

MAUNA LANI RESORT ASSOCIATION
ANNUAL MEETING – May 23, 2024
PRESIDENT’S REPORT (FOR 2023/2024 YEAR)

2023 Highlights

The MLRA Board members who represent the various constituencies of our membership continue to work together collaboratively on matters that benefit our community as a whole.

- The Association completed various improvement projects during 2023 to maintain, improve and enhance our Common Areas including, among other things:
 - The previously “open” pedestrian access corridor into our Beach Club facility was equipped with a new access gate to deter “drop-offs” at the Beach Club Circle and to prevent unauthorized foot traffic access into our private Beach Club parking lot. We received the required permit approvals for completion of the necessary trenching work, as well as the issuance of an electrical permit in order to make the pedestrian gate fully locking and operational. The addition of this new locking pedestrian gate is also intended to lessen the intermittent peak period illegal parking issues along South Kaniku Drive (where vehicles park along the shoulders and passengers walk in through an unsecured pedestrian access corridor). Signs reiterating MLRA’s “no parking policies” have been installed at key areas in this vicinity. We are have plans to install new camera(s) to monitor activities in the area of the pedestrian gate.
 - During 2023, MLRA was extremely focused on the renovation and expansion of our Beach Club restaurant as well as various other facility-wide improvements. All required permits were issued and work on the remodel project began in earnest. One unanticipated issue that we encountered was a requirement to upgrade the fire suppression systems throughout the restaurant, resulting in project delays and additional costs.
 - MLRA implemented various planned upgrades and major replacements related to our roadways, landscape, irrigation and other infrastructure components, our Beach Club facility, etc. throughout the MLRA Common Areas.

The majority of the above projects were completed with the Association’s Reserve funds, which are separate from monthly “operating expenses” and are set aside on an annual

basis to fund major repairs--or to replace Common Area components due to age and/or obsolescence.

- Our Community Design Committee (the “CDC”) reports continued and robust activities related to new development projects (e.g., Nohea Phase II, One Ocean), new single-family home construction projects and various renovation/alteration projects (such as photovoltaic installations and upgrades) throughout Mauna Lani’s residential communities.

Legal Updates

MLRA is continuing to monitor activities related to upstream projects which may have downstream impacts on our community.

- **AINA LEA PROJECT** –The 69-acre parcel where the unfinished "affordable housing" project is located is now owned by RIC (Lulana) LLC, a Canadian company which is the successor to Romspen Investment Corporation, the lender that foreclosed on its mortgage on the property.

With respect to the other three parcels (totaling about 1,000 acres), there was a foreclosure action initiated by Iron Horse Credit LLC. Iron Horse is a lender of last resort who loaned Aina Lea the funds to allow it to come out of bankruptcy in 2019. Iron Horse initiated a foreclosure action and then sold its note to SDCK I LLC. A commissioner's sale was held in January 2024. Nobody bid on Parcel 69. SDCK I LLC was therefore the default successful bidder on Parcels 38 and 39. In a hearing held on March 21, 2024, Judge DeWesse of the Third Circuit Court in Kona granted the motion to confirm the sale to SDCK I LLC. Iron Horse/SDCK held a second mortgage and there is allegedly a first mortgage on these properties still held by former owner Bridge Aina Lea, Inc.

Also, on February 12, 2024, Judge Mollway of the United States District Court granted the State's motion for summary judgment and dismissed DW Aina Lea's long-pending lawsuit seeking damages from the State resulting from the Land Use Commission re-classifying the property into the agricultural district.

MLRA’s legal counsel continues to monitor the status of this project on our behalf and will notify us if and when any action is recommended on our part.

- **EXCLUSIVE RESORTS AT PAUOA BEACH** - As reported in the Notes to MLRA’s Fiscal Budget for 2018 (and in all subsequent years), in 2017 the Association became aware of the March 28, 2017 Finding of Facts and Conclusions of Law (the “FOFCOL”) in the case of Roaring Lion, LLC, et al v. Pauoa Bay Properties, LLC, et al, aka “the

Pauoa Beach Plaintiffs” (Civil No. 04-1-0332). While the Association was not a party to this legal action, the FOFCOL issued by the Judge in the above-entitled action are significant, as the Judge concluded that the eight (8) apartment units owned and operated by Exclusive Resorts PBL1, LLC (“ER”) within the Pauoa Beach subdivision are, in fact, “Commercial Apartments” as defined by the MLRA DC&R, and not “Residential” units as has been represented by the developer/owner of these units. As such, ER units should have paid (and currently should pay) assessments at the Commercial Apartment rate of 51.73 Commercial units per month, rather than at the Residential rate of 8 units per month.

