

Bernard P. Carvalho, Jr.
Mayor



Michael A. Dahilig
Director of Planning



Gary K. Heu
Managing Director

Dee M. Crowell
Deputy Director of Planning

PLANNING DEPARTMENT

County of Kaua'i, State of Hawai'i

4444 Rice Street, Suite A-473, Lihu'e, Hawai'i 96766
TEL (808) 241-4050 FAX (808) 241-6699

DEC 16 2011

ZONING COMPLIANCE NOTICE

CERTIFIED

Alexandra Falk
c/o Jonathan Chun
4334 Rice St
Lihu'e HI 96766

**SUBJECT: Violations on TMK: (4) 5-8-010:015 Unit 1, TVNC-4299
7462-B Kūhi'ō Hwy., Kauai, Hawai'i, Hanalei District**


Upon further review of your application for a Non-Conforming Use Certificate to continue Transient Vacation Rental operations, the Planning Department conducted a routine field inspection of the subject property on **August 3, 2011** and found the following violations of the zoning code:

Article 19. Zoning permits Sec.8-19.1 When Required. No person shall undertake any construction or development or carry on any activity or use, for which a zoning permit is required by this Chapter, or obtain a building permit for construction, development, activity or use regulated by this Chapter, without first obtaining the required zoning permit.
The portion of 2nd floor Lāna'i along with associated construction of an exterior partition wall with screen without the proper permits constitutes a violation.

Pursuant to Chapter 8, Kauai County Code, you are directed to comply with the following requirements immediately:

- a. **Submit plans and applications for the portion of 2nd floor Lāna‘i along with associated construction of an exterior partition wall with screen along with filing fees for review.**
- b. **All Additions and Construction not provided and approved by the Planning Department shall removed.**

Failure to contact the Planning Department in **writing** within **15** calendar days upon receipt of this letter to provide an acceptable plan for compliance provides us with no other alternative but to issue a Notice of Violation and pursue litigation. Please call me at (808) 241-4050.



Yill Balisacan
TVR Inspector

cc: County Attorney
Prosecuting Attorney
Office of the Mayor
Dept. of Health
Dept. of Public Works, Building Division
Dept. of Public Works, Engineering

TRANSIENT VACATION RENTAL
AFFIDAVIT OF ALEXANDRA FALK

California
STATE OF ~~HAWAII~~)
Los Angeles) SS
COUNTY OF ~~MAUI~~)
AK

I, ALEXANDRA FALK, being first duly on oath, deposes and says:

1. My name is Alexandra Falk and I am the Trustee of the Alexandra Falk Living Trust dated January 30, 2003, as amended, (hereinafter "Trust") and I make this affidavit based on my personal knowledge.

2. The Trust purchased the property identified as TMK (4) 5-8-010:015, CPR 1 with a mailing address of 7468-D Kuhio Highway, Hanalei, Kauai, Hawaii known as Lihi Kai in 2011 (hereinafter "Property") via a reverse exchange with the prior owner.

3. The title to the Property is currently in the name of the exchanger, TG Super T00023, LLC until the exchange is completed.

4. Until the exchange is completed the Trust is the property manager for the Property has set forth in the Reverse Exchange Agreement.

5. The Trust is informed and believes that Lihi Kai has been operated as a transient vacation rental since 1981 under the business name of Lihi Kai by the previous owners Roger L. Batty and Barbara A Batty.

6. Attached hereto as Exhibit "A" is a true and correct copy of the Affidavit of Roger L. Batty (hereinafter "Batty") signed on March 11, 2009, that was submitted as part of TVNC #1023 verifying that Lihi Kai has been operating as a transient vacation rental since 1981 and that Batty has paid GET and TAT taxes under GET license number W40387786-01.

5. Lihi Kai was built in 1982, but the Building Division's website does not list any building permit for the original house.

6. The Building Division's website notes the issuance of the following building permits subsequent to 1981:

93-18002455	Electrical
93-18002608	Bldg
93-18002807	Bldg
93-20002608	ZP3
93-2000287	ZP3

94-889 Bldg
94-1045 ZP1
96-1926 Bldg
96-2105 ZP1

These permits covered all structures for Lihi Kai.

7. To affiant's knowledge there have been no expansions, alterations, improvements, or uses contrary to State and County land use and planning laws.

8. To affiant's knowledge there were not any legal expansions or improvements made on the property after March 7, 2008.

9. Lihi Kai is not located on State Land Use District ("SLUD") Agricultural land and I am not applying for a special permit pursuant to Hawaii Revised Statutes 205-6.

Further affiant sayeth naught.

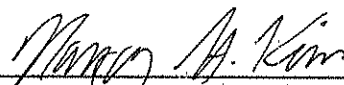

ALEXANDRA FALK

Doc. Date: 6/20/2011 # Pages: _____

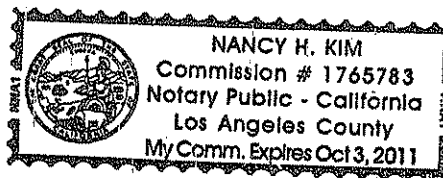
Doc. Description: _____

Notary Name: Nancy H. Kim _____ Circuit

Subscribed and sworn to before me this
20th day of June, 2011


Notary Public, State of Hawaii California

My commission expires: 10/3/2011



County of Kaua'i
Planning Department

NCU # _____
Operation Name Lih: Kai

TRANSIENT VACATION RENTAL AFFIDAVIT OF

STATE OF Hawaii)
COUNTY OF Kauai) ss.

1. Roger L. Bott, being first sworn upon oath, deposes and says:

1. My name is, Roger L. Bott and I make this affidavit based on my personal knowledge.

2. I am the owner of the property identified as TMK 45-8-010-015-0001-000 with a mailing address of P.O. Box 1337 Hanalei, HI 96714

3. I have operated a transient vacation rental(s) on the property since 1981 under the business name of Bott, Roger L. / Barbara A et al.

4. My State of Hawai'i General Excise Tax license number is W4038786-01 and I have paid General Excise and Transient Accommodation Taxes in accordance with State Law during the period(s) the Transient Vacation Rental was in operation.

5. Building permit number(s) Property was built 28 yrs ago
No permits w/ costs rec'd but have stamped pi
were approved on _____ for all structures on the property and there were no expansions, alterations, improvements, or uses contrary to State and County land use and planning laws.

6. There _____ were were not any legal expansions or improvements made on the property after March 7th 2008. Improvements and expansions took place under the following permits _____

County of Kaua'i
Planning Department

NCU # _____
Operation Name Lih: Kai

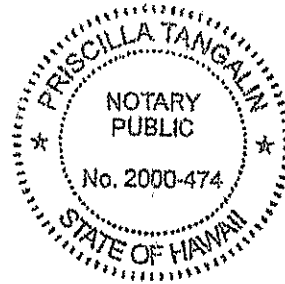
FURTHER AFFIANT SAYETH NAUGHT.

[Signature]
Name: _____

WITNESS my hand and official seal.

[Signature]
Notary Public, State of Hawai'i

3/11/09
Date



My commission expires:

Doc. Date: 3/11/09 # Pages 2

Notary Name: Priscilla Tangalin 5th Circuit

Doc. Description: Transient Vacation Rental
Affidavit