

LATE TESTIMONY

In consideration of: **HOUSE BILL 1566, RELATING TO SMALL BOAT HARBORS**
HOUSE BILL 1312, “

Testimony of: **NANCY MUETING**, resident of family owned Ilikai unit

Testifier position: **OPPOSED**

Testifier will be present: **YES**

Before the House Committee on: **FINANCE**

Date: March 01, 2011

State Capitol Conference Room: 308

Time: 2:00 p.m.

Copies required: 2

Submitted: 3-1-2011

Dear Chair Oshiro, Vice Lee and members of the Committee;

It is admirable the legislature is acting to prevent harbor disrepair by offering commercial leases for revenue. Accomplishing this at the Ala Wai though, presents conflict. There is a harbor deed encumbrance and two executive orders designating land use. The documents supporting these reservations are attached as Exhibits.

It is critical that Waikiki have an attractive shoreline. In the legislature's allowances to the State for Ala Wai development, attention to the guidelines of the Coastal Zone Management Act are in question. Concerns on water intensity use and preservation of scenic open space, seem unchallenged.

Ala Wai Harbor under Presidential Order

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.

Ala Wai Harbor under Governor's Order

Similarly, there is a governor's order over the harbor for public use. (Exhibit D) The boundaries are shown mapped. (Exhibit E)

Further, with regards to your bills to lease Ala Wai land, clearly public use is designated by the two executive orders. Leasing does not constitute public land use; rather revenue. In these cases it is the land not its collectible revenue that was intended for the public. Therefore, leasing is out of compliance with orders and permission must be sought ultimately from congress.

Ala Wai Court Ordered Land Side Restrictions

HB1566, Page 8 line 3 The legislature gives State authority to occupy up to 56 commercial berths adjacent to Holomoana Street. *There is no Holomua St., is this an error?* A deeded encumbrance over the harbor does not permit commercial vessels in these berths. (Exhibits F, G) The Ala Wai restriction was accepted by the State in trade for Holomoana Street given by waterfront developer Ala Moana Properties Limited. The buildings Ilikai Marina, Waikiki Edition Hotel, and the Ilikai, have the restrictive covenant attached to their property deeds. The legislature must get their approval to change and make an allowance to dock commercial vessels.

As a resident in the bordering dwellings, relief from commercialism is appreciated. Occupants benefit from clean air and quiet interface commercial vessels rarely provide. Already, boat engine fumes get trapped against my building and drift into its interior. The Environmental Protection Agency recommends management of pollution next to buildings. Commercial vessels next to our buildings are an invitation for dangerous exhaust fumes. The minimal distance to berths is shown by photograph. (Exhibit H)

Development Approval Required by the Coastal Zone Management Act

A change in water use intensity is considered development under the C.Z.M.A. It would be subject to Environmental Council approval before the legislature's act could be implemented. Busy commercial vessels using the harbor poses safety concerns for surfers, divers, paddle boarders, canoes and junior sailors. (Ordinances of the City and County of Honolulu, Section 25-1.3, (1)(D) 2)

Hb1566 Adverse to Goals of Coastal Zone Management Act

The Ala Wai is a scenic area without statute protection. There is planned genius in the scale and uniformity of the harbor. Hotel and office space, invited by HB1566, would clutter the horizon and the impression of lands end. If we manage Ala Wai features as warehouse commodities, the value of its innate beauty will be lost. Office space is not coastal dependent and encouraged to be located inland. The bills appear to circumvent coastal management objectives the State has adopted.

HRS 205A-2, b (3), c-3 (d)

Not sure these points have merit. They are submitted for the committee's consideration whether to approve bills HB1566 & 1312.

Thank you,

T.M.

(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;

