

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

June 10, 2010

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

SF No.: 06KD-066

Kauai

Grant of Term, Non-Exclusive Easement to Randall C. Roe and Jilda V. Loomis  
for Vehicle Access Purposes, Wailua, Kawaihau, Kauai, Tax Map Key: (4) 4-1-09:  
54.

APPLICANT:

Randall C. Roe and Jilda V. Loomis, Unmarried, Tenants in Common

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government (Crown) lands of Wailua situated at Wailua, Kawaihau, Kauai,  
identified by Tax Map Key: (4) 4-1-09: 54, as shown on the attached map labeled Exhibit  
A.

AREA:

500 Square Feet, more or less.

ZONING:

State Land Use District: Urban  
County of Kauai CZO: Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Right, privilege and authority to construct, uses, maintain and repair a right-of-way over and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 3, Item 1, which states "Construction of new structures on leased state lands and fee simple lands sold on installment payment basis: e. Accessory or appurtenant structures including water collection, distribution and storage systems, garages, carports, patios, swimming pools, driveways and swales."

Furthermore, the County of Kauai earliest records of the existing driveway was in October 10, 1962 and the use has not change.

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine initial one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

BACKGROUND:

On February 24, 2006, Kauai District office received an application from Randall C. Roe and Jilda V. Loomis requesting an access, utility, maintenance and beautification easement over State unencumbered land identified as TMK: (4) 4-1-09:54 consisting of 0.61 acres, which abuts applicants private property, identified as TMK: (4) 4-1-011:01 also shown on the

attached map labeled (**Exhibit A**). Mr. Roe and Ms. Loomis purchased their private property and home in August 2005. County of Kauai Real Property Tax records confirm that the house with the attached garage was constructed somewhere during the mid or late 1950's. The legal access to their property is via Kihei Road.

After conducting our internal review, we informed the applicants by letter dated July 21, 2006, of our serious concern of a possible encroachment violation. We required the applicants to hire a private surveyor at their own cost, to determine the extent of the existing encroachments before any easement request would be processed.

A survey map dated October 6, 2006 by licensed surveyor Ronald J. Wagner, and submitted as (**Exhibit B**), confirms staffs concerns of the existence of a paved asphalt driveway traversing over half of the State's parcel 54. Staff requested counsel from Administration, and by certified letter dated November 15, 2006, informed Mr. Roe and Ms. Loomis, that their easement request would be denied as their legal access is from Kihei Road. Any access issue should have been resolved between buyer and seller prior to the close of the sale, and that the State had no obligation to provide an easement to private property not legally landlocked. They were also asked to remove the asphalt driveway encroaching on the State property.

By certified letter dated September 13, 2007 (**Exhibit C**) to Mr. Roe and Ms. Loomis, a thirty (30) day notice was given to vacate the subject State lands, and to remove the encroaching driveway. Applicants were also informed that encroaching upon public lands is in violation of Section 171-6, HRS, and shall be subject to a fine of \$500 per day, plus charges for damages and administrative costs incurred by the Department.

Mr. Roe and Ms. Loomis responded by seeking legal consul and hired attorney Ms. Lorna Nishimitsu. Staff met with Ms. Nishimitsu on September 18, 2007 at the subject site. It was explained to Ms. Nishimitsu that an Executive Order to the County of Kauai was never issued for an addition to a water tank site despite the fact that a CSF map had been created. By letter dated September 26, 2007, Ms. Nishimitsu informed us that her clients' would refrain from using the State's property as an access, but disputed the fact that they were responsible for removing the existing encroachments (**Exhibit D**). In addition, Ms. Nishimitsu requested a less intrusive easement of approximately 480 square feet to allow her clients' vehicles entrance into their garage.

On October 4, 2007 staff conducted a site visit and found that Mr. Roe and Ms. Loomis were making a good faith effort. Mr. Roe and Ms. Loomis have removed the driveway to staff's satifaction and reconstructed a new driveway on their property. (**See Exhibit F**)

Due to the configuration and the alignment of the new driveway entering the carport is difficult. It's unavoidable to drive onto a portion of the State lands. Mr. Roe and Ms. Loomis have requested a vehicle access easement to allow them an area to enter their carport.

ANALYSIS:

Agencies were solicited for comments from the following:

State Agencies:

State Historic Preservation Division- We believe that no historic properties will be affected by the undertaking because:

- a) Intensive cultivation has altered the land.
- b) Residential development/urbanization has altered the land.
- c) Previous grubbing/grading has altered the; and
- d) The area is already in the Wailua House Lot Series 4, that has already been developed Subsurface excavation id planned to occur within previously disturb stratum

OHA- We have no comments on this project at this time.  
Department of Health- No response.

County Of Kauai:

Planning Department- We have no objection.  
Department of Public Works- We do not have any comments.

