

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

April 25, 2025

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.:24OD-100

OAHU

Grant of Term, Non-Exclusive Easement, Immediate Right-of-Entry and Revocable Permit to AJ Beach LLC and JB Beachside LLC, for Seawall and Filled Land, Wailupe, Honolulu, Oahu, Identified as TMK: (1) 3-6-002: seaward of 009.

APPLICANTS:

AJ Beach LLC, a Hawaii limited liability company, as to an undivided 50% interest, and JB Beachside LLC, a Hawaii limited liability company, as to an undivided 50% interest, tenants in common.

LEGAL REFERENCE:

Sections 171-13, 171-53, and 171-55, Hawaii Revised Statutes (HRS), as amended. Section 13-222-19, Hawaii Administrative Rules (HAR).

LOCATION:

Portions of State submerged land at Wailupe, Honolulu, Oahu, identified by Tax Map Key: TMK: (1) 3-6-002: seaward of 009, as shown on **Exhibits A-1** through **A-3**.

AREA:

533 square feet, more or less, to be reviewed and approved by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Conservation  
County Zoning: R-10 [for the abutting private property]

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Unencumbered with unauthorized encroachments.

TERM, NON-EXCLUSIVE EASEMENT:

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair, replace, and remove existing seawall and filled land over, under, and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market value, subject to review and approval by the Chairperson.

TERM:

Twenty-five (25) years.

The Land Division has reduced the term for which shoreline easements are granted from 55 to 25 years in response to sea level rise projections disclosed in the Hawaii Sea Level Rise Vulnerability and Adaptation Report adopted by the State Climate Change Mitigation and Adaptation Commission and pursuant to the recommendation of the Office of Conservation and Coastal Lands. Landward migration of the shoreline is currently occurring as a direct result of sea level rise. This will progressively expose immobile shoreline structures to an evolving combination of destructive effects from erosion, chronic flooding, and wave inundation. The intention of the term reduction is two-fold: (1) to reduce the potential for accidents and liabilities resulting from dysfunctional shoreline structures by more frequently reviewing and managing shoreline structures and (2) to facilitate a general process of managed retreat from the shoreline.

MONTHLY RENTAL FOR RIGHT-OF-ENTRY AND REVOCABLE PERMIT:

Monthly rental amount \$175.00 for right-of-entry and revocable permit has been calculated by staff and has been reviewed and approved by the Chairperson.  
**(Exhibit B)**

REMOVAL BOND I:

Applicants shall be required to post a removal bond in an amount to be determined by Land Division in consultation with Engineering Division, subject to approval by the Chairperson.

REMOVAL BOND II:

Applicants shall be required to post a removal bond covering the last 10-year period of the 25-year term easement in an amount to be determined before the expiration of the 15<sup>th</sup> year of the 25-year term easement by Land Division in consultation with Engineering Division, subject to approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR") §§11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an Environmental Assessment pursuant to General Exemption Type 1, which applies to “[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing.” Specifically, the subject request is exempt under Part 1, Item 39, which exempts the “[c]reation or termination of easement, covenants, or other rights in structures or land.” The subject request is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the requirements of section 1-200.1-17, HAR.

DCCA VERIFICATION AJ Beach LLC:

Place of business registration confirmed:	YES <u>  x  </u>	NO <u>  __  </u>
Registered business name confirmed:	YES <u>  x  </u>	NO <u>  __  </u>
Applicant in good standing confirmed:	YES <u>  x  </u>	NO <u>  __  </u>

DCCA VERIFICATION JB Beachside LLC:

Place of business registration confirmed:	YES <u>  x  </u>	NO <u>  __  </u>
Registered business name confirmed:	YES <u>  x  </u>	NO <u>  __  </u>
Applicant in good standing confirmed:	YES <u>  x  </u>	NO <u>  __  </u>

APPLICANT REQUIREMENTS: Applicants shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards at Applicants' own cost;
2. Pay for an appraisal to determine one-time payment in consideration of the easement; and
3. Post notice at least once statewide and once in the City & County of Honolulu in accordance with section 171-53(b), HRS.

JUSTIFICATION FOR REVOCABLE PERMIT:

The land disposition recommended to the Board in this matter is an orderly process that uses a series of permits structured to allow for immediate use and occupancy and proceed on a direct course to a to a long-term lease, subject to conditions that benefit the State. The land disposition presented in the present submittal as one of the two options recommended to the Board is a three-stage process encompassing:

1. Issuance of a right-of-entry permit for a period of up to six months. This allows the Applicants to immediately resolve the encroachment onto the public land in question, begin repair and maintenance of the encroaching seawall and filled land without undue delay and without cost to the State, and begin preparations for the Applicants' obligations under future land dispositions.<sup>1</sup> The right-of-entry permit includes requirements for payment of monthly rent, provision to the Department of a removal bond or equivalent securitized funds, indemnification of the State, and provision of liability insurance by the Applicants. The purpose of the removal bond is to ensure that there are funds available to remove the encroachment from State land in the event that the easement is not finally executed.
2. Issuance of a revocable permit for no longer than one year. This allows Land Division time to complete the administrative processes that underlie the grant of easement including approval of the easement contract by the Department of the Attorney General, completion of the appraisal (at the Applicants' cost) to determine the lump-sum payment for value of the easement, and statewide publication of notice of the land disposition while the Applicants maintain the same obligations for rent payments, removal costs, indemnification, and provision of liability insurance.

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<sup>1</sup> The Applicants' obligations under a revocable permit and easement include obtaining a survey to confirm the size of the disposition area, obtaining a cost estimate for removing the shoreline protection structure which determines the amount of the removal bond, and procurement through Land Division of an appraisal to determine the lump-sum value of the easement.

3. Issuance of an easement. This final step cannot be executed without prior completion of the prerequisites stated above. Therefore, the interim disposition through revocable permit is necessary.

The interim revocable permit step is limited in its duration and essential in its utility. While the revocable permit is in effect, the Applicants assume the costs of maintaining the subject parcel of State land and the liability for any damages caused on or by the Applicants' use of the land during the often-lengthy process of consummating the easement.

REMARKS:

The Applicants are the owners of a private, residential parcel located near the Wailupe Peninsula in east Honolulu, Oahu. The property contains a seawall and filled land with an approximate total area of 533 square feet which lie makai of the recorded property boundary and constitute encroachments onto State shoreline land. The seawall artificially fixes the shoreline and has done so since its construction in 1949. (**Exhibit C**) There are no structures currently present on the subject residential property. Based on records from the City & County of Honolulu Department of Planning and Permitting (County Permitting Department), it appears that a previously existing single-family residence was demolished and removed from the property circa 2015 pursuant to Building Permit No. 77267.

