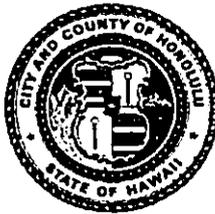


DEPARTMENT OF LAND UTILIZATION  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET  
HONOLULU, HAWAII 96813 • (808) 523-4432

FRANK F. FASI  
MAYOR



'93 MAR -5 P1:02

OFFICE OF ENVIRONMENTAL  
QUALITY CONTROL

DONALD A. CLEGG  
DIRECTOR

LORETTA K.C. CHEE  
DEPUTY DIRECTOR

92/SV-20(JT)

March 4, 1993

Mr. Brian J. J. Choy, Director  
Office of Environmental Quality Control  
(OEQC)  
220 S. King Street, 4th Floor  
Honolulu, Hawaii 96813

CHAPTER 343, HRS  
Environmental Assessment/Determination  
Negative Declaration

Recorded Owner : Gayle B. and Deborah W. Chestnut  
Koichi and Pamela J. Isayama  
Applicant : Gayle B. and Deborah W. Chestnut  
Koichi and Pamela J. Isayama  
Location : 44-321 and 44-323 Kaneohe Bay Drive  
Tax Map Key : 4-4-7: 21  
Request : Shoreline Setback Variance  
Proposal : After-the Fact Seawall  
Reconstruction and Boat Ramp Paving  
within the Shoreline Setback Area  
Determination : A Negative Declaration Is Issued

Attached and incorporated by reference is the environmental assessment prepared by the applicant for the project. Based on the significance criteria outlined in Chapter 200, State Administrative Rules, we have determined that preparation of an Environmental Impact Statement is not required.

Approved

  
DONALD A. CLEGG

Director of Land Utilization

DAC:jt  
Enclosures

1993-03-23-0A-PEA- Chestnut & Isayama After the <sup>MAR 23 1993</sup> ~~Fact~~  
Seawall reconstruction

SHORELINE SETBACK VARIANCE APPLICATION  
TAX MAP KEY 4-4-07: 21

'92 DEC 9 AM 9 18  
DEPT OF LAND UTILIZATION  
CITY & COUNTY OF HONOLULU

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SHORELINE SETBACK VARIANCE APPLICATION  
TMK 4-4-07: 21

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CITY AND COUNTY OF HONOLULU  
DEPARTMENT OF LAND UTILIZATION

650 South King Street, 7th Floor  
Honolulu, Hawaii 96813

DLU MASTER APPLICATION FORM

Additional data, drawing/plans, and fee requirements are listed on a separate sheet titled "Instructions for Filing."  
PLEASE ASK FOR THESE INSTRUCTIONS.

All specified materials and fees must accompany this form; incomplete applications could delay processing. You are encouraged to consult with department staff in completing the application. Please call the appropriate phone number given in the "Instructions for Filing" sheet.  
Please print legibly or type the required information.

PERMIT REQUESTED (Check one or more as appropriate):

Clusters:

- Agricultural Cluster
- Cluster Housing
- Country Cluster

- Park Dedication
- Plan Review Use
- Planned Development-Housing
- Shoreline Setback Variance
- Site Plan Review

- Special Management Area Permit/Assessment
- State Special Use Permit
- Subdivision
- Sunlight Reflection
- Variance from LUO Sec.(s):

Conditional Use Permits:

- Type 1
- Type 2

- Existing Use
- Flood Hazard Variance

- Site Development Plan
- Special District:

(Indicate District)

- Waiver (public uses/utilities)
- Zero Lot Line
- Zone Change, From \_\_\_\_\_ to \_\_\_\_\_
- Zoning Adjustment, LUO Sec.(s):

TAX MAP KEY(S): 4-4-07: 21

LOT AREA: .720 acre

ZONING DISTRICT: R-10

STATE LAND USE DISTRICT: Urban

STREET ADDRESS/LOCATION OF PROPERTY: 44-321 and 44-323 Kaneohe Bay Drive, Kaneohe, Hawaii  
96744

RECORDED FEE OWNER:

Name See attached sheet (page 2)

Mailing Address \_\_\_\_\_

Phone Number \_\_\_\_\_

Signature \_\_\_\_\_

APPLICANT:

Name See attached sheet (page 2)

Mailing Address \_\_\_\_\_

Phone Number \_\_\_\_\_

Signature \_\_\_\_\_

PRESENT USE OF PROPERTY/BUILDING:

Horizontal Property Regime

(Condominiums)

Two Single Family Homes

AUTHORIZED AGENT/CONTACT PERSON:

Name None

Mailing Address \_\_\_\_\_

Phone Number \_\_\_\_\_

Signature \_\_\_\_\_

PROJECT NAME (if any): Hale Kiawe

PROJECT PROPOSAL (Briefly describe the proposed activity or project):

Rock reconstruction of hollow tile seawall and paving of gravel boat ramp

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

FOR DEPARTMENT USE ONLY

FILE NO. \_\_\_\_\_

Submitted Fee Amount: \$ \_\_\_\_\_

Date Application Accepted: \_\_\_\_\_ Accepted By: \_\_\_\_\_

Date of Public Hearing: \_\_\_\_\_

- Approved
- Approved with conditions indicated below.
- Denied for reason(s) given below.
- Exempt project.

THIS COPY, WHEN SIGNED BELOW, IS NOTIFICATION OF THE ACTION TAKEN.

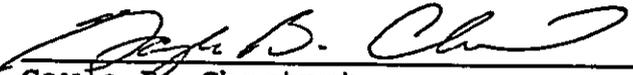
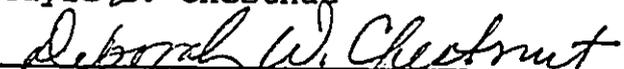
\_\_\_\_\_  
Signature Title Date

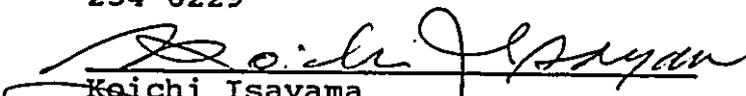
The above approval does not constitute approval of any other required permits, such as building permits.

DOCUMENT CAPTURED AS RECEIVED

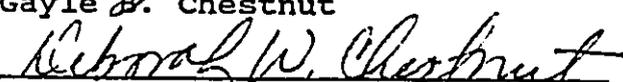
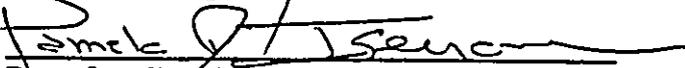
DLU-190-56 (CONTINUED)

RECORDED FEE OWNERS:

Name Gayle B. and Deborah W. Chestnut  
Mailing Address 44-323 Kaneohe Bay Drive  
Kaneohe, Hawaii 96744  
Phone Number 254-5368  
Signatures   
Gayle B. Chestnut  
  
Deborah W. Chestnut

Name Koichi and Pamela J. Isayama  
Mailing Address 44-321 Kaneohe Bay Drive  
Kaneohe, Hawaii  
Phone Number 254-6229  
Signatures   
Koichi Isayama  
  
Pamela J. Isayama

APPLICANTS: Same as Recorded Fee Owners

Signatures   
Gayle B. Chestnut  
  
Deborah W. Chestnut  
  
Koichi Isayama  
  
Pamela J. Isayama

ENVIRONMENTAL ASSESSMENT  
FOR  
SHORELINE SETBACK VARIANCE APPLICATION  
TMK 4-4-07: 21

1. GENERAL INFORMATION

- a. Applicants: Gayle & Deborah Chestnut  
Koichi & Pamela Isayama,  
as the present owners of  
two apartments in  
the Hale Kiawe  
Horizontal Property Regime
- b. Recorded Fee Owners: Gayle & Deborah Chestnut  
44-323 Kaneohe Bay Drive  
Kaneohe, Hawaii 96744  
Telephone 254-5368  
  
Koichi & Pamela Isayama  
44-321 Kaneohe Bay Drive  
Kaneohe, Hawaii 96744  
Telephone 254-6229
- c. Agent: None
- d. Tax Map Key: 4-4-07: 21
- e. Lot Area: .720 acres
- f. Agencies Consulted in Making Assessment:  
  
U.S. Army Corps of Engineers, Office of Counsel  
Building 230  
Fort Shafter, Hawaii 96858  
  
Department of Land Utilization  
650 South King Street, 7th Floor  
Honolulu, Hawaii 96813

2. DESCRIPTION OF PROPOSED ACTION

a. General Description: In 1981, the creators of the Hale Kiawe Horizontal Property Regime, who were also the predecessors in interest to the current owners, replaced an existing hollow tile wall around the circumference of a pre-existing man-made lagoon on the property, situated along the shoreline of Kaneohe Bay, with a rock wall of approximately the same dimensions. The lagoon itself is one of many that have been dredged off of the shoreline channel that was begun in 1939 by a previous landowner, Kaneohe Ranch Company (see letter from

James C. Castle to the Corps of Engineers, Exhibit A).

This particular lagoon and the initial part of its hollow tile seawall appear to have been constructed sometime in 1954. They do not appear in 1953 aerial photographs on file with R. M. Towill Company; however, they are clearly visible on R. M. Towill's negative transparency No. 1284-7, taken on January 6, 1955 (a photocopy of the negative transparency is on page 16 of the Application). On the original transparency, with the aid of a magnifying glass, it is clear in 1955 there was a straight seawall along the east edge of the lagoon (a straight dark line on the negative), and there was relatively deep water (shown as a light area on the negative) up to the edge of the seawall. The boat ramp at that time appears to have been a broad, flat cleared area leading into the water. This is confirmed by the previous owner of the adjacent property, Mr. Robert T. Leary, who states that the boat ramp and the adjacent seawall were both built in the mid 1950's (see Exhibit P).

Other additions to the seawall and additional construction around the lagoon appear to have been made in succeeding years. By 1967 two boat sheds had been added, on the north and south sides of the lagoon (see R. M. Towill photograph No. 4139-8, taken on April 23, 1967, on page 17 of the Application).

By 1981 the old hollow tile wall around the lagoon had been in place for many years, and its interior rebar had rusted to the point that the wall had partially collapsed. At that time a prior owner reconstructed the seawall using rock instead of hollow tile (see letter from prior owner, Col. Joseph G. Clemons, Jr., Exhibit I). The footing of the old hollow tile wall was used for most of the new rock wall. The top of the footing is at approximately the water line at low tide, and at high tide the wall extends from one to two feet above the water line, depending on the location it is measured. The wall is approximately two feet wide and from three to four feet high from the footing.

At approximately that same time, in 1981, the owner of the riparian land immediately to the south of Hale Kiawe paved the existing gravel boat ramp with approximately six inches of reinforced concrete (see Exhibit I). Most of the road leading to the boat ramp is on the adjacent property to the south, but several feet of it encroach onto Hale Kiawe's land, and the concrete extends down approximately to the water line at low tide (see photographs on page 10 of the Application for views of the present seawall and boat ramp at relatively high tide).

At the time they purchased their present homes, under warranty deeds, none of the present owners (the Applicants) had any knowledge or reason to know that the rock part of the seawall had been reconstructed or that the encroaching portion of the neighbor's road and boat ramp had been paved subsequent to the passage of City and County Ordinances regulating those activities within the Shoreline Setback.

The pre-existing hollow tile seawall and the gravel boat ramp existed prior to adoption of the Shoreline Setback Rules and Regulations, dating back to the mid 1950s, and were,

therefore, Nonconforming Structures under Rule 14.3 of the new Shoreline Setback Rules and Regulations. The rock seawall reconstruction and the paving of the boat ramp constituted expansions of the nonconformity, and apparently occurred after adoption of the new Rules and Regulations, thus requiring a Shoreline Setback Variance. This Application is for an after-the-fact Shoreline Setback Variance.

b. Technical Characteristics:

(i) Use Characteristics: This property and all the surrounding lots are used for single family residences.

