

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

May 27, 2016

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

Maui

Forfeiture of Grant of Easement Bearing Land Office Deed No. S-28685, to Randall S. Sohler, Grantee, Kanaio, Makawao, Maui, Tax Map Key:(2) 2-1-003:Portion of 050.

PURPOSE:

Forfeiture of Grant of Easement Bearing Land Office Deed No. S-28685, Randall S. Sohler, Grantee.

LEGAL REFERENCE:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kanaio situated at Makawao, Maui, identified by Tax Map Key: (2) 2-1-003: Portion of 050, as shown on the attached map labeled Exhibit 1.

AREA:

2,927 sf, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Access and Utility purposes.

TERM OF LEASE:

Perpetual, commencing on February 4, 2004.

REMARKS:

On June 8, 2012, under agenda item D-8, (attached as Exhibit - A) staff requested Board approval for the forfeiture of Grant of Easement bearing Land Office Deed Number S-28685 to Mr. Randall S. Sohler, for Access and Utility purposes. This request was due to Mr. Sohler's failure to post the required liability insurance policy (Condition #18, Insurance Requirement). The requested action was deferred for up to ninety (90) days to allow staff to notify the other property shareholders of the default and time to resolve it.

Pursuant to the Board's recommendation, staff sent notices to all shareholders listed on the County of Maui's Real Property tax website with a listed address (Exhibit - B). Notices were also posted at the main entrance gate and at every structure on the benefiting property identified as TMK: (2) 2-1-003:027. To date, staff received one response from the listed property owners, Mr. Sheldon Holokai Jr.

Mr. Holokai was informed of the current default status of Mr. Sohler's access and utility easement. He informed staff that it was his understanding that Mr. Sohler had passed away a couple of years ago, but before his passing he had sold off his interest to the property. Mr. Holokai further indicated that although he has a share in the property, he rarely visits the area and has no plan to start using it. Therefore, at this time he isn't interested in obtaining a new easement in his name for access and utility purposes. Mr. Holokai was informed of the fact that once this easement was cancelled there would be no legal access to the property over the adjacent government land (parcel 050). He acknowledged that he understood and indicated that if there should ever be a time that he chooses to begin utilizing the property, he would then submit a request for an appropriate disposition to access the property.

RECOMMENDATION: That the Board:

1. Authorize the forfeiture of Land Office Deed No. S-28685 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under Land Office Deed No. S-28685 to be applied to any past due amounts;
3. Terminate Land Office Deed No. S-28685 and all rights of Grantee and all obligations of the Grantor effective as of April 22, 2016, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until

duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law; and

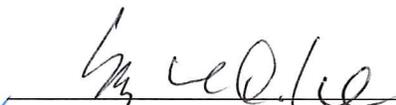
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under Land Office Deed No. S-28685, and to pursue all other rights and remedies as appropriate.
5. Authorize staff to procure services to have the existing steel gate situate within the easement area (Government land) removed and properly disposed of.

Respectfully Submitted,



Daniel Ornellas
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

DEFERRED

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

June 8, 2012

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

Maui

Forfeiture of Grant of Easement Bearing Land Office Deed No. S-28685, Randall S. Sohler, Grantee, Kanaio, Makawao, Maui, Tax Map Key: (2) 2-1-003: Portion of 050.

PURPOSE:

Forfeiture of Grant of Easement Bearing Land Office Deed No. S-28685, Randall S. Sohler, Grantee.

LEGAL REFERENCE:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kanaio situated at Makawao, Maui, identified by Tax Map Key: (2) 2-1-003: Portion of 050, as shown on the attached map labeled Exhibit 1.

AREA:

2,927 square feet, more or less.

TRUST LAND STATUS:

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

CHARACTER OF USE:

Access and Utility purposes.

REMARKS:

At it's meeting of March 22, 2002 under Item No. D-2, the Board of Land and Natural Resources approved issuance of a perpetual, non-exclusive easement to Mr. Randall S. Sohler for access and utility purposes to benefit his property at Tax Map Key No.: (2) 2-1-003:027. The subject easement encumbered an area of 2,979 square feet of State land, further identified by Tax Map Key: (2) 2-1-003:050.