30. 59° 31' 4 feet along same to a spike in face of seawall;
31. 61° 52' 277.20 feet along same to a spike in face of seawall;
32. 313° 56' 78.20 feet to a stake;
33. 261° 39' 24.90 feet along seawall to a stake;
34. 294° 32' 95.82 feet along seawall to a stake;
35. 29° 45' 1.29 feet along seawall to an iron pin;
36. 270° 29' 91.62 feet along seawall to a + on concrete;
37. 275° 34' 34.85 feet along seawall to a + on concrete;
38. 281° 44' 65.75 feet along seawall to a stake;
39. 234° 44' 35.95 feet along seawall to a stake;
40. 304° 10' 66.95 feet to a stake;
41. 282° 40' 26.20 feet to a stake;
42. 229° 42' 5.50 feet to a stake;
43. 308° 49' 84.35 feet to a stake;
44. 312° 17' 32.10 feet to a stake;
45. 57° 58' 95.55 feet along seawall to U. S. Military Reservation Monument No. 31;
46. 301° 17' 30" 58.34 feet along same to U. S. Military Reservation Monument No. 30;
47. 305° 47' 30" 100.03 feet along same to U. S. Military Reservation Monument No. 29;
48. 310° 50' 30" 99.97 feet along same to U. S. Military Reservation Monument No. 28;
49. 315° 57' 30" 99.99 feet along same to U. S. Military Reservation Monument No. 27;
50. 321° 02' 30" 100.03 feet along same to U. S. Military Reservation Monument No. 26;
51. 325° 45' 30" 505.55 feet along same to U. S. Military Reservation Monument No. 25;
52. 323° 48' 30" 100.00 feet along same to U. S. Military Reservation Monument No. 24;
53. 316° 46' 100.00 feet along same to U. S. Military Reservation Monument No. 23;
54. 309° 46' 63.54 feet along same;
55. 9° 37' 40.20 feet to a stake;
56. 308° 04' 63.65 feet to a stake;
57. 290° 25' 111.33 feet to a stake;
58. 299° 26' 251.40 feet to a stake;
59. 306° 19' 100.80 feet to a stake;
60. 303° 00' 149.35 feet to a stake;
61. 293° 12' 47.85 feet to a stake;
62. 284° 09' 89.75 feet to a stake;
63. 307° 41' 4.05 feet along seawall to a stake;
64. 36° 16' 8.15 feet along same to a stake;
65. 287° 29' 383.90 feet along same to a + on concrete;
66. 245° 48' 11.15 feet along same to a + on concrete;
67. 211° 06' 34.00 feet along same to a stake;
68. 301° 33' 4.10 feet along fence to a stake;
69. 298° 07' 28.35 feet to a stake;
70. 297° 26' 38.00 feet to a stake;
71. 289° 00' 87.70 feet to a stake;
72. 20° 40' 7.70 feet to a stake;
73. 294° 14' 70.75 feet along wood wall to a + on concrete;
74. 34° 40' 8.95 feet along seawall to a + on concrete;
75. 289° 14' 129.55 feet along same to a + on concrete;
76. 288° 46' 95.25 feet along same to a + on concrete;
77. 261° 55' 3.60 feet along same to a + on concrete;
78. 289° 34' 107.80 feet along same to a + on concrete;
79. 327° 54' 2.07 feet along same to a + on concrete;
80. 289° 17' 63.05 feet along same to a + on concrete;
81. 295° 54' 30.20 feet along same to a + on concrete;
82. 287° 43' 78.85 feet along same to a stake;
83. 334° 36' 42.83 feet along wood wall to a stake;

85. 260° 54' 11 feet along seawall to a stake;
 86. 271° 16' 178.95 feet to a stake;
 87. 275° 25' 152.50 feet to a stake;
 88. 287° 47' 131.90 feet to a stake;
 89. 297° 32' 141.50 feet to a + on concrete;
 90. 310° 17' 61.80 feet to a stake;
 91. 291° 29' 88.92 feet along seawall to a + on concrete;
 92. 293° 38' 66.50 feet along same to a + on concrete;
 93. 301° 38' 234.35 feet along same to a + on concrete;
 94. 312° 50' 61.20 feet along same to a + on concrete;
 95. 317° 23' 78.95 feet along same to a + on concrete;
 96. 283° 11' 21.20 feet to a stake;
 97. 316° 43' 125.20 feet to a stake;
 98. 318° 42' 118.60 feet to a stake;
 99. 317° 19' 73.65 feet to a stake;
 100. 357° 31' 27.85 feet to a + on stone;
 101. 311° 32' 88.20 feet along seawall to a + on stone;
 102. 225° 19' 35.45 feet along same to a stake;
 103. 308° 38' 88.00 feet to a spike in face of seawall;
 104. 44° 28' 30.70 feet along seawall to a + on concrete;
 105. 314° 22' 127.60 feet along same to a + on concrete;
 106. 324° 35' 65.05 feet along same to a stake;
 107. 239° 30' 9.00 feet along same to a stake;
 108. 333° 49' 145.80 feet to a stake;
 109. 343° 03' 163.40 feet to a stake;
 110. 56° 00' 7.20 feet along seawall to a + on face of seawall;
 111. 316° 50' 110.10 feet along same to a + on face of seawall;
 112. 240° 36' 9.90 feet along same to a stake;
 113. 313° 00' 47.05 feet to a + on seawall;
 114. 330° 33' 36.95 feet along seawall to a + on seawall;
 115. 333° 41' 433.4 feet along seawall;
 116. 336° 31' 433.9 feet along same;
 117. 77° 42' 8.7 feet along same;
 118. 5° 11' 73.8 feet along same;
 119. 11° 29' 21.0 feet along same;
 120. 17° 25' 44.4 feet along same;
 121. 33° 42' 50.2 feet along same;
 122. 57° 34' 40.2 feet along same;
 123. 358° 55' 161.9 feet along same to an → on seawall;
 124. 359° 15' 100.6 feet along same;
 125. 263° 35' 5.4 feet along same;
 126. 358° 14' 98.2 feet along same;
 127. 80° 11' 11.1 feet along seawall;
 128. 1° 28' 100.8 feet along same to a spike in face of seawall;
 129. 356° 34' 52.1 feet along same;
 130. 70° 59' 10.2 feet along same;
 131. 352° 51' 205.1 feet along same;
 132. 60° 36' 9.5 feet along same;
 133. 350° 52' 95.0 feet along same;
 134. 76° 00' 10.3 feet along same;
 135. 347° 02' 97.2 feet along same;
 136. 347° 12' 153.0 feet along same;
 137. 77° 32' 27.6 feet along same;
 138. 346° 41' 97.1 feet along same to a + on seawall;
 139. 257° 30' 6.0 feet along same;
 140. 340° 56' 32.8 feet;
 141. 78° 34' 7.7 feet along cement walk;
 142. 343° 28' 8.5 feet along same;
 143. 260° 43' 4.6 feet along same;
 144. 346° 33' 7.3 feet along seawall;
 145. 261° 07' 4.0 feet along same;
 146. 345° 04' 55.9 feet along same;
 147. 345° 25' 246.7 feet along same;

149. 339° 30' 0 feet along same;
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.