(ii) Physical Characteristics: The property is located on Kaneohe Bay Drive, Kaneohe, Oahu. The annual rainfall in the area ranges between 20 to 25 inches, and temperature ranges between 65 to 85 degrees Fahrenheit. The topography of the project area is gently sloping towards the makai end, with a slope of approximately 2 to 4 percent. See page 14 of the Application for the Shoreline Certification Map, showing metes and bounds. The approximate location of the reconstructed rock seawall and the encroaching portion of the boat ramp are marked in red on that map.

(iii) Construction Characteristics: A typical cross-section of the rock seawall, as reconstructed, is shown on page 9 of the Application. The boat ramp consists of a reinforced concrete slab about 6 inches thick, over gravel. See page 10 of the Application for a typical cross-section of the boat ramp. No additional construction is proposed at present.

(iv) Other Pertinent Information: The property has Municipal water, electric, and rubbish disposal service. Individual waste water disposal systems conforming to the State of Hawaii Department of Health Standards are currently being used. Upon installation of the City and County sewer at a future date (estimated January 1995) connection to the City and County sewer collection system is planned. The easement for the sewer does not affect the rock seawall, the concrete boat ramp or the man-made lagoon (see maps showing sewer line easement, pages 15 and 18 of the Application). Access to the site is by way of Kaneohe Bay Drive.

c. Shore Protection Structures: The seawall and boat ramp are located on the shore of Kaneohe Bay, which is a well-protected estuary. Typical factors affecting many Oahu shorelines, such as wave runup, littoral transport, cyclical and abnormal changes of beach form, and changes in sources of sand are non-existent at this location. The shoreline is solely exposed to water level fluctuations resulting from changing tides. The site is not subject to erosion. Accreted lands (Parcel 3A on the Shoreline Certification Map on page 14 of the Application) currently abut the northwest corner of Hale Kiawe's

property, on the bay side of the lagoon, and those lands are being purchased from the State of Hawaii by the Applicants. Map No.15 from the Oahu Coastal Zone Atlas, included on page 12 of the Application, depicts the shoreline at this location. The approximate locations of the reconstructed rock seawall and the paved boat ramp are also indicated in red on that map.

3. Affected Environment

a. Description of Site: The property is within the Urban State Land Use District and R-10 Residential zoning district of the City and County of Honolulu. The neighborhood mostly consists of single-family residences.

b. Federal FIRM Zone: The site is in the Flood Insurance Rate Map Zone D, as shown on the map on page 13 of the Application. These are areas in which flood hazards are undetermined.

c. Coastal Views: Coastal views from surrounding public viewpoints and from the nearest coastal highway or Kaneohe Bay Drive across the subject property to the ocean or to coastal landforms are not at all affected by either the seawall or the boat ramp. The nearest coastal highway is Kamehameha Highway.

d. Public Areas and Natural Resources: The site has no direct relationship to publicly owned beaches, parks or recreational areas. Its frontage is on Kaneohe Bay, which is used publicly for water-oriented activities, but the site and the adjoining properties do not provide public access to the Bay in this area. The portion of the property between the high water mark and the shoreline setback line consists of mudflats that are barely exposed during extreme low tides. There is no overland public access to the adjacent mudflats. Kaneohe Marine Corps Air Station is located about 2 miles northeast of the site. Other than the man-made lagoon, which was constructed before the time of any aerial photographs on file with either the Department of Land Utilization or the U.S. Army Corps of Engineers, and which is bordered by the subject seawall, there are no wetlands, lagoons, tidal lands, submerged lands, fisheries, fishing grounds, or other coastal or natural resources on the subject property. The offshore coastal water is Class AA. Groundwater is brackish and not a source of domestic water.

4. Impacts and Alternatives Considered

a. Project Impacts: Allowing the existing reconstructed rock seawall and the paved boat ramp to remain in place will not affect existing conditions at all. Conversely, removing them would certainly involve demolition activities that would have adverse impacts on water quality, both short term during construction, and long term, because the slight height of the

existing reconstructed rock seawall would no longer be present to trap silt and other non-point-source pollutants traveling in sheetflow overland into Kaneohe Bay during heavy rains.

b. Economic Impacts: Allowing the reconstructed rock seawall and the paved boat ramp to remain in place will have no economic impact on the public. The rock reconstruction of the seawall was accomplished in 1981, at an unknown cost, by parties unrelated to the Applicants. The reinforced concrete layer on the boat ramp was placed shortly thereafter, also by parties unrelated to the Applicants, also at an unknown cost. No additional construction cost is anticipated.

c. Social Impacts: Allowing the reconstructed rock seawall and the paved boat ramp to remain in place will have no impact at all on existing social characteristics. Likewise, the reconstruction of the seawall and the placement of concrete on the boat ramp had no impact in 1981, either, because neither changed the use of any land or water area at that time. A hollow tile seawall with a boat shed and hoist, and a gravel boat ramp existed before then; therefore, the reconstruction of the seawall and the paving of the boat ramp represented only a change of building materials at that time.

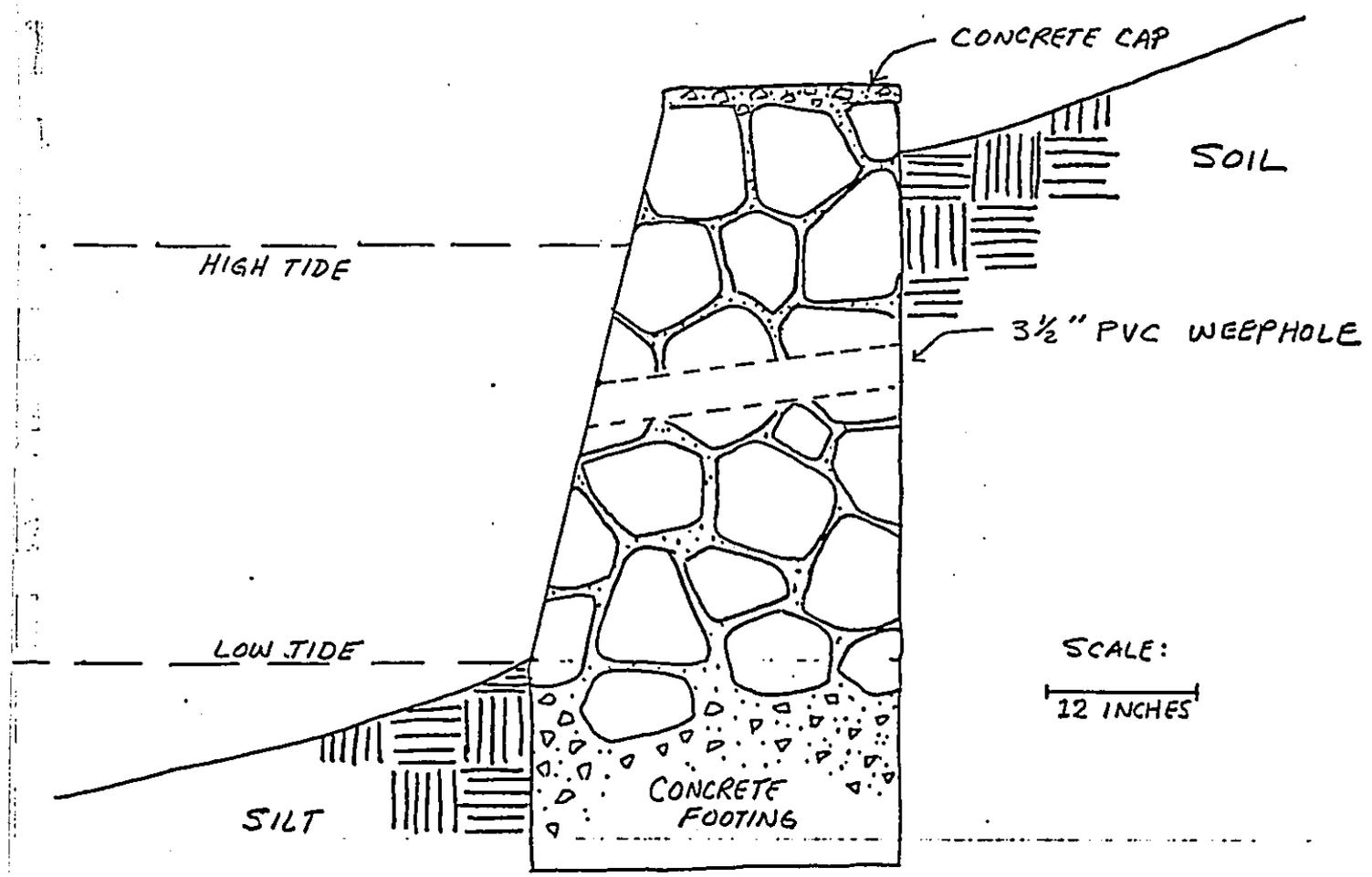
d. Alternatives Considered: Removing the reconstructed part of the seawall and the paving on the boat ramp (the Removal Alternative) was considered. Also considered was allowing the existing rock seawall and paved boat ramp to remain in place (the No Action Alternative). The No Action Alternative is the proposed alternative.

5. Mitigation Measures: No mitigation measures are proposed, because the proposed No Action Alternative maintains the status quo. Normal maintenance of the existing structures ensures minimal present and future impact on the environment.