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

June 8, 2012

Dr

Pursuant to the authority granted to the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in Land Office Deed S- 28685, Randall S. Sohler, Lessee, was served a Notice of Default via certified mail dated November 9, 2010, for (refer to Exhibit 2):

1. Failure to post required liability insurance policy
(Condition #18, Insurance Requirement)

Said notice was received by Mr. Sohler on November 10, 2010 and informed him that his liability insurance policy had expired on October 6, 2010. Grantee had a sixty-day cure period to correct the default. This cure period expired on January 9, 2011.

To date Mr. Sohler has not posted the required liability insurance and has not contacted staff to apprise of the status of his disposition.

A 2011 review of County of Maui Real Property Tax records indicated that Randall Sohler sold his benefiting property by means of warranty deed at Tax Map Key No.: (2) 2-1-003:027 on April 13, 2010. The deed was recorded with the Bureau of Conveyances under document no. A2010059524 (refer to Exhibit 3). Staff has been unsuccessful in locating the new owners Michael B. Draaijers and Cheryl Sellers. A notification letter dated July 20, 2011 was mailed to their address on record but was later returned by the postmaster as undeliverable.

Pursuant to a recent site inspection of the subject easement area, the portion of State land encumbered by LOD No. S-28685 is tied to a very long, undeveloped dirt and rocky road driveway which is servicing multiple habitable structures at Tax Map Key: (2) 2-1-003:027. County records do currently indicate that the benefiting property (parcel 27) is owned by a large number of persons. The thirty-two (32) parties on the Real Property Tax Office records are listed as owners of this benefiting property. In an attempt to contact parties of interest at parcel 027, staff posted notices on a steel gate at the entrance of the easement area (refer to Exhibit #4). The April 5, 2012 notice requested the landowners or users of the access easement to come forward and contact the Maui district office. To date, staff has received no response.

Page 4, paragraph 10 of Land Office Deed S-28685, does allow for the termination of the easement rights due to abandonment by the Grantee, Mr. Sohler.

Also, in light of multiple owners of the benefit property, Staff is requesting that the Board approve the forfeiture of Land Office Deed No. 28685 due to non-compliance with the terms and conditions of the access easement document originally issued to Mr. Randall S. Sohler.

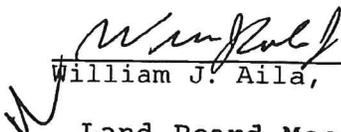
RECOMMENDATION: That the Board:

1. Authorize the forfeiture of Grant of Easement bearing Land Office Deed No. S-28685 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under Land Office Deed No. S-28685 to be applied to any past due amounts;
3. Terminate the Land Office Deed No. S-28685 and all rights of Grantee and all obligations of the Grantor effective as of May 25, 2012, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the Land Office Deed to survive termination shall endure past such termination date until duly fulfilled, and further provided that Grantor reserves all other rights and claims allowed by law;
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under Land Office Deed No. S-28685 and to pursue all other rights and remedies as appropriate.
5. Authorize staff to procure services to have the existing steel gate situate within the easement area removed and properly disposed of.

