided that for both Alternatives A and B:

- 1) If any Applicant is not willing to accept the approved appraisal methodology, consideration shall be determined by independent appraiser, subject to review and approval by the Chairperson; and
- 2) If the Attorney General determines that the Board, in converting existing revocable permits to long-term leases, can apply rent credit towards the payment of the long-term leases for past payments already made under the revocable permits, then the one-time payment for existing permittees who are converting to leases shall be reduced by the amount of rent paid under the existing revocable permit. (Staff notes the AG opinion request was sent to AG's on July 25, 2001; no response has been received as of August 15, 2001.)

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

CDUA Permit OA-3017B covering the piers under Kaneohe Bay Pier Amnesty Program was approved by the Board at its meeting of July 13, 2001 under Agenda Item D-32.

DCCA VERIFICATION:

Most of the applicants shown on Exhibit A are individuals, and

the DCCA verification process is not applicable to them. For cases where Applicants are in the name of a corporation, staff will confirm their status via the DCCA website.

APPLICANT REQUIREMENTS:

Applicants shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicants' own cost;
- 2) Pay for an appraisal to determine one-time payment where an Applicant is not willing to accept the appraisal methodology approved by the Board.

BACKGROUND:

On May 15, 1998 under agenda Item D-3, the Board of Land and Natural Resources (Board) approved a plan to address the problem of unauthorized piers in Kaneohe Bay. The problem of illegal piers in Kaneohe Bay has persisted for decades. The goal of what is called the Kaneohe Bay Amnesty Program is to provide owners of illegal piers with the required permits to achieve compliance with the State's land use laws and, ultimately, resolve the illegal pier problem in Kaneohe Bay.

To help facilitate this program, Act 261, SLH 2000, was enacted to allow the Board to lease by direct negotiation submerged lands for private residential noncommercial piers. This Act also deleted the requirement to post signs on piers to allow for public use and eliminated the requirement to obtain prior approval of Governor and Legislature for the leasing of noncommercial piers.

On February 23, 2001, under Agenda Item D-7, the Board approved the appraisal methodology to determine the lease rental rates for private, non-commercial residential piers at Kaneohe Bay.

On July 13, 2001, under agenda item D-32, the Board approved the Conservation District Use Application (CDUA) for the Kaneohe Piers Amnesty Program subject to 11 specified conditions (see Exhibit C). Further, the Board amended staff's recommendation by adding the following:

- 1) All pier leases shall commence on July 13, 2001. The Department will stop billing the owners currently on revocable permits who are participating in the Amnesty Program;
- 2) Staff shall request an opinion from the Attorney General on whether the Board may provide credit to the owners of piers who have been making rental payments (under revocable permits) and are in good standing;

- 3) Pier owners shall have one year from the Board's action to complete all matters relating to the execution of a lease, or by July 13, 2002, including submission of maps, liability insurance, performance bond and payment of the rental under the lease;
- 4) Pier owners who are not participating in the Amnesty Program shall have 90 days from July 13, 2001 to apply for the program. If the Department does not receive an application to participate in the program, the Department will remove the piers at the owner's expense.

OVERALL PROCESS

Staff sent out about 230 letters to pier owners in the Kaneohe Bay area according to data collected in prior years. This letter explained the Amnesty Program and included an application form for the owners to complete. At the time of the writing of this submittal, 150 pier owners have agreed to participate in the Amnesty Program. About 40 other owners responded and have chosen not to participate for reasons such as "would like to stay on revocable permit," "pier is not on State land," "do not have a pier," "have a Department of Transportation (DOT) permit."

Staff intends to process the piers in Kaneohe Bay according to the flowchart attached as Exhibit D.

GROUP A: Owners who respond by the deadline established by the Board (October 13, 2001) and who want to participate in the Amnesty Program. The process of lease documentation is provided on page 2 of flowchart. If at any time during the process, the Applicant does not submit a required item (e.g., survey maps, consideration, fees, tax clearances, etc.), we are requesting the Board delegate the authority to the Chairperson to rescind approval of the pier lease for those Applicants.

GROUP B: Owners who responded that they do not have a pier. Staff will confirm with a site inspection. If a pier is found, the owner shall be put into Group G.

GROUP C: Owners who responded that their pier is not on State land. Staff will confirm. If the pier is on State land, the owners will have the opportunity to obtain a lease through the Amnesty Program if Act 261, SLH 2000 has not sunsetted.

GROUP D: Owners who responded that they would like their piers removed. Staff will follow-up to remove the pier, including researching building permit records and other available information. If the records show the pier was built under the current owner, such owner will be charged for the full cost of removal.

GROUP E: Owners who responded that they would like to remain on their DOT permit. The DOT permit is a legal disposition of public lands by the State government. As such, no further action is required by staff. Staff has been confirming DOT permits (actual copies of the DOT permits must be provided) and advising permit holders that they will be required to keep their piers open to the public ("no trespassing" signs are not allowed) and that obtaining liability insurance may be difficult or expensive due to this requirement.

GROUP F: Owners who responded that they want to remain on their revocable permits. These owners have existing revocable permits. Because these permittees have been legal, staff is recommending that they be allowed to choose whether to convert their permits to leases. Staff is recommending, however, that no further revocable permits be issued for non-commercial piers. As a result, if the current owners transfer their properties in any way, the new owners would be required to obtain a pier lease, including submitting a Conservation District Use Application (CDUA). If this transfer occurs after the sunset date of Act 261, then they will also be required to obtain legislative authorization.

GROUP G: Owners who did not respond by the October 13, 2001 deadline or who have otherwise defaulted into this group from another group. Staff will follow-up including conducting inspections, imposing fines and/or removing piers. Similar to Group D, staff will research building permit records and other available information. If the records show the pier was built under the current owner, such owner will be charged for the full cost of removal.

Anyone building a new pier (i.e., pier built after July 13, 2001) will be required to submit a CDUA and may apply for a pier lease under Act 261 up to its sunset date.

Anyone requesting a pier lease after the sunset date of Act 261 will be required to obtain legislative authorization and submit a CDUA.

Staff sent letters on or around July 25, 2001 to each of the different groups clarifying the above instructions. For those who had not responded, the letter stated the deadline set by the Board and the consequences if no response is received.

GROUP A DISPOSITION PROCESS

The disposition process of the pier leases is depicted on Page 2

of Exhibit D. Staff highlights the following:

- Step 3: The Applicant will be required to submit private CAD survey maps; instructions on the Department of Accounting and General Services (DAGS), Survey Division standards will be provided in the notification letter of the Board results.
- Step 5: The private survey maps will be sent to DAGS Survey Division for creation of a CSF map. Alternatively, if DAGS is unable to handle the volume of this project, we may use the private survey map.
- Step 7: If encroachments are found during the verification of the maps and description by DAGS Survey Division, we will halt the disposition of the pier until resolution of such encroachments. As shown on Page 3 of the flowchart, the owner will have the option of removing the encroachment or applying for an easement. Any such application will be referred to the Coastal Lands Program (CLP) for analysis on a case-by-case basis of whether an easement should be granted. Depending on the CLP's analysis, the encroachment will be resolved by either removal or issuance of easement covering the encroachment as may be approved by the Board. Staff will recommend fines for any encroachments as is the standard procedure. Once the encroachments are resolved, the lease of the pier will be processed.
- Step 14: As mentioned earlier under Group A, if at any time during the process, the Applicant does not submit a required item (e.g., survey maps, consideration, fees, tax clearances, etc.), we are requesting the Board delegate the authority to the Chairperson to rescind approval of the pier lease for those Applicants.

AGENCY/COMMUNITY COMMENTS

A public hearing was held on February 27, 2001 for the master CDUA covering the Amnesty Program. Questions regarding the disposition, e.g., methodology for determining the rent, liability insurance and land surveyor cost were answered by the staff at the meeting. The pier owners were informed that the subject submittal and the boilerplate for the lease are posted on the website of the Land Division. Staff believes community concerns, so far expressed, have been adequately addressed. At this point, the only continuing concerns are from Mr. Alvin Maeda (refer to Exhibit E for his latest correspondence). Staff believes his concerns in this letter have been appropriately addressed in this submittal.

The proposed use under the subject submittal is not different from the existing use, whether legal or illegal pier. Therefore, staff did not solicit comments from other agencies separate from

the CDUA process.

APPLICANT QUALIFICATION:

Staff will confirm that the Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

PROPOSED PROVISIONS OF THE STANDARD KANEOHE BAY PIER LEASE:

Survey maps and descriptions - Normally, an applicant for a lease is required to submit privately-prepared maps and descriptions which are used by DAGS Survey Division to prepare a CSF map and description which are used as the legal description in the document. In view of the large number of cases in Kaneohe Bay piers and their heavy workload, the Survey Division may not be able to promptly process all of the CSF maps before the sunset date of Act 261. Further, where encroachments are found and the Board grants approval for an easement, additional maps and descriptions will be required burdening the Survey Division with even more work. Staff has been in discussion with the Survey Division to address this potential backlog. DAGS is attempting to increase their staff to be able to handle this workload. However, if these plans should fall through, we may need to use the maps prepared by the private surveyor hired by the applicant as the legal description to meet the sunset date of Act 261. Staff will take steps to reduce the errors in the maps. If errors are found after the execution of the legal document, a lease amendment will be required.

Liability insurance - The standard coverage amounts for term easements for encroachments are \$300,000 for each occurrence and \$500,000 aggregate which staff is recommending for the pier leases.

Performance Bond - Staff has identified two alternatives on the issue of whether to impose a performance bond.

On the one hand, one may argue that a bond is needed to ensure the performance of the lessee, particularly with regard to obtaining insurance (or rent, if paid annually). If the lessee should default and the lease is cancelled, the State has little recourse to ensure removal of the pier, except through court action. Staff did recommend the performance bond requirement on the issuance of a Kaneohe Bay pier lease approved by the Board on April 12, 2001, under Item D-2. The applicants needed a shoreline certification for a building permit, and they were the first approval of a pier lease under the Amnesty Program. The Board approved staff's recommendation to require a performance bond based on the estimated demolition cost of the pier.

On the other hand, staff recently recommended changes to the boilerplate easement document. In the absence of a performance

bond and to ensure that the State has recourse to require removal of the improvements and/or satisfactory restoration of the premises where an easement is terminated, the following changes to the Surrender provision were made to encroachment easement documents:

"10. The Grantee shall, at the end of the term or other sooner termination of this easement, peaceably deliver unto the Grantor possession of the premises, together with all improvements existing or constructed thereon or Grantee shall remove such improvements and shall restore the premises to its original state, or as close thereto as possible, within a reasonable time and at the expense of the Grantee, at the option of the Grantor. If the Grantee does not remove the improvements or restore the premises to the satisfaction of the Grantor, the Grantor may effect such action and the Grantee agrees to pay all costs and expenses for such action. Furthermore, upon the expiration, termination, and/or revocation of this easement, should the Grantee fail to remove any and all of Grantee's personal property from the premises, after notice thereof, the Board may remove any and all of Grantee's personal property from the premises, and either deem the property abandoned and dispose of the property or place the property in storage at the cost and expense of Grantee and the Grantee does agree to pay all costs and expenses for disposal, removal, or storage of the personal property. This provision shall survive the termination of the easement."

Staff is comfortable with this amended language where payments are one-time since the only critical ongoing performance issue is insurance. Where an Applicant chooses to pay annually, however, staff feels that a performance bond would be appropriate.

Mutual termination - We are recommending that the lease include a provision to allow for mutual termination. This provision would allow the lessee to terminate the lease by giving 30 days notice where removal is desired by the lessee.

Surrender - We are recommending Standard term upon surrender, e.g. remove the pier at the option of the lessor, will ensure the area involved returned in a clean and orderly manner. For the standard lease condition, the rental may be adjusted taken into account of the area withdrawn for public purposes. However, if the lessee wants to terminate the pier lease, the area previously covered by the pier is not going to be used for a specific public purpose. Staff thinks no compensation should be payable to the lessee if the lessee decides to exercise this clause. The lessee will not be required to procure liability insurance for the pier lease upon termination.

Apart from the above mentioned, the lease will use the standard terms and conditions of the most current lease form, as may be amended from time to time.

PREVIOUS KANEOHE BAY APPROVALS:

Staff notes that the Board has already approved a handful of leases for piers in Kaneohe Bay. These actions were expedited because the Applicants needed a shoreline certification for a building permit and the pier or other encroachment impeded this certification. For these actions, the Board authorized a deposit of the estimated lease or easement cost to ensure the Applicant fully executed the document(s). Staff is requesting the Board grant a blanket amendment to all of these previous submittals to ensure conformance with the terms and conditions as outlined in this submittal, except for the collection of the deposit upfront.

RECOMMENDATION: That the Board:

1. Subject to the Applicants fulfilling all of the Applicant requirements listed above, authorize the issuance of fifty-five (55) year leases to the Applicants under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the Kaneohe Bay lease form, as may be amended from time to time;
 - b. Applicants shall comply with all of the conditions stated in CDUA OA-3017B as approved by the Board on July 13, 2001 under Agenda Item D-32;
 - c. Performance bond shall be required for Applicants who pay annually; *no ann. sp. fl. - for all applicants* no performance bond shall be required for Applicants who pay one-time;
 - d. Mutual termination shall be allowed with no compensation;
 - e. Review and approval by the Department of the Attorney General; and
 - f. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the Chairperson to rescind this action for any Applicant who has been unresponsive in submitting required items, as determined by staff.
3. Authorize the amendment of any and all prior Board actions from April 12, 2001 on for which the Board approved the issuance of a pier lease in Kaneohe Bay so that the terms and conditions of such lease conforms to those established in this action of August 24, 2001, except for the collection of any deposit upfront.

Subject for Chair approval & AG Review.

Respectfully Submitted,



Barry Cheung
Project Development Specialist

APPROVED FOR SUBMITTAL:



GILBERT S. COLOMA-AGARAN, Chairperson

APPROVED AS AMENDED. The Board approved the submittal subject to the following amendments:

- (1) Recommendation 1(c) was amended to "A \$20 per sq. ft. performance bond shall be required to all dispositions whether by one time payment or annual lease rent.
- (2) Recommendation 3 was amended by making it subject to approval by the Chairman and the Department of the Attorney General.
- (3) A condition was added instructing staff to hold an informational meeting for all applicants to go over the implementation process.
- (4) Staff is instructed to provide the Board with a report on the results of the informational meeting.
- (5) The Board requested that staff report back to the Board on the status and process for non-residential piers.

