

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

March 22, 2013

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

File No.: SP13AKSP01

O'ahu

Issuance of Six (6) Direct Leases to the following: Ervin H. Kahala and Lucretia I. Kahala, Thoran Fawn Evans, Moses Mahealani Kahala and Dorothy Laniola Kahala, Dutchess K. Malepe and Aviu Malepe, Lena Puanani Soliven and Darryl James Soliven, and Sherri Lynn Leimomi Johnson for Residential Purposes, Ahupua'a 'O Kahana State Park, Ko'olauloa, O'ahu, Tax Map Key: (1) 5-2-002:001 (por.)

APPLICANTS:

<u>Parcel ID</u>	<u>Proposed Lessee</u>
Lease Lot 1	Ervin H. Kahala and Lucretia I. Kahala
Lease Lot 2	Thoran Fawn Evans
Lease Lot 3	Moses Mahealani Kahala and Dorothy Laniola Kahala
Lease Lot 4	Dutchess K. Malepe and Aviu Malepe
Lease Lot 5	Lena Puanani Soliven and Darryl James Soliven
Lease Lot 6	Sherri Lynn Leimomi Johnson

LEGAL REFERENCE:

Act 15, SLH 2008 and relevant sections of Chapter 171, Hawai'i Revised Statutes

LOCATION:

Portion of Government lands of Kahana Valley State Park situated at Kahana, Ko'olauloa, O'ahu, identified by Tax Map Key: (1) 5-2-002:001 (por.), as shown on the attached descriptions and maps labeled Exhibit A.

ITEM E-1

AREA:

<u>Parcel ID</u>	<u>Area</u>
Lease Lot 1 (E. Kahala)	11,845 s.f., more or less
Lease Lot 2 (Evans)	13,956 s.f., more or less
Lease Lot 3 (M. Kahala)	11,874 s.f., more or less
Lease Lot 4 (Malepe)	12,559 s.f., more or less
Lease Lot 5 (Soliven)	12,907 s.f., more or less
Lease Lot 6 (Johnson)	12,502 s.f., more or less

Subject to confirmation by the Department of Accounting and General Services, Survey Division and described in Exhibit A.

ZONING:

State Land Use District: Conservation, Resource Subzone
 County of Honolulu CZO: Preservation

TRUST LAND STATUS:

The properties were acquired after 1959 and are not ceded land.

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

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 3518 setting aside land for Kahana Valley State Park and occupied by the applicants without documented agreement.

CHARACTER OF USE:

Living park/residential purposes.

LEASE TERM:

Beginning approximately June 1, 2013 and Ending November 30, 2058

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

In lieu of monetary rent, Lessee shall contribute in-kind services to the Department by participating in the interpretive programs at the Park in the amount of 25 hours per month for a total of 300 hours per year.

METHOD OF PAYMENT:

N/A.

RENTAL REOPENINGS:

N/A.

PERFORMANCE BOND:

N/A.

PROPERTY CHARACTERISTICS:

Utilities – Electricity and telephone. No water/sewer. Staff notes that no wastewater infrastructure is provided and the Department of Health advises no cesspools or individual wastewater systems are currently permitted on any of the lots. Lessee’s are responsible for their own wastewater solutions, if any, and shall comply with all relevant governmental regulation.

Slope - Mostly level.

Elevation - Less than 50’MSL

Rainfall - Less than 100” and subject to flooding

SCS Soil Series - Mokuleia Clay Loam and Jaucas Sand

Land Study Bureau – Types C and D

Legal access to property – Staff has verified that there is legal access to the property off of Kamehameha Highway and Kahana Valley Road.

Subdivision – Staff has verified that the subject property is not a legally subdivided lot and will be described in the lease via metes and bounds legal description. No subdivision is planned.

Encumbrances – Staff has verified that the following encumbrances exist on the property Governor’s Executive Order No. 3518

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Attached Exhibit B - Exemption Notification

DCCA VERIFICATION:

Not required as applicants are individuals not required to register with DCCA.

APPLICANT REQUIREMENTS:

None.

REMARKS:

Kahana Valley State Park, now known as Ahupua'a 'O Kahana State Park, was acquired by the State through condemnation between 1965 and 1969 as a way to prevent a proposed resort development and to retain the open space a rural character of Windward O'ahu.