DISCUSSION:

Briefly, at the 2008 Legislature, the Department proposed House Bill 3178 to amend Section 171-6, HRS. The State has a public trust obligation to protect Hawaii's natural resources for the benefit of all of its residents and future generations. There has been an increase in the intentional violation of and blatant disregard for state natural resources laws. Consequently, the Department has been under considerable strain in fulfilling that obligation, due to ineffective enforcement tools, limited resources, and a shortage of enforcement personnel. Existing civil penalties for most violations are nominal (\$500) and do not appear to be a serious deterrent for such behavior. Examples of such behavior include the operation of unpermitted surf schools and other unauthorized commercial activities on public beaches, operation of all-terrain vehicles on unencumbered or other restricted public lands, damage to archeological, historical, or geologic features, and destruction, defacing, or removal of natural features or natural resources on public lands. Increasing penalties for civil violations of the State's natural resources laws is an effective means for deterring unlawful behavior by imposing serious consequences for such violations. The existing statutory remedy for encroachment on public lands requires the violator to restore public land, if altered, to its original condition and assume the costs thereof, but does not require the payment of administrative costs and damages incurred by the Department. Other infractions of chapter 171, HRS, or any rules adopted thereunder for which violation a penalty is not otherwise provided, require the violator to pay for administrative costs and damages incurred by the Department. This bill corrects that inconsistency by requiring the violator who encroaches on public land to be liable for administrative cots incurred by the Department and for payment of damages. The Governor signed into law Act 215, Session Laws of Hawaii 2008 relating to civil penalties for violations on public lands.

Section 171-6 Powers. Except as otherwise provided by law, the board of land and natural resources shall have the powers and functions granted to the heads of departments and the board of land and natural resources under chapter 26. In addition to the foregoing, the board may: (12) Bring such actions as may be necessary to remove or remedy encroachments upon public lands. Any person causing an encroachment upon public land

shall:

- (A) Be fined not more than \$1,000 a day for the first offense;
- (B) Be fined not less than \$1,000 nor more than \$4,000 per day upon the second offense and thereafter;
- (C) If required by the board, restore the land to its original condition if altered and assume the costs thereof;
- (D) Assume such costs as may result from adverse effects from such restoration; and
- (E) Be liable for administrative costs incurred by the department and for payment of damages

Staff did check if this encroachment violation could be handled through the Civil Resource Violation System. According to the Penalties Coordinator, the penalty schedule has to be approved by the Land Board before any cases can be handled by the Departments' Civil Resource Violation System. That has not been done.

This will be the second investigation to be done with the new revisions approved by the Legislature and Governor in 2008. Staff is recommending a fine of \$500.00. This is the amount cited back in 2007 before the enacted of the new statutes. Applicants did not intentionally construct the encroachment. Applicants have removed the encroachment. Staff is not recommending any administrative costs.

RECOMMENDATION: That the Board:

1. Randall C. Roe and Jilda V. Loomis violated the provisions of Section 171-6 (12), HRS for unauthorized encroachment upon public land and is fined \$500.
2. Randall C. Roe and Jilda V. Loomis shall pay the \$500.00 fine within thirty (30) days of the date of the Board's action (June 10, 2010).
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4) 4-1-11: 01, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
5. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to Randall C. Roe and Jilda V. Loomis covering the subject area for access purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current term easement document form, as may be amended from time to time;
  - B. The easement shall run with the land and shall inure to the benefit of the real

property described as Tax Map Key: (4) 4-1-11: 01, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;

- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



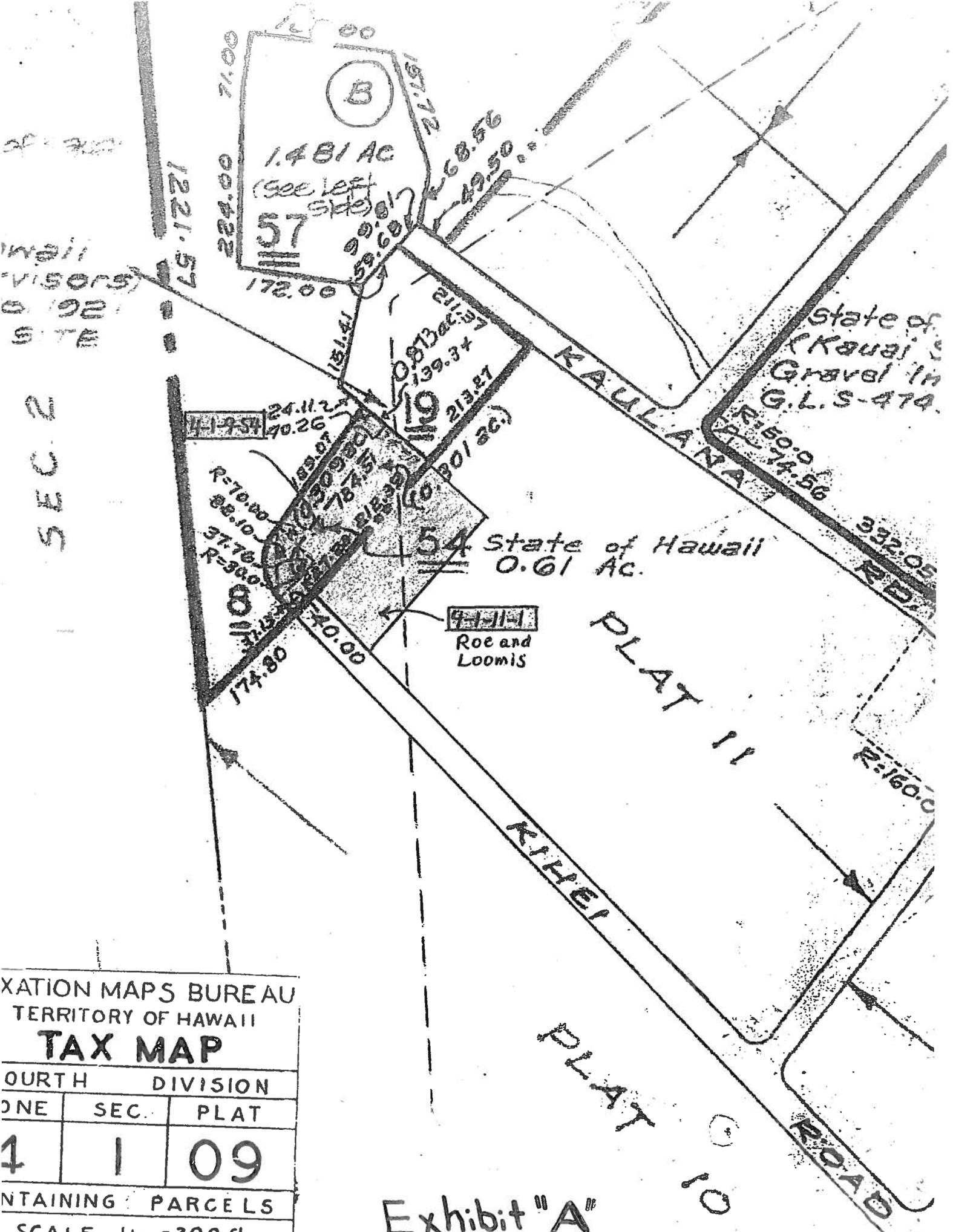
Tommy Oi  
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





