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August 12, 2026

VIA EMAIL

Housing and Land Use Committee
200 South High Street
Wailuku, Hawaii 96793
hlu.committee@mauicounty.us

**Re: Testimony in Support of Amending Resolution 26-129 to Include Kaleialoha,
3785 Lower Honoapiilani Rd., Lahaina HI 96761, TMK. 2-4-3-006-013**

Dear Housing and Land Use Committee,

This letter is submitted behalf of the Association of Apartment Owners of Kaleialoha, in support of amending Resolution No. 26-129 to include the Kaleialoha condominium resort (“Kaleialoha”) among those properties for council-initiated rezoning from Apartment District A-2 to Hotel District H-4.

The purpose of this submission is threefold. First, it demonstrates that Kaleialoha satisfies the objective criteria presently identified by the Housing and Land Use Committee (“Committee”) as the basis for Council-initiated rezoning under Resolution 26-129, including the criteria set forth in the recently proposed amendment by Committee Chair Uu-Hodgins.

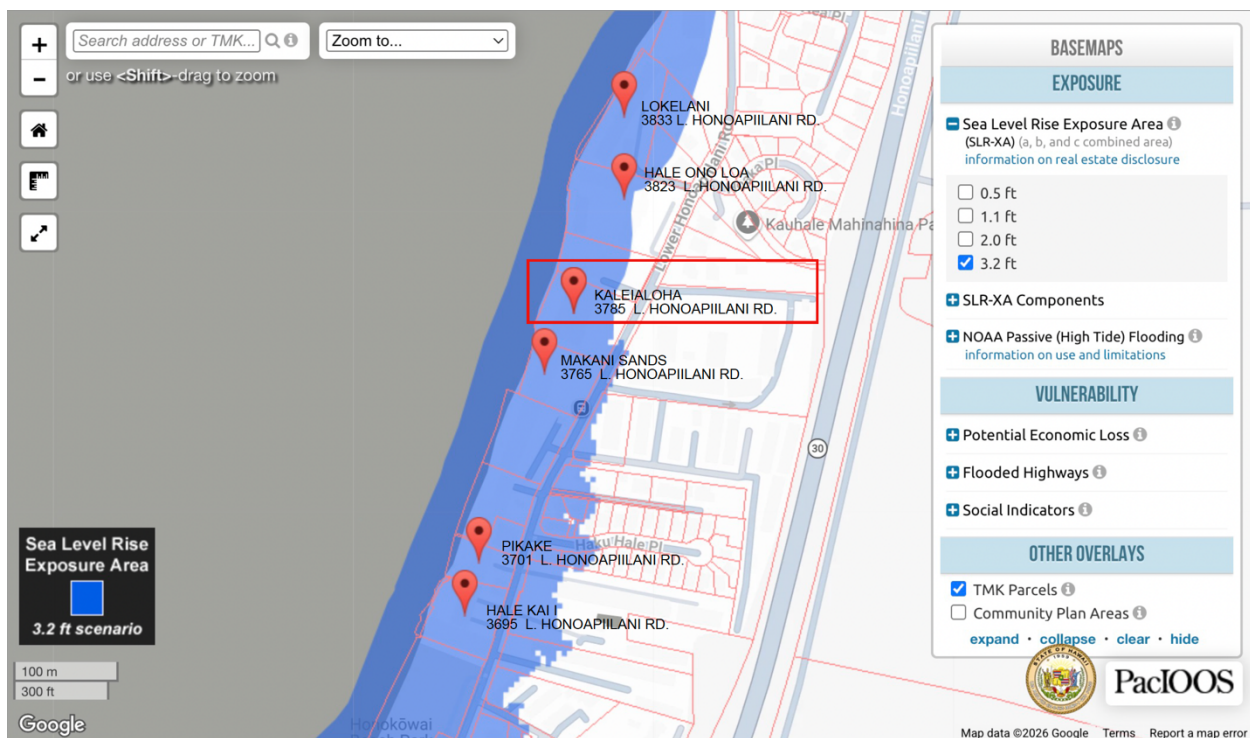
Second, we address comments made during the Committee’s deliberations on August 5, 2026, that the Sea Level Rise Exposure Area (“SLR-XA”) is an obsolete planning tool, and explains why the SLR-XA remains a recognized and appropriate planning criterion under current State and County planning policies.

Finally, we reiterate the importance of identifying, clearly defining, and consistently applying objective planning criteria to all similarly situated properties so that Council-initiated rezoning decisions are grounded in transparent and rational land-use principles rather than ad hoc, property-specific determinations.

A. Kaleialoha Meets the Objective Criteria Identified by the Committee In Resolution 26-129, As Amended

Resolution 26-129 proposes that properties in the SLR-XA should be rezoned into H-3 or H-4 Hotel Districts. The Committee has not yet identified whether a property must be completely or substantially located within the SLR-XA, whether partial exposure is sufficient, whether exposure to buildings is required, or whether SLR-XA exposure must be coupled with other criteria, such as the Special Flood Hazard Zone.