2140 magnetic

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.

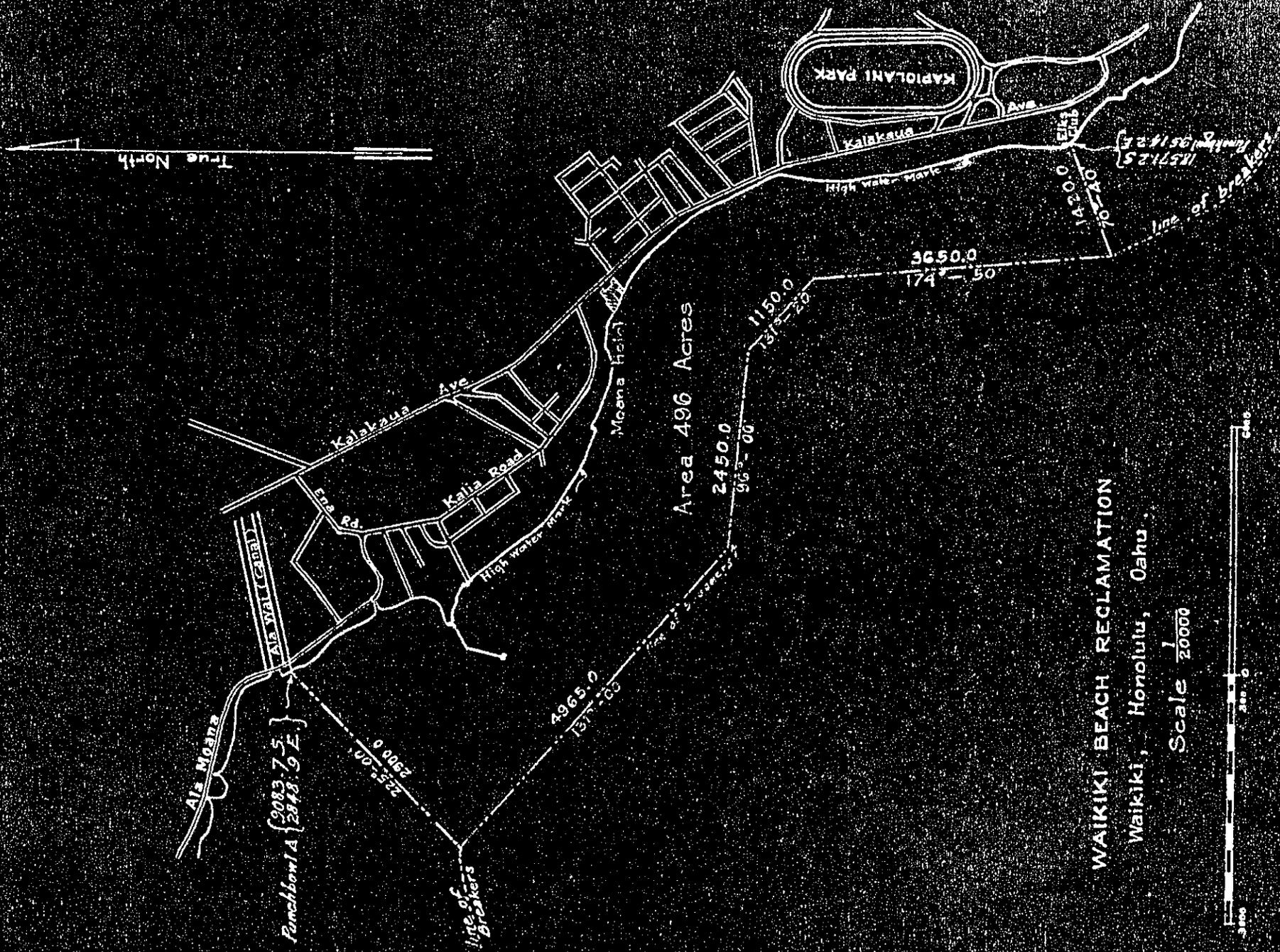
CALVIN COOLIDGE

By the President:

FRANK B. KELLOGG

Secretary of State.

[No. 1856]



WAIKIKI BEACH RECLAMATION
 Waikiki, Honolulu, Oahu.

