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RECEIVED
MAR 08 2007

STATE OF HAWAII
LAND USE COMMISSION

Attorneys for Intervenor
Kapolei Property Development LLC

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

MARK J. BENNETT, as ATTORNEY
GENERAL, STATE OF HAWAII,

Petitioner,

vs.

RICHARD W. GUSHMAN, II, CLINTON
R. CHURCHILL, DAVID A. HEENAN,
and R.J. ZLATOPER, Trustees under the
Will and of the Estate of James Campbell,

Respondents.

DOCKET NO. DR06-32

INTERVENOR KAPOLEI PROPERTY
DEVELOPMENT LLC'S
STATEMENT OF OPPOSITION TO
PETITION FOR DECLARATORY
ORDER; DECLARATION OF DAVID
W. RAE; EXHIBITS 1-2;
CERTIFICATE OF SERVICE

**INTERVENOR KAPOLEI PROPERTY
DEVELOPMENT LLC'S STATEMENT OF OPPOSITION
TO PETITION FOR DECLARATORY ORDER**

Intervenor Kapolei Property Development LLC ("KPD"), by and through its attorneys, Carlsmith Ball LLP, hereby states its Opposition to Attorney General Mark J. Bennett's Petition for Declaratory Order Regarding Pre-Condition No. 9.b. of Land Use Commission's September 23, 1988 Decision and Order in Docket No. A87-613, filed on

December 26, 2006 (the "AG Petition"). KPD has filed a Petition to Intervene (pending) pursuant to HAR § 15-15- 53 and is a party in interest pursuant to HAR § 15-15-103.

In the first instance, KPD submits that the Commission should either (a) deny this matter outright pursuant to HAR § 15-15-100 or (b) refuse to issue the requested declaratory order pursuant to HAR § 15-15-102. The reasons for immediate denial or refusal to issue a declaratory order are more fully addressed in KPD's Motion to Dismiss Petition for Declaratory Order, filed concurrently herewith, incorporated by this reference, and summarized as follows:

- Under controlling Hawaii law, the Commission has no jurisdiction to reconsider an unappealed order that was entered over 17 years ago or to set aside valid and enforceable agreements entered into by the State. *See* HAR §15-15-102(4).
- Under controlling Hawaii law, the Attorney General lacks standing to prosecute the AG Petition before the Commission. *See* HRS §§ 91-1 and 91-8.
- Although fashioning the AG Petition as a petition for a declaratory ruling on a Commission order, the Attorney General's real objective is to try to get relief from long-standing agreements entered by the State. He has not cited any statute or other authority for this proposition because the Commission has no legal authority to modify the terms of an agreement. The relief he has requested will impact hundreds of homeowners, businesses, and state and local government bodies who have relied on the 17 year old boundary amendment urbanizing the City of Kapolei, not just KPD. The Commission should not even consider nullifying its June 1989 Order. The Commission should not even consider modifying the terms of agreements entered by the State.

If for any reason the Commission declines to either (a) deny this matter outright pursuant to HAR § 15-15-100 or (b) refuse to issue the requested declaratory order pursuant to HAR § 15-15-102, then in accordance with HAR § 15-15-103, KPD requests

that this matter be set for a contested case hearing in accordance with HRS § 91-9. Although the Commission's rules do not require a hearing on a request for declaratory ruling, in this case, constitutional due process requires that a contested case be held because KPD seeks to protect its real property and other property interests that would be adversely impacted by the relief requested in the AG Petition. The AG Petition seeks to determine the rights and duties of specific parties in that the AG Petition seeks a declaration that "the [Trustees of the Campbell] Estate remains unconditionally obligated to convey at least forty acres in the Kapolei Town Center to the State for government offices or other uses." As the assignee of the Campbell Estate Trustees' real property in the City of Kapolei (fka Kapolei Town Center) and its related contractual governmental obligations, KPD's property rights and duties are implicated. *See* Declaration of David W. Rae and Exhibit 1 (Trustees Limited Warranty Deed) and Exhibit 2 (Amended and Restated Assignment) attached thereto.