Respectfully Submitted,


Larry Pacheco, Land Agent

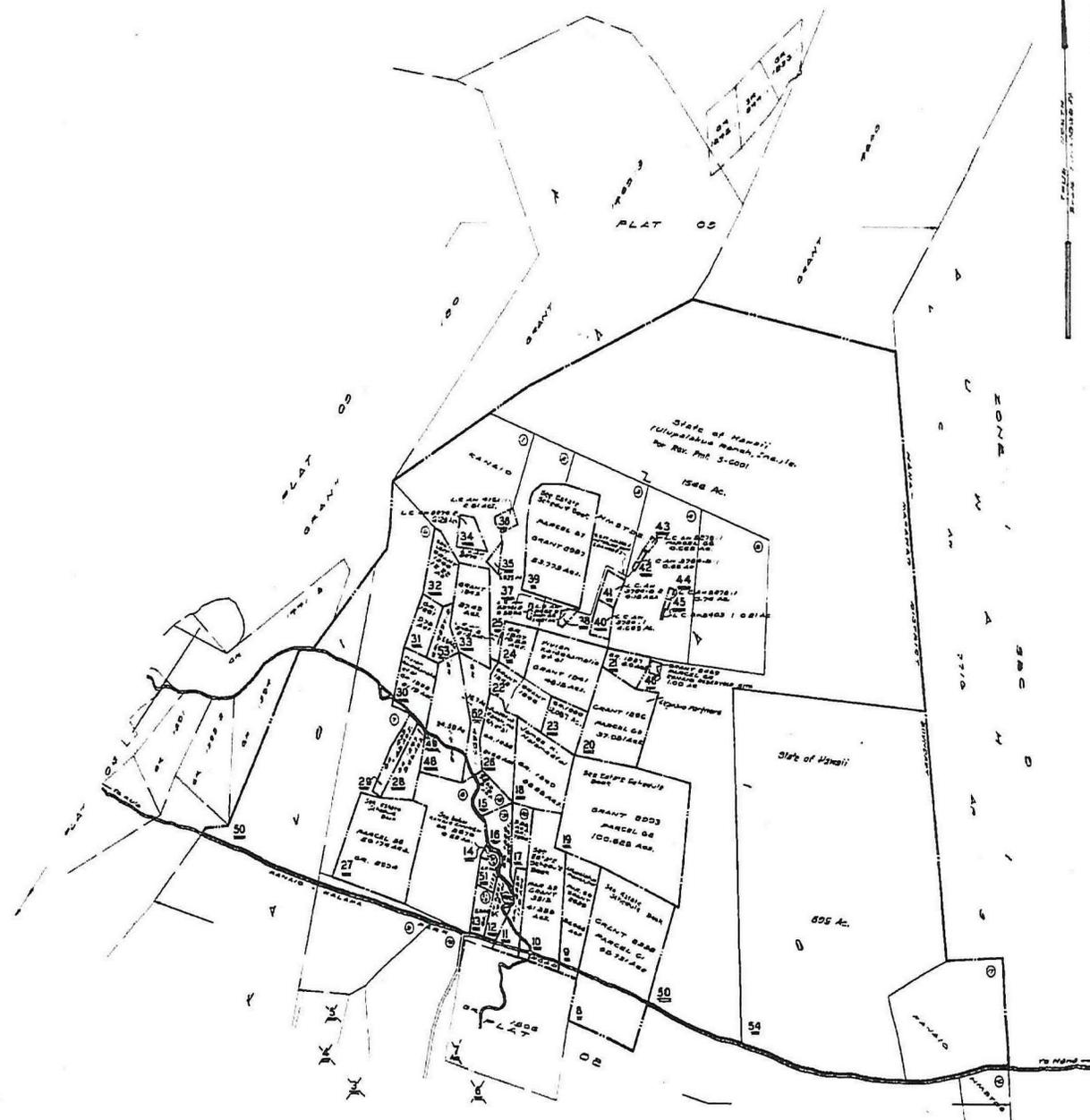
APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson

Land Board Meeting: June 8, 2012; D-8: Deferred:

Deferred up to ninety (90) days to allow staff to notify the other holders of the easement of the default and to resolve.