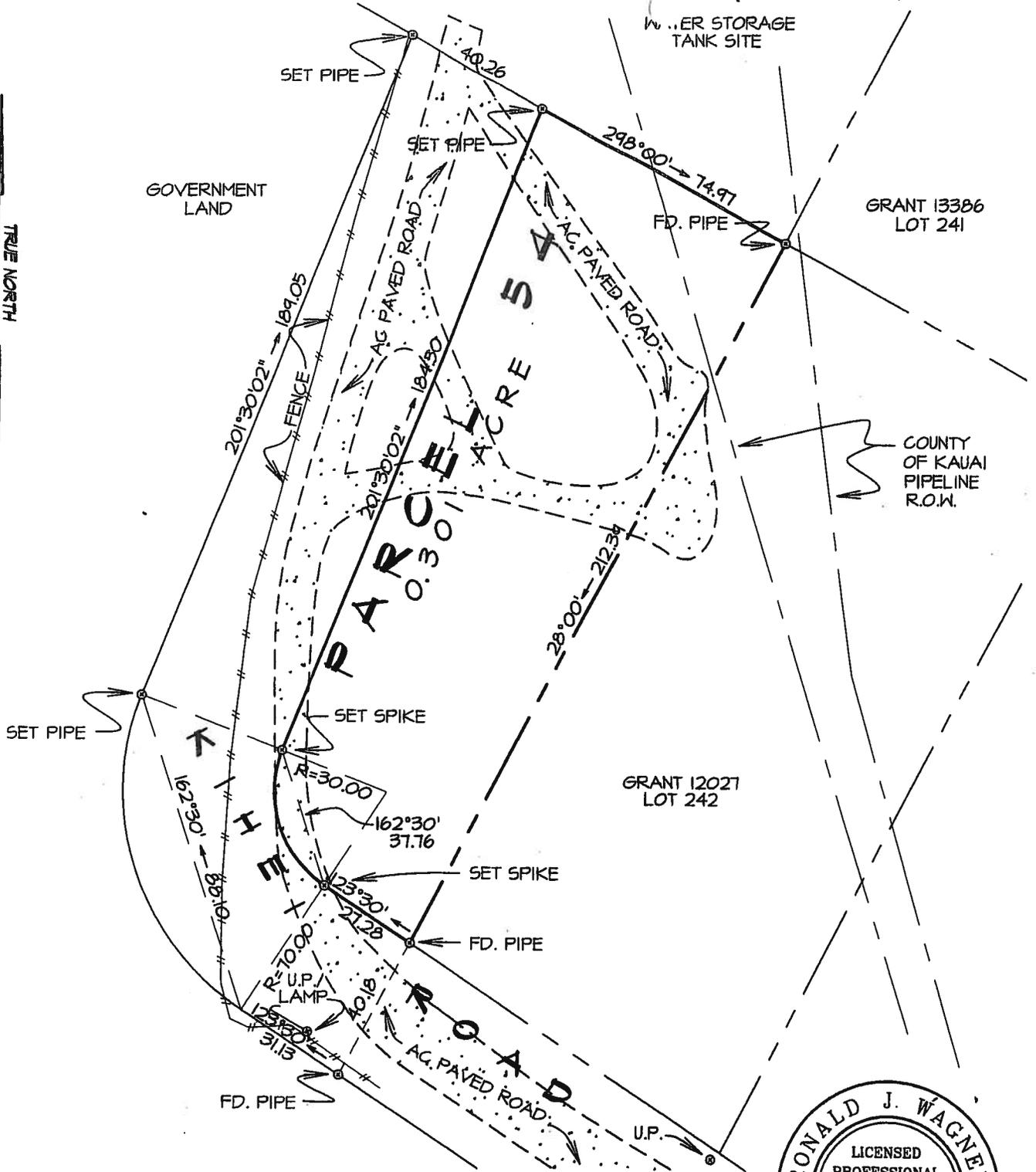
WALL  
VISORS)  
0.192  
SITE

2035

|                       |      |          |
|-----------------------|------|----------|
| TERRITORY MAPS BUREAU |      |          |
| TERRITORY OF HAWAII   |      |          |
| <b>TAX MAP</b>        |      |          |
| COURTH                |      | DIVISION |
| ONE                   | SEC. | PLAT     |
| 4                     | 1    | 09       |
| CONTAINING PARCELS    |      |          |
| SCALE 1" = 300'       |      |          |

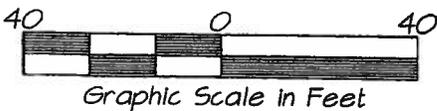
Exhibit "A"

TRUE NORTH  
Scale: 1 in. = 40 ft.



PREPARED FOR:  
RANDY ROE  
5328 KIHEI ROAD  
KAPAA, KAUAI, HI. 96746

OCTOBER 6, 2006



### SURVEY OF STATE PARCEL 54 ADDITION TO STORAGE TANK SITE

BEING A PORTION OF THE  
GOVERNMENT (CROWN) LAND  
OF WAILUA

AT  
WAILUA, KAWAIHAU, KAUAI, HAWAII



THIS MAP WAS PREPARED BY ME OR  
UNDER MY SUPERVISION

*Ronald J. Wagner*  
RONALD J. WAGNER  
Licensed Professional Land Surveyor  
Certificate No. 5074

Wagner Engineering Services, Inc.

EXHIBIT "B"

P.O. Box 851 Hanalei, HI 96714 (808) 826-7256



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

3060 Eiwa Street, Room 205A  
Lihue, Hawaii 96766  
PHONE: (808) 274-3492  
FAX: (808) 241-3535

September 13, 2007

CERTIFIED MAIL

Randall Craig Roe  
Jilda Vaughn Loomis

Kapaa, HI 96746 ·

Subject: Unauthorized Use and Encroaching on State Owned Property located at Wailua House Lots Series 4, Kawaihau, Kauai, Tax Map Key: (4) 4-1-09:54.

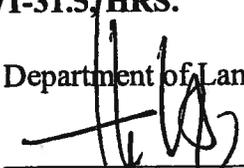
By certified letter dated November 15, 2006, you were informed that your asphalt driveway is encroaching on State owned property and that your legal access is via Kihei Road. A recent site visit to the property determined that the asphalt driveway still exists and it appears that you continue to illegally use and trespass on State owned property to access your residence. (Photos enclosed.)

Encroaching upon public lands is in violation of Section 171-6, Hawaii Revised Statutes (HRS), and shall be subject to a fine of up to \$500 per day, plus charges for damages and administrative costs incurred by the Department of Land and Natural Resources.

**NOTICE IS HEREBY GIVEN that you have thirty (30) days to vacate subject lands and remove your encroaching driveway. Any and all persons found occupying and/or residing on subject lands after 6:30 a.m., October 22, 2007, shall be subject to arrest and prosecution for trespassing and also shall be subject to a fine of up to \$500 per day, plus administrative costs and damages for violations of the provisions of Section 171-6, HRS.**

**Further, any and all vehicles and personal belongings placed, maintained and/or found on subject lands after said time and date, shall be considered abandoned and shall be sold, or otherwise disposed of by the State of Hawaii at the former owner's cost and expense and in accordance with Section 171-31.5, HRS.**