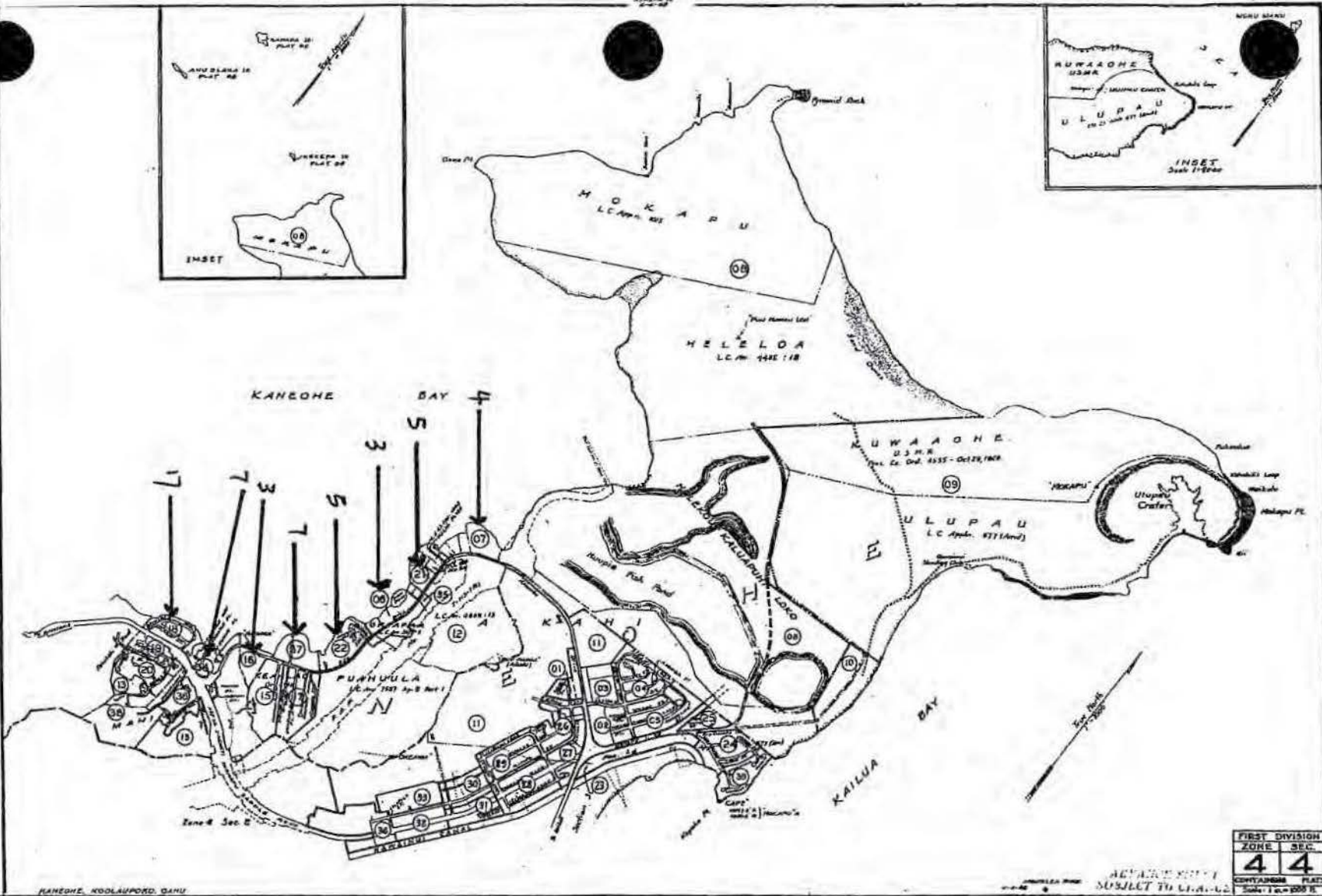
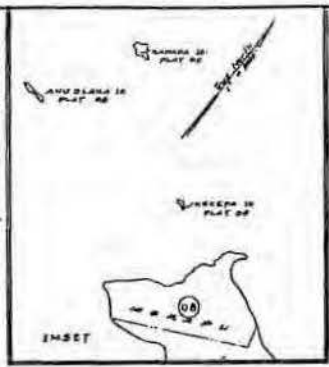
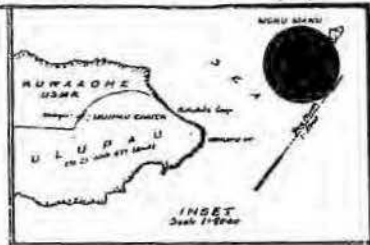
No.	TMK	Applicant names shown on the application form
1.	4-4-006:008	Barbara & Richard Littenberg, as Trustees of Qualified Personal Residence Trust dated 5/21/99
2.	4-4-006:012	Colene Smith Wong, as Trustee of the Colene S. Wong Revocable living Trust dated 3/22/89
3.	4-4-006:014	Wilfred Yoshito Horie & Renee Tsubota Horie
4.	4-4-007:017	Roger W. Buecher, Trustee of the Roger W. Buecher Revocable Trust dated 2/28/92 and Sheryl E. Buecher, Trustee of the Sheryl E. Buecher Revocable Trust dated 2/28/92
5.	4-4-007:024	Robert H. & Kelly R. Armstrong
6.	4-4-007:038	Nathan & Corinne Shulman
7.	4-4-007:039	44-315 Kaneohe Bay Drive Owners Association
8.	4-4-014:001	Barbara C. Wong, as Trustee of the Barbara C. Wong Revocable Living Trust dated 4/21/83
9.	4-4-014:004	Nancy W. Nottage, trustee of the Nancy W. Nottage Revocable Living Trust dated 5/13/97
10.	4-4-014:011	David Gilman Nottage Jr. & Nancy W. Nottage
11.	4-4-014:026	David Y.F. Lung & Ruth C. Lung
12.	4-4-014:027	Joseph S. Gibbs and Shirley B. Gibbs, Co-Trustees of Bay View Realty Trust dated 12/14/90
13.	4-4-014:052	Raynette Lum Wayland & Lizzy Lum (life interest)
14.	4-4-014:058	Stratford L. Whiting, Trustee of Stratford L. Whiting Revocable Living Trust dated 2/9/93 & Anita B. Whiting, Trustee of Anita Berg Whiting Revocable Living Trust dated 2/9/93
15.	4-4-016:010	First Hawaiian Bank, Trustee of the F. Hedemann Trust
	4-4-016:014	Agnes K. Y. Emerson
17.	4-4-016:017	Edward K. Yamashiro, Trustee of Edward Komei Yamashiro Trust dated 10/21/80 as amended; Yoshiko Yamashiro Trustee of the Yoshiko Yamashiro Trust dated 10/21/80, as amended and Byron K. Yamashiro
18.	4-4-018:069	Yoshiko Yamashiro, Trustee of Yoshiko Yamashiro Trust dated 10/21/80, as amended and Byron K. Yamashiro, Aaron K. Yamashiro, Clyde K. Yamashiro, Dwight K. Yamashiro, Lisa Ann T. Tanaka and Patricia K. Yamashiro-Hironaka
19.	4-4-018:070	Charles K. Jr. & Noelani M. Keliikipi
20.	4-4-018:071	Louise Eulalia & Clyde Harold Hedlund
21.	4-4-018:072	Estate of Mable G.L. Wong
22.	4-4-018:073	Edward K. Yamashiro, Trustee of Edward Komei Yamashiro Trust dated 10/21/80 as amended; Yoshiko Yamashiro Trustee of the Yoshiko Yamashiro Trust dated 10/21/80, as amended
23.	4-4-018:074	Dorothy S. Nakama, Miles J. Nakama, Michael K. Nakama, Sandy K. Ito
24.	4-4-018:076	Thomas Mitsuto Tanaka & Cladys Chisato Tanaka, Co-Trustees of Joint Revocable Living Trust dated 6/16/2000
25.	4-4-018:077	Herbert Ken Tom
26.	4-4-018:078	Sharon Jan Lowrie & Randall Lee Erickson
27.	4-4-018:079	Dexter Yamada
28.	4-4-018:080	Francis I. & Joyce E. Tsuzuki
29.	4-4-018:083	Hiroyuki & Mabel M. Watanabe

No.	TMK	Applicant names shown on the application form
30	4-4-018:084	Dennis H. & Lisa Ann T. Tanaka
31	4-4-018:085	Harris H. & Diane M. Hara
32	4-4-018:086	Aileen S. Kitaoka-Yee, Trustee under that Trust Agreement dated 2/25/1991, made by Aileen Yee Kitaoka as Settlor
33	4-4-018:105	Ronald Wing Yin Yee
34	4-4-018:106	Patricia Watanabe
35	4-4-021:011	BJ Management Corp
36	4-4-021:023	Richard Henry & Corinta B. Pohle
37	4-4-021:033	Lloyd K. Komagome, as Trustee of the Lloyd K. Komagome Revocable Living Trust dated 5/25/94 and Diana Lee Komagome, as Trustee of the Diana L Komagome Revocable Living Trust dated 6/4/94
38	4-4-021:036	David Stoutemyer & Karen Lee Stoutemyer
39	4-4-021:050	Joann B. Best, Trustee
40	4-4-022:008	Peter & Elizabeth Stone
41	4-4-022:009	James K. Kobatake, Trustee of Gilbert D. Kobatake Trust
42	4-4-022:010	John Cornwell Walker Jr. & Marion Makin Walker
43	4-4-022:033	Mary L. Protheroe, Trustee of Mary L. Protheroe Revocable Living Trust
44	4-4-022:036	Charles Douglas Peebles
45	4-4-037:002	Robert L. Reed
46	4-4-037:004	Lyle Yoshio Hamasaki & Renee Charla Wai Sen Yim
47	4-4-037:020	Peter B. Nottage, Trustee of Peter B. Nottage Revocable Living Trust & Lois C. Nottage Revocable Living Trust dated 1/9/87
48	4-4-037:021	Charles Michael Gilbert, Trustee of Charles Michael Gilbert Revocable Living Trust dated 5/25/94
49	4-4-037:033	Frank H. Barton, Trustee under that certain Trust Agreement dated 1/10/86 & Elsie M. Barton, Trustee under that certain Trust Agreement dated 1/10/86
50	4-4-037:035	Patricia Brian Hoff
51	4-4-037:048	Concetta I. Pico
52	4-5-001:014	Dorothy L. Gilbert, Trustee of Francis M.G. Gilbert Trust
53	4-5-001:015	Benedict R. Wong
54	4-5-001:017	Clyde K. Yoshioka, Trustee of Clyde K. Yoshioka Revocable Living Trust dated 7/8/83
55	4-5-001:018	Paul T. Noto, Trustee of Paul T. Noto Revocable Living Trust dated 11/2/00 and Teruko Noto, Trustee of Teruko Noto Revocable Living Trust dated 11/2/00
56	4-5-001:020	James Sadao Togami Trustee of James Sadao Togami Trust dated 1/28/94 & Milfred Masako Togami, Trustee of Milfred Masako Togami Revocable Living Trust dated 1/28/94
57	4-5-001:027	Edith H. Grote, Trustee of the Edith H. Grote Trust dated 3/3/99
58	4-5-001:029	Janet Chun Yee & Jennie Yee Lau, Trustees for Children UA Trust dated 12/15/71
59	4-5-001:030	Charles E. Stone III, Louise P. Wolcott, Mary J. Christensen & Elizabeth A. Stone
60	4-5-001:037	Kaylene K.S. Yamada, Trustee of Violet Y.C. Chun Trust dated 8/2/89
61	4-5-001:108	Henry S. McCoy Jr, Susan N McCoy & Robert M. Fox
62	4-5-006:005	Habilitat Inc.

No.	TMK	Applicant names shown on the application form
	4-5-047:044	Linda K. Roschill, Trustee of the Linda K. Roschill Revocable Living Trust dated 8/29/89 & Jack Huizingh, Trustee of Jack P. Huizingh Revocable Living Trust dated 8/29/89
64	4-5-047:047	Kyoko Zaha, Trustee of Kyoko Zaha Revocable Living Trust dated 6/30/92
65	4-5-047:049	Ralph J. & Margaret M. Kiessling
66	4-5-047:051	Francis Goffredo & Veronica Anaya
67	4-5-047:056	Michael G. Jacobs, Trustee of the Michael G. Jacobs Revocable Living Trust dated 8/29/96
68	4-5-047:080	Annie C. & Wayne Douglas St. Morris
69	4-5-047:083	Victor Fagerroos Trust dated 11/2/89
70	4-5-047:090	Everett V. Freeman
71	4-5-047:094	Mario Valdastrì Jr. & Patricia A. Valdastrì, Trustees
72	4-5-047:116	Sarajeon A. Tokunaga Trust
73	4-5-047:119	Joseph Fah & Janet Yuriko Chun
74	4-5-047:120	Edwin N. Tasaki
75	4-5-047:129	Richard J. Gallimore
76	4-5-053:053	George A. & Gail A. Morris, Trustee
77	4-5-053:054	Archie K. & Jeanette Y. Komae
78	4-5-058:017	Alvin Hisashi Maeda & Anne Ohki Maeda, Co-Trustees of Alvin & Anne Maeda Revocable Living Trust dated 5/8/87
79	4-5-058:018	Bryan Keolanui Kau & Kellie Leimi Inouye
80	4-5-058:020	Michael David Thomson & Valerie Yvonne Thomson
81	4-5-058:021	Dagmar L. Kau, Trustee for the Dagmar L. Kay Revocable Living Trust dated 7/17/76
82	4-5-058:022	Edward Cassidy
83	4-5-058:023	Henry Park Sr.
84	4-5-058:024	Stanley M. Miura, Ritsuko Miura & Winifred T. Miura
85	4-5-058:025	Roy Shinichi Yanagihara, Linda Yukiko Yanagihara & Mildred Mitsue Yanagihara
86	4-5-058:026	Robert & Rachel L. Lai, Trustees of the Robert & Rachel L. Lai Revocable Living Trust dated 6/5/89
87	4-5-058:027	Lenny S. Kawelo & Therese A. Kawelo
88	4-5-058:029	Richard K.S. Pang, Trustee of the Richard K.S. Pang Revocable Living Trust dated 7/15/93
89	4-5-058:031	Winifred T. O'Rourke
90	4-5-058:034	Stanley T. Holt, Trustee of the Stanley T. Holt Revocable Living Trust dated 3/6/86 & Eloise E. Holt, Trustee of the Eloise E. Holt Revocable Living Trust dated 3/6/86
91	4-5-058:035	James Y. Kanada, Trustee of James Y. Kanada Revocable Living Trust dated 4/5/94
92	4-5-058:038	Richard B. Sweet Sr. Trustee of the Richard Bayliss Sweet Revocable Living Trust dated 4/25/2000 & Eula May Sweet, Trustee of the Eula May Sweet Revocable Living Trust dated 4/25/2000
93	4-5-058:039	Roy F. Kuboyama
94	4-5-058:041	Hajime & Tokuko Asanoma

