

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

September 27, 2013

Ref. No.: EO 3244
PSF No.: 13HD-127

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

HAWAII

Cancellation of Governor's Executive Order No. 3244 and Reset Aside to Department of Education for Teachers' Cottage Purposes, Paalaea 1 & 2, Hamakua, Hawaii, Tax Map Key: (3) 4-5-001:011.

CONTROLLING AGENCY:

Hawaii Public Housing Authority (HPHA)

APPLICANT:

Department of Education (DOE)

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of the Honokaa Teachers' Cottage Lot at Paalaea 1 & 2, Hamakua, Hawaii, identified by Tax Map Key: (3) 4-5-001:011, as shown on the attached map labeled Exhibit A.

AREA:

4.429 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Hawaii CZO:

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

YES NO

CURRENT USE STATUS:

Governor's Executive Order No. 3244 setting aside 4.429 acres to Hawaii Public Housing Authority for Teachers' Cottage purposes.

PURPOSE OF SET ASIDE:

Department of Education for Teachers' Cottage purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached below as Exhibit B.

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 or change of use beyond that previously existing."

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

The subject property consists of 4.429 acres and is currently encumbered under Governor's Executive Order No. 3244, to the Hawaii Public Housing Authority (HPHA) for Teachers' Cottage purposes, dated June 6, 1984.

By memorandum dated October 5, 2012, Mr. Hakim Ouansafi, Executive Director, HPHA, requested Land Board approval to cancel Governor's Executive Order No. 3244 and to re-set aside such lands to the Department of Education for Teachers' Cottage purposes.

The purpose of the request is to transfer the administration of the teachers' housing program from the HPHA to the Department of Education. Correspondence is on file from Ms. Kathryn S. Matayoshi, Superintendent, Department of Education, Chad Taniguchi, Executive Director (formerly), HPHA, and Mr. Hakim Ouansafi, Executive Director (presently), HPHA, relating to the their agreement to accept the property in an "as is" condition and acknowledge the transfer of the teachers' housing program made on July 1, 2008, pursuant to Act 204, SLH 2005. See Exhibit C (copies of the referenced correspondence without the numerous attachments identified therein).

Our standard requirement for taking property back into the DLNR inventory is to have the controlling agency conduct a Level one (1) hazardous waste evaluation (HWE) prior to the cancellation of the subject executive order. In this particular case, the use of the parcel is not being terminated to relieve the HPHA of its Level 1 HWE obligations. The DOE has agreed to take the land and improvements thereon in an "as is, where is, with all faults and defects, whether patent or latent" condition. Executive Order No. 3244 is being mutually cancelled, so a new executive order for use of the same teachers' cottage will be issued to the DOE. The mutual cancellation and new executive order will be executed simultaneously, and there will be no break in tenancy. