

From: [Katherine A. Garson](#)
To: [Planning Internet Mail](#)
Cc: [Jarrett, William](#); [Campbell, Jean K](#); [Jackson, Maija](#); [Harbaugh, Derek](#); [Dacayanan, Melissa](#); [Steen, Raimee](#); [Timothy Irons](#); [Courtney Vega](#); [Derek B. Simon](#); [Lynn A.H. Gibbs](#); [Jason K. Knable](#)
Subject: Opposition to Petition for a Standing in a Contested Case Hearing | Courtney Vega & Timothy Irons (PL-CCH-2026-000030)
Date: Wednesday, April 22, 2026 2:58:09 PM
Attachments: [2026-04-22 Letter to LPC re Opposition to Villages Request for Intervention.pdf](#)

All,

Attached please find the Applicant's Opposition to the Villages at Mauna Lani Association of Apartment Owners Petition for Standing in a Contested Case Hearing; Applicant: DHL Mahi Site M, LLC and DHL Mahi PropCo, LLC (PL-SMA-2026-000087/Amend SMA 07-019).

As the Petition is scheduled to be heard at the April 23, 2026 Leeward Planning Commission meeting (Item 2 on the Agenda), we request that you disseminate this response to the Commissioners as soon as possible.

If you have any questions, please feel free to contact me.

Thank you,

Kathy

KATHERINE A. GARSON
Partner | Carlsmith Ball LLP

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CARLSMITH BALL LLP

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April 22, 2026

VIA E-MAIL (PLANNING@HAWAIICOUNTY.GOV)

Dean Au, Chairperson
Leeward Planning Commission
County of Hawai'i
Aupuni Center
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

Re: Opposition to Villages at Mauna Lani Association of Apartment Owners Petition
for Standing in a Contested Case Hearing
Applicant: DHL Mahi Site M, LLC and DHL Mahi PropCo, LLC (PL-SMA-
2026-000087/Amend SMA 07-019)

Dear Chair Au and Members of the Leeward Planning Commission:

This firm represents applicants DHL Mahi Site M, LLC and DHL Mahi PropCo, LLC (together, "**DHL**") in connection with the above-referenced application ("**Application**") to amend Special Management Area Permit 07-019 ("**SMA 07-019**"). DHL opposes the Petition for Standing in a Contested Case Hearing ("**Petition**") filed by the Villages at Mauna Lani Association of Apartment Owners ("**Villages**") on April 14, 2026.

I. Introduction

Villages is no stranger to the project approved under SMA 07-019. As pointed out in its Petition, Villages was previously admitted as a party-intervenor in the proceedings before the Commission that resulted in the issuance of SMA 07-019. Following Villages' intervention, DHL's predecessors-in-interest ("**Original Developers**")¹ and Villages entered into a Settlement, Mutual Release and Indemnity Agreement dated June 21, 2008 ("**Settlement Agreement**"), a copy of which is attached hereto as **Exhibit A**. After the parties executed the Settlement Agreement, Villages withdrew its request to intervene and request for a contested case, and the Commission thereafter approved SMA 07-019 with conditions consistent with the Settlement Agreement.

¹ The Original Developers were Stanford Carr Development LLC and Site M Associates, LLC.

The Settlement Agreement embodies a bona fide, arms-length compromise between the parties, in which Villages fully and completely released any then-existing and any **future** claims Villages had or may later have in connection with the Project in exchange for significant concessions from the Original Developers, which now bind DHL. These concessions include the imposition of Condition 3 under SMA 07-019, which limits the overall density of the project to no more than 691 residential units and 284 hotel units (consisting of a maximum of 516 keys). The Original Developers also agreed to a prohibition on the development or sale of timeshares within the project, traffic improvements on North Kaniku Drive at the entrance to the Villages at Mauna Lanī, a shuttle to transport hotel guests to and from the beaches within the Mauna Lanī Resort area, and the construction of a temporary construction road that would later serve as an alternative emergency exit route.