Kaleialoha is located immediately adjacent to Makani Sands and is geographically situated between the four (4) other Lahaina properties originally included in Resolution 26-129.



There is no material distinction between Kaleialoha, and the properties identified and selected for Council-initiated rezoning in Resolution 26-129.

Councilmember Tom Cook and Council Chair Alice Lee should be lauded for their recently proposed amendments to Resolution 26-129 to add Makani Sands to the list of properties for Council-initiated rezoning. **Given the location of Kaleialoha and proximity to other included properties within the SLR-XA along Lower Honoapiilani Road, there is no legitimate reason that Kaleialoha should be excluded. Doing so would be clearly arbitrary.**

B. SLR-XA Remains a Current and Recognized Planning Tool And Should Be Followed In the Committee's Planning Decisions

Questions raised at the August 5, 2026, HLU Committee meeting indicate some Councilmembers may regard the SLR-XA as “outdated” or no longer a relevant planning tool. Our research indicates this is entirely unfounded.

The SLR-XA originates from the December 2017 Hawaii Sea Level Rise Vulnerability and Adaptation Report (“2017 Report”). A copy of the 2017 Report is publicly available at: https://dlnr.hawaii.gov/occl/files/2022/03/SLR-Report_Dec2017.pdf.

The 2017 Report provided “the first state-wide assessment of Hawaii’s vulnerability to sea level rise and recommendations to reduce our exposure and sensitivity to sea level rise and increase our capacity to adapt.” 2017 Report, p. iv. The 2017 Report modeled a planning scenario of 3.2 feet of sea level rise. The report notes: “Although this Report provides a range of sea level rise projections and vulnerability scenarios, the SLR-XA with 3.2 feet of sea level rise was chosen to depict hazards that may occur in the mid to latter half of this century.”

In October 2020, a supplement to the 2017 Report was published entitled, “Guidance for Using the Sea Level Rise Exposure Area in Local Planning and Permitting Decisions.” (“2020 Guidance”) The 2020 Guidance is publicly available at <http://seagrant.soest.hawaii.edu/wp-content/uploads/2020/12/Guidance-for-Addressing-SLR-in-Community-Planning-in-HI.pdf>.

The 2020 Guidance “was developed in response to requests from county planning departments and other stakeholders to provide information on appropriately interpreting and applying the SLR-XA map data in land use planning and permitting decisions while understanding the methods, assumptions, and limitations of the data.” 2020 Guidance, p. 1.

The 2020 Guidance acknowledged that, while sea-level rise science had advanced since 2017, “the latest science further supports using the 2.3 ft SLR-XA as the primary benchmark for land use planning.” *Id.*, p. 2 The 2020 Guidance also specifically explained that SLR-XA mapping had not yet been produced for scenarios above 3.2 feet. *Id.*

In 2022, the Hawaii State Climate Commission issued a formal update to the 2017 SLR-XA Report in the Hawaii Sea Level Rise Vulnerability and Adaptation Report: 2022 Update (“2022 Update”). The 2022 Update is publicly available at: <https://dlnr.hawaii.gov/occl/files/2024/08/OCCL23-Sea-Level-Rise-Report-FY22-1.pdf>.

The 2022 Update distinguished between the amount of sea level rise that should be assumed for long-range planning decisions, and the existing mapped SLR-XA used to identify geographic exposure. Based on a 2022 NOAA interagency sea-level-rise projection, the State recommended using 4 feet as the minimum planning and policy benchmark for planning and design based on intermediate projections for Hawaii of approximately 2.9 feet by 2100. **However, the State did not withdraw, invalidate, supersede or otherwise declare obsolete the 3.2-foot SLR-XA.**

Rather, the 2022 Update specifically states “**The latest science suggests that the SLR-XA for 3.2 ft of sea level remains valid as a planning overlay for the mid-century at this time.**” 2022

Update, p. 28. The report then specifically recommends: “**The State should continue to use the 3.2 foot Sea Level Rise Exposure Area (SLR-XA) ... until updated SLR-XA data is available.**” *Id.*

This specifically undermines any argument that the 3.2-foot SLR-XA is obsolete, outdated, or otherwise invalid as a legitimate planning tool. Our research indicates that new benchmarks have not yet been published, nor mapped.

If the Committee intends to use sea-level rise exposure as an objective criterion for selecting properties for Council-initiated rezoning, there is presently an established, publicly available, statewide geographic dataset for doing so. That is the 3.2-foot SLR-XA.

