



Historic Site Preservation Board Staff Report

Date: April 9, 2013
Case No.: HSPB-#73 / Historic District #2 Royal Hawaiian Estates
Application Type: Mills Act Agreement
Location: 217 East Twin Palms Drive; APN 511-070-041
Applicant: Craig Hammond, Owner and the Royal Hawaiian Estates Homeowners Association
From: Glenn Mlaker, AICP, Assistant Planner

PROJECT DESCRIPTION

This is an application by the Royal Hawaiian Estates Homeowners Association and Craig Hammond, owner of 217 East Twin Palm Drive, a contributing structure within the Royal Hawaiian Estates Historic District (HSPB #73 / HD #2) to enter into a Mills Act Agreement with the City of Palm Springs.

RECOMMENDATION

That the Historic Site Preservation Board recommends that the City Council execute a Mills Act Agreement between the City, The Royal Hawaiian Estates Homeowners Associate and Craig Hammond, owner of 217 East Twin Palms Drive; Royal Hawaiian Estates (HSPB #73 / Historic District #2).

PRIOR ACTIONS TAKEN ON THE PROJECT

On February 3, 2010 the City Council designated the Royal Hawaiian Estates a Historic District (HSPB #73 / Historic District #2). The Royal Hawaiian Estates Historic District is comprised of forty residences on roughly five acres. 217 East Twin Palms Drive is one of the residences that are defined as contributing structures to the historic district.

BACKGROUND AND SETTING

Pursuant with California Government Code Section 50280 – 50290 upon the application of an owner of any qualified historic property, the legislative body of a city may contract with

the owner or agent to restrict the use of the property to carry out the purposes and goals of historic preservation of the property. Such a contract is commonly referred to as a "Mills Act Agreement" and it provides for possible alternative property tax rate calculations in exchange for specific and ongoing preservation and maintenance of the property, specifically its historically significant elements and characteristics.

The Palm Springs Municipal Code Section 8.05.125 outlines the methodology for classifying structures within a historic district. It notes that historic districts may contain "contributing" and "non-contributing" structures.

Historic District.

Qualified for city designation; may be qualified at the federal, state and/or county level. Archival file will be maintained and shall contain a map delineating contributing and noncontributing structures or sites. Contributing structures/sites shall be subject to Class 1 regulations until such time that they may be reclassified. Noncontributing structures/sites shall be subject to review by the HSPB before demolition or construction. A specific plan, containing special regulations pertaining to the subject area, may be adopted for each district. (Ord. 1320 § 5, 1988; Ord. 1140 § 1 (part), 1981)

The Royal Hawaiian Estates Historic District is comprised of forty (40) residences clustered in twelve buildings that are either three-plexes or four-plexes. All forty residences have been designed by the notable architects Donald Wexler and Ric Harrison and all were designed with the same "Tiki / Polynesian" themed architectural detailing. As such, each of the forty units are deemed "contributing" and are therefore subject to Class 1 regulations and are also each qualified for application for a Mills Act Historic Property Preservation Agreement.

The Royal Hawaiian Estates Historic District functions like any other typical historic district in which each property is owned by a different individual, each with its own tax bill and "unit value" that is determined by the County Assessor's Office. In a historic district, each owner of a contributing Class 1 building is responsible for the exterior maintenance and preservation of the historic defining characteristics of his or her building or site.

At the Royal Hawaiian Estates, routine maintenance and upkeep of the building exteriors and grounds is a shared responsibility of the Home-owners Association (HOA) and the individual unit owners. Because of this shared responsibility, the Mills Act Agreement in this particular instance has been drafted with both the homeowners and the Homeowners Associate (HOA) as parties to the agreement. Limited financial reserves prevent the HOA from accomplishing comprehensive restoration of the historic defining characteristics that have been lost due to past renovations or removed over time due to deterioration or decay. The potential tax savings to these home owners achieved through execution of a Mills Act contract can be used to provide funds to augment the HOA in restoring and maintaining the development.

DESCRIPTION AND ANALYSIS

The Mills Act is state sponsored legislation granting local governments the authority to directly participate in a historic preservation program. It is designed to provide private property owners with an economic incentive, via property tax relief, to actively participate in the restoration of their historic properties.

Property owners may qualify for property tax relief if they pledge to restore and maintain the historical and architectural character of their properties for at least a ten-year period. A formal agreement known as a Mills Act contract is executed between the local government and the property owner for a minimum ten-year term. Contracts are automatically renewed each year and are transferred to new owners when the property is sold. Property owners agree to preserve and maintain the property in accordance with specific historic preservation standards and conditions as identified in the contract. Local authorities may impose penalties for breach of contract or failure to protect the historic property. The contract is binding to all owners during the contract period.

The Mills Act contract has the effect of freezing the base value of the property. There is little effect over the first few years but as the property is restored over a longer period of time, it is presumed that the value of the property increases and thus the property tax savings have the potential to increase over time. The property owners have consulted with their tax advisors and determined that entering into a Mills Act contract with the City would be mutually beneficial for both parties. The owners also understand that entering into the Mills Act contract only represents the potential for property tax savings and is not a guarantee.

The potential property tax savings provided by the Mills Act contract will assist the owners in defraying the costs associated with restoring and maintaining the unique historic characteristics of the property.

REQUIRED FINDINGS

Mills Act Agreements may only be executed on qualified historic properties.

Pursuant California Government Code 50280.1 "*Qualified historical property*" for purposes of this article, means privately owned property which is not exempt from property taxation and which meets either of the following:

- (a) *Listed in the National Register of Historic Places or located in a registered historic district, as defined in Section 1.191.2(b).*
- (b) *Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.*

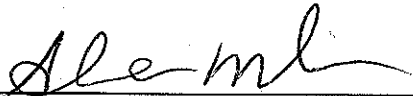
The property at 217 East Twin Palms Drive meets this criteria because is a contributing structure within the Royal Hawaiian Estates Historic District (HSPB 73 / Historic District #2) as noted above. As a contributing structure, it meets the criteria of a Class 1 historic site.