Having apparently grown unsatisfied with the agreement it struck years ago, Villages now seeks to intervene in the Commission's proceedings in clear violation of the Settlement Agreement. Amazingly, Villages argues that it has standing to intervene because it "has a direct and particularized interest in ensuring that any amendment to SMA Permit No. 07-019 is consistent with, and does not undermine, the protections negotiated in the Settlement Agreement," without any recognition that the Settlement Agreement itself prohibits Villages from doing so. Simply put, Villages is attempting to have its cake and eat it too, by relying on restrictions on the development of the project in the Settlement Agreement as a basis to intervene without itself honoring its own obligations. Villages should not be permitted to use the Settlement Agreement as both a sword and a shield, and its Petition should be denied.²

II. The Settlement Agreement

Pursuant to the Settlement Agreement, the Original Developers agreed to significant concessions, commitments, and restrictions on the project in favor of Villages. These include:

- (a) A prohibition on the development or sale of timeshares within the project (§4);
- (b) The Original Developers' agreement to propose to the Commission the imposition of a condition limiting the density of the project "to not exceed 691 residential units and 284 hotel units (consisting of 516 keys), and uses accessory thereto, which the Commission imposed as Condition No. 3 to SMA 07-019 (§5);
- (c) The Original Developers' agreement to not develop more than 353 single- or multiple-family residential units on the "Resort Parcel" if the Original Developers elected not to develop hotel units on the parcel (§6);

² On April 21, 2026, DHL sent Villages written notice that it was in material breach of the Settlement Agreement and demanded that it immediately withdraw its Petition. As of the date of this letter, Villages has refused to do so.

- (d) To mitigate impacts resulting from traffic, the construction of a left turn pocket from North Kaniku Drive into the Villages at Mauna Lani at the Original Developers cost and expense (§7);
- (e) Because of the limited parking available, at the beaches the provision of a shuttle to transport hotel guests to and from the beaches within the Mauna Lani Resort area to mitigate potential impacts to traffic and parking (§8);
- (f) To mitigate impacts from construction traffic, the construction of a construction access road along the general alignment of Ho‘ohana Street (§9); and
- (g) The use of commercially reasonable efforts to enable use of the construction access road as an alternate emergency road for the Mauna Lani Resort and the neighboring Puako community, which the Commission imposed as Condition No. 6 to SMA 07-019 (§10).

See Exhibit A, §§4-10.

In exchange for these significant concessions, commitments, and restrictions, the Original Developers and Villages agreed to “fully release and discharge each other absolutely and forever from and against any and all Covered Claims.” Exhibit A, §15. “Covered Claims” are defined broadly – and prospectively – in the Settlement Agreement as:

any and all claims, cause of action, demands, suits at law or in equity, liabilities, losses, decrees, judgments, awards, liens, bonds, costs, expenses, fees or damages, known or unknown, suspected or unsuspected, of every kind and nature whatsoever, including claims with any professional boards or government agencies, boards and commissions which now exists, or may heretofore have existed, or may hereafter exist, in any manner designated, relating in any way to: (1) the Project; (2) the SMA Application; (3) any issues with respect to the Project’s compliance with HRS Chapter 343, including without limitation actions in Civil No: 08-1-095K (4) proceedings in State Land Use Commission Docket No. A84-583 and (5) any other matters whatsoever between the Villages and SCD relating to the Project as of the date of this Settlement Agreement.

Id., §3 (emphases added). The Settlement Agreement further provides that it:

shall be a complete and final bar to any and all claims, actions, causes of action, claims for relief, liabilities, costs, expenses, fees, demands, injuries, losses, and damages of whatsoever name or nature, known or unknown, asserted or unasserted against the other Settling Party, in any manner arising out of, connected with or in any manner involved in, concerning or relating to the Covered Claims set forth in this Settlement Agreement; and as set forth herein this Settlement Agreement forever and finally compromises, settles and

terminates any and all claims, actions, causes of action, claims for relief, liabilities, costs, expenses, fees, demands, injuries and damages related to such Covered Claims.

Id., ¶20.

Pursuant to these provisions, the “Covered Claims” released by, and barred under, the Settlement Agreement include any then-existing and any **future** claims Villages had or may have in connection with the Project, including any such claims before government agencies, boards, or Commissions. The “Covered Claims” also specifically include any claims or issues related to the project’s compliance with Haw. Rev. Stat. (“**HRS**”) ch. 343. Exhibit A, ¶3.

Paragraph 25 of the Settlement Agreement, entitled “Binding Effect on Others,” provides that the “Settlement Agreement, and all terms, provisions and covenants contained herein, are binding on and shall inure to the benefit of the parties hereto, their heirs, executor, personal representative, successors and assigns.” Exhibit A, ¶25. The Settlement Agreement is therefore clear that it remains binding on Villages regardless of any changes in ownership or the composition of its governing board and officers. The Settlement Agreement is likewise clear that DHL continues to enjoy the benefits of the broad releases obtained by the Original Developers.

