CANTERBURY PLACE CONDOMINIUM

1910 Ala Moana Boulevard

Honolulu, Hawaii 96815

MEMORANDUM

AND

FINANCIAL ANALYSIS

UPDATE JULY 3, 2026

Failure to comply with

Hawai'i Statutes and Condominium Documents,

Cost of Inaction, Individual and Building-Wide Damages,

and the Path to Fee Conversion

Arising From the November 14, 2025 Agreement to Set Rent

Between the Kong Lessors and the Canterbury Place AOAO

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Table of Contents

EXECUTIVE SUMMARY

On November 14, 2025, the Board of the Canterbury Place Association of Apartment Owners and the Kong Lessors executed an Agreement to Set Rent that increased Master Lease ground rent from approximately $41,789 per year (46.1754% of the $90,500 100% master rent documented in the 2019 CBRE appraisal) to $664,925.76 per year — a 15.91× increase — and committed me, 53 additional residential lessee unit owners, 8 remaining AOAO sublessee owners, and the commercial owner to that grossly inflated figure for the next ten years.

The AOAO failed to recognize that all sandwich lease acquirers and the Commercial at purchase had executed trilateral assignment agreement Master Lease amendments signed by the individual sandwich lease purchaser, the AOAO, and the Kong Lessors. The sandwich lease purchase documents established a direct lease contract relationship for the Master Lease terms with the Kong Lessors. The AOAO remained as the sublessor for 8 unpurchased sandwich lease units obligated under the Master Lease remainder and the direct agent of the Kong Lessors to collect lease rent from each separate and individual unit.

The Board executed this Agreement before receiving the December 2, 2025 CBRE LAND appraisal it now cites as authority; without commissioning a single PARCEL appraisal as the Master Lease and USPAP require; without appointing independent lessee counsel as HRS § 514B-151(c) mandates when the AOAO is sublessor; without honoring the mandatory arbitration the lease and 59 mini-Master Leases trigger when no agreement was reached by April 2, 2025; and without obtaining the consent of any of the 59 individual mini-Master Lessees whose direct-privity contractual rights the Agreement purports to bind. Hawaiiana Management processed and charged the lease rent increase and back rent to lessee owners on October 17, 2025, nearly **SEVEN WEEKS BEFORE** CBRE Joint Appraisal was signed and nearly a **MONTH BEFORE** the Agreement to Set Rent with the Kong Lessors was signed.

More fundamentally, the Board and all advisors ignored another condo governance document: the three recorded Co-Owners' Agreements the Kong Lessors themselves executed (Land Court Docs 2609817, 2673521, and 2765001). The three recorded deed restrictions run with the land on every unit conveyance. Those instruments assign "land rent negotiation" to a **Management Committee of the land owners**, not to the Kong Lessors or the Board; waive partition; **fix the Master Lease term at June 30, 2061**; and establish the very **fee-conversion mechanism** by which 84 units have already converted.

The text of the Memorandum of Canterbury Place Co-Owners' Agreement dated February 18, 2000, executed when the fee simple land was encumbered by a 100% leased fee Kong interest, mandated lease renegotiation and property decisions quoted verbatim as follows:

> That the Kong Family, by Co-Owner's Agreement dated February 18, 2000, the terms and conditions of which are hereby made fully and completely as if herein specifically set forth, have made material and essential covenants running with the land, which touch and concern the land as follows:

(1) collection of land rent due under the Master Lease through a licensed Hawaii collection agent, and withholding from land rent received, reasonable sums to pay estimated property expenses;

(2) Decisions related to property ownership, land rent negotiation and payment of related property expense be made by a Management Committee consisting of the land owners on behalf of all land owners which committee shall initially consist of the following three (3) members: Corinne Jean-Tau Kong, Vivien Puanani Tsin-Tau Kong Ho, and Raestelle Oi-Tau Kong Gorman;

(3) the waiver of all land owners rights to file and maintain a partition action under Chapter 668 of the Hawaii Revised Statutes to force the sale of the land described in Exhibit "A"; and

(4) all such terms and conditions of the Co-Owners' Agreement shall continue until the expiration of the Master Lease for the land on June 30, 2061.

The Management Committee was appointed over 25 years ago when the Kongs owned 100% of the land. Despite three condo declaration amendments governing fee acquisition, the Management Committee was never reconstituted as ownership diluted to 46.1754% Kong against a 53.8246% fee-converted majority. The November 14, 2025 Agreement was negotiated by the wrong body, for the wrong objective, outside the recorded authority structure, while the Board had separately agreed with the Kong minority not to mention fee conversion at all. This is addressed at Sections 2A and 31A and is the single most consequential defect in the record.

This dispute is not about an assessment or a common expense. The arbitration and the dispute concern the willful, intentional, or grossly negligent failure of the AOAO and its advisors to comply with Hawai'i statutes and the Canterbury Place governing documents, the ultra vires result of which is a grossly inflated individual lease rent and a failure to exercise the majority fee unit owners Management Committee authority to acquire the fee. The disputed lease rent and back rent are an individual unit obligation owed to the Kong Lessors, collected from each unit by a conflicted AOAO acting as the Kongs' individually appointed collection agent — not a common expense the Association incurs for operation of the property. The owners' accruing monthly maintenance fees and assessments are not in dispute, and are irrelevant to this controversy; the § 514B-146(f) pay-first condition, which by its terms reaches only "amounts claimed by the association as common expenses," has no application to illegal acts resulting in an individual Master Lease obligation collected for an adverse lessor.

On November 20, 2025, Hawaiiana notified the lessee and commercial owners for the first time it was imposing months of retroactive rent to lessees which had already been charged a month earlier without notice. Four days later, on November 24, 2025, Hawaiiana notified lessee and commercial owners of a further change. The November 20, 2025 Master Leased-Fee Interest Report had computed the commercial rent at $9,300 per month, derived from the $23,250,000 appraised land value — the very figure CBRE would actually provide in a report signed on December 2, 2025. On November 24, 2025 the Association abandoned that appraised basis and increased the commercial rent to $9,600 per month to conform to the unsupported $24,000,000 valuation — the higher figure no appraiser had rendered.

The residential lease rent was likewise fixed on that same $24 million valuation **NOT SUPPORTED BY APPRAISAL**. Adopting an unsupported valuation and then abandoning it for an unsupported higher number is direct evidence that $24,000,000 was chosen for expediency, not value.

Retroactive rent is addressed nowhere in the Agreement, master lease, amendments or statutes. On the contrary, The CCD at Section IV.1 affirmatively requires payment *in advance* : "The Grantee shall pay or cause to be paid to the Ground Lessors… in advance in equal monthly installments on the effective day hereof and on the first day of each month thereafter." Sandwich Document Paragraph 9's supremacy clause makes retroactive imposition by AOAO action alone impossible: any retroactive imposition against a mini-Master Lessee requires that individual lessee's authorization. None of 59 mini-Master Lessees authorized retroactive imposition. Retroactive rent is an unauthorized individual charge to me and all lessee owners that lacks any statutory, contractual, consensual, or equitable basis. Retroactive rent must be refunded, and collection of illegal rent must be rescinded until lease rent is correctly computed or fee simple obtained.

Collusion with the Kong Lessors by waiver of contract and statutory rights, a joint appraisal agreed with the Kong Lessors which was not even used, incorrect appraisal process, failure to recognize the individual privity of Master Lessees, multiple conflicts of interest and other defects described herein constitute Unfair Deceptive Acts and Practices (UDAP) engaged in by Kong Lessors, AOAO Board, and various professionals who negligently or willfully disregarded lessee rights. The Board asserts this action is justified by professional advice received to ignore the statutory and contractual rights of 46.1754% lessee owners, so that bank financing could be obtained to begin the $7 million plumbing rehabilitation project.

The poor judgment and professional negligence encompassed by the continuing comedy of errors made in secret behind closed doors without the consent or agreement of any unit owner has economically damaged me, personally, for $386,416. The financial damages and emotional distress of the illegal acts and agreements for the rent renegotiation and back rent have taken an additional heavy toll of emotional distress damages on our family. Each leased fee owner has been similarly damaged, to a greater or lesser extent. UDAP treble damages plus attorney fees for my A unit alone could reach **TWO MILLION DOLLARS**.

The financial consequence is a building-wide crisis. Building-wide UDAP exposure from 54 residential plus commercial lessees could easily exceed **FIFTY MILLION DOLLARS**. This should be of great concern to all owners, because the AOAO umbrella liability policy is only $10 million. The computations in this analysis easily support economic damages averaging more than $335,000 per residential leasehold unit (the fee-versus-leasehold differential; Sections 9, 21). At that level, the 59 direct-lessee units alone represent roughly $20,900,000 in untrebled economic damages — already more than double the $10 million umbrella policy, before any UDAP trebling or attorney fees — a shortfall that would need to be paid by all owners by special assessment.

Good luck renewing the new policies next May – it almost didn't happen this year because the existing carrier was aware of the liability and did not want to take the chance I may be right and had to be replaced by two new carriers. AOAO Board members could face personal liability for damages in excess of policy limits, as well as for gross negligence, breach of fiduciary duty, and UDAP that insurance will not cover, because treble punitive damages and gross negligence are typically excluded from professional and director coverage.

Fee conversion of the Kong Lessors' 46.1754% leased fee interest produces the opposite outcome. Unfortunately, the AOAO Board caved in to the Kong Lessors at the very beginning by agreeing NOT to mention fee simple buyout AT ALL before negotiations even began. The acquisition ceiling reference is $11,000,000, allocated entirely to the 67 leasehold-position units by adjusted-PCI methodology — the 84 already-fee-converted owners pay $0. Conversion eliminates $664,925.76 in annual ground rent forever, producing $9,640,000 in 35-year NPV rent savings at a 6% discount rate. It creates $18,095,805 in aggregate equity uplift across 54 residential leasehold units, approximately $2,826,300 in commercial equity, approximately $2,476,845 in AOAO sublessee equity at resale, and recovers approximately $4,972,880 in fee-simple value loss currently dragging on the 84 fee-converted units. Total building-wide negative equity impact: -$28,371,830. Net building-wide benefit after acquisition cost: $27,012,000 pre-litigation, approximately $25,012,000 net of a $2,000,000 litigation reserve.

This analysis is prepared in my individual capacity as Unit 24A's owner, acting pro se. I am not counsel for the residential lessee class, the commercial lessee, the AOAO sublessees, or the fee-converted majority. The building-wide figures stand for context — they identify the magnitude of harm flowing to all owners from the same conduct that directly affects my unit. The analysis is offered to five audiences: my fellow owners, both leased fee and fee simple owners, to inform individual decisions; the AOAO Board, to identify the breach-of-duty exposure of continued inaction; the professional firms whose work product produced the November 2025 Agreement, to identify the standard-of-care failures and damages exposure each firm faces; various title insurers of unit owners, to identify the covered title defects and the cure election presented in Section 35; and any party with a derivative interest in the Agreement's enforcement, to identify the legal and factual basis on which it is challenged.

The choice before this AOAO is binary. Continue down the Kong Lease Agreement path — paying $1,822 every day in void Lease rent that builds zero equity, defending against UDAP, fiduciary and professional negligence litigation, watching leased fee values plummet, fee simple values suppress under leasehold stigma, increasing condo fee delinquencies, lessees walking away from under water properties, and surrendering lessee units of decreasing value to reversion at lease expiration — or aggressively pursue fee conversion pursuant to Management Committee fee simple owner majority and HRS Chapter 514C, eliminate the ground rent forever, restore marketability, and convert the 35-year horizon's $28,371,830 aggregate harm into $27,012,000 in net building-wide benefit — $25,012,000 net of a $2,000,000 litigation reserve.

The Board has a fiduciary duty to act to stop the madness. The current Board inaction and delay is causing massive and increasing damage. The Board must aggressively pursue fee acquisition using every arbitration and litigation tool. Stop paying the Kong Lessors, revoke the unauthorized and illegal Agreement to Set Rent using UDAP and other equitable remedies to properly compute rent using correct PARCEL valuations. Professional advisors and D&O carriers must be advised of fiduciary breach and professional negligence claims.

I volunteered my real estate expertise almost a year and a half ago by offering to assist with the renegotiation effort, the same as I did with the highly successful insurance renewal effort. Despite the background and experience demonstrated by the data and information contained in this analysis, a lease rent renegotiating committee was formed that specifically excluded me to obtain a quick settlement to further the plumbing rehab agenda. Unfortunately, I am being forced to fight my neighbors first and waste even more money before we can zero in on the true objective – the Kong Lessors and fee acquisition. Fee simple is our only salvation.

PART I — THE FACTUAL FOUNDATION

Section 1 — The Property

Canterbury Place Condominium is a 40-story concrete, steel, and glass high-rise constructed in 1978 at 1910 Ala Moana Boulevard, Honolulu. The structure contains 151 units (146 residential and 5 commercial), a land area of 35,365 square feet, a building area of 176,533 square feet, and is legally nonconforming at 1.54× current zoning. Tax Map Key: 1-2-6-007-015.

Title to the land is held in tenancy in common between the Kong Lessors, who collectively retain a 46.1754% leased fee interest held in two separate cotenancies, and the fee-converted majority of 84 unit owners, who collectively hold 53.8246%.

Section 2 — The Master Lease and the 2061 Operative Date

The Master Lease was filed on March 2, 1970 as Land Court Document No. 503648, recorded in the Bureau of Conveyances in Liber 7053, Page 166. Master Lease Paragraph 2 offered two independent expiration alternatives in 1970. The governing instruments fix the expiration at **June 30, 2061** — Master Lease § 2 and the recorded Co-Owners' Agreement § (4), the one-sentence clarification the Kong Lessors themselves executed on February 18, 2000, before the first fee-simple interest or sandwich lease was sold. The correct operative horizon since the recording of the Co-Owners' Agreement in February 2000, is clearly and unmistakably **35 years** remaining **(to June 30, 2061)**.

Ekimoto & Morris LLLC, Monarch Properties, Hawaiiana Management Co., and CBRE each on multiple occasions used June 30, 2051 — ten years early — understating the remaining term and distorting leased-fee value. That is a documented professional error. **All numerical computations in this revised Analysis use the correct 35-year horizon to June 30, 2061.** Because the acquisition value is computed by the income approach at the lease's own 6.0% rate with 0% growth, the ten added years of rent and the ten-year deferral of the reversion offset almost exactly, so the corrected horizon changes the leased-fee acquisition price by well under one percent; its effect falls on the rent-elimination total and the reversion date, both updated below.

Rent resets every 10 years. The first reset after the original term has been the subject of the 2025 dispute. Subsequent scheduled resets fall in 2035, 2045, and 2055 before expiration on June 30, 2061. Master Lease Paragraph 23 specifies rent at 6% of PARCEL fair market value, "to be agreed upon" by Master Lessor and EACH mini-Master Lessee on or before April 2, 2025 (90 days prior to the July 1, 2025 reset date). If no written agreement is reached by that deadline, rent — and these are the express words of the contract — "shall be determined by arbitration."

Section 2A — The Recorded Co-Owners' Agreements, the Management Committee, and the Fee-Conversion Exception

Three recorded instruments — created and executed by the Kong Lessors themselves — sit on the title of every Canterbury Place unit and govern the land. They appear in the "SUBJECT, HOWEVER, TO" clause of the Exhibit "A" description of the unit deeds and run with the land. None of the four professional firms surfaced them in the 2025 work product, and the November 14, 2025 Agreement was negotiated and executed as though they did not exist. They are the structural heart of this dispute.

2A.1 The three instruments

(1) Memorandum of Co-Owners' Agreement — effective February 18, 2000; Land Court Document No. 2609817 / Bureau of Conveyances Document No. 2000-027224. Executed by the entire Kong Family before the first fractional leased-fee interest was sold, it recites four "material and essential covenants running with the land, which touch and concern the land":

- **§(1)** collection of land rent through a licensed Hawaii collection agent, **with withholding of reasonable sums from the rent received to pay estimated property expenses**;
- **§(2)** decisions on **property ownership, land rent negotiation, and payment of related property expenses** to be made by a **Management Committee consisting of "the land owners on behalf of all land owners,"** initially three Kong individuals (Corinne Kong, Vivien Kong Ho, and Raestelle Kong Gorman);
- **§(3) waiver of all land owners' rights to file or maintain a Chapter 668 partition action** to force a sale of the land; and
- **§(4)** continuation of all terms **until expiration of the Master Lease on June 30, 2061**.

(2) Fee-Conversion Exception — Agreement dated December 13, 2000 (Land Court Doc No. 2673521 / BoC 2000-182350), and **(3)** a substantively identical Agreement dated November 23, 2001 (Land Court Doc No. 2765001 / BoC 2001-204037; party block updated to reflect the probate of Walter Tau Ming Ho). Each provides, in operative ¶ 1, that **once a unit owner holds the Leased Fee Interest, the Sandwich Lease Interest, and the Sublessee's Interest for that unit, (a) no land rent is collected from that owner, and (b) the Lessee is released from all rent obligations for that unit**; ¶ 2 keeps every other Co-Owners' Agreement provision in force. This is the recorded mechanism by which **84 of the 151 units (53.8246%) have already converted to fee simple.**

2A.2 The consequences the Board and its advisors missed

First — the rent-negotiation authority was the Management Committee's, not the Board's. The §(2) covenant assigns "land rent negotiation" — the precise subject of the November 14, 2025 Agreement to Set Rent — to a Management Committee of the land owners on behalf of all land owners, with a majority fee simple AOAO Board and 2 minority Kong Lessor interests. The recorded mandate is conjunctive: property ownership, land rent negotiation, and payment of related property expenses are committed together to one body. The Board waived the majority land interest Management Committee voting power. The Board severed rent from that structure and decided it alone, outside the recorded authority, bending to the will of the Kong Lessors to the detriment of the lessees it purported to represent. The mandatory renegotiation process the Kong Lessors themselves created over a quarter-century ago was not followed.