- 11 William Dyer et al
Trust of '72
- 12 Harry Hill et al
- 13 John G. Hill et al, Deeds 1-12
- 14 Hawaiian Agricultural Association
- 15 Mary C. Thompson et al
William C. Thompson et al
Trust of 1924
- 16 American Trust Co. et al
- 17 John H. King et al
- 18 Anthony A. James et al
Trust of 1918
- 19 United Property Co. et al
- 20 Hawaiian Ranch, Inc. et al
- 21 Hawaiian Ranch, Inc. et al
- 22 Hawaiian Ranch, Inc. et al
- 23 Hawaiian Ranch, Inc. et al
- 24 Helen B. Mandelsohn
- 25 Hawaiian Ranch, Inc. et al
Trust of 1918
- 26 Hawaiian Ranch, Inc. et al
Trust of 1918
- 27 Hawaiian Ranch, Inc. et al
Trust of 1918
- 28 Hawaiian Ranch, Inc. et al
Trust of 1918
- 29 Hawaiian Ranch, Inc. et al
Trust of 1918
- 30 Hawaiian Ranch, Inc. et al
Trust of 1918
- 31 Hawaiian Ranch, Inc. et al
Trust of 1918
- 32 Hawaiian Ranch, Inc. et al
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- 33 Hawaiian Ranch, Inc. et al
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- 34 Hawaiian Ranch, Inc. et al
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- 35 Hawaiian Ranch, Inc. et al
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- 36 Hawaiian Ranch, Inc. et al
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- 37 Hawaiian Ranch, Inc. et al
Trust of 1918
- 38 Hawaiian Ranch, Inc. et al
Trust of 1918
- 39 Hawaiian Ranch, Inc. et al
Trust of 1918
- 40 Hawaiian Ranch, Inc. et al
Trust of 1918
- 41 Hawaiian Ranch, Inc. et al
Trust of 1918
- 42 Helen B. Mandelsohn
- 43 Robert W. Bishop
- 44 John A. Raymond et al
William Dyer et al
Trust of 1924
- 45 John A. Raymond et al
William Dyer et al
Trust of 1924
- 46 John A. Raymond et al
William Dyer et al
Trust of 1924
- 47 John A. Raymond et al
William Dyer et al
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- 57 John A. Raymond et al
William Dyer et al
Trust of 1924
- 58 John A. Raymond et al
William Dyer et al
Trust of 1924
- 59 John A. Raymond et al
William Dyer et al
Trust of 1924
- 60 John A. Raymond et al
William Dyer et al
Trust of 1924
- 61 August M. & Anthony M. Pacheco et al
Trust of 1918
- 62 Hawaiian Ranch, Inc. et al



DWG NO. 10000
 SOURCE 10000
 DATE 10-1-99
 BY 10000

14. Hawaii Conference Foundation
 NOTE: For parcels where ownership is not indicated see above, left

Parcels Dropped: 1, 2, 3, 4, 5, 6, 7, 47, 49.

FOR REAL PROPERTY TAXATION PURPOSES
 SUBJECT TO CHANGE

DEPARTMENT OF TAXATION PROPERTY ASSESSMENT DIVISION TAX MAPS BRANCH STATE OF HAWAII TAX MAP		
SECOND TAXATION DIVISION		
ZONE	SEC	PLAT
2	1	03
SCALE 1 IN = 1000 FT		

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

November 9
~~July 14, 2010~~

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY
ACTING FIRST DEPUTY

LENORE N. OHYE
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ref: MD-LOD28685

CERTIFIED MAIL: 7009 0820 0001 6775 0622

RANDALL S. SOHLER

KULA, HI 96790

Dear Grantee:

NOTICE OF DEFAULT

Pursuant to the authority granted me by the Board of Land and Natural Resources at its meeting of January 11, 1980, and the breach provision contained in Grant of Non-Exclusive Easement (Land Office Deed No. S-28685), you are hereby served a Notice of Default on said easement for failure to do the following:

- X Post required Liability Insurance Policy
(Expired: 10/06/2010)

You are hereby given sixty (60) days from the date of receipt of this letter to cure the above-described breach.

Your failure to act on the above matter may result in the following:

1. Cancellation of Grant of Non-Exclusive Easement (Land Office Deed No. S-28685).
2. Retention of all sums heretofore paid under Grant of Non-Exclusive Easement (Land Office Deed No. S-28685) as liquidated damages.
3. Termination of all your rights and obligations under Grant of Non-Exclusive Easement (Land Office Deed No. S-28685).

EXHIBIT "2"

We therefore urge your fullest cooperation. Should you have any questions, please contact Mr. Daniel Ornellas of our Maui District Land Office at (808) 984-8103.