Each of the six lots described in this submittal is located in the Ahupua'a 'O Kahana State Park. This request is to issue leases to the residents described herein in similar form and substance to those previously issued to other lessee's in Kahana Valley.

In 1979, The Department of Land and Natural Resources (Department) completed a Revised Environmental Impact Statement (EIS) which planned for residential use of 18 lots mauka of the community building along Kahana Valley Road and in 1992, then Governor Waihe'e accepted a Final Supplemental EIS (Supplement) for the Kahana Valley State Park which included an additional 14 residential lots along Trout Farm Road. Both the EIS and the Supplement referenced residents living in the front portions of the park and recommended they re-locate to areas further back in the valley to avoid being in the flood plain and so the front areas of the park could be used for day use and interpretive purposes. During this period, however, the front areas were used for residential purposes.

Act 5, SLH 1987, authorized the Department to issue long term residential leases to individuals who had been living on the lands and provided authorization for a residential subdivision in Kahana Valley. The law granted the Department relief from regulation regarding subdivision entitlements and construction standards. In 1993, the Department entered into 65 year leases covering 31 residential properties.

Pursuant to the terms of the leases, the residents are required to contribute at least twenty-five hours of service each month in lieu of rent. Act 238, SLH 1988, appropriated funds sufficient for 26 of the lessees to receive loans to build homes.

Since the completion of the homes and the issuance of the leases, other families have sought to obtain long term leases but the Department has been unable to issue them because Act 5 had expired. Over time, 3 of the 31 leases were forfeited due to defaults

and the issuance of new leases for these properties was delayed while legal and other issues were being evaluated.

Because of considerable controversy surrounding the Department's plans to evict occupants who remained on the property fronting the park, the Legislature enacted Act 15, SLH 2008, which prevented the Department from any evictions in Kahana for a period of two years. The law authorized the Department to negotiate and enter into long-term residential leases for sites in state parks under certain conditions. Act 15 also created the Living Park Planning Council (Council), placed within the DLNR for administrative purposes. The purpose of the Council was to create a master plan and advise the Department of matters pertaining to the park.

In a letter dated January 17, 2011 from Ralph K. Makaiau, Jr., Chair of the Hawai'i State Kahana Valley Living Park Planning Council, to Chairperson Aila, Mr. Makaiau recommended the Board approve granting six (6) new leases to each of the individuals named in this submittal based on 1), the Council's role pursuant to Act 15 and 2), a vote taken at the Council's December 15, 2010 meeting authorizing the letter. The six (6) proposed lessees had occupied the property prior to Act 15 and remain there today.

The locations of the six (6) lots were originally planned for park and interpretive use and residents were encouraged to locate homes further mauka. The State Parks discouraged the use of these lands for residential purposes because the use was not consistent with existing plans and because there would be permitting challenges due to being in a floodplain. Because of this, the lots were not subdivided. Despite the recommendation, however, the residents held to their desire to remain in their present locations.

State Parks recommends the Board approve the issuance of the leases and although the location of the lots is not ideal, leases would afford residents the ability to remain in their homes and continue being an integral part of the living park concept. The leases would simply document a use that has been in place for many years and no new changes and/or construction are contemplated for this area of the park.

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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 issuance of a direct leases to the residents described in this submittal covering the subject area 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 lease document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Delegate the authority to the Chairperson to determine the precise boundaries of the lots and other terms and conditions necessary to complete the lease agreements.