In order to coordinate individual unit-owner-initiated Mills Act Contract requests with the overall maintenance and preservation efforts of the common exterior elements of the Royal Hawaiian Estates Home-Owners Association, staff has requested a letter from the Royal Hawaiian Estates HOA supporting this Mills Act Contract request and the HOA has been included as a party to the agreement. By doing so, any owner-initiated exterior restoration efforts on this unit will be acknowledged by the HOA and must conform to any City-approved Certificates of Approval for changes to the exterior of the units. This is consistent with the manner in which other California Cities such as Los Angeles and San Francisco administer the Mills Act program for condominium associations in their respective jurisdictions.

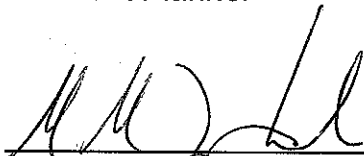
Following review and recommendation by the Board, the contract will be forwarded to the City Council for action.

ENVIRONMENTAL ASSESSMENT

This project is exempt from environmental review per Section 15331 (historic resources restoration/rehabilitation) of the California Environmental Quality Act (CEQA) Guidelines.



Glenn Mlaker, AICP
Assistant Planner



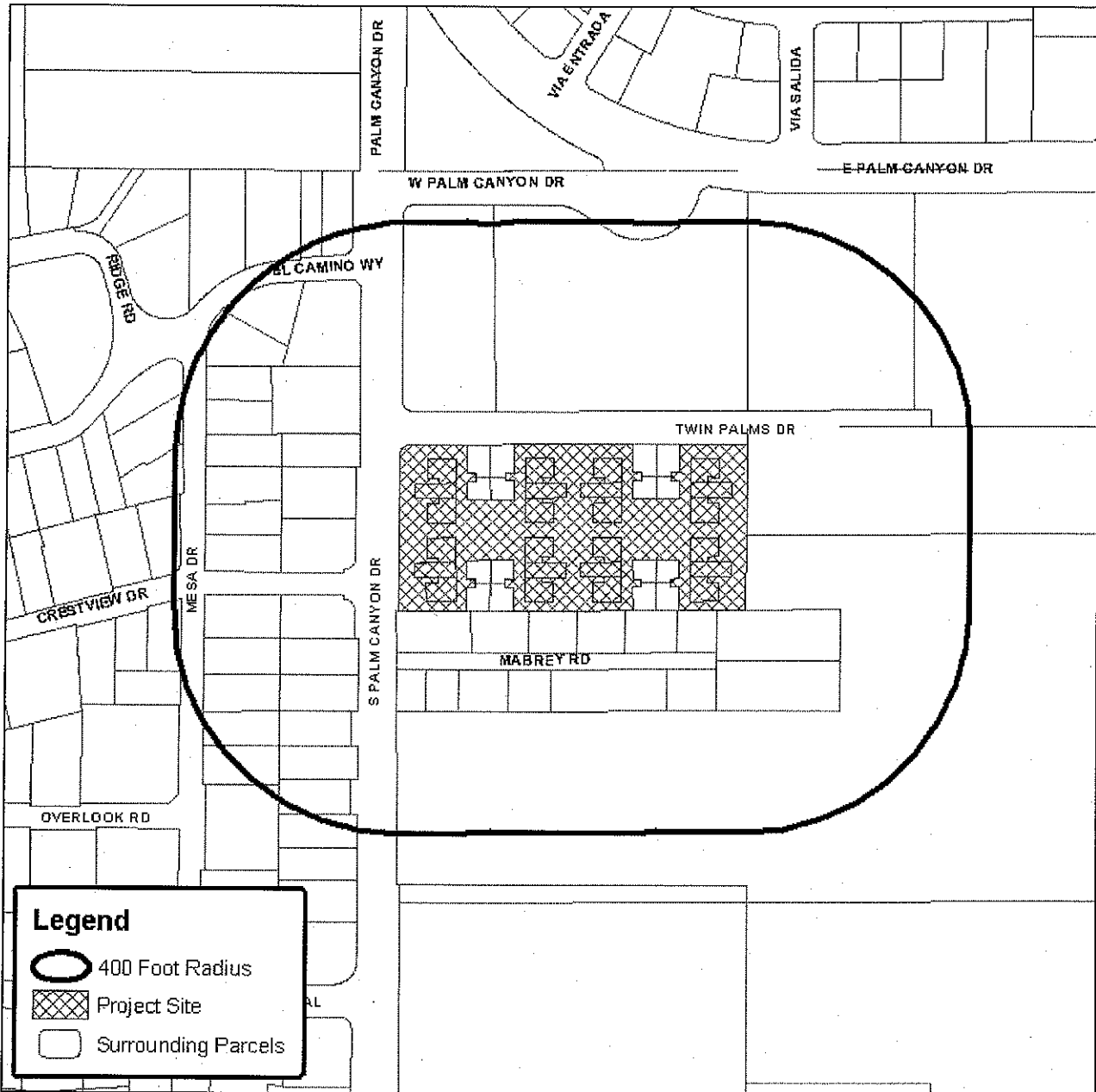
M. Margo Wheeler, AICP
Director of Planning Services

ATTACHMENTS

1. Vicinity Map
2. Letter from Craig Hammond dated February 20, 2013
3. Mills Act Agreement between the City of Palm Springs and the Royal Hawaiian Estates Homeowners Association and Craig Hammond, owners of 217 East Twin Palms Drive, Royal Hawaiian Estates Historic District (HD #2)
4. Letter of support from the Royal Hawaiian Estates Home Owners Association.



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE NO: HSPB 73 / HD 2

APPLICANT: Craig Hammond / Royal Hawaiian Estates HOA

DESCRIPTION: Application for a Mills Act agreement for property located at 217 E. Twin Palms Drive, Zone R-2, Section 26.