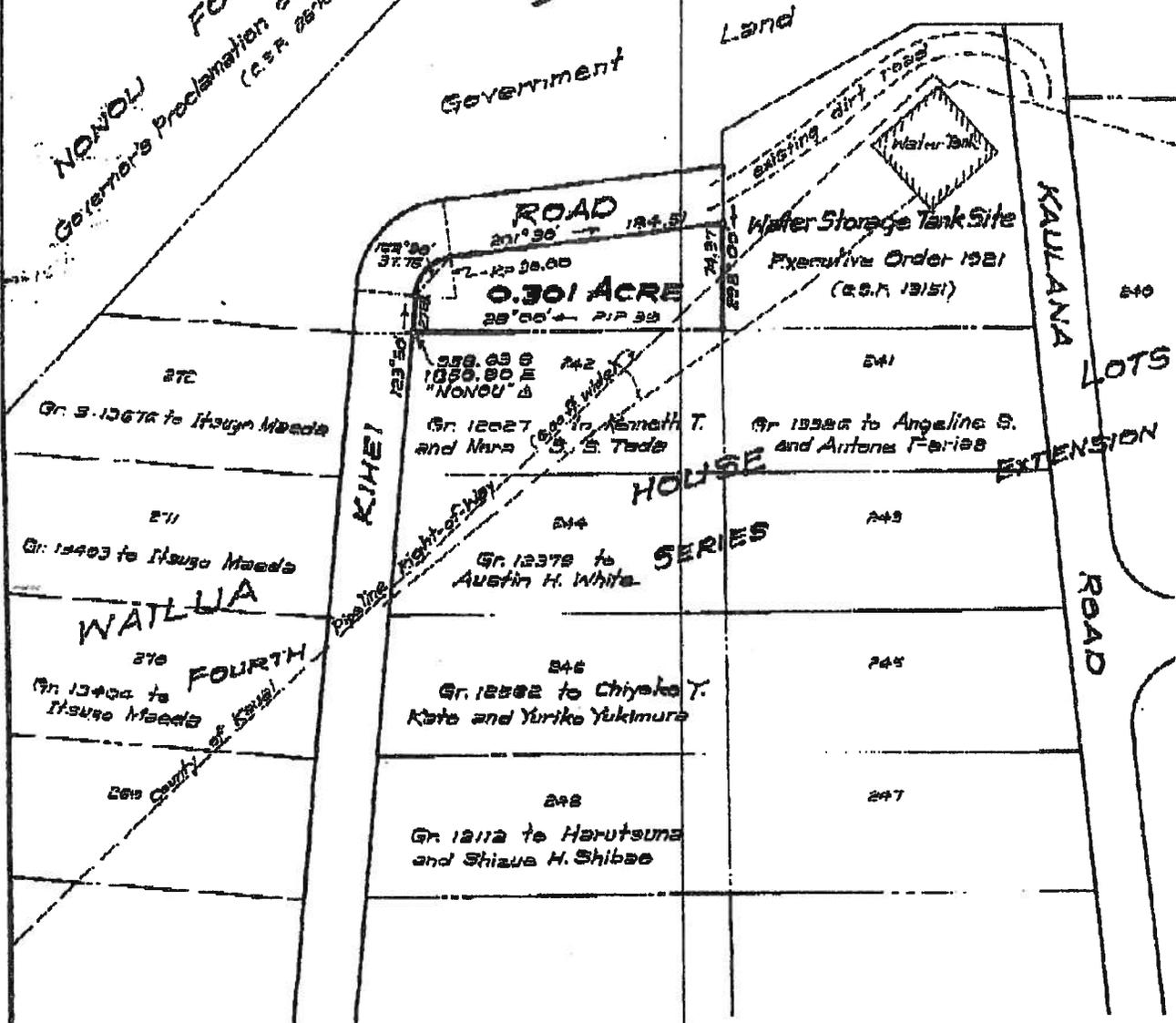
Department of Land and Natural Resources

  
\_\_\_\_\_  
Thomas H. Oi  
District Land Agent

"EXHIBIT"  
"EXHIBIT C"

**NONOU FOREST RESERVE**  
Governor's Proclamation dated December 31, 1918  
(C.S.P. 2876)

True North  
Scale: 1 inch = 100 ft.



**ADDITION TO  
WATER STORAGE TANK SITE**  
(Governor's Executive Order 1921)  
Wailua, Kawaihau (Puna), Kauai, Hawaii  
Scale: 1 inch = 100 feet

JOB 1840  
C. BK. 6 (798)

TAX MAP 4-1-05

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
**STATE OF HAWAII**

C. S. F. No. 13,798

S. K. Aug. 15, 1962



STATE OF HAWAII  
SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

August 15, 1962

C.S.P. No. 13,708

ADDITION TO  
WATER STORAGE TANK SITE

(Governor's Executive Order 1921 dated October 5, 1960)

Wailua, Kawaiha (Puna), Kauai, Hawaii

Being a portion of the Government (Crown) Land of Wailua

Beginning at the south corner of this parcel of land, the west corner of Grant 12027 to Kenneth T. and Nora S. S. Tada (Lot 242, Wailua House Lots, Fourth Series Extension) and on the northeast side of Kihai Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 958.63 feet South and 1850.90 feet East, as shown on Government Survey Registered Map 4012, thence running by azimuths measured clockwise from True South:-

1. 123° 30'                      27.28 feet along the northeast side of Kihai Road;
2. Thence along the northeasterly side of Kihai Road, on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being 162° 30' 37.76 feet;
3. 201° 30'                      114.51 feet along the east side of Kihai Road;
4. 298° 00'                      74.97 feet along the Water Storage Tank Site (Governor's Executive Order 1921);
5. 28° 00'                        212.39 feet along Grant 12027 to Kenneth T. and Nora S. S. Tada, to the point of beginning and containing an Area of 0.301 Acre.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

Compiled from Govt.  
Survey Records.