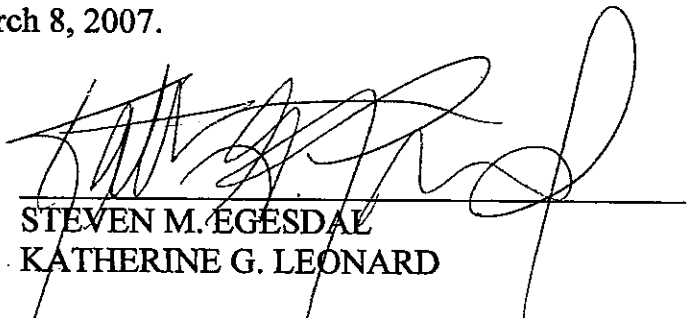
The AG's Petition, together with its supporting declaration, memorandum and exhibits, is insufficient to provide a fair disposition on a ruling in favor of the Attorney General on the relief requested in the AG Petition. See HAR § 15-15-103. Prior to any ruling in favor of the Attorney General, in addition to an opportunity to be heard on the aforementioned grounds for immediate dismissal of the AG Petition, KPD should be allowed to present additional compelling reasons to deny the requested relief including, but not limited to:

- The pre-condition in the D&O *was* satisfied -- Campbell Estate entered into an agreement or document evidencing its commitment to the State;

- The State *agreed* that the pre-condition was satisfied -- so did the Attorney General's office, so did the Land Use Commission -- after lengthy and detailed negotiations between the State and Campbell Estate;
- The Commission unquestionably had and has the authority to order that its pre-condition to a boundary amendment has been satisfied and the amendment is therefore approved;
- There would be grave public policy implications if the Commission facilitated the State's repudiation of its 17-year-old agreement or, more importantly, if the Commission overturned the 17-year-old order approving the satisfaction of a *pre-condition* to the boundary amendment urbanizing the City of Kapolei; and
- There are 17 years of performance by both parties under the 1989 Agreement and many subsequent negotiations and agreements between the parties built upon the foundation of the 1989 Agreement.

Unless this matter is denied or refused for hearing, only a contested case hearing will allow a fair hearing of this matter. Therefore, unless the AG Petition is denied or refused for hearing, KPD hereby requests a contested case hearing in accordance with HRS § 91-9 on the AG Petition.

DATED: Honolulu, Hawaii, March 8, 2007.



STEVEN M. EGESDAL
KATHERINE G. LEONARD
Attorneys for Intervenor
KAPOLEI PROPERTY DEVELOPMENT
LLC

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

MARK J. BENNETT, as ATTORNEY
GENERAL, STATE OF HAWAII,

Petitioner,

vs.

RICHARD W. GUSHMAN, II, CLINTON
R. CHURCHILL, DAVID A. HEENAN,
and R.J. ZLATOPER, Trustees under the
Will and of the Estate of James Campbell,

Respondents.

DOCKET NO. DR06-32

DECLARATION OF DAVID W. RAE

DECLARATION OF DAVID W. RAE

I, DAVID W. RAE, declare as follows:

1. I am the Senior Vice President, Development, of Kapolei Property Development LLC ("KPD").
2. Except where otherwise noted, I make this Declaration based on my personal knowledge, my role as Senior Vice President, Development, of KPD, and my review of KPD's business records and files, and would be competent to testify to the statements contained herein.
3. KPD is an affiliate of the James Campbell Company LLC. Campbell Estate has conveyed to KPD various obligations, real property interests, and related records and files, including records and files related to the subject matter of the above-referenced action.


4. Attached hereto as Exhibit 1 is a true and correct copy of the Trustees Limited Warranty Deed referenced in the attached Statement of Opposition.

5. Attached hereto as Exhibit 2 is a true and correct copy of the Amended and Restated Assignment referenced in the attached Statement of Opposition.

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

DATED: Honolulu, Hawaii, March 8, 2007.