Craig M. Hammond, Assoc. AIA
217 E. Twin Palms Drive
Palm Springs, CA 92264

February 20, 2013

Craig A. Ewing, AICP
City of Palm Springs Department of Planning Services
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262-6959

Dear Mr. Ewing:

I am the owner of 217 E. Twin Palms Drive, Palm Springs, CA 92264 (Assessment Number 053195104-0), which is located in the Royal Hawaiian Estates development. The Royal Hawaiian Estates became a Class 1 Historic District in February 2010. I am writing to kindly request that the city execute the Mills Act agreement between myself and the city. Enclosed is the check for \$824.00 to begin the application process.

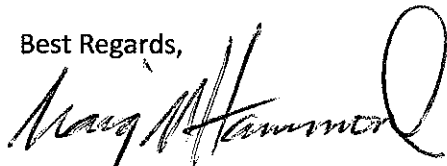
Since purchasing 217 E. Twin Palms Drive, the restoration of many original interior and exterior features are well under way. Many original features of this home are intact, but in need of repair such as terrazzo flooring, shoji screen partition between kitchen and living room, alabaster shade, original counter mounted oven and blender, metal sliding panels, and original mahogany cabinetry throughout with stainless steel seashell knobs in both baths.

Prior to the Modernism Week 2013 Royal Hawaiian Estates Tour, the Fascia of the Gables and Tiki Apex exterior architectural elements were carefully restored. I have personally financed the architectural elements already completed, and through the Mills Act economic incentives I look forward to restoring the missing signature Flying 7's architectural elements and maintaining this historic property designed by Donald Wexler, FAIA.

If you have any questions or need additional information, you may contact me at hammondhabitat@gmail.com or (310) 709-4194.

Thank you for your help in this process.

Best Regards,



Craig M. Hammond, Assoc. AIA
Design Director, Hammond Habitat Design Studio
Consulting Designer, o2 Architecture

RECEIVED

FEB 21 2013

**PLANNING SERVICES
DEPARTMENT**

Enclosures: Royal Hawaiian Estates Tour brochure, Modernism Week 2013

Royal
Hawaiian
estates



In 1960 Philip Short, a local real estate broker, commissioned the firm of Wexler and Harrison to design forty condominium units in a Polynesian tiki theme in South Palm Springs. He named the development Royal Hawaiian Estates and restricted the residents to Jewish adults, 55 or older. Some of the first residents of the Royal Hawaiian Estates included Milton Krasner (an Academy-Award-winning Technicolor cinematographer), George Jessel (an actor, singer, songwriter, and Academy-Award-winning movie producer), and Michael Levee (one of Hollywood's leading agents whose clients included Joan Crawford, Bette Davis, Mary Pickford, Jeanette MacDonald, and Cecil B. DeMille).

Architects Donald Wexler and Richard Harrison combined modernist ideas with Polynesian themes when they designed the Royal Hawaiian Estates in south Palm Springs. The complex has 12 buildings with 40 units on five acres. Wooden tiki ornaments and other decorative details give the buildings and the grounds a tropical feel.

The architecture emphasizes the adornment of tropical island living without sacrificing the clean lines of modernism. The rows of buttresses with bright orange triangles (known as "Flying 7s") that support the patio roofs are said to represent the stabilizers on outrigger canoes. The ends of each individual unit and their shared entrances have clerestory windows at the vaulted ceilings. Throughout the complex, steep peaks, projecting roof lines, and exposed beams suggest the architecture of tropical huts.

During the 1990s, many of the tiki decorative architectural elements were removed rather than replaced as they fell into disrepair, including the "tiki apexes" that were formerly found on the buildings' outrigger beams. Last year, the Royal Hawaiian Estates received several generous grants from the Palm Springs Preservation Foundation (PSPF) to restore six tiki apexes along the perimeter of the complex. The funds raised during this year's Modernism Week will complete the restoration of the remaining 30 tiki apexes within the complex.

The Royal Hawaiian Estates was designated Palm Springs' first residential historic district by the city council on February 3, 2010. Under this historic designation, Royal Hawaiian Estates homeowners now can seek tax-reducing opportunities under the state's Mills Act, which covers historic properties. Enacted in 1972, the California Mills Act legislation grants participating local governments (like Palm Springs) authority to enter into contracts with owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief. To date, only one unit has taken advantage of these incentives. Hopefully other homeowners will participate in this program and reinvest their tax savings into the Royal Hawaiian Estates.

The Royal Hawaiian Estates has appeared in PSPF's *Desert Polynesia* and *Donald Wexler: Architect* tribute journals and in *Tiki Modern* by Sven Kirsten (Taschen Books, 2007). Several scenes in the 2002 movie *29 Palms* were filmed at the Royal Hawaiian Estates.

Today, a major maintenance project is underway to replace rotten wood and carport roofs. Some owners are also planning to restore the missing architectural elements on their units.

Efforts to restore the Royal Hawaiian Estates are gaining momentum. Your interest and support in today's fundraising event is greatly appreciated.

Royal Hawaiian Estates Tour

Modernism Week 2013

Open Units:

1774 S. Palm Canyon Dr.:

A 2-bedroom, 1.75-bath, 1440-sq. ft. unit. Perched slightly higher than the rest of the complex, this unit's back patio has an ideal view of one of the pools. The private patio was restored with the original cut-out design and features native desert plants. Inside, original features such as the terrazzo floors and a trio of sliding divisional doors complement period furnishings (including a retro bar worthy of a Doris Day movie) and contemporary basics. Main living areas have limited edition art, including a piece by the late Al Hirschfeld.

117 E. Twin Palms Dr.:

A 2-bedroom, 1.75-bath, 1289-sq. ft. unit. This unit was first owned by Milton Krasner, the Academy Award winning cinematographer. His Oscar was awarded for "Three Coins in the Fountain." He also received nominations for his work on "All about Eve" and "An Affair to Remember" as well as other well-known films. Several pieces of art in the home pay tribute to his works. Unfortunately, there are few original architectural details remaining in the unit, but the original terrazzo floors remain in the kitchen, dining area, and the entry. The current owner has furnished the home with Heywood-Wakefield furniture and other vintage pieces.

