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The World’s Smallest Ukulele

It’s playing for the mere millionaires being humiliated by billionaires in paradise.

By Robert Kolker |

From [Bloomberg Businessweek]

Once upon a time, thousands of years ago, a surging mass of magma beneath the Pacific Ocean burst through the earth’s crust and began burping out a stream of lava, first underwater, then above, to form land. As the tectonic plate shifted, the eruption created a string of four islands—all of which are pretty nice, but the largest, known today as Hawaii’s Big Island, is as close to paradise as any human might deserve. On the beaches, the temperature hardly ever roams above the mid-80s F or below 70. It’s the tropics, yet it’s seldom muggy. And rain, when it comes, is like an afterthought—the gentlest of reminders of how achingly wonderful the island is the rest of the time.

But even in paradise, some spots are better than others. The island’s northwest shore is a gold coast made remote and exclusive by a border of long, flat fields of volcanic rock. Laurance Rockefeller opened the Mauna Kea Beach Hotel there in 1965. Then came the Hapuna, the Mauna Lani, the Orchid, and the Waikoloa. In his final years, Steve Jobs often hid out in Kona Village, a rustic, low-fi, Bali Ha’i-style hideaway best reached by private plane. Nearby is Kukio, a quiet homeowners’ community where KKR’s Paul Hazen, Sutter Hill Ventures’ David Anderson, and Silver Lake Partners’ David Roux became neighbors. And last to be built, nestled between Kukio and Kona Village, came the place that in many ways would outclass them all.

Photographer: Don Riddle/Courtesy The Four Seasons

Hualalai, developed in 1996 by Japan’s Kajima Corp., is a pristine, manicured 865 acres on which are tucked a $1,000-a-night (for starters) Four Seasons hotel and a residential community of more than 300 homes and condominiums. The homeowners are served by their own private Hualalai Resort Club, and can also make use of the hotel’s phenomenal amenities. All in all, Hualalai has the scale to sustain two championship-caliber golf courses, seven bustling restaurants, five main swimming pools, and a snorkeling-friendly lagoon frequented by a spotted eagle ray and 4,000 other fish. The spa has an apothecary with compoundable herbal remedies and supplements made on-site. Along the links, golfers stop at “comfort stations” stocked with complimentary candy bars and bourbon. Poolside attendants offer chilled towels, sunglass cleaning, and Evian spritz service.

Michael Dell (net worth: $17.6 billion) liked Hualalai so much that in 2006 he bought the whole thing—hotel, resort, everything except the private homes. When his partner, Rockpoint Group, bowed out in 2014, Rob Walton ($33.7 billion) of the Walmart Stores family bought a minority stake. The most prominent homeowners include Citadel founder Ken Griffin ($5.6 billion), Starbucks Chief Executive Officer Howard Schultz ($3 billion), brokerage pioneer Charles Schwab ($5.9 billion), KKR’s George Roberts ($4.6 billion), Oaktree Capital Management co-founder Bruce Karsh, GoDaddy founder Bob Parsons, Columbia Sportswear CEO Tim Boyle, and Warren Buffett’s sister Bertie. (Each of their places was purchased for or is currently appraised at $17 million to $23 million.) But no one who frequents Hualalai upstages the location. The shore has a shallow shelf stretching out almost a half-mile, making a friendly swim with a team of dolphins an almost daily possibility. And while some resorts to the north are caught in a wind tunnel between two volcanoes, Hualalai is in a calmer pocket. It’s like the clouds part for the place.

It was here, in the middle of all that, that one sunny day about five years ago a senior executive at a company you would definitely recognize wandered with his wife over to the Palm Grove Tranquility Pool—the one with a bar in the middle you can paddle up to—and saw that all the chaises longues were occupied on the pool deck. Then he walked a few feet to the beach and saw that the chairs there were taken, too. This man had been coming to Hualalai for years, first renting homes, then buying a four-bedroom house. He had done everything possible to be in a situation where the answer to every question would be yes. He had plunked down a $200,000 initiation fee and $40,000 a year in dues to join the Hualalai Resort Club. His three children had practically grown up at Hualalai, made friends there, and came back whenever they could. They loved the familial aloha spirit everyone talked about. Now, he was being told no.