Sincerely,



LAURA H. THIELEN
Chairperson

cc: Land Board Member
District Office
Central Office



7009 0820 0001 6775 0622

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Included)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To: Randall Sohler
 Street, Apt. No., or PO Box No.
Kula, HI 96790
 City, State, ZIP+4

PS Form 3800, August 2005 See Reverse for Instructions



RECEIVED
MAUI DISTRICT
LAND DIVISION

2010 NOV 18 PM 2:14

STATE OF HAWAII
LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

November 9
July 14, 2010

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY
ACTING FIRST DEPUTY

LENORE N. OHYE
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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CONSERVATION AND COASTAL LANDS
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ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ref: MD-LOD28685

CERTIFIED MAIL: 7009 0820 0001 6775 0622

RANDALL S. SOHLER

KULA, HI 96790

Dear Grantee:

NOTICE OF DEFAULT

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Randall S. Sohler
Kula, HI 96790

MD-LOD28685 NOD kck

2. Article Number
(Transfer from service label) 7009 0820 0001 6775 0622

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
[Signature]

B. Received by (Printed Name) RANDY SATLER C. Date of Delivery 11-10-10

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

and Natural Resources at its
ed in Grant of Non-Exclusive
d a Notice of Default on said

receipt of this letter to cure the

following:

t (Land Office Deed No. S-

of Non-Exclusive Easement

ges.

3. Termination of all your rights and obligations under Grant of Non-Exclusive Easement (Land Office Deed No. S-28685).



Department of Land & Natural Resources

Bureau of Conveyances -Official Public Records

Document Number A2010059524

No. of Pages 4 pages

Fee Fee:

Computed at \$1.00 per page for documents in the system. \$4.00
Flat fee will be charged for documents not on the system.

Recording Date Recording Date:

2010-05-03

Date instrument recorded. YYYY-MM-DD

Description DEED

Grantor Grantor:

SOHLER RANDALL

Party transferring interest.

Grantee Grantee:

DRAAIJERS MICHAEL B
SELLERS CHERYL

Party acquiring interest.

TMK TMK:

Tax Map Key, Parcel identification, if known. Used for real property assessments purposes. 2-2-1-003-027-

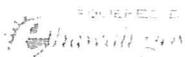
Notes Notes:

50.75 ACRE PARCEL GR 2994

Brief comments on affected interests.

Add to Cart Back

EXHIBIT " 3 "



NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

54 High Street, Room 101
Wailuku, Hawaii 96793
PHONE: (808) 984-8103
FAX: (808) 984-8111

April 5, 2012

LOD S-28685

NOTICE

To Whom It May Concern:

SUBJECT: LOD S-28685 Related to Use of Government Lands for Access Purposes, Tax Map Key: (2) 2-1-003:050 por., Kanaio, Makawao, Maui

NOTICE IS HEREBY POSTED stating that a portion of this roadway encumbers government lands identified as TMK (2) 2-1-003:050 por., and is subject to the terms and conditions of Land Office Deed (LOD) S-28685 and Hawaii Revised Statutes Chapter 171 which provides for the management of activities on government lands.

PLEASE BE ADVISED that the current holder of LOD S-28685 has abandoned their responsibilities related to the use of government lands.

USERS OF THIS GOVERNMENT EASEMENT ARE HEREBY NOTIFIED that if you do not come forward to claim responsibility for the use of government lands, then LOD-S-28685 shall be cancelled by the Board of Land and Natural Resources (BLNR).

Current landowners/users are encouraged to contact the Maui District Land Office as soon as possible. If we do not receive a response within 30 days from the date listed above, then measures will be taken which shall render TMK (2) 2-1-003:027 land locked from the government right-of-way known as Piilani Highway. Reestablishment of an authorized right-of-way shall require approval by the BLNR and payment of just consideration to the State of Hawaii. Please contact the Maui District Land Office at (808) 984-8103 to clear this matter.