107 E. Twin Palms Dr.:

A 2-bedroom, 2-bath, 1289-sq. ft. unit. This unit features all the original terrazzo floors, cabinetry, and bathrooms. All original integrity of the era and architectural details are intact. The owners had one of the original marketing brochures for the Royal Hawaiian Estates from 1961 enlarged and framed in their living room.

201 E. Twin Palms Dr.:

A 2-bedroom, 2-bath, 1510-sq. ft. unit. Step into the past in Unit 201, a mid-century gem. True to Palm Springs form with a bright palette and vintage taste, the unit retains many of its original features from 1960, including its signature yellow furnishings. These include original island floral patterned wallpaper, vinyl couches, period artwork, and custom light fixtures. Other features, as highlighted in *Tiki Modern* from Taschen Books, include original terrazzo tile floors, green shag carpets, and drapery.

217 E. Twin Palms Dr.:

A 2-bedroom, 2-bath, 1510-sq. ft. unit. This unit was recently purchased, and the restoration of many original interior and exterior features are well under way. Original features of this condo include terrazzo flooring, shoji screen divider between kitchen and living room, alabaster room divider, metal sliding panels between the living room and den, metal closet doors, and original mahogany cabinets throughout with stainless steel seashell hardware in both baths.

Restoration of tiki-modern exterior architectural elements was made possible by homeowner-financed construction of the fascia of the gables and tiki apex, which are located on the exterior north roof-line. The architectural plans for this project were completed by o2 Architecture and construction was completed by BRS Construction. The Royal Hawaiian Estates now has blanket approval from the City of Palm Springs to restore these missing architectural elements throughout the property.

The owner recently submitted this unit for the Mills Act Tax Abatement Program and is looking forward to beginning the restoration of the three missing "Flying 7's" on the east patio.

221 E. Twin Palms Dr.:

A 2-bedroom, 1.75-bath, 1430-sq. ft. unit.

271 E. Twin Palms Dr.:

A 2-bedroom, 1.75-bath, 1510-sq. ft. unit. This condo was designed as a 3-bedroom unit. Modified by a former owner, the unit is now 2 bedrooms with a den/office. With soaring cathedral ceilings and the open floor plan characteristic of Royal Hawaiian Estates, it is one of only eight units of its kind in the complex. Furnished with new pieces designed in the mid-century modern aesthetic, as well as period decor and lighting accents, this colorful unit also features the original 1961 kitchen layout and cabinetry.

283 E. Twin Palms Dr.:

A 2-bedroom, 1.75-bath, 1510-sq. ft. unit. This unit features original Flying 7s, restored tiki-apex, and clerestory windows. Furnishings include a vintage Kawai piano, 1950's-era Shelby Williams brushed aluminum "Giselle" chairs, Finn Juhl side chairs, Danish modern teak desk, vintage powder coated steel with vinyl cord hoop chairs, and Knoll Bertoia stools. Artwork includes an Andy Warhol "Mao" serigraph portrait of Chairman Mao with red face and rust jacket, signed and numbered limited edition of 250, and Bert Stern's "The Last Sitting," four original color photographs of Marilyn Monroe each a signed, limited edition of 250.

Points of Interest:

275 E. Twin Palms Dr., exterior only; this unit is not open for tour.

The exterior of this unit was recently restored as a homeowner-financed project to reinstall the missing fascia of the gables with vertical trim and tiki apex. In the 1990s, the RHE Board of Directors decided to remove architectural elements that were falling into disrepair rather than replace them. At that time, the RHE lost many of the Flying 7s, all fascias of the gables, and all tiki apexes.

The owners of unit 275 hired architect Lance O'Donnell of o2 Architecture to create the blueprints for these missing architectural elements. Because the RHE is a historic district, the drawings were presented to the Historic Site Preservation Board (HSPB) for approval. The RHE now has blanket approval to restore missing Flying 7s, fascias of the gables, and tiki apexes as homeowners are able to personally finance these projects.

Unit 275 is the only unit at the Royal Hawaiian Estates that has a complete set of restored architectural elements: Flying 7s, fascia of the gables, and tiki apex! Be sure to check it out.

Other homeowners are now expressing interest in replacing these missing architectural elements on their units as well. Good things are happening at the Royal Hawaiian Estates!!

The East Pool

Stop by the east pool for refreshments and to visit the Palm Springs Preservation Foundation (PSPF) table.

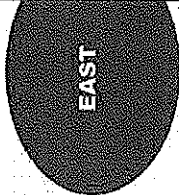
DRIVEWAY B

Newly restored exterior with Flying 7s, fascia of the gable, and tiki apex.

267	Open Unit 271	275	Open Unit 283	287	295
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235	243
231	239

Visit the PSPF information table at the east pool, and enjoy refreshments.



253	261
249	257

Open Unit 201	207	211
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Newly restored fascia of the gable and tiki apex.



Open Unit 217	Open Unit 221	225
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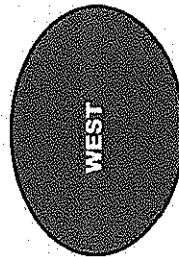
DRIVEWAY A

121	127	135
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149	163	185
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105	109
103	Open Unit 107

115	119
111	Open Unit 117



1708	1722	1746
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Open Unit 1774	1788	1796
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Event Check-in Starting Point

SOUTH PALM CANYON

**FREE RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92263-2743
Attn: City Clerk

HISTORIC PROPERTY PRESERVATION AGREEMENT

This Historic Property Preservation Agreement ("Agreement") is made and entered into this ____ day of _____, 20__ (the "Effective Date"), by and between the CITY OF PALM SPRINGS, a municipal corporation ("City"), and the Royal Hawaiian Estates Homeowners Association ("HOA") and Craig Hammond ("Owner").