As his wife started to cast about for a patch of grass on which to set up camp, the executive’s mind flooded. This was Hualalai, not South Beach. This wasn’t supposed to happen in paradise.

He pulled out his phone, took a picture, and texted it to the management. They apologized right away. They were all too familiar with the problem.

Les Firestein is a Hollywood screenwriter who had brought his family to Hualalai as hotel guests for years. “It’s extravagant, but they deliver,” he says. “You know you’re going to have a perfect time.” Last summer a friend who owned a home there offered him free use of his place for a week. Firestein said yes. Then he quickly learned that if he wanted to do anything at the resort beyond hanging out at his friend’s house, he had to pay daily “unaccompanied guest” fees—$150 for adults and $75 each for his two children. The fee gave Firestein pause, but only briefly. “Right off the top, we’re paying $450 a day,” he says. “But then again, you’re like, ‘Oh, it’s the Four Seasons. We’ll suck it up.’ ”

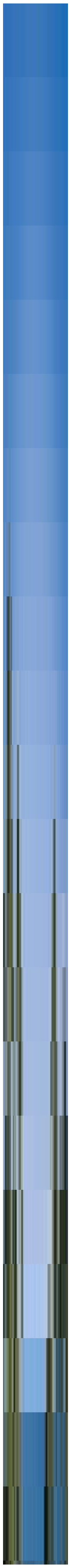
Firestein then learned that even after paying the fee, his family wasn’t entitled to the same access as hotel guests. “It was like there were two systems of privilege operating at the same time,” he says. He wasn’t permitted to reserve a table at any of the restaurants between 5:30 p.m. and 8 p.m. He had to show a guest ID card everywhere—“like, ‘Show me your papers,’ ” he says, still annoyed.

“I don’t want to exaggerate, but it really is an apartheid experience”

It was poolside that he particularly felt the caste system at work. “You’d go to a pool and order what you want,” he says. “And then, when you make the mistake of sitting in the wrong seat, a Hualalai brownshirt basically comes over and says, ‘You can’t sit there.’ And there was literally no one else near the pool because it was kind of drizzling. It was just bizarre.”

Firestein writes dialogue for a living. Standing by the empty chaises longues, he didn’t hold back. “I said to them, ‘You know, this is weirdly like Jim Crow. You’re telling us we can eat here and not here, and there’s no one else around?’ ”

He didn’t stay the full week. Another family the Firesteins had rendezvoused with there—visitors, he notes pointedly, from South Africa—also left early. “I don’t want to exaggerate,” Firestein says, “but it really is an apartheid experience.”



Photographer: Don Riddle/Courtesy The Four Seasons

He didn't know it at the time, but he was encountering a new policy enacted by Hualalai Resorts, Dell's management company on the ground. It has three prongs: First is the complex schedule of steep resort access fees based on the time of year and the relationship of the guest to the homeowner (sons and daughters are OK; nieces and nephews, friends, and renters have to pay). Next there's a status hierarchy for making dinner reservations at any of the restaurants. Finally there's the rule governing the use of the chaises longues by the pools, which the Firesteins encountered at its most cognitively dissonant moment, on a deserted pool deck in the rain.

The word "no" was getting an awful lot of use. And it was said to people who weren't accustomed to hearing it. "People who have invested millions of dollars being homeowners—basically our needs are not as important as the hotel guests," says Mike Greenfeld, owner of a Hollywood postproduction company and a Hualalai homeowner for almost a decade. In October he tried to reserve spots for some friends at a luau in December, a peak period. ("Frankly, if you've been to one, you've been to them all," he says, but "they wanted to go.") It was the earliest recommended time to reserve, but he was told the luau was full. "That was bull----," Greenfeld says. "They were just holding space for hotel guests." He called and complained, the hotel relented, and when his group got to the luau, there was plenty of room. It was clear what had happened: The friends weren't immediate family, so they were in a lower caste.