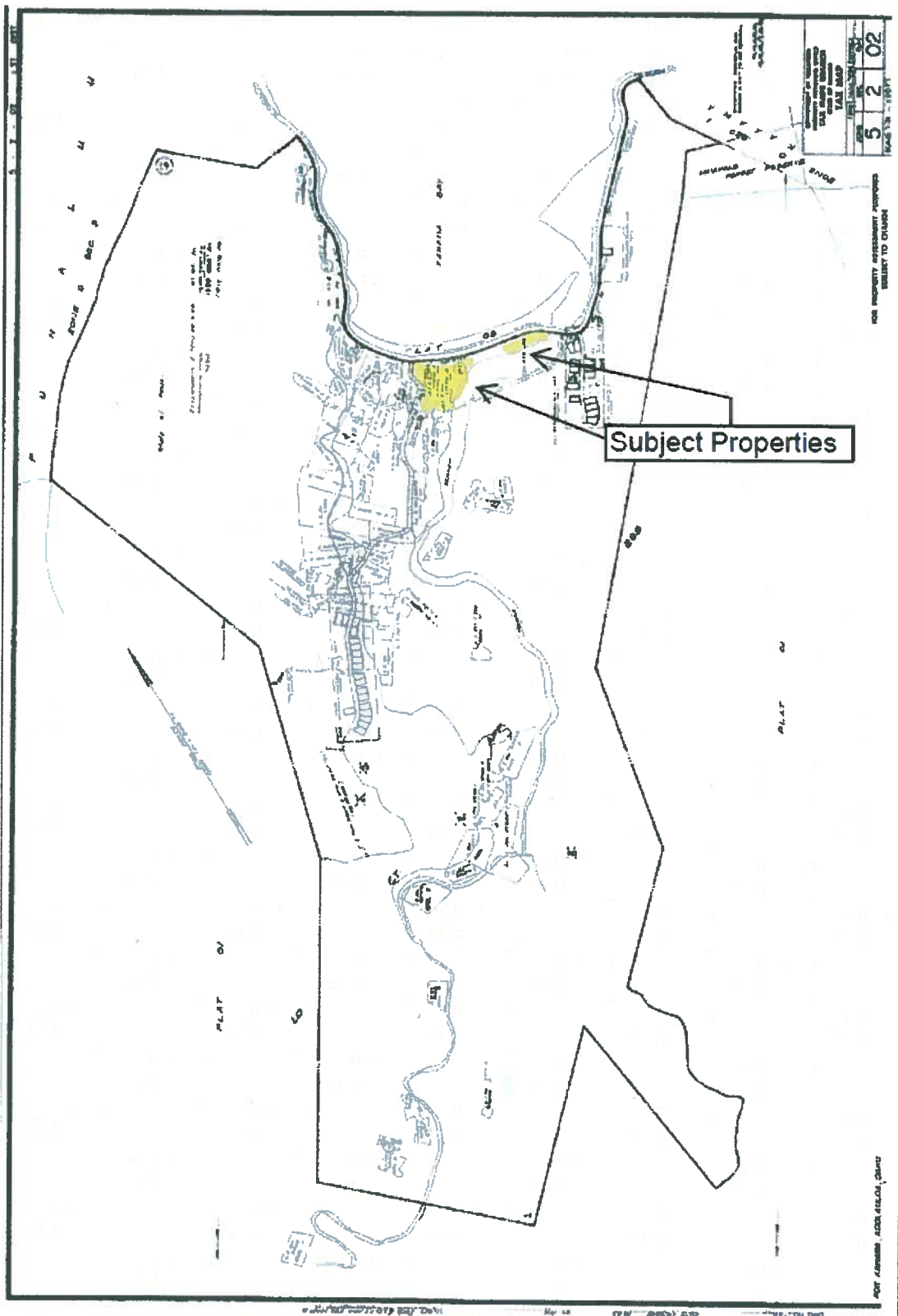
Respectfully Submitted,