The Applicants acquired the property in 2024 with the subject encroachments in place. The Applicants now wish to resolve the encroachments so that the property's shoreline may be certified and the Applicants can obtain the required permits and authorizations to construct a new single-family home on the property. To that end, the Applicants requested a nonconforming determination from the County Permitting Department and submitted a Shoreline Encroachment Information Sheet to the Office of Conservation and Coastal Lands (OCCL).

The County Permitting Department found that the seawall was constructed under Building Permit No. 79686, issued to Territorial Construction by the County Permitting Department's predecessor agency, the Building Department, on May 31, 1949. (**Exhibit D**) Around that same time, the Building Department also issued Building Permit Nos. 79684 and 79943 to Territorial Construction for seawalls on the abutting properties to the East and West of the subject property.<sup>2</sup> Because the seawalls were constructed pursuant to valid permits prior to the enactment of shoreline development regulations, the County Planning Department found that the seawalls are nonconforming uses. (**Exhibit D**)

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<sup>2</sup> Please note: The parcels currently identified as TMKs: (1) 3-6-002:010 and 044 appear to have originally been a single parcel identified as TMK: (1) 3-6-002:010, which was later subdivided to create the parcel identified as TMK: (1) 3-6-002:044.

Upon review of the Applicants' Shoreline Encroachment Information Sheet and supporting documentation, OCCL found that the seawall was present makai of the subject property and the abutting residential property to the east in 1949, based on aerial photography of the area. OCCL found that the seawall is a nonconforming use based on its presence makai of the subject property prior to the enactment of shoreline development regulations and supported an easement disposition to resolve the shoreline encroachment. **(Exhibit E)**

Both the County Planning Department's and OCCL's analyses of the encroachments are silent on the issue of the filled land between the property boundary and the seawall. However, the Applicants' shoreline survey map shows that the seawall was constructed makai of the private property boundary. It is likely that the fill was put into place at approximately the same time the seawall was constructed and is, therefore, also nonconforming and eligible for easement. The presence of filled land makai of the subject property boundary is also consistent with several similar easement dispositions that the Board has granted for properties in and around Wailupe Peninsula, which also include filled land between nonconforming seawalls constructed in the 1940s and 1950s and those parcels' record boundaries.<sup>3</sup>

OCCL further found that the shoreline in the area has no sandy beach resource and the primary ocean recreation uses in the area are fishing and kayaking. There are two beach parks near the subject property – Kawaikui Beach Park approximately one-half mile to the east and Wailupe Beach Park approximately one-third mile to the west – which provide public access for ocean users. OCCL found that the seawall does not have a detrimental effect on public beach access or on beach and recreational resources. OCCL additionally found that the seawall protects both the subject residential property and surrounding properties from erosion. If the seawall were to be removed, flanking erosion would threaten the residential properties to the east and west and beach resources would not be improved. **(Exhibit E)**

The Office of Conservation and Coastal Lands has no objection to the proposed easement disposition and concurs with the proposed exemption under Chapter 343, HRS.

The Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

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<sup>3</sup> See e.g.: GL-5610, Grant of Non-Exclusive Easement for the land identified as TMK: (1) 3-6-002: seaward of 005, for seawall, swimming pool, pool deck, and fence, dated September 2, 2003; Recorded as C.S.F. 23,063.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and §§11-200.1-15 and -16, HAR, this project is expected to have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis action.
2. Assess a fine of \$500 for the unauthorized encroachment pursuant to the criteria adopted by the Board at its meeting of June 28, 2002, under agenda item D-17.
3. Authorize the continued applicability of the subject requests in the event of a change in the ownership of the abutting parcels described as Tax Map Key: (1) 3-6-002: seaward of 009, provided that the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
4. Authorize the issuance of a right-of-entry permit to AJ Beach LLC and JB Beachside LLC covering the subject area for encroachment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
  - B. Posting of a removal bond during the effective period of the right-of-entry permit;
  - C. Removal of the subject encroachment, if required, within the period determined by the Chairperson;
  - D. Commencement of the right-of-entry on the Board date, for a term of one year or until the issuance of the revocable permit described in recommendation 5 below, whichever is sooner; provided that the Chairperson may extend the right-of-entry for additional one-year periods for good cause shown; and
  - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
5. Authorize the issuance to AJ Beach LLC and JB Beachside LLC of a revocable permit covering the subject area for encroachment purposes,

under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

- A. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
  - B. Posting of a removal bond during the effective period of the revocable permit;
  - C. Removal of the subject encroachment, if required, within the period determined by the Chairperson;
  - D. Review and approval by the Department of the Attorney General; and
  - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
6. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance to AJ Beach LLC and JB Beachside LLC of a 25-year term, non-exclusive easement covering the subject area for encroachment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
  - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 3-6-002: seaward of 009, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the State, as Grantor, of such transaction in writing, and shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;
  - C. Posting of notice at least once statewide and once in the City & County of Honolulu in accordance with sections 171-16(d) and 171-53(b), HRS;
  - D. Review and approval by the Department of the Attorney General;

- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State;
- F. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement; and
- G. Post a removal bond to remove the encroaching seawall and filled land covering the last 10-year period of the 25-year easement term.

Respectfully Submitted,



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Rebecca L. Anderson  
Shoreline Specialist

APPROVED FOR SUBMITTAL:



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Dawn S. N. Chang, Chairperson



