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July 27, 2011

VIA EMAIL AND REGULAR MAIL

Mr. Orlando Davidson, Executive Director
Land Use Commission, State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

Re: Boundary Interpretation No. 11-01
TMK No. (4) 4-1-003-003
Lepeuli, Hanalei, Kauai, Hawaii

Dear Mr. Davidson:

I am in receipt of a copy of your July 25, 2011 letter and boundary interpretation map concerning the referenced matter.

Before the Land Use Commission staff, the Department of Land and Natural Resources, the Sierra Club or anyone else considers the Commission's recent interpretation to be the final word on the boundary between the Conservation and Agricultural Districts on this property you should be advised that our client Waioli Corporation, the owner of the subject property, will immediately be considering its options in light of this surprising decision, which options include asking for a reconsideration of the boundary determination based on information that has apparently not been made available to you and your staff to date.

Our client is disturbed that this boundary determination was made with no notice to the landowner, without a site visit and seemingly with no information about the property, and thus apparently based solely upon the Commission's default boundary interpretation guideline which arbitrarily places the approximate Conservation District boundary at an average distance of 300 feet from the shoreline. There are of course additional standards that the Commission has adopted for use other than the 300 foot rule and that are legitimate guidelines for boundary interpretations, none of which were apparently considered or used in this instance. Also, the 300-

foot guideline seems to have been ignored in some areas of the property, one of which locates the line to be approximately 500 feet from the shoreline.

We find the procedure employed in this matter to be highly improper and prejudicial to the landowner and the resulting boundary interpretation to be based on an almost total lack of information concerning the property. Unfortunately, because of this determination the Department of Land and Natural Resources will now certainly be pressured by the Sierra Club, Mr. Spacer and Ms. Kallai to issue a Conservation District violation addressing activities that the landowner has taken in good faith reliance on the survey prepared by a licensed surveyor which placed the Conservation District line further makai of your approximate boundary interpretation and within the Agricultural District.

Our client has been plagued in recent years by a series of complaints and actions by a few members of the Kauai community, primarily those mentioned in the preceding paragraph, whose goal is to prevent the landowner from taking any action whatsoever to protect, preserve or utilize the portion of its property located within the Conservation District and to thus promote unlimited public access through the private property along a stretch of state-owned beach which already has two separate beach access trails provided to the County of Kauai by our client. The actions of these individuals and the resulting inability of the owner or its agricultural lessee to obtain a Conservation District Use Permit for virtually any activity whatsoever on its privately-owned property has become a *de facto* government-ordered prohibition against any private use of this property unless our client is prepared to spend exorbitant amounts of time, money and effort to secure governmental permits for agricultural activity on the property.

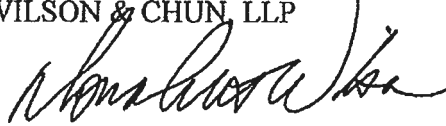
Waioli Corporation is a non-profit eleemosynary corporation that has limited financial resources. Its primary purposes involve the operation of several museum properties on Kauai and the preservation in open and agricultural uses of certain properties it owns, which include properties in addition to the Lepeuli property. It and its predecessor owners have for many decades kept the Lepeuli property in open and agricultural use. Since the 1970s it has at the request of the County of Kauai worked closely with the County to dedicate and establish two beach access trails to Larsen's Beach which fronts the property. In return for its efforts to exercise a sense of public responsibility and to be a good member of this community it has consistently been thwarted in taking any reasonable agricultural activity on its own property below the Conservation District line and has found itself unable to effectively keep trespassers, illegal campers, derelicts and other undesirable elements off its property. No trespassing signs are consistently torn down by persons who seem to disagree that landowners have any private property rights whatsoever within the Conservation District.

The issuance of this boundary interpretation without notice to or consultation with the landowner will be considered promptly by the Waioli Corporation Board of Trustees. Until such time as a Board decision is made we request that no further action be taken by the Land Use Commission, the Department of Land and Natural Resources or the County of Kauai regarding your interpretation of the approximate location of the District boundary.

Mr. Orlando Davidson, Executive Director
Land Use Commission, State of Hawaii
July 27, 2011
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Yours very truly,

BELLES GRAHAM PROUDFOOT
WILSON & CHUN, LLP



Donald H. Wilson

cc: Gov. Neil Abercrombie
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Office of Conservation and Coastal Lands
Ron Agor, Kauai BLNR Member
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