No.	TMK	Applicant names shown on the application form
95	4-5-104:023	Sharon Hiona
96	4-5-104:024	Kaoru & Kazuye Matsuega
97	4-5-104:045	YWCA of Oahu
98	4-6-001:003	Siegfried Schuster, Trustee under that certain Trust Agreement dated 12/19/91 & Toshiko Schuster, Trustee under that certain Trust Agreement dated 12/19/91
99	4-6-001:007	Geoffrey Hamilton
100	4-6-001:009	Richard H. Van Horn, Trustee of the Richard Hunt Van Horn Revocable Living Trust dated 9/14/81 & Noreen Mau Van Horn, Trustee of Noreen Mau Van Horn Revocable Living Trust dated 9/14/81
101	4-6-001:010	Takasagoden U.S.A. Inc
102	4-6-001:013	Joseph Patrick O'Reilly, Trustee of the Joseph Patrick O'Reilly Revocable Living Trust dated 12/14/93 & Katherine Anne O'Reilly, Trustee of the Katherine Anne O'Reilly Revocable Living Trust dated 12/14/93
103	4-6-001:018	Alfred E. Anderson, Trustee of Alfred E. Anderson Living Trust dated 11/11/91 & Pearl T. Anderson, Trustee of Pearl T. Anderson Living Trust dated 11/11/91
104	4-6-001:022	Richard T. Kozuma
105	4-6-001:023	Marcus Drake Elama Rosehill
106	4-6-001:024	David Shiroma & Betty T. Shiroma, Trustees
107	4-6-001:029	Otome M. Myers, Trustee of the Otome M. Myers Revocable Living Trust dated 5/13/92
108	4-6-001:031	James D. & Carol A. Cook
109	4-6-001:063	Nahoahana O'Huelani LLC
110	4-6-003:036	Evans H.M. Yim & Barbara L.M. Yim, Trustees
111	4-6-003:077	Margaret M. Ciupak, Trustee of Margaret M. Ciupak Trust dated 3/25/93
112	4-6-003:087	James Tsuyoshi Fujioka, Trustee of the Marian Kikue Fujioka Revocable Living Trust dated 6/10/98
113	4-6-003:089	Harold L. Rice & Muk Lan Leung Rice
114	4-6-022:002	Yudo Yamamoto
115	4-6-022:022	Ceccarelli Martial Trust dated 4/13/92
116	4-6-022:024	William D. Drake
117	4-6-022:026	Robert G. & Ray Jen Sawinski, Trustees of Robert G. and Ray Jen Sawinski Revocable Living Trust dated 4/18/96
118	4-6-023:048	Lance Shigeru Terayama, Trustee of Lance Shigeru Terayama Revocable Living Trust dated 9/9/93 & Sandra Yuri Terayama, Trustee of the Sandra Yuri Terayama Revocable Living Trust dated 9/9/93
119	4-6-023:049	Harry H. Yamada, Trustee of the Revocable Living Trust dated 12/8/94 amended 7/18/2000 & Florence F. Yamada, Trustee of the Revocable Living Trust dated 12/8/94 amended 7/18/2000
120	4-6-023:051	Dennis D. & Nancy C. McCann
121	4-7-009:002	Wayne K. Parker
122	4-7-009:016	Stanley K. McCabe

No.	TMK	Applicant names shown on the application form
	4-7-010:034	Frank Ryder Jr., Trustee of the Frank Ryder Jr. Semi-Revocable Living Trust dated 11/18/92 & Miriam L. Ryder, Trustee of the Miriam L. Ryder Semi-Revocable Living Trust dated 11/18/92
124	4-7-010:040	John Thomas
125	4-7-010:045	Robert M. Fox
126	4-7-019:008	Norman Kato, Trustee of the Norman Kato Revocable Living Trust dated 6/29/88 & Norman Kato II, Trustee of Yama Arashi Trust
127	4-7-019:016	Rose C. Au Hoy, Trustee of the Rose C. Au Hoy General Revocable Trust Agreement dated 5/2/91
128	4-7-019:022	David Imata, Trustee of Bessie T. Imata Revocable Living Trust
129	4-7-019:024	Harold Raymond Sharrer & Julie Yvonne Sharrer
130	4-7-019:028	Benjamin Keao Pamatigan
131	4-7-019:034	Philipp Mutzel Steingraeber & Marie Dee Kastensmith
132	4-7-019:041	Russell M. Yett
133	4-7-019:044	John D. Perry, Trustee of John Donald Perry Revocable Living Trust dated 2/9/93
134	4-7-019:059	Winona S.H. Stevens, Trustee of Winona S. H. Stevens General Revocable Trust dated 8/15/91
135	4-7-019:067	Julieann Plikea & Clifford Kala'i Miller
136	4-7-019:073	LQTCP L.P.
137	4-7-020:019	George C. & Colleen R. Meyer
138	4-7-024:018	Jacob C.F. Hee Revocable Living Trust dated 3/18/92
	4-7-024:021	Kirby W.K. Loo, Trustee for the Kirby W.K. Loo Trust dated 3/15/83 & Laura C. Loo, Trustee of Laura C. Loo Trust dated 3/15/83
140	4-7-024:022	Deen I. & Annette M. Morita
141	4-7-024:026	Michael J. Suchomel
142	4-7-024:027	Craig Tsugio Nakamura
143	4-7-024:029	Joseph J. Phillips Jr. Revocable Living Trust dated 10/5/87 & Stephanie J. Phillips Revocable Living Trust dated 10/5/87 and Joseph J. Phillips Jr. GST Exempt Trust dated 9/26/97
144	4-7-030:001	Samuel & Anastasia Makua Revocable Trust dated 12/29/88
145	4-7-030:015	Frank Edward & Abigail Ruby Medrano
146	4-7-030:019	Burt T. Kaminaka & Miriam K. Kaminaka, Trustee of the Burt T. Kaminaka Trust dated 8/3/98
147	4-7-030:020	Alvin Mon Wo Lum & Jane Nung Ven Lum, Trustee of that certain Trust Agreement of Alvin Mon Wo Lum dated 6/25/97; Jane Nung Ven Lum & Alvin Mon Wo Lum, Trustee of that certain Trust Agreement of Jane Nung Ven Lum dated 6/25/97; Wallace Hong Quon Lum and Sheila Lai Chun Lum, as Trustees of that certain Trust Agreement of Wallace Hong Quon Lum dated 6/13/97; Sheila Lai Chun Lum & Wallace Hong Quon Lum, as Trustees of that certain Trust Agreement of Sheila Lai Chun Lum dated 6/13/97
148	4-7-041:007	Peter A. Aduja & Melodie C. Aduja
149	4-7-041:009	Larry Anthony Lopez & Teckla Eleanor Lopez as Trustees of the Larry Anthony Lopez & Teckla Eleanor Lopez Revocable Living Trust dated 9/13/99
	4-9-003:002	John Daniel Morris & Moana Rae Morris, Trustees of the J. & M. Morris Family Trust dated 12/27/95

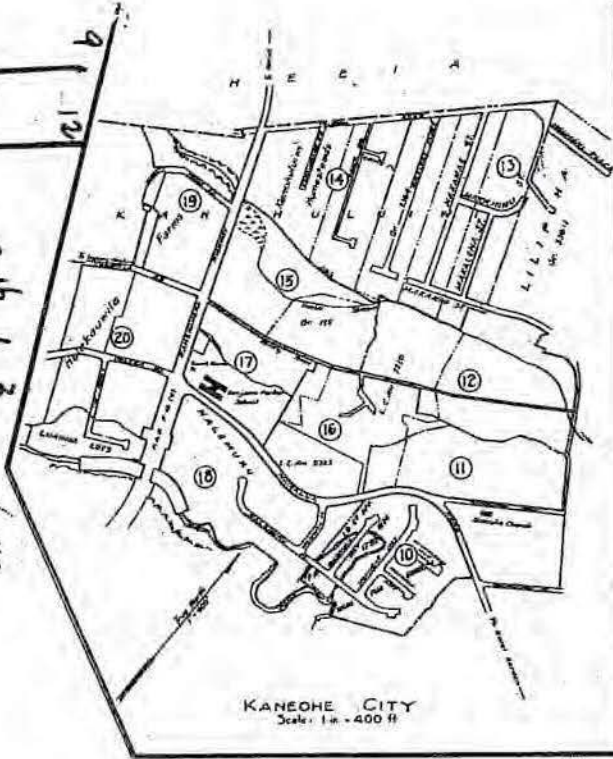


FIRST DIVISION	
ZONE	4
SEC.	4
CONTAINS	PLATS
	Scale 1 in = 200 ft

Drawn by...
Approved by...
Date...
Scale...

5 →
No. of cases in
the plat

EXHIBIT B 1



DEPARTMENT OF TAXATION		
TAXATION MAPS BUREAU		
STATE OF HAWAII		
TAX MAP		
FIRST TAXATION DIVISION		
EDITION	SEC.	PLAT
4	5	—
SCALE: 1 IN. = 1000 FT.		

FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE

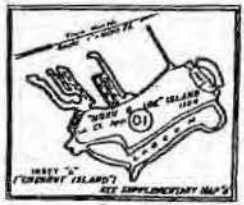
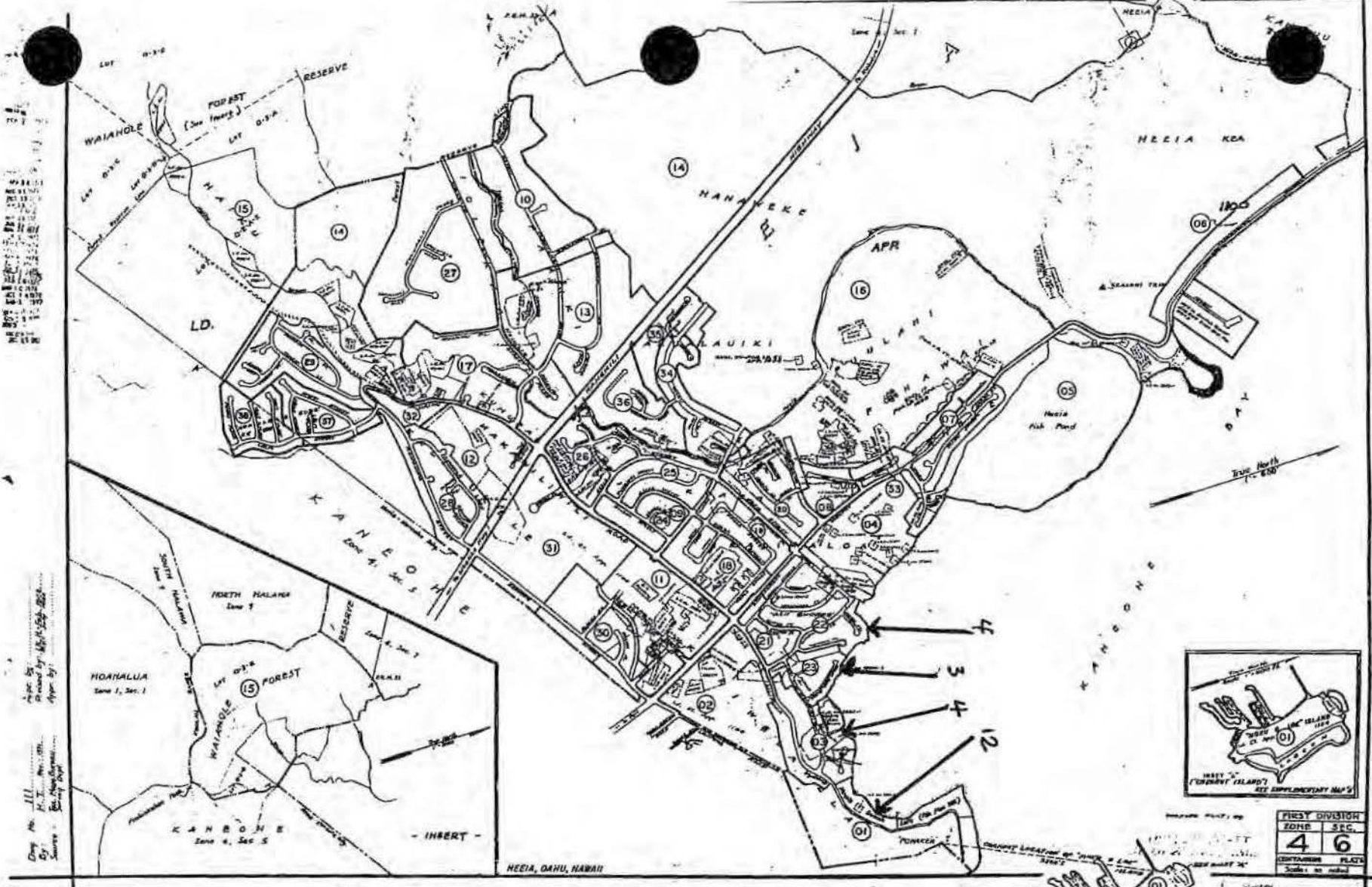
Map No. 19
City of Kaneohe
Source: Tax Assessor's Office

Approved by: [Signature]
Approved by: [Signature]