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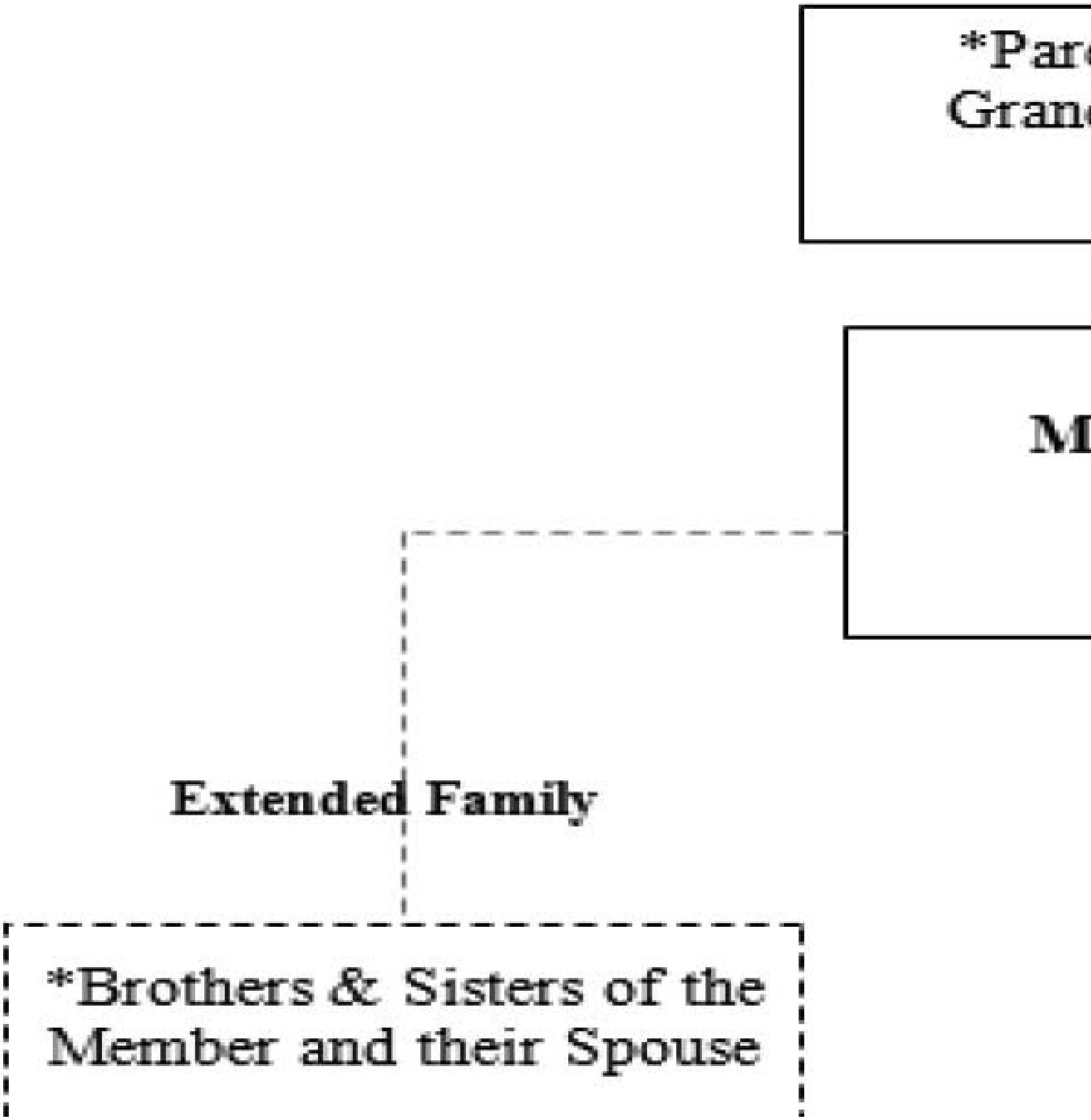
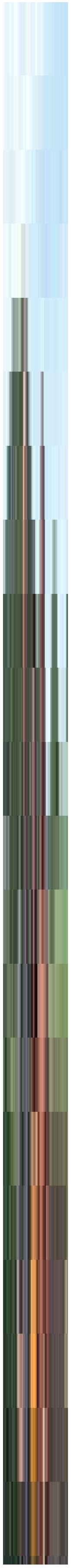


Courtesy: The Four Seasons

Tension over the policy boiled over in August, when three executives from Hualalai Resorts convened a special meeting of the Hualalai Homeowners Association to announce the resort was increasing the peak-period unaccompanied guest fee to $250 and expanding the periods to several months of the year. The steep fee, they said, was meant to make it harder for people to rent out their homes—something they argued was happening more and more frequently and clogging up the hotel's amenities. "A family of four is staring down the gun barrel of $1,000 a day before you ever pay for anything else, like rent," says Taber Anderson, a longtime homeowner. With a surcharge like that, why would anyone rent a place at all?

