

In consideration of: ~~SB1549 SD2~~, RELATING TO SMALL BOAT HARBORS

SB1555 SD2, RELATING TO D.L.N.R.

Testimony of: NANCY MUETING, HARBOR CONDOMINIUM RESIDENT

Contact: 946-6724

Testifier position: **OPPOSED**

Testifier will be present: **YES**

Before the House Committee: **WLO**

Date: March 18, 2011

State Capitol Conference Room: 325

Time: 8:30 a.m.

Copies provided: 4

Submittal date: 3-18-11

Dear Chair, Chang, Vice, Har and members of the Committee:

Compliments

The bill SB1555 is gracious to include exceptions to leasing when it would impair land covenant. The mentioned courtesy will help get the law passed. The Development Corporation's ability to get grants and loans for DLNR has been missed as an aid to harbors. It is stated in policy there are Coastal Zone Management Grants to assist with self-sufficiency.

Mentioned Land Developments Lack Environmental Sensitivity of Compliance with Hawaii Coastal Zone Management Act

Development proposals are similar in both bills. They need application of the CZMA and steering from environmental design professionals. The Ala Wai Harbor developments of concern are as follows: The height of building towers; establishment of a Waikiki seawater air-conditioning treatment plant; changes in water intensity use by commercial vessels; types of occupational uses for the buildings and private/public land leases under executive declaration for public use.

Proposed office space is not coastal dependent and encouraged by the CZMA to locate inland. The Waikiki seawater air-conditioning plant, a utility, should neither be located in the harbor as suggested. It has adverse social and visual impacts that affect the economic use of the land. [HRS 205-A C (5) (B)]

Our State has adopted the national policies embodied in the CZMA. It is appalling elected officials would vote to manage land features without using the policies. A process whereby techniques of planning, that create a compatible environment, do not occur; a course of detriment to the harbor.

Waikiki must be doubly attractive, serving the interests of the community and its visitors. There are allowances in the bills for tall towers to be built in the Ala Wai Harbor 350' tall in SB1555 pg. 50, line 9. These would destroy its scenic aspects enjoyed by hotels landside vacation rentals and condominiums. Their imposing form would clutter sunsets, break rainbows and impression of lands end. The scale and uniformity of the harbor is genius, giving impression it is very expansive. With the introduction of tall buildings suggested, the illusion will be lost and its intrinsic beauty irreparably damaged. In light of the Ala Wai's best use, its aesthetics takes preference over the lease of its land for revenue. Again, Hawaii adopted the federal regulations of the coastal zone program in 1971. It is an objective therein to preserve scenic and open space. [HRS205A-2 (b) (3)]

Change in water intensity use, caused by busy commercial vessels proposed, is considered a development under the CZMA. It would be subject to Environmental Council approval before implementation. [Ordinances of the City and County of Honolulu, Section 25-1.3, (1)(D) 2] Commercial vessels using the Ala Wai pose safety concerns for individual who frequent the water. They are comprised of surfers, divers, jet skiers, paddlers, canoes, junior sailors, and the public entering the water from Magic Island Park. All developments within the “coastal zone” must go through the processes of its objectives and policies to evaluate their impact.

Formal Declarations Limit Private/Public Land Leases in Ala Wai Harbor

It is commendable the legislature is acting to prevent harbor disrepair by generating revenue through the leasing of public land. Area selected must not be within Ala Wai Harbor where a president and governor have set it aside for “public purposes”. In the executive orders, it is the land not its collectible revenue that was intended for the public. The private interests of public partnerships tend to exclude, set up quarantines, and demand payment for use. Land for public use is traditionally free of cost like beaches and parks, readily available. The leases proposed remove public use of the land for 65 years.

Ala Wai Harbor Under Presidential and Governor’s Orders

In 1928 President Calvin Coolidge proclaimed the waters off Waikiki for public use by Presidential Proclamation. [Exhibit A] Most of the Ala Wai is within the surveyed area. [Exhibit B] The terms of a proclamation constitute federal law. To permit leasing of the public land, our legislature must get an act of congress similar to Public Law 199. [Exhibit C] This act serves example how leasing of land under proclamation is granted.

Similarly, there is a governor’s order over the harbor for public use. [Exhibit D] The boundaries are shown mapped. [Exhibit E]

Ala Wai Court Ordered Land Side Restrictions

Neither bill is in compliance with Land Court Indenture Deed # 196552. It is an encumbrance over the harbor where the State agreed to non-commercial vessel moorings on the first dock row. [Exhibits F, G] In error, both bills give authority for commercial vessels to occupy up to 56 berths adjacent to Holomoana Street. [SB1549, pg.7 line 18; SB1555, pg. 43 line 20]

The Ala Wai harbor covenant, restricting commercial vessel, was accepted by the State in trade for Holomoana Street. Waterfront developer Ala Moana Properties Limited gifted the street in return. The properties Ilikai Marina, Waikiki Edition Hotel, and the Ilikai, have the restrictive covenant attached as an encumbrance to their property deeds. If the legislature dishonors the commercial vessel restriction, the act is a government taking of land without compensation.

By the covenant, landside properties are buffered from incompatible uses directly across in the harbor. They benefit from clean air and quiet interface commercial vessels moorings cannot provide. Already, boat engine fumes get trapped against building and drift into interiors. The Environmental Protection Agency recommends management of pollution next to buildings. The minimal distance to berths is shown by photograph. [Exhibit H]

Conclusion

The Development Corporation is favorable for its ability to obtain grants and loans for DLNR. [SB1555]

The Senate bills threaten the environment for both recreational users and landside properties. The two bills that propose land use are counter to the Ala Wai Harbor scenery, safety, and CZMA objectives. On the social level, the deed covenant against commercial vessels along Holomoana is unrecognized in bill 1549, Pg. 7, line 18, exposing landside properties to harbor disturbances. The statement in SB1555 on pg. 31, line 1 should be included in bills involving commercial vessels for the Ala Wai Harbor. 'No public lands shall be leased that impair any covenant between the State.' Public/private leases, especially within the boundaries of the Presidential Proclamation, should be strictly enforced against private partnership leases. Real estate prospecting in urban relief zones is bad for the appearance and order of our city. The swatch of land from Ala Moana Beach Park to the harbor makes a uniform band of open space. If we step out with a tall building, away from the urban wall of towers, our city will take on an indistinct and compromised appearance. Our landward appearance from the sea and air are important at making an impression on our visitors.

These points are submitted for the committee's consideration for which I hope it brings solution. Thank you.

(EXHIBIT A)

By the President of the United States of America

A Proclamation

WHEREAS section 91 of the act of Congress approved April 30, 1900, entitled "An act to provide a government for the Territory of Hawaii" (31 Stat. 141-159), as amended by section 7 of the act approved May 27, 1910 (36 Stat. 443-447), authorizes the transfer to the Territory of Hawaii by direction of the President of the United States of the title to such public property ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July 7, 1898 (30 Stat. 750), and in the possession and use of said Territory for public purposes or required for any such purposes; and

WHEREAS certain lands of the United States within the area hereinafter described are required for certain public purposes;

NOW, THEREFORE, I, CALVIN COOLIDGE, President of the United States of America, by virtue of the power vested in me by section 7 of the act of Congress, approved May 27, 1910 (36 Stat. 443, 447), do hereby transfer to the Territory of Hawaii the title to all lands owned by the United States in the Territory of Hawaii lying within the area described as follows:

That certain area of land situate in Waikiki, District of Honolulu, Island of Oahu, Territory of Hawaii:

Beginning at a stake on the South side of Boulevard (which Boulevard is South of Ala Wai), on the high water mark, the coordinates of said point of beginning referred to Government Survey Trig. Station "Punchbowl" being 9083.7 feet South and 2848.9 feet East, as shown on Government Survey Registered Map No. 2799 (Sheets, 1, 2 and 3), and running along high water mark by true azimuths and distances as follows:

1. 315° 01' 39.75 feet to a stake;
2. 317° 46' 183.98 feet to a stake;
3. 351° 38' 41.43 feet to a stake;
4. 49° 40' 10.95 feet to a stake;
5. 319° 16' 24.15 feet along seawall to a stake;
6. 332° 06' 19.40 feet to a stake;
7. 317° 52' 88.44 feet to a stake;
8. 45° 56' 9.05 feet along seawall to a stake;
9. 318° 01' 15.65 feet along same to a stake;
10. 227° 35' 10.98 feet along same to a stake;
11. 319° 38' 130.85 feet along same to a stake;
12. 305° 57' 63.57 feet to a stake;
13. 317° 19' 128.05 feet to a stake;
14. 320° 56' 75.60 feet to a stake;
15. 325° 11' 153.05 feet to a stake;
16. 327° 55' 321.65 feet to a stake;
17. 321° 35' 67.35 feet to a stake;
18. 312° 39' 27.23 feet to a stake;
19. 294° 47' 22.20 feet to a stake;
20. 316° 40' 9.25 feet along seawall to a stake;
21. 325° 35' 13.45 feet across stream to a stake;
22. 60° 04' 46.12 feet along seawall to a stake;
23. 333° 27' 78.15 feet to a + on concrete;
24. 330° 44' 101.40 feet to a stake;
25. 340° 15' 208.40 feet to a stake;
26. 347° 28' 191.90 feet to a stake;
27. 0° 04' 41.75 feet to a stake;
28. 52° 21' 38.80 feet along seawall to a stake;

- 150. 337° 35' 100.7 feet along same;
- 151. 346° 42' 36.0 feet along same;
- 152. 76° 29' 245.6 feet along same;
- 153. 31° 42' 21.6 feet along same;
- 154. 347° 02' 352.3 feet along same;
- 155. 302° 47' 21.6 feet along same;
- 156. 257° 28' 252.1 feet along same;
- 157. 341° 30' 112.0 feet along same;
- 158. 344° 00' 150.7 feet along same;
- 159. 351° 31' 21.1 feet along same;
- 160. 350° 10' 79.2 feet along same;
- 161. 251° 40' 5.0 feet along same;
- 162. 353° 09' 27.8 feet along same;
- 163. 74° 46' 12.5 feet along same;
- 164. 7° 09' 40.3 feet along same;
- 165. 17° 25' 78.4 feet along same;
- 166. 351° 00' 208.5 feet along same;
- 167. 71° 40' 32.3 feet along same;
- 168. 354° 52' 197.9 feet along same;
- 169. 345° 50' 26.5 feet along same;
- 170. 337° 15' 87.2 feet along same;
- 171. 327° 10' 20.0 feet along same;
- 172. 322° 35' 16.4 feet along same;
- 173. 318° 05' 13.7 feet along same;
- 174. 312° 50' 14.4 feet along same;
- 175. 279° 25' 4.0 feet along same;
- 176. 311° 40' 14.6 feet along same;
- 177. 306° 15' 9.4 feet along same to an iron pin;
- 178. 70° 40' 1420.0 feet more or less to the line of breakers;
- 179. 174° 50' 3650.0 feet more or less along the line of breakers;
- 180. 131° 20' 1150.0 feet more or less along same;
- 181. 96° 00' 2450.0 feet more or less along same;
- 182. 131° 00' 4965.0 feet more or less along same;
- 183. 225° 00' 2900.0 feet more or less to the point of beginning.

AREA 496 ACRES, MORE OR LESS.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 27th day of October in the year of our Lord one thousand nine hundred and twenty-eight and of the Independence of the United States of America the one hundred and fifty-third.

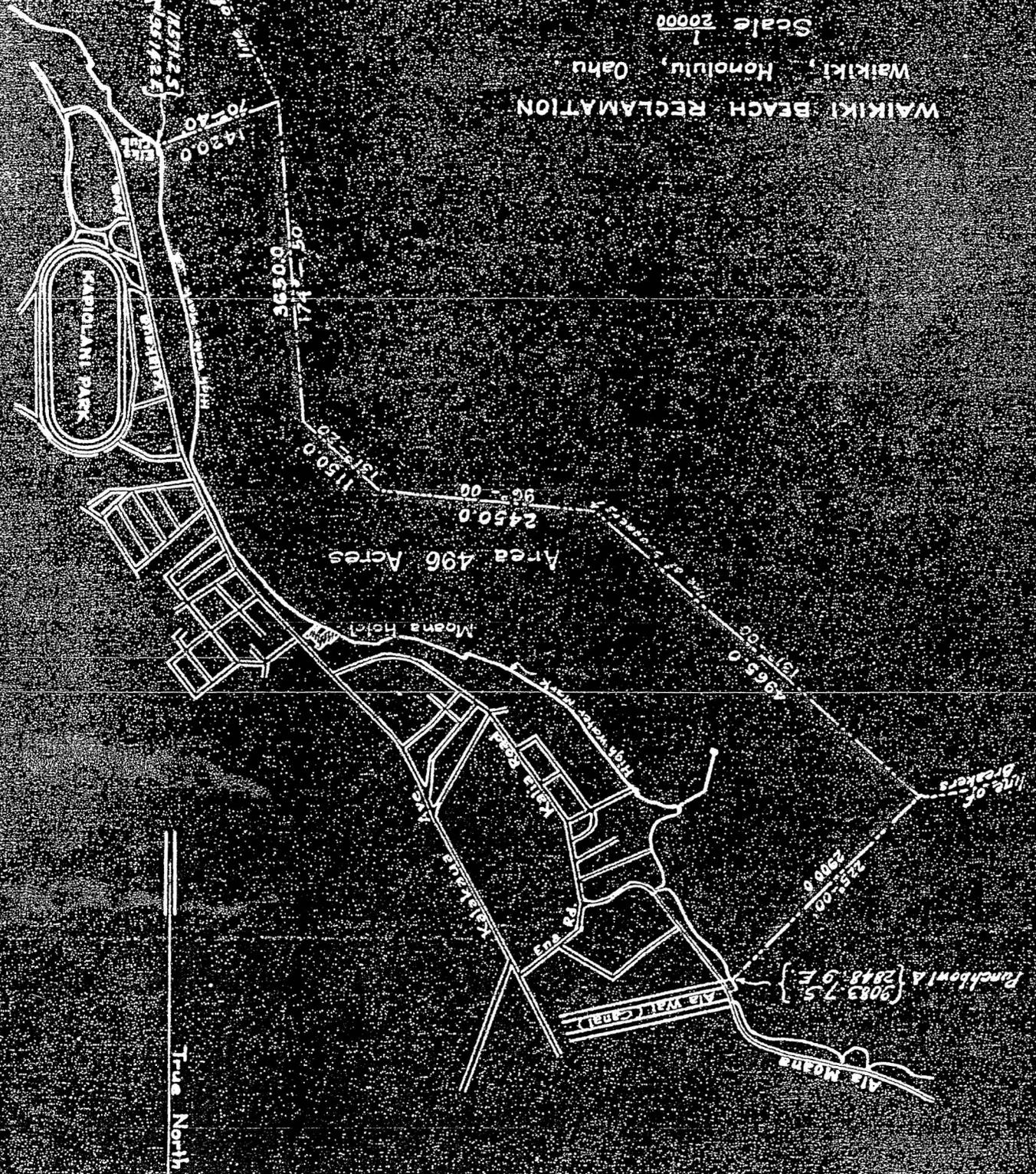
[SEAL]

CALVIN COOLIDGE

By the President:
 FRANK B. KELLOGG
Secretary of State.

