

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

February 11, 2011

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

PSF No.: 06HD-235

Hawaii

Amend Prior Board Action of February 22, 2008, Agenda Item D-5, Grant of Term, Non-Exclusive Easement to Chantee Shiroma, Glenn Shiroma & Samuel Alameda, Charles C. Selhorst and Vivian B. Eusebio for Access and Utility Purposes, Kulaimano Homesteads, South Hilo, Hawaii, Tax Map Key:3rd/2-8-06:06.

BACKGROUND:

At its meeting of October 12, 2007, Agenda Item D-4, the Land Board approved the Grant of Term, Non-Exclusive Easement to Chantee Shiroma, Glenn Shiroma & Samuel Alameda for access and utility purposes, Kulaimano Homesteads, South Hilo, Hawaii, Tax Map Key:3rd/2-8-06:06.

Further, at its meeting of February 22, 2008, Agenda item D-5 (Exhibit A), the Land Board amended the previous consent of Grant of Term, Non-exclusive Easement by including adjacent property owners Charles C. Selhorst and Vivian B. Eusebio.

ANALYSIS:

Subsequent to the Board approving the above-described amendment, staff has made several attempts to contact the original applicant, Chantee Shiroma requesting an appraisal fee. Ms. Shiroma has been unresponsive with our requests. Staff then contacted Mr. Selhorst who has indicated that he would like to proceed with the grant of easement and has provided the fee to proceed with the appraisal. Staff is reluctant to include Ms. Shiroma's property in the Grant of Term Non-exclusive easement due to her lack of participation in the process.

CONCLUSION:

Staff is therefore recommending that the Board amend its prior action of February 22, 2008, agenda item D-5 by omitting the names of the applicants Chantee Shiroma, Glenn Shiroma & Samuel Alameda owners of parcel 3rd/2-8-06:15.

RECOMMENDATION: That the Board:

1. Amend its prior board action taken at its meeting of February 22, 2008, Agenda Item D-5 by omitting the names of the applicants Chantee Shiroma, Glenn Shiroma & Samuel Alameda owners of parcel 3rd/2-8-06:15;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

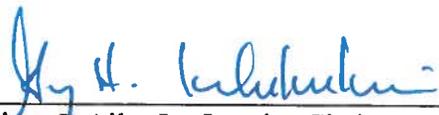
Respectfully submitted,



Gordon C. Heit
Land Agent



APPROVED FOR SUBMITTAL:



for William J. Aila, Jr., Interim Chairperson

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

EXHIBIT A

February 22, 2008

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

PSF No.: 06HD-235

Hawaii

Amend Prior Board Action of October 12, 2007, Agenda Item D-4, Grant of Term, Non-Exclusive Easement to Chantee Shiroma, Glenn Shiroma & Samuel Alameda for Access and Utility Purposes, Kulaimano Homesteads, South Hilo, Hawaii, Tax Map Key:3rd/2-8-06:06.

BACKGROUND:

At its meeting of October 12, 2007, Agenda Item D-4 (Exhibit A), the Land Board approved the Grant of Term, Non-Exclusive Easement to Chantee Shiroma, Glenn Shiroma & Samuel Alameda for access and utility purposes, Kulaimano Homesteads, South Hilo, Hawaii, Tax Map Key:3rd/2-8-06:06.

ANALYSIS:

Subsequent to the Board approving the above-described request for term easement, staff has received an additional request for the same easement from Mr. Charles C. Selhorst and Ms. Vivian B. Eusebio, owners of parcel 3rd/2-8-06:17. As the easement will run with the land and serve both applicants parcels, staff will combine the two requests into one application.

CONCLUSION:

Staff is therefore recommending that the Board amend its prior action of October 12, 2007, agenda item D-4 by adding the names of the applicants Charles C. Selhorst and Vivian B. Eusebio owners of parcel 3rd/2-8-06:17.

RECOMMENDATION: That the Board:

1. Amend its prior board action taken at its meetings of October 12, 2007, Agenda Item D-4 by adding the names of the applicants Charles C. Selhorst and Vivian B. Eusebio owners of parcel 3rd/2-8-06:17;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON *MB*
February 22, 2008

D-5

BLNR – Amend Prior Board Actions
Grant of Term Easement

Page 2

February 25, 2008

Respectfully submitted,



WH Gordon C. Heit
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

WH

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

EXHIBIT "A"

October 12, 2007

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

PSF No.:06HD-235

Hawaii

Grant of Term, Non-Exclusive Easement to Chantee Shiroma, Glenn Shiroma & Samuel Alameda for Access and Utility Purposes, Kulalmano Homesteads, South Hilo, Hawaii, Tax Map Key:3rd/2-8-06:06.