No. of cases in
the plat

2

EXHIBIT B2

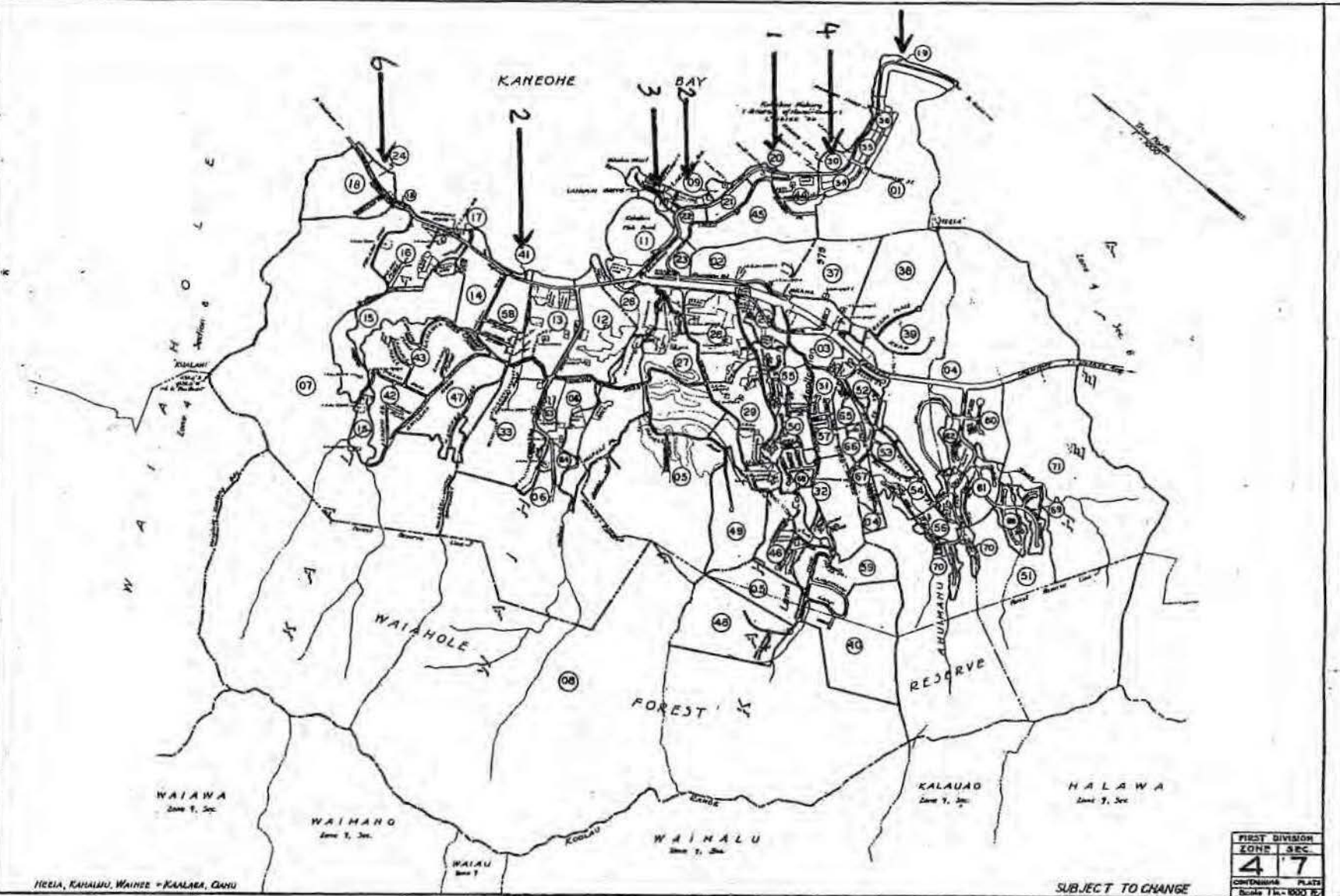


FIRST DIVISION	ZONE	SEC.
	4	6
CONTAINER PLATS		
Subject to record		

No. of cases in
the plat

4

EXHIBIT B3



Div. No. 165
 H. I. No. 101
 Date: 1/1/1911
 By: [Signature]
 Source: [Signature]

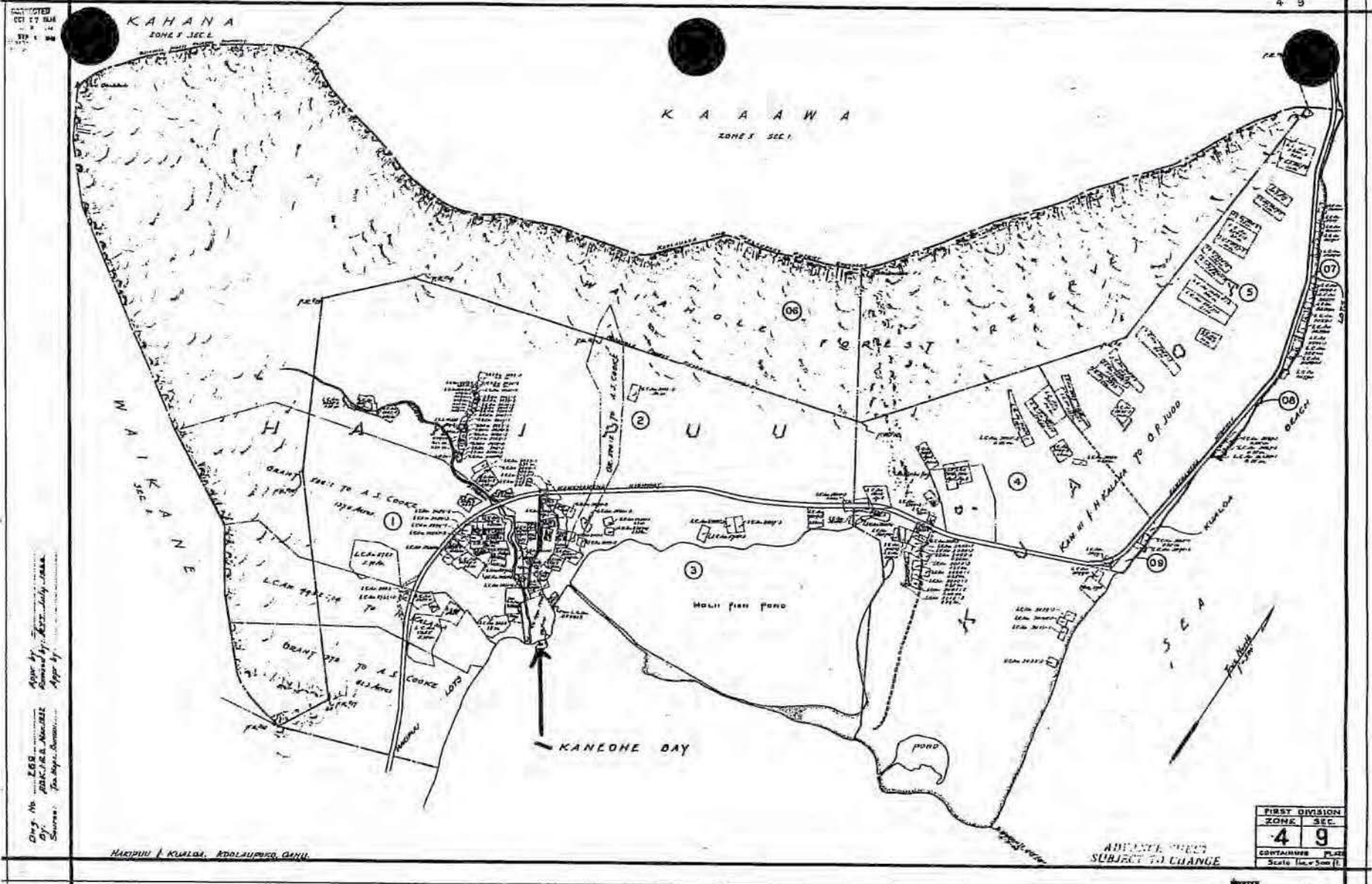
HELEA, KALAUAO, WAINO - KALAPA, OAHU

FIRST DIVISION	
ZONE	SEC.
4	7
CONTAINING PLATS	
Scale 1 in. = 1000 ft.	

SUBJECT TO CHANGE

No. of cases in
 the plat

EXHIBIT B4



No. of cases in
the plat

EVIDENT DE

Conditions approved by the Board of Land and Natural Resources for the Conservation District Use Application for the Kaneohe Bay Pier Amnesty Program at its meeting of July 13, 2001, Item D-32

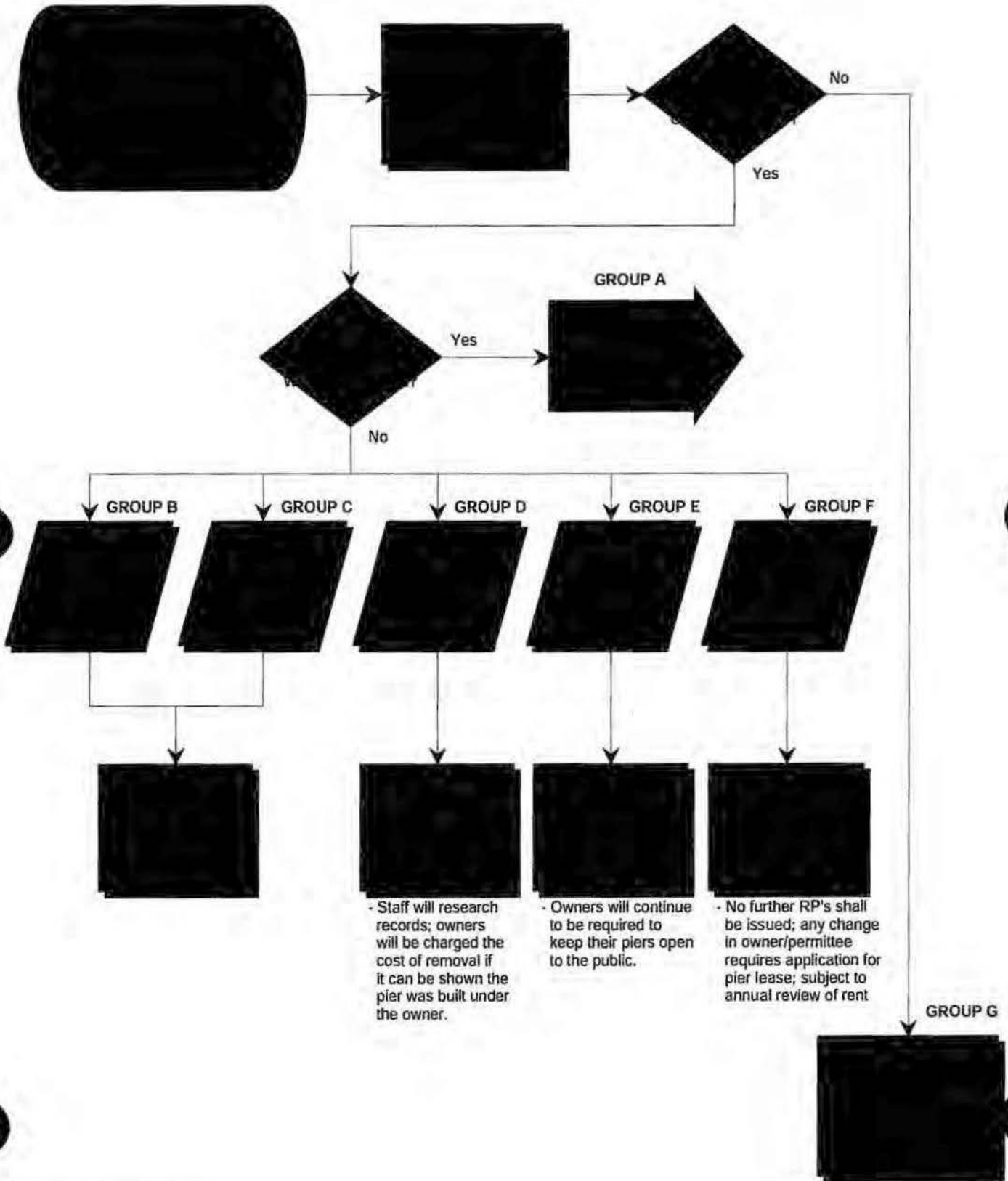
1. The pier owners shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, State and county governments, and the applicable parts of Section 13-5-42, HAR;
2. The pier owners, their successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, their successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The pier owners shall comply with all applicable Department of Health administrative rules;
4. Before proceeding with any repair work authorized by this approval, the pier owner shall submit four copies of the construction plans to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three copies will be returned to the pier owner. Plan approval by the Chairperson does not constitute approval required from other agencies;
5. All mitigation measures set forth in the master application materials and in the Final Environmental Assessment for this project are hereby incorporated as conditions of the permit;
6. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the pier owner shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
7. The pier owners understand and agree that this permit does not convey any vested rights or exclusive privilege;
8. Pier owners with unauthorized piers, who have not yet made application for inclusion in the amnesty program and who wish to participate in same, shall make formal application to the Department's Land Division within 90 days of the approval of this

August 24, 2001

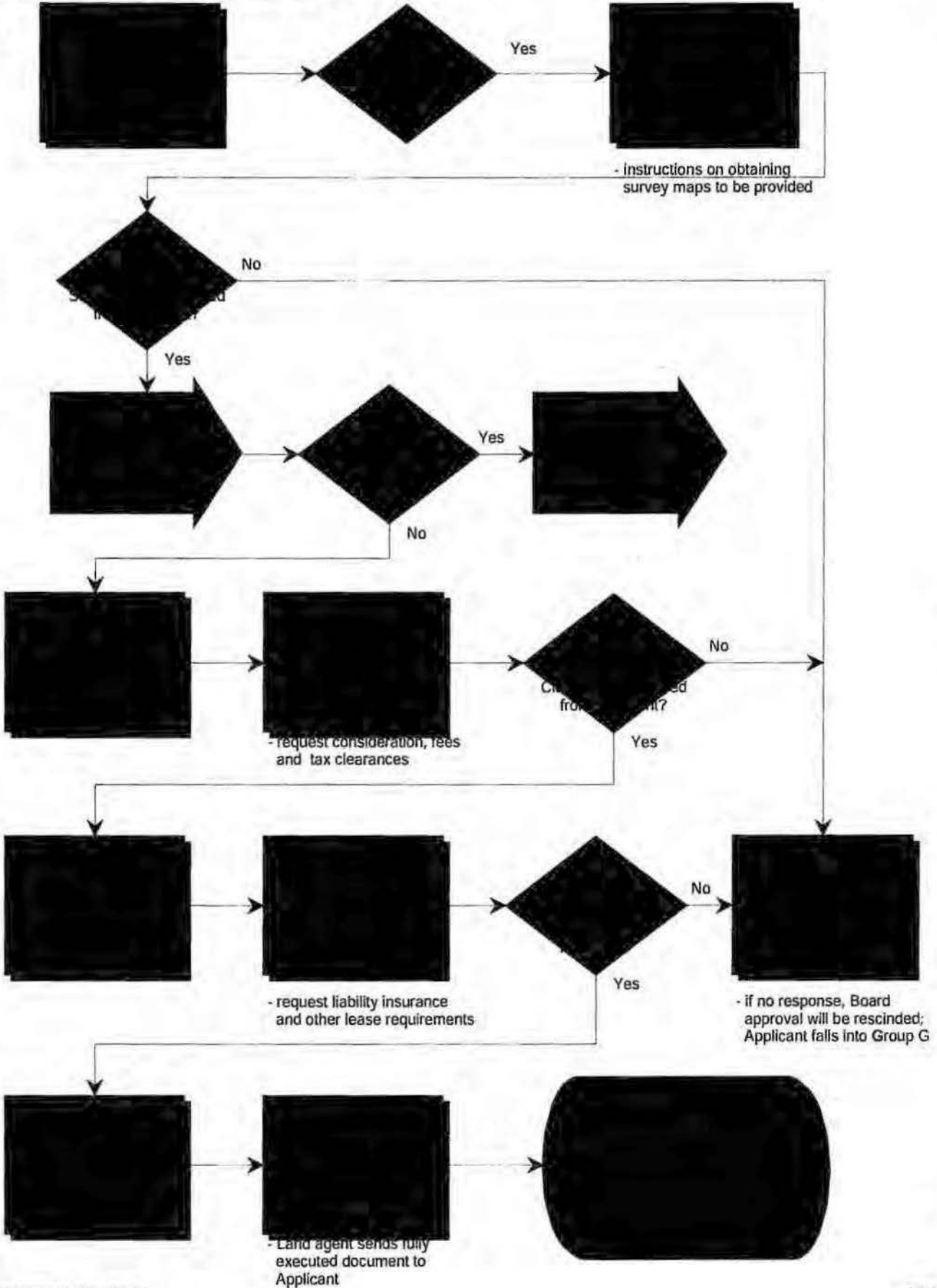
- application; failing to do so within the 90 days will result in the Department removing the pier at the pier owners' expense;
9. In the event that unrecorded historic remains (i.e., artifacts, or human skeletal remains) are inadvertently uncovered during repair or operations, all work shall cease in the vicinity and the pier owner shall immediately contact the State Historic Preservation Division;
 10. Pier owners who require a lease from the State shall obtain a land disposition form from the Oahu District Land Agent for the use of State land; and
 11. Other terms and conditions as may be prescribed by the Chairperson; and