Second — the Committee was never reconstituted, and the Agreement was executed without one. The Committee was tied to 100% Kong ownership at execution — three Kong individuals deciding on behalf of all KONG land owners. As ownership diluted to 46.1754% Kong against a 53.8246% fee-converted majority, "all land owners" came to include that new majority, and the Committee required reconstitution to seat them. No recorded successor designations exist, and the Committee may have lapsed by attrition. Critically, the November 14, 2025 Agreement's own §1.2 recital acknowledges that the Master Lessor "still currently owns an undivided 46.1754% interest" — so the Lessor knew at execution that the Committee's 100%-era composition no longer matched ownership, which moves the defect from inadvertence toward deliberate exclusion of the majority. This independent structural defect is developed at Section 31A.

Third — the AOAO already holds the majority land-owner power and could have convened the Committee. The AOAO has for years held the 53.8246% majority land-owner interest as representative of the 84 fee-converted owners. It therefore had the voting power to convene a properly constituted Management Committee, direct the renegotiation, and — under §(1) — withhold the related expenses from the rent due the Kongs. The Board instead let the 46.1754% Kong minority exercise authority over interests the Kongs had already sold and been paid for and no longer own.

Fourth — the §(1) withholding covenant was inverted. §(1) gives the licensed collection agent express authority to withhold reasonable sums from the land rent received to pay estimated property expenses. The proper course was to withhold the dispute, vendor, and GET costs from the rent owed the Kongs. Instead those costs — including the $49,682.58 in vendor charges (Section 38) and the GET liability (Section 18) — were billed to the mini-Master Lessees, charging the wrong party and misappropriating sums otherwise due them. The withholding covenant is also a direct contractual basis for the Association to suspend remittance and hold disputed amounts pending resolution (Section 41).

Fifth — the Kongs built the fee-conversion path the Board agreed not to discuss. The conversion thesis in Parts IV–V is not aspirational; it is the recorded, operative structure of this building. The Kong Lessors drafted and executed the release-from-rent mechanism, and it has already been used 84 times. The Board's agreement with the Kong minority not to mention fee-simple buyout at all before negotiations began was, in substance, an agreement to ignore the Kongs' own recorded deed restriction, resulting in an illegal Kong windfall.

Sixth — partition was surrendered as bargained-for consideration for a process that was then disregarded. Each lessee waived statutory Chapter 668 partition rights (§(3)); in exchange, every unit owner received a clear, recorded process for lease renegotiation and fee acquisition — an exchange the owners justifiably relied upon when they purchased. The §(3) waiver forecloses any partition-leverage theory, but it also means the Kongs supplied the substitute: the fee-converted majority can convene or reconstitute the Management Committee and use the Kongs' own fee-conversion exception to compel an orderly bulk acquisition of the 46.1754% leased fee for the benefit of every owner at a reasonable cost determined by an appraisal of the fair market value of the interest to be acquired. Having drafted and recorded the exception, the Kongs are estopped from asserting a procedural bar to its use; and having taken the benefit of the lessees' partition waiver, they cannot withhold the process given in return.

Seventh — the recorded recital is the lessor's own admission that the term runs to 2061. The §(4) recital, executed by the Kong Lessors, fixes expiration at June 30, 2061 — the strongest authority against the 2051 error every appraiser and advisor used, because it is the fee owner's own statement against interest. It corroborates the 35-year horizon on which this revised Analysis computes.

2A.3 A title-review failure that infects every downstream opinion

A competent recorded-title review for a multi-million-dollar leasehold rent renegotiation would have surfaced all three instruments. Their absence from the 2025 work product means every downstream opinion was built on an incomplete chain: the § 514B-151(c) opinion, the valuation methodology, the arbitration-waiver advice, and the rent computations were all rendered without the recorded covenants that (i) vest rent-negotiation authority in a Management Committee, (ii) fix the 2061 term, (iii) waive partition, and (iv) establish the conversion mechanism. The failure is not collateral; it is foundational, and it independently supports the professional-negligence exposure addressed in Sections 36–39.

The defect was also placed squarely before the decision-makers. On June 11, 2026 the recorded Co-Owners' Agreements and their consequences were set out in writing to the full Board, with all three instruments attached and the operative covenant quoted verbatim, and with the express observation that no advice of counsel had addressed the deed restrictions in any way. The Association's response, through its President (himself an attorney), was that the Board relies on counsel and that communications should go through counsel — without engaging the substance. Continued adherence to the November 14, 2025 Agreement after that written notice bears directly on willfulness for UDAP purposes and on the unavailability of the business-judgment defense (Section 40).

Section 2B — 2000 Through 2019: Both Prerequisites for Fee Acquisition Came Into Being, and the Board Used Neither

By 2019 the building held, in recorded form, both of the two things required to acquire the Kong leased fee and extinguish the ground rent — the majority-owner authority to sell, and the condominium authority to buy. Neither was used. The rent the lessees are now fighting is, in substantial part, rent that should never have been paid at all.

2B.1 The gradual sell-down and the formation of the fee-owner majority

When the Kong Family recorded the Co-Owners' Agreement in February 2000 (Section 2A), it owned 100% of the leased fee. Beginning that year, the Kongs sold individual fractional fee interests to unit owners, gradually, over roughly eighteen years. The sell-down continued until the Kongs had reduced themselves to a minority — an undivided **46.1754%** (Kong Sisters Family LP **42.9427%** and the Vivien Kong Ho Trust **3.2327%**) — and then stopped. What the record establishes is that by 2019, the fee-converted owners constituted the **53.8246%** majority of the land owners and the Kongs were the minority.

2B.2 The amendment ladder that armed the Board to act

Three recorded Declaration amendments, each adopted under the 67% framework, built the Board's authority to acquire the fee:

- **2013 (Land Court Doc T-8459447): Paragraph 19, "Governing Law."** The Chapter 514B opt-in — it adopted HRS Chapter 514B, authorized restatement of the governing documents, and fixed the **67% threshold** for amendments that the next two amendments would rely upon.
- **2014 (Land Court Doc T-8989142): Paragraph 20, "Fee Conversion / Rent Renegotiation."** Adopted under **HRS § 514C-22 with more than 67% owner consent**, it granted the Board comprehensive authority — to **purchase the Leased Fee Interest**, exercise or **waive the right of first refusal**, **obtain financing**, **retain appraisers**, set/arbitrate/collect lease rents, sell and convey, and **assist Members in a direct purchase** from the Lessor — and it expressly authorized the Board to **refuse to act** as the lessees' agent in a rent renegotiation. Paragraph 20 was **prepared by Richard S. Ekimoto**, the same counsel who later advised the 2025 rent reset without using it (Section 36). The 2014 amendment laid the foundation: it armed the Board to make Management Committee property decisions the moment a fee-owner majority was achieved.
- **2019 (Land Court Doc T-10704238): Paragraph 21, "Fee Conversion — Residual Remaining Residential Lessees."** Adopted under **§ 514C-22(d)** — the subsection that governs precisely the situation "if some, but not all, lessees have purchased the leased fee interest ... directly from the lessor" — **with the consent of 67% of the remaining lessees**. It re-granted the full acquisition, financing, ROFR-waiver, and assist-and-advise powers, and **named the then-remaining residential lessees by unit, Unit 24A among them.**

2B.3 Two prerequisites, both present in 2019, both ignored

A fee acquisition required two recorded authorities, and by 2019 the Board held both:

1. **The sell-side — the Management Committee.** Disposition of the leased fee is committed by the Co-Owners' Agreement to a Management Committee of the land

owners "on behalf of all land owners" (Section 2A). By 2019 the AOAO represented the **53.8246%** fee-owner majority of that body and had the voting power to convene it and direct a sale.

2. **The buy-side — the amendment authority.** Paragraphs 20 (2014) and 21 (2019) authorized the Board to purchase, finance, and resell the Kong leased fee for the remaining lessees.

In 2019 the declaration-amendment authority and the owner majority were both clear, and together they should have triggered fee acquisition. The correct step was a **leased-fee PARCEL appraisal in 2019** to anchor a fair-market acquisition from the Kongs. It was never done. Instead, ground rent continued to be collected for more than six years on property ownership that should have ended, and the 2025 renegotiation was then conducted in further disregard of the unit-level sandwich-lease privity (Section 4) and the recorded deed-restriction agreements (Section 2A) — the very acquisition path the Kongs had recorded as the alternative to the partition right the owners waived. The damages clock for the lessees runs from this 2019 inaction; the July 1, 2025 reset did not begin the harm, it multiplied it (Sections 7 and 24).

Section 3 — The Kong Two-Cotenancy Structure

The 46.1754% Kong position is divided between two distinct ownership entities with separate and distinct beneficiaries and members with independent fiduciary duties owed by trustees and general partners. The two-cotenancy structure is material to the financial framework, to the litigation framework, and to the negotiation framework.

3.1 Two Property Rights, Not One

Two distinct property rights are present and must be analyzed separately. Each is held in different proportions by the two Kong entities. Conflating the two rights — as the November 2025 Agreement and its supporting work product have done throughout — produces incorrect computations.

- **The fee simple land remainder** — the underlying fee simple ownership of the partialinterest land parcels that have not been converted. The Kong Lessors have sold 84 leased fee residential interests of 53.8246% converted to fee simple ownership held by 84 unit owners. The Kong entities jointly as tenants in common collectively hold the minority remainder of 46.1754% of this fee simple land.

- **The leased fee encumbrance** — the contractual encumbrance imposed by the Master Lease on the fee simple land. The Kong entities collectively hold 100% of the leased fee encumbrance (the encumbrance covering the 46.1754% of the building's land that has not been converted to fee simple). The 53.8246% already-converted fee simple residential unit portion is not subject to this encumbrance.

The two property rights are separate. The fee simple land remainder is the corpus; the leased fee encumbrance is the contractual right against the corpus. A fee acquisition under HRS Chapter 514C purchases both — the fee simple land remainder and the corresponding leased fee encumbrance — from the two Kong entities collectively, producing 100% fee simple ownership of each unit's land interest.

3.2 Kong Trust

Vivien Puanani Kong Ho, Trustee of the Walter and Vivien Ho Revocable Living Trust dated July 23, 1991. The Trust holds:

- 3.2327% fee simple undivided joint tenant in common ownership of the building's land remainder with the Kong LP and 82 AOAO fee simple unit owners.
- A 7.0010% share of the leased fee encumbrance and income.

3.3 Kong Sisters Family LP

Kong Sisters Family LP. The LP holds:

- 42.9427% fee simple undivided joint tenant in common ownership of the building's land remainder Kong Trust and 82 AOAO fee simple unit owners..
- A 92.9990% share of the leased fee encumbrance and income.

3.4 Why the Fracture Matters

The Kong Trust and the Kong LP are separate cotenancies with separate decisional authority. A transaction with one does not depend on the consent of the other. Separate UDAP and equity claims against each entity would double the litigation burden on the Kong side, potentially force the smaller Trust into early settlement, and isolate the larger LP for continued pressure. The value of the combined 46.1754% interest fragmented into two partial-interest sales with independent minority and marketability discounts is meaningfully lower than the value of the same combined interest negotiated as a single block. The negotiation framework set out in Part V exploits this structural feature.

The scope of the Kong leasehold interest is bounded: only the 46.1754% leased fee interest is at issue. The 53.8246% already-converted fee simple residential unit portion is not a calculation component — those 84 owners pay $0 toward the Kong acquisition because they have already paid for their share. Individual mini-Master Leases with sandwich purchasers may remain subject to reversion absent conversion, although counter-arguments exist due to the intervening modifications to the condominium governing documents and the Master Lease itself.

Section 4 — The 2018-2019 Sandwich Fracturing

Between 2018 and 2019, the AOAO assigned its sublease position to 59 unit owners through a series of substantially identical Lessor's Consent and Agreement instruments (the "Sandwich Documents"). My unit's Sandwich Document was executed July 3, 2019. Each Sandwich Document is an amendment to the Master Lease by its own Paragraph 9 supremacy clause: "to the extent there is any conflict, the terms and conditions of this Agreement shall control over any terms and conditions of the Ground Lease."

The structural consequence is that each of 59 unit owners holds direct contractual privity with the Kong Lessors as to (a) individual rent obligations, (b) individual arbitration rights for rent disputes, (c) individual PARCEL valuation rights at the unit level, (d) individual consent rights for any modification of the Master Lease, and (e) individual subrogation, notice, and cure rights under Paragraphs 6 and 7.

Monarch Properties' Master Leased-Fee Interest Report (Amended), November 20, 2025, confirms the structure on the face of its own report: "The Kongs now have direct master lessor to master lessee relationship with 54 residential units and 5 commercial units under the master lease. There are another 8 residential units where the AOAO-82 is also the master lessee to the Kongs." Monarch confirmed the 59-unit direct-privity structure in writing six days after the November 14, 2025 Agreement was signed without the knowledge or consent of those being charged.

4.1 The Master Lease Fracture in Detail

The 2018-2019 Sandwich assignments did not merely transfer individual subleases. They fractured the Master Lease into 60 discrete legal instruments — 59 individual mini-Master Leases (54 residential and 5 commercial) held by sandwich assignees with direct privity to the Kong Lessors, plus one residual AOAO-only sandwich lease remainder covering the 8 remaining sublessee units. The legal consequences are decisive. No Master Lease renegotiation undertaken by the AOAO alone can bind the 59 direct-privity sandwich purchasers; individual direct-privity rights — PARCEL valuation, arbitration, retroactive-rent consent, and rent-reset methodology — cannot be waived by the AOAO on behalf of 59 separate contracting parties, each of whom retains independent standing.

4.2 The Monetary Obligations Defined Term

Sandwich Document Paragraph 8 defines "Monetary Obligations" broadly to encompass every monetary duty running under the Master Lease — including rent, GET, taxes, insurance reimbursements, and any other sum payable to the Lessor. Paragraph 8 then designates the AOAO as the agent to which all 59 mini-Master Lessees pay Monetary Obligations to the Kong Lessors, and makes the AOAO liable to the Kong Lessors regardless of whether the AOAO collects from individual lessees. The defined term anchors three downstream issues: (a) the GET pass-through failure addressed in Section 18, (b) the abandoned-appraised-value / unsupported-$24M rate component addressed in Section 16, and (c) the AOAO/lessee collection conflict — because Paragraph 8 places the AOAO as the only party with contractual standing to pursue collection of Monetary Obligations from individual lessees. The Kong Lessors have no direct contractual remedy against any individual mini-Master Lessee for unpaid Monetary Obligations.

Section 5 — The AOAO's Triple Status

The AOAO occupies three roles material to the disputed Agreement and to the HRS § 514B-151(c) analysis in Section 27. Each role independently triggers § 514B-151(c)'s mandatory independent-counsel requirement.

5.1 Sublessor of 8 Residential Units

The Agreement to Set Rent with the Kong Lessors dated November 14, 2025 contains multiple legal and factual errors. Exhibit A attached to the Agreement states "*The Association owns these eight (8) Condominium Units." The Table then marks sublessee units as owned by the AOAO. The AOAO does not own these 8 units; they are individually owned by the sublessees. What the AOAO owns is the **sandwich (sublease) interest that those 8 owners have not yet purchased** — making the AOAO the remaining sublessor as to those units. That sublessor status is the conflict that triggers HRS § 514B-151(c) (Section 27): the AOAO sits on the lessor side of a sublease while purporting to represent the very sublessees in the rent renegotiation. Furthermore, the 8 sublease units continue subject to the remnant of the Master Lease document. By choosing not to purchase the sandwich lease, the AOAO sublessor and sublessees **DO NOT** have privity with the Kong Lessors. This surfaces yet another conflict resulting from failure to appoint independent counsel to represent the lessees. Since January 2019 the AOAO has collected sublease rent under the 2019 sublease schedule from the 9 (now 8) sublessees — $6,503.28 per month — while remitting only the $401.38 per month attributable to those units at the pre-reset Master Lease rate (46.1754% of the $90,500 100% master rent documented in the 2019 CBRE appraisal), retaining the differential: **$507,256 in gross collections ($475,948 net of the old-rate share) from January 2019 through June 2025**. Since the July 1, 2025 reset the AOAO collects $5,603.95 per month from the 8 sublessees against a $5,503.44 reset obligation, a continuing margin of roughly $100 per month. That is self-dealing by the sublessor against the sublessees it claimed to represent.

5.2 Collection Agent for the Kong Lessors

Sandwich Document Paragraph 8 designates the AOAO as the **AGENT FOR THE KONG LESSORS** through which all 59 mini-Master Lessees pay Monetary Obligations to the Kong Lessors. The AOAO is structurally conflicted: when collection action is initiated against me as an individual mini-Master Lessee, the action is brought by the same entity (the AOAO) whose contract authority to bind me to the disputed rent is itself contested. The Sandwich Document makes the AOAO the only contractually authorized collector — and therefore the only contractually authorized adversary to any individual lessee seeking to dispute Kong-derived obligations.

5.3 Owner-Lessee of Unit 7D

The AOAO acquired Unit 7D by foreclosure, recorded March 20, 2015 — on documents **drafted by Richard S. Ekimoto —** taking the unit subject to the 2000 Co-Owners' Agreement deed restrictions, the superior first-mortgage lien, the ground Master Lease, and the Sandwich Lease. It held Unit 7D until the senior lienholder (United Asset Management LLC) foreclosed, its commissioner's deed executed **December 2, 2025** and recorded **December 5, 2025**. The AOAO therefore owned a leasehold unit on and after the **§ 514B-151(d) measuring date of October 1, 2024 — within nine months before the July 1, 2025 reset** — making it a "remaining lessee" while purporting to represent the lessees, an independent statutory conflict additional to the § 514B-151(c) sublessor conflict. An AOAO that owns leasehold inventory has a direct economic interest in the reset outcome distinct from, and potentially adverse to, the interests of the lessees it claimed to represent.