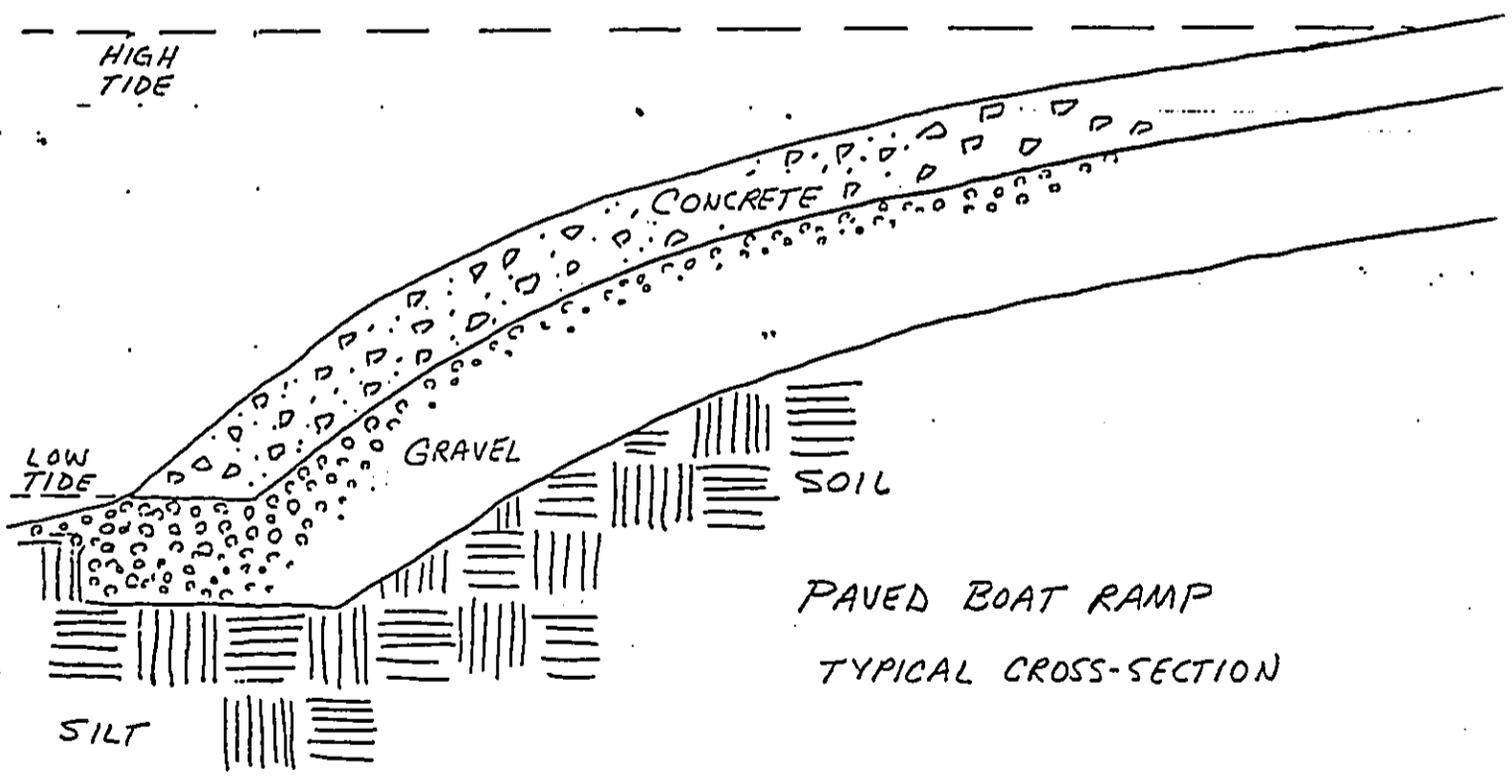
#### SUPPLEMENTAL INFORMATION

1. Section of Shoreline Setback Rules and Regulations from Which a Variance Is Sought: Rule 13.32

2. Hardship on Applicants: The Applicants are individual homeowners, two working families of average means. They purchased their respective homes in good faith, under warranty deeds, having been told by their respective sellers and believing that all improvements on the premises had been legally constructed. The parties responsible for any construction within the Shoreline Setback have moved out of the State, and intervening owners have variously died or moved out of the State. The Applicants have considered removing the reconstructed part of the seawall and the portion of the boat ramp that encroaches onto their property. However, this alternative is impracticable, because it would be inordinantly expensive, without conferring any corresponding benefit on the environment. In fact, the environment would be degraded by the required demolition activity, and it is unlikely that the present owners could obtain reimbursement from the responsible parties without expensive litigation. Furthermore, such demolition itself would be illegal under Federal law, because it would involve work in navigable waters of the United States prohibited under 10 U.S.C. 403 unless specifically permitted by the Army Corps of Engineers. For the reasons set out in the Environmental Assessment, it is unlikely such a permit could be found to be in the public interest and issued, even if it were applied for. As a matter of policy, the Federal Government does not normally pursue enforcement actions against activities that were completed more than five years prior to discovery, even in cases where the violator still owns the property (see Regulatory guidance letter No. 88-4, Exhibit B). In cases where the land has been sold by the violator, enforcement is even more problematic (see, for example, Tull v. United States, 481 U.S. 412, 1987, at footnote 2). Requiring removal of the now well-established seawall and boat ramp would inevitably cause extensive and complex litigation, probably involving the present owners, the State of Hawaii, the City and County of Honolulu, the United States, intervening owners, various real estate brokers and title insurance companies, and the parties originally responsible for the unpermitted construction, all mainly in Federal District Court. Being involved in such complex litigation, with the resulting cloud on the title to the land underlying their homes, would cause extreme hardship on the Applicants and would be unconscionably inequitable to them, because none of them had any knowledge or reason to know of any violation before they bought their respective homes. The hardship could rise to the level of an uncompensated permanent or temporary taking of private property for public use, which is prohibited by the Fifth and Fourteenth Amendments to the U.S. Constitution, requiring compensation by one of the governments involved, particularly if similar riparian properties along Kaneohe Bay are not being treated equally.

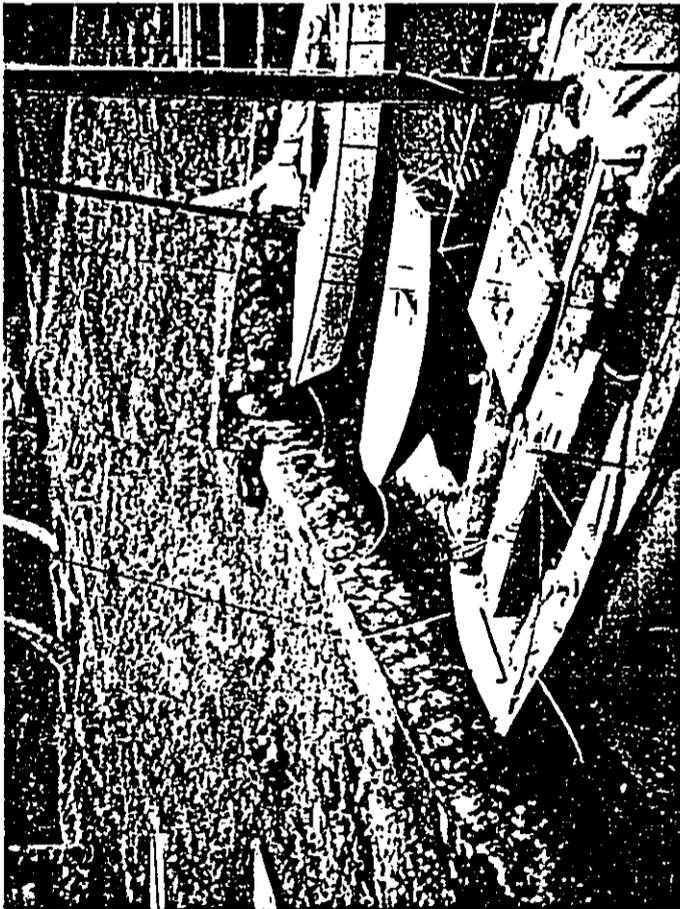
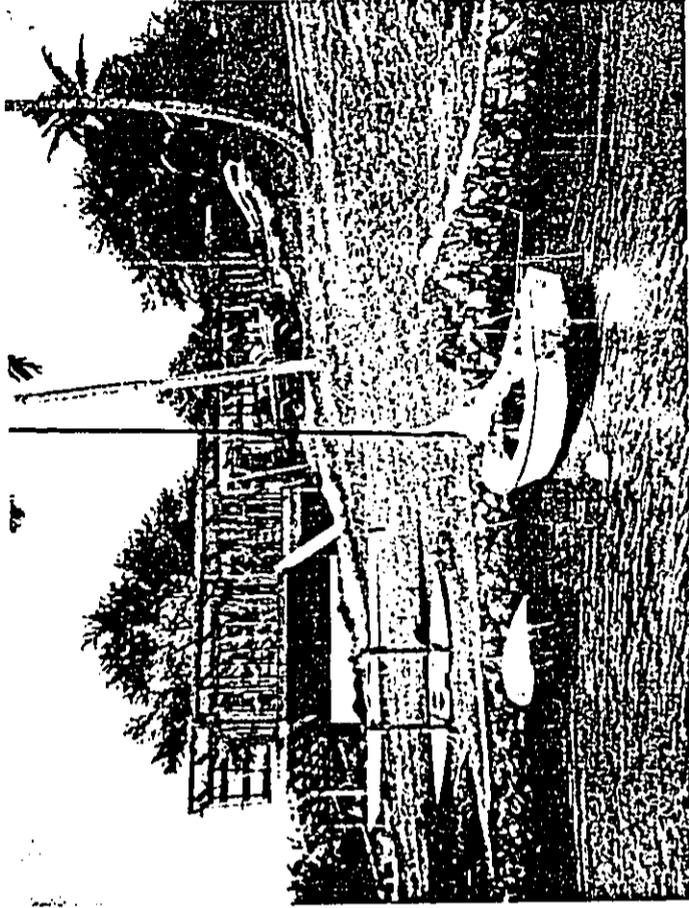


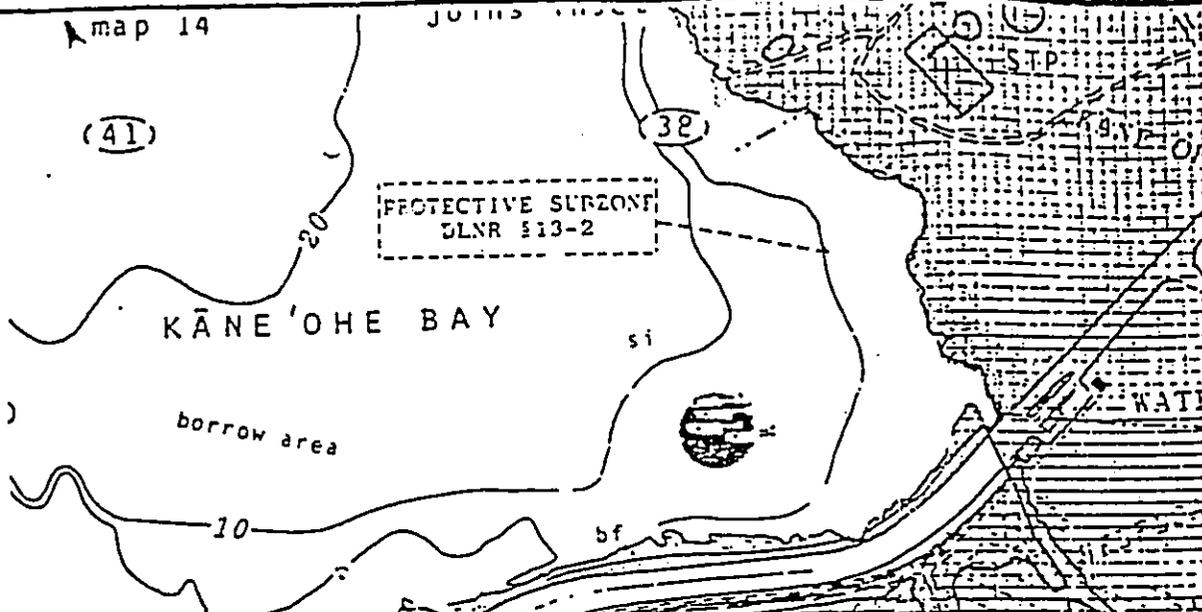
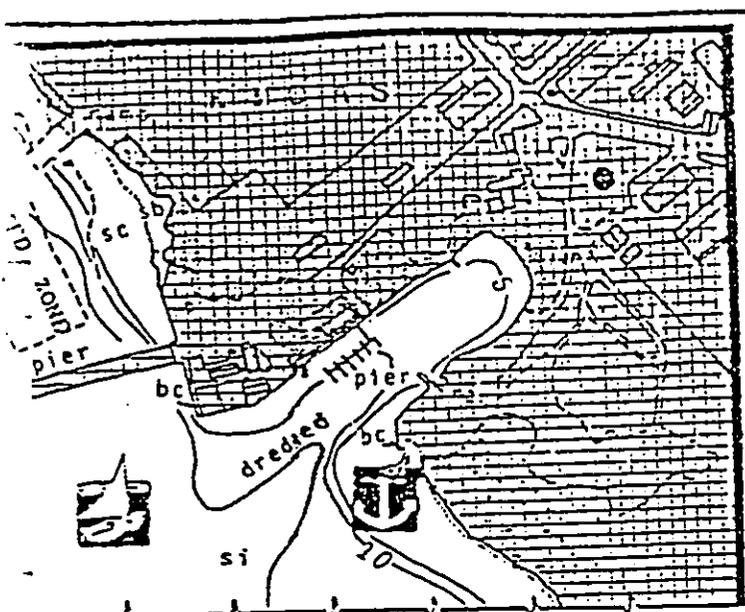
ROCK SEAWALL  
TYPICAL CROSS-SECTION



SCALE:  
  