RECITALS:

- A. California Government Code Sections 50280, *et seq.*, authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance.
- B. The Owner possess fee title in and to that certain historic dwelling, commonly known as 217 East Twin Palms Drive in the Royal Hawaiian Estates development, together with associated structures and improvements and real property, all generally located at the street address 217 East Twin Palms Drive, Palm Springs, California (collectively, the "Property"). A legal description of the Property is attached hereto as Exhibit A and is incorporated herein by this reference.
- C. On February 3, 2010, (the "Approval Date"), the City Council of the City of Palm Springs ("Council") adopted Resolution No.22657, thereby declaring and designating the Property known as The Royal Hawaiian Estates as a historic landmark (HSPB #73 / Historic District #2) pursuant to the terms and provisions of Chapter 8.05 of the Palm Springs Municipal Code. Historic District #2 is comprised of forty addresses and other common elements that comprise the Royal Hawaiian Estates as described in the Historic District Nomination dated May 2009 attached to the February 3, 2010 City Council Staff Report.
- D. The HOA is comprised of forty (40) residential units on a roughly five (5) acre parcel. Each of the forty residential units is considered "a contributing structure" pursuant to the City of Palm Springs Municipal Code Section 8.05.125. The HOA pursuant to applicable covenants, conditions, and restrictions has the responsibility of enforcing building and maintenance requirements of the owners of the residential units. The subject unit at 217 East Twin Palms Drive has been determined to be one of the contributing structures within HSPB #73 / Historic

District #2 and as such is subject to Class 1 regulations as described in Municipal Code Section 8.05. As a Class 1 historic site within Historic District #2, 217 East Twin Palms Drive is eligible to be the subject of a Mills Act Historic Property Preservation Agreement. The physical historic character-defining features of the buildings in HD #2 are:

- a. Exaggerated gables over the ends of the buildings with vertical trim pieces along the gables..
- b. Projecting slanted ridge beams.
- c. Elaborately detailed wooden Tiki-Style elements.
- d. Triangular clerestory windows and vaulted ceilings.
- e. Large stylized "Outrigger", "Flying Sevens".
- f. Orange painted cement plaster triangle as part of "outriggers".
- g. Wood diagonal siding.
- h. Natural rock building walls.
- i. Concrete block screen at pool painted orange.
- j. Tiki-Style statues and stone carvings.

E. The City, the HOA, and the Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of historical significance of the Property, in accordance with Government Code Sections 50280 through 50290, as amended from time to time, and to qualify the Property for an assessment of valuation pursuant to Revenue and Taxation Code Section 439.2.

AGREEMENT

NOW, THEREFORE, City, the HOA, and the Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on the Effective Date, and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the Effective Date, unless this Agreement is terminated in accordance with Section 2 below, such term will automatically be extended by one (1) year.
2. Non-Renewal and Cancellation. Neither City, the HOA, nor Owner may terminate this Agreement except in accordance with this Section 2. Termination shall be effected either by (a) an election not to renew the Agreement, in which case termination shall be effective upon the expiration of the remaining term of the Agreement, as specified in Section 2.1 below, or (b) cancellation of the Agreement, which shall effect an immediate termination of the Agreement upon the happening of all events specified in Sections 2.2 and 5.
 - 2.1 Each year on the anniversary of the Effective Date (hereinafter referred to as the "Renewal Date"), an additional one (1) year shall automatically be added to the term of this Agreement unless timely written notice of non-

renewal is served by the non-renewing party. Notice of non-renewal shall be effective only if served by the HOA or the Owner at least ninety (90) days prior to the next upcoming annual Renewal Date, or by City at least 60 days prior to the next upcoming Renewal Date. City may elect not to renew this Agreement for the reasons and in accordance with the procedures set forth in Section 5 below. The HOA and/or the Owners may make a written protest of City's notice of non-renewal in accordance with Section 5 below. The party giving notice of non-renewal may, at any time prior to the annual Renewal Date of the Agreement, withdraw its notice of non-renewal by giving a notice of revocation to the other party. If HOA, Owner or City serves timely notice of non-renewal in any year, the Agreement shall remain in effect for the balance of the term then remaining at the time the notice of non-renewal was given.

2.2 The City may cancel this Agreement at any time only for the reasons and in accordance with the notice and hearing procedure set forth in Section 5 below. City may, at any time prior to termination of the Agreement, withdraw its notice of cancellation by giving a notice of revocation to the Owner and the HOA.

3. Maintenance Standards for the Property. During the term of this Agreement, the Property shall be subject to the following conditions, requirements, and restrictions:

3.1 Owner and HOA shall preserve, maintain, and, when necessary, restore and rehabilitate the Property, as necessary to retain its historical significance including its "Character Defining Features" (as hereinafter defined), in substantial conformance with the (i) the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, (ii) the United States Secretary of the Interior's Standards for Rehabilitation and (iii) the State Historical Building Code, as the same may be amended, restated, or replaced from time to time (the "Preservation Standards"). "Character Defining Features" shall include, but not be limited to, the general architectural form, style, materials, design, scale, proportions, organization of windows, doors, and other openings, details, mass, roof line, porch and all other aspects of the appearance of the exterior of the Property. The HOA and the Owner may perform routine maintenance and repair of the Property, but may not materially alter the Property without the prior approval of the City which approval shall not be unreasonably withheld or delayed. "Material Alternations" shall include, but not be limited to, demolition of any portion of the Property, exterior door or window replacement, major landscaping projects and all other similar exterior alterations of the Property, regardless of whether a building permit is required for such alterations. Before performing any work requiring the approval of the City, the HOA and/or the Owner shall give at least sixty (60) days' written notice to City,

describing the work to be done; if the City shall not have acted within sixty (60) days thereafter to disapprove the work, or to approve the work subject to specified conditions, the work shall be deemed approved as submitted. In all events, City's Director of Planning Services shall be notified of all changes to the Property which the HOA and/or the Owner reasonably determine to be significant, prior to implementation of the changes.