The 7D history also exposes a recorded title irregularity the Board has never resolved. When the AOAO acquired the Sandwich Leases in 2016, the Sandwich Lease for Unit 7D **merged into the AOAO's existing 7D ownership and was extinguished** — exactly as each of the 54 residential units' sandwich leases later merged into unit ownership upon purchase. The difference is that, by merger, the AOAO no longer held a 7D sublease to sell; the approximately **$90,000 paid for that sublease simply disappeared**. That extinguishment is what allowed the current owner to take Unit 7D by foreclosure in 2025 without paying for any sublease. Yet Unit 7D still appears on the Agreement's Exhibit "A" among the 8 units asterisked as Association-owned — a stale, incorrect entry (the AOAO neither owned the unit after December 5, 2025 nor held a surviving 7D sublease after the 2016 merger), apparently left in place by an unresolved dispute over this title issue. The November 14, 2025 schedule of bound units is therefore wrong on its face as to Unit 7D, overstating the Association's sublessor count. The episode is an object lesson against foreclosing on a mortgaged leasehold: the AOAO took Unit 7D subject to a senior first mortgage it could not control, lost the unit to United's foreclosure, and forfeited the ~$90,000 it had paid for the 7D sandwich lease — a loss unrecoverable from the foreclosing lender — attributable to poor judgment and professional advice (Section 36). Foreclosure on 24A or any other lessee unit with a mortgage would also be equally foolish.

PART II — THE DAMAGE TO ALL OWNERS

Section 6 — My Unit 24A Walkaway Calculation

My own unit's value loss illustrates the economic damage inflicted on lessee owners by the Board's failure to aggressively pursue fee acquisition. The same calculation, with different specific figures, applies to all the other 53 residential leasehold owners.

6.1 Cost Basis

Item	Amount
Unit acquisition (2014)	$435,000
Sandwich lease purchase (2019)	$102,000
Total cost basis (exclusive of special assessments)	**$537,000**

6.2 Current Position

Item	Amount
Current comparable value net after closing costs (Unit 19A & 25A benchmark – see below)	$285,000
Paper loss from cost basis	($252,000)
Current mortgage balance	$355,000
Accumulated fees and rent through 6/30/2026	$31,416
Negative equity (underwater payoff position) — through June 2026, increasing $4,500/mo	**($101,416)**
06/30/26 $285K CASH SALE NET LOSS	**($386,416)**

6.3 Walkaway vs. Fee Conversion — The Swing

Metric	Walk Away	Fee Conversion
Unit value net of closing costs	$285,000 (maybe)	$698,500
Less mortgage	($355,000)	($355,000)
Accumulated fees and rent through 6/30/2026 (increasing $4,500/mo)	($31,416)	($31,416)
Less Kong conversion cost	—	($175,300)
Equity increase from fee purchase	—	+$136,784
Cash retained from unpaid negative equity (walk away)	($101,416)	—
Paper loss — acquisition less unit value net of closing costs	($252,000)	—
NET LOSS vs PROFIT	**($386,416)**	**+$136,784**
SWING — RECOVERED NET LOSS LEASED FEE VALUE vs FEE OWNER CONVERSION	—	**+$523,200**

Metric	Walk Away	Fee Conversion
Monthly ground rent burden	$883.20	$0
Marketability	Substantial price reductions, long marketing times	Fully restored

The numbers for my Unit 24A are stark and devastating. I paid $435K over 11 years ago, bought my sandwich lease for $102K, for a total cost basis of $537K. With a current market value after closing costs of maybe $285,000, my loss is $386,416. I would have to spend an additional $101,416 to pay off my mortgage and accrued condo fees. If I cannot acquire the fee, my best alternative is to take my paper loss of a **QUARTER MILLION DOLLARS**, retain my deficiency balance cash of $101,416, continue accruing fees, lease rent and expenses $4,500 monthly (increasing) until forced to address it at the end of any litigation or bankruptcy.

My difference between a total leased fee loss of –$386,416 (loss increasing monthly) and owning a $698,500 fee simple asset with +$136,784 in equity (possibly increasing after settlement) is a **HALF MILLION DOLLARS.** The same is true for each individual lessee. There is only one choice — to aggressively pursue fee acquisition under HRS Chapter 514C and reverse the void Agreement. Many of the 53 other residential lessee owners face structurally similar circumstances: underwater mortgages, unsaleable units, unable to charge enough rent to break even on costs, accumulating rent on depreciating assets. Without fee conversion, the rational economic response for mortgaged properties is the same: walk away. A cascade of defaults and walkaways would collapse AOAO revenue and devastate the entire building — including the 84 fee simple owners.

Strategic posture — delay until forced. No decision is required or advisable now. A walk-away would occur *without* paying the underwater mortgage or accrued maintenance fees, and recognizes the accumulated paper loss; but holding — continuing the mortgage payment — preserves optionality and is the rational course until action is forced by a settlement offer, arbitration outcome, or a Unit 24A foreclosure and subsequent bankruptcy. Passage of time may bring a change in AOAO control and a building-wide fee acquisition. The cost of waiting is continuing condo-fee and rent accrual of roughly $4,500 per month; against the +$523,200 conversion swing, that accrual provides well over two years of runway before it would begin to erode the advantage of converting. The recommended posture is therefore to delay as long as possible while preserving every challenge.

Section 7 — The Cost of Inaction

The void Agreement, if left unchallenged, produces compounding harm across multiple dimensions over the 35-year remaining Master Lease term.

Risk	Impact
Value	Unit 19A currently listed at $298K just went under contract 6/23/2026

Risk	Impact
destruction accelerates	after 286 days on the market as the leading indicator for 54 residential leasehold units. Likewise, 25A has been substantially reduced to $300K with progressive price reductions over two years. One closed leasehold sale in six months — Unit 26C, with 284 sq.ft. of enclosed (added) living area, sold 2/3/2026 at an aggressive $398K.
Fee simple values dragged down	Documented: 19D reduced $151,000; building DOM double normal Waikiki; $4.97M aggregate fee-simple value loss; zero closed fee simple sales in six months.
2035, 2045, 2055 rent resets	Ground rent will increase further — no cap, no protection — if the same flawed renegotiation process is followed.
Lease expiration in 2061	**Leasehold units revert to the Kong Lessors. The 53.8246% already-converted portion is not directly affected; the 46.1754% leasehold portion faces reversion absent conversion.**
AOAO sublessee position	Not a general-fund drain: the AOAO pays $66,041/yr in reset rent to the Kongs on the 8 unpurchased sandwich-lease units (4.5862% land interest) and collects $67,247/yr from those sublessees under the 2019 sublease schedule — a net margin of about +$1,206/yr, which flips to roughly —$5,876/yr if the extinguished Unit 7D sublease produces no collections (Section 5.3). The 2029 sublease renegotiation will reprice this position and increase sublessee exposure if the same methodology is applied.
Retroactive rent precedent	If unchallenged, the same tactic will recur at every future reset.
Daily cost of inaction	**$1,822 per day in rent paid to the Kong Lessors that builds zero equity.**

Section 8 — Two Paths — One Choice

The choice before this building is binary.

8.1 Path 1 — Continue the Void Agreement

Pay $23,272,402 in undiscounted ground rent over the 35-year horizon, on a 15.91× increase the Master Lease did not authorize. Create $0 in equity for any lessee. Watch fee simple values continue to suppress under leasehold stigma. Watch leasehold units become unfinanceable and unsaleable. Face three more unknown rent increases in 2035, 2045, and 2055. Lose everything at 2061 — leasehold units revert for token consideration. Defend, at AOAO expense, UDAP, professional negligence, fiduciary breach, and debt-collection litigation. Bear personal Board-member exposure for the duration.

8.2 Path 2 — Fee Conversion

Acquire the Kong 46.1754% leased fee interest within the negotiation range of $8,073,000 (floor) to $11,000,000 (ceiling) under HRS Chapter 514C. Eliminate $664,925.76 per year in ground rent permanently. Restore marketability and financing across the building. Convert the 35-year horizon's $28,371,830 aggregate harm into $27,012,000 in net building-wide benefit — $25,012,000 net of a $2,000,000 litigation reserve.

8.3 The Binary Comparison

Benefit Component	Path 1 — Void Agreement	Path 2 — Fee Conversion
Equity impact (residential +commercial + sublessee + feesuppression)	$0	$28,371,830
35-year NPV rent savings	$0	$9,640,000
Gross benefit	$0	$38,012,000
Less: acquisition cost (ceiling)	—	($11,000,000)
Net building-wide benefit,pre-litigation	**$0**	**$27,012,000**
Less: litigation budget reserve	—	(~$2,000,000)
Net building-wide benefit,post-litigation	**$0**	**~$25,012,000**
ROI on $11M acquisition (post-litigation)	—	**~227%**

A Type I "A" unit owner gains $224,750 in immediate net equity ($400,050 equity gain less $175,300 conversion cost) and eliminates $10,598 per year in rent forever. Own forever no reversion. Each dollar of acquisition cost below the $11,000,000 ceiling — closer to the $8,073,000 floor — improves net benefit by a corresponding dollar.

The commercial lessee is aligned. The 53.8246% already-converted majority holds decisive leverage. The fracturing of the Master Lease into 59 individual mini-Master Leases plus one residual AOAO-only lease means the AOAO did not — and could not — bind the 54 residential and 5 commercial sandwich lessees in its November 2025 Agreement. No PARCEL appraisal has been performed at any level. The abandoned appraised value, the sandwich-acquisition conflict of interest, and the GET non-collection are all symptoms of the same underlying flaw — damages components flowing from an agreement the Board lacked authority to execute.

PART III — MARKET EVIDENCE OF HARM

Section 9 — Canterbury Place MLS Data

The Canterbury Place MLS data drawn from listings, pending sales, and closed sales over the previous six months reveals a building bifurcated into two separate dysfunctional markets. The ONLY sale out of 15 active lease and fee listings was Leasehold Unit 26C, recorded 2/3/2026 at $398,000. Unit 26C is not comparable to the A-stack: its 1,380 sq.ft. of living area is a 1,096 sq.ft. base plus 284 sq.ft. of additional enclosed living area, so its $288/sq.ft. is computed on enclosed space that costs an estimated $100,000 to build out. By contrast, the A-stack units (25A, 19A, and Unit 24A) have 1,270 sq.ft. of living area plus a 280 sq.ft. open lanai that is not counted as living area. The 26C sale appears to be a business-to-business outlier — possibly a 1031-exchange buyer who overpaid — and is not a reliable market signal. The A-stack leasehold units at 1,270 sq.ft. ARE NOT SELLING at $235/sq.ft. Fee simple units starting at $499K ARE NOT SELLING. Because nothing is clearing at asking — rising days on market until prices are cut, with three listings canceled after unproductive exposure — value is estimated on sale price per square foot set below those asking levels: fee simple $550/SF and leasehold $235/SF, a $315/SF differential (Section 9.3), attributable to the ground-lease encumbrance compounded by the void reset. Days on market continue to rise and list and sale prices continue to decline across both lease and fee properties for sale.

9.1 Fee Simple Units- ZERO sales in 6 months since reset

Status	Count	Price Range	Avg / Med Price	$/SF	Avg DOM
Active Listings	13	$499,000 – $1,165,000	$830K / $825K	$761	128
Sold, pre-reset (2025)	3	$575,000 – $850,000	$741K / $798K	$717	136
Sale/List Ratio	—	—	**96%**	—	—

9.2 Leasehold Units – ONE sale in 6 months since reset

Status	Count	Price Range	Avg / Med Price	$/SF	Avg DOM
Active Listings	3	$298,000 – $460,000	$353K / $300K	$268	211
Sold (Recent)	2	$398,000 – $480,000	$439K / $439K	$299	49

9.3 The Leasehold Discount Quantified — Estimated Sale $/SF

Because units are not clearing at asking prices — days on market lengthen until prices are cut, and three listings were canceled after unproductive market exposure — value is estimated on sale price per square foot of living area, set deliberately below aggressive asking prices:

Tenure	Estimated Sale $/SF	Type I “A” (1,270 SF)
Fee simple	$550	$698,500

Tenure	Estimated Sale $/SF	Type I "A" (1,270 SF)
Leasehold	$235	$298,450
Differential	**$315/SF**	**$400,050**

The single closed leasehold sale (Unit 26C, $398,000, $288/SF) is a non-comparable business-to-business / 1031 outlier carrying ~$100,000 of enclosed added-area improvement; adjusted to A-stack living area without enclosure it supports a value at or below $298,000 (≈$235/SF), corroborated by Unit 19A ($298,000 list, under contract) and Unit 25A ($300,000, not selling). Fee value is estimated at $550/SF to reflect continuing market-wide price declines (the broader condominium market fell over 2% in a single recent month). Financing: fee simple qualifies for conventional/VA/FHA; leasehold is effectively cash-only.

Section 10 — The A Unit Benchmarks

Unit 19A is a Type I A-Stack 2BR/2BA unit with Diamond Head views — the same configuration as my unit on a lower floor. It is currently listed for several months at $298,000, reduced from its original asking price of $480,000. It has been on the market over 286 days and just went under contract on 6/23/2026. The contract price is unknown, or if there is a mortgage involved, but a reduced sale price, **if it closes**, is quite possible.

Unit 25A located directly above me tells a similar dismal story. Unit 25A has been substantially reduced to $300K with progressive price reductions over two years. One closed leasehold sale in six months - Unit 26C, with 284 sq.ft. of enclosed (added) living area, sold 2/3/2026 at an aggressive $398K.

Leasehold units at Canterbury Place are effectively unfinanceable and not economically feasible. The numbers are straightforward:

A-unit monthly housing expense: $3,148.51 (maintenance fee) + $883.20 (lease rent) + $1,200 (P&I on $200,000 mortgage at 6%, 30 years) + $400 (taxes and insurance) = $5,631.71 per month.

Standard mortgage underwriting at 28% Debt-to-Income housing-expense ratio requires gross monthly income of $20,113.25 — almost a quarter million dollars in gross annual income — to qualify for a $200,000 mortgage on a single A-unit.

A units that should trade in the $700,000+ range as fee simple are having great difficulty attracting buyers at $298,000 as leasehold. The $883.20 per month ground rent — combined with three more scheduled rent renegotiations (2035, 2045, 2055) — and the absence of a clear path to fee simple makes the unit economically irrational for any buyer at any price.

If an investor were willing to pay just **ONE DOLLAR** for Unit 19A, it would require a long-term tenant willing to pay at least $4500 per month just to break even. One month of vacancy or nonpayment leaves the owner in the hole for $4500. If it does not seem like a good idea to risk **ONE DOLLAR** , why would anyone pay $200,000, much less $400,000? Seems like a strong justification to try to AirBNB illegal short term increased rent income to offset losses caused by our beloved AOAO Board. And what a surprise, the AOAO response is to initiate massive fines to dissuade illegal short-term rentals which may be helping to keep some peoples' heads above water after the disastrous conclusion of the illegal rent reset.

Units 19A and 25A are not outliers. Both units are leading indicators for all 54 residential leasehold units. The same pattern — zero offers, repeated price reductions, multi-hundred-day market presence — will recur and increase for every leasehold unit if the Board does not aggressively pursue fee conversion.

Section 11 — Fee Simple Value Suppression — 84 Units Harmed

The leasehold crisis is not limited to lessee units. Fee simple units in the same building are experiencing documented value suppression. There have been zero closed fee-simple sales in the trailing six months — the absence of transactions is itself evidence of buyer withdrawal. The lack of comparable sales data makes it likely the fee simple value suppression is greater than estimated.

Fee Simple Unit	Original List	Current List	Reduction	Cumulative DOM
19D (1BR D-Stack, not selling)	$650,000	$499,000	**—$151,000 (23%)**	225
32A (2BR PH A-Stack)	$1,150,000	$950,000	—$200,000 (17%)	232
19C (2BR BC-Stack)	$839,999	$839,999	—	**399 cumulative**
32E (1BR PH E-Stack)	$699,000	$699,000	—	**354 cumulative**
Building Average DOM	—	—	—	**135 days (vs. 30–60 normal Waikiki)**

When leasehold units are listed at $298,000 in the same building, buyers and lenders perceive the entire building as distressed. Extended marketing times, price reductions, and buyer reluctance are direct consequences of the unresolved ground lease crisis.

11.1 Estimated Fee Simple Value Loss

Estimate	Per Unit (avg)	84 Units Aggregate
Conservative (5%)	$29,600	$2,486,440
Moderate (7.5%)	$44,400	$3,729,660
Selected (10%) — conservative given market-wide declines	**$59,200**	**$4,972,880**

Fee conversion eliminates this loss entirely. A 100% fee simple building removes the leasehold stigma, restores buyer and lender confidence, and returns the estimated

$4,972,880 in aggregate value to fee simple owners — at zero direct cost to them. They keep what they have already paid for.

PART IV — THE VALUATION DISASTER

Section 12 — The Error Chain

The 2025 rent renegotiation rests on a documented chain of appraisal and methodology failures that begins with the 2014 USPAP-compliant Hallstrom Group appraisal and ends with an executed Agreement preceding the only LAND appraisal the Board now cites as authority for the Agreement.