 12 INCHES

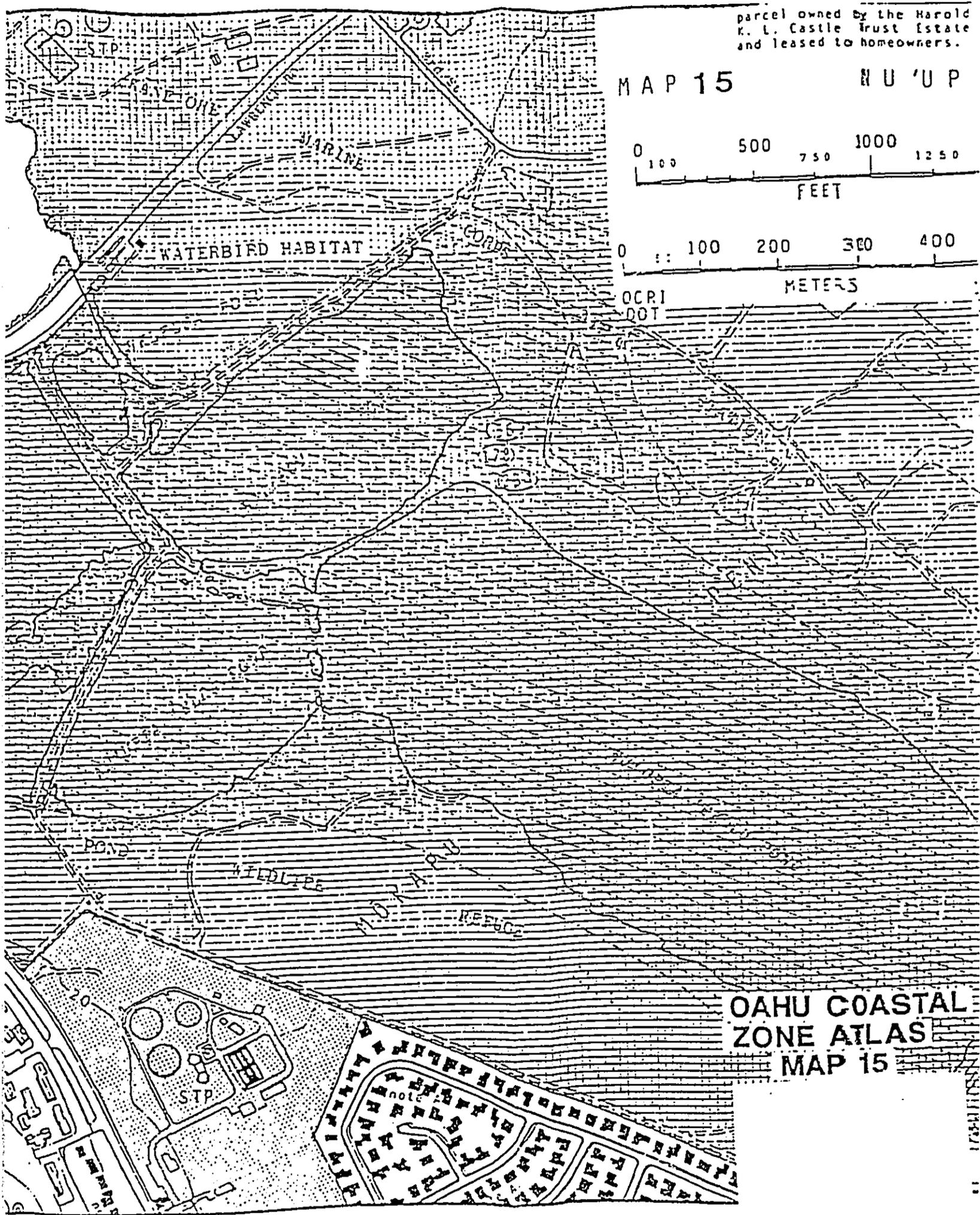
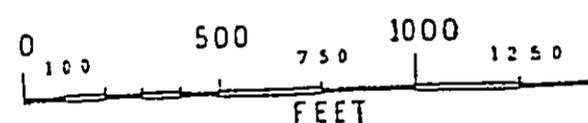
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parcel owned by the Harold  
K. L. Castle Trust Estate  
and leased to homeowners.

# MAP 15 NU'UP



## OAHU COASTAL ZONE ATLAS MAP 15

11 17531781

NE AE  
(EL 3)

M64

HALEKOU  
POND

NUUPIA

POND

AIR STATION

M63

PROJECT LOCATION

KANEHOE BAY

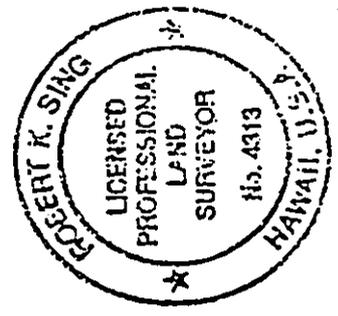
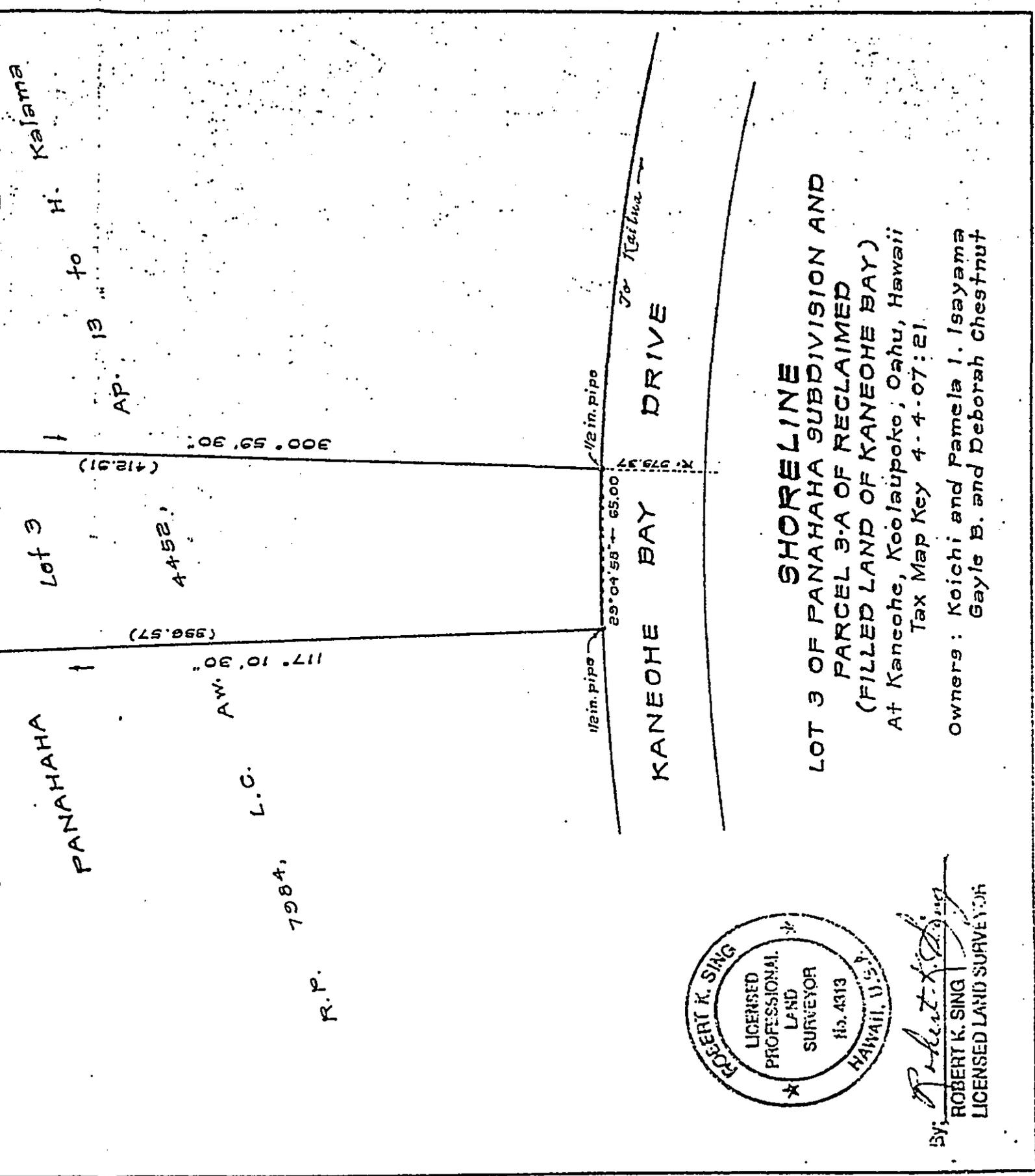
ZONE D

M 62

NOTE:  
COASTAL BASE FLOOD ELEVATIONS  
APPLY ONLY LANDWARD OF THE  
SHORELINE SHOWN ON THIS MAP.







BY: *Robert K. Sing*  
 ROBERT K. SING  
 LICENSED LAND SURVEYOR

TRUE NO.  
Scale 1" = 100'

BAY

N E O H E

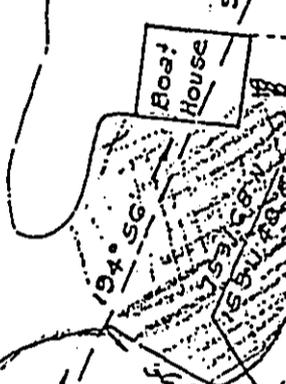
EASEMENT  
100' - Ft.  
253 Sq. Ft.  
990 Sq. Ft.

59 110 Sq. Ft.  
105 GS  
18.065  
1143 Sq. Ft.  
1143 Sq. Ft.  
1620.59 N  
1539.5.16 E

58 1143 Sq. Ft.

LOT A 124°  
304° 42' 30"

L. C. AW. 48 59 2  
Alex J. S.  
Ruth F. Sile  
(Lessee)



57 945 Sq. Ft.

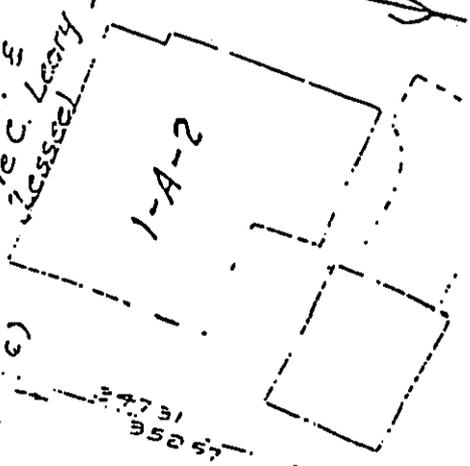
1987, 300' 59' 30"  
Sue Ann Fish  
(Lessee)

56 562 Sq. Ft.

High Water  
176° 29' - 159 88  
3185 175° 27' - 1100055E  
2035  
176° 29' - 159 88  
3185 175° 27' - 1100055E  
2035  
176° 29' - 159 88  
3185 175° 27' - 1100055E  
2035  
176° 29' - 159 88  
3185 175° 27' - 1100055E  
2035

55 865 Sq. Ft.

APPLICATION  
G14  
Robert T. S.  
Magjane C. Leary  
(Lessee)



54 907 Sq. Ft.