[No. 1856]

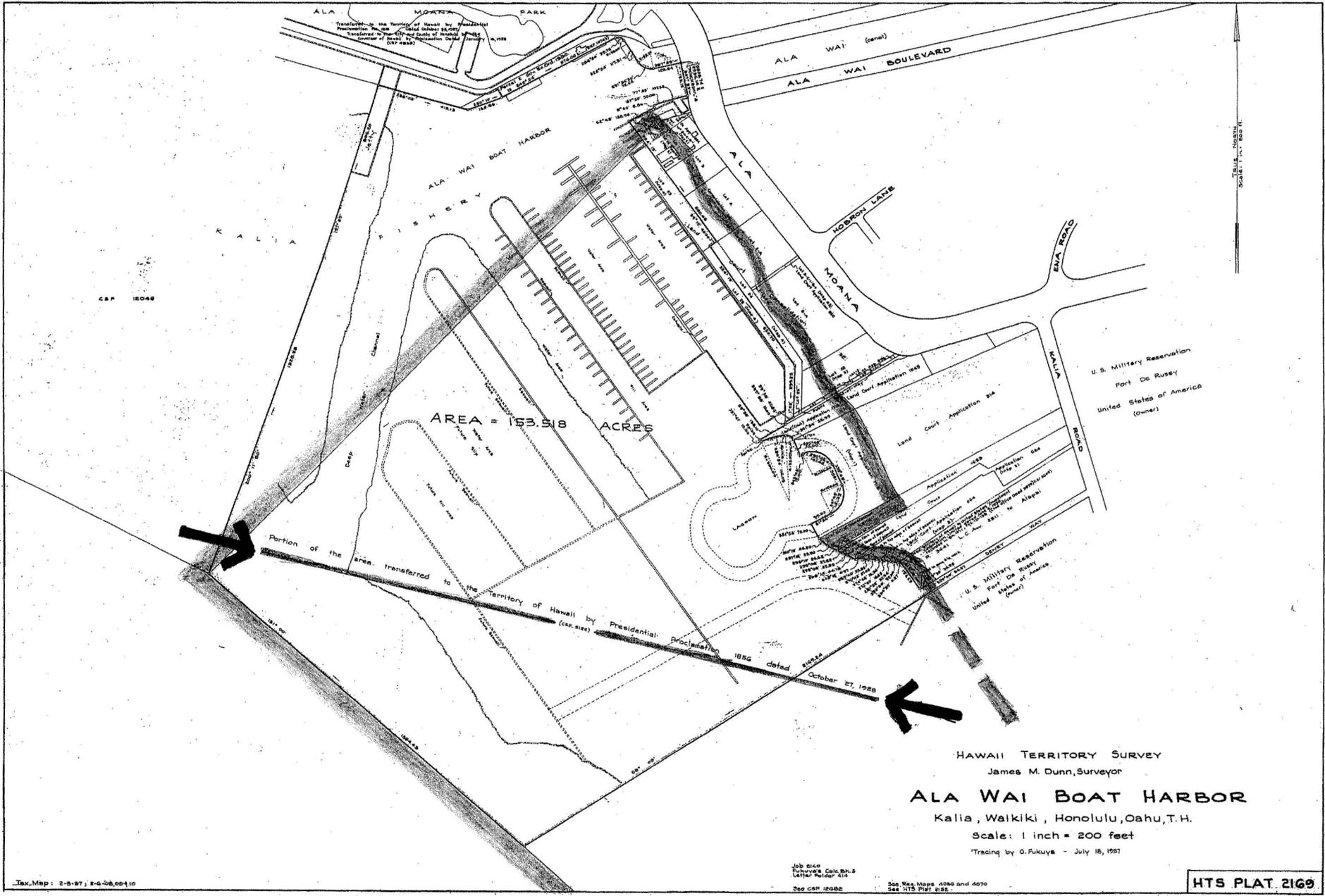
WAIKIKI BEACH RECLAMATION
Waikiki, Honolulu, Oahu
Scale 20000



True North

Area 496 Acres

(EXHIBIT B)



C.S.P. 18048

AREA = 153.518 ACRES

Portion of the area transferred to the Territory of Hawaii by Presidential Proclamation 1898 dated October 27, 1898

HAWAII TERRITORY SURVEY
 James M. Dunn, Surveyor
ALA WAI BOAT HARBOR
 Kalia, Waikiki, Honolulu, Oahu, T.H.
 Scale: 1 inch = 200 feet
 Tracing by O. Fukuya - July 18, 1987

...Tax Map - 2-3-87, 2-4-88, 00410

Job also
 Surveyor's Call No. 2
 Letter Patent 414
 See C.S.P. 18048

See Rec. Maps 4048 and 4070
 See HTS Plat 2169

HTS PLAT. 2169

(EXHIBIT C)

Public Law 199 - 84th Congress
Chapter 441 - 1st Session
H. R. 6331

AN ACT

All 69 Stat. 428.

Authorizing the Territory of Hawaii, through its duly designated officers and boards, to negotiate a compromise agreement, exchange with, sell or lease to the owners of certain shorelands, certain tidelands, both in the Territory of Hawaii, and to make covenants with such owners, in settlement of certain damage claims and for a conveyance of littoral rights.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Public Lands of the Territory of Hawaii, with the concurrence of the Board of Harbor Commissioners and the approval of two-thirds of the Board of Public Lands and of the Governor of the Territory of Hawaii, is hereby authorized and empowered, any provision of the Hawaiian Organic Act or any other law to the contrary notwithstanding, to enter into a compromise agreement with the owners of certain shorelands in the Territory of Hawaii covered by land court applications numbered 314, 1549, 1653, and 852 and 1092 (land court consolidation 32), and with any other owner or owners of lands abutting any part of the tidelands described in section 2 hereof, involving the conveyance by the Territory to said owners, or some of them, of all or any part of the tidelands described in section 2 of this Act, or to make a sale of all or any part of said lands described in section 2, to said owners, or some of them, or to exchange all or a part of said lands described in section 2, with said owners, or some of them, provided that said owners, who may have littoral rights appurtenant to said shorelands, affecting the tidelands described in section 2, convey to the Territory such littoral rights, agree to the construction of a public beach and groin along the seaward side of the lands described in section 2 of this Act, and release all claims for compensation, damages or otherwise which they have or might have against the Territory of Hawaii by reason of acts or omissions of the Territory, or for which the Territory is claimed to be responsible, done or omitted in connection with the development of the shoreline, yacht harbor and beaches in and adjoining said area. The Commissioner of Public Lands, with the concurrence of the Board of Harbor Commissioners, is hereby authorized and empowered, any provision of the Hawaiian Organic Act or any other law to the contrary notwithstanding, to lease for a period of fifty-five years all or any part of said lands described in section 2, to said owners, or some of them.

Hawaiian tide-lands.
Sale or exchange, etc., agreement.

31 Stat. 141.
48 USC 491.

← TERRITORY CAN CONSTRUCT BEACHES IN SECTION 2



Sec. 2. The tidelands authorized to be conveyed or leased by the Commissioner of Public Lands by this Act are described as follows: Land at Waikiki, Honolulu, Oahu, Territory of Hawaii: Being a portion of area transferred to the Territory of Hawaii by Presidential Proclamation Numbered 1856, dated October 27, 1928. Situated off Kalia, Waikiki, Honolulu, Oahu, Territory of Hawaii.