Kaneohe Bay Amnesty Program Process

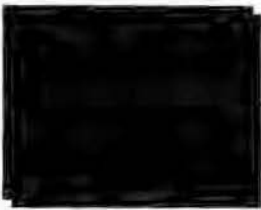
Revision Date: August 13, 2001



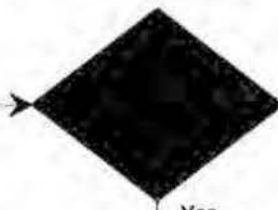
GROUP A - PROCESSING OF PIER LEASE:



GROUP A - PROCESSING OF ENCROACHMENTS:

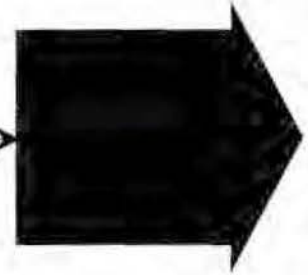


- gives options of completing Coastal Lands questionnaire form to apply for easement or removal of encroachment

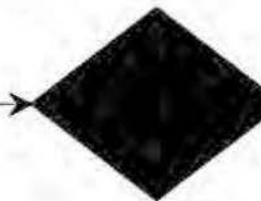


No

Yes



- staff recommendation will be based on Coastal Lands Program analysis

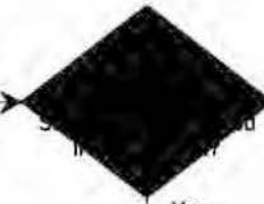


No

Yes



- instructions on obtaining survey maps to be provided

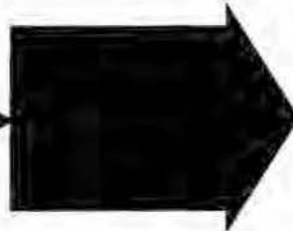
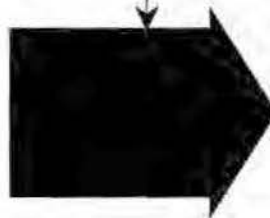


No

Yes



- if no response, Board approval will be rescinded and fines/removal imposed



Protect Our Shoreline Ohana

RECEIVED
LAND DIVISION

NATURAL RESOURCES
STATE OF HAWAII

August 6, 2001

TO: Mr. Gilbert S. Coloma-Agaran
Chair, BLNR
P.O. Box 621
Honolulu, Hawaii 96809

Mr. Harry M. Yada
Acting Administrator, DLNR Land Div.
P. O. Box 621
Honolulu, Hawaii 96809

CC: Windward: Senators
Bob Hogue
Bob Nakata
Representatives
Charles Djou
Ken Ito
Colleen Meyer
David Pendelton

POSO Negotiating Team: Dennis McCann David Nottage, Jr.
Roy Yanagihara Wadsworth Yee

Subject: Residential Noncommercial Piers - Kaneohe Bay Pier Amnesty Program

Reference: Letter dated July 24, 2001 - from Harry M. Yada

We understand that Act 261 passed by our 2000 legislature calls for direct negotiations on State submerged lands or lands beneath tidal waters for private residential noncommercial piers. The Board of Land & Natural Resources have been adopting policies without any negotiations with the pier owners. Our efforts to make changes at the Land Board Meetings have been unsuccessful.

Your early response on the following will be appreciated:

- 1. METHODOLOGY;**
According to our records, the methodology to determine the lease is based on assumptions and predictions by staff. The State has no sales records of any submerged lands being sold for 50% of adjacent residential properties.

Why then did the Land Board adopt the 50% rate and putting the residential owners in the same category as commercial owners?

There has been no response to our request for copies of the appraisal taken to support the methodology used by the DLNR.
- 2. HRS 171-17 calls for an appraisal to arrive at a fair market value!**
Instead of an appraisal of the submerged lands, the state uses the C/C annual property assessment of residential properties adjacent to the submerged lands. The State should study and learn from the 14 benchmarks used by the C/C and conduct their own appraisal and research.

The State admits that the conservation submerged lands standing alone essentially have no value. The submerged lands have no demands aside from the adjacent pier owners.

It is like comparing a piece of gold next to a piece of rock. The rock will remain a rock with no value. The submerged lands gains value only when a pier is built on it. The pier is built and maintained by the owner and should not affect the lease rent.

The lease rent must be based on the submerged land before the pier is built!

3. **FULL PAYMENT OF LEASE UP-FRONT:**

It is common practice to pay lease annually. Why are we subjected to full lease payment up-front? Why is the annual payment option not available?

4. **FAIR AND EQUAL TREATMENT:**

For many years, the DLNR knew that only a few of us were paying rent and nothing was done to remedy the situation. Finally, we will stop paying rent beginning September 2001. Why did it take so long?

The pier owners who have been paying rent have complied with the law from the time they built their piers. We have met all of the requirements and now, we are required to pay additional expenses in order to get our lease. Why can't we just get a lease?

5. **ALTERNATIVE OPTIONS:**

We understand that those of us who have revocable permits can maintain our present status if we decide not to join the amnesty program.

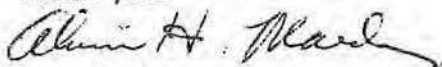
Will our rent remain the same? If not, what is the method to be used?

6. **OPINION FROM THE ATTORNEY GENERAL'S OFFICE:**

The decision on Methodology and other concerns are critical in arriving at a fair and equitable lease rent. We appreciate your effort to obtain credits for the pier owners now paying rent.

Our request for a meeting has been rejected by your staff. We have failed to negotiate. Are we also going to fail to communicate? We desperately need a public meeting to discuss the issues before us. Please set a date, time and a place for a public meeting!

Thank you!



Alvin H. Maeda
Protect Our Shoreline Ohana
45-215 Mahalani Circle
Kaneohe, HI 96744

HAWAII STATE
NATURAL RESOURCES
DEPT. OF LAND & NATURAL RESOURCES

2001 AUG - 9 P 1:57

RECEIVED
LAND DIVISION

Encl: Letter dated 7/24/01 - from Harry M. Yada

Coastal State Fees For Using Submerged Lands for a Residential Non-Commercial Pier⁽¹⁾

State	Lease, permit or other permission required to use submerged lands? ⁽²⁾	Fee or Rent to Use Submerged Lands?	Amount of Fee or Rent
Alabama	No.	No.	N/A
Alaska	No.	No.	N/A
California	Yes.	Yes.	Free. Applicant pays cost of issuing lease or permit.
Connecticut	Yes.	Yes.	One-time permit fee of \$0.40 per square foot, \$350 minimum.
Delaware	Yes.	Yes.	Unknown
Florida	No.	No.	N/A
Georgia	Yes. Revocable license.	No.	N/A
Louisiana	No. Exempt.	No.	N/A
Maine	Yes.	Yes.	Fair Market Rental Value (annual rent equals 2% of assessed value per square foot for the adjacent upland times the square footage of bottom land). \$100 application fee. \$100 minimum annual rent. \$1200 maximum annual rent.
Maryland	No. Exempt. Notice required.	No.	N/A
Massachusetts	Yes.	Yes.	Simplified license for piers of less than 300 square feet: \$50 application fee. Annual occupancy fee of \$1/yard. 10-year term. Standard license for piers of 300 square feet or more: \$100 application fee. Displacement fee of \$2/cubic yard for material removed. Occupancy fee of \$1/square yard times term of license. 20-year term.
Mississippi	No.	No.	N/A
New Hampshire	Yes.	Yes.	Application fee of \$100 per boat slip.
New Jersey	Yes.	Yes.	Annual rent: \$100 plus fair market rental value.

Public Trust land -

New York	No. Exempt.	No.	N/A
North Carolina	Yes.	Yes.	Simplified general permit application process for residential piers (2 boat maximum). \$100 application fee.
Oregon	Yes. Registration required.	Yes.	5 year term, one time fee of: (1) \$100 for a dock/float or boat house one thousand (1,000) square feet or less. (2) \$200 for a dock/float or boathouse from one thousand and one (1,001) square feet to two thousand (2,000) square feet in size. (3) Two hundred fifty dollars (\$250) for a dock/float or boathouse from two thousand and one (2,001) square feet to two thousand five hundred (2,500) square feet in size.
Pennsylvania	Yes. General permit by regulation for small docks (750 square feet).	Yes.	Small docks (750 square feet or less) – no fee. Other recreational docks - \$250/yr.
Rhode Island	Yes.	Yes.	Unknown.
South Carolina	Yes.	Yes.	One time permit fee of \$50 for non-commercial projects.
Virginia	Yes	Yes	Permit fee, one-time. \$25 if project cost does not exceed \$10,000. \$100 if project cost exceeds \$10,000.
Texas	Yes. Registration	Yes	One time fee of \$25.
Washington	No.	No.	N/A

Footnotes:

1. Whether permission to use submerged lands is required by a riparian residential landowner to construct a private non-commercial pier, and any lease or permit cost for such use of state-owned submerged lands.
2. Various other permits, authorizations or reviews may be required to construct a pier: environmental, land use, dredge and fill, coastal zone management, etc. Many of these permits require substantial costs or fees. This survey looked only at permission to use submerged lands.

D-13
P-12

MOVE-UP AGENDA

①

IF YOU WISH TO HAVE YOUR ITEM MOVED-UP, PLEASE PRINT YOUR NAME/ORGANIZATION AND ITEM NUMBER BELOW:

DO NOT WRITE
IN THIS COLUMN

NAME AND ORGANIZATION:

ITEM:

1	John Leong	H-1
2	CRAIG WATANABE SDOT- HIGHWAYS DIVISION	D-10
3	ROBERT NORCANT OLD WALY COURT MA 3014	D-28
4	Bruce Shuckers Mike Auerbach SPOT- Highways Division	D-9
	Mildred Togami - 45-046 Lilipune Pl Kaneohe, HI - POSO	D-29
	Myra Tamonaha B+F	—
5	MICHAEL MOORE	D-30
7	HECO	D-27
8 9 10	ALVIN MACEDA POSO	D-29
6	LES MILNES Godwin KALEPA KOALITION KELLY GOSMAY	D-27
	Michael Jacobs	D-29
	Arunnigam Katir	20
	FRANK MEDRANO	D-29
✓	YOGINATHA SWAMI	D20
	Shelly Bermudez	D29
	NATHAN SHULMAN	D29
	STEPHANIE PHILLIPS	D-29
	KIRBY LOU	D-29

Protect Our Shoreline Ohana

August 24, 2001

D-29

Mr. Chairperson, Members of the Board, Staff Members and friends:

I am Alvin Maeda, acting chair for Protect Our Shoreline Ohana. I have come before you several times and I appreciate your patience. Our organization appreciate what you are trying to accomplish and we support your efforts to bring this Kaneohe Bay pier situation to its conclusion with a fair and equitable long term lease. We hope that this information we are discussing this morning will be available to all the pier owners.

- We have two requests:
1. Because most of the members and pier owners are not able to attend these Land Board meetings, we ask that a public hearing be held when all the pier owners can attend and share their concerns.
 2. The Attorney General's office be asked to expedite their findings so that we can legally move forward to complete our leases.

During this whole process, you have made some critical decisions which we are not in total agreement. I recognize that your decision has been made to use the 50% rate for both commercial and private residential noncommercial piers. We do not agree with this for obvious tax reasons, but because it is so essential and critical for a fair and equitable lease rent, I am compelled to bring it before you again and plead for a reconsideration.

I call your attention to Page 1, Legal Reference:

HRS 171-53 This section, like 171-17, directs the DLNR to arrive at a Fair Market Value of the submerged lands. Your "appraisal methodology" is based on assumptions, predictions and assessment of adjacent residential properties. Can you produce any document that will support submerged lands being sold at 50% of the adjacent residential properties?

No appraisal of the submerged lands were taken and the following statements are directly from your "appraisal methodology".

"there is insufficient comparable sales data to validate the enhance value of the submerged lands".

"the stand alone conservation submerged lands essentially has no value".

"the fast and submerged land should be valued as a single residential unit".

The submerged land value remains constant no matter how you manipulate the situation. However, your staff has manipulated the conditions to their best advantage and recommended that this proposal to be a fair and accurate value for the leasing of private non-commercial residential piers. They did not substantiate their claims with any supporting documents.

The City & County has 14 benchmarks for Kaneohe Bay. What does this mean to the DLNR?

If I were to place before you a bar of gold worth a \$1000, and place a piece of rock next to it, and try to sell the rock to you for \$500, would you buy the rock? Of course not! But that is exactly what you are doing to us.

Act 261: This calls for direct negotiations. Negotiation means to talk over and come to terms. This whole "Amnesty" program has been controlled and dictated by this Land Board. Our negotiation team has been prepared to sit down with you to negotiate. The one meeting we had with Mr. Dean Uchida was a total disaster, the terms were dictated to us and there was no room to negotiate.