15 T

DOCUMENT CAPTURED AS RECEIVED

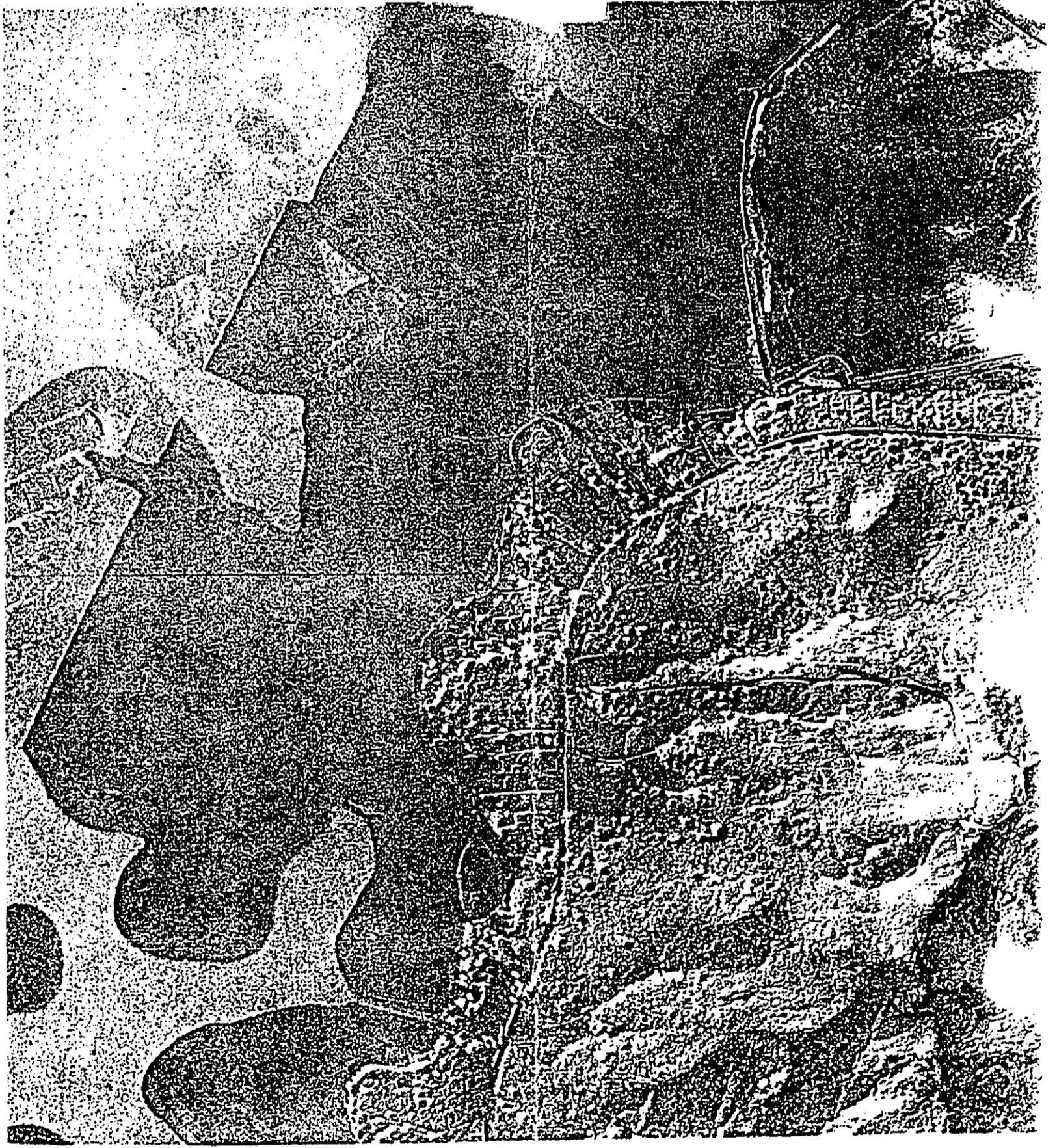
AERIAL PHOTOGRAPHY  
PHOTOGRAMMATIC ENGINEERS  
CIVIL ENGINEERS & SURVEYORS & PLANNERS  
PHOTO. NO. 1284-7  
APPROX. SCALE

DATE OF PHOTO: 1-6-55

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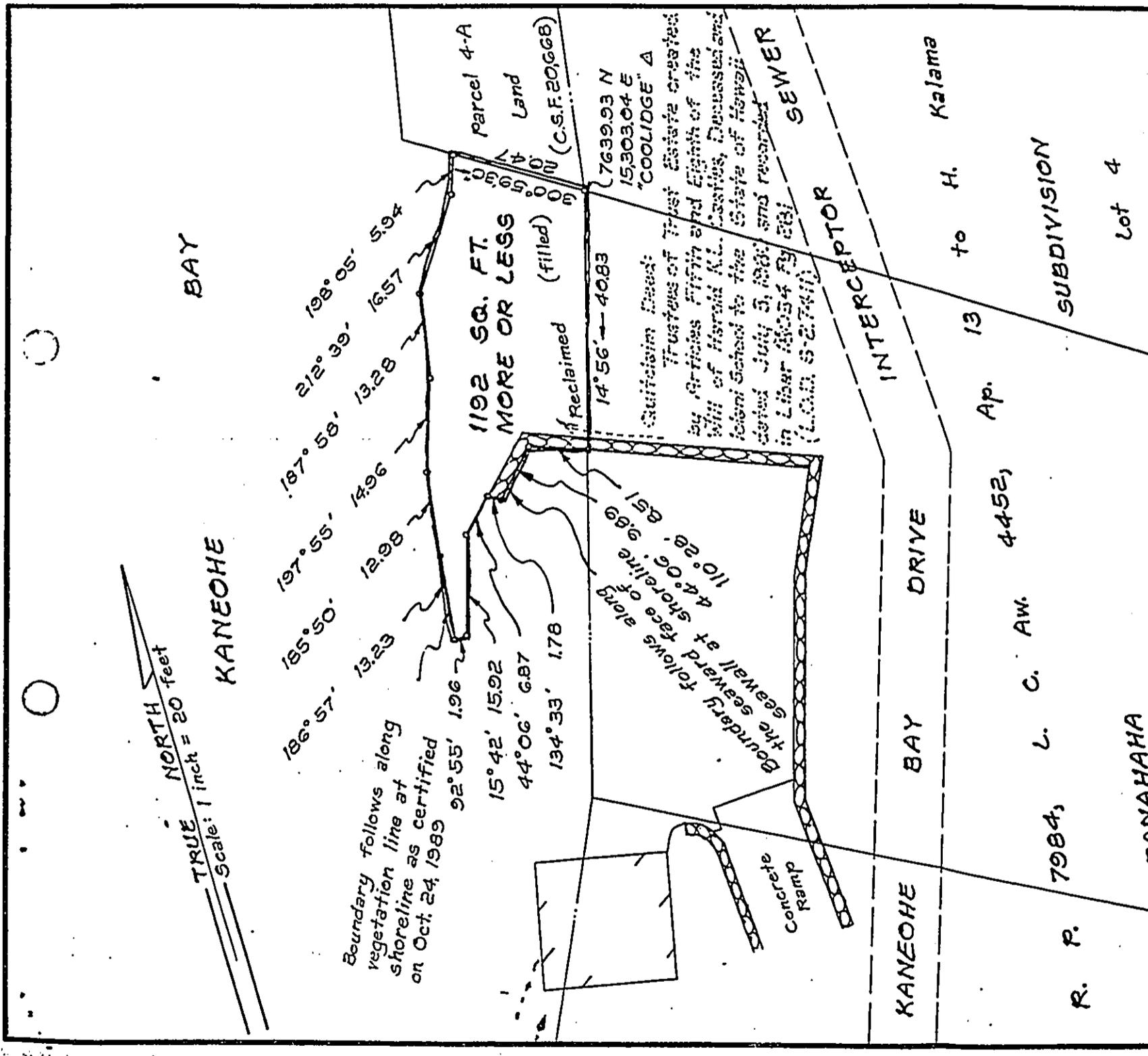
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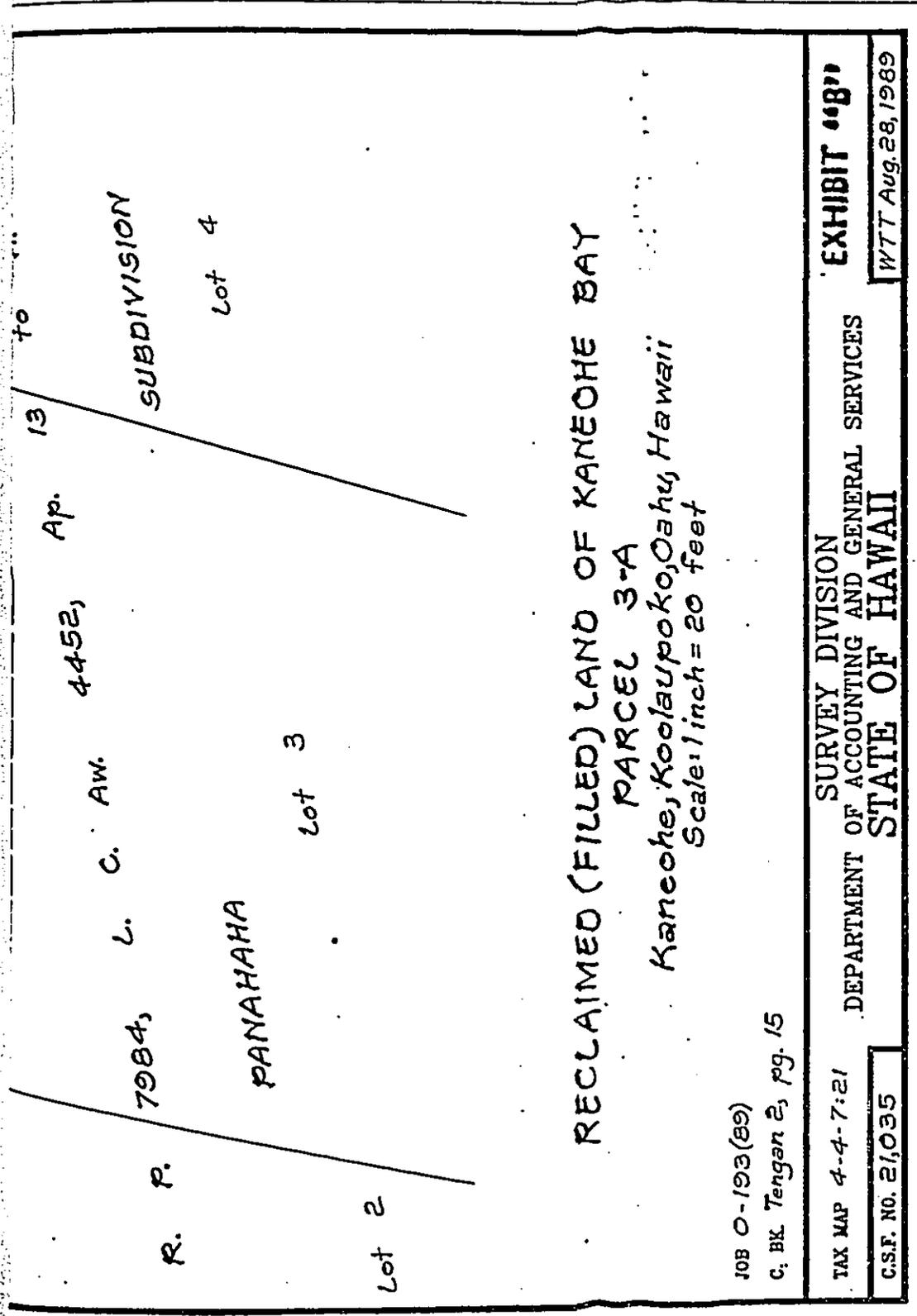


AERIAL PHOTOGRAPHY  
PHOTOGRAMMETRIC ENGINEERS  
CIVIL ENGINEERS • SURVEYORS • PLANNERS  
PHOTO. NO.: 4139-8  
APPROX. SCALE: \_\_\_\_\_

DATE OF PHOTO: 4-23-67

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JOB O-193(89)  
 C. BK. Tengan 2, pg. 15

TAX MAP 4-4-7:21  
 C.S.F. NO. 21035

SURVEY DIVISION  
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
 STATE OF HAWAII

EXHIBIT "B"  
 WTT Aug. 28, 1989

EXHIBITS

DOCUMENT CAPTURED AS RECEIVED

NOV 23 1939  
November 22, 1939

District Engineer,  
United States Engineer Office,  
P. O. Box 2240,  
Honolulu, Hawaii

Attention: Major P. E. Fernald

Dear Sir:

In accordance with the terms of the permit received from you to dredge in Kaneohe Bay and dated July 17, 1939, we hereby notify you of the completion of such work on November 20, 1939.

