

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.

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.

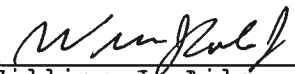
RECOMMENDATION: That the Board:

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

DWG NO: 1000  
 SOURCE: 1000  
 BY: 1000 DATE: 1000

FOR KALO B KAWAIO, HONOLULU & MAKAHOUA, MAUI

- 11. [unclear] [unclear] [unclear]
- 12. [unclear] [unclear] [unclear]
- 13. [unclear] [unclear] [unclear]
- 14. [unclear] [unclear] [unclear]
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14. [unclear] [unclear] [unclear]

NOTE: For parcels with ownerships not indicated on this plat, refer to the original plat.

Amended Ordinance 12, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

FOR REAL PROPERTY TAXATION PURPOSES  
 SUBJECT TO CHANGE

RENTED & UNRENTED PROPERTY TAX MAPS STATE OF HAWAII TAX MAP SECOND TAXATION PERIOD	
ZONE	SEC
2	1
SCALE	1" = 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

CB

**U.S. Postal Service**  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee <small>(Endorsement Required)</small>	
Restricted Delivery Fee <small>(Endorsement Required)</small>	
Total Postage & Fees	\$

Postmark  
Here

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  
HOLULU, 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**  
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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

**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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

B. Received by (Printed Name) C. Date of Delivery  
RANDALL SOHLER 11-10-10

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

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

4. Restricted Delivery? (Extra Fee)  Yes

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

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

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

ceipt 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:

**Party transferring interest.** SOHLER RANDALL

Grantee Grantee:

**Party acquiring interest.** DRAAIJERS MICHAEL B  
SELLERS CHERYL

TMK TMK:

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

Notes Notes:

**Brief comments on affected interests.** 50.75 ACRE PARCEL GR 2994

Add to Cart Back

**EXHIBIT " 3 "**







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.

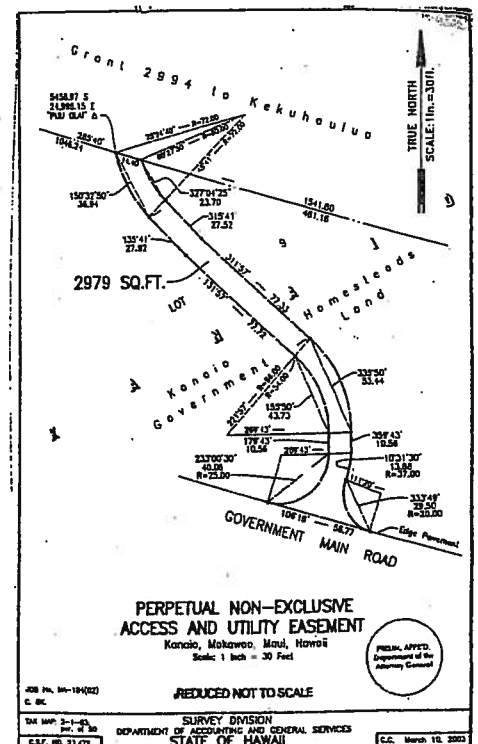
PLEASE BE ADVISED that the current holder of LOD S-28685 has abandoned their responsibilities related to the use of government lands.

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



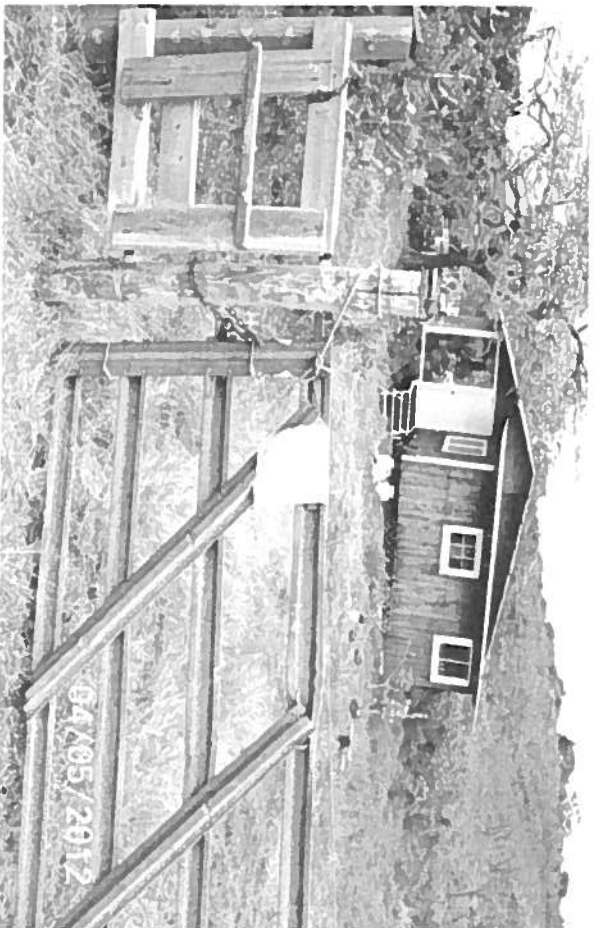
**EXHIBIT "4"**

Photos taken: 4/5/2012



Randall Sohier, 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.