Year	Appraiser	Interest Valued	Value	Disposition
2014	Hallstrom Group	67-unit leased fee (Master Lease)	$14,208,000	USPAP-compliant PARCEL method
2018	Lesher Chee Stadlbauer	Fee simple LAND (CCD sublease)	$19,460,000	Draft, unsigned, addressed to Royal Kuhio AOAO
2019	CBRE/Hallstrom	38.1754% residential PARCEL (commercial 8.0% excluded)	$12,685,000	USPAP-compliant PARCEL method (but 32.2-year term — the 2051 error) — abandoned in 2025
11/14/2025	Board Agreement	—	$24,000,000	Executed BEFORE receiving 12/2/2025 LAND appraisal
12/2/2025	CBRE	Fee simple LAND (NOT PARCEL)	$23,250,000	Escalated from 2018 sublease LAND baseline
2026	C&C Tax Assessor	Total land (independent)	$8,073,000	Independent market-based municipal valuation

Three features of this chain are decisive. First, the Board signed the Agreement on November 14, 2025 — eighteen days before the CBRE LAND appraisal it now cites was even issued, and before any party had a written appraisal of any kind for the 2025 reset. Second, the 2019 USPAP-compliant PARCEL methodology that CBRE itself had previously applied — the methodology that complies with the Master Lease's express "6% of the fair market value of the PARCEL" requirement — was abandoned without explanation. Third, the 2018 Lesher Chee Stadlbauer draft used as the escalation baseline was prepared for a different transaction (the Canterbury CCD sublease renegotiation at 8.0% of LAND value, not the Master Lease at 6.0% of PARCEL value), addressed to a different party (Royal Kuhio AOAO via Monarch Properties' Keslie Hui), unsigned, and never finalized.

Section 13 — PARCEL vs. LAND — The Methodology Failure

Master Lease Paragraph 23 specifies rent at "6% of the fair market value of the PARCEL" — not of the LAND. The distinction is not semantic. The Kong Lessors do not own the LAND;

they own a 46.1754% joint tenancy in common fee simple encumbered by a leased fee interest. Their PARCEL — the property right that is to be valued and against which the 6% rent factor is applied — is that 46.1754% leased fee interest, not the underlying 100% fee simple LAND.

Hawai'i Revised Statutes Section 519-1(a) reinforces the contractual restriction by imposing the highest-and-best-use limitation applicable to leasehold reset valuation, and Hawai'i Revised Statutes Chapter 466K imports the Uniform Standards of Professional Appraisal Practice ("USPAP") as the governing standard for Hawaii-licensed appraisers. Under USPAP Standards Rule 1-2(b), the foundational requirement of any appraisal is correct identification of the property and the rights to be appraised. An appraisal that values the wrong property or the wrong rights is the wrong appraisal entirely.

No PARCEL appraisal has been performed at any level for the 2025 reset:

- No appraisal of the 46.1754% leased fee remainder PARCEL — the post-Sandwich Master Lease PARCEL
- No appraisal of the 33.5892% leased fee residential interest
- No appraisal of the 4.5862% AOAO remainder sublessor interest
- No appraisal of the commercial 8.0% PARCEL interest in the 46.1754% leased fee
- No appraisal of any residential sandwich lessee's mini-Master Lease PARCEL — for example, my A-unit's 0.736% common interest in the 46.1754% leased fee

What was delivered is a fee-simple LAND appraisal, escalated from a flawed 2018 sublease baseline. Rent set on an undiscounted LAND basis overstates the correct PARCEL-basis rent by the magnitude of the minority-interest and lack-of-control discounts that USPAP requires for fractional interests. The Tax Court applied this principle to Hawaii real property in Ludwick v. Commissioner, T.C. Memo. 2010-104. CBRE's should have identified the parcel as a 3.23% fee simple undivided joint tenant in common ownership of the building's land remainder with 7.0010% share of the leased fee encumbrance, and a 42.92% fee simple undivided joint tenant in common ownership of the building's land remainder encumbered by a 92.9990% share of the leased fee encumbrance. Each of the valuations should then be used to determine the value of the individual mini Master Lease interests with appropriate discount to provide the parcel value to determine lease rent with a 6.0% rate of return.

Section 14 — The PARCEL-Basis Corrected Rent

Current residential rent computation is $24 million (100% fee simple land value as improved by our building) times 6.0% of land value times PCI (A Unit 0.736%) resulting in annual rent $10,598.40 paid $883.20 monthly. To quote our current AOAO president's message of 10/17/2025, "It's that simple." Things are very simple when statutes and contract law are ignored, with no professional appraised value, resulting in a rush deal to put renegotiation behind us at any cost. The way was cleared by a hastened, unsupported decision to seek financing for the plumbing project to benefit the entire building at the expense of the lessee residential and commercial owners.

The AOAO Board cannot rely on "professional advice" regarding value when the president's message of 10/17/2025 announced they were close to a signed agreement and on the same day Hawaiiana charged all of us for retroactive rent that was only publicized to lessee owners over a month later. Professional advice regarding valuation was not rendered until December 2, 2025. This action by the Board was taken by the Board on its own initiative to expedite a decision the Board was not authorized to make on behalf of any of the 59 lessee unit interests.

The chronology of the commercial rate is itself probative of the methodology failure. On November 20, 2025 the Master Leased-Fee Interest Report computed the commercial rent at $9,300 per month, derived from the $23,250,000 land value CBRE would formally report twelve days later. The appraised value was thus known, agreed, and used as the basis for the reset before the appraisal was even issued. On November 24, 2025, however, the Association abandoned that appraised basis and increased the commercial rent to $9,600 per month to conform to the unsupported $24,000,000 figure — moving away from an appraised value it had already adopted, to the lessees' detriment, in order to conclude the negotiation and proceed with borrowing for the plumbing project. That the Board reverted to $24,000,000 after briefly applying the lower appraised value is direct evidence that $24,000,000 was chosen for expediency, not value. (Unit 24A does not concede the $23,250,000 figure is correct either; it values fee-simple LAND rather than the encumbered PARCEL that USPAP, the Master Lease, and HRS § 519-1 require. The point is that the Association did not honor even the value it had jointly agreed to use.)

In any case, the computations for which lessees are being charged rent is the ENTIRE LAND VALUE. The "It's that simple" residential rent computation above for my A Unit is the FULL illegally agreed land value of $24 million x 6.0% x 0.736%/12 = $883.20 monthly rent charged to each A unit. The Kong Lessors do not own a 100% fee simple absolute interest in the land. They own only an undivided 46.1754% joint interest tenancy in common fee simple with a leased fee encumbrance — $11,082,096 of the agreed $24,000,000, or $10,735,781 of the appraised $23,250,000. Rent is being charged for land the Kong Lessors DO NOT OWN, ALREADY SOLD, AND RECEIVED PAYMENT FROM OUR 84 CONVERTED FEE SIMPLE RESIDENTIAL UNIT OWNERS.

Computing the corrected rent against the Kong Lessors' actual PARCEL interest, using the CBRE opinion of value (not the arbitrary $24,000,000 round-up):

Kong leased fee PARCEL value: 46.1754% × $23,250,000 = $10,735,781 A-unit PARCEL-basis annual rent: $10,735,781 × 6% × 0.00736 = $4,741 per year A-unit PARCEL-basis monthly rent: $4,741 ÷ 12 = $395.08 per month This is the straight pro-rata computation. It applies no minority-interest discount. Even at this most conservative variant of the corrected methodology, the A-unit annual PARCEL rent is less than half the void Agreement rate of $10,598.40 per year.

14.1 The Three Methodology Variants

Three corrected-rent methodologies produce a defensible range for the A-unit ground rent. The Ludwick-illustrative 17% discount and the tax-assessor methodology both reduce the corrected rent further below the straight pro-rata.

Methodology	Annual	Monthly	Reduction vs. Void
PARCEL-basis (no discount)	$4,741	$395.08	55.3%
PARCEL-basis (17% Ludwick-illustrative discount)	~$3,935	~$328	~62.9%
Tax-Assessor methodology	$3,564	$297	66.4%
Void Agreement (LAND, $24M round-up)	**$10,598.40**	**$883.20**	**—**

These three variants are illustrative brackets, not the operative demand. The operative position is contractual: rent must equal 6% of the fair market value of the PARCEL — the Kong Lessors' encumbered, fractional, minority tenancy-in-common interest — as determined by a USPAP-compliant PARCEL appraisal, which no party has yet commissioned and which this analysis demands. Each variant approximates that value from a different independent basis pending that appraisal.

Across the defensible range — any methodology any Hawaii court or Arbitrator should apply — the corrected A-unit rent is between $3,564 and $4,741 per year. The void Agreement charges $10,598.40. The overcharge is 2.2× to 3.0×.

14.2 The Tax-Assessor Lower-Bound

The 2026 City and County of Honolulu Tax Assessment, conducted by a disinterested public assessor for ad valorem tax purposes, values the total Canterbury Place land as improved at $8,073,000. Applying the Master Lease's 6% rate to the tax-assessor PARCEL allocation:

A-unit tax-assessor land value (0.736% of $8,073,000): approximately $59,400 — corroborated within 1% by the assessor's actual Unit 24A land allocation of $59,840 A-unit rent at 6% of tax-assessor PARCEL: $59,400 × 6% = $3,564 per year ($297 per month) The tax-assessor valuation reflects the realities of the Hawaii leasehold market — illiquidity, fractional-interest constraints, the encumbrance of the lease itself, the absence of marketability for the residual interest — that the CBRE 2025 LAND appraisal did not account for. The tax-assessor methodology is conservative for a different reason than the straight pro-rata: it implicitly bakes in the discount that Ludwick recognized at 17%.

Section 15 — The 15.91× Rent Increase Quantified

The void Agreement's economic impact is most clearly stated as the multiplier against the prereset Master Lease rent. The November 2025 Agreement establishes annual building-wide ground rent at $664,925.76 — equivalent to $55,410.48 per month, and a daily cost of inaction of $1,822 per day, calculated on the Master Lease horizon to June 30, 2061.

The pre-reset baseline was approximately $41,788.74 per year. This was the prior $90,500 per year Master Lease amount through June 30, 2025, applied against the Kong Lessors' 46.1754% leased fee interest. At the A-unit level, my unit paid $55.51 per month in ground rent, plus $2.62 per month in General Excise Tax pass-through, through December 1, 2024. GET pass-through collection ceased January 1, 2025.

The new rent of $664,925.76 divided by the prior $41,788.74 produces the 15.91× multiplier. There is no statutory cap or contractual ceiling on the increase the Master Lease's PARCEL methodology — applied correctly — would have produced; but a 15.91× increase, applied to a methodology the Master Lease does not authorize, is not the answer.

15.1 The 35-Year Aggregate

Over the 35 years remaining to the June 30, 2061 termination, the void Agreement transfers $23,272,402 in undiscounted ground rent to the Kong Lessors — $664,925.76 × 35 years — and produces $0 in equity for any lessee. The same 35-year horizon under fee conversion eliminates all $664,925.76 per year and produces aggregate equity of $28,371,830 to the building.

all $664,925.76 per year and produces aggregate equity of $28,371,830 to the building.

Pre-reset Master Lease ground rent (annual, 46.1754%leased fee) $41,788.74

November 2025 Agreement annual rent $664,925.76

Multiplier 15.91×

Daily cost of inaction $1,822 / day

35-year undiscounted aggregate transfer to Kong Lessors $23,272,402

Equity created for any lessee under the void Agreement $0

Section 16 — The Abandoned Appraised Value — Commercial Rate Correction

The void Agreement applied a $24,000,000 LAND figure when the CBRE opinion of value was $23,250,000. The $24,000,000 was an arbitrary round-up that no appraiser had rendered when the November 14, 2025 Agreement was executed.

The treatment of the commercial rate proves the point. On November 20, 2025 the Master Leased-Fee Interest Report computed the commercial rent at $9,300 per month, derived from the $23,250,000 appraised land value — the value CBRE would formally report on December 2, 2025. The Association thus had, and briefly applied, an appraised basis for the reset before the appraisal was even issued. On November 24, 2025, however, the Association abandoned that appraised basis and **increased** the commercial rent to $9,600 per month — and fixed the residential rent on the same $24,000,000 basis — to conform every lessee's rent to the higher, unsupported figure.

Adopting an appraised value and then abandoning it for an unsupported higher number is direct evidence that $24,000,000 was chosen for expediency, not value. The Association did not move toward the appraised value to benefit the lessees; it moved away from it, to their detriment, to conclude the negotiation and proceed with borrowing for the plumbing project. Commercial and residential lessees were treated alike — both fixed on the unsupported $24,000,000 — so there is no commercial-versus-residential disparity; the defect is that the entire building was charged on a number no appraisal supports. This is an unfair practice in a land transaction within the scope of HRS § 480-2, and it is a symptom of the same underlying PARCEL-versus-LAND methodology failure analyzed in Sections 13 and 14. Unit 24A does not concede the $23,250,000 figure is correct either; it values fee-simple LAND rather than the encumbered PARCEL that USPAP and HRS § 519-1 require.

Section 17 — The Retroactive Rent Charge

Hawaiiana Management processed and charged the lease rent increase and back rent to lessee owners on October 17, 2025, nearly SEVEN WEEKS BEFORE CBRE Joint Appraisal was signed and nearly a MONTH BEFORE the Agreement to Set Rent with the Kong Lessors was signed.On November 20, 2025, Hawaiiana notified the lessee and commercial owners for the first time it was imposing months of retroactive rent to lessees which had already been charged a month earlier without notice. Four days later, on November 24, 2025, Hawaiiana notified lessee and commercial owners of a further change. The November 20, 2025 Master Leased-Fee Interest Report had computed the commercial rent at $9,300 per month from the $23,250,000 appraised land value (the figure CBRE would formally report on December 2, 2025). On November 24, 2025 the Association abandoned that appraised basis and increased the commercial rent to $9,600 per month to conform to the unsupported $24,000,000 valuation. The residential lease rent was likewise fixed on that same $24 million valuation NOT SUPPORTED BY APPRAISAL.

17.1 The Four Required Bases Are Each Absent

Retroactive rent is a charge that lacks any statutory, contractual, consensual, or equitable basis. Retroactive rent was charged for the five-month period from July 1, 2025 through November 30, 2025. The revised retroactive rent notice specified December 1, 2025 as the due date — six short days after notification and weeks after the retroactive illegal amounts were determined and charged to owner accounts by Hawaiiana. For my unit, the retroactive charge was $4,416.00 ($883.20 × 5 months). Building-wide retroactive rent collected: $277,052.40.

Statutory authority is absent. HRS § 519-2(b)(4) addresses leasehold residential property — single-family residential lots — and does not address condominium partial-interest subleases. All state statutory or ordinance-based retroactivity or limitations on condominium leasehold renegotiations did not survive judicial scrutiny (Robinson) or failed enactment. When negotiations extend past the reset date, the Master Lease's mandatory arbitration mechanism is triggered (see Section 28) — not retroactive imposition.

For Canterbury Place owners, the absence of any statutory retroactive rent rule for condominiums means the 2025 lease renegotiation effective date question is governed **entirely by the lease instrument itself** . The Canterbury master lease's own reopening provisions — including 90 days prior to the July 1, 2025 contractual reset date — control when the new rent becomes effective, not any statutory backstop. If the Board agreed to a rent figure without going through arbitration as the lease requires, there is no statutory analog to § 519-2(b)(4) that independently fixes the retroactive effective date at the reopening date. This cuts both ways: the lessor cannot invoke a statutory retroactivity rule to demand back rent to July 1, 2025, but the lessee owners cannot invoke a statutory effective-date rule either. The lease language controls, and that makes the procedural validity of the 2025 agreement — and whether it was reached in conformity with the lease's own arbitration trigger provisions — the dispositive question for determining both the amount of rent and its effective date.

Contractual authority is absent. Neither the Master Lease nor the CCD authorizes backdated rent. The CCD at Section IV.1 affirmatively requires payment *in advance* : "The Grantee shall pay or cause to be paid to the Ground Lessors… in advance in equal monthly installments on the effective day hereof and on the first day of each month thereafter." Sandwich Document Paragraph 9's supremacy clause makes retroactive imposition by AOAO action alone impossible: any retroactive imposition against a mini-Master Lessee requires that individual lessee's authorization. None of 59 mini-Master Lessees authorized retroactive imposition.

Consensual authority is absent. The AOAO had no authority to consent on the lessees' behalf for the reasons set out in Sections 27, 28, and 29.

Equitable authority is absent. The Kong Lessors had decades to prepare for the first ten-year rent reset under the Master Lease. The Master Lease's contractual response to the Lessors' failure to reach written agreement by April 2, 2025 is mandatory arbitration. The Lessors' delay and failure to adhere to processes required by condominium documents does not equitably entitle them to retroactive rent; their delay forfeits any reasonable expectation of catch-up payment in lieu of the arbitration the lease prescribes.

17.2 The Unit 24A Retroactive Charge

The $4,416.00 retroactive charge to my unit is itself the product of the void Agreement rent computation challenged in Sections 13 and 14. Had the PARCEL-basis corrected methodology been applied, even the retroactive imposition (if otherwise authorized — which it is not) would have produced a five-month differential of $1,975.40 ($395.08 × 5 months), not $4,416.00. The overcharge component of the retroactive imposition alone, for my unit, is $2,440.60. Reversal of the retroactive imposition would credit my unit $4,416.00 plus accrued interest and late fees imposed on the retroactive charge.

Section 18 — The GET Pass-Through Failure

Hawai'i Revised Statutes Chapter 237 imposes General Excise Tax on land lease rent at the Oahu blended rate of 4.712%. Through December 1, 2024, my unit paid $2.62 per month in GET pass-through on the $55.51 per month pre-reset rent. Effective January 1, 2025, Hawaiiana ceased collecting and remitting GET on the ground rent — neither the prior $55.51 base, nor (after the November 14, 2025 Agreement) the new $883.20 base.

The cessation creates a per-unit and building-wide GET liability that the AOAO has silently absorbed. At the post-reset rent of $664,925.76 per year, the building-wide GET liability is approximately $31,331 per year (4.712%). At the pre-reset rent of $41,788.74 per year, the building-wide liability was approximately $1,969 per year. The combined unremitted GET for the period from January 1, 2025 through April 30, 2026 alone is approximately $27,000 building-wide — climbing each month.