The goal, the executives said, was to protect what they called Hualalai's "experience of exclusivity," according to those who attended. No one in the room disputed that exclusivity deserved to be protected. But no one in management seemed to care that some homeowners, those who rent their places for several months out of the year, could lose tens or even hundreds of thousands of dollars in annual rental income—or that everyone's resale values might plummet once prospective buyers learn about the extra charge for anyone who rents. Days after the meeting, Sandra Holstead, a homeowner since 2004, told a Hualalai executive she might be able to find at least a few people willing to pay the $250 fee. "Maybe the fees would have to be higher then," she says the executive replied.



Courtesy: Christopher Zyda

This could end in only one place: court. In October, Christopher Zyda, a Hualalai homeowner, filed a lawsuit, which he hopes to make a class-action suit, against the Hualalai owners, including Dell's family office, MSD Capital, and the Four Seasons. He and a group of about 75 Hualalai homeowners who openly support the suit say they've been bait-and-switched—they were promised they could use their homes and the hotel's amenities freely and without any guest fees, then the rules changed.

The resort has essentially responded that the homeowners might want to check the fine print of their homeowner agreements. Management can raise guest fees. It can set up a metaphorical velvet rope, cutting off access. It can alienate the homeowners who use their places for cash flow. And if it means certain homeowners have to sell their places to wealthier buyers who aren't put off by those fees, so be it.

"This may sound like a battle of the 1 percent vs. the .001 percent over a bunch of beach chairs," says Zyda, who decries the resort's "Gestapo tactics." "But there are very real contract issues at hand. I've heard homeowners say the agenda is to drive all the homeowners out."

"I'm a rule-follower type of person," Zyda says, shouting over the buzz of his groundskeeper's weed whacker. We're sitting in the backyard of his five-bedroom spread at Hualalai, sipping water and looking out on the ninth green of the resort's Jack Nicklaus golf course. "I don't try to make trouble."

A 54-year-old financial adviser, Zyda discovered Hualalai 16 years ago while on vacation from his former job as treasurer of Amazon.com. He loved it so much that he used some of his stock options to buy a development lot. Like others who support his lawsuit, he remembers being told by his real estate agent that one of the great things about buying at Hualalai was the money he could make renting out his home when he wasn't there, with no restrictions or fees. Since then, Zyda has changed career tracks and moved, and he and his husband, Michael Wieland, finished building their home only in early 2015. By then, he says, many of the things that had made being a homeowner at Hualalai so special were well on their way to being rolled back, all in the name of crowd control.

He shows me the latest two-page schedule of guest fee rules, featuring an exhaustively detailed table designating different types of guests (club members, immediate family, extended family, escorted guests, accompanied guests, unaccompanied guests) and different times of year ("peak," "peak of peak"). "It's like a complicated, ever-changing video game," he says. "I can't keep up with the rule changes and what I'm allowed and not allowed to do. None of this craziness existed when I purchased in 2000."

Courtesy: The Four Seasons

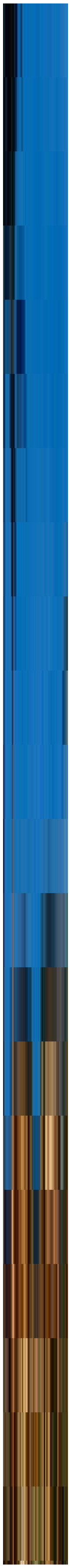
The dispute is, naturally, about money. But it's about so much else, too. It's about power, or the loss of it. It's about feeling jilted. Many of the homeowners supported the resort from the beginning, putting down roots on what had been lava fields. Now that the hotel guests matter more, the homeowners are forced to watch as their ex parades new companions in front of them.