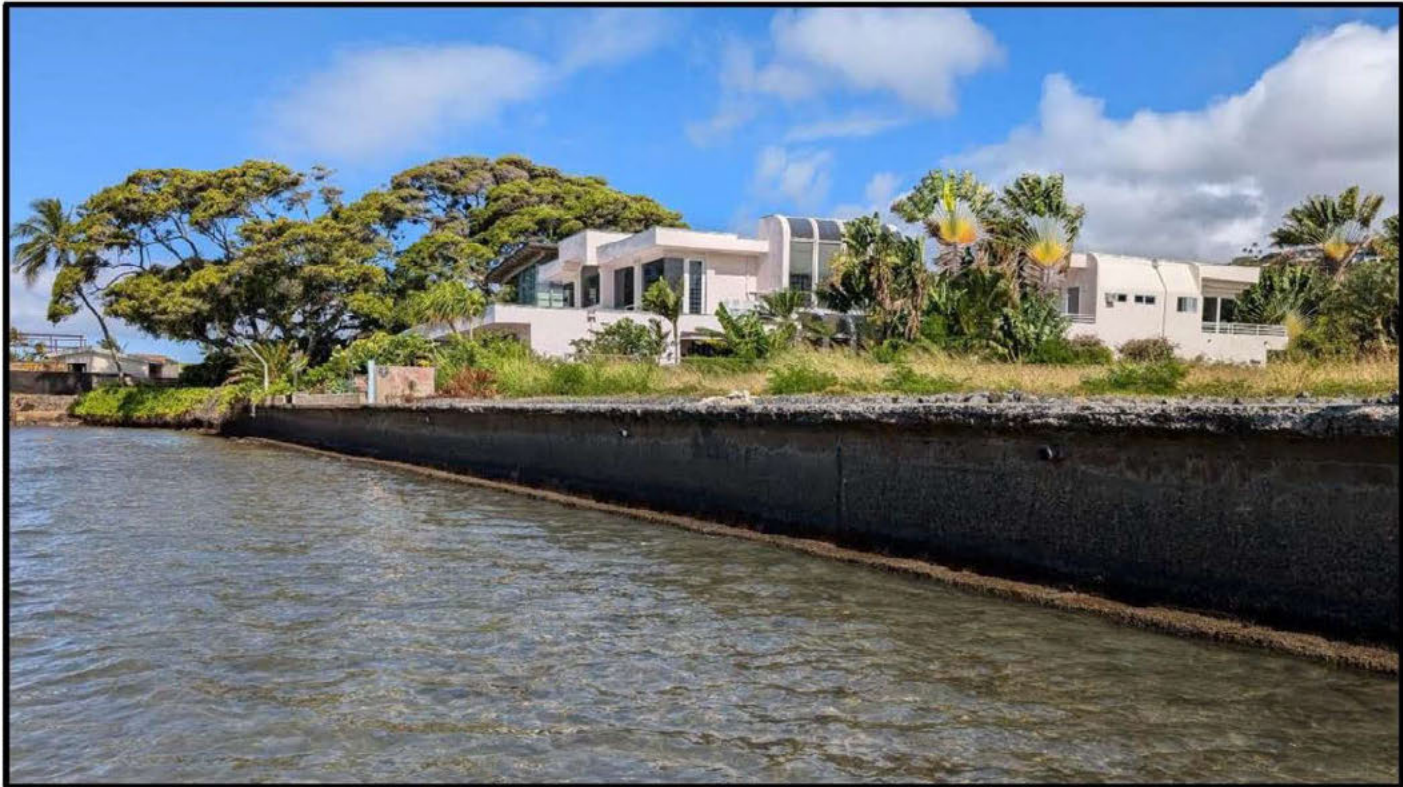
**TMK (1) 3-6-002: seaward of 009**



**TMK (1) 3-6-002: seaward of 009**



**TMK (1) 3-6-002: seaward of 009**



Note: Photo of seawall looking west.



Note: Photo of seawall looking east.

**EXHIBIT A-3**

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621  
HONOLULU, HAWAII 96809

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

RYAN K.P. KAHAKA'OLE  
FIRST DEPUTY

CIARA W.K. KAHANE  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

To: Dawn N. S. Chang, Chairperson  
Through: Russell Y. Tsuji, Administrator  
From: Land Division, Appraisal Section  
Date: March 25, 2025  
Subject: AJ Beach LLC and JB Beachside LLC Shoreline Revocable Permit

A shoreline revocable permit valuation was prepared for the property below and is summarized as follows:

Reference: PSF No. 24OD-100  
Applicant: AJ Beach LLC and JB Beachside LLC  
TMK: (1) 3-6-002:seaward of 009  
Area: 533 square feet, more or less  
Effective Date: Upon Board Approval  
Recommended Value: **\$175 per month**

The undersigned finds that the valuation was completed in accordance with the assignment.

  
\_\_\_\_\_  
RT Dawn N. S. Chang, Chairperson

Mar 26, 2025  
\_\_\_\_\_  
Date

**EXHIBIT B**

TMK	(1) 3-6-002:seaward of 009		
Assessed Land Value (\$)	\$	2,705,400	
Land Area (sf)		13,724	
Unit Rate Land Value (\$/sf)	\$	197.13	
50% Off For Submerged Lands	\$	98.56	
Encroachment Area (sf)		533	
Encroachment Land Value (\$)	\$	52,535	
Annual Rent @ 4 to 8%	\$	2,101.40	0.04
Recommended Annual Value			
Monthly rent	\$	175.12	175 rounded

PROPERTY OWNERS: AJ BEACH LLC  
JB BEACHSIDE LLC

MAP SHOWING  
SHORELINE ENCROACHMENT AREA  
FRONTING  
PORTION R. P. 4498, L. C. AW. 6175  
AP. 1 TO KAMAHA NO MALAEA  
AT WAILUPE, HONOLULU, OAHU, HAWAII

SCALE: 1 IN. = 30 FT.  
JUNE 13, 2024 WALTER P. THOMPSON, INC.



THIS WORK WAS PREPARED BY  
ME OR UNDER MY SUPERVISION

*John R. K. Akina*  
Exp. 04/30/26

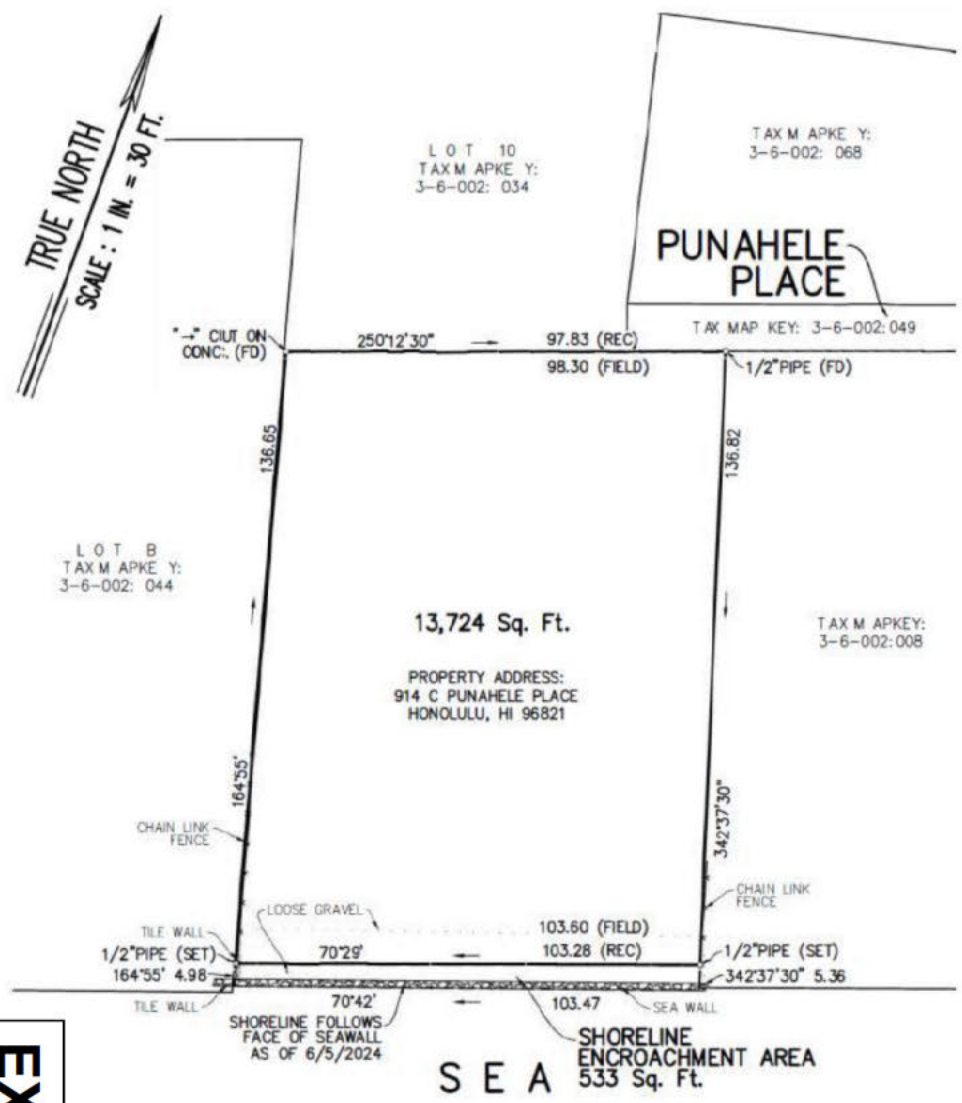
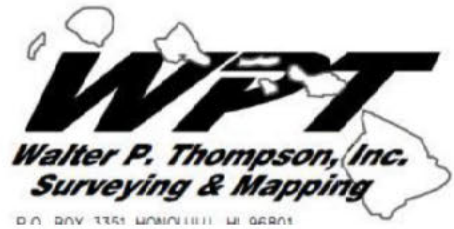