APPLICANT:

Chantee Shiroma and Glenn Shiroma, husband and wife, and Samuel Alameda, individual, as Tenants in Common, whose business and mailing address is , Hilo, Hawaii 96720.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kulalmano Homesteads South Hilo, Hawaii identified by Tax Map Key: 3rd/2-8-06:06, as shown on the attached map labeled Exhibit A.

AREA:

2.5 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Hawaii CZO: 5-acre agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES

CURRENT USE STATUS:

Vacant and unencumbered.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

October 12, 2007

BLNR - Issuance of Easement
to Shiroma et al

Page 2

October 12, 2007

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

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.

ANNUAL RENT:

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

RENTAL REOPENINGS:

Not applicable.

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. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion of use beyond that previously existing."

DCCA VERIFICATION:

Not applicable. The Applicants as landowners are 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;

REMARKS:

The subject State property identified as Tax Map Key: 3rd/2-8-06:06 is an abandoned railroad right-of-way. It was last used by the Pepeekeo Sugar Company as a cane haul road until the closure of the sugar mill. There are no other means of accessing the

Applicants property other than through this abandoned railroad right-of-way. Roadways on the northwest end of the property are private and access is not being allowed.

Grant No. 7134 was awarded to John de Souza and Izabelle de Souza husband and wife in August 1934. The original property fronted the Kulaimano Homestead road. Subsequent subdivision of the property created lots that adjoined the railroad right-of-way, which at that time were utilized by the Pepeekeo sugar company as roadway. Deed description of the Applicants property indicate frontage along the Hawaii Consolidated 60-foot right-of-way (Exhibit B).

The Applicants, owners of parcel 3rd/2-8-06:15, wish to utilize the abandoned railroad right-of-way from Kulaimano Road to their property for the purpose of access purposes as well as bringing in utility services (Exhibit C). The easement will be cleared of overgrown vegetation consisting primarily of grass and maintained with gravel to prevent soil erosion.

It is noted that the other property owners along the railroad right-of-way have not approached the State requesting access. Staff will notify the owners of parcels 16 and 17 that an easement will be necessary for them to access their properties.

The Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Various governmental agencies were solicited for comments. All respondents had no objections to the request as indicated below:

Environmental Management	No Comments
Fire Department	No Comments
Planning	No Objections
Police Department	No Objections
Public Works	No Comments
Water Department	No Objections
DOH-Environmental Management	No Comments
DHHL	No Comments
DLNR-Historic Preservation	No Response
DOT-Highways Division	No Comments
Office of Hawaiian Affairs	No Comments

RECOMMENDATION: That the Board:

1. 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.

2. 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: 3rd/2-8-06:06, 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.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to Chantee Shiroma, Glenn Shiroma & Samuel Alameda covering the subject area for access and utility 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: 3rd/2-8-06:15, 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,