III. Relevant Commission Rules

Under Rule 4-6(b) of the County of Hawai‘i Planning Commission Rules of Practice and Procedure (“**Commission Rules**”), a petitioner can be admitted as an intervenor only if the petitioner establishes that:

- (1) His or her interest is clearly distinguishable from that of the general public; or
- (2) Government agencies whose jurisdiction includes the land involved in the subject request; or
- (3) That they have some property interest in the land or lawfully reside on the land; or
- (4) That even though they do not have an interest different than the public generally, that the proposed action will cause them actual or threatened injury in fact; or
- (5) Persons who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, who practice those rights which are customarily and traditionally exercised for subsistence, cultural or religious purposes.

Commission Rule 4-6(b).

IV. Discussion

DHL acknowledges that Villages may ordinarily have standing to intervene on DHL's Application given its location within the Mauna Lani Resort area and proximity to the project site, and that Villages was allowed to intervene in the prior proceedings before the Commission that resulted in the issuance of SMA 07-019. However, the Settlement Agreement is clear that Villages settled and released **all** of its claims and concerns related in any way to the project, and that Villages received significant consideration for doing so in the form of concessions, commitments, and restrictions, some of which were incorporated into SMA 07-019 and all of which continue to bind DHL today as successors-in-interest to the Original Developers. Villages' waiver and release of its right to assert any claims in opposition to the project is fatal to its Petition.

"In order to establish standing to intervene in an administrative proceeding, plaintiffs must demonstrate an 'injury-in-fact,' which requires them to 'have suffered an actual or threatened injury; the injury must be fairly traceable to the defendant's actions; and a favorable decision would likely provide relief for the plaintiff's injury.'" *Protect & Pres. Kahoma Ahupua'a Ass'n v. Maui Plan. Comm'n*, 148 Hawai'i 275, 472 P.3d 42 (Ct. App. 2020) ("**PKAA**"), *aff'd*, 149 Hawai'i 304, 489 P.3d 408 (2021). "The injury prong of the standing inquiry requires an assertion of a **judicially-cognizable injury**, that is, a **harm to some legally-protected interest**." *Id.* (citation omitted; emphasis added).

Villages cannot establish the requisite injury-in-fact because all of the concerns raised in its Petition related to an actual or threatened injury from the project – including its purported concerns over traffic, environmental and ecological impacts, and emergency preparedness and public safety – were settled and released under the Settlement Agreement. *See* Petition at 3. For example, Villages raises concerns over traffic impacts, including to North Kaniku Drive, and the sufficiency of the mitigation measures, but these alleged impacts and the mitigation measures are specifically addressed in the Settlement Agreement and SMA 07-019, and no amendment proposed in the Application would affect the mitigation measures. *See* Exhibit A, ¶7 (requiring left turn pocket-lane on North Kaniku Drive at the entrance to the Villages at Mauna Lani). Because Villages settled and released any claims related to the alleged injuries raised in its Petition, Villages cannot demonstrate either the "a judicially-cognizable injury" or "harm to some legally-protected interest" required to establish standing to intervene. *See PKAA*, 148 Hawai'i at 275, 472 P.3d at 42.

If Villages actually had legitimate concerns over whether the amendments to SMA 07-019 proposed in DHL's Application are consistent with the Settlement Agreement, it could have engaged in good-faith discussions with DHL, including when its representative, Pat Fitzgerald, met on more than one occasion with members of Villages and its Board to discuss the amendments. Villages decision to file the Petition instead of engaging with DHL and honoring its obligations under the Settlement Agreement speaks volumes.

V. Conclusion

Villages' Petition is a transparent, bad faith attempt to re-trade on the deal it struck with the Original Developers to fully and completely resolve all of its concerns and objections related to the project. Because Villages settled and released all of the issues and concerns raised in its Petition, it cannot establish either that the Commission's potential approval of the Application will cause it an actual or threatened injury. Nor can Villages utilize the Settlement Agreement to distinguish itself from the general public, or show that because of the Settlement Agreement it has a property interest in the land. *See* Commission Rule 4-6(b)(1), (3), & (4). Its Petition should therefore be denied.