EXHIBIT C

**DEPARTMENT OF PLANNING AND PERMITTING  
KA 'OIHANA HO'OLĀLĀ A ME NĀ PALAPALA 'AE  
CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041 • WEBSITE: honolulu.gov/dpp

RICK BLANGIARDI  
MAYOR  
MEIA



DAWN TAKEUCHI APUNA  
DIRECTOR  
PO'O

BRYAN GALLEGHER, P.E.  
DEPUTY DIRECTOR  
HOPE PO'O

REGINA MALEPEAI  
2<sup>ND</sup> DEPUTY DIRECTOR  
HOPE PO'O KUALUA

July 31, 2024

2024/ELOG-1277(ST)

Mr. James T. Hayes, Principal  
Planning Solutions  
Pacific Park Plaza, Suite 950  
711 Kapiolani Boulevard  
Honolulu, Hawaii 96813-5213

Dear Mr. Hayes:

**SUBJECT: Nonconforming Seawall Determination**  
**[REDACTED] – Wailupe**  
**Tax Map Key (TMK) 3-6-002: 009**

This responds to your request, received on July 3, 2024, for a nonconforming determination of the existing concrete seawall at the above parcel. A review of our records confirms that the existing concrete seawall is considered nonconforming with respect to the Revised Ordinances of Honolulu (ROH) Chapter 26, the Shoreline Setback Ordinance. On May 31, 1949, Building Permit (BP) No. 79686 was issued by the City (fka the Building Department) to construct a reinforced concrete retaining wall with a base, width and height that match the dimensions of the existing concrete seawall in question. We find that similar BPs for reinforced concrete retaining walls with the same dimensions were issued by the City on the adjoining shoreline property to the east, TMK 3-6-002: 008 (BP No. 79684) and another nearby shoreline property to the west, TMK 3-6-002: 010 (BP No. 79943). All three BPs were granted to Territorial Construction in close succession on May 31, 1949 and June 13, 1949, respectively (see enclosed BPs).

While each BP contained notes that the concrete retaining walls were not to extend beyond the lot boundaries, we acknowledge that the State Department of Land and Natural Resources is in the process of resolving the encroachment of the seawall onto State submerged land. Please be informed that maintenance and repair of the nonconforming seawalls are limited to like-for-like construction, which does not to exceed 50 percent of the total replacement cost of seawall, pursuant to ROH Section 26-1.6. For information of the preparation of the replacement cost estimates, please

**EXHIBIT D**

Mr. James Hayes  
July 31, 2024  
Page 2

see our updated Rules of the Shoreline Setback and the Special Management Area (SMA) at:

[https://www.honolulu.gov/rep/site/dpp/dpp\\_docs/SMA\\_Administrative\\_Rules\\_7-2024.pdf](https://www.honolulu.gov/rep/site/dpp/dpp_docs/SMA_Administrative_Rules_7-2024.pdf)

Finally, please be advised that while site is also within the SMA, pursuant to ROH Section 25-1.3(2)(G), the repair or maintenance of existing structures is not considered development, and therefore would not require an SMA Permit.

This letter is not a disclosure statement nor is it intended to substitute for mandatory disclosures in real estate transactions regarding the subject site. The City is under no obligation to investigate, research, or participate in the preparation of disclosure statements, other than providing available public records. This letter does not create liability on the part of the City, or any officer or employee thereof, if used in or as a disclosure statement. The buyer, seller or their agent, not the City, is solely responsible for the use of any public record information in the preparation of a disclosure statement. Please be advised that we did not check the actual site, or the entire building permit history for the property which may reveal unique circumstances and conditions associated with the property.

The Department of Planning and Permitting issues advisory opinions in response to nonconforming verification requests because such responses serve an important public purpose. Advisory opinions do not establish or confirm any legal rights or obligations.

Should you have any questions, please contact Steve Tagawa, of our Land Use Approval Branch, at (808) 768-8024 or via email at [stagawa@honolulu.gov](mailto:stagawa@honolulu.gov)

Very truly yours,

  
for Dawn Takeuchi Apuna  
Director

Enclosures: Building Permits Nos. 79686, 79684, and 79943  
Receipt No. 24-00982

cc: Office of Conservation and Coastal Lands,  
Department of Land and Natural Resources (via email)

①

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DEPARTMENT OF BUILDINGS  
CITY AND COUNTY OF HONOLULU  
BUILDING PERMIT

OFFICE COPY  
Numerical 49686

Zone	Sec.	Plat	Parcel	Lot
3	6	02	9	

49686

Permit No. \_\_\_\_\_

Est. Cost \$ 7500

Fee \$ 500

Legal Owner S.K. Gupta Address \_\_\_\_\_

Lessee, Tenant \_\_\_\_\_ Address \_\_\_\_\_

Builder Tess. Cost. Address \_\_\_\_\_

Plans By \_\_\_\_\_ Address \_\_\_\_\_

Plumbing Contractor none Address \_\_\_\_\_

Electrical Contractor none Address \_\_\_\_\_

To construct and/or repair, etc., all in accordance with Territorial Laws, and Ordinances of the City and County of Honolulu, to-wit:

New Building \_\_\_\_\_; Class of Construction Retaining Wall; Stories \_\_\_\_\_; Moving \_\_\_\_\_; Old Building \_\_\_\_\_

Repairing \_\_\_\_\_; Alteration \_\_\_\_\_; Addition \_\_\_\_\_; Reconstruction \_\_\_\_\_; Demolition \_\_\_\_\_

Now Occupied as \_\_\_\_\_ To be Occupied as Class

At \_\_\_\_\_ (No.) \_\_\_\_\_ (Street) \_\_\_\_\_ (District)

Dimensions \_\_\_\_\_; Ground Floor Area \_\_\_\_\_

Walls \_\_\_\_\_; Floor \_\_\_\_\_; Ceiling \_\_\_\_\_

Roof Overhang \_\_\_\_\_; Ft.; Roof \_\_\_\_\_; Basement Floor \_\_\_\_\_

Partitions \_\_\_\_\_; Foundation \_\_\_\_\_; Kind of Toilets \_\_\_\_\_

Connection to Sewer \_\_\_\_\_; To Cesspool \_\_\_\_\_; Area of nearest building on same property \_\_\_\_\_

Distance between walls of this and the nearest building on the same property \_\_\_\_\_

Distance between walls of this building and the nearest interior boundary \_\_\_\_\_

Free clearance between the bottom of floor sills and ground \_\_\_\_\_ Ft.