This work was done in accordance with the plans shown on the blue print attached to the permit and entitled:

"Proposed channel and fill, Kaneohe Bay, Oahu, T.H., Kaneohe Ranch Company, Ltd., Hawaiian Trust Company, Ltd., Agents, by F. O. Eivon, Asst. Eng., July 8, 1939."

The channel connecting the shore line channel with deep water was dredged approximately where Channel IX is located on the above mentioned blue print.

Yours very truly,

KANEOHE RANCH CO., LTD.,

By (Sgd) James C. Gault  
Vice President

JCG:JY

CC: To Louis S. Cain,  
Superintendent of Public Works,  
Honolulu, Hawaii

EXHIBIT A



US Army Corps  
of Engineers  
Office, Chief of Engineers

# Regulatory Guidance Letter

No. 88-4

Date 7 April 88

Expires 31 Dec 90

CECW-OR

SUBJECT: Enforcement

1. A question surfaced recently on the statute of limitation applicable to violations of the regulatory laws administered by the Corps of Engineers. The answer to that question is a legal issue and not the subject of this guidance letter. But because of limited resources available in the regulatory program, it did cause us to consider from a policy standpoint an appropriate cut-off time for pursuing older violations.

2. In view of resource limitations, district engineers should normally not pursue enforcement actions against activities that were completed more than five years prior to discovery. There will be cases where an exception to this norm is clearly indicated and there is no intent to bar enforcement actions in such cases.

3. This guidance expires 31 December 1990 unless sooner revised or rescinded.

FOR THE CHIEF OF ENGINEERS:

JOHN P. ELMORE  
Chief, Operations and Readiness Division  
Directorate of Civil Works

EXHIBIT B



NO BV 90-11-55

Date 11-13-90

CITY AND COUNTY OF HONOLULU  
BUILDING DEPARTMENT

NOTICE OF VIOLATION

TO: Owner/ ~~Copy/ Losses/ Tenant/~~ Mr. & Mrs. Gayle B. Chestnut  
Mailing Address 44-323 Kaneohe Bay Dr., Kaneohe, HI 96744  
RE: Building Code Violation  
ADDRESS 44-321 & 44-323 Kaneohe Dr., Kaneohe HI 96744  
TAX MAP KEY 4-4-7:21 PERMIT NO. None

I have inspected the above-described structure and/or premises and have found the following violations of City and County of Honolulu's laws and regulations governing same:

Codes and/or Ordinance(s) and Section(s)	Violation(s)
ROH, Sec. 18-3.1 Permit Required	* A building permit is required for the construction of a boat ramp and seawalls at rear of property.
Sec. 18-6.2(d) Building permit fees	Because work was done before the building permit was obtained, the fees specified shall be doubled.
	NOTE: IF BUILDING PERMIT CANNOT BE OBTAINED, ALL CONSTRUCTION WORK DONE MUST BE REMOVED.

- STOP WORK!** You are hereby ordered to stop work! Please contact the undersigned as soon as possible but no later than \_\_\_\_\_.
- Please notify the undersigned when corrections are made. If no action is taken within thirty days to make corrections:
  1. This matter will be referred to the Prosecuting Attorney and/or Corporation Counsel for appropriate action; and/or
  2. This matter will be referred to the Department of Land Utilization for CIVIL FINES for violations of the Land Use Ordinance; and/or
  3. A Notice of Order will be issued by the Building Department imposing CIVIL FINES for the specified violations.
- IMMEDIATE REFERRAL - RECURRING VIOLATION - HAZARDOUS CONDITION.
- If work is not \_\_\_\_\_ within \_\_\_\_\_ ( ) calendar days after the date of this notice and diligently prosecuted to completion without interruption, the work will be done by the City and the cost thereof shall be charged to the owner.

Inspector: *Clinton Ching* Ph. 523-4277  
CLINTON CHING

VIOLATION CORRECTED: \_\_\_\_\_ DATE \_\_\_\_\_

Remarks: \_\_\_\_\_

NOTICE OF ORDER  
ISSUED BY BUILDING DEPT.: 09-09-92 B092-9-8  
DATE ORDER NO.

REFERRED TO: \_\_\_\_\_ AGENCY DATE CORIL NO. \_\_\_\_\_



NO. BV 90-11-56

Date 11-13-90

CITY AND COUNTY OF HONOLULU  
BUILDING DEPARTMENT

NOTICE OF VIOLATION

TO: Owner ~~44-321 & 44-323 Kaneohe Bay Dr., Kaneohe, HI 96744~~ Mr. & Mrs. Gayle B. Chestnut

Mailing Address 44-323 Kaneohe Bay Dr., Kaneohe, HI 96744

RE: Shoreline Setback Violation

ADDRESS 44-321 & 44-323 Kaneohe Bay Dr., Kaneohe, HI 96744

TAX MAP KEY 4-4-7:21 PERMIT NO. ---

I have inspected the above-described structure and/or premises and have found the following violations of City and County of Honolulu's laws and regulations governing same:

Codes and/or Ordinance(s) and Section(s)	Violation(s)
Shoreline Setback Rules & Regulations of the City & County of Honolulu. Rule 13, Section 3 Structure Not Permitted	The construction of a boat ramp and seawalls within the 40'-0" shoreline setback area is not permitted.

**STOP WORK!** You are hereby ordered to stop work! Please contact the undersigned as soon as possible but no later than \_\_\_\_\_.

Please notify the undersigned when corrections are made. If no action is taken within thirty days to make corrections:

1. This matter will be referred to the Prosecuting Attorney and/or Corporation Counsel for appropriate action; and/or
2. This matter will be referred to the Department of Land Utilization for CIVIL FINES for violations of the Land Use Ordinance; and/or
3. A Notice of Order will be issued by the Building Department imposing CIVIL FINES for the specified violations.

IMMEDIATE REFERRAL - RECURRING VIOLATION - HAZARDOUS CONDITION.

If work is not \_\_\_\_\_ within \_\_\_\_\_ ( ) calendar days after the date of this notice and diligently prosecuted to completion without interruption, the work will be done by the City and the cost thereof shall be charged to the owner.

Inspector: *Clinton Ching* Ph. 523-4277  
CLINTON CHING *pm*

VIOLATION CORRECTED: \_\_\_\_\_ DATE \_\_\_\_\_

Remarks: \_\_\_\_\_

NOTICE OF ORDER ISSUED BY BUILDING DEPT.: \_\_\_\_\_ DATE \_\_\_\_\_ ORDER NO. \_\_\_\_\_

REFERRED TO: DLU AGENCY 11/21/91 DATE B91-1077 CORR. NO.



NO. BV 90-11-57

Date 11-13-90

CITY AND COUNTY OF HONOLULU  
BUILDING DEPARTMENT

NOTICE OF VIOLATION

TO: Owner Mr. & Mrs. Koichi Isayama  
Mailing Address 44-321 Kaneohe Bay Dr., Kaneohe, HI 96744  
RE: Building Code Violation  
ADDRESS 44-321 & 44-323 Kaneohe Bay Dr., Kaneohe, HI 96744  
TAX MAP KEY 4-4-7:21 PERMIT NO. None

I have inspected the above-described structure and/or premises and have found the following violations of City and County of Honolulu's laws and regulations governing same:

Codes and/or Ordinance(s) and Section(s)	Violation(s)
ROI, Sec. 18-3.1 Permit Required	* A building permit is required for the construction of a boat ramp and seawalls at rear of property.
Sec. 18-6.2(d) Building permit fees	Because work was done before the building permit was obtained, the fees specified shall be doubled.
	NOTE: IF BUILDING PERMIT CANNOT BE OBTAINED, ALL CONSTRUCTION WORK DONE MUST BE REMOVED.

STOP WORK! You are hereby ordered to stop work! Please contact the undersigned as soon as possible but no later than \_\_\_\_\_

Please notify the undersigned when corrections are made. If no action is taken within thirty days to make corrections:  
1. This matter will be referred to the Prosecuting Attorney and/or Corporation Counsel for appropriate action; and/or  
2. This matter will be referred to the Department of Land Utilization for CIVIL FINES for violations of the Land Use Ordinance; and/or  
3. A Notice of Order will be issued by the Building Department imposing CIVIL FINES for the specified violations.

IMMEDIATE REFERRAL - RECURRING VIOLATION - HAZARDOUS CONDITION.

If work is not \_\_\_\_\_ within \_\_\_\_\_ ( ) calendar days after the date of this notice and diligently prosecuted to completion without interruption, the work will be done by the City and the cost thereof shall be charged to the owner.

Inspector: CLINTON CHING Ph. 523-4277

VIOLATION CORRECTED: \_\_\_\_\_ DATE \_\_\_\_\_

Remarks: \_\_\_\_\_

NOTICE OF ORDER ISSUED BY BUILDING DEPT.: 09-09-92 DATE BO92-9-7 ORDER NO.

REFERRED TO: \_\_\_\_\_ AGENCY \_\_\_\_\_ DATE \_\_\_\_\_

EXHIBIT E



NO. BV 90-11-58

Date 11-13-90

CITY AND COUNTY OF HONOLULU  
BUILDING DEPARTMENT

**NOTICE OF VIOLATION**

TO: ~~Owner/Owner/Leaseholder/Agent~~ Mr. & Mrs. Koichi Isayama

Mailing Address 44-321 Kaneohe Bay Dr., Kaneohe, HI 96744

RE: Shoreline Setback Violation

ADDRESS 44-321 & 44-323 Kaneohe Bay Dr., Kaneohe, HI 96744

TAX MAP KEY 4-4-7:21 PERMIT NO. ---

I have inspected the above-described structure and/or premises and have found the following violations of City and County of Honolulu's laws and regulations governing same:

Codes and/or Ordinance(s) and Section(s)	Violation(s)
Shoreline Setback Rules & Regulations of the City & County of Honolulu. Rule 13, Section 3 Structure Not Permitted	The construction of a boat ramp and seawalls within the 40'-0" shoreline setback area is not permitted.

**STOP WORK!** You are hereby ordered to stop work! Please contact the undersigned as soon as possible but no later than \_\_\_\_\_.

Please notify the undersigned when corrections are made. If no action is taken within thirty days to make corrections:

1. This matter will be referred to the Prosecuting Attorney and/or Corporation Counsel for appropriate action; and/or
2. This matter will be referred to the Department of Land Utilization for CIVIL FINES for violations of the Land Use Ordinance; and/or
3. A Notice of Order will be issued by the Building Department imposing CIVIL FINES for the specified violations.

IMMEDIATE REFERRAL - RECURRING VIOLATION - HAZARDOUS CONDITION.

If work is not \_\_\_\_\_ within \_\_\_\_\_ ( ) calendar days after the date of this notice and diligently prosecuted to completion without interruption, the work will be done by the City and the cost thereof shall be charged to the owner.