Sincerely,

CARLSMITH BALL LLP

A handwritten signature in black ink, appearing to read 'Katherine A. Garson', with a long horizontal flourish extending to the right.

Katherine A. Garson
Partner

Enclosure

cc: William Jarrett, Deputy Corporation Counsel
Jean Campbell, Deputy Corporation Counsel
Timothy Irons and Courtney Vega, Dentons US LLP

SETTLEMENT, MUTUAL RELEASE AND INDEMNITY AGREEMENT

THIS SETTLEMENT, MUTUAL RELEASE AND INDEMNITY AGREEMENT ("**Settlement Agreement**") is made this 21st day of June, 2008, by STANFORD CARR DEVELOPMENT LLC and SITE M ASSOCIATES, LLC (collectively "**SCD**") on the one hand, and VILLAGES AT MAUNA LANI ASSOCIATION OF APARTMENT OWNERS ("**Villages**") (collectively "**Settling Parties**").

RECITALS:

WHEREAS, SCD is the owner and developer of the Project proposed by SCD in the Special Management Area Use Permit Application filed in SMA 07-000019 ("**SMA Application**") regarding the SITE M project located at TMK (3) 6-8-001:054 and (3) 6-8-022:010 (the "**Subject Property**");

WHEREAS, under the SMA Application, SCD proposes to develop a total of 975 residential and hotel units, to be comprised of 691 residential units, 284 hotel units (consisting of a total of 516 keys), and 3 golf holes and related support facilities at the Subject Property (the "**Project**");

WHEREAS, Villages is the owners' association responsible for the management of the common areas of the project known as Villages at Mauna Lani, located across North Kaniku Drive from the Project;

WHEREAS, Villages has been admitted a party Intervenor in the SMA Application proceedings;

WHEREAS, certain claims have been made by the Settling Parties in that certain SMA Application; and

WHEREAS, the Settling Parties now desire, upon the terms set forth herein, to release, settle and dismiss with prejudice any and all claims relating to the Project and the SMA Application.

AGREEMENT

In consideration for the mutual promises and covenants set forth below, the Settling Parties, intending to be legally bound, hereby mutually agree, jointly and severally as follows:

1. Villages. "**Villages**" shall mean and include the VILLAGES AT MAUNA LANI ASSOCIATION OF APARTMENT OWNERS, their officers, directors, agents, employees, insurers, indemnitors, partners, predecessors, successors, assigns, affiliated entities, bonafide purchasers, heirs, executors, legal representatives and joint venturers, contractors, consultants, architects, engineers, and all other persons, entities, and corporations in any way associated with them and their heirs, personal representatives, successors, and/or assigns. The Villages will also take all steps required under its applicable Declaration, CCRs, Rules, and Regulations, or otherwise to acquire the approval or ratification of this Settlement Agreement with any other homeowners and residents within the Mauna Lani Resort who may have claims but have not yet asserted any such claims.

2. SCD. "**SCD**" shall mean STANFORD CARR DEVELOPMENT LLC and all of its respective officers, directors, principals, agents, employees, insurers, shareholders, indemnitors, partners, subcontractors at any tier, suppliers at any tier, materialmen at any tier, attorneys, sureties, predecessors, successors, assigns, affiliated entities, legal representatives, trustees in dissolution and joint venturers and all other persons, entities, and corporations in any way associated with it.

3. Covered Claims. "**Covered Claims**" means any and all claims, cause of action, demands, suits at law or in equity, liabilities, losses, decrees, judgments, awards, liens, bonds, costs, expenses, fees or damages, known or unknown, suspected or unsuspected, of every kind and nature whatsoever, including claims with any professional boards or government agencies, boards and commissions which now exists, or may heretofore have existed, or may hereafter exist, in any manner designated, relating in any way to: (1) the Project; (2) the SMA Application; (3) any issues with respect to the Project's compliance with HRS Chapter 343, including without limitation actions in Civil No: 08-1-095K (4) proceedings in State Land Use

Commission Docket No. A84-583 and (5) any other matters whatsoever between the Villages and SCD relating to the Project as of the date of this Settlement Agreement.