KAPOLEI PROPERTY DEVELOPMENT LLC

By 
DAVID W. RAE
Senior Vice President, Development



L-68 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

OCT 31, 2008 08:01 AM

Doc No(s) 3505984
on Cert(s) 754,864

Issuance of Cert(s) 830,890



20 17 27

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR
CTax (30): \$10238.60

LAND COURT

REGULAR SYSTEM

Return By Mail Pick-Up To:

CARLSMITH BALL LLP
Kapolei Building, Suite 318
1001 Kamokila Boulevard
Kapolei, Hawaii 96707
Attention: Mark K. Murakami
Telephone: 808.523.2561
Escrow No. A6-101-1230

TGOH 2006609117-S
TGES A6-101-1230
BARBARA PAULO

TITLE OF DOCUMENT:

TRUSTEES LIMITED WARRANTY DEED WITH RESTRICTIONS, COVENANTS AND AGREEMENTS

PARTIES TO DOCUMENT:

GRANTORS: C.R. CHURCHILL, D.A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER, the duly appointed, qualified and acting TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, acting in their fiduciary and not in their individual capacities

GRANTEE: KAPOLEI PROPERTY DEVELOPMENT LLC, a Hawaii limited liability company
James Campbell Building, Suite 250, 1001 Kamokila Boulevard, Kapolei, Hawaii 96707

TAX MAP KEY(S): (Oahu) 9-1-016-001(por.)
Certificate of Title No. 754,864

(This document consists of 10 pages.)

TRUSTEES LIMITED WARRANTY DEED WITH RESTRICTIONS, COVENANTS AND AGREEMENTS

KNOW ALL MEN BY THESE PRESENTS:

That as of November 1, 2006, **C.R. CHURCHILL, D.A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER**, the duly appointed, qualified and acting **TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED**, acting in their fiduciary and not in their individual capacities (the "Grantors"), whose address is the James Campbell Building, 1001 Kamokila Boulevard, Kapolei, Hawaii 96707, in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)** and other valuable consideration previously paid to Grantors by **KAPOLEI PROPERTY DEVELOPMENT LLC**, a Hawaii limited liability company (the "Grantee"), whose address is the James Campbell Building, Suite 250, Kapolei, Hawaii 96707, the receipt and sufficiency of which is hereby acknowledged by the Grantors, and upon and subject to the covenants and conditions herein set forth, **DO HEREBY GRANT, BARGAIN, SELL, and CONVEY** unto Grantee, its successors and assigns, forever, that certain parcel of real estate (the "Property") situated at Honouliuli, City and County of Honolulu, Island of Oahu, State of Hawaii, and more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference, subject to the reservations and encumbrances herein and in **Exhibit A** attached hereto, **AND SUBJECT ALSO TO THE FOLLOWING RESTRICTIONS, COVENANTS AND AGREEMENTS:**

1. Permitted Use of the Property. To the extent that the Property is now or may become subject to that certain City of Kapolei Declaration of Protective Covenants, Conditions and Restrictions dated November 30, 1993, made by the Trustees under the Will and of the Estate of James Campbell, Deceased, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2103428, as it has been and may be amended or supplemented from time to time (collectively the "City of Kapolei Declaration"), the Property shall be used solely for one or more of the permitted uses described in the applicable provisions of the City of Kapolei Declaration, and as may from time to time be permitted by applicable laws, and for no other uses or purposes.

2. Property in "As Is, Where Is" Condition.

a. No Warranties. It is expressly understood and agreed that Grantors have not made any representation or warranty, express or implied, regarding any aspect of the Property including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, suitability, habitability, quality, physical condition and value, and Grantors hereby disclaim any and all liability for any and all such representations and warranties. Grantee agrees that it has examined and investigated the Property prior to the execution of this instrument and that Grantee has relied solely upon such examinations and investigations in acquiring the Property. Without limiting the generality of the foregoing, Grantee acknowledges that (i) it has made all inspections, investigations and analyses deemed necessary or appropriate to determine compliance by the Property with all environmental or other applicable laws that may apply to the Property, and (ii) Grantors have made no representation or warranty, express or implied, concerning the Property's compliance with environmental or other applicable laws.