Chalene S. Winkler

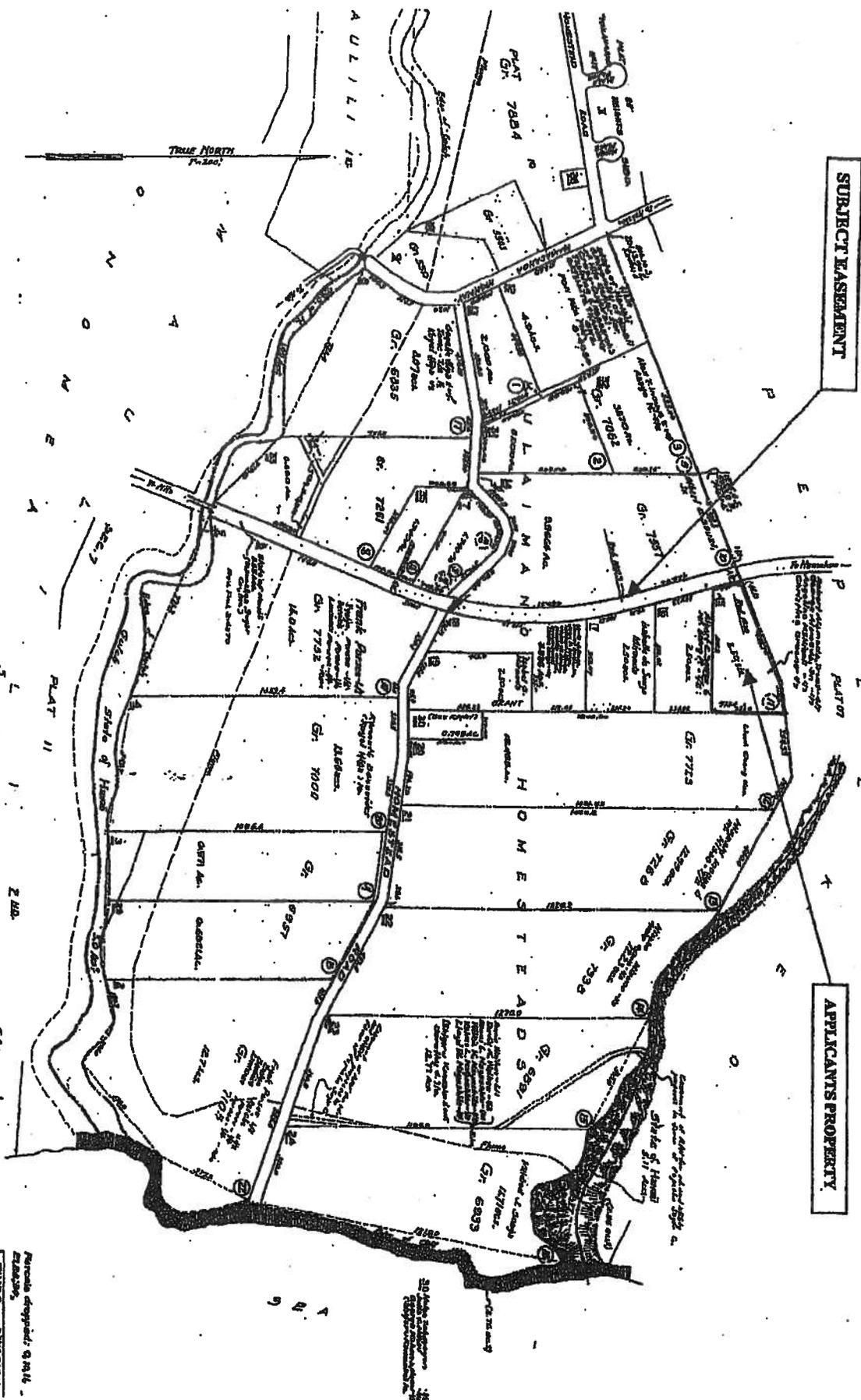
for Gordon C. Helt
Land Agent

APPROVED FOR SUBMITTAL:

for *Laura H. Thielen*
Laura H. Thielen, Interim Chairperson

TMK: 3rd/2-1-06:06

EXHIBIT A



SUBJECT EASEMENT

APPLICANT'S PROPERTY

KULUWA HOMESTEAD, SHOLE OF HAWAII, (Plat 07, Sec. 2)

APPLICANT'S PROPERTY SUBJECT TO PLAT 11

Area depicted: 9.144 - 22.222

THIRD DIVISION	2
FOUR SEC. PLAT	8
COUNTY OF HAWAII	06
SCALE: AS SHOWN	

EXHIBIT A

DEED



THIS INDENTURE made and entered into this 21st day of March, 1963, by and between RITA FLORENCE CRUMB, whose husband's name is Everett Crumb, and MARGARET KIPI, whose husband's name is Moses Kipi, both of Hilo, County and State of Hawaii, herein-after called the Grantors, and CHRISTINE GREENE, whose husband's name is Wyatt Greene, and whose residence and post office address Palolo Avenue, City and County of Honolulu, State of Hawaii, hereinafter called the Grantee, as Trustee for ROBERT ALMEIDA under the conditions and purposes of that certain Trust created in the Will of ADELAIDE DE SOUZA ALMEIDA, dated July 29, 1957, and duly admitted to probate on April 18, 1958, in the Circuit Court of the Third Circuit, State of Hawaii, in Small Estate No. 1935;

W I T N E S S E T H:

That the Grantors, for and in consideration of the sum of FOUR HUNDRED DOLLARS (\$400.00), to them in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, have sold and by these presents, do hereby bargain, sell, assign, convey and transfer unto the said Grantee, her heirs and assigns, as Trustee, 2/7 undivided interest in the following described property:

That certain piece or parcel of land situate in the District of South Hilo, County and State of Hawaii, being a portion of Lot 11, Kulaiano Homesteads, and more particularly described as follows:

Beginning at a pipe at the Southwest corner of this lot on the East side of the Hawaii Consolidated Railway 60-foot right-of-way, the coordinates of said point of beginning referred to Government Survey Trig. Station "Alala" being South 1213.91 feet and East 5501.48 feet, thence running by azimuths measured clockwise from true South:

1. 164° 58' 69.00 feet along the East side of the Hawaii Consolidated Railway 60-foot right-of-way to a pipe;
Thence along a curve to the right having a radius of 1880.08 feet, the direct azimuth and distance being:
2. 165° 37' 09" 42.83 feet to a pipe on the boundary between Pepekeo and Kulaimano;
3. 247° 49' 436.74 feet along the Land of Pepekeo to a pipe;
4. 263° 36' 120.00 feet along same to a pipe;
5. 360° 00' 286.40 feet along Lot 12, Kulaimano Homestead, to a pipe;
6. 90° 00' 495.11 feet to the point of beginning.

Containing an area of 2.50 Acres.