- 3.2 Covenants Regarding Maintenance. The HOA and the Owner shall maintain the Property, Site and all improvements thereon, including lighting and signage, in good condition, free of debris, waste, and graffiti, and in compliance with all applicable provisions of the Municipal Code. The HOA and the Owner shall maintain the Property and landscaping on the Property Site in accordance with the "Maintenance Standards" (as hereinafter defined). Such Maintenance Standards shall apply to all buildings, signage, lighting, landscaping, irrigation of landscaping, architectural elements identifying the Property and any and all other improvements on the Property Site (collectively the "Improvements"). To accomplish the maintenance, the HOA and the Owner shall either staff or contract with and hire licensed and qualified personnel to perform the maintenance work, including the provision of labor, equipment, materials, support facilities, and any and all other items necessary to comply with the requirements of this Agreement.

The HOA and the Owner and their respective maintenance staff, contractor, or subcontractors shall comply with the following standards (the "Maintenance Standards").

- a. The Improvements shall be maintained in conformance and in compliance with the Preservation Standards, and reasonable commercial development maintenance standards for similar project, including but not limited to painting and cleaning of all exterior surfaces and other exterior facades comprising all private improvements and public improvements to the curb-line. The Improvements shall be maintained in good condition and in accordance with the custom and practice generally applicable to comparable historic properties located in Palm Springs, California.
- b. Landscape maintenance shall include, but not be limited to: watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning, trimming and shaping of trees and shrubs to maintain a healthy, natural appearance and safe road conditions and visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, groundcovers, or other planted areas; and staking for support of trees.

- c. Clean-up maintenance shall include, but not be limited to: maintenance of all sidewalks, paths, and other paved areas in clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris, or other matter which is unsafe or unsightly; removal of all trash, litter, and other debris from improvements and landscaping prior to mowing; clearance and cleaning of all areas maintained prior to the end of the day on which the maintenance operations are performed to ensure that all cutting, weeds, leaves, and other debris are properly disposed of.
- d. Any HOA or Owner-initiated exterior changes, improvements, modifications, restoration or rehabilitation efforts shall not commence without prior written notice and approval by the Royal Hawaiian Estates Homeowners Association and shall be executed only as approved by Certificates of Approval granted by the City's Historic Site Preservation Board.

Upon reasonable advance notice, the HOA and the Owner shall allow reasonable periodic examinations of the exterior of the Property by City, County Assessor, the California Department of Parks and Recreation, and the State Board of Equalization, as may be necessary to determine the HOA and the Owners' compliance with the terms and provisions of this Agreement.

- 3.4 The HOA and the Owner shall take reasonable steps to obtain and keep in force during the term of this Agreement a policy or policies of insurance (or a reasonable substitute therefore) providing replacement value coverage against damage to the Property against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief and other generally covered perils, but excluding earthquake, flood and other matters either not generally available within the Palm Springs area, or not generally offered in such a policy without requiring an additional premium. Failure to maintain insurance or a reasonable substitute therefore shall be grounds for termination of this Agreement pursuant to Section 5(a) below.
- 4. Provision of Information. Owner and HOA hereby agree to furnish City with all reasonable information requested by City which may be necessary or advisable to determine compliance with the terms and provisions of this Agreement.
- 5. Non-Renewal and Cancellation.
 - (a) City may elect to provide notice of non-renewal of this Agreement in its discretion consistent with the provisions of this Agreement and with applicable law.

- (b) City, following notice in accordance with California Government Code Section 50285 and a duly noticed public hearing before the Council, may elect to cancel this Agreement only if the Council finds and determines that (i) Owner and HOA, through their own willful or negligent acts, and subject to Section 16 below, have failed to restore or rehabilitate the Property in accordance with any approved Plans for physical improvements to the property, or (ii) HOA and Owner, through their respective willful or negligent acts, and subject to Section 16 below, have allowed the Property to deteriorate beyond the point that it no longer meets the standards for a qualified historic property, and the deterioration is serious and irreversible.
- (c) Notwithstanding anything to the contrary herein, the Property shall be deemed to meet the standards for a qualified historic property if it is maintained in accordance with Section 3.2.
- (d) If City determines to cancel or not to renew this Agreement as specified above, it shall provide the HOA and the Owner with written notice of its intent to cancel or not renew, and such notice must specify in detail the reasons for the cancellation and/or non-renewal and the steps which The HOA and the Owner must take to cure any such problems (unless such reasons are not susceptible of cure). If City determines in its reasonable discretion that HOA and/or the Owner have not cured such problems within ninety (90) days of such notice (or if curing such problems will reasonably take longer than ninety (90) days and HOA and/or Owner have not commenced diligent efforts to cure such problems within ninety (90) days), then City shall (i) with respect to a decision to cancel, notice and hold a second public hearing before the Council to determine whether to cancel this Agreement, or (ii) with respect to a decision not to renew, provide the HOA and the Owner with written notice of its final decision not to renew this Agreement. Notice of all hearings under this Agreement shall be given to the HOA and the Owner directly pursuant to Section 11 below and published in accordance with Government Code Section 6061.
- (e) If City cancels (but not if City elects not to renew) this Agreement in accordance with this Section 5, the Owner shall pay a cancellation fee of twelve and one-half percent (12½%) of the full value of the Historic Property at the time of cancellation. The full value shall be determined by the County Assessor without regard to any restriction on the Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the County Auditor at such time and in such manner as the Auditor shall prescribe. As an alternative to cancellation of this Agreement for breach of any condition, City may (without limiting Owners' right to elect not to renew this Agreement), but is not obligated to, bring any action in court

necessary to enforce the Agreement including, but not limited to, an action for specific performance or injunction.

(f) The HOA and the Owner acknowledge that it may serve notice of its election not to renew this Agreement, but that the Agreement will remain in place through the existing term. The HOA and the Owner further acknowledge that it may not cancel this Agreement for any reason.