If the Committee believes newer science warrants a different criterion – e.g., a 4-foot exposure area – it would need to identify an objective dataset capable of determining which parcels satisfy that criterion. The State itself recognized that updated SLR-XA data corresponding to the new planning benchmark has not yet replaced the existing 3.2-foot SLR-XA. See 2022 Update, p. 28.

Newer science does not and should not justify abandoning objective criteria and substituting subjective judgment about which individual properties are sufficiently threatened by projected sea level rise.

On August 5, 2026, Committee Chair Uu-Hodgins moved to amend Resolution 26-129 to delete language describing the applicable sea-level rise threshold as “the County’s recognized planning threshold for coastal erosion.”

The deletion of the recital describing 3.2 feet as the County’s “recognized planning threshold for coastal erosion” does not alter the geographic boundaries of the SLR-XA, nor does it change which properties satisfy that criterion. If Resolution 26-129 continues to rely upon location within the SLR-XA as a basis for Council-initiated rezoning, the relevant inquiry remains whether a property falls within that objectively mapped 3.2-foot exposure area. Removing the characterization of the 3.2-foot scenario does not provide a principled basis for including one property within the mapped exposure area while excluding another similarly situated property.

C. The Committee Should Identify, Clearly Define, and Consistently Apply Objective Planning Criteria to All Similarly Situated Properties

The amendments to Resolution 26-129 underscore the importance of identifying and clearly defining the objective planning criteria that will guide the Council’s selection of properties for Council-initiated rezoning. The Council has broad legislative discretion to determine which land-use considerations warrant Council action. That discretion, however, is best exercised through identifiable and consistently applied planning principles. Where the Council relies upon objective characteristics—such as a property’s location within the SLR-XA or a SFHA—those criteria should be defined with sufficient clarity that property owners, the public, and the Council itself can understand why particular properties have been selected and why other similarly situated properties have not.

The Council should identify objective eligibility criteria first and then determine which properties satisfy those criteria—not select properties first and develop varying rationales for their inclusion afterward.

Both the SLR-XA and SFHA provide objective, geographically mapped criteria capable of consistent application. The SLR-XA identifies areas exposed to modeled coastal hazards associated with sea-level rise, while SFHA identifies properties subject to defined flood hazards under the flood-hazard framework referenced in Maui County Code. Whatever weight the Council ultimately assigns to each consideration, both provide an ascertainable basis for evaluating properties that is fundamentally different from subjective assessments that a particular property “floods often,” is perceived to face greater coastal risk, or otherwise warrants exclusion from rezoning based upon Councilmember’s property-specific observations.

The need for clearly articulated criteria is particularly important where Council-initiated rezoning is being extended to some properties but not others that share the same relevant planning characteristics.

If location within the SLR-XA is a reason supporting Council-initiated rezoning, that criterion should be applied consistently to similarly situated properties within the mapped exposure area. Likewise, if location within a SFHA is now an independent basis supporting Council action, properties located within the same applicable flood-hazard classification should be evaluated under the same standard. The addition or refinement of criteria during the legislative process is entirely appropriate; what is important is that the final criteria be sufficiently defined to allow for consistent application.

A clearly defined framework is especially important because the SLR-XA and SFHA measure different, although potentially overlapping, forms of environmental exposure. If either criterion independently supports Council-initiated rezoning, the Resolution should make that relationship clear. If both must be present, that too should be stated. And if the Council intends to weigh the criteria together with other factors, those additional factors should be identified. Without such clarity, it becomes difficult to determine why one property has been included while another property exhibiting the same identified planning characteristics has been excluded.

The Council should identify the criteria it intends to use, define those criteria objectively, and then apply them consistently to all similarly situated properties. Doing so provides a transparent and rational connection between the Council’s stated land-use objectives and the properties selected for rezoning, promotes predictability and fairness in the legislative process, and avoids the appearance that Council-initiated rezoning decisions are being made through ad hoc, property-specific determinations rather than through generally applicable planning principles.

D. Request for Amendment of Resolution 26-129, to Include Kaleialoha for Council-Initiated Rezoning

For the foregoing reasons, the Association respectfully requests an amendment to Resolution 26-129, to include Kaleialoha among the properties proposed for council-initiated rezoning.

If the Council determines not to include Kaleialoha, we respectfully request that the legislative record identify the objective planning basis that distinguishes Kaleialoha from the other properties included within the resolution. Articulating that basis will ensure that the Council's action is transparent, internally consistent, and supported by the planning principles underlying Resolution No. 26-129.

Thank you for your consideration of the Association's request on behalf of the owners at Kaleialoha.

You may contact me at (808) 281-3839 or rebecca@hihoalaw.com.

Sincerely,

HI HOA LAW

A Limited Liability Law Company

A handwritten signature in black ink that reads "Rebecca Krill". The signature is written in a cursive, flowing style.

Rebecca Krill, Esq.

Principal

Cc: Maui County Council
Housing and Land Use Committee