Construction to be completed on or about \_\_\_\_\_

Remarks Wall be constructed with 1x5 ft base with 1x5 ft in side reinforced steel to used

APPROVED: \_\_\_\_\_

Date 5/31/49 \_\_\_\_\_ Date 5/31/49 \_\_\_\_\_  
AGENT, TERR. BOARD OF HEALTH

Date \_\_\_\_\_ \_\_\_\_\_  
CHIEF ENGINEER, FIRE DEPARTMENT

Date 5/31/49 \_\_\_\_\_  
FOR SUPERINTENDENT OF BUILDINGS

TO THE PROPERTY OWNER  
Planting of hedges, trees or constructing fences beyond the limits of your property. The 1st for the City and County of Honolulu. Penalty: One Hundred Dollars (\$100.00) fine and/or thirty (30) days imprisonment.



Same BP next door (east) <sup>②</sup> rt. from shoreli

DEPARTMENT OF BUILDINGS  
CITY AND COUNTY OF HONOLULU  
BUILDING PERMIT

OFFICE COPY  
Numerical

Zone	Sec.	Plat	Parcel	Lot
3	6	02	8	

19684

Permit No. 19684  
Est. Cost \$ 2500  
Fee \$ 500

Legal Owner: Richard B. Black  
Lessee, Tenant: [Redacted]  
Builder: Terr. Cont.  
Plans By: 19684  
Plumbing Contractor: [Redacted]  
Electrical Contractor: [Redacted]

To construct and/or repair, etc. all in accordance with Territorial Laws, and Ordinances of the City and County of Honolulu, to-wit:

New Building: Leaning Wall; Class of Construction: [Redacted]; Stories: [Redacted]; Moving: [Redacted]; Old Building: [Redacted]; Repairing: [Redacted]; Alteration: [Redacted]; Addition: [Redacted]; Reconstruction: [Redacted]; Demolition: [Redacted]

Now Occupied as: [Redacted] To be Occupied as: Class H  
At 916 Pennsylvania St. (No.) (Street) (District)

Dimensions: [Redacted]; Ground Floor Area: [Redacted]  
Walls: [Redacted]; Floor: [Redacted]; Ceiling: [Redacted]  
Roof Overhang: [Redacted]; Ft. Roof: [Redacted]; Basement Floor: [Redacted]  
Partitions: [Redacted]; Foundation: [Redacted]; Kind of Toilets: [Redacted]

Connection to Sewer: [Redacted]; To Cesspool: [Redacted]; Area of nearest building on same property: [Redacted]  
Distance between walls of this and the nearest building on the same property: [Redacted]  
Distance between walls of this building and the nearest interior boundary: estimated over interior lot boundary  
Free clearance between the bottom of floor sills and ground: [Redacted] Ft.

Construction to be completed on or about: [Redacted]  
Remarks: Wall to be built with 1x5 ft. base with walls 1x5 ft. in thick  
all of concrete with reinforced

APPROVED: [Redacted]  
Date: 5/31/49  
Date: 5/31/49  
Date: 5/31/49  
Date: 5/31/49

TO THE PROPERTY OWNER:  
Planting of hedges, trees or constructing fences beyond the limits of your property line is forbidden by law. Penalty: one hundred dollars (\$100.00) fine and/or thirty (30) day imprisonment.

← 2 house (of west) left from Shoreline  
Retaining Wall  
actually says seawall! (3)

180664

DEPARTMENT OF BUILDINGS  
CITY AND COUNTY OF HONOLULU  
BUILDING PERMIT

Zone	Sec.	Plat	Parcel	Lot
3	6	07	10	

18948

OFFICE COPY  
Numerical

18948

Permit No. \_\_\_\_\_

Est. Cost \$ 4500

Fee \$ 750

Legal Owner John A. Jackson Address \_\_\_\_\_

Lessee, Tenant \_\_\_\_\_ Address \_\_\_\_\_

Builder Geo. Coit Address \_\_\_\_\_

Plans By \_\_\_\_\_ Address \_\_\_\_\_

Plumbing Contractor none Address \_\_\_\_\_

Electrical Contractor none Address \_\_\_\_\_

To construct and/or repair, etc. all in accordance with Territorial Laws, and Ordinances of the City and County of Honolulu, to-wit:

New Building \_\_\_\_\_; Class of Construction Retaining wall; Stories \_\_\_\_\_; Moving \_\_\_\_\_; Old Building \_\_\_\_\_

Repairing \_\_\_\_\_; Alteration \_\_\_\_\_; Addition \_\_\_\_\_; Reconstruction \_\_\_\_\_; Demolition \_\_\_\_\_

Now Occupied as: \_\_\_\_\_ To be Occupied as: \_\_\_\_\_

At \_\_\_\_\_ (No.) \_\_\_\_\_ (Street) \_\_\_\_\_ (District)

Dimensions \_\_\_\_\_; Ground Floor Area \_\_\_\_\_

Walls \_\_\_\_\_; Floor \_\_\_\_\_; Ceiling \_\_\_\_\_

Roof Overhang \_\_\_\_\_; Ft; Roof \_\_\_\_\_; Basement Floor \_\_\_\_\_

Partitions \_\_\_\_\_; Foundation \_\_\_\_\_; Kind of Toilets \_\_\_\_\_

Connection to Sewer \_\_\_\_\_; To Cesspool \_\_\_\_\_; Area of nearest building on same property \_\_\_\_\_

Distance between walls of this and the nearest building on the same property \_\_\_\_\_

Distance between walls of this building and the nearest interior boundary \_\_\_\_\_

Free clearance between the bottom of floor sills and ground \_\_\_\_\_ Ft.

Construction to be completed on or about \_\_\_\_\_

Remarks To construct sea wall 1ft x 5' in  
Hilo. 193 ft in length. Prop to extend  
beyond property line

APPROVED: \_\_\_\_\_

Date 6-14-49 \_\_\_\_\_ Date 6/13/49

Date \_\_\_\_\_ \_\_\_\_\_

Date 6/13/49 \_\_\_\_\_

TO THE PROPERTY OWNER  
Planting of hedges, trees or constructing fences beyond the limits of your property line is forbidden by law. Penalty One Hundred Dollars (\$100.00) for each day of non-compliance.