Inspector:  Ph. 523-4277  
**CLINTON CHING**

VIOLATION CORRECTED: \_\_\_\_\_  
DATE \_\_\_\_\_

Remarks: \_\_\_\_\_

NOTICE OF ORDER ISSUED BY BUILDING DEPT.: \_\_\_\_\_  
DATE \_\_\_\_\_

REFERRED TO: \_\_\_\_\_  
AGENCY \_\_\_\_\_ DATE \_\_\_\_\_

January 24, 1991

Mr. Donald A. Clegg  
Director, Department of Land Utilization  
City and County of Honolulu  
650 South King Street  
Honolulu, Hawaii 96813

SUBJECT: Honolulu Department of Building Notices of Violation  
Nos. BV 90-11-55, BV 90-11-56, BV 90-57, and BV 90-11-58.

Dear Mr. Clegg:

We are the respective owners of two residences located at 44-321 and 44-323 Kaneohe Bay Drive, which together comprise the Hale Kiawe Horizontal Property Regime (HPR), and which together constitute all of the property in Tax Map Key 4-4-7:21. We are also the persons cited in the subject Notices by the Honolulu Department of Building for alleged violations of Honolulu's shoreline setback rules and Hawaii's Building Code. We are writing to you because we were informed by the Department of Building that it was your Department which instituted and remains in control of official actions regarding these alleged violations.

The structures referred to in these Notices apparently are the seawall surrounding the man-made lagoon at the foot of our common HPR property and a small portion of a concrete boat ramp primarily constructed on property adjacent to ours. We are surprised, to say the least, that Honolulu is now taking a regulatory interest in these structures, which we believe have existed for well over twenty years.

As a result of receiving these Notices, we have been compelled, at a cost of considerable time and expense, to search records which have been available to the City and County since long before these Notices were issued, to ascertain that these structures are indeed very old.

First, let us state unequivocally for the record that none of us has ever taken any part in the construction of or authorized the construction of any permanent structure, either in the Bay itself or within the 40-foot shoreline setback. When we purchased our respective residences (under separate warranty deeds) the seawall and boat ramp at issue existed exactly as they do today.

The basic Ordinance referred to in the Notices--ROH 18-3.1-- states that "No person shall perform any of the following...without first obtaining a building permit therefor...(1) Erect [or] construct...any structure" (emphasis added). None of us has constructed or authorized the construction of any of the structures referred to in the Notices. All such work was performed long ago, without our knowledge or consent, by one or more of our predecessors in interest, some of whom are now deceased and the rest of whom

EXHIBIT G

we believe now reside out of state. Obviously, then, none of us is a person to whom the Ordinance would apply, even if it did not exempt our structures, which it does. Furthermore, it would obviously be inequitable to hold us personally accountable for our predecessors' actions under such circumstances, even if the structures themselves were not exempt from the effect of the Ordinance.

The Ordinance goes on to provide as follows:

A permit shall not be required for...repairs which involve only the replacement of component parts of existing work with similar materials for the purpose of maintenance, and which do not aggregate over \$300 in valuation for any 12-month period...(emphasis added).

While none of us has done any such maintenance work ourselves, we believe any work done on these structures since 1970--even by our predecessors in interest--fell within this category.

Several maps and aerial photographs in the possession of the City and County clearly show that these structures existed prior to June 22, 1970, which we understand to be the operative date of the Ordinance. Copies of portions of those sources are attached.

The first source is Tax Map Drawing No. 54320 (Attachment A), depicting Tax Map Key 4-4-7:21. This drawing, which is dated March 14, 1963 and is on file at the Hawaii Public Archives, depicts our lagoon (circled in red), showing a portion of the existing seawall (the rectangular structure) and a pre-existing boathouse (the square structure). The boathouse had a rock foundation, which forms part of the present seawall. The boathouse itself was removed sometime prior to our purchases of the property.

The second source is aerial photograph No. 4139-8 (Attachment B), dated 1967 and on file at the Department of Land Utilization. With the aid of a magnifying glass, the original of this photograph clearly shows our lagoon (circled in red) which was then flanked by two boathouses, one on the north and one on the south of the lagoon's entrance. A shoreside sundeck appears to have extended generally east from the north boathouse, which stood on what is now our property. The sundeck obviously also had a foundation, which we believe comprises most of the remainder of the present-day seawall. The south boathouse, which still exists but is not on our property, has a rock foundation that would be a continuation of the seawall if the existing boathouse were removed today. This photograph also depicts the straight seawall along the eastern shoreline of the lagoon, which was depicted as the rectangular structure on the 1963 Tax Map Drawing referred to above.

The third source is aerial photograph No. 5233-4 (Attachment C), dated December 22, 1969, and also on file at the Department of Land Utilization (File No. 5233). This photograph depicts our

lagoon (again circled in red). Both boathouses are clearly visible, although a tree obscures the shoreside sundeck and much of the north seawall. Part of the straight line of the east side of the seawall is visible, as well as the boatramp, which is in the southeast corner of the lagoon, immediately east of the south boathouse.

These three sources clearly demonstrate that both the seawall and the boatramp have existed in their present configuration since before the operative date of the Ordinance.

We are well aware of current political pressures to prevent the construction of new seawalls along the ocean and, particularly as Kaneohe Bay residents, we are sensitive to the environmental concerns protected by current ordinances and regulations. However, as you can see, since our structures were lawful prior to the operative dates of current ordinances and regulations, they must be permitted as non-conforming uses. More importantly, it is clear that disturbing or removing those structures at this late date would create a great deal of environmental damage and would prevent none.

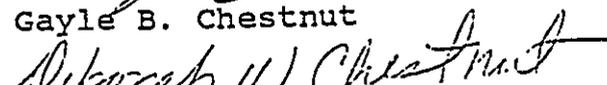
This is all the information we have found so far regarding the seawall and boat ramp that currently exist on our property. Please respond as soon as possible, telling us whether you have any information or records that contradict what we have given you.

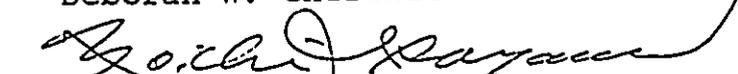
The apparently unfounded allegations contained in these Notices of Violation severely impact the value of our property, and it is extremely unfair to subject us any longer than absolutely necessary to an explicit threat of legal action over activities that were so obviously none of our doing and that, in any event, were not undertaken in violation of any law or regulation in effect at the time.

Thank you for your action and prompt response.

Sincerely,

  
Gayle B. Chestnut

  
Deborah W. Chestnut

  
Koichi Isayama

  
Pamela J. Isayama

Enclosures

CF (w/o encl.):  
Director, Department of Building

6



DOCUMENT CAPTURED AS RECEIVED



DOCUMENT CAPTURED AS RECEIVED



February 20, 1992

Mr. and Mrs. Joseph G. Clemons, Jr.  
307 Browning Road  
Hendersonville, North Carolina 28737

Dear Joe and Cecil,

Thank you for taking the time to search for photographs and correspondence with the City and County of Honolulu to help us prove that the wall around the lagoon on our Kaneohe Bay property pre-existed the 1970 shoreline regulations. I am sorry that you have not been able to locate any helpful materials, although that is understandable in light of the flooding problem you had there, as Cecil described to me over the phone.

Unfortunately, it does not appear the Honolulu Department of Land Utilization is going to relent on this issue, and it appears the DLU is prepared to assess civil penalties in the amount of \$1,000.00 each against both us and the Isayamas, plus \$100 per day until we can remove the wall and the boat ramp, unless we can show to the DLU's satisfaction that those structures have not been significantly changed, except for minor repairs, since 1969.

I prepared the enclosed Affidavit, based on what Cecil told me over the phone the other day. I'm sure you may have some corrections or additions to make. I need to ask you to look it over and tell me what you can affirm for the DLU, and get back to me as soon as possible with any corrections. Before you actually sign the Affidavit, I think I should first show it to the DLU, to make sure that it will satisfy them. There is no sense in going through this more than once.

I am having the photographs I took on February 17 processed, and I will send you copies as soon as I have them. Let me assure you they will show that no work has been done on the seawall or boat ramp since either the Isayamas or we purchased our properties.

Debbie and I both thank you very much for your help.

Sincerely,

  
Gayle B. Chestnut

CF: Department of Land Utilization  
Koichi and Pamela Isayama

EXHIBIT H



I have read this Affidavit and know its contents.

This Affidavit is true to the best of my knowledge and belief.

\_\_\_\_\_  
Joseph Gordon Clemons, Jr.

Sworn to and subscribed before me  
this \_\_\_ day of February, 1992.

My Commission expires on: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

H

Col. (Ret.) Joseph G. Clemons, Jr.  
307 Browning Road  
Hendersonville, North Carolina 28739

March 3, 1992

Dear Gayle,

After digging through the files again, I found documents indicating we bought the property in 1971 and constructed the present wall in 1981. The concrete boat ramp was put in by Norbe Duarte a little after the wall was built. He developed the property to the south to include putting in the rock wall where there had been none before. The Drorbaughs did the same on the other side. As I remember Norbe got into trouble because the wall deviated from his boundary.

I have made corrections to the affidavit. I have also talked to a lawyer and he advised me to keep the affidavit brief. I'm not sure why you need an affidavit but I don't think you should have to pay a fine.

Basically, we had the rock wall put in where the old hollow tile wall was. The only exception would be where

EXHIBIT I

the boat shed existed. It was not a boat house. There was a little slip to accommodate a 12 ft motor boat with hoists to lift it out of the water and a roof (no sides or walls) over it. We filled that in, so the wall did not follow its original lines, but we're talking about a minimum change.

I'm enclosing the affidavit with changes. I hope this helps you.

P.S. You should make the affidavit for both Cecil and my signatures since we owned it in joint tenancy.

Sincerely,  
Joe Clemons

AFFIDAVIT OF JOSEPH GORDON CLEMONS, JR.

STATE OF NORTH CAROLINA )  
 ) SS.  
COUNTY OF HENDERSON )

JOSEPH GORDON CLEMONS, JR., being first duly sworn, on oath deposes and says:

1. I am presently a resident of the State of North Carolina.

2. In <sup>1971</sup> ~~1969~~, my wife, Cecil, and I purchased the real property located at 44-321 Kaneohe Bay Drive, Kaneohe, Hawaii ("our property" herein), which was later divided into Apartments A and B of the Hale Kiawe Horizontal Property Regime, which presently comprise 44-321 and 44-323 Kaneohe Bay Drive.

3. On the ~~date~~ <sup>deteriorated hollow tile</sup> we purchased our <sup>a boat shed</sup> property there was a deteriorated ~~rock~~ wall around the perimeter of the lagoon at the foot of our property where it was bounded by Kaneohe Bay. At that time there also existed ~~two boat houses~~, one on our <sup>a boat house</sup> property on the north side of the lagoon and one on the adjacent property on the south side of the lagoon. There was also a board walkway on the top of the ~~rock~~ wall on our property on the <sup>east</sup> north edge of the lagoon, and a ~~concrete~~ boat ramp on the adjacent property to the south, which encroached several feet onto our property where the boat ramp entered the water.

4. ~~During the early 1970's we demolished the boat house on our property and repaired the rock foundation under it. At various other times during the early 1970's we also removed the board walkway on the north side of the lagoon and repaired the rock wall beneath it and repaired the rock wall along the east side of the lagoon, using primarily the rock from the pre-existing wall. None of those repairs exceeded a cost of \$300 and none of the repairs significantly changed the boundaries of the lagoon.~~ <sup>In late 1979 the boat shed collapsed and the hollow tile wall collapsed due to the reinforcing bars. In 1981 the wall was repaired with stone along the same location as the old wall. At that time we decided not to</sup>

Gayle and Deborah Chestnut bought the Condominium at 44-323 Kaneohe Bay Drive

5. To my knowledge, and based on the attached photographs of the lagoon, dated February 17, 1992, the rock wall presently around the lagoon and the concrete boat ramp are in the same location and ~~condition~~ <sup>condition</sup> now as they were when ~~we~~ <sup>we</sup> executed the documentation creating the Hale Kiawe Horizontal Property Regime on February 27, 1980, establishing the condominium at 44-323 Kaneohe Bay Drive (Apartment B of Hale Kiawe), presently owned by ~~Gayle and Deborah Chestnut~~ <sup>Gayle and Deborah Chestnut</sup> and on August 31, 1988, when we sold the condominium at 44-321 Kaneohe Bay Drive (Apartment A of Hale Kiawe) to Koichi and Pamela Isayama. From the attached photograph it does not appear that the Chestnuts or the Isayamas have changed the rock wall or the boat ramp in any way since they purchased their respective properties.

replace the boat shed or the board walkway. At about the same time the neighbor to the south paved the boat ramp with concrete.