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WAIKIKI BEACH RECLAMATION
Honolulu, Oahu

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100000

KAPALANI PARK

Area 486 Acres

Reclamation Area

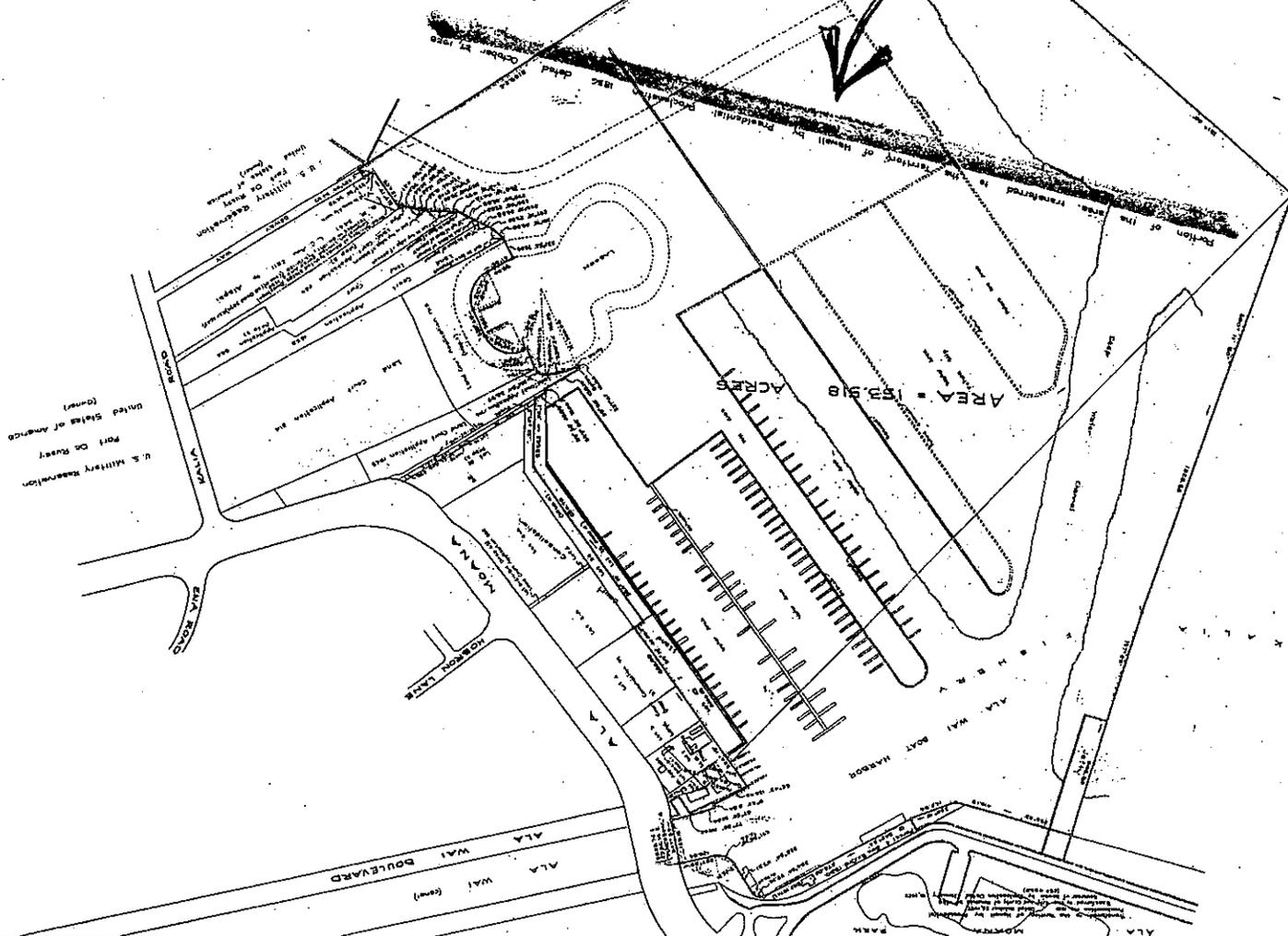
1907-1908
1909-1910
1911-1912
1913-1914
1915-1916
1917-1918
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1981-1982
1983-1984
1985-1986
1987-1988
1989-1990
1991-1992
1993-1994
1995-1996
1997-1998
1999-2000

Scale North

(EXHIBIT B)

HAWAII TERRITORY SURVEY
James M. Dunn, Surveyor
ALA WAI BOAT HARBOR
Kaliia, Waikiki, Honolulu, Oahu, T.H.
Scale: 1 inch = 200 feet
Tracing by O'Rourke - July 19, 1937

*Proclamation
Area*



See also
Listed maps
See also maps and also

Tracing by O'Rourke

Scale: 1 inch = 200 feet

(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:

- (cut off)
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

Thence along face of seawall along high-water mark of land court applications 624 and 264 for the next eleven courses, the direct azimuths and distances between points along said face of seawall being—