Beginning at an ↗ cut in face of seawall on the easterly boundary of this parcel of land, being also the west corner of land court application 1653, the coordinates of said point of beginning referred to Government survey triangulation station "PUNCHBOWL" being 10,981.46 feet south and 3,555.61 feet east and running by azimuths measured clockwise from true south:

Along face of seawall, along highwater mark of land court application 1653 for the next three courses, the direct azimuths and distances between points along said face of seawall being:

1. 310 degrees, 12 minutes, 46.20 feet to an ↗ cut in face of seawall;
2. 297 degrees, 18 minutes, 23.9ft to seawall cut
3. 296 degrees, 24.62' to a cut in seawall

(cut off)

(EXHIBIT D)

Executive Order No. 1795

Setting Aside Land for Public Purposes

1957
5-A-2-A
5-A-2-B-1
OF 5-A-1-352
LPT 1
10/2/57
LCA 1092

By this Executive Order, I, the undersigned, ^{with} Governor of the Territory of Hawaii, by virtue of the authority in me vested by paragraph q of Section 73 of the Hawaiian Organic Act, and every other authority me hereunto enabling, do hereby order that the public land hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR ALA WAI BOAT HARBOR, to be under the control and management of the Board of Harbor Commissioners.

ALA WAI BOAT HARBOR

Kalia, Waikiki, Honolulu, Oahu, T. H.

COMPRISED THE FOLLOWING:

1. Portion of the area transferred to the Territory of Hawaii by Presidential Proclamation 1836 dated October 27, 1926.
2. Portion of the unincorporated area and filled area of Kalia Fishery not covered by any Presidential Executive Order.
3. Lots ²³ 23 and ²⁵ 24 as shown on Map ⁴ 4 of Land Court Consolidation 22, covered by Grant's Certificate of Title 66816, issued to the Territory of Hawaii.

³² Beginning at the north corner of this parcel of land, the east corner of Parcel 2 of Governor's Executive Order 1330, and on the west side of Ala Moana, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNAHONA" being 5528.74 feet South and 2924.14 feet East, as shown on Government Survey Registered Map 1265, thence running by azimuths measured clockwise from True South-

1. 347° 59' 159.15 feet along the west side of Ala Moana;

EXHIBIT "E"

41. 131° 00' 1884.43 feet along the line of breakers as described in Presidential Proclamation 1856 dated October 27, 1928;
42. 200° 11' 50" 1528.28 feet;
43. 197° 29' 806.20 feet;
44. 285° 05' 418.13 feet along Ala Moana Park and along Parcel 2 of Governor's Executive Order 1330;
45. 250° 10' 165.86 feet along Parcel 2 of Governor's Executive Order 1330;
46. 242° 54' 576.00 feet along Parcel 2 of Governor's Executive Order 1330;
47. Thence along Parcel 2 of Governor's Executive Order 1330 on a curve to the right having a radius of 30.00 feet, the chord azimuth and distance being: 284° 24' 39.76 feet;
48. 325° 54' 117.31 feet along Parcel 2 of Governor's Executive Order 1330;
49. Thence along Parcel 2 of Governor's Executive Order 1330 on a curve to the left having a radius of 65.00 feet, the chord azimuth and distance being: 291° 56' 30" 72.62 feet;
50. 237° 59' 126.84 feet along Parcel 2 of Governor's Executive Order 1330 to the point of beginning and containing an AREA OF 153.518 ACRES.

In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the Territory of Hawaii to be affixed.
 Done at the Capitol at Honolulu this 13th day of August, Nineteen Hundred and 57.

Approved as to form:

Jerrard L. Fenner
 ACTING Governor of the Territory of Hawaii

Harold Y. C. Day
 ATTORNEY GENERAL

ETC:ma
 Checked by: ml

(EXHIBIT E)

(EXHIBIT F)

DOC# 196552

See commercials
Pg 5

INDENTURE AND DEED

Harbor restrictions

- THIS INDENTURE AND DEED made, executed and delivered this 20th day of December, 1956, by and between the TERRITORY OF HAWAII, whose place of business and post office address is Iolani Palace, Honolulu, City and County of Honolulu, Territory of Hawaii, hereinafter called "Territory", and ALA MOANA PROPERTIES, LIMITED, a Hawaii corporation, whose principal place of business is 1350 Ala Moana, said Honolulu, and whose post office address is Post Office Box 3468, said Honolulu, hereinafter called "Ala Moana",



W I T N E S S E T H:

WHEREAS, the parties hereto did enter into an "Agreement" dated April 30, 1956, whereby the parties hereto, under the provisions of Section 4535, Revised Laws of Hawaii, 1945, and other pertinent provisions of law thereunto enabling, did agree to an exchange of land, extinguishment of certain easements, establishment of new easements, and restriction of use of lands and yacht harbor; and

WHEREAS, the Board of Harbor Commissioners, at a meeting held April 26, 1956, has concurred in, and the Commissioner of Public Lands of the Territory of Hawaii, and the Attorney General of the Territory of Hawaii, and the Governor of the Territory of Hawaii, have approved the above-mentioned Agreement;

NOW, THEREFORE, for and in consideration of the covenants of Territory contained in said Agreement, and for

and in consideration of the conveyance of certain lands by Territory and the granting and extinguishment of certain easements by Territory, as hereinafter set forth, Ala Moana:

1. Does hereby give, grant, bargain, sell and convey unto the said Territory, its successors and assigns, that certain parcel of land situate on the Southwest side of Ala Moana, at Kalia, Waikiki, said Honolulu, generally known as Lot 23, area 40,944 square feet, as shown on Map No. 4 on file in the Office of the Assistant Registrar of the Land Court of the Territory of Hawaii with Land Court Consolidation No. 32 of Bishop Trust Company, Limited, Trustee for the Hobron Land Trust, said lot being a portion of the land described in Land Court Transfer Certificate of Title No. 66815 issued to Ala Moana.

TO HAVE AND TO HOLD the same, with the improvements thereon, and all rights, easements, privileges and appurtenances thereunto belonging or appertaining unto the said Territory, its successors and assigns, in fee simple forever.

2. Does hereby give, grant, bargain, sell and convey unto the Territory, its successors and assigns, that certain parcel of land situate on the Southwest side of Ala Moana, at Kalia, Waikiki, said Honolulu, generally known as Lot 25, area 30,109 square feet, as shown on Map No. 4 on file in the Office of the Assistant Registrar of the Land Court of the Territory of Hawaii with Land Court Consolidation No. 32 of Bishop Trust Company, Limited, Trustee for the Hobron Land Trust, said lot being a

Ala Moana practices
convey lot 23
to Territory.

consolidation 32

Ala Moana
conveys lot
25 of consolidation
to Territory

portion of the land described in Land Court Transfer Certificate of Title No. 6811 issued to Ala Moana.

TO HAVE AND TO HOLD the same, with the improvements thereon, and all rights, easements, privileges and appurtenances thereunto belonging or appertaining unto the said Territory, its successors and assigns, in fee, so long as said area be used for the purposes of public recreation and/or a roadway.

EXCEPTING and RESERVING, HOWEVER, to Ala Moana a non-exclusive easement of access into, out of, and along said lots.

AND, the Territory covenants that no buildings or structures (other than necessary and incidental to the construction and maintenance of a roadway thereon) shall be constructed or erected nor permitted to be constructed or erected on said Lot 25; and further, that if a roadway be constructed and maintained by the Territory on said Lot 25, that a mauka sidewalk area (not to exceed three and one-half feet in width including curbing) be provided, and that parking on said lot be limited to loading and unloading only; and that these covenants shall run with the land.

3. Does hereby remise, release and forever discharge the Territory, its successors and assigns, of and from any and all manner of action or actions, cause and causes of action, suits, controversies and trespasses, damages, claims and demands of whatsoever kind or nature, on account of any failure by the Territory to maintain a public beach on Lots 23, 24, 25, and 26, as shown on Map No. 4 on file in

lot 25
mauka

PARKING



loading + unloading
by 3 1/2
feet
to be provided
mauka. all
over land

release
of claims
for failure to
provide beach.

mauka sidewalk

the Office of the Assistant Registrar of the Land Court with Land Court Consolidation No. 32 of Bishop Trust Company, Limited, Trustee for the Hobron Land Trust.