BY: Susumu Kato  
Susumu Kato  
Land Surveyor

222.74 E 133.81 0.301  
222.73 W 192.51 Area

Coords  
958.63 S  
1850.89 E

JAA 8/16/61  
C.B. 21  
Pg. 17

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

ATTORNEYS AT LAW

WATUMULL PLAZA  
4334 RICE STREET, SUITE 202  
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705  
FACSIMILE NO: (808) 245-3277  
E-MAIL: mail@kauai-law.com

COUNSEL  
LORNA A. NISHIMITSU

ASSOCIATE  
DAWN N. MURATA

MICHAEL J. BELLES  
MAX W.J. GRAHAM, JR.  
DAVID W. PROUDFOOT  
DONALD H. WILSON  
JONATHAN J. CHUN

Federal I.D. No. 99-0317663

September 26, 2007

**VIA HAND DELIVERY**

Mr. Thomas H. Oi  
Kauai Land Agent  
Department of Land and Natural Resources  
State of Hawaii  
3060 Eiwa Street, Suite 205A  
Lihue, Kauai, Hawaii 96766

RE: Tax Key No.: (4) 4-1-09:54  
Randall Craig Roe and Jilda Vaughn Loomis

Dear Mr. Oi:

This office represents Randall Craig Roe and Jilda Vaughn Loomis, who received your letter dated September 13, 2007 on September 15, 2007, in which demand is made, among other things, that they vacate the above-referenced State property (hereinafter the "State Property") before 6:30 a.m., October 22, 2007.

The issue of the use of the State Property by our clients apparently was first formally dealt with by your Department in early 2006, when our clients sought to obtain an easement for access purposes. At that time, our clients were encouraged to expand the request to include maintenance, and to proceed with making the formal request for such easement with the Board of Land and Natural Resources. Thereafter, the Department's initial support for the proposal by our clients for an easement appears to have waned, for reasons that are unclear. More recently, the Department has demanded that our clients: (a) vacate the State Property; (b) remove the driveway from the State Property; and (c) remove any vehicles and personal belongings from the State Property.

Because of the apparent withdrawal of support to consider granting an easement, I met with you and Joanne McComber on September 18, 2007 to discuss the matter. The Department has been aware, for a number of years, certainly long before our clients acquired their property (which adjoins the above-referenced property and which is identified as Tax Key No.: (4) 4-1-11:001, hereinafter the "Roe/Loomis Property") in August 2005, that a driveway serving the Roe/Loomis Property for access, was in existence. I had provided you a copy of a

{W:\DOCS\27051\1\W0094142.DOC}

Exhibit "E"

Mr. Thomas H. Oi  
Kauai Land Agent  
Department of Land and Natural Resources  
September 26, 2007  
Page 2

survey map prepared by Roger M. Caires, based upon a survey on September 28, 1999, that shows the existence of a driveway emanating from the State Property to serve the Roe/Loomis Property (it is labeled as "access" on the said Caires map).

As I explained, when our clients purchased the Roe/Loomis Property, the asphalt driveway, rocks and plantings that are depicted in the photographs that accompanied your September 13, 2007 letter, were already in place. Because of the Caires survey, a copy of which was provided to our clients before they purchased their property, they reasonably believed that the existing access/driveway over the State Property was lawful. Members of the public also use the State Property (they drive onto it, some park, and others walk it). At no time did our clients believe they owned the State Property, they have never excluded others from using it, and they have not "resided" on it.

Some research done for our clients (when they engaged a surveyor after being encouraged to seek an easement) did lead them to believe that the State Property had been conveyed to the County of Kauai by executive order or orders, for addition to a water tank site and as an extension of Kihei Road. On September 18, 2007, I was advised by you that although mapping had been done by the State Surveyor's Office, the State Property had never actually been transferred to the County for the purposes noted above.

Our clients acknowledge, and are willing to abide by, the demand that from and after 6:30 a.m. on October 22, 2007, they refrain from using the State Property as their access to the Roe/Loomis Property. They do, however, want it understood that the State Property has been in continuous use by the original homeowners of the Roe/Loomis Property. Further, they do understand that the State considers the State Property to be a significant piece of land area capable of being used for other purposes that would be inconsistent with the grant of an easement as had earlier been proposed by them.