4. 296 degrees, 06 minutes, 27.85 feet to an ↗ cut in face of seawall;
5. 293 degrees, 08 minutes, 22.85 feet to a + cut in face of seawall;
6. 298 degrees, 14 minutes, 44.75 feet to a spike in face of seawall;
7. 248 degrees, 12 minutes, 0.97 foot to an ↗ cut in top edge of seawall;
8. 269 degrees, 48 minutes, 55.85 feet to an ↗ cut in top edge of seawall;
9. 270 degrees, 42 minutes, 37.45 feet to an ↗ cut in top edge of seawall;
10. 274 degrees, 46 minutes, 16.35 feet to an ↗ cut in top edge of seawall;
11. 277 degrees, 33 minutes, 16.65 feet to an ↗ cut in top edge of seawall;
12. 281 degrees, 22 minutes, 32.66 feet to an ↗ cut in top edge of seawall;
13. 282 degrees, 58 minutes, 32 feet to a pipe;
14. 234 degrees, 59 minutes, 0.27 foot; thence
15. 319 degrees, 19 minutes, 154.69 feet to a † cut in concrete tile walk;
16. 239 degrees, 30 minutes, 36.95 feet;
17. 329 degrees, 30 minutes, 34.37 feet along end of Dewey Way, the true azimuth and distance from U. S. M. R. Monument 32 being: 58 degrees, 03 minutes, 82.92 feet;
18. 58 degrees, 03 minutes, 90.96 feet along United States Military Reservation (Fort DeRussy) and passing over U. S. M. R. Monument 31 at 30.93 feet;
19. 139 degrees, 19 minutes, 157.27 feet;
20. 96 degrees, 18 minutes, 45 seconds, 190.64 feet;
21. 120 degrees, 05 minutes, 25 seconds, 208.60 feet;
22. 149 degrees, 25 minutes, 115 feet;
23. 157 degrees, 41 minutes, 29 seconds, 427.19 feet;
24. 239 degrees, 58 minutes, 406 feet to the west corner of land court application 1549;

Thence along highwater mark of land court application 1549 for the next five courses, the direct azimuths and distances between points along said highwater mark being—

25. 320 degrees, 22 minutes, 18.48 feet;
26. 291 degrees, 45 minutes, 15.75 feet;
27. 297 degrees, 01 minute, 22.75 feet;
28. 318 degrees, 42 minutes, 32.70 feet;
29. 326 degrees, 46 minutes, 15.03 feet;

Thence along highwater mark of land court application 314 for the next four courses, the direct azimuths and distances between points along said highwater mark being:

30. 325 degrees, 00 minutes, 35 feet;
31. 334 degrees, 10 minutes, 125 feet;
32. 336 degrees, 15 minutes, 189 feet;
33. 334 degrees, 00 minutes, 93.42 feet to a † cut in top of stonewall;
34. 61 degrees, 39 minutes, 60 feet along land court application 1653 to a 2½-inch pipe in concrete;
35. 61 degrees, 46 minutes, 67.74 feet along land court application 1653 to a spike in face of seawall;
36. 61 degrees, 56 minutes, 273.88 feet along face of seawall along highwater mark of land court application 1653 to the point of beginning and containing an area of 6.39 acres.

Sec. 3. The Commissioner of Public Lands, 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 is also authorized and empowered in the making of any such compromise agreement, exchange, sale or lease to covenant with such owners to create and maintain a public beach and groin on the seaward side of the lands described in section 2 of this Act, so long as and to the extent that appropriations are and may from time to time be available therefor, and to permit access to and from said beach across courses nineteen to twenty-three inclusive of the land described in section 2 of this Act. Public beach
and groin.

Sec. 4. This Act shall take effect upon its approval.

Effective date.

Approved August 1, 1955.

(EXHIBIT D)

Executive Order No. 1795

Setting Aside Land for Public Purposes

1795
1795-1
OF
1092

By this Executive Order, I, the undersigned, ^{Govt} 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 AKA WAI BOAT HARBOR, to be under the control and management of the Board of Harbor Commissioners.

AKA WAI BOAT HARBOR

Kala, Waikiki, Honolulu, Oahu, T. H.

COMPREHENDING THE FOLLOWING:

1. Portion of the area transferred to the Territory of Hawaii by Presidential Proclamation 1896 dated October 27, 1896.
2. Portion of the unincorporated and filled area of Kala Fishing not covered by any Presidential Executive Order.
3. Lots 23 and 25 as shown on Map 4 of Land Survey Ordination 14, covered by Survey's Certificate of Title 66816, issued to the Territory of Hawaii.

Beginning at the north corner of this parcel of land, the east corner of Parcel 2 of Governor's Executive Order 1890, and on the west side of Aka Wai, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNAHONA" being 8722.74 feet South and 2936.14 feet East, as shown on Government Survey Registered Map 1886, thence running by azimuth measured clockwise from True South-

1. 367° 59' 159.16 feet along the west side of Aka Wai

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' 1526.28 feet;
43. 197° 29' 866.20 feet;
44. 203° 05' 416.11 feet along Ala Moana Park and along Parcel 2 of Governor's Executive Order 1330;
45. 250° 10' 163.86 feet along Parcel 2 of Governor's Executive Order 1330;
46. 242° 54' 376.00 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' 19.76 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° 36' 10" 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. Finner
 ACTING Governor of the Territory of Hawaii

Harold Y. C. Choy
 DEPUTY Attorney General

ETC:ma
 Checked by: ml

Transfer Certificate of Title

No. 42,731

From Transfer Certificate Nos. ^[16,754] 16,754 and ^[16,755] 16,755, Originally Registered May 8, 1937
 in Registration Book 168 Pages ^[213] 217 for the Registry District of the Territory of Hawaii.