In this regard, in September 2017 the Association notified ER of MLRA’s intent to collect the shortfall in assessments from the period of August 2008 through September 2017 in the amount of **\$537,156**, along with interest at 12% per annum in the amount of **\$462,171** as prescribed in MLRA’s governing documents. Additionally, ER continues to be assessed by MLRA at the proper Commercial Apartment rate, effective October 2017, though they steadfastly pay at the Residential rate.

In the past, ER continued to dispute MLRA’s position, stating that the Association’s action was premature in that the Pauoa Beach Plaintiffs’ lawsuit had not yet been settled. MLRA’s position has been, and continues to be, that the substance of the Pauoa Beach Plaintiffs’ lawsuit was vastly different from MLRA’s claim that ER should be paying assessments at the Commercial rate. Earlier this year, the Pauoa Beach Plaintiffs’ lawsuit was dismissed by the Court; notwithstanding this fact, MLRAS continues to assert that the FOFCOL issued by the Court in 2017 clearly established that, all other matters aside, ER is classified as Commercial as defined by MLRA’s governing documents.

The Board is currently engaged in discussions regarding advancing our legal actions in order to collect all past due assessment shortfalls and to ensure that ER pays at the proper Commercial rate going forward.

- **THE SHOPS AT MAUNA LANI** – The Association filed a foreclosure and lien action against The Shops property in early 2023 due to their non-payment of assessments and the property was subsequently placed in Receivership. Similar actions were filed by The Shops’ lenders, resulting in various more recent motions for summary judgment and interlocutory decrees of foreclosure with the court and to also request that the Receiver be appointed as the Commissioner and authorize him to sell The Shops. If the motions are granted (which legal counsel anticipates will happen), the court will appoint the current Receiver as the Commissioner and order him to sell The Shops via foreclosure auction. The Receiver has recently stated that he does have interested buyers for The Shops and that he is doing whatever possible to "spruce up"

The Shops to increase its market value. MLRA's legal counsel is filing a Position Statement on behalf of the Association to assert a monetary claim for the unpaid past due assessments.

Once a new buyer is identified, MLRA will be able to recover 3 months' worth of back assessments as a condition of closing from the buyer. (It should be noted that since the Receiver was appointed, The Shops has been paying its current monthly assessments due, covering the period of September 2023 to present); however, MLRA will not be able to recover any interest or attorney's fees for the 9-month "gap period" between the time The Shops fell into arrears and the Receiver was appointed.

(Specific dollars amounts are detailed in the Treasurer's Report.)

The MLRA will continue to monitor all legal issues as well as all nearby projects to ensure any possible impacts to: our brackish and potable water resources; impacts from wastewater treatment facilities; and, impacts from use of properties and coastal areas that we maintain, to ensure that these issues are adequately identified and mitigated. This Board does not enter into any legal action lightly—however, we do believe that proper planning and smart development in this region is vital for the long-term protection of our collective investments here at Mauna Lani. As such, the MLRA will continue to be active in protecting this community's precious resources.

THE BOARD'S PRIORITIES FOR 2024

In addition to the ongoing subjects and priorities already mentioned:

- The MLRA has been able to successfully manage its operating budget with a dues increase of 10% for FY 2024. Currently, we are delaying some of the scheduled major Reserve expenditures until the Beach Club remodel is 100% complete. However, any project—budgeted or not—which is necessary for the protection of life or safety will be completed in a timely manner.
- MLRA's Treasurer, current Residential Representative Director, David Gross, has augmented MLRA's investment strategy for the Association's Reserve Funds in order to access mainland financial resources and identify investment products with higher interest yields (our fiscal management company, Hawaiiana Management Company, limits its investment products to Hawaii financial institutions only).
- MLRA budgeted for the completion of a full onsite Reserve Study Update to be completed during 2023. This Reserve Study Update has been temporarily suspended until the complete final costs for the Beach Club Remodel are identified and the overall facility improvements are 100% complete.