6. No Compensation. Neither the HOA nor the Owner shall receive any payment from City in consideration of the obligations imposed under this Agreement. The HOA, the Owner and City acknowledge and agree that the primary consideration to City for the execution of this Agreement is the substantial benefit to the citizens of Palm Springs accruing from the rehabilitation and maintenance of the Property, and the primary consideration to HOA and the Owner is the economic advantage that will accrue to Owner as a result of the possible effect upon the assessed value of the Property of the restrictions on the use and preservation of the Property imposed hereunder. However, the HOA and the Owner acknowledge that it is not guaranteed to receive a reduction of property taxes as a result of this agreement.
7. Condemnation. Upon the filing of an action in eminent domain by a public entity for the taking of all or any portion of any interest in the Property, and a determination by City that such action will frustrate the purpose of this Agreement, then in such event this Agreement shall be canceled as to those portions of the Property that are affected by the condemnation action (such that the value shall be appraised for condemnation purposes as unencumbered by the historic property restrictions set forth herein), and no fee shall be imposed on the HOA or the Owner for cancellation in accordance with Government Code Section 50286. If subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency as to all or a portion of the Property, the restrictions on the use of the Property included in this Agreement shall be automatically reinstated, the Property shall be deemed, retroactive to the date of such abandonment, to have been subject to this Agreement, and the terms of this Agreement shall be in full force and effect.
8. Destruction. Upon any damage to or destruction of the Property, the HOA, the Owner and City shall proceed in accordance with this Section 8. In the event there is any damage to or destruction of the Property, this Agreement shall not be deemed to require the HOA or the Owner to rebuild, repair or restore the damaged portion, and the HOA and the Owner shall not be held in default under this Agreement for its failure to do so, provided, however, that this provision does not relieve the HOA or the Owner of any obligation to repair or otherwise take action with respect to the Property to the extent required to do so by applicable state and federal laws and regulations, if any, other than historical preservation laws.

- (a) Minor Insured Damage. In the event the Property or any portion thereof is damaged by any casualty that is covered by the insurance maintained by the HOA or the Owner, then the HOA and/or the Owner shall rebuild, repair and restore the damaged portion thereof provided that (i) the amount of insurance proceeds available to the HOA or the Owner equals or exceeds the cost of such rebuilding, restoration and repair, and the total cost of repair is less than \$250,000 (in the opinion of a licensed architect, engineer or other qualified person selected by the HOA or the Owner and approved by City in its reasonable discretion), (ii) such rebuilding, restoration and repair can be completed within nine (9) months after the work commences, in the opinion of a registered architect or engineer or other qualified person selected by the HOA or the Owner and approved by City in its reasonable discretion, (iii) City has not acted to cancel or not to renew this Agreement on or before the date of commencement, and (iv) such rebuilding, restoration or repair is then permitted to be done under governmental laws, rules and regulations in existence as of the Approval Date in such a manner as to return the damaged portion thereof to substantially its condition immediately prior to the damage or destruction. To the extent that insurance proceeds must be applied to reduce any indebtedness secured by a mortgage or deed of trust encumbering the Property or any portion thereof, such proceeds, for the purposes of this subsection, shall be deemed not available to the HOA or the Owner unless such beneficiary permits the HOA or the Owner to use such proceeds for the rebuilding, restoration and repair of the damaged portion thereof. If the HOA or the Owner are required under this Section to rebuild, restore or repair the Property, such work shall commence not later than one (1) year after receipt of the applicable insurance proceeds, and the HOA or the Owner shall thereafter diligently proceed to complete such work within eighteen (18) months after commencement; provided, however, that so long as the HOA or the Owner shall be diligently proceeding toward completion of the work, such commencement and completion dates shall be extended by City's Director of Planning Services upon Owners' request.
- (b) Major or Uninsured Damage. In the event the Property is damaged or destroyed by any casualty to the extent that the HOA or the Owner are not obligated, under subsection (a) above, to rebuild, repair or restore the damaged portion thereof, then within sixty (60) days after either (i) a final determination that damage is not an insured claim (or one (1) year after the date of damage, whichever comes first), or (ii) the HOA or the Owners' receipt of insurance premiums sufficient to rebuild (as determined under subsection (a) above), the HOA or the Owner shall notify City of its election, at its option, either to (1) rebuild, restore and repair the damaged portions thereof, in which case the HOA or the Owners' notice shall specify the time period within which the HOA or the Owners estimate such repairs or restoration can be completed; or (2) terminate this Agreement

effective as of the date the damage or destruction occurred. If the HOA or the Owner elect to rebuild, restore or repair the Property under this Section, such work shall commence not later than one (1) year after receipt of the applicable insurance proceeds (or determination that the damage is not an insured claim), and the HOA and the Owner shall thereafter diligently proceed to complete such work within eighteen (18) months after commencement; provided, however, that so long as HOA or the Owner shall be diligently proceeding toward completion of the work, such commencement and completion dates shall be extended by City's Director of Planning Services upon Owners' request.

- (c) Termination. If the HOA or the Owner elect to terminate this Agreement as provided in Section 8(b), no cancellation fee shall be required. Upon the HOA or the Owners' election to terminate, the Property shall be reassessed retroactively, as of the damage or destruction date(s) (but taking into account such damage or destruction), in accordance with applicable property tax laws, as if the Property was not subject to this Agreement following such damage or destruction date(s).

9. Binding Effect of Agreement. The HOA and the Owner hereby subject the Property to the covenants, reservations, and restrictions set forth in this Agreement. The City, the HOA and the Owner hereby declare their specific intent that the covenants, reservations, and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owners' successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Property, or any portion thereof, shall conclusively be held to have been executed, delivered, and accepted subject to the covenants, reservations, and restrictions expressed in this Agreement regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instrument.