This is to Certify that the -TERRITORY OF HAWAII-, is the owner in fee simple of those certain parcels of land (for public purposes) situate at Kalia, Waikiki, Honolulu, City and County of Honolulu, Territory of Hawaii, described as follows:

FIRST: LOTS: 5-A-2-A, area 2,000.0 square feet, as shown on Map 5, and
5-A-2-B-1, area 18,390.0 square feet, as shown on Map 6;

the maps above referred to by numbers are 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, and being all of the land described in Transfer Certificate of Title No. 16,754 issued to The City and County of Honolulu;

SECOND: Lot 1, area 21,212.0 square feet, as shown on Map 2, filed in the Office of the Assistant Registrar of the Land Court of the Territory of Hawaii with Land Court Application No. 1098 of Bishop Trust Company, Limited, Trustee of Hobron Land Trust, and being all of the land described in Transfer Certificate of Title No. 16,755 issued to The City and County of Honolulu.

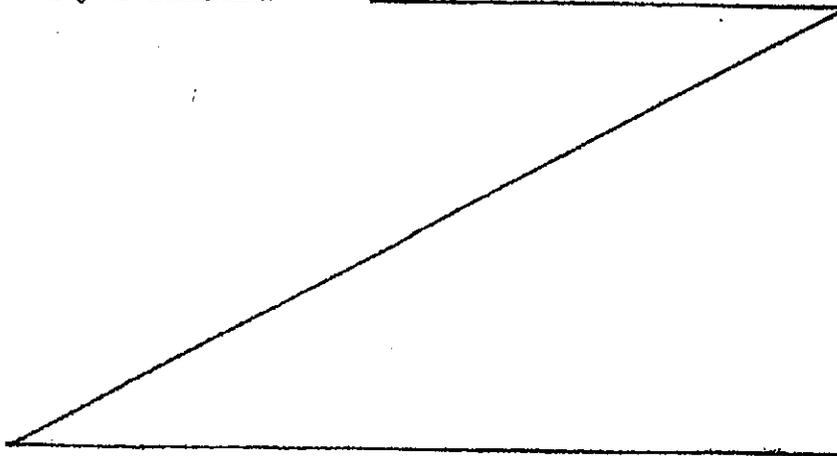
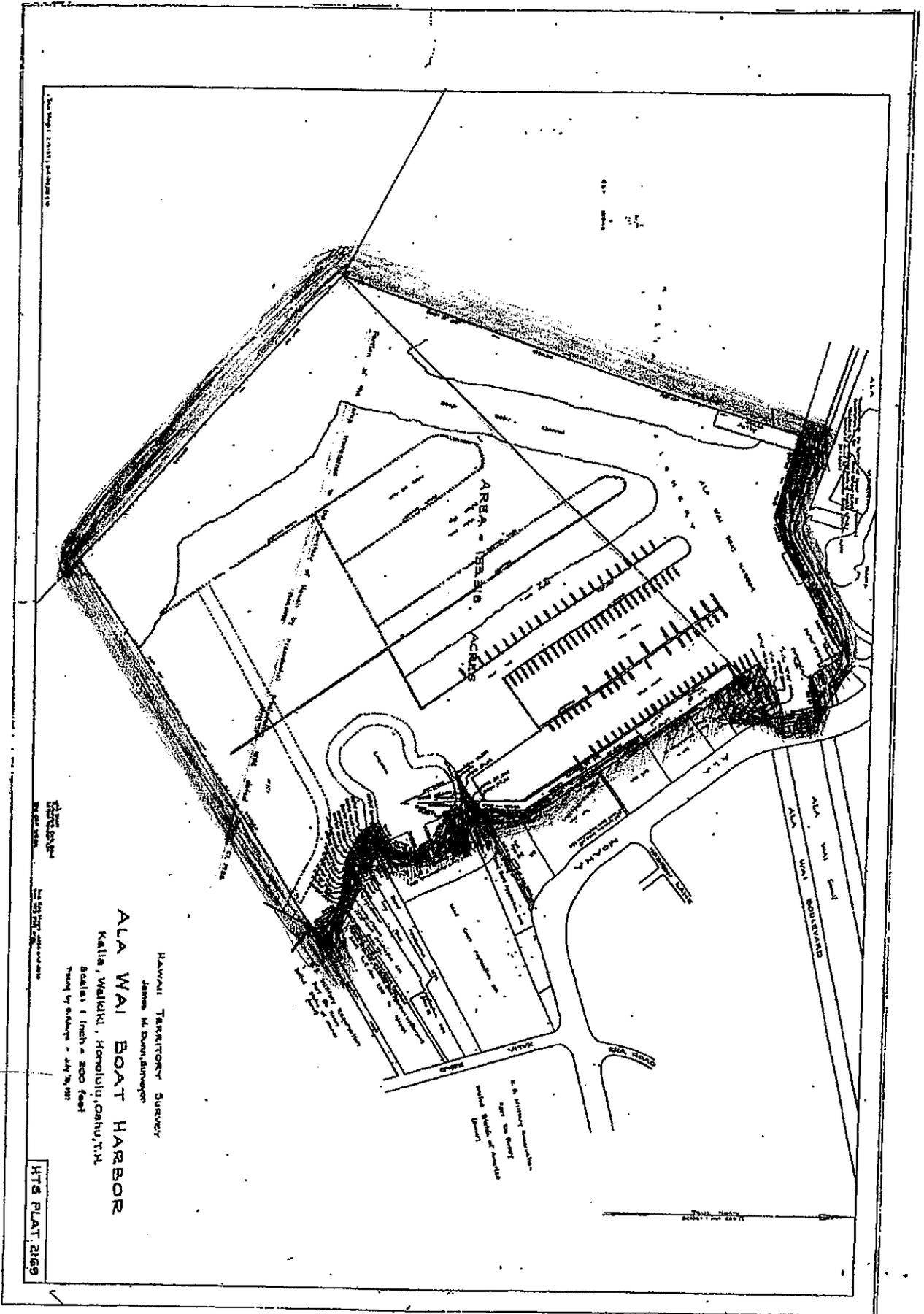