4. Does hereby remise, release and forever discharge the Territory, its successors and assigns, of and from any and all manner of action or actions, cause and causes of action, suits, controversies and trespasses, damages, claims and demands of whatsoever kind or nature, in connection with any failure by the Territory to maintain a clear view of the ocean makai from the lots referred in the preceding paragraph and makai from Lots 4, 14, 15, and 19, as shown on Map 1 of said Land Court Consolidation No. 32, from Lots 2-A and 6-A as shown on Map No. 2 of said Land Court Consolidation No. 32, and from Lot No. 22 as shown on Map No. 3 of said Land Court Consolidation No. 32.

5. Does hereby remise, release and forever discharge the Territory, its successors and assigns, from any obligation to maintain in the future a clear view of the ocean makai from the lands described in the preceding paragraph; PROVIDED, HOWEVER, that the Territory shall use the 8-foot strip of land and retaining wall makai of Lots 23 and 25 referred to herein only for sea wall and sidewalk purposes, existing transformers, electric light standards, drainage outlets, and gear lockers, any such structures except electric light standards not to exceed four (4) feet in height above existing sidewalk, and said gear lockers not to occupy more than thirteen (13) lateral feet of each forty (40) lateral feet of the sea wall;

OCEAN VIEWS FROM LOT 25

missed
viewing
& items
from
a parking
lot
from Lots 23,
24, 25, 26
though
lot
have building
restrictions

OCEAN VIEW FROM LOT 25

8' strip of land
makai
of lots 23 &
25 convenient
to gear lockers

Sea wall
sidewalks
only

AND PROVIDED FURTHER, HOWEVER, that the Territory shall restrict its use of the marine area immediately makai of the said described 8-foot strip and in front of or makai of the property of Ala Moana to non-commercial seaworthy marine vessels in first-class condition, shall prohibit the persons on such craft from setting up residences or effectuating major repairs on vessels while in said area, and shall refrain from building, causing to be built, or permitting to be built, any structures within said marine area above the level of the existing sidewalk on the 8-foot strip described herein, except for catwalks and bitts, cleats, or other mooring devices thereon.

Non commercial
vessels in
first class
condition no
residential
building use

Restricting
shall restrict
strip of land
makai of
Ala Moana
respects to
non-commercial
vessels

6. Does hereby surrender, grant, convey, relinquish, release and quitclaim to Territory, its successors and assigns, any and all littoral rights appurtenant to Lots 24 and 26, as shown on Map No. 4 of said Land Court Consolidation No. 32, and Lot No. 19 as shown on Map No. 1 of said Land Court Consolidation No. 32.

release
littoral rights
to the Territory
819

TO HAVE AND TO HOLD the same, together with all rights and privileges belonging or appertaining thereto, unto the said Territory, its successors and assigns, forever.

7. Does hereby remise, release and forever discharge the Territory, its successors and assigns, of and from any and all manner of action or actions, cause and causes of action, suits, controversies and trespasses, damages, claims and demands of whatsoever kind or nature, and from any and all provisions and obligations of that certain Agreement known as the Waikiki Agreement entered into on October 19, 1928,

between the Territory and various property owners, including Ala Moana's predecessors in title and interest, said Agreement being recorded in the Bureau of Conveyances of the Territory of Hawaii in Book 1047, Pages 176-202. *Waikiki agreement*

8. Does hereby give, grant, bargain, sell, convey, release, relinquish and quitclaim unto the Territory, its successors and assigns, any and all reversionary or other interest it has or might claim, as successors to the title and interest of the Hobron Land Trust, in that certain parcel of land known and denoted as Lot No. 2, area 11,041 square feet, as shown on Map No. 1 on file in the Office of the Assistant Registrar of the Land Court of the Territory of Hawaii with Land Court Application No. 852, said lot being a portion of the land described in Land Court Transfer Certificate of Title No. 12,829 issued to the Territory.

*on the
side of Ala
Moana at
park station
in Ala Moana
Park*

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

AND, for and in consideration of the covenants of Ala Moana contained in said Agreement, and for and in consideration of the conveyance of certain lands by Ala Moana, as hereinbefore set forth, and the release of littoral rights and other claims by Ala Moana, as hereinbefore set forth, Territory:

(a) Does hereby give, grant, bargain, sell and convey unto the said Ala Moana, its successors and assigns, all of the following described property:

That certain parcel of land situate on the Southwest side of Ala Moana, at Kalia, Waikiki, said

*LITTORAL
S. side*

Honolulu, known as Lot No. 5-C-1-B-1, area 72⁴ square feet, as shown on Map No. 45 on file in the Office of the Assistant Registrar of the Land Court of the Territory of Hawaii with Land Court Application No. 852 of Bishop Trust Company, Limited, Trustee for the Hobron Land Trust, and being a portion of the land described in Land Court Transfer Certificate of Title No. 12829 issued to Territory.

EXCEPTING and RESERVING, HOWEVER, unto the Territory all littoral rights of whatever nature or kind which are or may be thereunto appertaining.

TO HAVE AND TO HOLD the same, with the improvements thereon, and all rights, easements, privileges and appurtenances thereunto belonging or appertaining unto the said Ala Moana, its successors and assigns, in fee simple forever.

(b) Does hereby surrender, release, cancel, extinguish, quitclaim, sell and convey unto the said Ala Moana, its successors and assigns, all of the following described property:

That certain perpetual easement in favor of the Territory for a public right of way over Lot No. 4, area 1,840 square feet, as shown on Map No. 1 on file in the Office of the Assistant Registrar of the Land Court of the Territory of Hawaii with Land Court Consolidation No. 32 of the Bishop Trust Company, Limited, Trustee for the Hobron Land Trust, and noted on Transfer Certificate of Title No. 63399.

*Lot 4
Hobron public
perpetual
easement given*

to state.

TO HAVE AND TO HOLD the same unto the said Ala Moana, its successors and assigns, forever.

(c) Does hereby grant and convey unto the said Ala Moana, its successors and assigns, a perpetual easement for the construction, use and maintenance for storm drain purposes only, over, across or under Lot 25, said lot being all of the land conveyed to the Territory pursuant to Paragraph (2) of this Indenture and Deed, and noted on Land Court Transfer Certificate of Title No. 66816 issued to the said Territory.

EASEMENT
FOR STORM DRAIN
ALLOWED UNDER
LOT 25

TO HAVE AND TO HOLD the same unto the said Ala Moana, its successors and assigns, forever.

(d) Does hereby grant and convey unto the said Ala Moana, its successors and assigns, a perpetual non-exclusive easement for pedestrian and vehicular traffic over and across Lot 23, said lot being all of the land conveyed to the Territory pursuant to Paragraph (1) of this Indenture and Deed, and noted on Land Court Transfer Certificate of Title No. 66816 issued to the said Territory.

*Ala Moana
Storm drain
under Lot 25
to be
made*

TO HAVE AND TO HOLD the same unto the said Ala Moana, its successors and assigns, so long as the said Ala Moana has no other reasonable alternative access to said Lot 25; PROVIDED, HOWEVER, that in the event and when such alternative access to the above-mentioned Lot 25 be available, this easement shall be terminated and extinguished, except that if and so long as any licensees of the Territory are afforded access over and across said Lot 23, similar access shall likewise be afforded Ala Moana.

*Ala Moana, Ltd.
to have
no other
reasonable
alternative
access to
Lot 25.
If alternative
access be
found, the
easement shall
be terminated
and extinguished.*

IN WITNESS WHEREOF, the TERRITORY OF HAWAII has caused these presents to be duly executed by those Territorial officials in whom the authority so to do is in them vested by law, and ALA MOANA PROPERTIES, LIMITED has caused these presents to be executed and its corporate seal to be hereunto affixed by its proper officers in that behalf duly authorized, on the day and year first above written.