This is a Monetary Obligation under the broad Sandwich Document Paragraph 8 defined term — encompassing GET, taxes, insurance reimbursements, and any other sum payable to the Lessor. Whether by Hawaiiana's billing error, Ekimoto's omission, or Monarch's silence, the unremitted GET will eventually be assessed against the Kong Lessors or AOAO as direct obligor by the Hawaii Department of Taxation, with penalties and interest, and the AOAO's recourse against the four professional firms whose work product produced the failure is a Phase I professional negligence damages component independent of the rent overcharge.

Monarch's November 20, 2025 Master Leased-Fee Interest Report explicitly disclaimed that the rent computation table excluded GET — providing cover for the non-collection while GET is part of the Monetary Obligations the AOAO is contractually bound to remit to the Kong Lessors. The disclaimer does not cure the underlying obligation; it documents Monarch's awareness of the omission. Characterization of GET as a "pass through" fails to recognize the direct obligation of the AOAO to pay required amounts to the Kong Lessors and obtain reimbursement from lessee owners.

PART V — THE FEE ACQUISITION FRAMEWORK

Section 19 — The Negotiation Range — $8.073M Floor / $11M Ceiling

Two independent valuations bracket the operative range for the Kong leased fee acquisition. The 2026 City and County of Honolulu Tax Assessment values the entire Canterbury Place land at $8,073,000 — an independent, market-based municipal valuation prepared for ad valorem tax purposes by a disinterested public assessor. The CBRE December 2, 2025 LAND appraisal at $23,250,000, applied pro-rata to the Kong 46.1754% leased fee interest, produces approximately $10,735,781, rounded to $11,000,000 for Phase I planning purposes. These anchors stand independently on the municipal assessment and the CBRE pro-rata; they do not depend on the per-unit corrected-rent computations of Section 14.

Anchor	Computation	Result	Role
C&C Tax Assessor (total land, fee simple, unencumbered)	Independent municipal valuation	$8,073,000	**Floor / settlement target**
Kong 46.1754% pro-rata of assessment	46.1754% × $8,073,000	$3,727,740	Arithmetic reference
CBRE LAND appraisal	LAND, 12/2/2025	$23,250,000	Ceiling baseline
Kong 46.1754% pro-rata (rounded)	46.1754% × $23,250,000	**$11,000,000**	**Ceiling — planning cap**
Ludwick-discounted CBRE pro-rata (17%)	83% × $10,735,781	$8,910,698	Convergence check — validates floor range

19.1 A Deliberately Generous Floor — and Why It Serves the Acquisition

The leased fee and the fee simple undivided joint tenancy percentages are the same 46.1754%: upon acquisition, the Kong leased fee interest merges with the acquiring owners' interests into fee simple. What the floor offers is therefore the **entire fee simple tax-assessed value of the land — $8,073,000 — in exchange for a 46.1754% leased fee interest.** That is a highly generous starting point pending an actual, correct leased-fee interest appraisal: a proper valuation of the Kong PARCEL would value only the 46.1754% interest, and would be further subject to partial-interest (fractional, minority cotenancy) discounts. The result of the floor offer is that the Kong Lessors would be **paid a second time for value already received** — they have already been paid full value for 53.8246% of the land through the 84 prior residential fee simple conversions.

The Kong Lessors cannot credibly argue the floor is below market: the municipality has already determined it as the assessed value of the whole land, and the offer hands them one hundred percent of that number for less than half the interest. The range is also validated from both directions: applying the 17% Ludwick-illustrative fractional-interest discount (Section 14.1) to the CBRE pro-rata produces $8,910,698 — within ten percent of the $8,073,000 settlement floor. Two independent methods — the full municipal assessment offered whole, and the discounted CBRE pro-rata — converge on the same $8–9 million neighborhood.

The generosity is deliberate and justified. It is a **lever for quick settlement**: measured against the uncertainties the Kong Lessors face — a properly reconstituted, majority fee simple Management Committee directing the renegotiation, and appraised partial-interest valuations materially below pro-rata — a full-assessed-value offer today is the best outcome reasonably available to them. The AOAO, in turn, can justify the premium in the interest of fee simple acquisition closure: certainty, speed, and the permanent elimination of ground rent for every owner.

19.2 Strategic Implications

The operative negotiation range for the Kong acquisition is $8,073,000 to $11,000,000. The $11,000,000 figure used throughout the per-unit allocation tables in this analysis is the ceiling for the settlement range and should not be paid unless no better price is achievable. Any Kong demand exceeding $11,000,000 on the CBRE-derived pro-rata basis exceeds the ceiling of reasonable negotiation.[1] The ceiling is a feasibility-modeling assumption, not a concession of value: it deliberately adopts the adversary's best number — the CBRE LAND figure this analysis elsewhere demonstrates is the wrong measure (Sections 13, 37) — undiscounted, to prove that conversion remains overwhelmingly favorable even on the Kong Lessors' own terms. A fortiori, on any properly discounted PARCEL valuation the case is stronger.

Any settlement is subject to a lessee owner vote. That approval requirement itself justifies resistance to movement above the tax-valuation floor: a package priced at the floor is the package most likely to be approved, and every increment above it must be defended to the owners who pay it.

Each dollar of acquisition cost below $11,000,000 (and closer to the $8,073,000 floor) flows directly to net building benefit — increasing per-unit equity uplift and reducing per-unit conversion cost without affecting any other component of the analysis. The Kong Two-Cotenancy structure addressed in Section 26 provides leverage for negotiating below the ceiling, particularly with the smaller Trust position.

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[1] Anticipating reliance on the prior leased-fee appraisals — Hallstrom's 2014 valuation of the 67-unit leased fee at $14,208,000 and CBRE's 2019 valuation of the 62-residential-unit interest at $12,685,000 (naively scaled, approximately $15.3 million for the full 46.1754%) — neither controls. Both reports value the reversion on the erroneous June 30, 2051 expiration; at 6%, the present-value factor for a reversion 32.2 years out (0.1532) versus the correct 42.2 years (0.0855) overstates the reversionary component by 44.2%. The 2019 report additionally excluded the 8.0% commercial interest, making straight-line scaling improper, and both predate the documented 2025–2026 distressed-market evidence (Sections 9–11) and the corrected 2061 term (Section 2).

Section 20 — Per-Unit Acquisition Cost by Class

The full $11,000,000 ceiling acquisition cost is allocated entirely to the 67 leasehold-position units (54 residential lessees + 5 commercial + 8 AOAO sublessee positions) using the adjusted-PCI methodology. The fee-converted majority of 84 unit owners — who already hold 53.8246% of the LAND — pay $0 toward this acquisition. They have already paid for their share.

20.1 The Allocation Formula

Cost per unit = Unit PCI ÷ 46.1754% × $11,000,000 A direct "PCI × $11M" calculation produces incorrect figures — for example, an A-unit at 0.736% PCI calculated as 0.736% × $11M = $80,960, which is wrong. The correct A-unit cost is $175,300, computed as 0.736% ÷ 46.1754% × $11,000,000.

20.2 Per-Unit Cost Table

Unit Type	Units	PCI	Cost per Unit at $11M Ceiling
Type I "A"	12	0.736%	$175,300
Type I-PH "A" / Penthouse"A"	3	0.828%	$197,200
Type II "BC"	17	0.644%	$153,400
Type II-PH "BC"	5	0.736%	$175,300
Type III "D"	8	0.483%	$115,100
Type III-PH "D"	3	0.506%	$120,500
Type IV-PH "E"	6	0.377%	$89,800
Commercial (5 units,combined)	**5**	**8.000%**	**$1,906,000**
AOAO Sublessee (8 units,combined)	**8**	**4.586%**	**$1,092,500**

20.3 Allocation Verification by Class

Class	Building PCI	Adjusted Share	Allocation
54 Residential Direct Lessees	33.589%	72.75%	$8,002,000
5 Commercial (Canterbury Holdings)	8.000%	17.33%	$1,906,000
8 AOAO Sublessee Units	4.586%	9.93%	$1,092,500
67 Total Leasehold-Position Units	**46.175%**	**100.00%**	**$11,000,000**
84 Fee Simple Owners (pay $0)	*53.825%*	—	*$0*

Section 21 — Per-Type Residential Equity Uplift

Conversion of leasehold to fee simple produces a per-type value differential — fee-simple value less leasehold value, computed on estimated sale prices per square foot of living area ($550/SF fee, $235/SF leasehold = $315/SF differential), deliberately set below aggressive unsold asking prices. These are gross differentials; the per-unit acquisition cost is netted at the building level (Section 24).

Unit Type	Living SF	Fee @ $550	Leasehold @ $235	Per-Unit Value Differential
Type I "A"	1,270	$698,500	$298,450	$400,050
Type I-PH "A"	1,270	$698,500	$298,450	$400,050
Type II "BC"	1,096	$602,800	$257,560	$345,240
Type II-PH "BC"	1,180	$649,000	$277,300	$371,700
Type III "D"	817	$449,350	$191,995	$257,355
Type III-PH "D"	903	$496,650	$212,205	$284,445
Type IV-PH "E"	770	$423,500	$180,950	$242,550
Aggregate residential (54 leasehold units)				**$18,095,805**

Net of the $8,002,000 residential acquisition cost, the 54 units realize **$10,093,805** in net equity uplift; for a Type I "A" unit, **$224,750** ($400,050 – $175,300).

Section 22 — Impact by Owner Class

22.1 Residential Direct Lessees — 54 Units, 33.5892% Aggregate PCI

Annual rent obligation under the void Agreement: $483,684. Aggregate conversion cost: 72.75% of $11M = $8,002,000.

Per-unit economics for the Type I "A" benchmark unit:

Metric	Hold as Leasehold	Fee Conversion
Current Market Value	$298,450 ($235/SF × 1,270)	$698,500 ($550/SF)
One-Time Conversion Cost	$0	($175,300)
Value Differential	$0	+$400,050
Net Equity After Conversion Cost	**$0**	**+$224,750 immediate**
Annual Ground Rent	$10,598	$0
2061 Lease Expiration	Lose everything — token reversion	Own forever

At lease expiration in 2061, each leasehold unit reverts to the Kong Lessors. The reversion applies to the Kong leased fee interest of 46.1754% only; the 53.8246% of units already converted to fee simple are not affected by reversion. Individual mini-Master Leases of sandwich purchasers may be subject to reversion at lease expiration, although counter-arguments exist due to intervening modifications to the Condominium Declaration (Amendments 6, 7, and 8) and the mini-Master Lease amendments themselves. The mini-Master Lease fracturing of the Master Lease into 59 individual instruments means any reversion analysis must be performed on each instrument separately. Fee conversion eliminates this existential risk and the underlying ambiguity entirely.

22.2 Commercial Direct Lessee — Canterbury Holdings LLC, 5 Units, 8.000% PCI

Annual rent under the Kong agreement: $115,200 ($9,600 per month — operative). On November 20, 2025 the Association briefly computed commercial rent at $9,300 per month from the $23,250,000 figure, then on November 24, 2025 increased it to $9,600 per month to conform to the $24,000,000 valuation used building-wide (see Section 16). The $9,600 basis is operative.

Valuation basis: commercial value is estimated on the square footage of the five commercial units (tax-record areas totaling 18,842 SF) at $300/SF fee and $150/SF leasehold — a $150/SF differential — set below aggressive asking levels for the same not-clearing-at-asking reasons documented for the residential units. A separate USPAP leased-fee PARCEL appraisal of the 8.000% commercial interest would refine these figures before negotiation or settlement; no independent commercial appraisal has yet been performed.

Commercial unit	Tax-record SF	Fee @ $300	Leasehold @ $150	Differential ($150/SF)
Unit 1	2,480	$744,000	$372,000	$248,000
Unit 2	1,552	$465,600	$232,800	$155,200
Unit 3	2,580	$774,000	$387,000	$258,000
Unit 4	2,380	$714,000	$357,000	$238,000
Unit 5	9,850	$2,955,000	$1,477,500	$1,477,500
Total	**18,842**	**$5,652,600**	**$2,826,300**	**$2,826,300**

Metric	Current Leasehold	Fee Conversion
Annual Rent (Kong obligation)	$115,200	$0
Conversion Cost (17.33% × $11M)	—	($1,906,000)
Value Differential (fee − leasehold)	—	+$2,826,300
Net Equity After Conversion Cost	**—**	**+$920,300**
35-Year NPV Rent Eliminated (6%)	—	$1,670,170
Net 35-Year Benefit (value differential + NPV rent − conversion)	**—**	**$2,590,470**

The commercial lessee is economically aligned with conversion: it eliminates a $115,200/yr rent obligation that escalates at every reset and converts a $1,906,000 outlay into roughly $920,300 of immediate equity plus long-term rent relief. The equity figure is an estimate subject to refinement by a separate commercial appraisal.

22.3 AOAO Sublessee Units — 8 Units, 4.5862% PCI

The AOAO pays $66,041 per year in reset rent to the Kong Lessors on these 8 units and collects $67,247 per year from the sublessees under the 2019 sublease schedule — a small net margin of about +$1,206 per year retained by the AOAO, not a charge to general operating funds (and roughly −$5,876 per year if the extinguished Unit 7D sublease produces no collections). These units face sublease renegotiation in 2029.

The gross equity calculation is straightforward. When an individual owner ultimately purchases the sandwich interest for one of these 8 units from the AOAO, however, the owner's actual equity is reduced by the sandwich acquisition price paid to the AOAO. Based on historical sandwich sales at Canterbury Place — my own July 3, 2019 Sandwich Document for Unit 24A reflects a price of $102,000 — the estimated per-unit sandwich acquisition cost is approximately $102,000.

Metric	Aggregate (8 units)
Gross value differential at resale (per-type $/SF)	$2,476,845
Less: estimated sandwich acquisition cost paid to AOAO (8 × $102,000)	($816,000)
Net equity to individual owners	**$1,660,845**
Offsetting benefit to AOAO (sandwich sale proceeds)	+$816,000

This sandwich-acquisition conflict warrants independent counsel review. The AOAO's interests in (a) holding the sandwich interest and selling it for $816,000 aggregate diverge from (b) the 8 current sublessee owners who will bear the combined conversion cost plus sandwich acquisition cost. A fair process requires this conflict to be disclosed and addressed — not managed internally by the same Board that executed the Kong agreement.

22.4 Fee Simple Owners — 84 Units, 53.8246% PCI

The 84 fee-converted owners hold the largest aggregate position in the building and bear no direct cost in fee conversion of the remaining 46.1754%. They benefit, however, in four distinct ways.

Metric	Current	After Conversion
Acquisition Cost	—	$0
Fee-simple value loss (est. 10%, per-unit avg)	-$59,200	$0 — fully recovered
Aggregate value loss recovered (84 units)	-$4,972,880	+$4,972,880
AOAO sublessee pass-through (reset rent $66,041/yr vs $67,247/yr sublease collections)	+$1,206/yr margin	$0 (position eliminated)
DWV Project Financing	Impaired by leasehold encumbrance	Unencumbered

Metric	Current	After Conversion
Building Reputation	Distressed mixed-tenure	100% fee simple — premium

Section 23 — 35-Year NPV Rent Savings

Annual ground rent eliminated upon fee conversion: $664,925.76. Over the 35-year remaining Master Lease term to June 30, 2061, undiscounted aggregate rent eliminated: $23,272,402. Discounted at 6% — a conservative rate reflecting risk-free Treasury yields plus an illiquidity premium — the net present value of rent savings over the 35-year horizon to June 30, 2061 is $9,640,000.

Section 24 — Net Building-Wide Benefit Summary

35-year NPV rent savings (Section 23)	$9,640,000
Aggregate residential equity uplift (54 units, Section 21)	$18,095,805
Aggregate commercial equity uplift (5 units, Section22.2)	$2,826,300
Aggregate AOAO sublessee equity (8 units, gross, Section22.3)	$2,476,845
Fee simple value loss recovered (84 units, Section11)	$4,972,880
Total equity impact (excl. rent savings)	**$28,371,830**
Plus 35-year NPV rent savings	$9,640,000
Gross benefit (A + B)	**$38,012,000**
Less acquisition cost (ceiling target)	($11,000,000)
Net building-wide benefit, pre-litigation	**$27,012,000**
Less preliminary litigation budget (10% of net swing)	(~$2,000,000)
Net building-wide benefit, post-litigation	**~$25,012,000**
ROI on $11M acquisition (post-litigation)	**~227%**

Even with the full $2,000,000 litigation budget absorbed, the conversion remains overwhelmingly favorable to every ownership class. And if acquisition settles closer to the $8,073,000 floor target rather than the $11,000,000 ceiling target (Section 19), the post-litigation ROI improves by the margin of reduction — each dollar below $11,000,000 flows directly to net building benefit.

If forced to litigation, reasonable negotiation has failed. The full measure of discounted partial-interest valuation will be applied to further reduce the acquisition price to significantly reduced amounts.

Section 25 — Financing the Acquisition

For an individual A-unit at $175,300 conversion cost, monthly mortgage financing at current rates (approximately 6.0%) compares to the current $883 ground rent burden as follows:

Term	Monthly Payment	vs. Current Rent ($883/mo)
25-year amortization	~$1,129	+$246/mo more than rent
15-year amortization	~$1,479	+$596/mo more than rent
10-year amortization	~$1,946	+$1,063/mo more than rent

The monthly financing cost exceeds the current rent — but the conversion produces $224,750 in immediate net equity ($400,050 equity gain minus $175,300 cost) that the rent deal never produces. Under the rent deal, the owner pays $883 per month for 35 years ($370,944 total), gains $0 in equity, faces three more unknown rent increases (2035, 2045, and 2055), and loses the unit entirely at lease expiration. Under conversion, the owner builds equity, eliminates all future rent risk, and owns the unit forever.

The conversion cost is a one-time investment that produces a permanent return. The rent is a perpetual cost that produces nothing.