EXHIBIT "E"

(EXHIBIT E)



JULY 13 1957

2109

HTS PLAT, 2109

(EXHIBIT F)

22 pg. 5
for marine
restriction

DOC # 196552

INDENTURE AND DEED

for marine restriction

- 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
convey Lot 23
to Territory

Consolidation 32

Ala Moana
convey Lot 25
to Territory

portion of the land described in Land Court Transfer Certificate of Title No. 6815 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
Map No. 4



loading + unloading only. 3 1/2' sidewalk
Nox. to be provided mauka. all run on land

release
of all 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
needs wireless & internet
through
Bishop view from lots 23, 24, 25, 26
through lots
have building restrictions

OCEAN VIEW FROM LOT 25
8' strip of land makai lots 23 & 25
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.

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.

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,

Non commercial
vessels in
first class
condition no
resident
dwelling use

Territory
will restrict
strip of land
apart of
Ala Moana
apart to
non-commercial
vessels

release of
littoral rights
to Lot 19
& 19

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 other side of Ala Moana at parking station in Ala Moana Boh 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 Lct No. 5-C-1-B-1, area 72¹/₄ 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. 66416 issued to the said Territory.

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. 66416 issued to the said Territory.

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.

EASEMENT
FOR STORM DRAIN
ALLOWED UNDER
LOT 25

Ala Moana
which was
granted
to Ala Moana
in back of
the
title

Ala Moana, Inc.
had no
access to
Lot 25.
The
easement
was
granted
to Ala Moana
in back of
the
title

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 Hilder King
Governor, Territory of Hawaii

ALA MOANA PROPERTIES, LIMITED

By [Signature]
ITS VICE-PRES.

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. Mayhew
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.

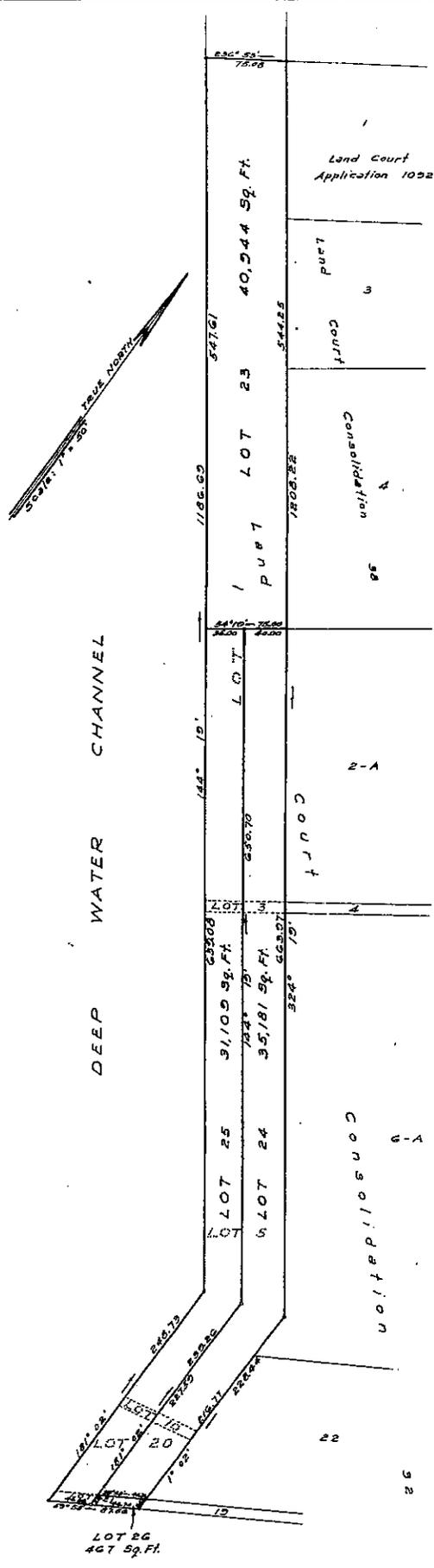
December 14, 1956
338 Dillingham Building
Honolulu, T.H.