However, please consider supporting the grant of a less-intrusive easement, for access purposes only, in that area that is marked on the enclosed map. This easement area would contain a total area of approximately 480 square feet, and is located in a manner as would cause the least possible impediment to the use of the State Property for other purposes. The total easement area is approximately 1.8% of the total square footage of the State Property, and would allow our clients to have continued access to their garage which, as you know, was built by a predecessor in interest probably in the late 1950s. Our clients are aware that if such an easement were considered favorably, they would bear the expense of preparing a proper survey of the

Mr. Thomas H. Oi  
Kauai Land Agent  
Department of Land and Natural Resources  
September 26, 2007  
Page 3

easement area, of a formal appraisal of the easement area, and of remitting the appraised value of the easement area, all of which they are willing to do.

If they are denied the smaller easement shown on the enclosure, the carport (next to the garage) would not be accessible and the utility of the garage would be severely compromised, even with the installation of a 130' long driveway (located entirely on the Roe/Loomis Property) and the demolition of some of the improvements on said Property.

As to the demand that the paving for the driveway and the rocks that serve as a "planter" area on the Subject Property be removed by our clients, all such "improvements", including the plants, were located on the State Property prior to the time that our clients purchased the Roe/Loomis Property. While they understand the State's requirement that they refrain from using the State Property for their vehicular access, and are willing to abide by that requirement if the modified request of an easement is not supportable, we are unable to understand the basis for the requirement that they remove improvements that were placed on the State Property, probably by the original owners of the Roe/Loomis Property (which means that those improvements have been in place for possibly 40 years)

According to Alan Tada, the son of the original grantees (Grant 12027 was made to Kenneth T. and Nora S. Tada), the asphalt paving on the State Property was laid prior to 1970 by Hawaiian Bitumuls as a favor to Mr. Tada, who was an inspector with the State Department of Transportation. The improvements to the Roe/Loomis Property were constructed by the Tadas in the 1950s. The orientation of those improvements, especially the garage, is consistent with the driveway approach located on the State Property. It is not disputed that our clients did not cause the improvements to be placed on the State Property. Section 171-6, Hawaii Revised Statutes, gives the State a cause of action against the person "causing an encroachment upon public land . . ." While we do not disagree that our clients may have made use of the improvements on the State land, and understand your request that they cease using the same for access and landscaping, we ask that you acknowledge that our clients have no legal obligation to remove, at their expense, the encroachments to which your letter makes reference.

We believe, as you consider the request made herein for an access easement along the common boundary between the State Property and the Roe/Loomis Property, that a site visit by yourself and/or Ms. McComber to view the location would be beneficial. Please agree to attend a site visit, at your convenience, so that we are assured that you have the best available information at your disposal in considering our clients' situation. We understand that the final

Mr. Thomas H. Oi  
Kauai Land Agent  
Department of Land and Natural Resources  
September 26, 2007  
Page 4

decision is left with the Board of Land and Natural Resources, and would also request that until such a final decision has been made, that our clients are allowed to continue to use the State Property purely for access to their garage. They are willing to forego maintenance of the State Property with regret, as they are concerned that the vegetation will become overgrown because of the cessation of their maintenance.

Please let me know, at your earliest convenience, if the proposal set forth as summarized below, is acceptable:

1. That you and/or Ms. McComber will schedule a site visit to the location of the proposed easement;
2. That the "improvements" on the State Property are not the responsibility of our clients to remove; and
3. That you would support the grant of the less intrusive easement shown on the enclosure, together with allowing our clients to continue to have access only over and across the State Property to their garage until a final decision on the subject by the Board.

Thank you very much for your kind attention to the foregoing.

Sincerely yours,

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**



Lorna A. Nishimitsu

Enclosure

cc: Mr. Randall C. Roe and Ms. Jilda V. Loomis (with enclosure)

Scale: 1 in. = 40 ft.