By: 
Daniel Ornellas
District Land Agent

cc: District Board Member
County of Maui
Central / District Files

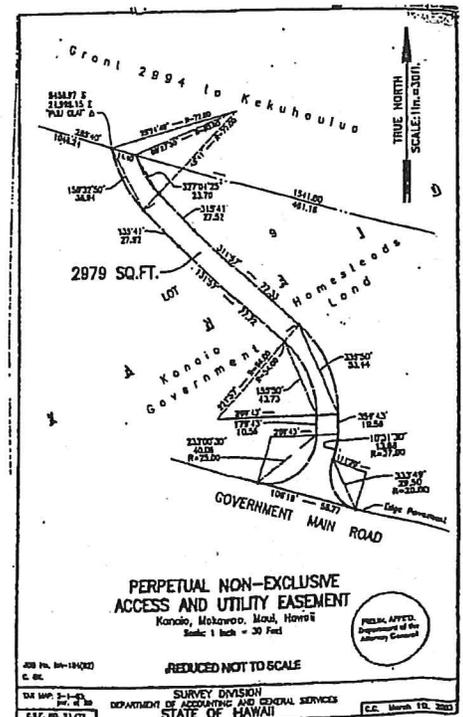
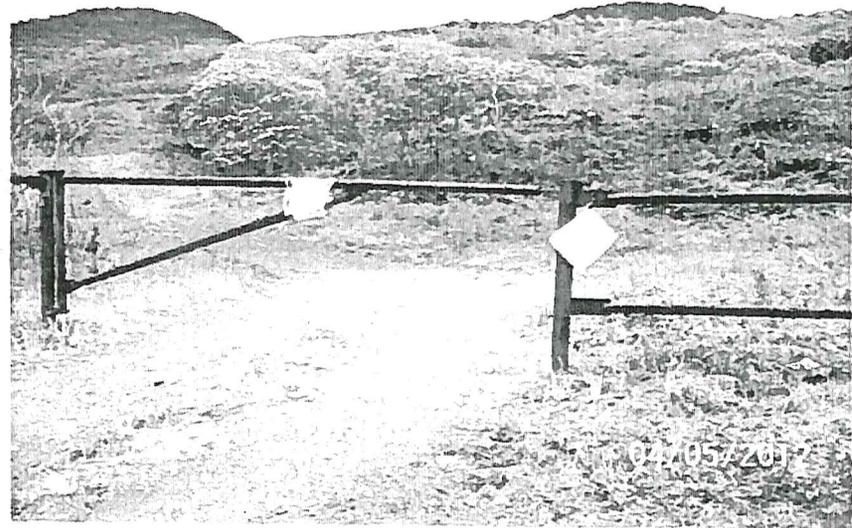


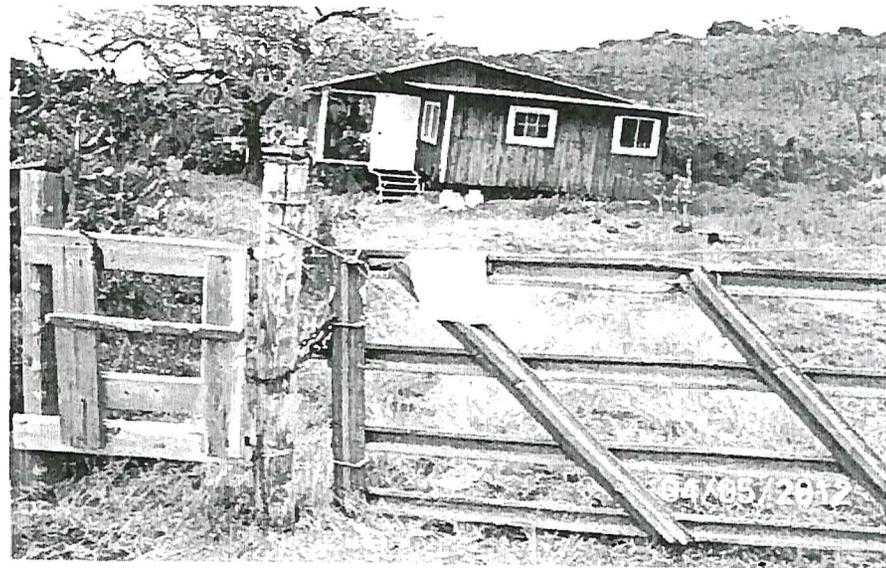
EXHIBIT "4"