More than anything, perhaps, it's about humiliation. These are wealthy people unaccustomed to being put in their place by someone even wealthier. "We're smart, we're mature, we run hedge funds," says Karen Witesman, who bought her Hualalai condo in 2013. "And then Dell and this group are telling us what to do. And it goes against the grain of who we are. We're so big and so wealthy, and we're still working with that little contract."

When discussing the possibility of a lawsuit, the homeowners knew they had a problem. How could they fight an ownership agreement they'd all signed that in several places explicitly allows the resort to charge whatever guest fees it wants? The answer came from their attorney, Terrance Revere, who crafted a suit that's an unfair competition case rather than a contract case. By setting up such steep resort access fees for guests and renters, he argued, Hualalai was essentially trying to edge out competition for renters. For proof, he said, look no further than when, in 2014, Dell's group made the Four Seasons the manager not only of the hotel but of the entire resort—the equivalent of placing the fox in direct supervision of the henhouse. Who benefits when the Four Seasons-managed resort raises renters' fees? The Four Seasons-managed hotel, of course. "If too many warm bodies at the resort are a problem there," Revere says, "why aren't they imposing the same fees on hotel guests?"

In court papers, and to me, the homeowners who support the lawsuit accuse the ownership of a hidden agenda—almost a conspiracy. They wonder if the falloff from the 2008 crash, the need for emergency repairs after a 2011 tsunami, and an ill-fated investment that Dell made next door in Kona Village (still not reopened after the tsunami all but flattened it) kept him from expanding Hualalai's amenities fast enough to keep pace with its growing popularity. They have no access to the resort's finances. But the big tell, they believe, was that in 2013, Bloomberg reported that Dell's group restructured a $176 million loan. Apparently seeking more cash, the resort plans to develop more than 100 more homes on the property; it has the legal right to build even more. The only way that density can work, it seems, would be to discourage the homeowners from using their places so often. Could that be the entire reason for the crackdown on renters and house guests? If that were so—and only a lawsuit could shake loose the truth—it would mean that the homeowners were nothing but scapegoats for what Zyda claims is the resort's deeper financial problem.

The lawyer representing the defendant group denies everything about this hidden-agenda agenda, as well as the unfair competition argument. "To prove unfair competition, they have to prove the policy was made in bad faith," says attorney William Meheula. "That's going to be hard for them to prove, given the club documents they signed. And these are sophisticated people."

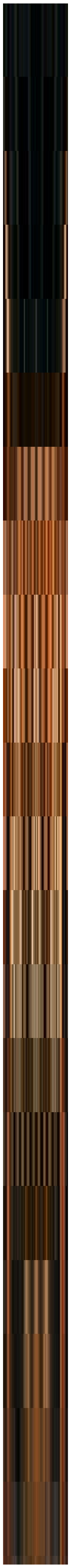


Courtesy: Christopher Zyda

"One of the things we've always believed is trying to protect and preserve the experience for members and guests here," says Patrick Fitzgerald, president of Hualalai Resorts, who's managed the property since before the Dell group bought it. On a perfect sunny afternoon like any other, he takes me on a tour past the lagoon, the Tranquility Pool, the lots scheduled for development. He readily acknowledges that the policies have a way of correcting an imbalance in the renter market. "People told me, 'This is kind of easy for someone who otherwise would not stay at the hotel.' As an example, if I'm paying $1,600 a night to rent a three-bedroom unit, and it costs $1,000 a night for a hotel room, the economics are very simple."

Still, says Fitzgerald, a tall, athletic-looking man originally from Queens, N.Y., the fees weren't meant so much to knock out competition as to create a little congestion pricing. "The hotel has always been full at Christmas," he says. "But then it got to where you couldn't get a reservation for dinner at seven o'clock. Renters are great people. But we have to make sure we protect our hierarchy of the Hualalai experience for our residents, members, and guests."

To prove that most homeowners approve of the new fee schedule, Fitzgerald lined up a meeting with three members of the Hualalai Members Advisory Board, a group of homeowners brought in by management to consult on such matters as the guest fees. The next day—also sunny, also perfect—three board members await me in the sheltered porch of the Hualalai Trading Company, the resort's general store, which sells heated *malasadas*, an addictive, sugarcoated fried-dough confection popular from Hawaii's days of sugarcane plantations. All three homeowners love the new rules. All three can't stand renters.