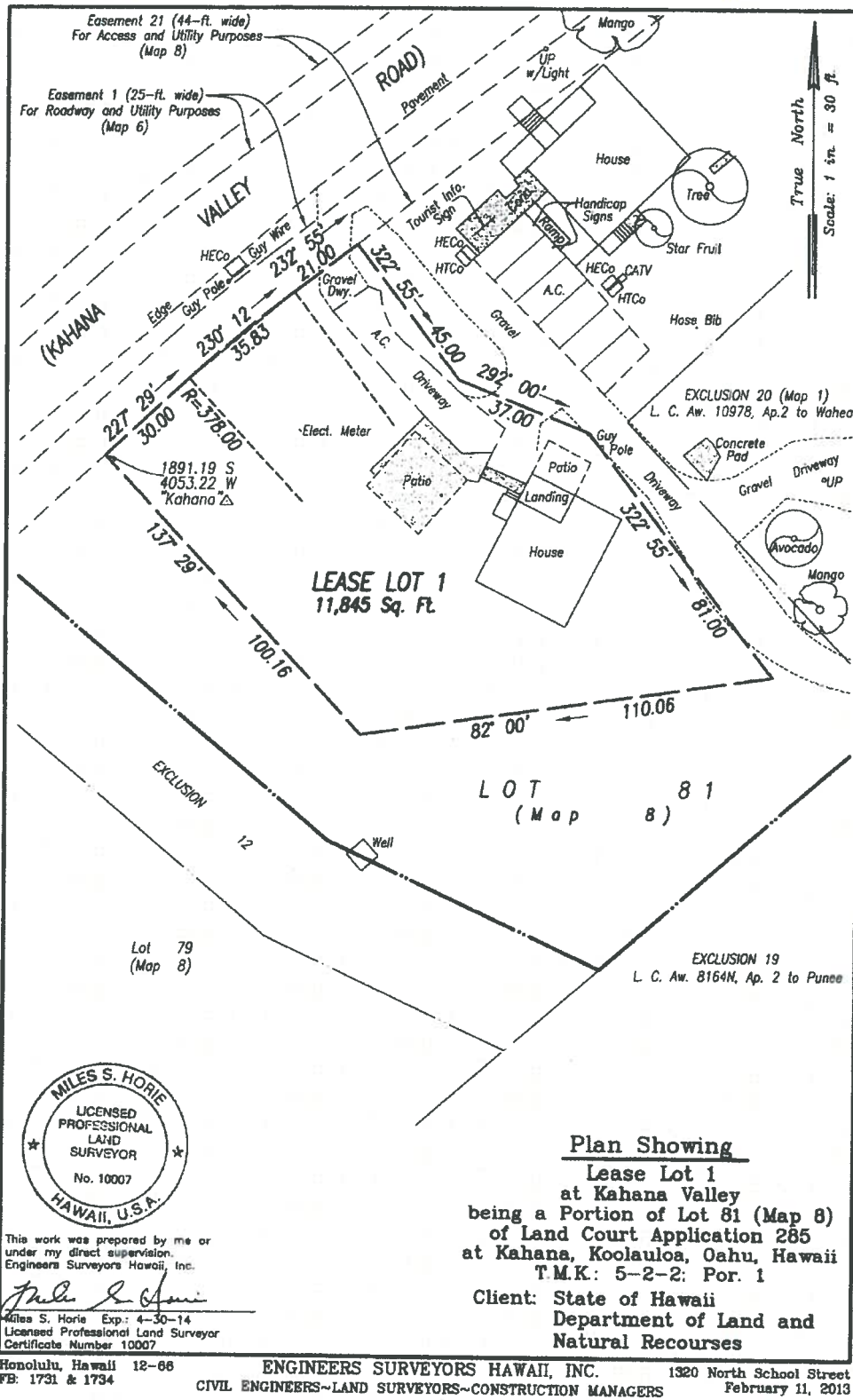

DANIEL S. QUINN
Administrator