TERRITORY OF HAWAII

By Samuel Wilder King
Governor, Territory of Hawaii

ALA MOANA PROPERTIES, LIMITED

By [Signature]
Its VICEPRES.

By [Signature] C. W. HUMME
Its VICE-PRES. and SECRETARY

COUNTERSIGNED:

[Signature]
Commissioner of Public Lands

[Signature]
Chairman, Board of Harbor
Commissioners

APPROVED AS TO FORM:

Richard K. Adayless
Attorney General, Territory of
Hawaii

LAND COURT TERRITORY OF HAWAII

LAND COURT CONSOLIDATION 32

CONSOLIDATION OF LOTS 1, 3, 5, 10, 20, AND 21
AS SHOWN ON MAP 1
AND RESUBDIVISION OF SAID CONSOLIDATION
INTO LOTS 23, 24, 25, AND 26

AT KALIA, WAIKIKI, HONOLULU, OAHU, T. H.

December 14, 1956
338 Dillingham Building
Honolulu, T. H.

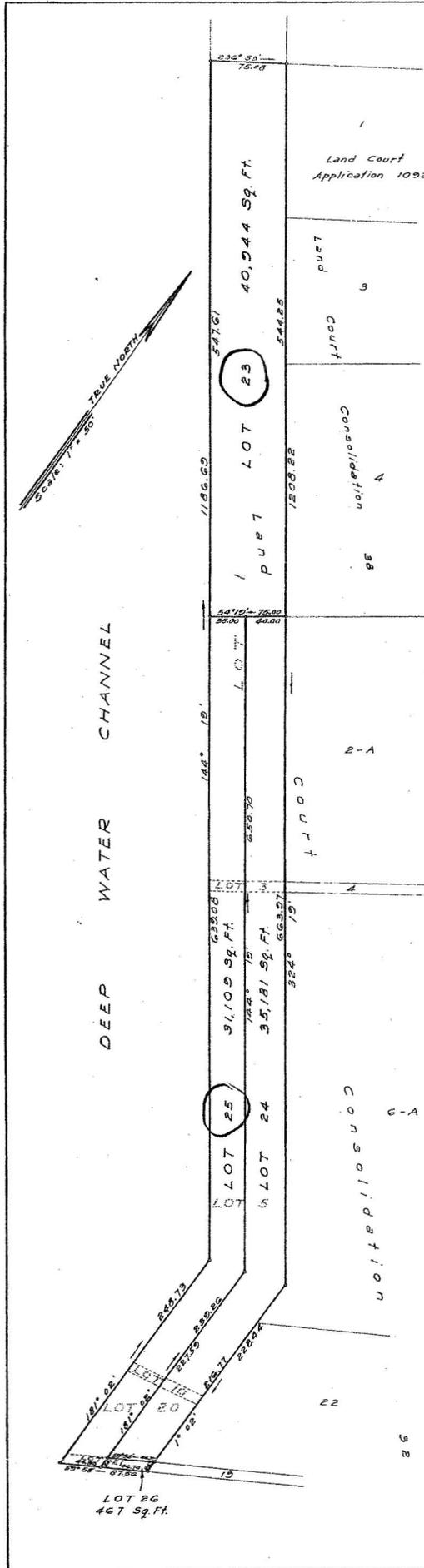


John Cline Mann
Registered Professional Surveyor
Certificate Number 514
Land Court Surveyor
Certificate Number 82

OWNER: ALA MOANA PROPERTIES, LIMITED

OWNER'S CERTIFICATE OF TITLE: 66815

AUTHORIZED AND APPROVED BY ORDER OF THE
JUDGE OF THE LAND COURT DATED: DECEMBER 20, 1956
BY ORDER OF THE COURT *[Signature]*
REGISTRAR OF THE LAND COURT



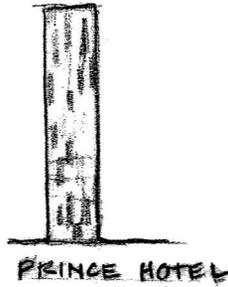
(EXHIBIT G)