Page 2, Consideration: 1): This appraisal should have been the first step taken as directed under HRS 171-17 and 171-53.

If any negotiation had taken place, we would have asked for this independent appraisal as a group.

We have asked for public hearings and have been rejected. We have tried to reason with you at these Land Board meetings but have been rejected. Our negotiating team has tried to arrange for meetings but has been rejected, except for one.

If total control and domination is the intent of this board, it has been evident and clearly outlined on page 9, RECOMMENDATIONS, Item "f":

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

If there is compassion and empathy left in the process, consideration must be given to the interest of the pier owners who pay their taxes to help pay for your expenses and salaries.

Thank you!



Alvin H. Maeda
Protect Our Shoreline Ohana
45-215 Mahalani Circle
Kaneohe, HI 96744

GEORGE R. ARIYOSHI
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF LAND MANAGEMENT
P. O. BOX 621
HONOLULU, HAWAII 96809

DIVISIONS:
CONVEYANCES
FISH AND GAME
FORESTRY
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

November 21, 1986

Board of Land and
Natural Resources
Honolulu, Hawaii

Gentlemen:

OAHU

Subject: Direct Sale of Reclaimed (Filled) Land of Kaneohe,
Koolaupoko, Oahu, Hawaii

STATUTE: Chapter 171-53, Hawaii Revised Statutes, as
amended

APPLICANT: ERNEST HANG HUI and ELIZABETH ANN HUI

FOR: Portion of reclaimed (filled) land at Kaneohe Bay,
Kaneohe, Koolaupoko, Oahu, Hawaii, fronting
seaward of Tax Map Key: 4-4-21:9, as shown
outlined in red on the map labeled Land Board
Exhibit "A" appended to the basic file.

STATUS: Subject to reservation of easement(s)

AREA: To be determined by the Survey Division of the
Department of Accounting & General Services

CONSIDERATION: To be established by independent appraisal, same
subject to review and acceptance by the
Chairperson

PURPOSE: Consolidation with applicant's abutting property
identified by Tax Map Key: 4-4-21:9.

ZONING: State Land Use Commission: Urban District
City & County of Honolulu Zoning: Residential R-3

REMARKS: The subject parcel comprises a portion of the
reclaimed (filled) land situated along the
perimeter of Kaneohe Bay and quitclaimed to the
State for \$1.00 by Castle Trust Estate and Iolani
School. The quitclaim of the Castle Estate and
Iolani School's interest in or title to the
submerged and filled areas was made with the
understanding that the State would subsequently
offer to sell the land in question to persons
acquiring fee title to the abutting lots.

ITEM F-16

EXHIBIT I


November 21, 1986

RECOMMENDATION:


That the Board:

- A. Find that the proposed disposition is not prejudicial to the best interests of the State, community or area in which the reclaimed land is located.
- B. Approve the direct sale of the subject reclaimed area to the applicant under the foregoing and following terms and conditions:
 1. The purchaser shall be required to pay the full purchase price in one payment in cash, cashier's or certified check.
 2. Prior to issuance of Patent or Deed, the purchasers shall consolidate the reclaimed (filled) land with their abutting fee property through the City and County of Honolulu, Department of Land Utilization.
 3. The use of the reclaimed (filled) land, in consolidation with abutting property, shall be in accordance with applicable zoning and subdivision ordinance of the City and County of Honolulu.
 4. The purchaser shall waive forever any claim which he or she may have against the United States, the State of Hawaii and/or agency or instrumentality or political subdivision of either of them with regard to the reclaimed land.
 5. Such other terms and conditions as may be prescribed by the Chairperson.
- C. Authorize the publication of a notice of disposition of the above as required by law.

Respectfully submitted,


JAMES J. DETOR
Land Management Administrator

APPROVED FOR SUBMITTAL:


SUSUMU ONO, Chairperson

MS

D-5

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

July 28, 2000

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

Oahu

Sale of Reclaimed Land Remnant to David and Karen Lee Stoutemyer, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-21:seaward of 36.

APPLICANTS:

David and Karen Lee Stoutemyer, as tenants by the entirety, and whose mailing address is 44-001 Aina Moi, Kaneohe, Hawaii 96744.

LEGAL REFERENCE:

Section 171- 53(b), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of the filled reclaimed land of Kaneohe Bay, Kaneohe, Koolaupoko, Oahu identified by Tax Map Key: 4-4-21: seaward of 36, as shown on the attached map labeled Exhibit A.

AREA:

3,131 square feet, more or less.

ZONING:

State Land Use District: Urban
City and County of Honolulu CZO: Residential

LAND TITLE STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

July 28, 2000. *rev*

EXHIBIT J

ITEM D-5

CURRENT USE STATUS:

Seawall and reclaimed (filled) land

CONSIDERATION:

One-time lump sum payment of fair market value pursuant to Section 171-53(b) HRS to be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Disposition is exempted from OEQC requirements pursuant to Sub-Chapter 11-200-8 (Item 1) of the Hawaii Administrative Rules that exempts "operation, repairs, or maintenance of existing structures, facilities, equipment, or topographical features involving negligible or no expansion or change of use beyond that previously existing."

This seawall and reclaimed (filled) land was in place since 1939 long before the present owner purchased the property. There is no expansion or change of use beyond that previously existing.

DCCA VERIFICATION:

Not applicable

APPLICANTS REQUIREMENTS:

Applicants shall be required to:

- 1) Pay for an appraisal to determine the one-time payment or fair market value for the remnant;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicants' own cost;
- 3) Consolidate remnant with the Applicants' property at Applicants' own cost; and
- 4) Pay for all publication expenses for the notice of disposition covering the above disposition.

REMARKS:

Pursuant to section 171-53(b), HRS, the Board of Land and Natural Resources "After finding that the disposition of reclaimed land is not prejudicial to the best interest of the State, community or area in which such reclaimed land is located and after giving public notice in accordance with section 171-16(d) of its intention to dispose, may dispose of it without recourse to public auction, to the abutting owner, by sale or lease; provided

that if the reclaimed land has been filled in or made with the prior approval of government authorities, and not otherwise filled in or made contrary to public interest, it may be disposed of at the fair market value or fair market rental of the reclaimed land".

The Applicants have requested to purchase 3,131 sq. ft. of reclaimed land located seaward of their lot at 44-001 Aina Moi, Kaneohe. The subject parcel is located in an area of Kaneohe Bay where Kaneohe Ranch dredged and filled land pursuant to a permit issued in 1939 to the Army Corps of Engineers.

This parcel is landlocked by the Applicants' property and it is of no use to the State. Other nearby lot owners have purchased the reclaimed land seaward of their lots as shown on Exhibit A pursuant to Land Office Deeds S-27758 and S-27788.

The Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The Land Division's Coastal Lands Program has informed us that they have no objections to this disposition.


RECOMMENDATION:


That the Board, subject to the Applicants fulfilling all of the Applicants requirements listed above:

1. Find that the above disposition is not prejudicial to the best interest of the State;
2. Authorize the sale of the subject reclaimed land to David and Karen Lee Stoutemyer covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. Prior to the issuance of the conveyance document, the Applicants consolidate the reclaimed parcel with their abutting property through the County consolidation process.
 - b. The standard terms and conditions of the most current deed form, as may be amended from time to time;
 - c. Review and approval by the Department of the Attorney General; and

- d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the publication of a notice of disposition covering the above disposition as required by Section 171-53(b), and Section 171-16(d) HRS.

Respectfully Submitted,



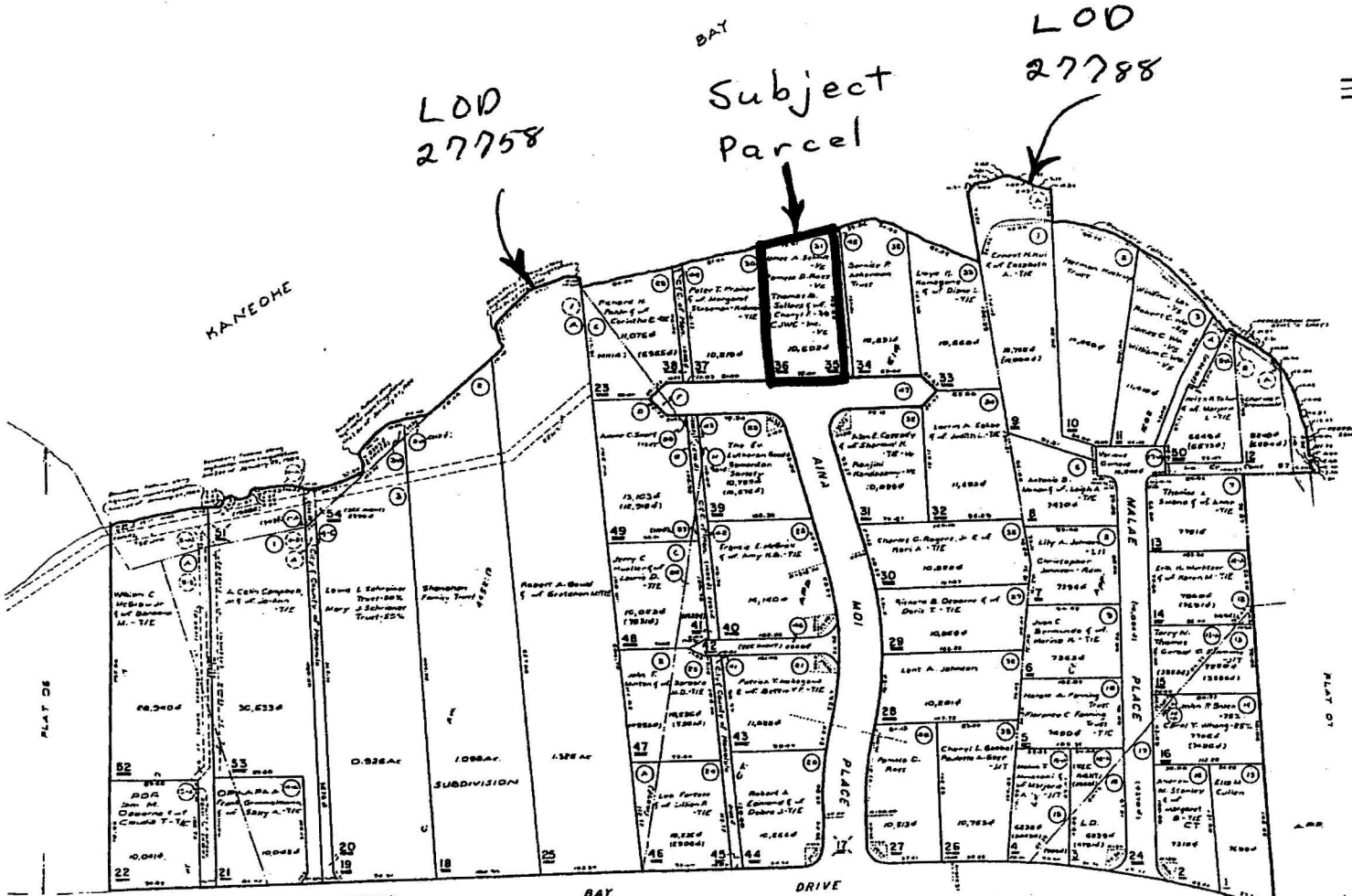
Al Jodar
Land Agent 

APPROVED FOR SUBMITTAL:



TIMOTHY E. JOHNS, Chairperson

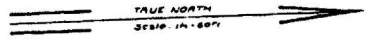
RECORDED 1948
1948
L.S. CLARK REGISTERED SURVEYOR
DRAFT
1948



LOD
27758

BAY
Subject
Parcel

LOD
27788



- 32 Robert J. Ethington & of his A - TIC
- 35 Bruce P. Ackerman 8336
James C. Smart 8336
James A. Roy 8336
Robert B. May 8336
Alice F. Egan 8336
Virginia R. Fisher 8336
- 42 Bruce P. Ackerman
James C. Smart
James A. Roy
James A. Roy - TIC
- 54 State of Hawaii
City & County of Honolulu
Dept. of Public Resources
Case No. 19-3910
PARK SITE

EXHIBIT A

4-4-21

G14

UNIMPROVED PARCELS (19-81)