TOGETHER with all and singular the improvements, tenements, rights, easements, privileges, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD the same unto the said Grantee, her heirs and assigns forever, as Trustee. Subject however, to that certain unrecorded lease dated February 1, 1963, to Usa Higa for a term of time necessary to grow one crop of cane from said date.

IN WITNESS WHEREOF, the said Grantors have hereunto set their hands on the day and year first above written.

Rita Florence Crumb
RITA FLORENCE CRUMB

Margaret Kipi
MARGARET KIPI

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STATE OF HAWAII) SS:
COUNTY OF HAWAII)

On this 21st day of March, 1963, before me personally appeared RITA FLORENCE CRUMB and MARGARET KIPI, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

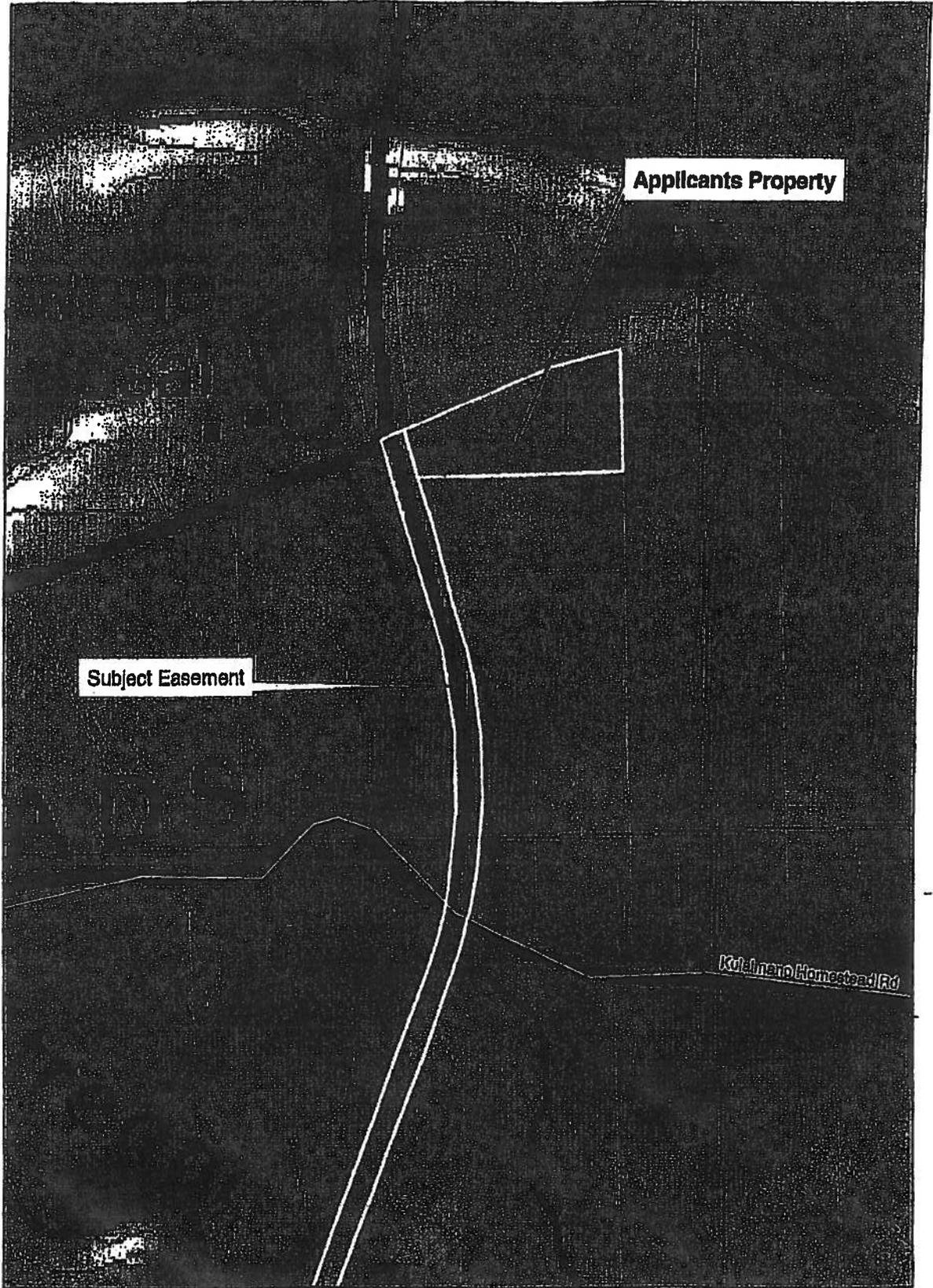


Antony Nada
Notary Public, Third Judicial
Circuit, State of Hawaii.

My commission expires July 21, 1965

Kulaimano Homesteads

EXHIBIT C



Subject Easement

Applicants Property

Kulaimano Homestead Rd