AGENT, TERR. BOARD OF HEALTH

CHIEF ENGINEER, FIRE DEPARTMENT

FOR SUPERINTENDENT OF BUILDINGS

APPLICANT

**JOSH GREEN, M.D.**  
GOVERNOR | KE KIA'ĀINA  
**SYLVIA LUKE**  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'ŌIHANA KUMUWAWAI 'ĀINA  
OFFICE OF CONSERVATION AND COASTAL LANDS  
P.O. BOX 621  
HONOLULU, HAWAII 96809

**DAWN N.S. CHANG**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
**RYAN K.F. KANAKA'OLE**  
FIRST DEPUTY  
**DEAN D. UYENO**  
ACTING DEPUTY DIRECTOR - WATER  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF:OCCL:CM

Shoreline Encroachment OA 24-09

Jul 19, 2024

AJ Beach LLC and JB Beachside LLC

[REDACTED]  
Kailua, HI 96734

SUBJECT: Request to Resolve State Land Encroachment at [REDACTED]  
Wailupe, Oahu, Tax Map Key (1) 3-6-002:seaward of 009

Dear Landowners,

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL), is in receipt of your Shoreline Encroachment Information Sheet package seeking to resolve an encroachment on State Lands seaward of the subject property. Your package included a Shoreline Encroachment Information Sheet, an easement map (**Exhibit 1**), an October 29, 1949, aerial photo (**Exhibit 2**), and photos of the encroachment (**Exhibit 3**).

You are working to resolve a shoreline encroachment consisting of an approximately 100-foot long seawall located makai of the subject property's boundary. According to the information you provided, the seawall appears to have constructed sometime in the 1940's, based on the 1949 aerial photo. As such, the seawall appears to be a non-conforming structure. The easement map that you provided shows the subject encroaching area occupies a total area of approximately 533 square feet. Currently, there is no residential structure on the subject property.

The Board of Land and Natural Resources has established a policy to allow the disposition of shoreline encroachments by either removal or issuance of an easement. In carrying-out this policy, OCCL has established criteria to guide decision-making over specific cases. The criteria are as follows:

1. Protect/preserve/enhance public shoreline access;
2. Protect/preserve/enhance public beach areas;
3. Protect adjacent properties;
4. Protect property and important facilities/structures from erosion damages; and
5. Apply "no tolerance" policy for recent or new unauthorized shoreline structures

**EXHIBIT E**

AJ Beach LLC and JB Beachside LLC  
Seawall encroachment

Shoreline Encroachment OA 24-09

In addition, OCCL developed a “Shoreline Encroachment Information Sheet” that is intended to provide the State with additional information to guide OCCL’s recommendations on the disposition of shoreline encroachments.

Surrounding Land Uses: The subject property is flanked by residential homes along the adjacent shoreline to the east and west. Land directly makai of the seawall is submerged with a rocky gravel bottom. The submerged land area sits within the inner reaches of Maunalua Bay, and the near shore area is not a sandy beach area conducive for swimming. The ocean recreation activities in the area are fishing and kayaking. Any surf related activities occur further out beyond the flat reefs. Approximately 0.5 miles to the east is Kawaiui Beach Park, where majority of the ocean activities occur. The beach park contains restroom, picnic tables, and shoreline access. Approximately 0.3 miles to the west is the Wailupe Beach Park. This beach park also has restrooms, picnic tables, and shoreline access. The only public access to the shoreline would be at both beach parks.

Beach Resources and Environment: The encroachment is a seawall abutting the inner reaches of Maunalua Bay. The submerged lands area is characterized by a rocky gravel ocean bottom. This is characteristic of the lateral shoreline in this region of Maunalua Bay. The area fronting the subject property has no sandy beach resource. There is a very narrow strip of sandy shoreline approximately 400 feet to the east. This narrow strip of sandy shoreline exists during low tide.

Public Access: A dedicated mauka-makai public shoreline access pathway is not available in the subject property’s immediate vicinity. The information provided notes that the nearest public access to the shoreline is located at Kawaiui Beach Park approximately 0.5 miles to the east and Wailupe Beach Park approximately 0.3 miles to the west.

*Effect of Removing the Encroachment on:*

Beach Resources: Removal of the seawall would not improve beach resources in the area as the ocean bottom consists of rocky gravel with no sandy beach resource. However, removing the seawall may be detrimental and have a negative effect by leaving the exposed land open to erosion. The seawall appears to be serving as an erosion control structure that may be preventing potential loss of private land.

Public Access: Removal of the encroachment would not improve public access in the area. There exists no lateral access along the shoreline in this vicinity of Maunalua Bay. Majority of the shoreline properties have seawalls abutting the ocean. The only nearby public access to the shoreline is located approximately 0.5 miles to the east at Kawaiui Beach Park and approximately 0.3 miles to the west at Wailupe Beach Park.

Adjacent Properties: Removing the seawall may negatively impact both adjacent neighbors that abuts the subject property. Erosion to the subject property may result with the removal of the seawall. This could lead to flanking erosion of the neighboring

AJ Beach LLC and JB Beachside LLC  
Seawall encroachment

Shoreline Encroachment OA 24-09

properties to the immediate east and west. The resident's structure on the west is built very close to the shoreline and perpendicular boundary. Flanking erosion may result in the loss of structural integrity to the west neighboring house.

It has been the general policy and practice of the OCCL to support easement requests that have no discernible effect on beach and recreational resources, and do not act as a detriment to public access. In cases where the encroachment serves as a primary erosion control for potentially threatened structures, impacts to the adjacent and upland developments must also be considered.

Summary

The subject encroachment consists of a seawall approximately 100 linear feet and located makai of the subject property. The subject seawall does not seem to have detrimental effects on public access as there is no beach and recreational resources in the immediate vicinity, and the seawall seems to serve as an erosion control for the subject property by potentially alleviating loss of private land.

**Upon review and careful consideration of the information gathered on this case, OCCL's evaluation criteria would support a disposition request being processed for the seawall encroachment.** The subject encroachment seems to have been in place around the 1940's, based on the 1949 aerial photo and was deemed to be non-conforming. Should the OCCL find that the structure has been significantly altered since it was originally constructed, the OCCL may reconsider this finding.

Should you have any questions regarding this correspondence, contact Cal Miyahara of our Office at (808) 798-6147 or [calen.miyahara@hawaii.gov](mailto:calen.miyahara@hawaii.gov).