b. "As Is" Condition. Grantee acknowledges and agrees that it is acquiring the Property in its "as is, where is" condition, with all faults, if any, and that Grantee has assumed all risks regarding all aspects of the Property, and the condition thereof, including, without limitation: (i) the risk of any physical condition affecting the Property including, without limitation, the existence of any soils conditions, or the existence of archeological or historical conditions on the Property; (ii) the risk of any damage or loss to the Property caused by any means including, without limitation, flood or earthquake; and (iii) the risk of use, zoning, habitability, merchantability or quality of the Property or the suitability of the Property for its present use or future development; and (iv) the activities of Grantors and others on adjacent or other nearby lands.

c. Adjacent Land Use. Grantee acknowledges and agrees for itself, its permitted assigns, transferees, and any other party claiming by, through or under it that: (i) Grantors have entered and may further enter into agreements with others for development and use of other lands owned by or formerly owned by Grantors located adjacent to or near the Property; (ii) such agricultural, developmental, commercial and other activities may involve by way of example and not in limitation thereof, noise, smoke, soot, dust, lights, noxious vapors, odors, and other nuisances of every description arising from or incidental to the activities conducted from time to time on adjacent or other nearby lands, subject only to zoning and other legal restrictions on use; and (iii) Grantee is acquiring the Property subject to all risks associated with the location of the Property. The foregoing shall not prevent Grantee from pursuing all remedies legally available to Grantee in the event of any violation of zoning or other legal restrictions on use.

3. Attorneys' Fees. In the event of a dispute under this instrument, the prevailing party shall be entitled to recover from the losing party all costs including reasonable attorneys' fees.

4. Governing Law. This instrument shall be governed by laws of the State of Hawaii.

5. Perpetuities. If any of the terms, covenants or conditions set forth herein shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

6. Effect of Invalidity. The terms, covenants and conditions set forth herein shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof, of any such terms, covenants or conditions shall not affect the validity or enforceability of any other provisions hereof.

7. Joint and Several Liability. Wherever the term "Grantee" or the term "Grantees" refers to more than one person, the terms, covenants, conditions and agreements of this instrument shall be jointly and severally binding upon each such person. Any notice given to any such person shall be deemed to be notice upon all such persons.

TOGETHER WITH the reversions, remainders, rents, issues and profits thereof, together with all buildings, improvements, tenements, rights, easements, privileges, and

appurtenances to the same belonging or appertaining or held and enjoyed therewith, and all of the estate, right, title and interest of Grantors both at law and in equity therein and thereto.

TO HAVE AND TO HOLD the same unto Grantee, its successors and assigns, forever.

AND Grantors, for themselves and their successors in trust and assigns, do hereby covenant and agree with Grantee, its successors and assigns, that Grantors have done or suffered no act or thing whereby the Property described in **Exhibit A** is encumbered, except as aforesaid and set forth hereinafter; that the Property described in **Exhibit A** is free and clear of liens and encumbrances made or suffered by Grantors except for the encumbrances contained herein and as set forth in **Exhibit A**, and real property taxes not yet due and payable; and that Grantors will and their successors in trust and assigns shall **WARRANT AND DEFEND** the same unto Grantee, its successors and assigns, forever, against the loss or claims and demands of all persons claiming by, through or under Grantors except as aforesaid.

AND Grantee does hereby covenant to and with Grantors for the benefit of Grantors, and affiliates of the Estate of James Campbell, each as owners of lands adjacent or near to the Property, and for the benefit of the Declarant under the City of Kapolei Declaration, that Grantee will observe and perform all of the terms, covenants and conditions and restrictions set forth in the City of Kapolei Declaration, any other declaration of covenants or deed of record with respect to the Property, as the same exist or may hereafter be amended from time to time in accordance with law and the terms of such declaration(s) of covenants or deed(s), on the part of Grantee to be observed and performed, as and when required to do so, and will indemnify Grantors, and the Declarant under the City of Kapolei Declaration from and against any and all liability or claims arising out of the failure to observe and comply with any such terms, covenants, conditions and restrictions.