Photographer: Don Riddle/Courtesy The Four Seasons

“The pool had been a major problem,” says Mike Sack, who bought in 2004 with his partner, suspense novelist John Saul. “I’ve been down to the pool, and someone has reserved five chaises, and that’s a problem for me.”

“It had gotten more and more abusive,” says Julie Wrigley, the widow of gum magnate William Wrigley III. She’s bright-eyed, with a short brunette sweep hairdo. Since the $250 policy went into effect, she says, there’s been less crowding. “It’s been the first time that that has worked. Same thing for the restaurants. And getting a spa appointment.”

“Somebody did a down-and-dirty analysis of what we pay as owners here vs. the $250 renters are charged,” says Susan Frampton, whose husband, Harry, is a major developer of ski resorts in Vail, Colo., and elsewhere. “And every day of the year, whether we’re here or not, I pay $128.50. So how come renters, with no payback into the system, no ultimate responsibility for depreciation, were getting in free? Something had to be done.”

They’ve all heard the argument that the fees are going to destroy property values. “When the lawsuit gets settled,” Wrigley says, “they’ll sell their houses.” Besides, resale value matters only to certain people. “This place isn’t right for everybody and doesn’t need to be all things to all people,” she says.

“Unfortunately, we had to make some priorities. And you may not take that as aloha”

Wrigley socializes with Dell and Walton. “The Waltons are best friends of ours,” she says. “Once in a while we’ll ask a question, and Rob will say, ‘You know, we’re not the managing investor.’ But the nice thing is, they are long-term investors and long-term thinkers.” She has less kind words for Zyda. “While he owned property here since 2001, he’d not lived amongst us. He doesn’t know us. It’s kind of hard to start a lawsuit just after your home is done.”

Zyda’s hardly a lone wolf, I say. He has more than 70 potential co-plaintiffs.

“No one’s sued before,” Sack says dryly.

I ask the group: What would you say if I were a homeowner sitting on this porch, and I said these new fees make it impossible for me to afford living here?

Wrigley answers. “Please,” she says. “There are so many opportunities up and down this coast to own that have a policy that might be more friendly. But it’s not why some of us bought here.”

Photographer: Don Riddle/Courtesy The Four Seasons

Zyda doesn’t go to the Hualalai restaurants anymore. When he’s on the island, he tends to cook. If he’s hosting friends, he makes sure to go with them everywhere. “All I keep thinking to myself is, there is someone in the chain of command at the hotel who just does not have a clue about marketing,” he says. “I worked at the Walt Disney Co. for 10 years before I went to Amazon. You have 300 homeowners who are wealthy who are at this place and think it’s special. They all know other people who are potential purchasers here. And all of our friends possibly stay at the Four Seasons from time to time. Why would you want to alienate that group of potential customers?”

It’s unclear how likely Zyda’s suit is to be granted class-action status—or even if the judge will buy into the unfair competition argument. Meanwhile, the effects of the lawsuit on the market are uncertain. Sales were strong in the first quarter: eight residences and three development lots. But by many accounts, the rental market has all but evaporated. One homeowner, Carol Meyer, says her home generated a half-million dollars in rental income in 2014 and 2015. This year she can’t get anyone to rent.

The Hualalai management is putting on a brave face. “Some of the members feel like, ‘Wow, have you lost some of your aloha spirit?’ ” Fitzgerald says. “And our perspective is, we don’t think we have. Unfortunately, we had to make some priorities. And you may not take that as aloha. But you know, it was just a business decision that was important for the sustainability of the resort going forward.”

If there’s any common ground, it’s that everyone believes Hualalai is special—too special to be destroyed. Zyda says he’s open to resolving the case without more bad blood. He pauses to do a little mental math. “We’d have to value the loss of market value, because we can’t rent the house anymore,” he says. He has trouble settling on an answer. “If they want Michael and me to not rent,” he finally says, “I’ll entertain the offer. As long as we’re adequately compensated.” He wants to get back the aloha spirit. But it won’t come cheap.