I have read this Affidavit and know its contents.

This Affidavit is true to the best of my knowledge and belief.

\_\_\_\_\_  
Joseph Gordon Clemons, Jr.

Sworn to and subscribed before me  
this \_\_\_ day of February, 1992.

My Commission expires on: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

I

BUILDING DEPARTMENT  
CITY AND COUNTY OF HONOLULU

HONOLULU MUNICIPAL BUILDING  
650 SOUTH KING STREET  
HONOLULU, HAWAII 96813

FRANK F. FASI  
MAYOR



HERBERT K. MURAOKA  
DIRECTOR AND BUILDING SUPERINTENDENT

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

No. B092-9-8 NOTICE OF ORDER Date: September 9, 1992  
Address: 44-323 Kaneohe Bay Dr.  
Tax Map Key: 4-4-07: 21

TO: ~~Owner/Contr./Lessee/Tenant~~  
Mailing Address:  
Mr. and Mrs. Gayle B. Chestnut  
44-323 Kaneohe Bay Dr.  
Kaneohe, Hawaii 96744

On November 13, 1990 the Building Department issued Notice of Violation(s) BV90-11-55 (copy attached) requesting that action be taken to correct the violations listed in the notice. As of this date, the violation(s) indicated with an asterisk (\*) have not been corrected.

Pursuant to the authority granted by the Revised Ordinances of Honolulu, you are hereby ordered to:

1. Pay a fine of \$50.00 by October 11, 1992 and,
2. If corrective action has not been completed by October 11, 1992, a daily fine of \$50.00 will be assessed until corrections are completed.

You may appeal this order to the Building Board of Appeals. The order becomes final unless the appeal is submitted in writing within 30 days from the date of delivery or personal service of the order. For information on filing an appeal, call 527-6018.

If the fine is not paid and/or violations are not corrected by the due date, this matter may be referred to the Office of the Corporation Counsel for civil remedy and/or the Prosecuting Attorney's Office for criminal prosecution.

If this order is issued to more than one person, each person shall be jointly and severally liable for the full amount of any fine imposed by this order.

Checks are payable to the City Director of Finance, and should be sent to the Building Department with the Notice of Order number on your check. If you have any questions regarding this order or the violation, please contact Mr. Buster Nakamura at 527-6378.

HERBERT K. MURAOKA  
Director and Building Superintendent

Attach.

DISPOSITION OF ORDER	DATE	INSPECTOR
<input type="checkbox"/> Fine paid - violation corrected.	_____	_____
<input type="checkbox"/> Fine not paid - violation corrected. Refer to Corporation Counsel.	_____	_____
<input type="checkbox"/> Fine paid or not paid - violation not corrected. Impose daily fine and refer to Corporation Counsel.	_____	_____
<input type="checkbox"/> Extension of time based on correction in progress (appeal to Board of Appeals; permit being processed; etc.)	_____	_____

EXHIBIT J

BUILDING DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

HONOLULU MUNICIPAL BUILDING  
 500 SOUTH KING STREET  
 HONOLULU, HAWAII 96813



FRANK I. FARI  
 MAYOR

HERBERT K. MURAOKA  
 DIRECTOR AND BUILDING SUPERINTENDENT

CERTIFIED MAIL  
 RETURN RECEIPT REQUESTED

No. B092-9-7 NOTICE OF ORDER Date: September 9, 1992  
 Address: 44-321 Kaneohe Bay Dr.  
 Tax Map Key: 4-4-07: 21

TO: ~~Owner/Contr./Lessee/Tenant~~  
 Mailing Address:  
Mr. and Mrs. Koichi Isayama  
44-321 Kaneohe Bay Dr.  
Kaneohe, Hawaii 96744

On November 13, 1990 The Building Department issued Notice of Violation(s) BV90-11-57 (copy attached) requesting that action be taken to correct the violations listed in the notice. As of this date, the violation(s) indicated with an asterisk (\*) have not been corrected.

Pursuant to the authority granted by the Revised Ordinances of Honolulu, you are hereby ordered to:

1. Pay a fine of \$50.00 by October 11, 1992 and,
2. If corrective action has not been completed by October 11, 1992 a daily fine of \$50.00 will be assessed until corrections are completed.

You may appeal this order to the Building Board of Appeals. The order becomes final unless the appeal is submitted in writing within 30 days from the date of delivery or personal service of the order. For information on filing an appeal, call 527-6018.

If the fine is not paid and/or violations are not corrected by the due date, this matter may be referred to the Office of the Corporation Counsel for civil remedy and/or the Prosecuting Attorney's Office for criminal prosecution.

If this order is issued to more than one person, each person shall be jointly and severally liable for the full amount of any fine imposed by this order.

Checks are payable to the City Director of Finance, and should be sent to the Building Department with the Notice of Order number on your check. If you have any questions regarding this order or the violation, please contact Mr. Buster Nakamura at 527-6378.

HERBERT K. MURAOKA  
 Director and Building Superintendent

Attach.

DISPOSITION OF ORDER	DATE	INSPECTOR
<input type="checkbox"/> Fine paid - violation corrected.	_____	_____
<input type="checkbox"/> Fine not paid - violation corrected. Refer to Corporation Counsel.	_____	_____
<input type="checkbox"/> Fine paid or not paid - violation not corrected. Impose daily fine and refer to Corporation Counsel.	_____	_____
<input type="checkbox"/> Extension of time based on correction in progress (appeal to Board of Appeals; permit being processed; etc.)	_____	_____

EXHIBIT K

October 6, 1992

Mr. Herbert K. Muraoka  
Director and Building Superintendent  
Building Department  
City and County of Honolulu  
Honolulu Municipal Building  
650 South King Street  
Honolulu, HI 96813

Re: Notice of Order Nos. B092-9-7 and B092-9-8

Dear Mr. Muraoka:

I am writing on behalf of myself and my wife, Deborah, and on behalf of Koichi and Pamela Isayama, regarding the subject Notices, both dated September 9, 1992, and both relating to Notices of Violation (No. BV 90-11-47 and No. BV 90-11-55) for property located at Tax map key 4-4-07:21. We are the four owners of the Hale Kiawe Property Regime comprised of two single family homes at that location.

I also refer to my telephone conversation this morning with Mr. Buster Nakamura, the person listed as the point-of-contact on your two Notices. Mr. Nakamura told me that this matter had been referred to the Department of Land Utilization. He also informed me that I must write you directly concerning this matter.

The Isayamas and we are in the process of preparing an Environmental Assessment to accompany our application for a Shoreline Setback Variance for the structures referred to in the Notices of Violation. As you know, a Shoreline Setback Variance will be a prerequisite for obtaining a building permit for them as well. I have been working with Mr. Art Challacombe at the DLU on this matter, and I expect that our application for a variance will be completed and submitted very soon, although not by the October 11, 1992 deadline imposed by your Notices.

The violations underlying these Notices, if in fact they occurred, were not committed by us or by the Isayamas, but by our predecessors in interest in the property. We had no knowledge of any violations. You may confirm this fact with Mr. Challacombe at the DLU.

In light of these facts, we respectfully request that you waive all fines associated with these Notices until the Shoreline Setback Variance issue can be resolved.

Thank you very much for your consideration of this matter.

Sincerely,

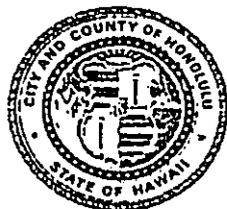
  
Gayle B. Chestnut

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

EXHIBIT L

BUILDING DEPARTMENT  
CITY AND COUNTY OF HONOLULU

HONOLULU MUNICIPAL BUILDING  
650 SOUTH KING STREET  
HONOLULU, HAWAII 96813



FRANK F. FASI  
MAYOR

HERBERT K. MURAOKA  
DIRECTOR AND BUILDING SUPERINTENDENT

WILLIAM F. REMULAR  
DEPUTY  
B92-990

October 16, 1992

Mr. Gayle B. Chestnut  
44-323 Kaneohe Bay Drive  
Kaneohe, Hawaii 96744

Dear Mr. Chestnut:

Subject: Request for Extension of Time  
Notices of Violation Nos. BV90-11-55  
and BV90-11-57  
Notices of Order Nos. B092-9-8 and B092-9-7  
44-321 and 44-323 Kaneohe Bay Drive  
Tax Map Key: 4-4-07: 21

This is in reply to your letter dated October 6, 1992 requesting an extension of time to comply with the subject notices of order.

Based on the reason mentioned in your letter, we are granting you and the Isayamas an extension and deferring the assessment of daily fines until December 12, 1992 on the conditions that corrective action is actively pursued and the initial fine of \$50.00 for each notice of order is paid by November 12, 1992.

Should there be any questions, please contact Mr. Buster Nakamura at 527-6378.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Herbert K. Muraoka".

HERBERT K. MURAOKA  
Director and Building  
Superintendent

cc: Mr. & Mrs. Koichi Isayama

EXHIBIT M

November 9, 1992

Mr. Herbert K. Muraoka  
Director and Building Superintendent  
Building Department  
City and County of Honolulu  
650 South King Street  
Honolulu, HI 96813

RE: Notice of Violation No. BV90-11-57  
Notice of Order No. BO92-9-7

Dear Mr. Muraoka:

In response to your letter dated October 16, 1992, we are enclosing a check for \$50, as you have requested, in order to gain an extension of time to comply with the subject notices.

We and the Chestnuts are continuing to work, with all possible speed, with the Department of Land Utilization to obtain the necessary Shoreline Setback Variances for the sea wall and the boat ramp. We request that you defer assessment of any additional fines until the DLU has acted.

Thank you in advance for your attention and your understanding.

Sincerely,

  
Koichi Isayama

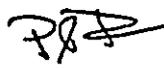
  
Pamela J. Isayama

EXHIBIT N



**Robert T. Leary**  
**486 Paumakua Place**  
**Kailua, Hi. 96734**  
**Phone: (808) 261-4377**

Mr. Art Challencomb  
City and County of Honolulu  
Department of Land Utilization  
650 S. King Street, 7th Floor  
Honolulu, Hi. 96813

RE: 44-321 Kaneohe Bay Drive, Kaneohe  
44-325 Kaneohe Bay Drive, Kaneohe

Dear Mr. Challencomb,

Please be advised that I owned the property and built the home at 44-325 Kaneohe Bay Drive in 1952. As a result of this, I'm very familiar with the construction activities of the above two properties.

The boat ramp and adjacent seawalls in question were both built in the mid 1950's, approximately 1955-1956. The deck at the "boat house" was built in the mid 1960's, approximately 1965.

I hope this will clarify the status and enable the existing problem to be rectified.

Please feel free to contact me if I can be of further assistance in this matter.

Very truly yours,

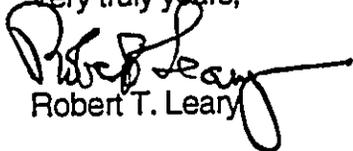
  
Robert T. Leary

EXHIBIT P