4. No Time Shares. Prior to the commencement of sales of any residential or hotel unit at the Project, SCD agrees to record in the Bureau of Conveyances of the State of Hawaii a Memorandum or other agreement acceptable to the Settling Parties, that will run with the land and be an encumbrance upon the Subject Property, prohibiting the development or sale of any "time share unit," as defined by section 25-1-5 of the Hawai'i County Zoning Code, and as regulated under the provisions of Chapter 514E, Hawai'i Revised Statutes, as amended, at the Project; provided, however, that if the Mauna Lani Resort Declaration of Covenants and Restrictions, and related governance documents applicable to the Mauna Lani Resort are amended to allow time share units on the Subject Property, SCD shall be permitted to develop time share units and said Memorandum or other agreement, as applicable, shall be released as an encumbrance on the Subject Property.

5. SMA Permit Condition of Approval. Should the Planning Commission take action on the SMA Application, SCD agrees to propose to the Planning Commission that the following be included as a condition of approval of the SMA Permit:

The applicant shall develop the Property to a density not to exceed 691 residential units and 284 hotel units (consisting of a maximum of 516 keys), and uses accessory thereto.

6. Alternative Development Proposal. Should SCD elect not to develop the approximately 32.519 acre portion of the Subject Property currently zoned Resort-Hotel District V-1.25 (the "Resort Parcel"), with 284 hotel units (consisting of 516 keys), as set forth in the SMA Application, SCD agrees that it shall develop no more than 353 single-family or multiple-family residential units on the Resort Parcel.

7. Left Turn Pocket Lanes.

a. North Kaniku Drive. To mitigate impacts resulting from increased traffic resulting from the development of Site M, and subject to the approval of the Mauna Lani Resort Association ("MLRA"), prior to the issuance of a certificate of occupancy

for the first residential or hotel unit at the Project, SCD agrees to make and pay for improvements to North Kaniku Drive and the main entrance to the Villages at Mauna Lani, to provide a north-bound left turn pocket from North Kaniku Drive into the main entrance to the Villages at Mauna Lani.

8. Requirement for Hotel Shuttle Service to the Beaches. Because of the limited parking available at the three beaches on the Mauna Lani Resort, the Beach Club, Honok'ope Bay at Black Sands Beach, and Pauoa Bay, and to mitigate impacts resulting from increased traffic to and from these beaches resulting from the development of a resort-hotel at Site M, prior to the issuance of a certificate of occupancy for any portion of the hotel at the Project, SCD agrees to provide a shuttle service from the resort-hotel to these beaches, which may also be used by residents of the residential parcels developed at Site M. This condition shall not be imposed if the resort-hotel parcel or parcels are built out as multiple or single family residential units.

9. SITE M Project Construction Access Road. To mitigate impacts from construction traffic in development of the Project, SCD agrees to develop and use a construction access route located along the general alignment of the existing Ho'ohana Street and utility easement across lands owned by Mauna Lani Service, Inc., and/or Tokyu Corporation in the approximate location depicted in **Exhibit "A"** attached hereto and incorporated herein by reference ("**Construction Access Road**"), provided however, that this obligation shall be binding on SCD only if the Construction Access Road and its intersection with Queen Kaahumanu Highway are approved by Mauna Lani Service, Inc., and/or Tokyu Corporation, MLRA, and the State Department of Transportation - Highways Division.

10. Alternate Emergency Evacuation Route. To the extent allowed by the applicable governmental agencies and Mauna Lani Service, Inc., SCD shall take commercially reasonable steps to enable the Construction Access Road to also serve as an alternate emergency evacuation route for the Mauna Lani Resort and the Puako community, provided however, that SCD shall not be responsible for maintenance and/or control of the alternate emergency evacuation route, and SCD makes no representations and/or warranties on safety or fitness for

any particular purpose to any person or party, including without limitation the use of the Construction Access Road for these purposes.

11. Contingency for Planning Commission Approval and Appeal.

a. Approval. The Settling Parties understand and agree that their respective rights and obligations provided under this Settlement Agreement are contingent upon issuance of a SMA Permit for the Project, and that no appeal or other proceeding is filed by any person or entity with any administrative agency, board or commission, or any State or Federal Court on the zoning of the Subject Property, the approval of the SMA Application and/or the Project or the issuance of the SMA Permit ("**Appeal**").

b. Appeal. In the event of an Appeal, this Settlement Agreement shall become binding upon the Settling Parties upon the last to occur of the following: (i) issuance of a final judgment affirming the SMA Permit; or (ii) upon remand by the Court, the Planning Commission's approval of a revised SMA Permit; provided, however, that the Settling Parties shall be obligated under the Settlement Agreement only if SCD takes steps to develop the Project pursuant to the SMA Permit.