25.1 Capital Gains Deferral — IRC § 453 Installment Sale

The Kong Lessors may have raised capital gains tax implications of a lump-sum purchase of the leased fee interest. Capital gains can be deferred as part of the negotiation by the Kong Lessors agreeing to finance the acquisition at market rates — which equal the same 6% rate of return mandated by the mini-Master Leases. Seller financing is a standard tool for deferring capital gains recognition under IRC § 453 installment sale treatment. The Kong Lessors retain an income stream at 6%, matching their existing expectation, while the lessees acquire fee title immediately. This structure eliminates the “one big check” obstacle that may partly underlie Kong reluctance to sell, and aligns the Kong economic position with the lessee economic position for the first time since 1970. Potential lender title issues (Section 35; the January 2024 NFCU denial) could also constrain conventional financing of the acquisition — a further justification, to the Kong Lessors, for financing internally: seller financing maintains their equivalent 6% cash flow while avoiding conventional-loan title reservations entirely.

Section 26 — The Kong Trust / Kong LP Differential

The Kong Two-Cotenancy structure (Section 3) provides leverage for negotiating below the $11,000,000 ceiling. Within the 46.1754% Kong leased fee encumbrance, the Trust holds a 7.0010% share of the leased fee encumbrance (corresponding to 3.2327% of the building’s fee simple land remainder). The Kong LP holds the remaining 92.9990% share (corresponding to 42.9427% of the building’s fee simple land remainder). The Trust and the LP are separate cotenancies with separate decisional authority. A transaction with either one does not depend on the consent of the other.

26.1 The Pro-Rata Allocation

Cotenancy	Share of Kong Leased Fee	$11M Allocation
Kong Trust (Vivien Puanani Kong Ho, Trustee)	7.0010%	$770,110
Kong Sisters Family LP	92.9990%	$10,229,890

Cotenancy	Share of Kong Leased Fee	$11M Allocation
Total Kong leased fee encumbrance (46.1754% of building land)	**100.0000%**	**$11,000,000**

26.2 The §(2) Management Committee Dimension

The §(2) covenant requires decisions on property ownership, land rent negotiation, and payment of related property expenses to be made by a Management Committee consisting of "the land owners on behalf of all land owners," initially three Kong individuals: Corinne Jean-Tau Kong, Vivien Puanani Tsin-Tau Kong Ho, and Raestelle Oi-Tau Kong Gorman.

All of the initially constituted Management Committee signed the November 14, 2025 lease reset agreement. The very individuals who constitute the only Management Committee ever named of record executed the reset — but outside the Committee structure the Kongs themselves recorded, with no AOAO representation of the 53.8246% fee simple landowner majority. The AOAO signed the rent reset on behalf of the AOAO — not on behalf of the lessees, and not as the majority landowner seated on a reconstituted Committee. The effect is that the 100%-era Kong committee composition acted alone in 2025, when the Kongs held only 46.1754% — corroborating the deliberate exclusion of the majority developed at Sections 2A.2 and 31A.

The same covenant cuts the other way. A properly constituted Management Committee — majority-controlled by the AOAO as representative of the 84 fee simple owners — holds the §(2) decisional authority over **property ownership**. That Committee could resolve to acquire the Kong Trust's small minority interest for approximately **$500,000** — roughly twice the Trust's assessed pro-rata value (3.2327% × $8,073,000 = $260,976) and just under its floor-basis allocation ($565,184) — with the remaining Kong LP interest left subject to litigation and to appraisal as a minority leased fee interest carrying the full measure of partial-interest discounts. A $500,000 Trust transaction would also set a market comparable implying approximately $7.14 million for the entire 46.1754% — below even the $8,073,000 floor — resetting the LP negotiation from the Kongs' own sale.

26.3 The Separately-Negotiated Trust Differential

The Kong Trust's 7.0010% leased fee share differs structurally from the Kong LP's 92.9990% share in three respects that bear on a separately-negotiated transaction with the Trust alone. A purchase offer to the Kong Trust alone raises conflict of interest and fiduciary duty questions on the Kong Lessors, even with a close identity between managing and trustee common positions. Fiduciary duty is to limited partners and beneficiaries, not fee simple cotenants.

- **Separation from Kong LP.** The Trust is a distinct cotenancy with separate decisional authority and separate fiduciary and governance obligations. A transaction with the Trust does not depend on Kong LP consent — nor does a transaction with Kong LP depend on Kong Trust approval.

- **Absence of marriage value.** The Trust's 7.0010% standalone share does not command the same per-percent value as the combined Kong position. Marriage value — the premium that joined interests command relative to separated interests — accrues to the interests separately.
- **Liquidity premium for a small interest.** A small minority cotenant typically discounts for liquidity in a negotiated transaction. A purchase offer that provides certainty and immediate liquidity will be more attractive to a small-position holder than to the controlling holder.

The unified $11,000,000 ceiling target remains the primary acquisition framing for the building. Two reference points frame a Trust-only transaction: in a voluntary negotiated purchase, approximately $700,000 — a modest discount from the $770,110 pro-rata figure for the three reasons set out above; under a properly constituted Management Committee exercising its §(2) property-ownership authority with litigation pending, approximately $500,000 (Section 26.2). The absolute impact of long term capital gains may be small enough for the Trust to liquidate and take the cash. This leaves the other win-win side of the coin for the Kong LP to finance the mini Master Lease individual purchase prices and defer capital gain on the much larger Kong LP profit.

PART VI — THE SIX INDEPENDENT GROUNDS THE AGREEMENT TO SET RENT IS VOID OR VOIDABLE

The November 14, 2025 Agreement is void or voidable on six independent grounds. Each ground stands alone — succeeding on any one renders the disputed billings unsupportable. Together they establish layered grounds for the UDAP, professional negligence, and personal liability exposure addressed in Part VII.

Section 27 — HRS § 514B-151(c) & (d) — Independent Lessee Counsel

Hawai'i Revised Statutes § 514B-151(c) provides, in pertinent part:

In any project where the association is a lessor or sublessor, the association shall fulfill its obligations under this section by appointing independent counsel to represent the lessees in the negotiations and proceedings related to the rent renegotiation. The lessees' counsel shall act on behalf of the lessees in accordance with the vote or written consent of a majority of the lessees casting ballots…

The statute is disjunctive: "lessor or sublessor." No self-dealing requirement appears in the statutory text. The AOAO triggers the provision through three independent statuses set out in Section 5: sublessor of 8 residential units, Collection Agent and direct obligor to the Kong Lessors under Sandwich Document Paragraph 8, and a defined foreclosure owner-lessee of Unit 7D as defined by § 514B-151(d).

27.1 The Ekimoto Position

The AOAO has nonetheless taken the position — through Ekimoto & Morris LLLC's November 19, 2025 letter — that Section 514B-151(c) does not apply because the AOAO was "negotiating with the Fee Owner, so there was no self-dealing." This position is contradicted by multiple independent considerations.

27.2 The Plain Text Controls

No self-dealing requirement appears in the statutory text. The statute applies whenever the AOAO is a "lessor or sublessor" — which the AOAO indisputably is. Ekimoto's reading writes a selfdealing element into the statute that the legislature did not include. Hawaii courts do not insert elements into statutes that the text does not contain.

27.3 The 2018 LBCH Precedent Directly Contradicts

The May 21, 2018 letter from Lyons, Brandt, Cook & Hiramatsu — preserved in the project record — explicitly cited Section 514B-151(c) as the statutory basis for LBCH's role as independent lessees' counsel in the 2018 Sandwich renegotiation. At that time, the AOAO was a sublessor (and lessee of two units). The August 2018 follow-up letter informed lessees about the process, financial responsibilities, and majority-consent decision-making. The January 8, 2019 letter reported that the lease rent proposal was approved by the statutory majority. LBCH closed the file in June 2019.

The same factual pattern — AOAO as sublessor — that triggered independent counsel appointment in 2018 is the factual pattern that requires independent counsel appointment in 2025. Ekimoto's position in 2025 is irreconcilable with the AOAO's own 2018 conduct at this same condominium. To deny § 514B-151(c) applicability now exposes every lessee owner to a negotiation conducted without due process, statutory safeguards, or the lease provisions upon which lessees relied when they purchased their units.

The sandwich lease acquisition was successful. However, LBCH also failed to recognize the dual triggers of the Management Committee AOAO majority and the condo amendment completed in 2019 while LBCH was still engaged to represent lessees. Fee acquisition action should have been taken long before the lease rent reset date.

27.4 LBCH Accepted Representation in Direct Conflict with Previously Represented Sandwich Purchasers

In November 2025, I approached LBCH to represent the sandwich purchasers again for the Master Lease renegotiation. Counsel from the firm who had previously represented the sandwich lease purchasers had retired, and I was informed that no one at the firm had any expertise in the subject matter. Subsequently, the AOAO reported a potential D&O claim; the carrier assumed the cost of defense and appointed LBCH to represent the AOAO. LBCH accepted the appointment — despite its claimed lack of expertise and a clear conflict of interest in representing the AOAO. This is an unwaived Hawaii Rule of Professional Conduct 1.9 conflict: a firm's prior representation of lessees on substantially the same matter ordinarily precludes subsequent representation of the AOAO on the same renegotiation cycle without informed written consent of the former clients. No such consent was requested or obtained. LBCH withdrew from the 2025 AOAO-side representation in February 2026 after Notice of Conflict and Demand for Withdrawal.

27.5 The Misrepresentations in a Recorded Land Instrument

The November 14, 2025 Agreement is not merely unauthorized — its own text contains factual misrepresentations and legally incorrect assertions, each independently supportive of relief under HRS Chapter 480 (UDAP) and each chargeable to the professionals who drafted, reviewed, or blessed the instrument:

- **§1.3 — the authorization recital.** The Association recites it is "authorized to enter into this Agreement pursuant to Hawai'i Revised Statutes §514B-151." The statute cited as authority is the statute the Association violated: § 514B-151(c) required the appointment of independent lessee counsel, which never occurred. A statutory limitation is recited as a grant of power.

- **§1.4 — "have conducted various valuations of the land… after due consideration of those valuations."** The Agreement was executed November 14, 2025 — eighteen days before the only appraisal (CBRE, December 2, 2025) existed, weeks after Hawaiiana had already billed the increase on October 17, 2025, and on a $24,000,000 figure no appraiser ever rendered. The joint appraisal process agreed with the Kong Lessors was not used (Sections 12, 16).

- **§1.4 — "arm's length agreement."** The negotiation was conducted by a structurally conflicted AOAO — sublessor of 8 units, the Kongs' designated collection agent, and a § 514B-151(d) owner-lessee through Unit 7D (Section 5) — which had agreed in advance with the Kong minority not to mention fee conversion, while the three initial Kong Management Committee members signed and the 53.8246% majority was excluded (Sections 2A.2, 26.2). As to the lessees bound, nothing about the transaction was at arm's length.

- **§1.4 — the arbitration recital.** "Anticipated cost and delay in determining the rent by arbitration" recasts a mandatory contractual trigger — rent "shall be determined" by arbitration when no agreement was reached by April 2, 2025 — as a mutual convenience the parties could discard. Neither signatory held authority to waive the 59 mini-Master Lessees' individual arbitration rights (Sections 28, 29).

- **§2(a) — rent of $1,440,000 on a "100% interest in the land."** The rent formula applies 6% to a $24,000,000 fee simple LAND value — the wrong asset (the Master Lease requires the PARCEL), the wrong amount (an unsupported round-up above the $23,250,000 later appraised), and the wrong methodology (Sections 13, 14, 16, 31).

- **Exhibit "A" — "The Association owns these eight (8) Condominium Units."** False on its face: the sublessees individually own those units; the Association owns only the unpurchased sandwich (sublease) interests (Section 5.1). The schedule also still lists Unit 7D — whose sandwich lease was extinguished by merger in 2016 and whose title was lost to United's foreclosure — overstating the Association's sublessor count (Section 5.3).

- **Binding the 59 without consent.** The Agreement purports to fix rent against 59 direct-privity mini-Master Lessees who never consented, were never polled, and whose recorded contracts the signatories had no authority to modify (Section 29).

- **Retroactivity contradicted by the Agreement's own §4.** Section 4 provides the Agreement "shall not be effective and binding until all the undersigned parties have executed this Agreement before a notary public," with the effective date fixed by the last notarial acknowledgment. Yet rent was imposed retroactively to July 1, 2025 and billed on October 17, 2025 — before the instrument was executed, and before, by its own terms, it could be effective as to anyone (Sections 17, 30).

- **The material omission.** The instrument nowhere mentions the recorded Co-Owners' Agreements, the Management Committee, or the deed restrictions that assign land rent negotiation elsewhere and fix the term at June 30, 2061 — a material omission in a recorded land instrument (Sections 2A, 31A).

If the statute was triggered and independent counsel was not appointed, the §1.3 recital alone is a misrepresentation in a recorded land instrument — actionable as fraud, as UDAP, and as breach of fiduciary duty by the AOAO Board as a consequence of erroneous professional advice. Each additional misrepresentation and omission above is an independent unfair or deceptive act under HRS § 480-2, subject to trebling under § 480-13.

To the extent erroneous professional advice has damaged the AOAO or individual owners, the bright side is that there are multiple professional liability policies against which to assert claims.

27.6 The AOAO is the Directly Obligated Payor to the Kong Lessees for Master Lease Rent which is enforced as an AOAO obligation AGAINST Lessee Owners

Sandwich Document Paragraph 8 designates the AOAO as the individual collection agent through which each of the 59 mini-Master Lessees pays Monetary Obligations to the Kong Lessors — despite any dispute a mini-Master Lessee may have with the Kong Lessors — and makes the AOAO directly liable to the Kong Lessors regardless of whether the AOAO collects from individual lessees. Such a clear conflict of interest is another example of the reason that separate counsel was required by § 514B-151.

Paragraph 8 defines "Monetary Obligations" broadly to encompass every monetary duty running under the Master Lease — including rent, GET, taxes, insurance reimbursements, and any other sum payable to the Lessor. The defined term anchors three downstream issues: (a) the GET passthrough failure addressed in Section 18, (b) the abandoned-appraised-value / unsupported-$24M rate component addressed in Section 16, and (c) the AOAO/lessee collection conflict — because Paragraph 8 places the AOAO as the only party with contractual standing to pursue collection of Monetary Obligations from individual lessees. The Kong Lessors have no direct contractual remedy against any individual mini-Master Lessee for unpaid Monetary Obligations.

Section 28 — Ultra Vires Waiver of Mandatory Arbitration

Master Lease Paragraph 23 mandates that, absent written agreement by April 2, 2025 (90 days prior to the July 1, 2025 reset), rent "shall be determined by arbitration." The verb "shall" is mandatory. No written agreement existed by April 2, 2025. The arbitration mechanism was triggered by the lease's own terms.

Each of 59 mini-Master Leases independently mandates arbitration of PCI interest parcel value to comply with USPAP — establishing 59 separate individual arbitration rights under Hawai'i Revised Statutes Chapter 658A, the Uniform Arbitration Act. The AOAO continued negotiating an additional six months past April 2, 2025 and signed the November 14, 2025 Agreement instead of submitting to arbitration.

The AOAO had no waiver authority. The arbitration right runs from each individual sandwich purchaser to Kong directly under Sandwich Document Paragraph 9; it does not run through the AOAO. Any waiver requires at a minimum majority vote, or written consent of lessees through independent counsel under Section 514B-151(c); no independent counsel was appointed, and no such waiver was authorized. The waiver is ultra vires. The arbitration right remains available to each individual mini-Master Lessee, including me.

Current posture (as of June 2026). The Association, through counsel retained by its D&O carrier, agreed to arbitration on June 15, 2026 and proposed retired Circuit Court Judge Gail Nakatani; Unit 24A has accepted Judge Nakatani subject to the scope and the necessary parties. The contested question is therefore no longer *whether* to arbitrate but *what* is arbitrated and *who* must be at the table. The arbitration is of the illegal lease renegotiation and the illegal lease rent, to be conducted with the Management Committee as the real parties in interest and the Kong Lessors as an indispensable party (Sections 2A and 31A), and without any pay-first condition — because, as the Executive Summary and Section 27.6 establish, the dispute is an individual Master Lease obligation collected for an adverse lessor, not a common-expense assessment.

Section 29 — 59 Direct-Privity Rights Waived Without Authority

The 2018-2019 Sandwich Documents created 59 direct-privity contractual relationships between sandwich purchasers and the Kong Lessors. Each Sandwich Document is a Master Lease amendment by its own Paragraph 9 supremacy clause (Section 4).

Each Sandwich Document contains:

- Individual rent obligations between sandwich purchaser and Kong
- Individual arbitration rights for rent disputes
- Individual PARCEL valuation rights at the unit level
- Individual consent rights for any modification of the Master Lease
- Individual subrogation, notice, and cure rights under Paragraphs 6 and 7

The November 2025 Agreement purported to bind all 59 mini-Master Leases through AOAO action alone. The AOAO had no authority to bind any individual mini-Master Lessee without that lessee's consent. Each of 59 direct-privity rights was waived without authority — a separate contractual breach beyond Sections 27 and 28.

Monarch's awareness of the 59-unit direct-privity structure, disclosed in writing in the November 20, 2025 Master Leased-Fee Interest Report six days after the Agreement was signed, compounds the failure to honor each lessee's individual rights. Monarch and Ekimoto each knew or should have known that AOAO action alone could not bind 59 independently-contracting mini-Master Lessees.

Section 30 — Retroactive Rent Without Authority

The retroactive rent imposition of November 24, 2025 lacks statutory, contractual, consensual, and equitable authority, as set out in Section 17. The $277,052.40 building-wide collection, including the $4,416.00 charge to my unit, is wholly unsupported by the lease, the CCD, the statutes, or any equitable doctrine. The CCD's "in advance" payment requirement at Section IV.1 affirmatively forecloses retroactive imposition by the Lessors' own contract.