Photos taken: 4 5 2012

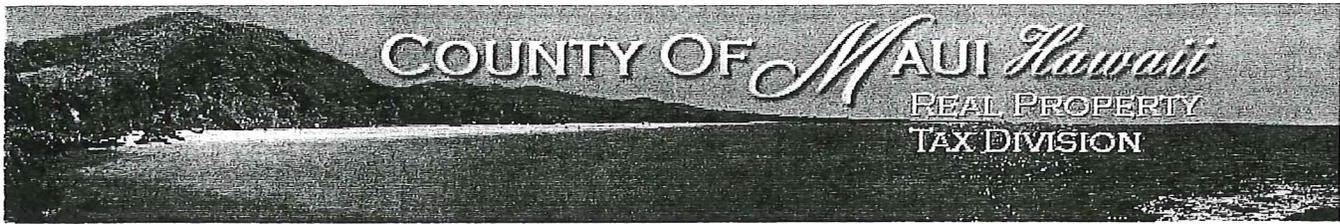
Randall Sohler, LOD- S-28685



Photos depict Notice to the easement users at LOD-S-28685, TMK: (2) 2-1-003; portion of 050.



Notice posted at the gate of the first residence on the privately owned property above the easement area.



[Recent Sales in Neighborhood](#) [Previous Parcel](#) [Next Parcel](#) [Return to Main Search Page](#) [Maui Home](#)
[Recent Sales in Area](#)

Owner and Parcel Information			
Owner Name	DRAAIJERS, MICHAEL B Fee Owner ANKOLIA, EMMA Fee Owner CLEW-DEPONTE, PAIGE L REVOC LVG TRUST Fee Owner DEPONTE, LOUIS JR TRUST Fee Owner Show All Owners and Addresses	Today's Date	June 14, 2012
Mailing Address	OLIVER, BC V0H 1T0 CANADA	Parcel Number	210030270000
Location Address			
Property Type	AGRICULTURAL	Parcel Map	Show Parcel Map
Neighborhood Code	2143-5	Land Area	50.174 Acres
Legal Information		Parcel Note	

Owner Address Information	
Owner Name	Owner Address
ANKOLIA, EMMA	
CLEW-DEPONTE, PAIGE L REVOC LVG TRUST	
DEPONTE, LOUIS JR TRUST	
DRAAIJERS, MICHAEL B	OLIVER, BC V0H 1T0
HEIRS OF KEOKI KUNUKAU	
HEIRS OF ULIANA HAKUOLE	
HOLOKAI, SHELDON	KAHULUI HI 96732 2633
HOLOKAI, SHELDON, JR	KULA HI 96790
HORVATH, FRED A	
KAANAANA	
KAUUALALENA	MAYBELLE K KAAA, ANAHOLA HI 96703 0517
KAHOLOKULA, EMMA	
KAHOLOKULA, GEORGE	
KAHOLOKULA, JOSEPH	
KAHOLOKULA, WILLIAM	HOLOKAI, SHELDON, KAHULUI HI 96732 2633
KALOHIA, BEN	
KEKAPA, JOHN	
NALEIEHA, DAISY	WAIMANALO HI 96795
PIHANA, LOUISE	
PIHANA, MARY	CHOCK, THELMA G, WAIPAHU HI 96797
PILTZ, HARRY KALEHUA, JR.	SALT LAKE CITY UT 84109
PILTZ, MARIA	
PILTZ, MARY WIGHT	
PILTZ, RANSOM/NORMA FAMILY TR	WAILUKU HI 96793
PUNOHO	
PUNOHO, ELENA	
SELLERS, CHERYL	
STIGTER, CHRISTOPHER JOHN	
UPTON, STEVEN	
UWEKO'OLANI, DOROTHY	HAIKU HI 96708

Assessment Information		Show Historical Assessments						
Year	Tax Class	Market Land Value	Agricultural Land Value	Assessed Land Value	Building Value	Total Assessed Value	Total Exemption Value	Total Net Taxable Value
2012	AGRICULTURAL	\$ 1,520,200	\$ 23,700	\$ 23,700	\$ 85,200	\$ 108,900	\$ 0	\$ 108,900

Agricultural Assessment Information

Exhibit B