List of Shoreline Leases -- Kaneohe Bay

Doc No.	Lessee Name	TMK	Purpose	Acres
gl5732	BARBARA G. LITTENBERG, TRUSTEE	144006008A	Pier/Dock	0.003
gl5705	COLENE SMITH WONG, TRUSTEE	144006012A	Pier/Dock	0.006
gl5891	BRIAN ALBERT TOBE	144007004A	Pier/Dock	0.002
gl5636	MALIA INVESTMENT CORPORATION	144007022A	Pier/Dock	0.001
gl5925	ALEN MATSUO KAIONE KANESHIRO	144007038A	Pier/Dock	0.002
gl5677	NANCY NOTTAGE, TRUSTEE	144014004A	Pier/Dock	0.017
gl5854	DAVID G. JR. & NANCY W. NOTTAGE	144014011A	Pier/Dock	0.001
gl5800	DAVID Y.F. & RUTH C. LUNG	144014026A	Pier/Dock	0.009
gl5787	PATRIC ARTHUR AND KATRINA NOELLE MOLEND	144014027A	Pier/Dock	0.003
gl5880	WAYLAND D. AND RAYNETTE J. LUM	144014052A	Pier/Dock	0.010
gl5688	STRATFORD LORD & ANITA BERG WHITING, TRUSTEE	1440140580000	Pier/Dock	0.007
gl5769	EDWARD K. AND YOSHIKO YAMASHIRO	144016017A	Pier/Dock	0.015
gl5770	YOSHIKO YAMASHIRO, TRUSTEE	144018069A	Pier/Dock	0.010
gl5733	LOUISE EULALIA HEDLUND	144018071A	Pier/Dock	0.009
gl5768	EDWARD K. YAMASHIRO, TRUSTEES	144018073A	Pier/Dock	0.004
gl5855	ARTHUR ALLEN AND BARBARA NOREE THORSTAD	144018074A	Pier/Dock	0.013
gl5694	STUART WAI HOON PANG AND ROBYN YIM PANG	144018076A	Pier/Dock	0.010
gl5740	DOUGLAS KEVIN TOM	144018077A	Pier/Dock	0.004
gl5789	RANDALL LEE ERICKSON	144018078A	Pier/Dock	0.007
gl5926	DEXTER N. YAMADA, TRUSTEE	144018079A	Pier/Dock	0.006
gl5758	FRANCIS ISAMI AND JOYCE ETSUKO TSUZUKI	144018080A	Pier/Dock	0.005
gl5872	IRIS KAZUE TANIGUCHI, TRUSTEE	144018083A	Pier/Dock	0.003
gl5717	DENNIS & LISA TANAKA	144018084A	Pier/Dock	0.006
gl5803	HARRIS HARUO HARA, ET AL	144018085A	Pier/Dock	0.005
gl5757	REID TOKUJO, TRUSTEE	144018086A	Pier/Dock	0.008
gl5704	RONALD YEE	144018105A	Pier/Dock	0.006
gl5777	DANA S.K. WATANABE, TRUSTEE	1440181060000	Pier/Dock	0.013
gl5859	BERTIL R.L. & CHRISTINA E.A WERJEFELT, TRUSTEES	144021010A	Pier/Dock	0.012
gl5850	BJ MANAGEMENT CORP.	144021011A	Pier/Dock	0.012
gl5813	LLOYD KENJI KOMAGOME, TRUSTEE	144021033A	Pier/Dock	0.013
gl5650	DAVID AND KAREN LEE STOUTEMYER	144021036A	Pier/Dock	0.004
gl5826	IAN M. OSBORNE, TRUSTEES	144021050A	Pier/Dock	0.003
gl5628	FC2, INC.	144022006A	Pier/Dock	0.002
gl5682	RICHARD & JOSEPHINE RICCIUTI	144022009A	Pier/Dock	0.009
gl5767	JOHN CORNWELL AND MARION MAKIN WALKER, JR.	144022010A	Pier/Dock	0.005
gl5755	CHARLES D. & MARGARET M. PEEBLES, TRUSTEES	144022036A	Pier/Dock	0.006
gl5916	PETER B. NOTTAGE, TRUSTEE	144037020A	Pier/Dock	0.005
gl5778	JODY LYNN GILBERT, TRUSTEE	144037021A	Pier/Dock	0.005
gl5821	KATHLEEN E. BRIZUELA	144037035A	Pier/Dock	0.007
gl5672	STEPHEN W. AND SUSAN C. CHAMBERLIN, TRUSTEES	144037048A	Pier/Dock	0.008
gl5793	DAVID FUJIWARA	144037049A	Pier/Dock	0.003
gl5728	MARK S. TOGAMI, TRUSTEE	145001020A	Pier/Dock	0.002
gl5788	MARK BRUCE AND MARY THERESA HECKMAN, TRUSTEES	145001027A	Pier/Dock	55
gl5794	BERT H. & KELLI P. TANIGUCHI	145001030A	Pier/Dock	0.007
gl5867	TAMMIE M. ACKERMAN, TRUSTEE	145001035A	Pier/Dock	0.009

List of Shoreline Leases -- Kaneohe Bay

gl5783	KAYLENE K.S. KAMADA, TRUSTEE	145001037A	Pier/Dock	0.012
gl5806	SEVATH S. TANAKA, TRUSTEE	145001039A	Pier/Dock	0.018
gl5760	EDWARD HUGHES AND SHEILA-ANNE PUANANI EBERT	145001108A	Pier/Dock	0.007
gl5845	HABILITAT, INC.	145006005A	Pier/Dock	0.072
gl5875	DENNIS D. AND NANCY C. MCCANN	145023051A	Pier/Dock	0.006
gl5653	BEHOLD CHRISTIAN FELLOWSHIP	145047044A	Pier/Dock	0.007
gl5746	RALPH JOHN & MARGARET MARIAN KIESSLING, TRUST	145047049A	Pier/Dock	0.003
gl5763	MICHAEL G. JACOBS, TRUSTEE	145047056A	Pier/Dock	0.005
gl5918	KEVIN D. KINVIG	145047079A	Pier/Dock	0.005
gl5698	WAYNE DOUGLAS ST. MORRIS	145047080A	Pier/Dock	0.006
gl5749	KIM KAHOKULELEOKALANI GILBERT, TRUSTEE	145047083A	Pier/Dock	0.006
gl5679	KELLY KATHLEEN WHITE	145047090A	Pier/Dock	0.004
gl5892	OREN TUCK H. & JO-ANN C. LEONG	145047094A	Pier/Dock	0.002
gl5924	DAVID RANDOLPH BAILEY	145047116A	Pier/Dock	0.036
gl5921	POP-POP LLC	145047117A	Pier/Dock	0.005
gl5791	JACOB WAI SUNG AND LISA HARUYO CHUN	145047119A	Pier/Dock	0.007
gl5808	EDWIN N. TASAKI, TRUSTEE	145047120A	Pier/Dock	0.009
gl5816	RICHARD J. GALLIMORE	145047129A	Pier/Dock	0.012
gl5765	RICHARD & KATHERINE NISHIDA	1450471300000	Pier/Dock	0.011
gl5852	GEORGE AUTHUR AND GAIL ANN MORRIS, TRUSTEES	145053053A	Pier/Dock	0.012
gl5762	ARCHIE K. AND JEANETTE Y. KOMAE	145053054A	Pier/Dock	0.010
gl5741	ALVIN HISASHI MAEDA, TRUSTEES	145058017A	Pier/Dock	0.022
gl5792	BRYAN KEOLANUI & KELLIE INOUE KAU	145058018A	Pier/Dock	0.030
gl5673	DANIEL NOEL AND TRICIA RENEE PUTERBAUGH	145058020A	Pier/Dock	0.016
gl5723	DAGMAR L. KAU, TRUSTEE	145058021A	Pier/Dock	0.011
gl5724	DAGMAR L. KAU, TRUSTEES	145058022A	Pier/Dock	0.017
gl5771	STANLEY M. & WINIFRED T. MIURA, TRUSTEES	145058024A	Pier/Dock	0.009
gl5920	JANICE, ROBERT R. & ROBIN A. LAI, SUCCESSOR CO-TI	145058026A	Pier/Dock	0.003
gl5772	CARLO MAYAPIS AND CARINES BANTAYAN MANGOBA	145058027A	Pier/Dock	0.005
gl5743	RICHARD K.S. PANG, TRUSTEE	145058029A	Pier/Dock	0.017
gl5915	MARC AND KARLA LONNSTROM	145058034A	Pier/Dock	0.013
gl5828	CURTIS S. AND NOREEN M.F. KANADA	145058035A	Pier/Dock	0.007
gl5895	CRAIG SEIYA KAGAWA	145058037A	Pier/Dock	0.005
gl5796	WENDY JEAN BURKHOLDER	145058038A	Pier/Dock	0.003
gl5917	ROY F. KUBOYAMA, TRUSTEE	145058039A	Pier/Dock	0.008
gl5702	RALPH K. AND JANICE A. OSHIRO	145058041A	Pier/Dock	0.011
gl5919	STANLEY TSUTOMU AND DONNA MIKK KOKI	1451040220000	Pier/Dock	0.010
gl5809	DANIEL Q.K., JR. AND PAULETTE STONE	145104024A	Pier/Dock	.003
gl5860	YWCA OF OAHU	145104044A	Pier/Dock	0.190
gl5699	RICHARD AND NOREEN VAN HORN, TRUSTEES	146001009A	Pier/Dock	0.027
gl5784	JING YANG	146001010A	Pier/Dock	0.020
gl5773	PEARL TANG ANDERSON	146001018A	Pier/Dock	0.003
gl5759	RICHARD T. KOZUMA	146001022A	Pier/Dock	0.005
gl5775	MARCUS DRAKE ELAMA ROSEHILL, TRUSTEE	146001023A	Pier/Dock	0.007
gl5774	NICOLAS AND JULIANA CHAIZE	146001026A	Pier/Dock	0.007
gl5761	OTOME MARY MYERS, TRUSTEE	146001029A	Pier/Dock	0.017

List of Shoreline Leases -- Kaneohe Bay

gl5781	JONATHAN PETER WILLIAMS	146001030A	Pier/Dock	0.003
gl5766	JAMES D. AND CAROL A. COOK	146001031A	Pier/Dock	0.016
gl5745	COMMODORE'S POINT, LLC	1460010630000	Pier/Dock	0.009
gl5795	JAMES TSUYOSHI FUJIOKA, TRUSTEE	146003087A	Pier/Dock	0.001
gl5786	CAROL ROOT, TRUSTEE	146003089A	Pier/Dock	0.004
gl5730	HOA TRUNG TRAN AND TONNIA THUHANH TRAN, ET A	146022002A	Pier/Dock	0.006
gl5735	IDEA, INC. DBA KABUSHIKI KAISHA IDEA	146022022A	Pier/Dock	0.007
gl5858	WILLIAM D. DRAKE	146022024A	Pier/Dock	0.003
gl5738	OREN T.H. & JO-ANN LEONG	1460221310000	Pier/Dock	0.005
gl5856	SAMUEL C. & MARIAN C. KAOMEA, TRUSTEES	146023046A	Pier/Dock	0.002
gl5782	LANCE SHIGERU TERAYAMA, TRUSTEES	146023048A	Pier/Dock	0.003
gl5894	HARRY HARUO YAMADA, JR., TRUSTEE	146023049A	Pier/Dock	0.001
gl5748	STUART K. KANESHIRO, TURSTEE	146023050A	Pier/Dock	0.0007
gl5807	STEVEN MICHAEL BALDRIDGE	147009001A	Pier/Dock	0.010
gl5737	RAYMOND M. AND CAROLINE P. OHARA	147009016A	Pier/Dock	0.005
gl5870	JOHN M. THOMAS	147010040A	Pier/Dock	0.003
gl5685	MARY M. HAGEDORN	147010045A	Pier/Dock	0.005
gl5780	JAMES M. KATO, TRUST	147019008A	Pier/Dock	.004
gl5819	GORDON Y. AND NATALIE K. IMATA, CO-TRUSTEES	147019022A	Pier/Dock	0.005
gl5734	PHILLIP MUTZEL STEINGRAEBER	147019034A	Pier/Dock	0.009
gl5817	RUSSELL M. YETT	147019041A	Pier/Dock	0.010
gl5747	BRADLEY MASARU MASUTANI, ET AL	147019044A	Pier/Dock	0.003
gl5753	ERIC MICHAEL AND DONOVAN EUGEN AAKHUS	147019059A	Pier/Dock	0.009
gl5754	CLIFFORD KALAI MILLER	147019067A	Pier/Dock	0.012
gl5790	DYNASTY COACHWORK INTERNATIONAL, INC.	147019073A	Pier/Dock	0.010
gl5876	GEORGE C. AND COLLEEN R. MEYER	147020019A	Pier/Dock	0.034
gl5873	MELODIE R. ADUJA, TRUSTEES	147020035A	Pier/Dock	0.036
gl5756	JACOB C.F. HEE, TRUSTEE	147024018A	Pier/Dock	0.006
gl5716	JOSEPH AND STEPHANIE PHILLIPS, JR. TRUSTEES	147024029A	Pier/Dock	0.024
gl5861	FRANK EDWARD & ABIGAIL RUBY MEDRANO	147030015A	Pier/Dock	0.004
gl5776	JAMES STANLEY & MARI ITO BERRY	147030016A	Pier/Dock	0.010
gl5847	DANIEL KAWIKA AND TOREY MIKA KIKUKAWA ARITA	147030018A	Pier/Dock	0.015
gl5923	BURT T. AND MIRIAM K. KAMINAKA, TRUSTEE	147030019A	Pier/Dock	0.014
gl5693	ALVIN LUM, TRUSTEE, ETAL	147030020A	Pier/Dock	0.015
gl5785	KUALOA RANCH, INC.	149003002A	Pier/Dock	0.025
gl6167	C. MICHAEL MULLER, TRUSTEE, ET AL	141001011A,013A	Seawall/Boat Ramp	0.064
gl6083	WAIMANALO PARADISE LLC AND NESBITT HI HOLDING	141002007A	Seawall/Boat Ramp	0.104
gl6007	CASTI FAMILY LIMITED PARTNERSHIP	143001011A	Seawall/Boat Ramp	0.040
gl6068	STUART L. AND WENDY R. WATT, TRUSTEES	143003065A	Miscellaneous	0.022
gl6043	HALE MOKULUA LLC	143005056A	Seawall/Boat Ramp	0.030
gl5857	KANALOA CHAMBER ORCHESTRA, INC.	143005094A	Seawall/Boat Ramp	0.010
gl5625	DANIEL PATRICK QUINN AND STACEY MICHELLE QUIN	143008051A	Seawall/Boat Ramp	0.002
gl5865	BARBARA G. LITTENBERG, TRUSTEE	144006008A	Pier/Dock	0.006
gl5802	COLENE SMITH WONG, TRUSTEE	144006012A	Seawall/Boat Ramp	0.004
gl5683	WILFRED Y. AND RENEE T. HORIE	144006014A	Seawall/Boat Ramp	0.012
gl5689	STRATFORD & ANITA WHITING, TRUSTEES	144014003A	Seawall/Boat Ramp	0.005