- During 2024 we will also be completing several other important improvement projects within our Common Areas including, among other things:
 - **Beach Club Restaurant & Facility Renovations** continue to be the primary focus for 2024, and will be discussed in more detail at the MLRA 2024 Annual Meeting. In this regard, following are status updates regarding the various remodel components:
 - Relocation of the old indoor bar to a newly expanded, roofed and weather-proofed lanai area on the fishpond side of the existing restaurant building (operational);
 - The expansion of seating capacity to better accommodate diners (both inside and outside of the building) particularly during peak periods (operational);
 - Expansion of the kitchen to support the new peak-season dining capacity (not yet 100% complete);
 - Construction of a new beach restroom facility, separate from the restaurant, so that the restaurant restrooms will be dedicated for use by restaurant patrons only (operational);
 - Re-roofing of the main restaurant building and newly designed lanai bar area (completed);
 - Re-routing of various pathways to create a clearer pedestrian flow from the parking lot to the beach so that beachgoers are not walking through the restaurant to access the beach; and, reconfiguration of pathways from the beach to the new beach restroom facility (not yet 100% complete);
 - Landscaping modifications to provide more opportunities for shaded areas, particularly on the “bank” at the back of Makaiwa Bay (not yet 100% complete);
 - Upgraded beach shack and storage for Beach Attendants and Beach Safety Officers (not yet 100% complete);
 - Installation of bio-filters at our primary beach showers to promote reef health and safety; MLRA has also upgraded the existing “reef protection” educational sign at Makaiwa Bay, and intends to install reef-safe sunscreen dispensers; and,
 - Various signage placements/modifications to improve clarity and encourage better flows between the various areas of the facility.

Great care has been taken to ensure that there are no long-term closures of the Beach Club at any given time; we will continue do our best to ensure that all projects will be planned in a manner that attempts to provide the minimal amount of inconvenience to our membership.

- As reported last year, all of the double-cabanas at the Beach Club/Makaiwa Bay were replaced with custom-made frames constructed of a more durable synthetic material (instead of wood) which should contribute to the longevity of our cabanas; additionally, we will be replacing all of the bright blue cabana cushions and hoods with new sand-colored cushions and hoods.
- Installation of Camera/Surveillance Systems in selected locations within the fishpond complex were completed last year and we are currently identifying other areas that would benefit from remote surveillance.
- The Board also plans to upgrade the lighting at our main (highway) entry and at the traffic roundabout for better visibility of our resort entry and the main directional monuments in the traffic roundabout; we are also looking at converting the “stadium style” lighting throughout our main arterial roadways to more attractive bollard lighting—this has the additional benefit of significantly reducing maintenance costs for the long term (this project will likely need to be completed in phases, depending on costs, with the first priority being Mauna Lani Drive from our highway entrance to the traffic roundabout).
- As we reported repeatedly in previous years, starting in September of 2018 MLRA made a concerted effort to relocate feral goats from our Resort property. From the time that MLRA launched this targeted herding & relocation program in 2018, we removed in excess of 600 feral goats from the resort—far more than the total number of feral goats removed from the resort during the 10 prior years before we began this initiative. Unfortunately, the news regarding the success of our contracted goat herder traveled to neighboring resorts on the Kohala Coast resulting in our contracted goat herder being retained by other resorts and communities around the island, diluting the focus on goat captures at Mauna Lani. While we are continuing to work with this highly prolific goat herder, the MLRA Board also retained two additional herders who utilize different capture methods, however, (other than to recommend that we install electrified fencing around the entire perimeter of the resort), neither of these two additional herders have been extremely productive. Our biggest issue is that the most effective means of quickly removing large numbers of goats from the resort is with our original herder who utilizes herding dogs and ATVs; while extremely effective, these measures cannot be used within our front of house areas—such as Mauna Lani Drive, our secondary entry by the Security Guardhouse and the traffic roundabout—where goats that have migrated from Waikoloa are now congregating. Our various herders and MLRA staff are using traps to attempt capture of these goats, but this is a much slower process (we have trapped approximately 60-70 goats since beginning of 2024). MLRA is still very committed to utilizing a variety of different support

groups and considering other options in an effort to manage our feral goat population on an ongoing and long-term basis.

- We understand that feral pigs are also creating a nuisance in some communities, especially those that are golf course adjacent. MLRA has installed traps in our back-of-house areas where we suspect that a few feral pigs may be traversing over various vacant lots adjacent to MLRA property; we encourage subassociation communities to take measures within their own private properties to lessen damage from feral animals.

In closing, I'd like to again remind everyone that the MLRA Board invites all members to communicate any concerns you may have—and we welcome your suggestions on how we might serve you better. Please do not hesitate to contact us at any time throughout the year at info@mlraonline.com

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