The terms "Grantors" and "Grantee" wherever herein used shall be held to mean and include Grantors, their successors in trust and assigns, and Grantee, its successors and assigns, and this instrument shall be binding upon and shall inure to the benefit of the parties hereto and their said respective successors, successors in trust and assigns.

Any liability which may arise as a consequence of the execution of this instrument by or on behalf of the Trustees under the Will and of the Estate of James Campbell, Deceased, shall be a liability of the Estate of James Campbell and not the personal liability of any trustee or employee of the Estate of James Campbell.


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IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

Grantee:

KAPOLEI PROPERTY DEVELOPMENT LLC, a Hawaii limited liability company


By Aina Nui Corporation, a Hawaii corporation, its member manager

By 
Name: Bradford J. Myers
Its: Senior Vice President/Treasurer

By 
Name: D. Charles Hill
Its: Vice President

Grantors:

TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, acting in their fiduciary and not in their individual capacities


C.R. CHURCHILL

D.A. HEENAN


RICHARD W. GUSHMAN, II


RONALD J. ZLATOPER

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

SS.

On this 27th day of October, 2006, before me personally appeared C. R. Churchill, ~~D. A. Heenan,~~ Richard W. Gushman, II, and Ronald J. Zlatoper, Trustees Under the Will and of The Estate of James Campbell, Deceased, to me known to be the persons described in and who severally executed the foregoing instrument, and severally acknowledged that they executed the same as their free act and deed as such Trustees.

LS
N.P.

LS

Lydia L. Hannemann
Printed Name: Lydia L. Hannemann
Notary Public, State of Hawaii
My commission expires: Feb. 11, 2008

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 25th day of October, 2006, before me personally appeared Bradford J. Myers and D. Charles Hill, to me personally known, who, being by me duly sworn or affirmed, did say that such persons executed the foregoing instrument as the free act and deed of such persons, and if applicable in the capacities shown, having been duly authorized to execute such instrument in such capacities.

LS

Lydia L. Hannemann
Notary Public, State of Hawaii
Name: Lydia L. Hannemann
My commission expires: Feb. 11, 2008

EXHIBIT A

All of that certain parcel of land situate at Honouliuli, District of Ewa, City and County of Honolulu, Island of Oahu, State of Hawaii, more particularly described as follows:

LOT 16014 (area 73.141 acres), as shown on Map 1239, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1069 of the Trustees under the Will and of the Estate of James Campbell, Deceased.

BEING all of the land described in and covered by **Certificate of Title No. 754,864** issued to the Trustees under the Will and of the Estate of James Campbell, Deceased.

SUBJECT, HOWEVER TO THE FOLLOWING:

1. Easement "182" (15 feet wide), as shown on Map 21, as set forth by Land Court Order No. 16009, filed February 12, 1958.
2. Grant of Easement dated March 13, 1958, in favor of Standard Oil Company of California, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 213791, as assigned to Chevron, U.S.A., Inc., by instrument filed in said Office of the Assistant Registrar as Document No. 891877, affecting Easement "182".
3. Easement "199" (15 feet wide), as shown on Map 95, as set forth by Land Court Order No. 17311, filed July 14, 1959. Said Easement "199" was relocated as shown on Map 106, as set forth by Land Court Order No. 17854, filed February 11, 1960.
4. Grant of Easement dated June 23, 1959, in favor of Standard Oil Company of California, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 240190, as assigned to Chevron, U.S.A., Inc., by instrument filed in said Office of the Assistant Registrar as Document No. 891877.
5. Grant of Easement dated April 5, 1982, in favor of Hawaiian Electric Company, Inc., filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1124864.
6. Easement "1442" (15 feet wide) for sanitary sewer purposes, as shown on Map 407, as set forth by Land Court Order No. 83457, filed April 3, 1987.
7. Building setback (40 feet wide) for building purposes, as shown on Map 407, as set forth by Land Court Order No. 83457, filed April 3, 1987.
8. Amended Document Listing Conditions and Preconditions to Reclassification dated November 14, 1989, made by the Trustees under the Will and of the Estate of James Campbell, Deceased, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1684751.