Section 31 — Methodology Failure

The PARCEL-versus-LAND methodology failure analyzed in Sections 13 and 14 violates the Master Lease's express "6% of the fair market value of the PARCEL" language. CBRE's failure to identify the correct property and rights to be appraised violates USPAP Standards Rule 1-2(b) and, accordingly, Hawai'i Revised Statutes Chapter 466K. CBRE's application of 0% discount to a 46.1754% minority cotenancy is contrary to the principle that Ludwick recognized — that fractional Hawaii real property interests properly carry lack-of-control and lack-of-marketability discounts. CBRE's own 2019 PARCEL appraisal at $12,685,000 (38.1754% residential-only leased fee; commercial excluded) used the methodologically correct PARCEL approach; the 2025 appraisal abandoned that methodology without explanation.

Section 31A — The Agreement Was Executed Without a Properly Constituted Management Committee

The recorded Co-Owners' Agreement (§(2), Land Court Doc No. 2609817) vests decisions on land rent negotiation in a Management Committee "of the land owners on behalf of all land owners" (Section 2A). This defect goes to the authority of the parties on the Lessor side of the table, not merely to representation on the lessee side, and so may exceed the § 514B-151(c) violation in significance. It rests on two independent sub-grounds, either of which is sufficient.

Wrong composition. The covenant names three Kong individuals as the committee that "shall *initially* consist of" those members — point-in-time composition tied to the underlying class of land owners. At execution the Kong Family was the 100% land owner and the named individuals coincided with "all land owners." As fractional interests sold and ownership diluted to 46.1754% Kong against a 53.8246% fee-converted majority, the denotation of "land owners on behalf of all land owners" changed even though the names did not. Three individuals aligned with the 46.1754% minority are not a committee acting on behalf of all land owners; they represent one minority cotenancy. The 2025 renegotiation should have triggered reconstitution to seat majority representation; it did not.

The Lessor knew. The November 14, 2025 Agreement's own §1.2 recital acknowledges that the Master Lessor "previously sold an undivided leased fee interest in the land but still currently owns an undivided 46.1754% interest." The Lessor thus knew at execution that the original 100%-era committee composition no longer matched ownership — elevating the defect from procedural error toward deliberate exclusion of the majority cotenancy from a process the recorded covenants require it to share.

The November 14, 2025 Agreement to Set Rent — a land-rent-negotiation decision the covenant assigns to the Committee — was therefore executed without a properly constituted Management Committee, by a Board acting outside the recorded authority structure. This ground is independent of the five above: even a methodologically perfect reset, negotiated with independent counsel and proper arbitration, would still fail for want of the recorded body authorized to make it. It is also the affirmative path forward — the same Committee, reconstituted under the majority's existing voting power, is the recorded vehicle for orderly fee acquisition (Sections 2A and 41).

Each of the six challenges independently renders the November 14, 2025 Agreement void or voidable. The disputed billings flowing from the Agreement are unsupportable on the strength of any single challenge. The six together establish that no part of the disputed debt is presently owed and that the conduct giving rise to the debt is, on its face, an unfair practice in a land transaction within the scope of Hawai'i Revised Statutes Section 480-2.

PART VII — UDAP, PROFESSIONAL NEGLIGENCE, AND PERSONAL LIABILITY

Section 32 — The UDAP Framework

Hawai'i Revised Statutes Section 480-2 declares unfair or deceptive acts or practices in the conduct of any trade or commerce to be unlawful. Section 480-13 provides treble damages and attorneys' fees to "any person injured" by a Section 480-2 violation. The Hawaii Supreme Court's reasoned analysis in State by Bronster v. U.S. Steel Corp. confirms the broad scope of Chapter 480, and Hawaii Attorney General Opinion 62-39 dated August 7, 1962 — addressing the application of the Hawaii Antitrust Law (Act 190, Session Laws 1961) to land and land activities — establishes that Hawaii statutory consumer and commercial protection applies to land transactions. Chapter 480 UDAP, structurally parallel to Hawaii's antitrust framework, applies to land transactions including the November 2025 Agreement by reasoned parallel.

32.1 The UDAP Predicates

The November 2025 Agreement, and the conduct that produced it, constitutes unfair and deceptive practices in a land transaction for at least the following independent reasons:

- Misrepresentation in a recorded land instrument. Section 1.3 of the Agreement asserts on its face that the AOAO is "authorized to enter into this Agreement pursuant to Hawai'i Revised Statutes §514B-151." If Section 514B-151(c) was triggered and independent counsel was not appointed — as Section 27 establishes — the recital is false in a recorded instrument.
- The DWV plumbing-loan motivation (Section 33).
- Adoption of an unsupported $24,000,000 valuation after briefly applying a lower appraised value — abandoning value for expediency (Section 16).
- The fundamentally flawed PARCEL/LAND methodology producing a 2.2× to 3.0× overcharge (Sections 13, 14, 31).
- Retroactive rent imposition without authority (Sections 17, 30).
- Procedural failures — bypassing mandatory § 514B-151(c) independent counsel, bypassing mandatory arbitration, waiving 59 mini-Master Lessee privity rights without consent (Sections 27, 28, 29).
- GET pass-through cessation (Section 18).

Section 33 — The DWV Plumbing-Loan Motivation

Mr. Steinberg has admitted in writing (November 25, 2025) that the building DWV plumbing project will cost approximately $7,000,000 and, absent a bank loan, would require an approximately $45,000 per-unit assessment. He has further indicated his belief that bank funding for the DWV project will be impaired by pending litigation.

The chronology is decisive. The AOAO's rush to execute the November 14, 2025 Agreement — eighteen days before the CBRE LAND appraisal was even issued, six months past the contractual arbitration trigger date, without independent counsel, without lessee consent, on a methodology contrary to the Master Lease — was motivated, in material part, by the financing requirements for the DWV project, not by the lessees' interests.

This conversion of the AOAO's motivation from "good-faith negotiation" to "close-the-deal-topreserve-financing" converts the methodology and procedural failures from professional negligence into intentional unfair acts under Section 480-2. A negotiating party who concedes economic ground to preserve unrelated financing for its own benefit, while binding others to the concession, has engaged in an unfair practice in a land transaction within the plain meaning of the statute.

Section 34 — UDAP Treble Damages Exposure

My actual damages — including the rent overcharge component, the retroactive rent overcharge component, the vendor cost pass-through, and the related professional negligence damages — are conservatively estimated at approximately $400,000 for my unit — exclusive of damages for infliction of emotional distress and related pain and suffering, an additional element, recoverable on the tort and fiduciary claims, that remains unquantified (Executive Summary). Trebled under Section 480-13(a)(1), the per-A-unit UDAP exposure is approximately $1,200,000, plus attorneys' fees and costs. For the 12 A-units alone, the aggregate trebled exposure is approximately $14,400,000.

Building-wide trebled exposure, taking into account the 54 residential lessees, 5 commercial lessees, and 8 AOAO sublessee positions, is estimated to exceed $50,000,000. The Kong Lessors face exposure separately from the AOAO, and each of the four professional firms faces individual exposure (Sections 36–39).

Each individual lessee, including each member of the AOAO Board, has individual UDAP standing — "any person injured" under Section 480-13. The personal liability dimension of Chapter 480 places AOAO Board members at risk irrespective of the AOAO's organizational liability (Section 40).

Section 35 — Owner's Title Insurance Recovery Theory

A distinct recovery avenue against a different set of obligors — the title insurers — under the owner's policies insuring Unit 24A and the parallel leasehold interests. Each violation is fact-specific and may be covered by one or both policies, or some claims denied by both, depending on the Date of Policy at which the defect existed and that policy's Schedule B.

35.1 The Two-Policy Structure (each pre-2019 leasehold owner)

Every leasehold unit acquired before 2019 carries **two** owner's title policies:

1. **Acquisition policy** — owner's policy issued on the original unit acquisition / conveyance / assignment, often with a companion **lender's** policy for the mortgage. *Unit 24A:* Stewart Title owner's policy, 2014, **$435,000**, escalating under Condition 9 (10%/yr to a 150% ceiling) to **$652,500** fully run; companion Stewart lender's policy, 2016 (NFCU loan), **$585,000** committed vs. **$475,000** recorded mortgage.
2. **Sandwich policy** — the second, smaller owner's policy issued in 2019 on the **sandwich-lease (mini-Master Lease) purchase price.** *Unit 24A:* First American, **July 9, 2019**, **$102,333.12**, ALTA 13-06 leasehold endorsement. First American wrote the same across ALL the 54 residential sandwich estates, each to a **type-specific** limit.

35.2 Title Issues to Be Tested (covered defects)

The issues — including but not limited to:

1. **Management Committee absent of record** — no recorded instrument ever constituted the Committee the governing documents require (Date-of-Policy defect at both 2014 and 2019).
2. **HRS § 514B-151(c) independent-counsel violation** — the lessees were never afforded the statutorily required independent counsel.
3. **Waiver of arbitration** — the lessees' arbitration rights were surrendered without authority.
4. **Sandwich-purchase / mini-Master-Lease fracture** — the 2019 sandwich conveyances fractured the leasehold estate; defects in that fracture as conveyed.
5. **Failure to comply with the sandwich-lease / Master-Lease-amendment rent terms** — rent was not set per the recorded amendment.
6. **Unconsolidated Lot A / Lot A-1 legal description** — carried as a "-Note-," not a numbered exception.
7. **Unmarketability of title** — evidenced by NFCU's January 2024 refusal to confirm clear title, ~22 months before the reset.
8. **The 2051-vs-2061 expiration error** — the recorded instruments and the policies recite the erroneous **June 30, 2051** expiration. The operative, black-letter date is **June 30, 2061** (Co-Owners' Agreement § (4)). The title companies' failure to correctly incorporate the recorded 2061 date is a **clear title-examination error** chargeable to the insurers — pleaded separately for that reason.
9. **2019 sandwich-conveyance authority defect** — the AOAO's authority to convey as it did.
10. **The void 2025 reset** — the loss-crystallizing event that flows from defects 1-5 above.
11. **Collection of unauthorized retroactive rent.**

Coverage mapping (which policy answers):

Title issue	Acquisition policy (Stewart 2014)	Sandwich policy (First American 2019)

Title issue	Acquisition policy (Stewart 2014)	Sandwich policy (First American 2019)
1 Mgmt Committee absent of record	✓ (existed 2014)	✓ (existed 2019)
6 Lot A / A-1 description	✓	✓
8 2051-vs-2061 examination error	✓	✓
4 Sandwich / mini-Master fracture	—	✓ (2019)
9 2019 conveyance authority	—	✓ (2019)
2, 3, 5, 10, 11 § 514B-151(c) / arbitration waiver / rent non-compliance / void reset / retroactive rent	flow from the covered Date-of-Policy defects above (loss-causing events)	same
7 NFCU unmarketability	evidences the covered defects on both policies	

35.3 What Is NOT a Covered Title Defect (and Where It Lives Instead)

The recorded **Co-Owners' Agreements, the Management Committee structure, and the partition waiver are EXCEPTED in Schedule B of both policies** — therefore not covered defects. They serve instead as the **measure of Board authority** and the **cure mechanism**: the withholding covenant shifts the land-related legal fees of cure (fee acquisition) to the Kong Lessors, making a funded cure the carriers' least-cost election.

35.4 Damages and Cure

Diminution equals value-without-the-defect minus value-with-the-defect — the fee-versus-leasehold differential of **$315/SF, or $400,050 for a Type I "A" unit** (Sections 6, 9, 21); approximately **$18,095,805** across the 54 residential sandwich-insured units, subject to per-policy limits. Because the diminution exceeds the indemnity caps, the carriers' least-cost election is a funded **cure** — supporting the fee acquisition — rather than cash indemnity.

35.5 Obstacles

Schedule B exceptions (an excepted recorded item is not covered); the policy-date temporal limit (the defect must exist at issuance); the lease-terms exclusion (a rent increase flowing from disclosed lease terms is economic loss, not a title defect — title insures marketability of title, not market value); and the created-or-suffered-by-the-insured exclusion — each tested against the specific Schedule A/B of the policy invoked.

Section 36 — Professional Negligence — Ekimoto & Morris, LLLC

36.1 The Standard of Care

Hawaii attorneys are held to the degree of care, skill, and diligence ordinarily exercised by attorneys in the same or similar locality and under similar circumstances. Buscher v. Boning, 114 Hawai'i 202, 220 (2007); Larson v. Pacheco, 7 Haw. App. 436 (1989).

36.2 Specific Failures

- **The HRS § 514B-151(c) opinion** ignored the disjunctive statutory text, the AOAO's concededly sublessor status, and the 2018 Sandwich precedent at this same condominium. In his November 19, 2025 letter Mr. Ekimoto wrote, **"I was involved in the drafting of this statute,"** then asserted it applies only where the Association "had acquired the leased fee interest and was the lessor" and not here because the Association "was negotiating with the Fee Owner, so there was no self-dealing." That distinction appears nowhere in the statute, which applies disjunctively to any project where the association "is a lessor **or sublessor**." The drafting admission forecloses any defense of good-faith misreading of ambiguous text: the author of the statute supplied a limiting purpose its words do not contain, while the AOAO was in fact a self-dealing sublessor profiting on the very units (Section 5.1).

- **The Master Lease methodology opinion** adopted LAND-not-PARCEL methodology contrary to the contract; competent Hawaii leasehold counsel would have recognized the contractual PARCEL requirement, the HRS § 519-1(a) statutory restriction, and the 2014 and 2019 prior PARCEL appraisals.

- **The arbitration waiver opinion** ignored individual mini-Master Lease arbitration rights, Sandwich Document Paragraph 9 supremacy clauses, the mandatory "shall be determined" nature of the provision, and HRS Chapter 658A.

- **The retroactive rent opinion** advised on imposition with six days' notice lacking statutory or contractual authority, contrary to the CCD's express "in advance" requirement.

- **The GET pass-through failure —** whether by erroneous advice or omission, the approximately $27,000 building-wide liability is attributable.

- **Failure to review the recorded title chain** prior to a multi-million-dollar rent renegotiation. The standard of care for an attorney handling a Hawaii leasehold rent renegotiation is to obtain and review the recorded title chain. That review would have surfaced the three recorded Co-Owners' Agreements (Land Court Docs 2609817, 2673521, and 2765001; Section 2A) — which vest land-rent-negotiation authority in a Management Committee rather than the Board, fix the term at June 30, 2061, waive partition, and establish the fee-conversion mechanism. Missing all three is a title-review failure that infected the § 514B-151(c), arbitration-waiver, and methodology opinions alike.

- **Joint retention of CBRE** with the Fee Owner — a structural conflict that should have been flagged and that the firm acknowledged in its own letter ("an appraiser that was jointly hired by the Fee Owner and the Association").
- **Multiple conflicting roles across the very transactions at issue.** Mr. Ekimoto **drafted the 2014 fee-conversion amendment (Paragraph 20; Section 2B)** that armed the Board to acquire the Kong leased fee, and **drafted the 2015 documents by which the AOAO took Unit 7D by foreclosure (Section 5.3)** — the acquisition that created the § 514B-151(d) conflict and whose 2016 sandwich-lease merger left the ~$90,000 sublease unaccounted for. The same counsel then advised the 2025 rent reset without using the acquisition machinery he drafted and without addressing the title consequences of the foreclosure he papered. This is a pattern of involvement, not an isolated misjudgment.
- **The recorded deed restrictions and the individual sandwich-lease privity were never addressed.** Mr. Ekimoto's November 19, 2025 opinion analyzed § 514B-151(c), § 519-1, arbitration, and comparables, and nowhere engaged either the three recorded Co-Owners' Agreements (Section 2A) or the 59 unit-level mini-Master Lease privity contracts (Section 4). Those two recorded structures were never put before him and never considered — the clearest proof of the common error running through all the professional advice (Section 12): the condominium and statutory four-corners were treated as the entire universe, while the recorded land-side covenants and the individual lessee contracts were left out of the frame.
- **Third-party-beneficiary exposure to the lessees directly.** Much of the "professional advice" was executed by counsel acting, as the Association asserted, on behalf of the lessees it claimed to represent. Each individual lessee — Unit 24A included — is an intended third-party beneficiary (more precisely, a victim) of advice rendered in that representative capacity, and has standing to pursue the resulting professional-negligence and Chapter 480 harm directly against the advisor and its carrier, independent of the Association. Repeated records requests directed to the AOAO, Hawaiiana, CBRE, and Ekimoto & Morris have gone unanswered, with only vague and unsupported assertions of privilege and no privilege log.

36.3 Damages and Exposure

My damages, as an individual mini-Master Lessee, are conservatively estimated at approximately **$400,000 for Unit 24A** (Section 34), exclusive of infliction of emotional distress and related pain and suffering; building-wide, the same conduct produced approximately **$20,922,105 in untrebled economic damages across the 59 direct lessees**, with total UDAP exposure estimated to exceed **$50,000,000** trebled (Sections 32, 34). Ekimoto & Morris's conduct was a necessary contributing cause of those damages.

Direct damages attributable to Ekimoto's professional negligence include: the $25,075.26 prorata legal fees charged to lessees; the methodology-error portion of the rent overcharge (approximately $5-6 million aggregate residential 35-year NPV); the approximately $27,000 building-wide GET liability; defense litigation cost; and treble damages under HRS

Chapter 480. The firm's exposure compounds across the four interconnected failures because no single failure caused the void Agreement — each was necessary, and each is independently actionable.

Section 37 — Professional Negligence — CBRE, Inc.

37.1 The Standard of Care

USPAP, promulgated by the Appraisal Standards Board, controls Hawaii-licensed appraisers under HRS Chapter 466K. USPAP failure is professional negligence per se. The foundational requirement is Standards Rule 1-2(b) — correct identification of the property and the rights to be appraised. An appraiser cannot competently complete an assignment without first correctly identifying these. An appraisal that values the wrong property or the wrong rights is the wrong appraisal entirely.