The City, the HOA and the Owner hereby declare their understanding and intent that the burden of the covenants, reservations, and restrictions set forth herein touch and concern the land in that the HOA and the Owners' legal interest in the Property is rendered less valuable thereby. City, HOA and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations, and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Property for the benefit of the public, the HOA and Owner.

10. Unenforceability. In the event a court of competent jurisdiction finds that this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the Government Code and the Revenue and Taxation Code, except for an unenforceability arising from the cancellation or non-renewal of this Agreement, for any tax year during the original term or any

renewal of this Agreement, then this Agreement shall be null and void and without further effect, and the Property shall from such time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to the Agreement.

11. Notice. Any notice required to be given by the terms of this Agreement shall be provided in writing and shall be mailed by certified mail, return receipt requested or delivered by a recognized delivery or overnight courier service to the address of the respective parties as specified below or at any other address as may be later specified by the parties hereto by written notice given in accordance with this Section 11. Deposit of notice in the mail, certified, return receipt requested and postage prepaid, or receipt of delivery as specified above, shall be deemed receipt of the notice.

To City: City of Palm Springs
 3200 East Tahquitz Canyon Way
 Palm Springs, California 92262
 Attn: City Manager

With a copy to: Woodruff, Spradlin & Smart
 Attn: Douglas Holland, Esq.

To Owners: Craig Hammond
 217 East Twin Palms Drive
 Palm Springs, CA 92263

To HOA: Royal Hawaiian Estates

12. General Provisions.

12.1 None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and/or any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties to be considered joint venturers or members of any joint enterprise.

12.2 The HOA and the Owner agree to and shall hold City and its elected officials, officers, agents, and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of the HOA or the Owner or those of the HOA or the Owners'

contractor, subcontractor, agent, employee or other person acting on HOA or the Owners' behalf which relates to the use, operation, and maintenance of the Property. City agrees to and shall hold the HOA and the Owner and the HOA and Owners' officers, principals, agents, contractors, employees, heirs, successors and assigns harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the activities on the Property of City or those of City's contractor, subcontractor, agent, employee or other person acting on City's behalf which relates to City's activities on the Property.

- 12.3 All of the agreements, rights, covenants, reservations, and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Property, whether by operation of law or in any manner whatsoever.
- 12.4 In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorneys' fees to be fixed by the court, in addition to court costs and other relief ordered by the court.
- 12.5 Subject to Section 10 above, in the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.
- 12.6 This Agreement shall be construed and governed in accordance with the laws of the State of California.
- 12.7 City shall cooperate with the HOA and the Owner to the extent necessary in providing the County Assessor's Office with confirmation of and information regarding this Agreement in connection with the qualification of the Property for the initial assessment and any subsequent assessments of valuation of the Property encumbered with restricted historical property status in accordance with the California Revenue and Taxation Code.
- 12.8 This Agreement may be signed in one or more counterparts, each such counterpart shall be considered as part of and the same document as all other related counterparts.

- 12.9 This Agreement has been agreed to by the parties only after negotiations between City, the HOA and Owner, all of which were represented by counsel. Accordingly, this Agreement shall not be construed as if it had been prepared only by City, the HOA or Owner, but rather as if the City, the HOA and Owner had prepared the same.
13. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, City shall cause this Agreement to be recorded in the office of the County Recorder of the County of Riverside.
14. Notification of Contract. The HOA or Owner shall provide written notice of the existence of this Agreement to the Office of Historic Preservation within six (6) months after execution of this Agreement.
15. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.
16. Force Majeure. If the performance by the HOA or the Owner of any provision of this Agreement is delayed or prevented by any act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, and any other cause not within the control of the HOA or Owner, then the period for HOA or Owners' performance of the provision shall be automatically extended for the same time the HOA or the Owner are so delayed or hindered.

(SIGNATURES ON FOLLOWING PAGE 12)

IN WITNESS WHEREOF, City and Owners have executed this Agreement on the day and year first written above.

CITY OF PALM SPRINGS,
a municipal corporation

Dated: _____

By: _____
City Manager

APPROVED AS TO FORM:

ATTEST:

City Attorney

City Clerk

Dated: _____

By: _____
Owner

Dated: _____

By: _____
Owner

Dated: _____

By: _____
HOA

(Owner/HOA Affidavit(s) follow on page 13)

OWNER AFFIDAVIT

State of _____)
County of _____)ss.

On _____ before me, _____,
Date Name and Title of Officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature of Notary Public

HOA AFFIDAVIT

State of _____)
County of _____)ss.

On _____ before me, _____,
Date Name and Title of Officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature of Notary Public

EXHIBIT A
LEGAL DESCRIPTION



Royal Hawaiian estates

PALM SPRINGS, CALIFORNIA

Bill Lewallen
283 E. Twin Palms Dr.
Palm Springs, CA 92264

March 1, 2013

RE: Mills Act Application for 217 E. Twin Palms Dr.

Dear Historic Site Preservation Board Members:

As the current president of the Royal Hawaiian Estates Homeowners' Association (RHE), I am writing to express my full support of the Mills Act application by Craig M. Hammond, owner of 217 E. Twin Palms Drive.

Craig is an architectural professional and preservationist, and is working with the association to preserve and restore our historic district. He is currently an active member of the RHE Board of Directors and a member of the architectural committee. Craig has demonstrated his commitment to restoration by privately funding the fabrication and installation of the Fascia of the Gables and Tiki-apex, and restoring his private courtyard to the original design. In 2012 he completed a two year restoration project at Park Imperial South and this home has been widely published.

The Mills Act property tax relief allows homeowners like Mr. Hammond to more actively participate in the restoration and maintenance of their historic property. It has been three years since the RHE became the first residential historic district in the City of Palm Springs. I am glad to see another RHE homeowner come forward to apply for the Mills Act. I look forward to continue working with Craig on the restoration efforts at the RHE.

Sincerely,

Bill Lewallen

President, Royal Hawaiian Estates Homeowners' Association