12. Requirement for Future Notice. SCD, its successors and assigns, shall provide written notice to Villages, whether required by law or not, of all applications for discretionary permits or land use entitlements of whatever nature, directly affecting the development of ten (10) or more new residential units or hotel units at the Project, whether before the State Land Use Commission or the County of Hawai'i, including, but not limited to, requests for a zone change, non-significant zone change, modifications to the County of Hawaii General Plan designation of the Subject Property, or any subdivision of the Subject Property, and for any modification to any current or subsequently approved discretionary permit or land use entitlement, including, but not limited to, modifications under the State Land Use Commission Docket No. A84-583, effective March 3, 1986, and the SMA Application.

13. Mauna Lani Resort Community Design Committee. Villages agrees to support all SCD applications for development of the Project filed with the CDC which are

consistent with the applicable terms of this Settlement Agreement and the SMA Application, as determined by Villages in its reasonable discretion.

14. Villages Withdrawal of Opposition. Upon execution of this Settlement Agreement, Villages agrees to: (A) withdraw its request to intervene in the SMA Application process; (B) withdraw its request for a contested case hearing with respect to the SMA Application; (C) withdraw any proceedings initiated or joined by Villages in the State Land Use Commission related to the Project; and (D) dismiss with prejudice Civil No. 08-1-095K and any pleadings filed in State Land Use Commission Docket No. A84-583.

15. Mutual Release of Covered Claims. The Villages and SCD do hereby fully release and discharge each other absolutely and forever from and against any and all Covered Claims. The Villages shall be responsible for preparation, execution and filing of all required releases and dismissals of the various claims made in the SMA Application and any related judicial and/or administrative proceedings, including without limitation Civil No. 08-1-095K, which documents shall be subject to the review and approval of SCD prior to filing by Villages, and shall be filed with all applicable agencies, boards, commissions and State and Federal courts within five (5) business days of the execution of this Settlement Agreement. Immediately upon execution of this Agreement, Villages shall advise the Hawaii County Planning Department, the Hawaii County Planning Commission and the Hearings Officer in writing that it is withdrawing its opposition to the SMA Application and that it has no objections to issuance of a SMA Permit for the Project that is consistent with the development proposed in the SMA Application.

16. Representation of Authority. The Settling Parties hereby expressly warrant and represent that they are the owners of all Covered Claims released by it herein, that they have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, or by operation of law, any Covered Claims released by them herein, or any portion thereof, and they have the authority to bind and do so bind themselves and their successors and assigns to the terms of this Settlement Agreement by signing below.

17. Settlement Not an Admission of Liability. Nothing in this Settlement Agreement, including the covenants and releases contained herein, is to be construed as an

admission of any liability, negligence, breach of duty, breach of any agreement or contract, misconduct, violation of statute, unfair or deceptive trade practice, and/or wrongdoing of any kind, character or nature whatsoever, but this Settlement Agreement is to be construed strictly as a compromise and settlement of all Covered Claims for the purpose of avoiding past, present and future controversies, litigation and expense.

18. Complete Agreement; Attorneys' Fees; Interpretation. The Settling Parties have made no agreement or promise to do or omit to do any act or thing not mentioned in this Settlement Agreement. This Settlement Agreement contains the entire agreement of the Settling Parties with respect to the Covered Claims. The terms of this Settlement Agreement are contractual and not a mere recital. In the event of any litigation relating to matters within the scope of this Settlement Agreement, the prevailing party shall be entitled to its costs and reasonable attorneys' fees. In the event of any such litigation, the parties hereto agree that the courts of the State of Hawaii shall have exclusive jurisdiction, and that all matters at issue and all questions concerning the interpretation of this Settlement Agreement shall be decided and construed in accordance with Hawaii law.

19. No Representations. Neither the Settling Parties, nor anyone acting on their behalf, have made any representation of fact, opinion, or promise to induce this compromise or the execution of this Settlement Agreement, and the parties hereto are not relying upon any statements, representations, opinions, or promises made by any person or party released, or their agents, employees, representatives or attorneys concerning the nature, extent or duration of the injuries, losses, loss of profit, damages, exemplary damages, punitive damages, or the legal liability therefore, or concerning any other thing or matter. The covenants herein are made by the Settling Parties as a compromise settlement in full satisfaction of all claims, demands, actions and causes of action whatsoever, as set forth in this Settlement Agreement, and this Settlement Agreement is executed on behalf of each party to this Settlement Agreement freely and upon the advice of counsel.