37.2 Specific USPAP Failures

- **Wrong property identification.** Valued the LAND (100% fee simple) instead of the PARCEL (46.1754% leased fee interest the Kong Lessors actually own).
- **No fractional-interest discount.** Applied 0% lack-of-control or lack-of-marketability discount to a 46.1754% minority cotenancy — contrary to the principle Ludwick recognized.
- **Joint retention with the Fee Owner.** Structural conflict that compromises independence.
- **Failure to update prior PARCEL methodology.** CBRE's 2019 appraisal at $12,685,000 (38.1754% residential-only leased fee; commercial excluded) used PARCEL methodology USPAP-compliantly; the 2025 appraisal abandoned that methodology without explanation.
- **The 2051 expiration error, repeated.** The 2019 report states "circa 32.2 years of lease term remaining" from its April 28, 2019 effective date — the erroneous June 30, 2051 expiration. The correct remaining term was 42.2 years to June 30, 2061 (Co-Owners' Agreement §(4)). The same error persisted into the 2025 report: the term error is systemic across both CBRE engagements, not an isolated slip, and it distorts the reversionary calculation in both.
- **Appraisal issued after the Agreement was signed.** The December 2, 2025 CBRE appraisal was issued eighteen days after the AOAO Board executed the Agreement allegedly relying on it. An appraisal that was not in existence at the time of the binding decision cannot have supported that decision.

37.3 Damages and Exposure

My damages, as an individual mini-Master Lessee, are conservatively estimated at approximately **$400,000 for Unit 24A** (Section 34), exclusive of infliction of emotional distress and related pain and suffering; building-wide, the same conduct produced approximately **$20,922,105 in untrebled economic damages across the 59 direct**

lessees, with total UDAP exposure estimated to exceed **$50,000,000** trebled (Sections 32, 34). CBRE's conduct was a necessary contributing cause of those damages: no single professional failure produced the void Agreement — each was necessary, and each is independently actionable (Section 36.3).

Direct damages specifically attributable to CBRE's USPAP failures include the $4,712.04 appraisal fee prorata charged to lessees, the methodology-error portion of the rent overcharge, defense litigation cost, and treble damages. The firm faces individual exposure under HRS Chapter 466K (Hawaii appraiser licensing) and HRS Chapter 480 (UDAP) independent of the AOAO's exposure.

Section 38 — Professional Negligence — Hawaiiana Management Co.

38.1 The Standard of Care

Property managers in Hawaii are held to the standard of professional managers under HRS Chapter 467 and the contractual scope of the engagement. A managing agent owes the AOAO fiduciary duties of loyalty, care, and disclosure. As the implementing party for billings and collections, Hawaiiana is the direct point of contact with lessees and bears specific duties associated with that role.

38.2 Specific Failures

- **Implementation of retroactive rent with six days' notice** — conduit for the November 24, 2025 invoices.
- **Implementation of an unsupported valuation basis** — billing the November 24, 2025 increase of commercial rent to $9,600 per month to conform to the $24,000,000 figure, after having computed $9,300 per month from the $23,250,000 appraised value, without flagging to the Board or owners that an appraised basis was being abandoned for a higher number no appraisal supported.
- **GET pass-through cessation** implementation through Hawaiiana's billing system effective January 1, 2025, without notice to lessees or AOAO disclosure of the change.
- **Continued billing of disputed lease rent** after repeated lessee notice that the Agreement is disputed.
- **Pro-rata allocation of $49,682.58 in vendor costs to lessees** while not withholding from AOAO sublessee distributions — a conflict that should have been flagged.

38.3 Damages and Exposure

My damages, as an individual mini-Master Lessee, are conservatively estimated at approximately **$400,000 for Unit 24A** (Section 34), exclusive of infliction of emotional distress and related pain and suffering; building-wide, the same conduct produced approximately **$20,922,105 in untrebled economic damages across the 59 direct lessees**, with total UDAP exposure estimated to exceed **$50,000,000** trebled (Sections 32, 34). Hawaiiana's conduct was a necessary contributing cause of those damages: no single professional failure produced the void Agreement — each was necessary, and each is independently actionable (Section 36.3).

Direct damages specifically attributable to Hawaiiana include: the cost of retroactive billing reversal and reissuance; the cost of GET reinstatement and retroactive remittance to the State; pro-rata management fees attributable to disputed work; and treble damages.

38.4 Current Status and Records Obligation

Hawaiiana remains the Association's managing agent through July 31, 2026; Cadmus Properties is its announced successor, effective August 1, 2026. Hawaiiana is therefore a current vendor, not a former one, and its statutory and contractual obligations remain in force. In particular, the records requests directed to Hawaiiana under HRS § 514B-154.5 — which requires production within the statutory period — remain unsatisfied; continued non-production is being treated as evidence of bad faith and is a predicate for a potential civil-RICO claim, independent of the negligence exposure above. The pending management transition does not extinguish either the records duty or the firm's exposure for work already performed; it does heighten the risk that records are lost or withheld in the handoff, and the demand is being preserved against both Hawaiiana and the incoming agent.

Section 39 — Professional Negligence — Monarch Properties

39.1 The Standard of Care

Real estate brokers and consultants in Hawaii are held to the standard of professionals in their field under HRS Chapter 467, and where appraisal-adjacent work is performed, the USPAP standard imported by HRS Chapter 466K becomes relevant. A consultant who supplies the underlying rent computation tables for a multi-million-dollar transaction bears the standard of care of a professional in real estate analysis.

39.2 Specific Failures

- **Supplied the underlying rent calculation tables for the Agreement** through the November 20/24, 2025 Master Leased-Fee Interest Report (Amended).
- **Recommended use of an obsolete and incorrect $19,460,000 LAND appraisal draft** as the baseline for Master Lease rent renegotiation. The 2018 Lesher Chee Stadlbauer draft was prepared for the Sandwich SUBLEASE renegotiation at 8.0%, addressed to a different condominium (Royal Kuhio), on behalf of a different AOAO, unsigned, and never finalized.
- **Conflated SUBLEASE methodology with Master Lease methodology** — the Sublease uses LAND at 8.0%, the Master Lease uses PARCEL at 6.0%.
- **Concession before negotiation began** — recommended baseline of $19,460,000 with 3% annual escalation, providing the Kong Lessors no incentive to negotiate fairly.

- **Acknowledged the 59-unit direct-privity structure in writing** in the November 20, 2025 Report — but failed to advise that AOAO action alone could not bind individual mini-Master Lessees.
- **Provided cover for GET non-collection** by disclaiming "Above rent amounts DO NOT include Hawaii State General Excise Tax" while GET is part of Monetary Obligations under Sandwich Document Paragraph 8.
- **Failure to review the recorded title chain** prior to providing the analysis on which the AOAO Board relied — including the three recorded Co-Owners' Agreements (Land Court Docs 2609817, 2673521, and 2765001; Section 2A), which fix the June 30, 2061 term Monarch reported ten years short, vest rent-negotiation authority in a Management Committee, and establish the recorded fee-conversion mechanism Monarch's "concession-first" baseline ignored.

39.3 Damages and Exposure

My damages, as an individual mini-Master Lessee, are conservatively estimated at approximately **$400,000 for Unit 24A** (Section 34), exclusive of infliction of emotional distress and related pain and suffering; building-wide, the same conduct produced approximately **$20,922,105 in untrebled economic damages across the 59 direct lessees**, with total UDAP exposure estimated to exceed **$50,000,000** trebled (Sections 32, 34). Monarch's conduct was a necessary contributing cause of those damages: no single professional failure produced the void Agreement — each was necessary, and each is independently actionable (Section 36.3).

Direct damages specifically attributable to Monarch include: the $19,895.28 pro-rata advisory fees; the methodology-error portion of the rent overcharge; the GET-disclaimer cover contributing to the approximately $27,000 GET liability; and treble damages under HRS Chapter 480, plus attorneys' fees.

Section 40 — Personal Liability of AOAO Board Members

The personal liability dimension of this matter places individual AOAO Board members at exposure that institutional insurance will not cover. Two doctrines combine to produce this result.

40.1 UDAP Personal Standing and Treble Damages

Hawai'i Revised Statutes Section 480-13 grants standing to "any person injured" by a Section 480-2 violation. Individual lessees — including individual AOAO Board members who own leasehold units — have standing to bring UDAP claims in their personal capacities. Conversely, individual Board members who voted to execute the void Agreement have potential personal exposure as parties whose conduct contributed to the unfair practice. The standing under Section 480-13 runs both ways: individuals can sue, and individuals can be sued.

Treble punitive damages and gross negligence are typically excluded from professional liability and directors-and-officers insurance coverage. Where personal liability arises from grossly negligent conduct — and where the business judgment defense is unavailable because the underlying conduct fails the procedural and substantive standards a prudent board would have followed — the individual Board member faces personal financial exposure that the AOAO's insurance carrier will not pay.

40.2 Gross Negligence and the Business-Judgment Defense

The business judgment rule and reliance on advice of experts can provide defenses to ordinary negligence. Neither defense is available here on the present record. The LAND appraisal used to reset rent was not even issued until eighteen days after the Kong Lessor agreement was signed. No PARCEL appraisal — the valuation the Master Lease actually requires — has been performed at any level for the 2025 reset. The independent counsel that HRS § 514B-151(c) requires was not appointed. The mandatory arbitration that Master Lease Paragraph 23 requires was bypassed. The 59 mini-Master Lessees whose direct-privity rights the Agreement purports to bind were not consulted.

A board that executes a multi-million-dollar binding agreement before receiving the appraisal it now cites as authority, without independent counsel, without lessee consent, on a methodology contrary to the contract, has not exercised business judgment. It has acted in a manner that exposes it to claims of gross negligence and breach of fiduciary duty.

The reliance-on-counsel defense is further undermined by the record on the deed restrictions. No advice of counsel the Board has cited addressed the three recorded Co-Owners' Agreements at all (Section 2A), and the recorded covenants are mandatory language requiring no interpretation. The defect was put before the entire Board in writing on June 11, 2026, with the instruments attached and the covenant quoted verbatim; the Association's response was that it relies on counsel and that communications should be routed through counsel, without addressing the substance. A board that continues to enforce an agreement after written notice that it was made outside the recorded authority structure cannot claim the protection of advice that never engaged the controlling instruments — and that continued enforcement bears on willfulness for UDAP purposes.

The Declaration itself fixes the threshold at which the directors lose their protection. The recorded fee-conversion amendments drafted to empower the Board both cap director liability at the same standard: Paragraph 20(g) (2014) and Paragraph 21(9) (2019) provide that no director or officer is liable for acts or omissions in connection with the fee-conversion authority **except for gross negligence or willful misconduct**, and Paragraph 21(10) withholds indemnification and advancement for any matter "finally adjudged" to be gross negligence or willful misconduct. The building's own governing documents thus draw the exact line this record crosses: conduct that is grossly negligent or willful is both **outside the business-judgment protection** the directors would otherwise invoke and **outside the indemnity** the Association would otherwise owe them. Where the same conduct also supports treble UDAP and punitive exposure that D&O coverage excludes, the individual directors are left personally answerable for the gap — by the standard their own Declaration sets.

40.3 Recommended Personal Action

If the Board has been advised that the lessee claims set out in this analysis are frivolous, individual Board members should consult their own personal attorneys for a second opinion and consider distancing themselves from positions that expose them to personal liability. State UDAP involvement, individual treble damages claims, and analysis of fiduciary duty, indemnification, and professional negligence are appropriate matters for personal counsel separate from AOAO counsel — particularly where AOAO counsel itself may face professional negligence exposure.

PART VIII —THE PATH FORWARD

Section 41 — Recommended Action Plan

41.1 Immediate Actions

- Direct the Management Company to suspend further remittance of the disputed lease rent to the Kong Lessors and hold any disputed amounts in a segregated account pending resolution, exercising the express §(1) authority of the recorded Co-Owners' Agreement to withhold reasonable sums from land rent received to pay estimated property expenses (Section 2A).
- Demand reversal of all retroactive rent (July through November 2025) — $277,052.40 building-wide.
- Retain independent Hawaii counsel with leasehold expertise to represent lessees, consistent with HRS § 514B-151(c).
- Commission USPAP-compliant fractional-interest PARCEL appraisal at the 46.1754% leased fee level, with separate residential, commercial, and AOAO sublessor subappraisals — the missing valuation step that the 2025 reset bypassed entirely.
- Defray cost by combining with required insurance appraisal.
- Review and confirm title policies, title status, and inter-instrument relationships across the Master Lease, CCD, Declaration, Bylaws, and 59 Sandwich Documents.

41.2 Build Leverage

- Complete expert reports, including separate residential, AOAO remainder, and commercial leased-fee PARCEL appraisals (USPAP-compliant).
- Proceed with the arbitration the Association has now agreed to (June 15, 2026; retired Judge Gail Nakatani), under the Master Lease and each of the 59 mini-Master Leases, asserting individual direct-privity arbitration rights under HRS Chapter 658A — and hold the scope to the illegal lease renegotiation and lease rent, with the Management Committee as real parties and the Kong Lessors as an indispensable party, free of any pay-first condition.
- File DCCA Office of Consumer Protection UDAP complaints individually and collectively, preserving statutory penalty and treble damages claims.
- Engage with Canterbury Holdings (commercial lessee) to coordinate consistent legal positions and shared costs.
- Engage with the AOAO sublessee owners regarding the sandwich-acquisition conflict (Section 22.3) and the path to per-unit fee conversion.

41.3 Negotiated Resolution

- Open settlement discussions with the Kong Trust and Kong LP separately, exploiting the two-cotenancy structure (Sections 3 and 26).
- Propose IRC § 453 installment-sale financing (Section 25.1) to defer Kong capital gains
- Target acquisition in the $8,073,000 to $11,000,000 range, with the Kong Trust differential as a potential first-acquisition entry point.
- Convene or reconstitute the **Management Committee** under the recorded Co-Owners' Agreement (§(2), Land Court Doc No. 2609817; Section 2A), seating the fee-converted 53.8246% majority as "land owners on behalf of all land owners," and use the Kongs' own recorded **fee-conversion exception** (Docs 2673521 / 2765001) as the conveyance vehicle for orderly bulk acquisition — the substitute the Kongs themselves built for the partition right they waived. Under the December 13, 2000 / November 23, 2001 ¶1 mechanic, a properly constituted Committee executes the release-from-rent on a bulk basis: each Kong cotenancy conveys its leased-fee interest at the negotiated target, cost is allocated across the 67 leasehold-position units by adjusted-PCI methodology, and merger of the three interests releases the rent obligation.
- Coordinate the AOAO's Section 514C-22 fee-acquisition machinery — for which the 67% threshold has already been met by Declaration Amendment 8.

References and Primary Sources

- Master Lease (Document 503648, March 2, 1970; Liber 7053, Page 166)
- Canterbury Condominium Conveyance Document — CCD (Document 855206, December 2, 1977)
- Declaration of Horizontal Property Regime (Document 754182, February 17, 1976) and First Amendment (Document 757322, March 10, 1976)
- Restated Bylaws (Document 1877652, December 30, 1991)
- Declaration Amendments 6 (Document T-8459447, February 28, 2013), 7 (Document T- 8989142, August 12, 2014), and 8 (Document T-10704238, April 23, 2019)
- Lessor's Consent and Agreement — Unit 24A (July 3, 2019), with 58 substantially identical counterparts for the other Sandwich purchases
- Hallstrom Group Appraisal (October 15, 2014) — 67-unit leased fee at $14,208,000
- Lesher Chee Stadlbauer Draft Appraisal (October 10, 2018) — LAND at $19,460,000 (draft, unsigned, addressed to Royal Kuhio AOAO, never finalized)

- Hallstrom Group/CBRE Appraisal (June 19, 2019) — 38.1754% residential PARCEL at $12,685,000
- CBRE Appraisal CB25US045301-1 (December 2, 2025) — LAND at $23,250,000
- November 14, 2025 Agreement to Set Rent (Kong Lessors and AOAO)
- November 18, 2025 Steinberg letter to leasehold owners; November 19, 2025 Ekimoto letter to me; November 20, 2025 Monarch Master Leased-Fee Interest Report (Amended); November 24, 2025 Hawaiiana retroactive billing communication
- Steinberg DWV correspondence (October 27, 2025; November 25, 2025)
- 2026 City & County of Honolulu Tax Assessment ($8,073,000 total land; Unit 24A: $59,840)
- Canterbury Place MLS data (180 days through June 27, 2026)
- Hawai'i Revised Statutes Chapters 237 (GET; Oahu blended rate 4.712%), 466K (appraiser licensing / USPAP), 467 (real estate broker licensing), 480 (UDAP — § 480-2 and § 480-13), 514B (condominium — § 514B-146.5, § 514B-151(c), § 514B-154.5, § 514B-162), 514C (fee conversion — § 514C-22), 519 (lessee rights — § 519-1(a) and § 519-2(b)(4)), 658A (Uniform Arbitration Act), 667 (foreclosure — § 667-53, § 667-60, § 667-92)
- Internal Revenue Code § 453 (installment sale treatment for deferred capital gains)
- Hawaii Attorney General Opinion 62-39 (August 7, 1962) — Hawaii Antitrust Law applies to land transactions; cited approvingly in Midkiff (footnote 111)
- State by Bronster v. U.S. Steel Corp. (Hawaii Supreme Court) — primary UDAP authority under HRS § 480-2
- Hawaii Housing Authority v. Midkiff, 467 U.S. 229 (1984) — lease-to-fee conversion as legitimate Hawaii public purpose; policy foundation only, single-family residential lots, not condominiums
- Ludwick v. Commissioner, T.C. Memo. 2010-104 — fractional-interest minority discounts under USPAP; persuasive U.S. Tax Court authority, not Hawaii state-court binding
- Buscher v. Boning, 114 Hawai'i 202 (2007); Larson v. Pacheco, 7 Haw. App. 436 (1989) — Hawaii attorney standard of care

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