9. Grant of Easement dated May 31, 1991, in favor of Hawaiian Electric Company, Inc., filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1824808.

10. Unilateral Agreement and Declaration for Conditional Zoning dated September 9, 1991, made by the Trustees under the Will and of the Estate of James Campbell, Deceased, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1849708, as amended by instrument filed in said Office of the Assistant Registrar as Document No. 1850615.

11. Easement "3185" (0.132 acre) for sanitary sewer purposes, as shown on Map 593, as set forth by Land Court Order No. 107256, filed June 3, 1992.

12. Easement "3810" (area 209 square feet) for electrical purposes, as shown on Map 653, as set forth by Land Court Order No. 113611, filed September 28, 1993.

13. Easement "3819" (area 33,193 square feet) for drainage purposes, as shown on Map 653, as set forth by Land Court Order No. 113611, filed September 28, 1993.

14. Restriction of vehicular access rights as shown on Map 653, as set forth by Land Court Order No. 113611, filed September 28, 1993.

15. Grant of Easement dated June 7, 1995, in favor of GTE Hawaiian Telephone Company Incorporated, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2244634.

16. Amended and Restated Document Listing Conditions to Reclassification dated September 11, 1995, made by the Trustees under the Will and of the Estate of James Campbell, Deceased, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2260754.

17. Document Listing Conditions of Order Modifying Conditions dated September 11, 1995, made by the Trustees under the Will and of the Estate of James Campbell, Deceased, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2260756.

18. Easement "5750" (total area 70,200 square feet) for access and utility purposes, as shown on Map 820, as set forth by Land Court Order No. 123327, filed February 6, 1996.

19. Grant of Sewer Easement dated August 5, 1996, in favor of the City and County of Honolulu, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2493647, affecting Easement "1442".

20. Easement "6169" (area 38,395 square feet) for utility purposes, as shown on Map 898, as set forth by Land Court Order No. 128141, filed June 26, 1997.

21. Easement "6170" (area 25,063 square feet) for waterline purposes, as shown on Map 898, as set forth by Land Court Order No. 128141, filed June 26, 1997.
22. Easement "6171" (area 22,800 square feet) for access purposes, as shown on Map 898, as set forth by Land Court Order No. 128141, filed June 26, 1997.
23. Grant of Easement dated March 8, 1999, in favor of Hawaiian Electric Company, Inc. and GTE Hawaiian Telephone Company Incorporated, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2535142, affecting Easement "3810".
24. Access rights over Easement "6171" in favor of Lot 11000, as set forth by Land Court Order No. 139546, filed September 13, 2000.
25. Easement "7076" (total area 834 square feet) for pedestrian purposes, as shown on Map 1024, as set forth by Land Court Order No. 139546, filed September 13, 2000.
26. Easement "7077" (total area 4,340 square feet) for flowage purposes, as shown on Map 1024, as set forth by Land Court Order No. 139546, filed September 13, 2000.
27. Easement "7078" (area 40,373 square feet) for flowage purposes, as shown on Map 1024, as set forth by Land Court Order No. 139546, filed September 13, 2000.
28. Easement "7114" (2 feet wide, total area 1,510 square feet) for pedestrian purposes, as shown on Map 1028, as set forth by Land Court Order No. 139733, filed October 4, 2000.
29. Grant of Drainage Easement dated December 19, 1997, in favor of the City and County of Honolulu, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2671382, affecting Easement "3819".
30. Unilateral Agreement and Declaration for Conditional Zoning dated November 17, 2004, made by Kapolei Property Development LLC and the Trustees under the Will and of the Estate of James Campbell, Deceased, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3195672.
31. Grant of Non-Exclusive Easements dated December 30, 2004, in favor of the City and County of Honolulu and the Board of Water Supply, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3228386, affecting Easement "6169" and Easement "6170".
32. Easement "8502" (area 11,347 square feet) for landscaping and utility purposes, in favor of Campbell Hawaii Investor LLC, a Hawaii limited liability company, as shown on Map 1239, as set forth by Land Court Order No. 161918, filed June 23, 2005.
33. Easement "8670" (area 300 square feet) for reuse water purposes, as shown on Map 1271, as set forth by Land Court Order No. 162934, filed August 31, 2005.