ALA WAI BOAT HARBOR

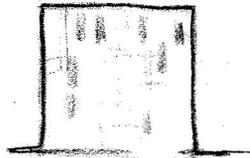
NON COMMERCIAL VESSELS

LOT 23

LOT 25



PRINCE HOTEL

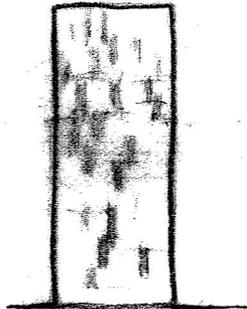


ILIKAI MARINA TOWER

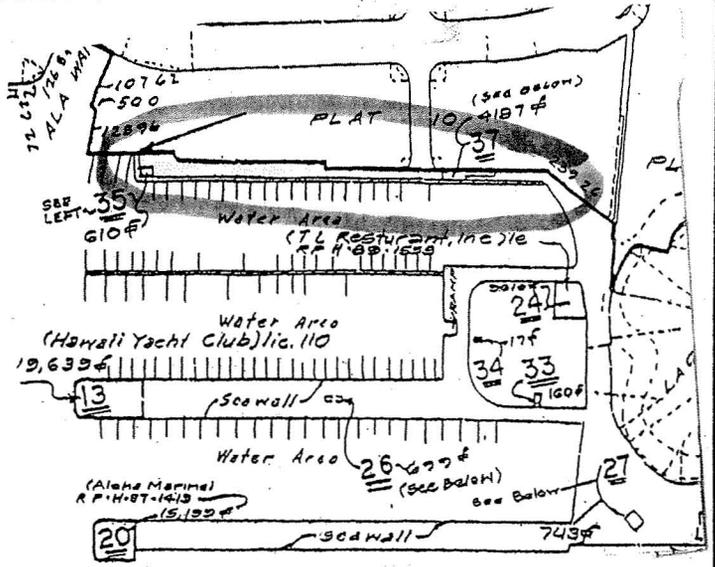
HOBRON LANE



YACHT HARBOR TOWER



ILIKAI



ALA WAI HARBOR MOOR RESTRICTION MAP

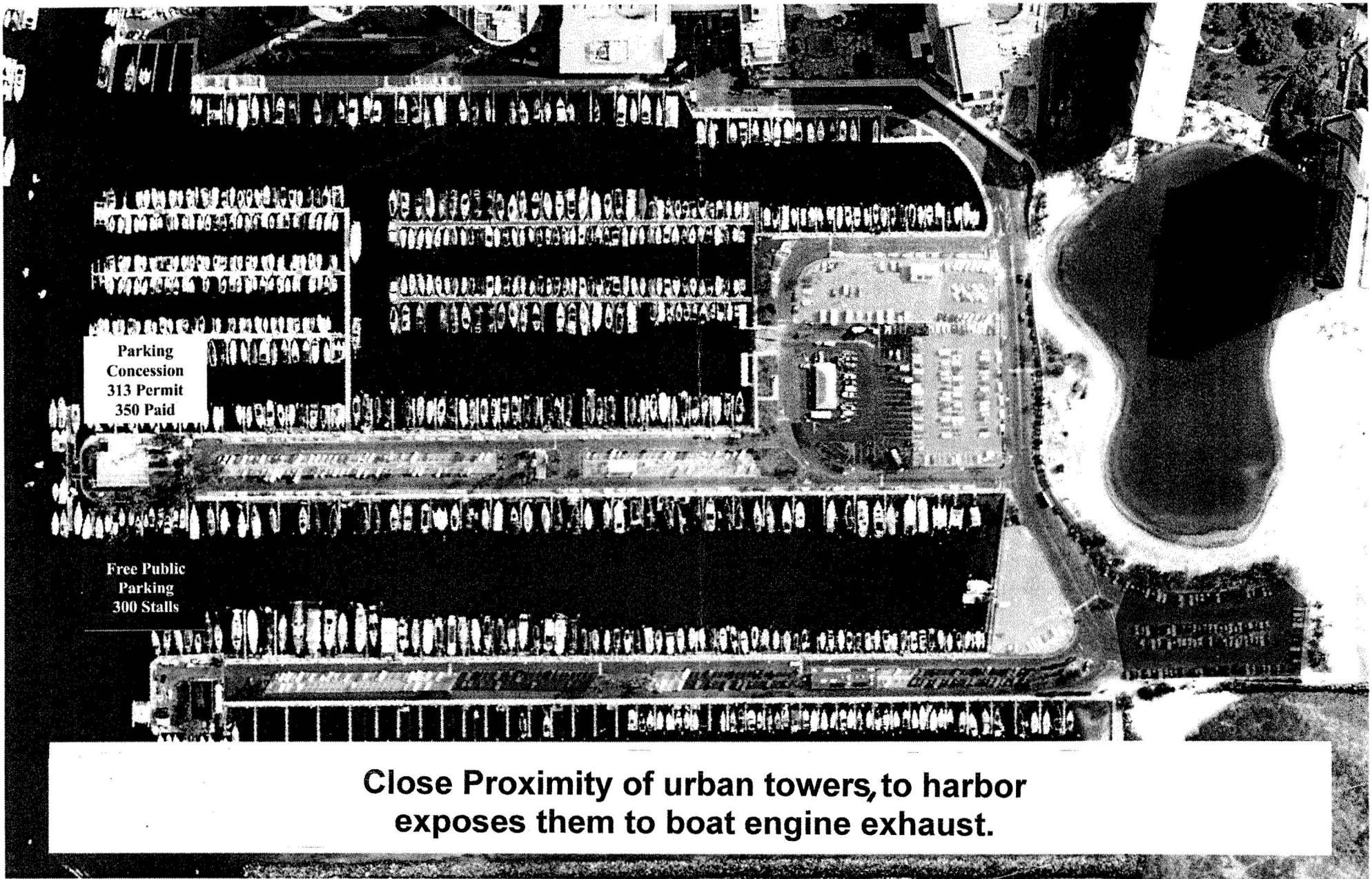
SHOWING AREA AND ADJACENT DWELLING TOWERS - NOT ALL INCLUSIVE

PER INDENTURE DEED DATED: 12-20-56, DOC # 196552, PAGE 5, PARAGRAPH 1

AS INTERPRETED BY: NANCY MUETING, 10-19-09 ILIKAI ASSOCIATION MEMBER

8'
 ≈ SCALE: 1/2" = 75'

(EXHIBIT H)



**Close Proximity of urban towers, to harbor
exposes them to boat engine exhaust.**

LATE TESTIMONY

In consideration of: **SB 1549 SD2 RELATING TO SMALL BOAT HARBORS**

**SB 1555 SD2 RELATING TO THE DEPARTMENT OF
LAND AND NATURAL RESOURCES**

Petition Testimony of: **VARIOUS INDIVIDUALS**

Petition submitter: **LAVONNE WEST, FORMER ILIKAI CONDOMINIUM
ASSOCIATION BOARD MEMBER**

Petition submitter contact: 946-4666

Testifiers' position: **OPPOSED**

Testifiers' will be present: **NOT ALL**

Before the House Committee: **WLO**

Date: March 18, 2011

State Capitol Conference Room: 325

Time: 8:30 a.m.

Copies provided: 4

Submittal date: _____

**OPPOSITION TO: 2011 LEGISLATIVE BILLS
PROPOSING ALA WAI HARBOR BUILDINGS
UNSPECIFIED AS TO HEIGHT AND ABOVE THE
CURRENT HUMAN SCALE; PURPORT PRIVATE/
PUBLIC USE LEASES, AND COMMERCIAL VESSELS.**

Sign name: Skidmore
Print: _____

Skidmore Natasha

Sign name: Vanessa Larsen
Print: _____

Vanessa Larsen

Sign name: John Larsen
Print: _____

John Larsen

Sign name: Wayne Leo
Print: _____

Wayne Leo

Sign name: Neva Leo
Print: _____

Neva Leo

Sign name: JOHN JESMER John Jesmer
Print: _____

Lisette Jesmer Lisette Jesmer.

Sign name: Robert W. Martian
Print: ROBERT W. MARTIAN

Sign name: Stephanie Orange
Print: Stephanie Orange

Sign name: Gordon Langley
Print: Gordon Langley

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Sign name: Linda Latsch
Print: LINDA LATSCH

Sign name: Roman Durini
Print: Roman Durini

Sign name: Zlatka Durini
Print: ZLATKA DURINI

Sign name: Jim McNeil
Print: Jim McNEIL

Sign name: Nancy Whitman
Print: NANCY WHITMAN

Sign name: Robert Whitman
Print: ROBERT WHITMAN

Sign name: Emily Roberson
Print: EMILY ROBERSON

Sign name: Keoni Sallas
Print: KEONI SALLAS

Sign name: Holly Whitman
Print: HOLLY WHITMAN

Sign name: Darren Lake
Print: DARREN LAKE

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Sign name: Shyue -yue Lee
Print:

Sign name: Shu-Yuan Lee
Print: Shu-Yuan Lee.

Sign name: [Signature]
Print: ED Motyka

Sign name: [Signature]
Print:

Sign name: [Signature]
Print: John Dabbs

Sign name: Lilly Sprenger LILLY SPRENGER
Print:

Sign name: Mary van der Meer Mary van Zoor
Print:

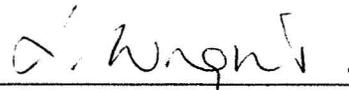
Sign name: Jacob van Zoor
Print:

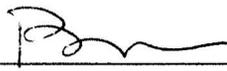
Sign name: Rachel Sikorski
Print: RACHEL SIKORSKI

Sign name: Bethlou Madry
Print: BETTYLOU MADRY

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Sign name: 
Print: MALALA MAMEA, JR.

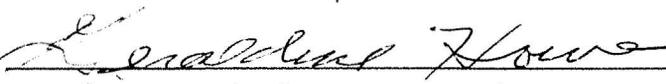
Sign name: 
Print: LESLEY WRIGHT

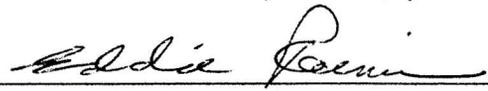
Sign name: 
Print: LIECHTY, BARBARA

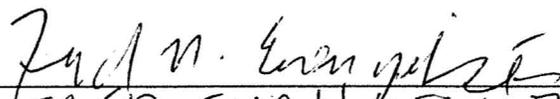
Sign name: 
Print: MARY J. WILSON

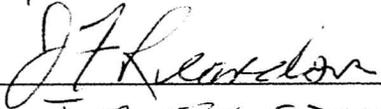
Sign name: 
Print: JOANNE CABANIET

Sign name: 
Print: JOHN PAPAPOUSSIS

Sign name: 
Print: GERALDINE HOWE

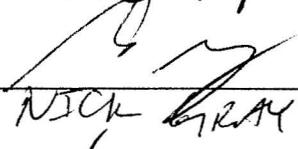
Sign name: 
Print: EDDIE RAMIRO

Sign name: 
Print: FRED EVANGELISTA

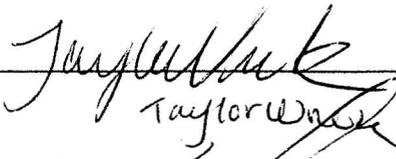
Sign name: 
Print: J. J. REARDON

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Sign name: 
Print: TOD RYAN

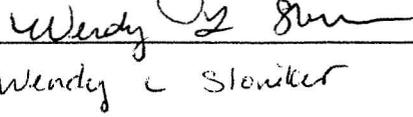
Sign name: 
Print: NICK GRAY

Sign name: 
Print: Brooklyn White

Sign name: 
Print: Taylor White

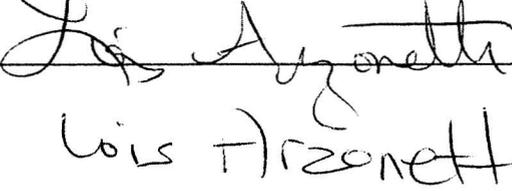
Sign name: 
Print: Anita White

Sign name: 
Print: DEBY WNOK

Sign name: 
Print: Wendy & Stenker

Sign name: 
Print: Matt Stenker

Sign name: 
Print: Bruce E Hamilton

Sign name: 
Print: Lois Arzonetti

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Sign name: Shirley A. Schroeder
Print: SHROEDER, SHIRLEY A.