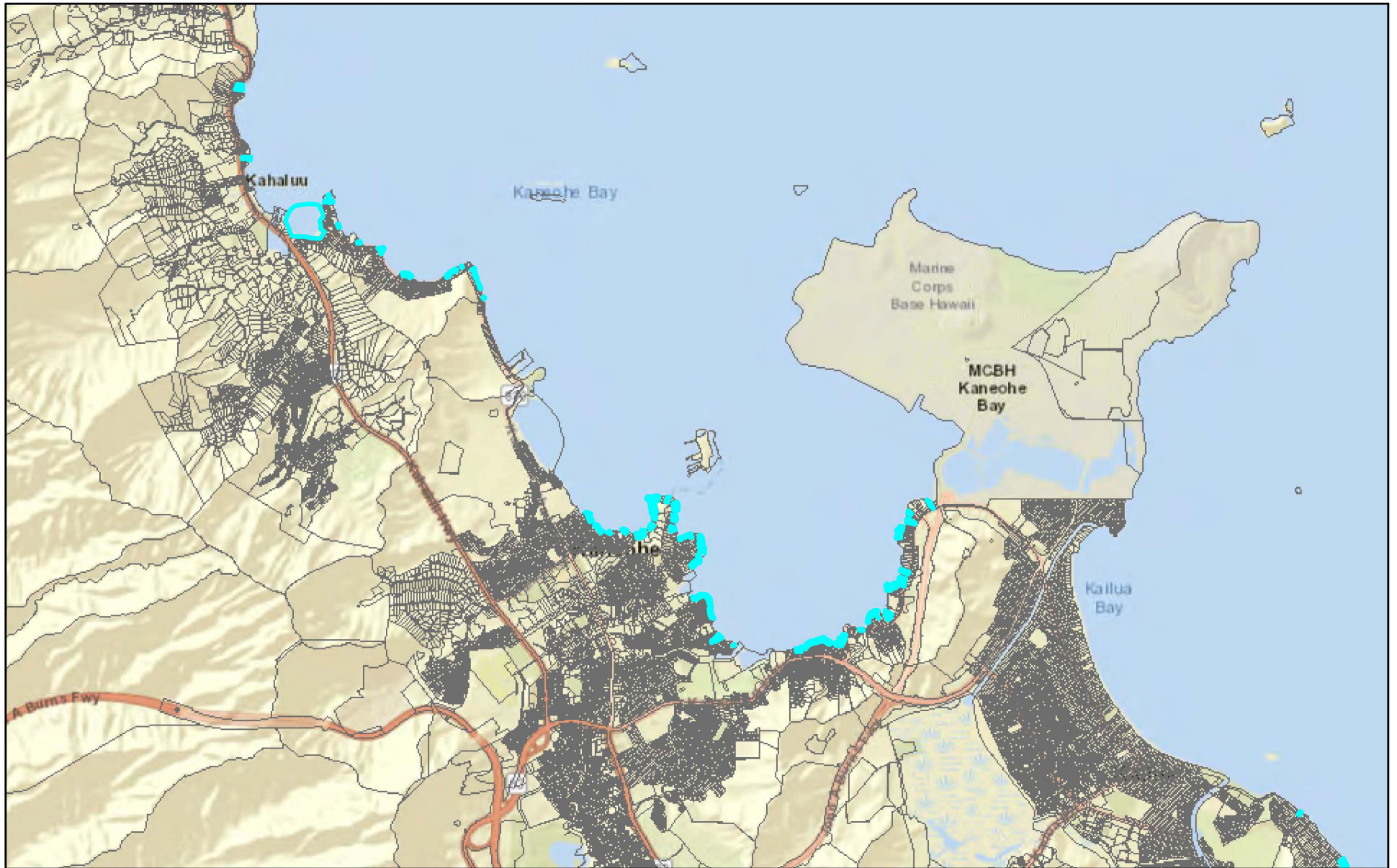
List of Shoreline Leases -- Kaneohe Bay

gl6178	PHILIP KAI BINNEY AND PHILLIP K. BINNEY, TRUSTEE	144016016A	Pier/Dock	0.043
gl5652	YUMIN AND AMY KATHLEEN CHOI	144018068A	Seawall/Boat Ramp	0.006
gl6010	YAMASHIRO INVESTMENTS	144018069A	Seawall/Boat Ramp	0.001
gl5840	LOUISE EULALIA HEDLUND	144018071A	Seawall/Boat Ramp	0.004
gl6114	HITOSHI YOSHIKAWA	144018072A	Seawall/Boat Ramp	0.018
gl5957	ARTHUR ALLEN AND BARBARA NOREE THORSTAD	144018074A	Seawall/Boat Ramp	0.002
gl5712	STUART WAI HOON PANG AND ROBYN YIM PANG	144018076A	Seawall/Boat Ramp	0.008
gl5831	FRANCIS ISAMI TSUZUKI	144018080A	Seawall/Boat Ramp	0.0132
gl5899	JEFFREY TSUZUKI	144018080A	Pier/Dock	0.005
gl5843	DANA S.K. WATANABE, TRUSTEE	144018082A	Seawall/Boat Ramp	0.005
gl5849	BJ MANAGEMENT CORP.	144021011A	Seawall/Boat Ramp	0.002
gl5629	LEONARD A. JAFFE	144022006A	Seawall/Boat Ramp	0.004
gl6095	CLIFFORD J. AND RENEE TILLOTSON	144022007A	Pier/Dock	0.082
gl5973	FORDYCE SMITH MARSH, JR	144037012A	Seawall/Boat Ramp	0.029
gl6037	JULIAN A. III AND DESIREE CM POLLAK, III	144037033A	Seawall/Boat Ramp	0.038
gl5820	KATHLEEN E. BRIZUELA	144037035A	Seawall/Boat Ramp	0.00009
gl5651	STEPHEN W. & SUSAN W. CHAMBERLIN, TRUSTEES	144037048A	Seawall/Boat Ramp	0.0002
gl6012	DAVID T. FUJIWARA, TRUSTEE	144037049A	Seawall/Boat Ramp	0.000275
gl6104	TERUKO NOTO, TRUSTEES	145001018A	Pier/Dock	0.002
gl5837	MARK S. TOGAMI, TRUSTEE	145001020A	Seawall/Boat Ramp	0.002
gl5846	BERT H. AND KELLI P. TANIGUCHI	145001030A	Encroachment	0.001
gl5908	MAY S. ISHIMOTO	145001035A	Seawall/Boat Ramp	0.029
gl6118	GWENETTE ANN AND KELIKA RICKY HIGA	145007023A	Landscaping	0.050
gl5637	VOLKER HILDEBRANDT	145047046A	Seawall/Boat Ramp	0.004
gl5836	RALPH JOHN AND MARGARET MARIAN KIESSLING	145047049A	Seawall/Boat Ramp	0.004
gl5711	WAYNE ST. MORRIS	145047080A	Seawall/Boat Ramp	0.004
gl5750	KIM KAHOKULELEOKALANI GILBERT, TRUSTEE	145047083A	Seawall/Boat Ramp	0.002
gl5680	KELLY KATHLEEN WHITE	145047090A	Encroachment	0.0003
gl6042	DAVID RANDOLPH BAILEY	145047116A	Seawall/Boat Ramp	0.011
gl5744	RICHARD K.S. PANG, TRUSTEE	145058029A	Breakwater	0.005
gl6145	SHEA ALAN SUTTON	145058030A	Pier/Dock	0.008
gl5829	CURTIS S. AND NOREEN M. F. KANADA	145058035A	Seawall/Boat Ramp	0.001
gl5797	WENDY JEAN BURKHOLDER	145058038A	Seawall/Boat Ramp	0.0004
gl5703	RALPH K. AND JANICE A. OSHIRO	145058041A	Seawall/Boat Ramp	0.002
gl6144	DONALD EDWARD BEAUCAGE	1450581210000	Pier/Dock	0.012
gl5967	STANLEY T. AND DONNA M. KOKI	145104021A	Seawall/Boat Ramp	0.009
gl5739	KENNETH D. SIMON	146001006A	Seawall/Boat Ramp	0.019
gl5914	COMMODORE'S POINT, LLC	146001008A	Access	0.0001
gl6059	SUSAN KAUI AND RUSSELL KOEHLER	146001014A	Pier/Dock	0.014
gl6131	DOMINIC HENRIQUES, TRUSTEE	146001019A	Seawall/Boat Ramp	0.032
gl6023	SHERMAN LEE CRUZ	146001027A	Seawall/Boat Ramp	0.138
gl5991	CLYDE TAKASHI KANESHIRO, TRUSTEE	146003077A	Seawall/Boat Ramp	0.008
gl5896	CAROL ROOT, TRUSTEE	146003089A	Seawall/Boat Ramp	0.005
gl5627	KEITH MAKOTO ISHIBASHI, TRUSTEES	146022023A	Seawall/Boat Ramp	0.008
gl5839	OREN & JO-ANN LEONG	1460221310000	Seawall/Boat Ramp	0.001
gl5833	STUART K. KANESHIRO, TURSTEE	146023050A	Seawall/Boat Ramp	0.001

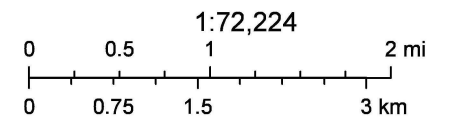
List of Shoreline Leases -- Kaneohe Bay

gl5927	BRYAN SPICER, TRUSTEE	147001005A	Seawall/Boat Ramp	0.017
gl6177	MARTIN WADE CORNETT AND ANNETTE PAULINE	147001006A	Seawall/Boat Ramp	0.019
gl5832	JILL ANN MCCREADY	147010034A	Seawall/Boat Ramp	0.006
gl6080	KAHALUU POND, INC.	147011001A	Seawall/Boat Ramp	0.718
gl6039	ROBERT E. CAMBRA	147014010A	Seawall/Boat Ramp	0.051
gl5710	MARK EDWARD SOUTER	147019020A	Seawall/Boat Ramp	0.003
gl6158	GORDON Y. IMATA AND NATALIE K. IMATA, CO-TRUST	147019022A	Seawall/Boat Ramp	0.015
gl6168	HAROLD RAYMOND AND JULIE YVONNE SHARRER	147019024A	Seawall/Boat Ramp	0.026
gl5955	GILBERT K. AND LEIALOHA K. CHUN	147019026A	Seawall/Boat Ramp	0.028
gl5834	PHILIPP MUTZEL STEINGRAEBER	147019034A	Seawall/Boat Ramp	0.002
gl6140	DOUGLAS WALTER PASNIK	147019047A	Seawall/Boat Ramp	0.023
gl6064	DAVID ALAN KNOX	1470190780000	Landscaping	0.037
gl6040	BRUCE HO SUNG KIM	147024022A	Seawall/Boat Ramp	0.003
gl5634	JAMES STANLEY AND MARI ITO BERRY	147030016A	Seawall/Boat Ramp	0.017
gl5864	WAYNE PAUL AND MARTHA JANE GERMAN	147030017A	Seawall/Boat Ramp	0.005
gl5904	DANIEL KAWIKA AND TOREY MIKA KIKUKAWA ARITA	147030018A	Pier/Dock	0.010
gl6000	MIRIAM K. KAMINAKA, TRUSTEE	147030019A	Seawall/Boat Ramp	0.014
gl5969	RAMON POMPEYO NOLASCO	149009004A	Seawall/Boat Ramp	0.020
gl5970	CHRISTOPHER JAMES LINDSHIELD	149009005A	Seawall/Boat Ramp	0.009
gl6060	CHRISTOPHER JAMES LINDSHIELD	149009005A	Seawall/Boat Ramp	
gl5729	JAMES VINCENT PANGAN AND KATRINA BALMACEDA	149009019A	Seawall/Boat Ramp	0.0008

Public Land Trust Information System



February 2, 2024

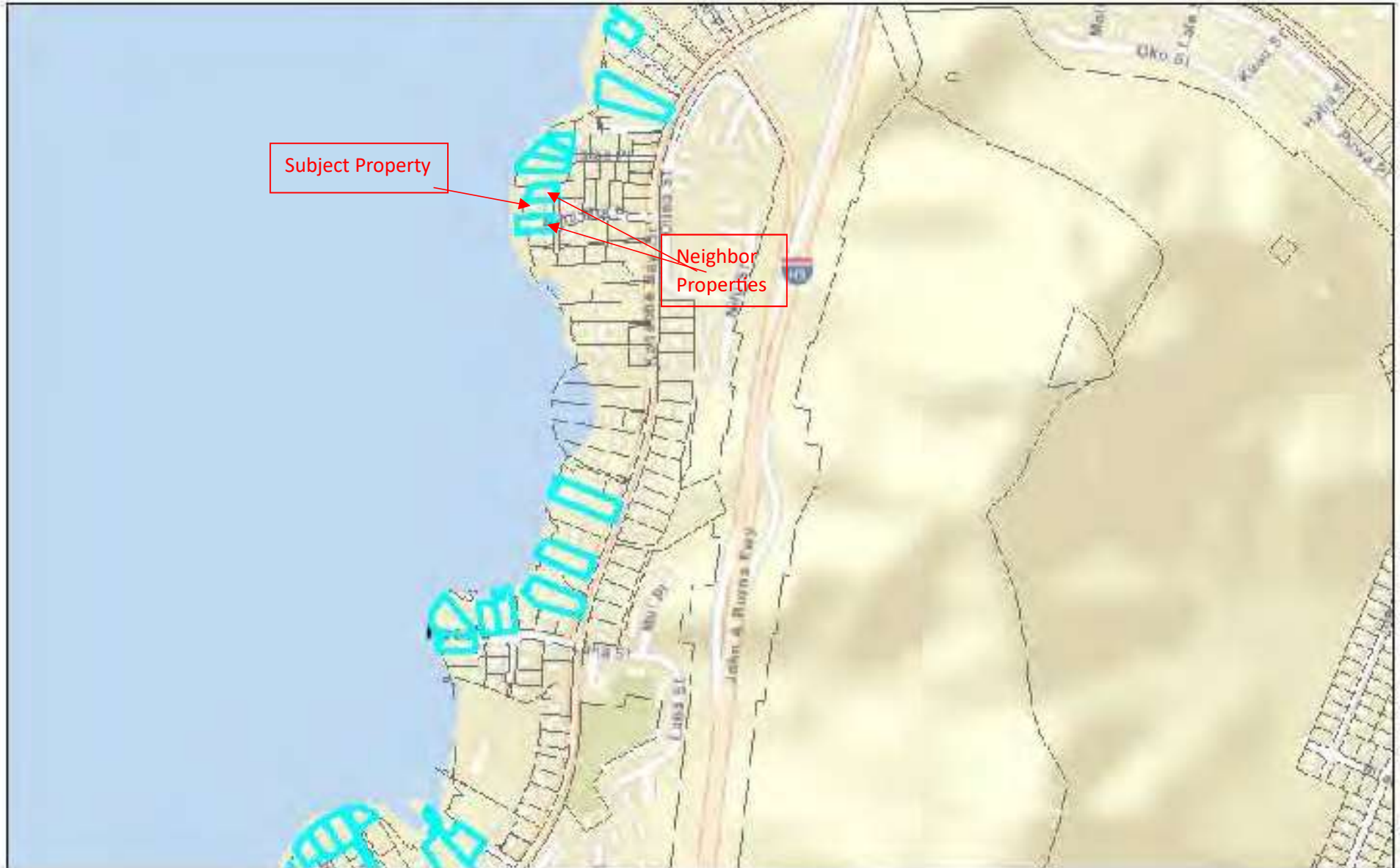


Esri, HERE, Garmin, NGA, USGS

EXHIBIT L-1

The content within the PLTIS, including maps and data, has been collected from multiple city, county, and state sources, and may not have been prepared

Public Land Trust Information System



February 2, 2024

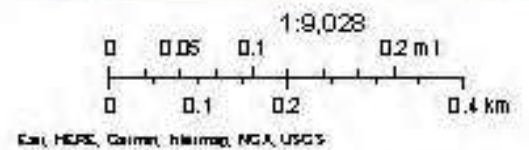


EXHIBIT L-2

The content within the PLTIS, including maps and data, has been collected from multiple city, county and state sources, and may not have been prepared