END OF EXHIBIT A

**AMENDED AND RESTATED ASSIGNMENT OF UNRECORDED AGREEMENTS
WITH STATE OF HAWAII**

KNOW ALL MEN BY THESE PRESENTS:

That as of January 19, 2007 (the "Effective Date") **C.R. CHURCHILL, D.A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER**, the duly appointed, qualified and acting **TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED**, acting in their fiduciary and not in their individual capacities ("**Assignors**"), do hereby sell, assign, transfer and convey to **KAPOLEI PROPERTY DEVELOPMENT LLC**, a Hawaii limited liability company ("**Assignee**"), whose address is the James Campbell Building, Suite 250, 1001 Kamokila Boulevard, Kapolei, Hawaii 96707, all of Assignor's right, title and interest in and to those certain unrecorded agreements (collectively the "**Agreements**"), as and to the extent that such Agreements affect Lot 16014, owned by Assignee, which Agreements are more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference.

TO HAVE AND TO HOLD the same unto Assignee, its successors in interest and assigns, forever, together with the benefits of and from the Agreements arising or accruing after the Effective Date, and together with the right to enforce the terms, covenants, conditions and restrictions contained in the Agreements against the other parties named therein and its predecessors in interest, successors in interest and assigns, it being expressly agreed and understood that from and after the Effective Date the rights of Assignors to enforce the terms, covenants, conditions and restrictions contained in the Agreements against the original other parties named in the Agreements and their respective successors in interest and assigns are hereby transferred to Assignee.

AND Assignors, in consideration of the foregoing, do hereby covenant and agree that Assignors are the lawful owners and holders of an interest under the Agreements; the same is valid and enforceable and is in full force and effect; the Agreements contain the entire agreement between the parties thereto; that Assignors have good right to sell, assign, transfer, set over and deliver Assignors' interest therein as aforesaid; and that Assignors shall **WARRANT AND DEFEND** the same unto the Assignee against the lawful claims and demands of all persons whomsoever.

AND Assignee does hereby acknowledge receipt of a fully executed copy of the Agreements assigned hereunder on or before the Effective Date.

IT IS MUTUALLY AGREED that the term "Assignors" wherever used in this instrument shall mean Assignors and their successor trustees, if any, and the term "Assignee" wherever used in this instrument shall mean Assignee and its successors in interest and assigns.

This instrument shall be subject to the terms and conditions set forth in that certain Contribution Agreement dated January 10, 2007 by and between Assignors and James Campbell Company LLC (the "**Contribution Agreement**").

Unless otherwise defined herein, capitalized terms shall have the meaning given them in the Contribution Agreement.

All representations, warranties and covenants specifically set forth in this instrument shall survive the execution and delivery of this instrument and the Distribution Date.

If any provisions of this instrument or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this instrument and the application of such provisions to other persons or circumstances shall not be affected thereby.

This instrument may be amended only by a writing signed by each of the parties to this instrument.

This instrument shall be controlled, construed and enforced in accordance with the laws of the State of Hawaii.

Any liability which may arise as a consequence of the execution of this instrument by or on behalf of the Trustees under the Will and of the Estate of James Campbell, Deceased, shall be a liability of the Estate of James Campbell and not the personal liability of any trustee, employee or agent of the Estate of James Campbell.

The parties hereto agree that (i) this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding that all of the parties are not signatory to the original or the same counterparts, and (ii) facsimile signatures on this instrument or signatures by a similar medium shall be binding and effective for all purposes and shall be treated the same as signatures on the original document. The parties agree to promptly forward signed hard copies of the originals to the other parties. However, the signed facsimile documents or documents in a similar medium will remain effective if the signed originals are not so received.

This Agreement amends and restates that certain amended Agreement of Unrecorded Agreements with the State of Hawaii dated as of November 1, 2006.