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)



Parking
Concession
313 Permit
350 Paid

Free Public
Parking
300 Stalls

**Diamond Parking is Lessee of all the parking at the Ala Wai Boat Harbor (Both Free Parking and Parking Concession).
They maintain the parking lots and take care of all towing and parking problems.**

Parking Complaints (Diamond Parking – 592-7275) * General Complaints (Ala Wai Harbor Master – 973-9727) * Criminal Problems (HPD – 911)

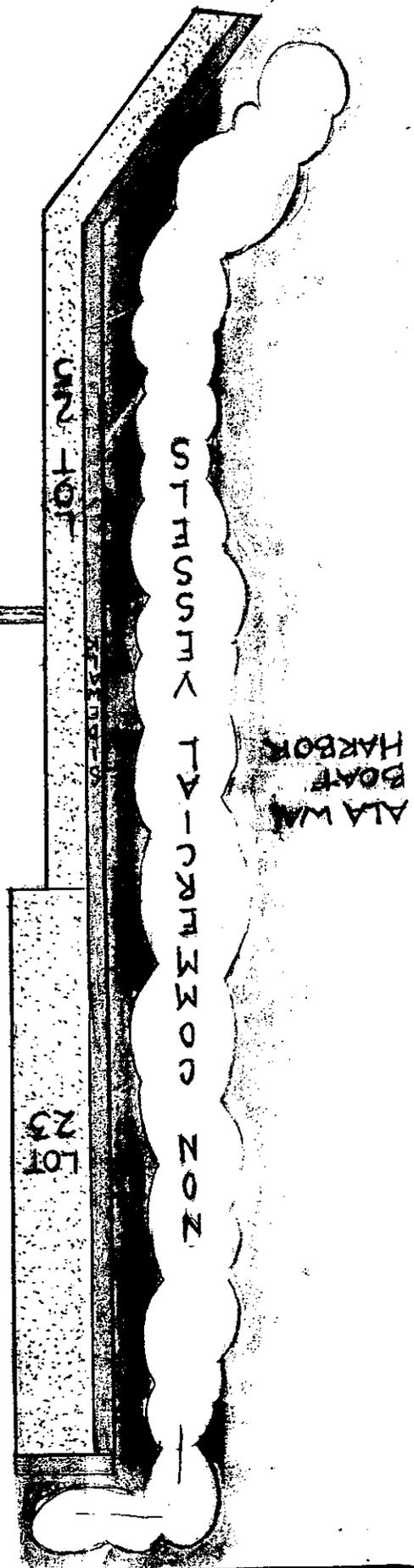
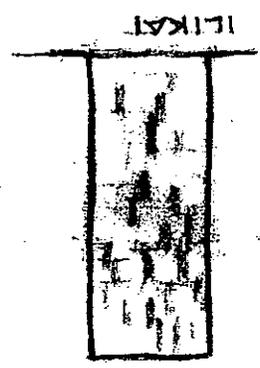
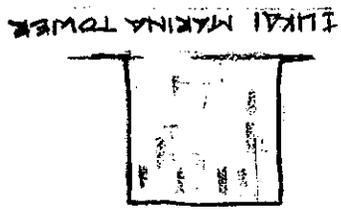
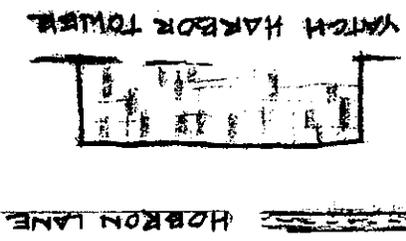
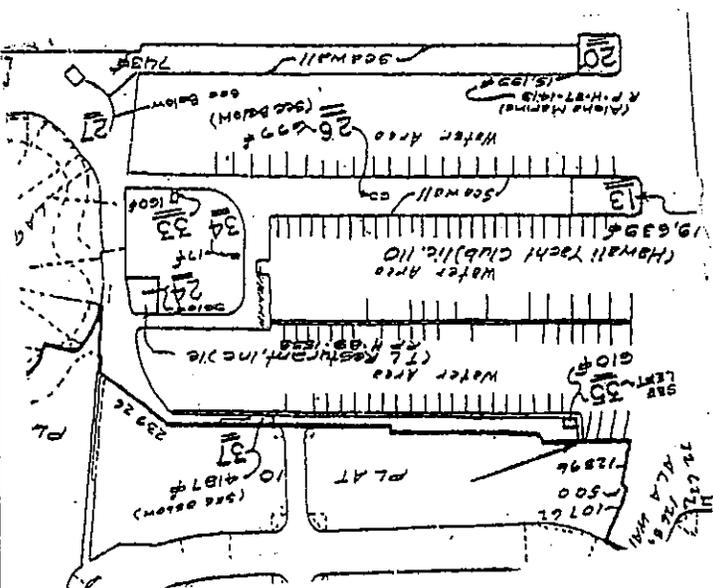
ALA WAI HARBOR LOOK RESTRICTION MAP

SHOWING AREA AND ADJACENT DWELLING TOWERS - NOT ALL INCLUSIVE

PER INVENTURE DEED DATED: 12-20-56, DOC # 190892, PAGE 5, PARAGRAPH 1

AS INTERPRETED BY: NANTUCKET MOUNTAIN 1049-09 ILIKAI ASSOCIATION MEMBER

SCALE: 3" = 75'



(EXHIBIT H)



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