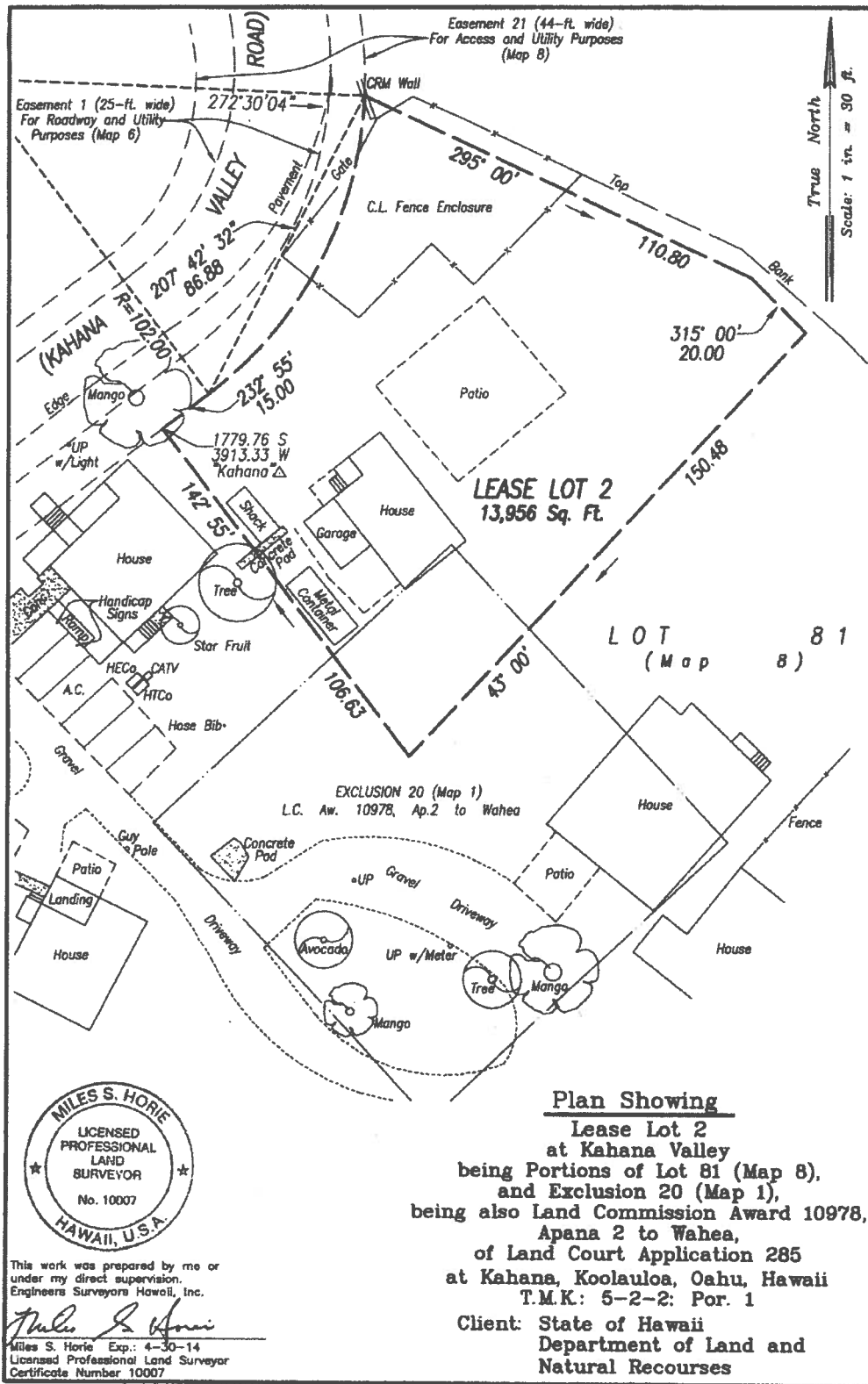
APPROVED FOR SUBMITTAL:

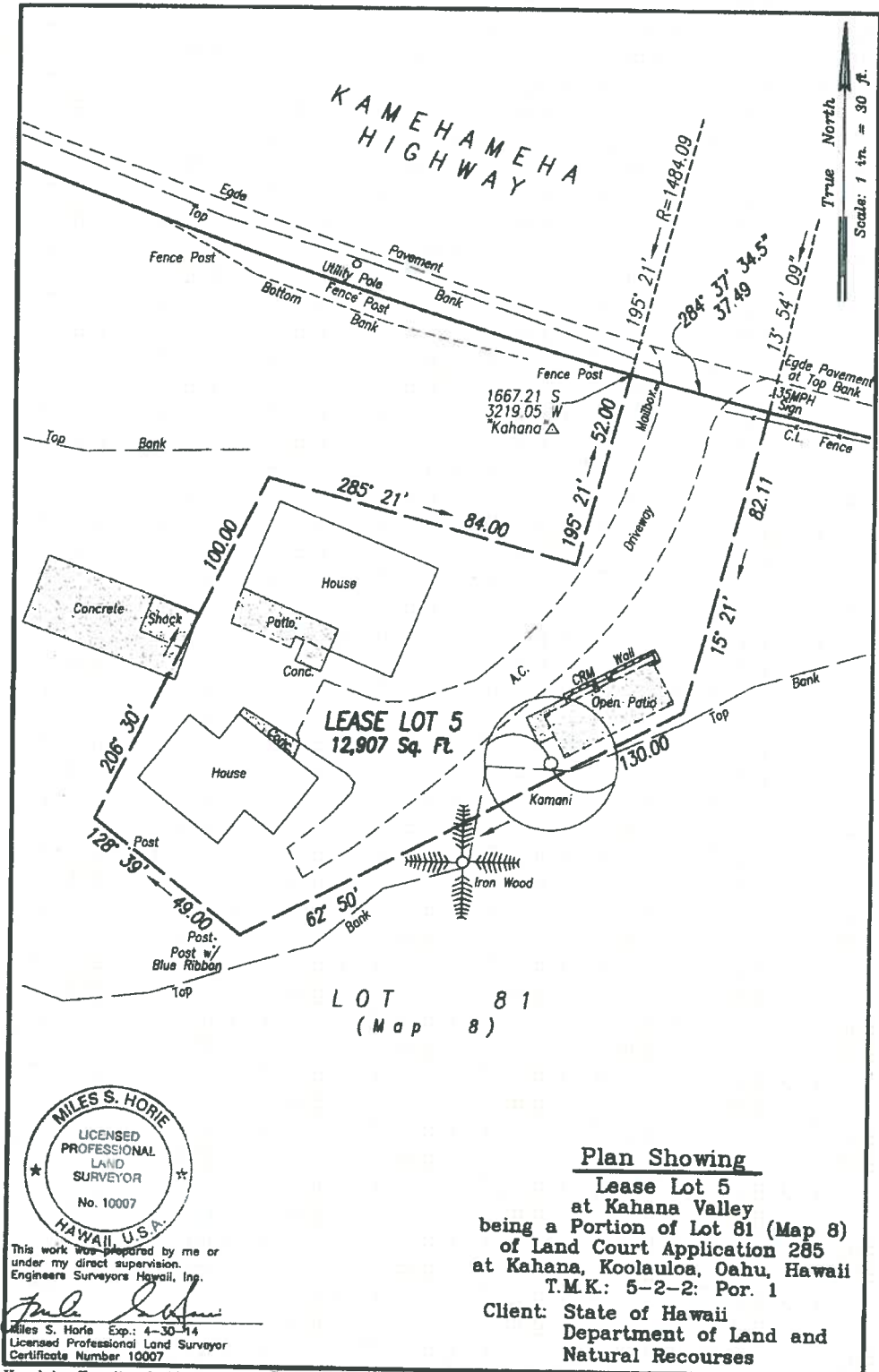

William J. Aila, Jr., Chairperson

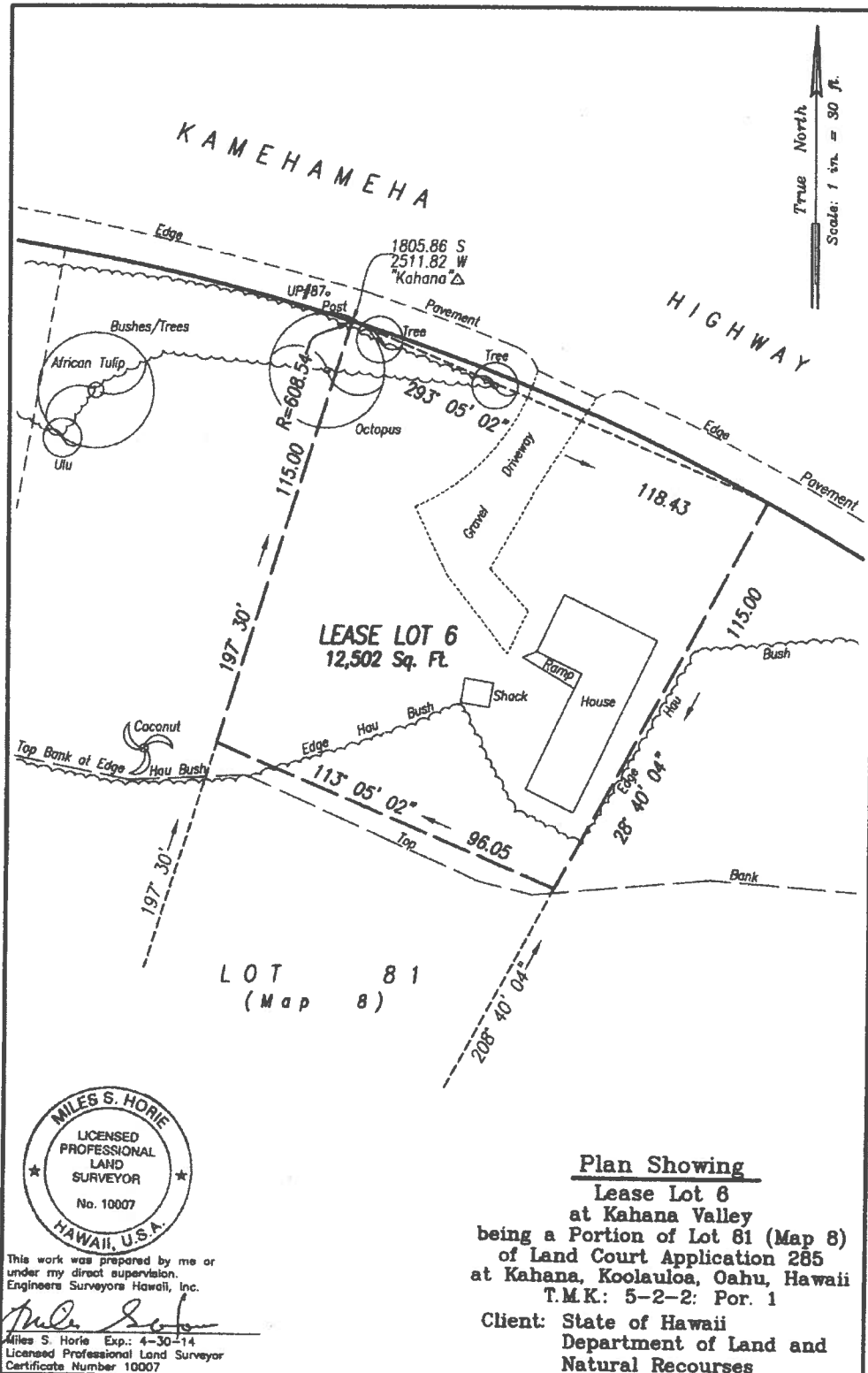
EXHIBIT A - Tax Map Key and Lot Maps











This work was prepared by me or under my direct supervision. Engineers Surveyors Hawaii, Inc.
Miles S. Horie
 Miles S. Horie Exp.: 4-30-14
 Licensed Professional Land Surveyor
 Certificate Number 10007

Plan Showing
 Lease Lot 6
 at Kahana Valley
 being a Portion of Lot 81 (Map 8)
 of Land Court Application 285
 at Kahana, Koolauloa, Oahu, Hawaii
 T.M.K.: 5-2-2: Por. 1

Client: State of Hawaii
 Department of Land and
 Natural Resources

Honolulu, Hawaii 12-66
 FB: 1731 & 1734

ENGINEERS SURVEYORS HAWAII, INC.
 CIVIL ENGINEERS~LAND SURVEYORS~CONSTRUCTION MANAGERS

1320 North School Street
 February 11, 2013

EXHIBIT B – Exemption Notification

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

DIVISION OF STATE PARKS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

PAUL J. CONRY
DEPUTY FIRST DEPUTY

WILLIAM M. TAM
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

EXEMPTION NOTIFICATION

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