20. Complete Bar. The covenants made herein are acknowledged to be full consideration for the execution of this Settlement Agreement by the Settling Parties, and this Settlement Agreement shall be a complete and final bar to any and all claims, actions, causes of

action, claims for relief, liabilities, costs, expenses, fees, demands, injuries, losses, and damages of whatsoever name or nature, known or unknown, asserted or unasserted against the other Settling Party, in any manner arising out of, connected with or in any manner involved in, concerning or relating to the Covered Claims set forth in this Settlement Agreement; and as set forth herein this Settlement Agreement forever and finally compromises, settles and terminates any and all claims, actions, causes of action, claims for relief, liabilities, costs, expenses, fees, demands, injuries and damages related to such Covered Claims.

21. Number and Gender. In this Settlement Agreement, the singular shall include the plural, and the plural shall include the singular, as the case may be, and the use of any gender shall include all genders.

22. Captions and Headings. In this Settlement Agreement, the captions and headings or paragraphs or subparagraphs are inserted for convenience, reference, and indemnification purposes only, and shall neither control, define, limit nor affect any provision of this Settlement Agreement.

23. No Party Deemed Drafter. The usual rule that any ambiguity in a document shall be construed against the party drafting the document shall not apply to this Settlement Agreement. The Settling Parties shall be deemed to be the drafter of this Settlement Agreement.

24. Amendments. This Settlement Agreement shall not be altered, amended, modified or otherwise changed, in any respect or particular whatsoever, except by a writing duly executed by the Settling Parties. The Settling Parties hereby acknowledge and agree that they will make no claim at any time that this Settlement Agreement has been orally altered or modified in any respect whatsoever.

25. Binding Effect on Others. This Settlement Agreement, and all terms, provisions and covenants contained herein, are binding on and shall inure to the benefit of the parties hereto, their heirs, executors, personal representative, successors and assigns.

26. Execution. The parties hereto agree that (i) this Agreement 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 or electronic mail signatures on this Agreement 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 or electronic mail documents or documents in a similar medium will remain effective if the signed originals are not so received.

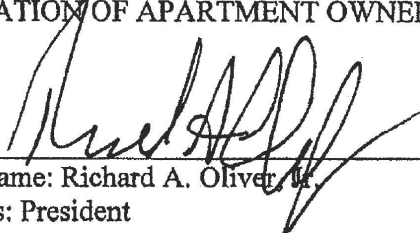
27. Cooperation. The Settling Parties hereto each agree to execute any further document that any of the other parties may reasonably request in order to carry out the provisions of this Settlement Agreement.

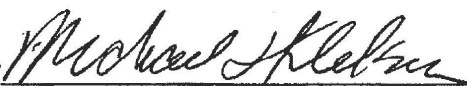
28. Acknowledgment. The Settling Parties acknowledge that the terms of this Settlement Agreement have been read, that its provisions are fully understood, and that the same has been duly signed by the Settling Parties as their free act and deed.

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the Settling Parties have duly executed this Settlement Agreement on the day and year first above written.

VILLAGES AT MAUNA LANI RESORT
ASSOCIATION OF APARTMENT OWNERS

By 
Name: Richard A. Oliver, Jr.
Its: President

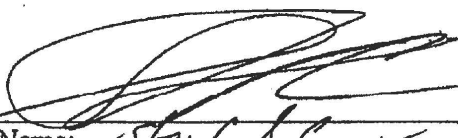
By 
Name: Michael L. Klekner
Its: Secretary

"VILLAGES"

STANFORD CARR DEVELOPMENT, LLC

By 
Name: Stanford Carr
Its: President

SITE M ASSOCIATES, LLC

By 
Name: Stanford Carr
Its: Manager

"SCD"

STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

On this 1ST day of July, 2008, before me personally appeared Richard Oliver, to me personally known, who being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.


Notary Public, State of HAWAII

Kevin M. Birchfield
Printed Name of Notary

My commission expires: 6-24-2011

STATE OF HAWAII

)

) SS:

COUNTY OF HAWAII

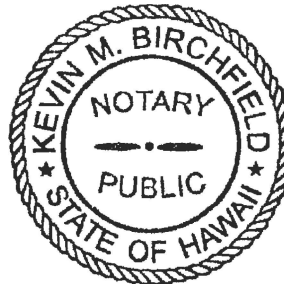
)

On this 1ST day of July, 2008, before me personally appeared Michael L. Klekner, to me personally known, who being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to executed such instrument in such capacity.