Sincerely,

*S Michael Cain*

Michael Cain, Administrator  
Office of Conservation and Coastal Lands

CC: Chairperson  
ODLO  
City & County of Honolulu-DPP  
OHA

AJ Beach LLC and JB Beachside LLC  
Seawall encroachment

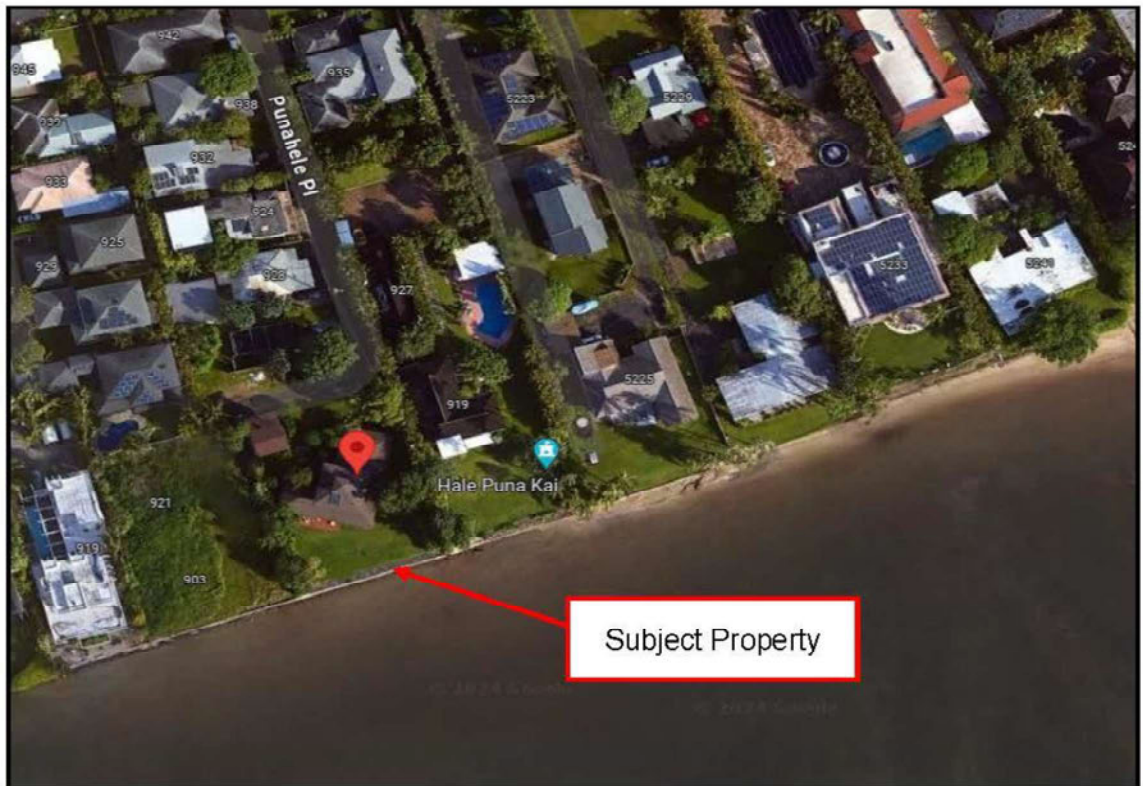
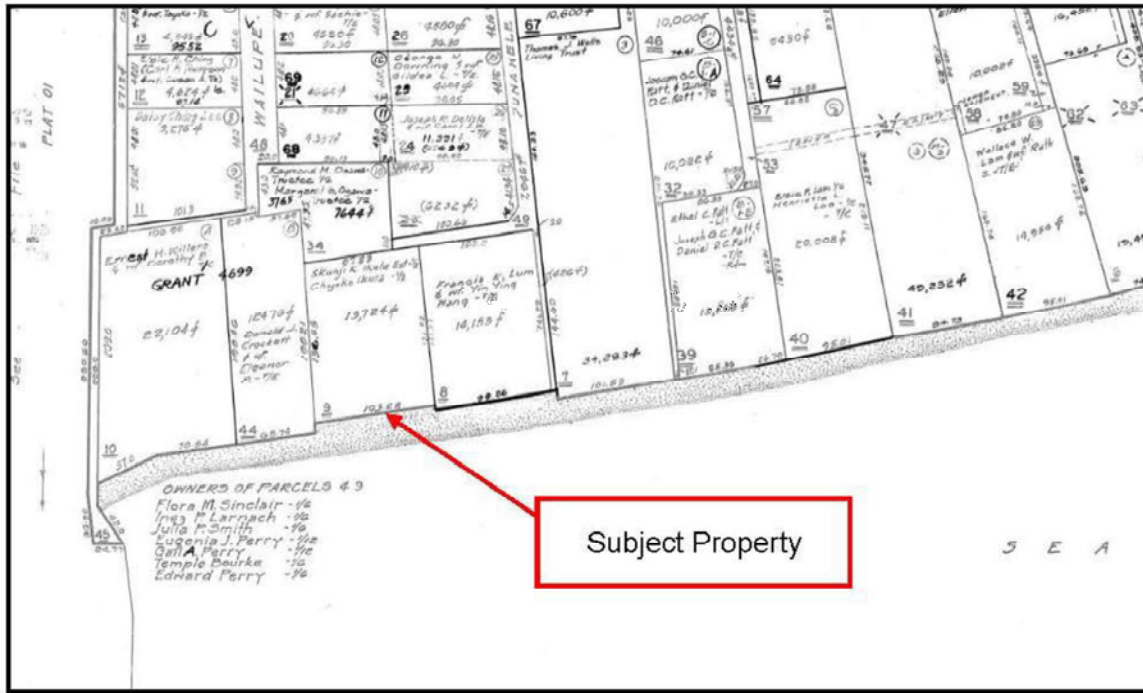
Shoreline Encroachment OA 24-09



Note: 914C Punahale Place seawall. TMK: (1) 3-6-002:009.