[the remainder of this page intentionally left blank; signatures on following page]

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

Assignee:

KAPOLEI PROPERTY DEVELOPMENT LLC, a Hawaii limited liability company

By Aina Nui Corporation, a Hawaii corporation, its member manager

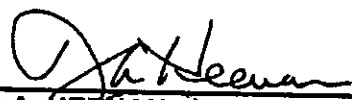
By 
Bradford J. Myers
Its President


By 
D. Charles Hill
Its Vice President

Assignors:

TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, acting in their fiduciary and not in their individual capacities


C.R. CHURCHILL


D.A. HEENAN


RICHARD W. GUSHMAN, II

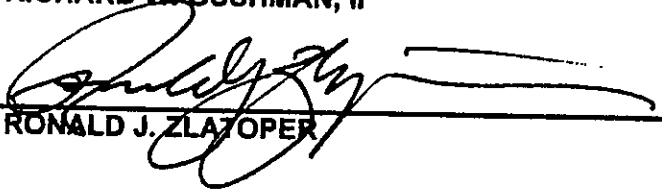

RONALD J. ZLATOPER

EXHIBIT A

1. Document Evidencing Petitioner's Commitments dated April 11, 1989 by and among the State of Hawaii by its Office of State Planning, the Department of Transportation of the State of Hawaii and the Department of Land and Natural Resources of the State of Hawaii and the Trustees under the Will and of the Estate of James Campbell, Deceased in Land Use Commission Docket No. A87-613 (Agreement No. _____).
2. Agreement dated September 14, 1994, by and among the Trustees under the Will and of the Estate of James Campbell, Deceased and the State of Hawaii, by the Department of Accounting and General Services and by the Department of Land and Natural Resources (Agreement No. A00994900).
3. Agreement dated March 31, 1997, by and among the Trustees under the Will and of the Estate of James Campbell, Deceased and the State of Hawaii, by the Department of Accounting and General Services and by the Department of Land and Natural Resources (Agreement No. _____).
4. Agreement dated October 31, 2006, by and among the Trustees under the Will and of the Estate of James Campbell, Deceased, Kapolei Property Development LLC, and the State of Hawaii, by the Department of Accounting and General Services and by the Department of Land and Natural Resources (Agreement No. A00994900).

End of Exhibit A

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

MARK J. BENNETT, as ATTORNEY
GENERAL, STATE OF HAWAII,

Petitioner,

vs.

RICHARD W. GUSHMAN, II, CLINTON
R. CHURCHILL, DAVID A. HEENAN,
and R.J. ZLATOPER, Trustees under the
Will and of the Estate of James Campbell,

Respondents.

DOCKET NO. DR06-32

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was
duly served upon the following parties by hand-delivering a copy of same on March 8,
2007:

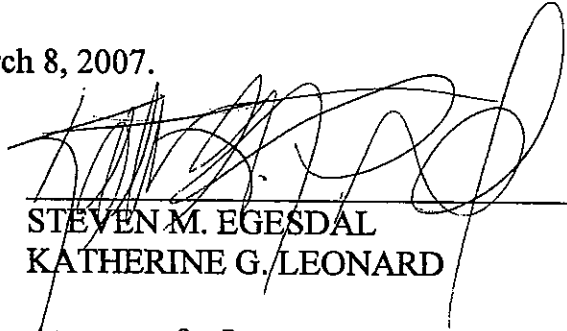
MARK J. BENNETT
Attorney General
State of Hawaii
BRIAN ABURANO
Deputy Attorney General
425 Queen Street
Honolulu, Hawaii 96813

Attorney for Petitioner

LAURA H. THIELEN, Director
State of Hawaii, Office of Planning
238 S. Beretania St.; 6th Floor
Honolulu, Hawaii 96813

HENRY ENG, Director
City & County of Honolulu, Department of Planning and Permitting
650 S. King St.
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, March 8, 2007.



STEVEN M. EGESDAL
KATHERINE G. LEONARD
Attorneys for Intervenor
KAPOLEI PROPERTY DEVELOPMENT
LLC