Sign name: Fred Weddle
Print: FRED WEDDLE

Sign name: Vicki Spradlin
Print: Vicki Spradlin

Sign name: Terry Dawson
Print: Terry Dawson

Sign name: Col Whitman
Print: 1111 Bishop st #500 95813

Sign name: MARIA MOURELATOS
Print: [Signature]

Sign name: Morgan Patterson
Print: [Signature]

Sign name: Jane Mastro Jane Mastro
Print: [Signature]

Sign name: Henry Sadowky Henry Sadowky
Print: [Signature]

Sign name: Skismore Corp.
Print: Skismore

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Sign name: Alan Howison
Print: ALAN HOWISON

Sign name: Lynne Pettit
Print: LYNNE PETTIT

Sign name: Gail Pidgeon
Print: Gail Pidgeon

Sign name: TH
Print: THOMAS THRONSON

Sign name: Jenny Thronson
Print: Jenny Thronson

Sign name: Lavinia C. Wong
Print: Lavinia C. Wong

Sign name: Jade Aquino
Print: Jade Aquino

Sign name: DAVID HUNT
Print:

Sign name: Arthur Stonehill
Print: ARTHUR STONEHILL

Sign name: Kari Stonehill
Print: KARI STONEHILL

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Sign name: Anne B. King
Print: ANNE B. KING

Sign name: John G. King
Print: JOHN G. KING

Sign name: Robert L. Stehlik
Print: ROBERT L. STEHLIK

Sign name: Vianne Stehlik
Print: VIANNE STEHLIK

Sign name: Judith Childress - Judith A. Childress
Print: JUDITH CHILDRESS - JUDITH A. CHILDRESS

Sign name: Lawrence R. Pence
Print: LAWRENCE R. PENCE

Sign name: Alice Pence
Print: ALICE PENCE

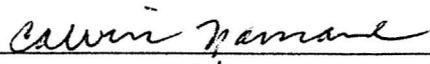
Sign name: Cam Giltinan
Print: CAM GILTINAN

Sign name: Angela Caruso
Print: ANGELA CARUSO

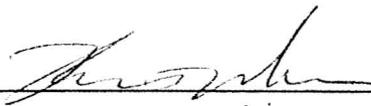
Sign name: Adrian Murray
Print: ADRIAN MURRAY

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Sign name: 
Print: Jemar Petron

Sign name: 
Print: Calvin Yamane

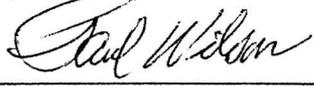
Sign name: R. Kong
Print: Robert Kong

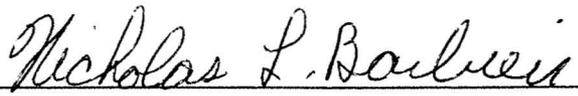
Sign name: 
Print: Robert Heubauer

Sign name: 
Print: CHADRON VANANT

Sign name: 
Print: Sharon Ho

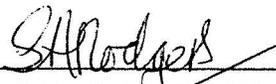
Sign name: WASHINGTON WILSON WILSON
Print: PAUL WILSON

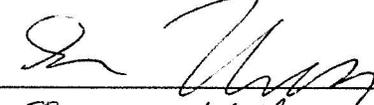
Sign name: 
Print: NICHOLAS L. BARBIERI

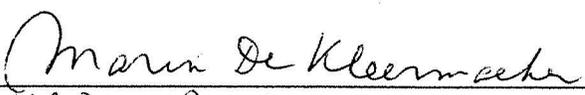
Sign name: 
Print: CARLTON RODGERS

Sign name: Carlton Rodgers
Print: Carlton Rodgers

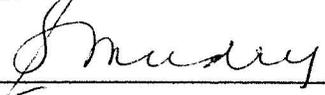
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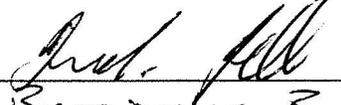
Sign name: 
Print: SA RODGERS

Sign name: 
Print: SEAN KEELKE

Sign name: 
Print: MARIA DEKLEERMAEKER

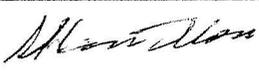
Sign name: 
Print: MARIJE DEKLEERMAEKER

Sign name: 
Print: SONIA MURRAY

Sign name: 
Print: BRANDON BELTOUT

Sign name: Darrell Archibald 
Print:

Sign name: 
Print: Leanne Abrey

Sign name: J HAMILTON
Print: 

Sign name: 
Print: Toby Ryan

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Sign name: Sandra L. Reardon
Print: SANDRA L. REARDON

Sign name: Juanita Cadiz
Print: JUANITA CADIZ

Sign name: SOPHIE KURZEA
Print: [Signature]

Sign name: Luke Doyle
Print: [Signature]

Sign name: SE Smith
Print: SE SMITH

Sign name: N.J. Smith
Print: N.J. SMITH

Sign name: James Green
Print: JAMES GREEN

Sign name: Lee Harris
Print: LEE HARRIS

Sign name: Jim Appenzeller
Print: JIM APPENZELLER

Sign name: [Signature]
Print: ROD M.

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PUBLIC USE LEASES, AND COMMERCIAL VESSELS.**

Sign name: Tammy Oruso
Print: TAMMY ORUSO

Sign name: Doreen Uehara
Print: DOREEN UEHARA

Sign name: Emily Wilks
Print: EMILY WILKS

Sign name: Laure Dillon
Print: LAURE DILLON

Sign name: Eileen Steinhilber
Print: EILEEN STEINHILBER

Sign name: James Steinhilber
Print: JIM STEINHILBER

Sign name: Antonio Aguiar
Print: ANTONIO AGUIAR

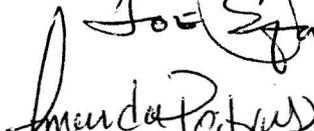
Sign name: Megan Hudson
Print: MEGAN HUDSON

Sign name: Greg J. Thiessen
Print: GREG J. THIESSEN

Sign name: Douglas Hudson
Print: DOUGLAS HUDSON

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CURRENT HUMAN SCALE; PURPORT PRIVATE/
PUBLIC USE LEASES, AND COMMERCIAL VESSELS.**

Sign name: 
Print: _____
Print: Joe Spawson

Sign name: 
Print: _____
Print: Amanda Poitras

Sign name: 
Print: _____
Print: Chynna Spencer

Sign name: 
Print: _____
Print: NATHANIEL FISHER

Sign name: _____
Print: _____

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PUBLIC USE LEASES, AND COMMERCIAL VESSELS.**

Sign name: _____
Print: _____

Sign name: _____
Print: _____