Project Title: Issuance of Six (6) Direct Leases to the following: Ervin H. Kāhala and Lucretia I. Kāhala, Thoran Fawn Evans, Moses Mahealani Kāhala and Dorothy Laniola Kahala, Dutchess K. Malepe and Aviu Malepe, Lena Puanani Soliven and Darryl James Soliven, and Sherri Lynn Leimomi Johnson for Residential Purposes, Ahupua‘a ‘O Kahana State Park, Ko‘olauloa, O‘ahu, Tax Map Key: (1) 5-2-002:001 (por.)

Project / Reference No.: SP13AKSP01

Project Location: Portion of Government lands of Kahana Valley State Park situated at Kahana, Ko‘olauloa, O‘ahu, identified by Tax Map Key: (1) 5-2-002:001 (por.),

Project Description: Kahana Valley Leases for Six (6) Families

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Number 3 of the State Parks Exemption List which states “Cabins, pavilions, picnic and trail shelters, utility buildings and shed -- within developed, maintained portions of State Parks [February 5, 1976] and Exemption Class 4 which exempts minor alteration in the conditions of land, water, or vegetation [HAR Section 11-200-8(a)(4)].

Consulted Parties: DLNR/Land Division

Recommendation: It is recommended that the Board find that 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.

William J. Aila Jr., Chairperson