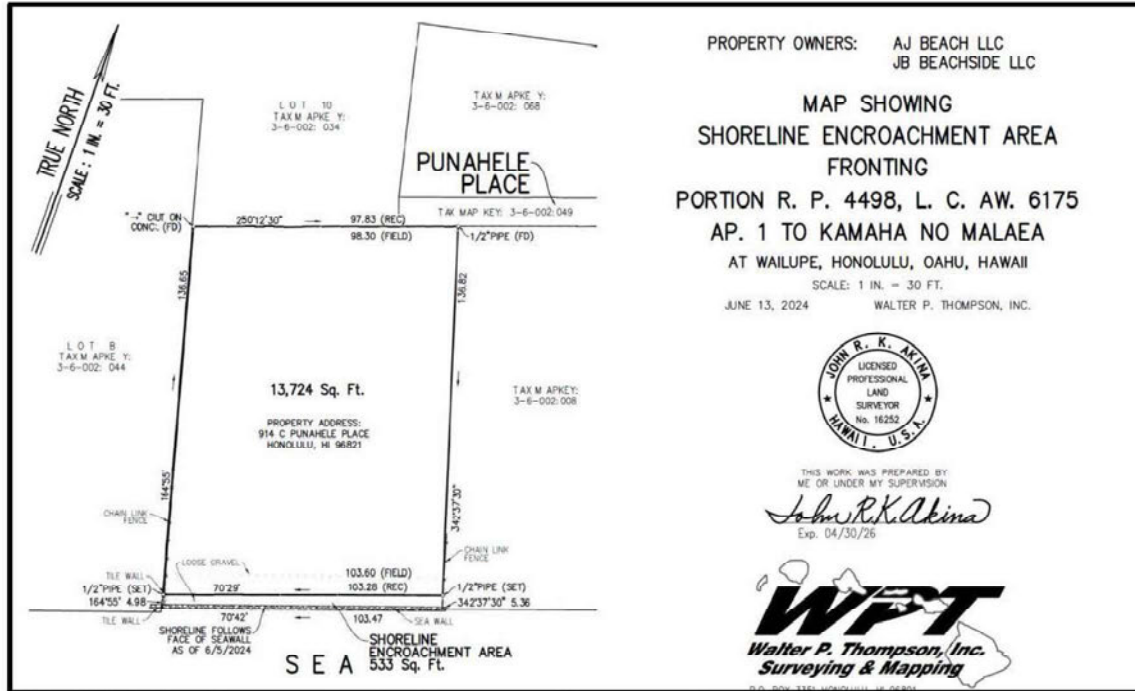
AJ Beach LLC and JB Beachside LLC  
Seawall encroachment

Shoreline Encroachment OA 24-09



AJ Beach LLC and JB Beachside LLC  
Seawall encroachment

Shoreline Encroachment OA 24-09



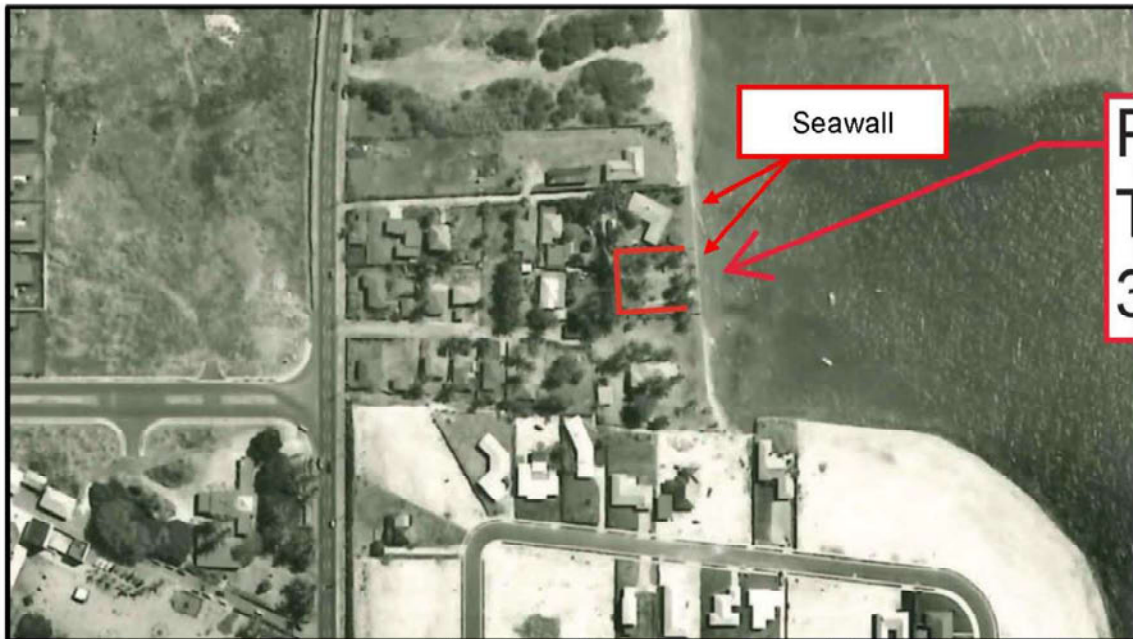
Note: 2024 shoreline map showing the encroaching seawall.

AJ Beach LLC and JB Beachside LLC  
Seawall encroachment

Shoreline Encroachment OA 24-09



Note: October 29, 1949, aerial photo of the subject property.

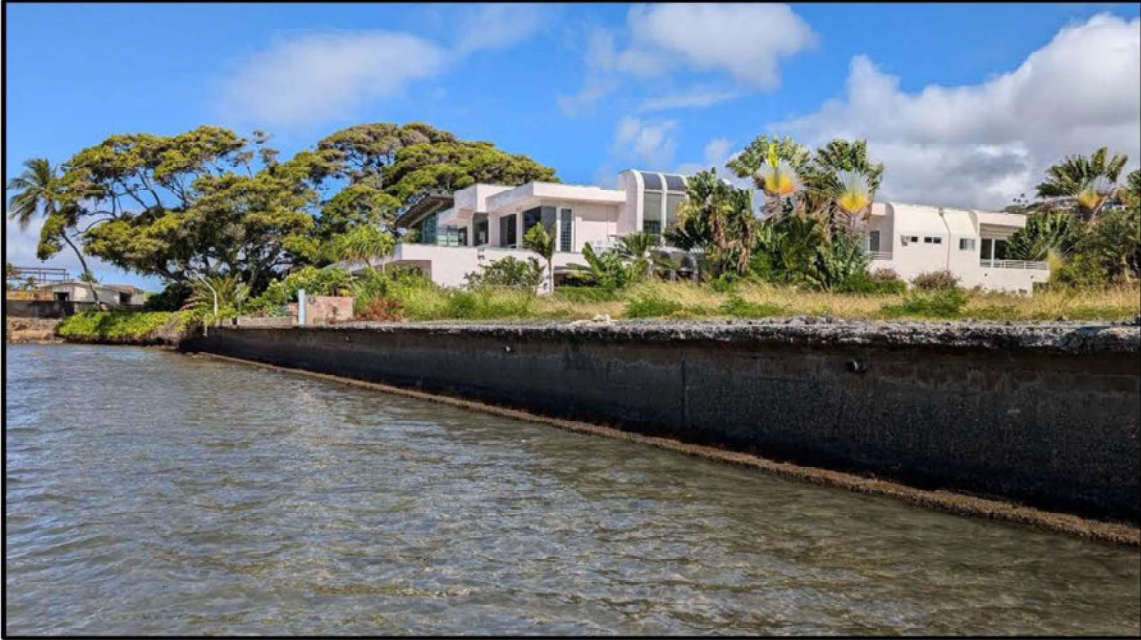


Note: Close-up view showing seawall fronting subject property and neighboring property to the east.

**Exhibit 2**

AJ Beach LLC and JB Beachside LLC  
Seawall encroachment

Shoreline Encroachment OA 24-09



Note: Photo of seawall looking west.



Note: Photo of seawall looking east.

**Exhibit 3**