[Signature]
Notary Public, State of HAWAII

Kevin M. Birchfield
Printed Name of Notary

My commission expires: 6-24-2011



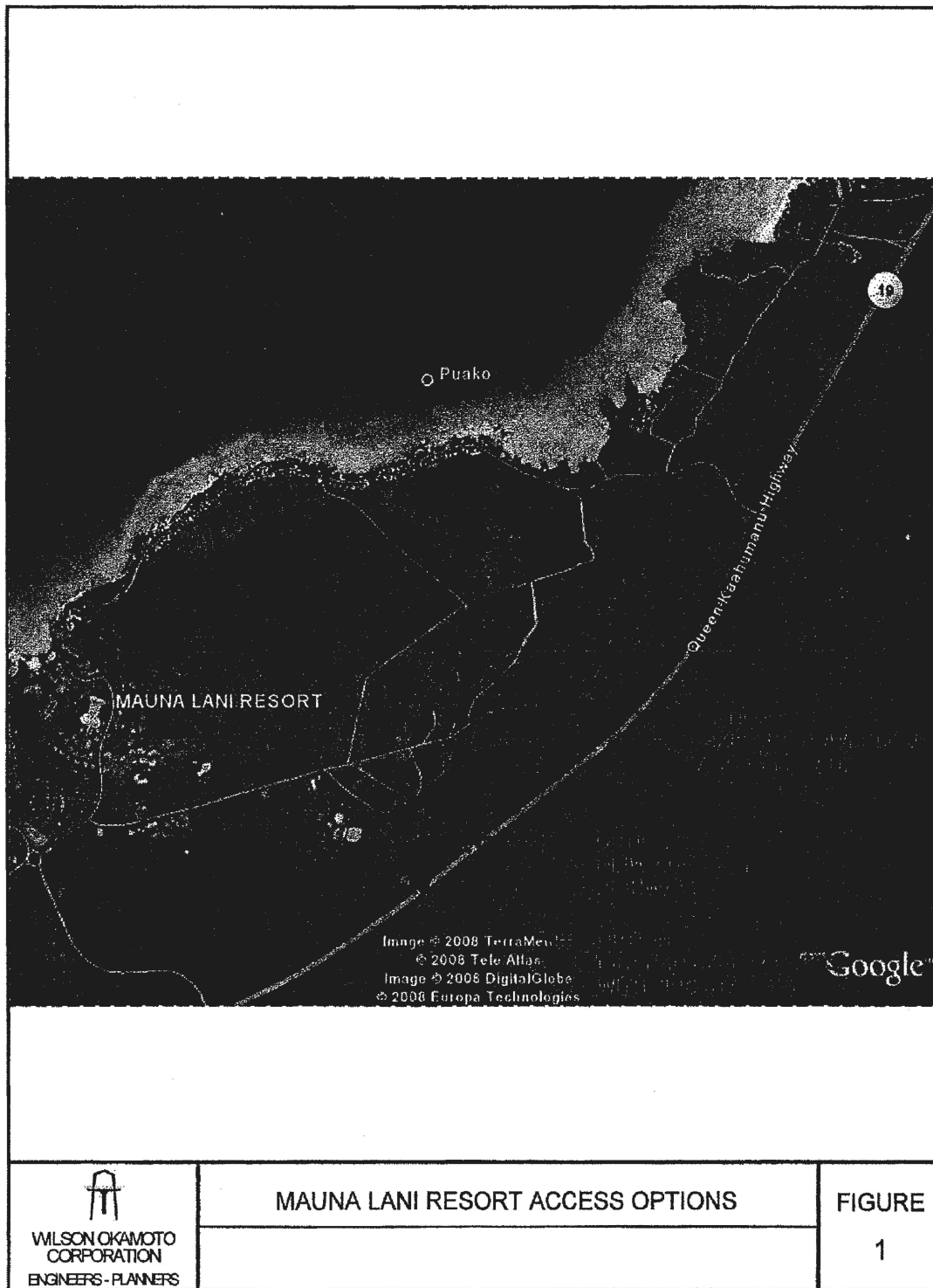


EXHIBIT "A"