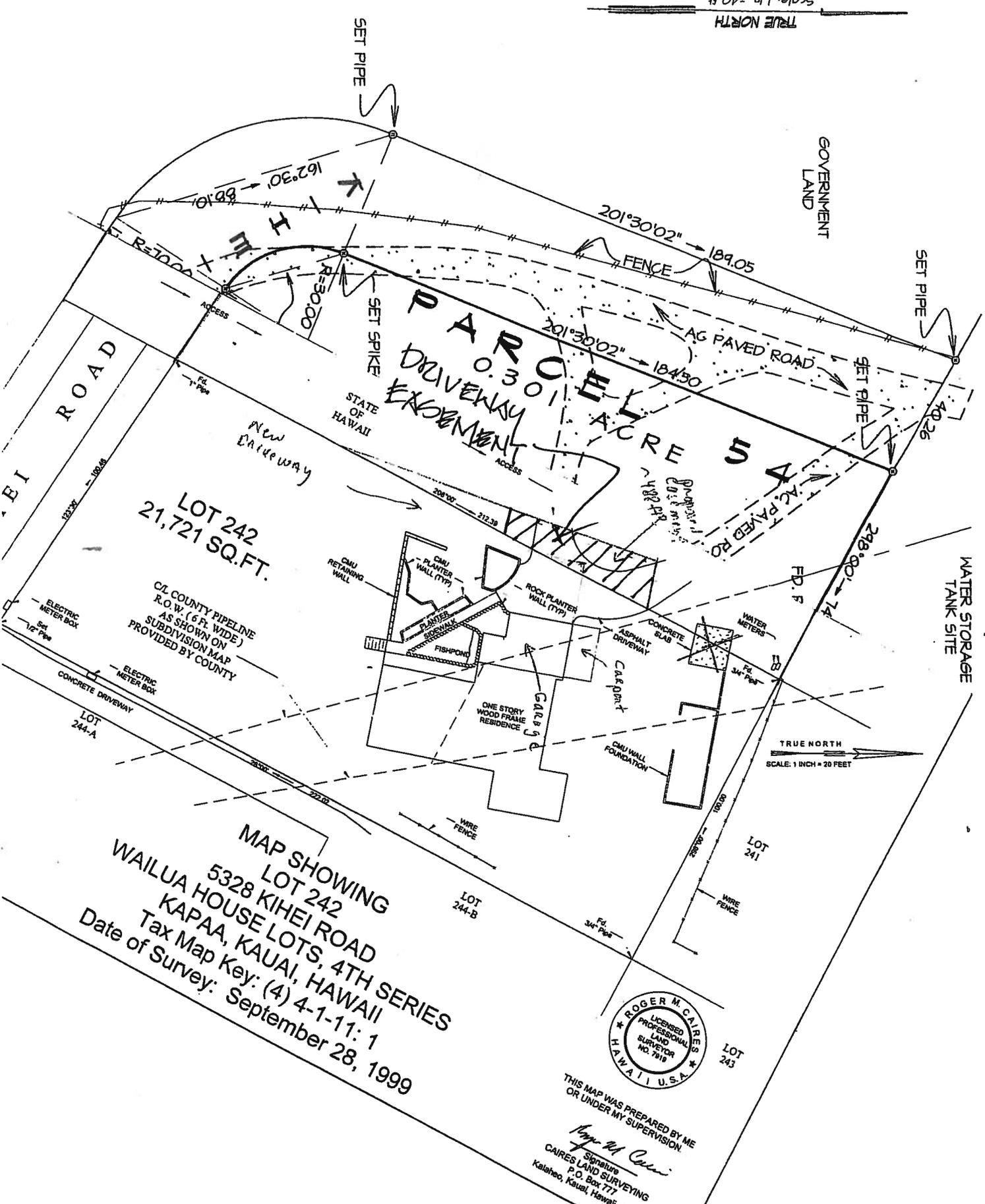
TRUE NORTH

GOVERNMENT LAND

SET PIPE

WATER STORAGE TANK SITE

TRUE NORTH  
SCALE: 1 INCH = 20 FEET



LOT 242  
21,721 SQ.FT.

0.301 ACRE  
DRIVEWAY  
EXCISEMENT

CL COUNTY PIPELINE  
R.O.W. (6 FT. WIDE)  
AS SHOWN ON  
SUBDIVISION MAP  
PROVIDED BY COUNTY

ONE STORY  
WOOD FRAME  
RESIDENCE

MAP SHOWING  
LOT 242  
5328 KIHEI ROAD  
WAILUA HOUSE LOTS, 4TH SERIES  
KAPAA, KAUAI, HAWAII  
Tax Map Key: (4) 4-1-11: 1  
Date of Survey: September 28, 1999



THIS MAP WAS PREPARED BY ME  
OR UNDER MY SUPERVISION.

*Roger M. Cairns*  
Signature  
CAIRES LAND SURVEYING  
P.O. Box 777  
Kalaheo, Kauai, Hawaii 96741



12.02.2007

EXHIBIT



PROPERTY LINE

12.02.2007

"EXHIBIT F"



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

June 10, 2010

## EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Grant of Term, Non-Exclusive Easement to Randall C. Roe and Jilda V. Loomis for Vehicle Access Purposes, Wailua, Kawaihau, Kauai, Tax Map Key: (4) 4-1-009:054

Project / Reference No.: 06KD-066

Project Location: Wailua, Kawaihau, Kauai

Project Description: Grant of term, non-exclusive easement for vehicular access purposes.

Chap. 343 Trigger(s): Proposed use of state lands via disposition, specifically the grant of easement.

Exemption Class and Item No.: In accordance with the Department of Land and Natural Resources Department-wide Exemption List, approved by the Environmental Council and dated December 4, 1991, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 3, Item 1 that states:

"Construction of new structures on leased state lands and fee simple lands sold on installment payment basis:

e. Accessory or appurtenant structures including water collection, distribution and storage systems, garages, carports, patios, swimming pools, driveways and swales."

| \_ Consulted Parties: N/A

This exemption applies since the easement purposes will be limited to vehicular access. The easement is not part of a larger, multi-

June 10, 2010

Page 2

phase project. Furthermore, since there is a pre-existing driveway (since 1962), and the easement is being issued to resolve an existing encroachment, no material change or significant cumulative impact on the environment is expected.

Recommendation:

It is anticipated this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



---

Morris M. Atta, Acting Administrator

6/25/10

---

Date