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1ST CIRCUIT COURT
 STATE OF HAWAII
 FILED

2006 OCT 25 PM 3:20

T. WONG
 CLERK

Attorneys for Defendants
 City and County of Honolulu
 and Henry Eng

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
 STATE OF HAWAII

KEEP THE NORTH SHORE COUNTRY, a)
 Hawai'i non-profit corporation, SIERRA)
 CLUB, HAWAII CHAPTER, a foreign non-)
 profit corporation,)

Plaintiffs,)

vs.)

CITY AND COUNTY OF HONOLULU;)
 HENRY ENG, Director of Department of)
 Planning and Permitting in his official)
 capacity; KUILIMA RESORT COMPANY, a)
 Hawai'i general partnership; JOHN DOES)
 1-10; JANE DOES 1-10; DOE)
 PARTNERSHIPS 1-10; DOE)
 CORPORATIONS 1-10; DOE ENTITIES)
 1-10; and DOE GOVERNMENTAL UNITS)
 1-10,)

Defendants.)

CIVIL NO. 06-1-0867-05 (SSM)
 (Declaratory Judgment)

DEFENDANTS CITY AND COUNTY OF
 HONOLULU AND HENRY ENG'S
 JOINDER IN DEFENDANT KUILIMA
 RESORT COMPANY'S THIRD MOTION
 FOR SUMMARY JUDGMENT (RE:
 BURDEN OF PROOF FILED OCTOBER 11,
 2006; CERTIFICATE OF SERVICE

DATE: November 13, 2006

TIME: 9:45 a.m.

JUDGE: Honorable Sabrina S. McKenna

(NO TRIAL DATE SET)

DEFENDANTS CITY AND COUNTY OF HONOLULU AND
HENRY ENG'S JOINDER IN DEFENDANT KUILIMA RESORT
COMPANY'S THIRD MOTION FOR SUMMARY JUDGMENT
(RE: BURDEN OF PROOF), FILED OCTOBER 11, 2006

COME NOW Defendants CITY AND COUNTY OF HONOLULU and HENRY ENG, in his official capacity as Director of Department of Planning and Permitting (hereinafter referred to as "CITY" by and through their attorneys, CARRIE K.S. OKINAGA, Corporation Counsel, and DON S. KITAOKA and LORI K.K. SUNAKODA, Deputies Corporation Counsel, and hereby join in Defendant KUILIMA RESORT COMPANY's Third Motion for Summary Judgment (Re: Burden of Proof), filed herein on October 11, 2006. ("Third Motion for Summary Judgment") and request that the Court grant summary judgment based on the absence of any question of material fact as to PLAINTIFFS KEEP THE NORTH SHORE COUNTRY and the SIERRA CLUB's claims that a change in timing of the Turtle Bay expansion project compelled the CITY to require Defendant KUILIMA RESORT COMPANY to prepare a supplemental Environmental Impact Statement. However, the CITY does not join in DEFENDANT KUILIMA RESORT COMPANY's Third Motion for Summary Judgment to the extent that the facts contained in said Motion constitute legal conclusion(s), argument or otherwise attempt to characterize the actions taken by the CITY with regard to the issuance of any land use approvals/permits.

This Joinder is made pursuant to Rule 7 of the Hawaii Rules of Civil Procedure and is based upon the records and file herein.

DATED: Honolulu, Hawaii, OCT 25 2006 .

CARRIE K.S. OKINAGA
Corporation Counsel

By DKL

DON S. KITAOKA
LORI K.K. SUNAKODA
Deputies Corporation Counsel
Attorneys for Defendants
City and County of Honolulu and
Henry Eng

Civil No. 06-01-0867-05 (SSM), Keep the North Shore Country, et al. v. City and County of Honolulu - Defendants City and County of Honolulu and Henry Eng's Joinder In Defendant Kuilima Resort Company's Third Motion for Summary Judgment (Re: Burden of Proof Filed October 11, 2006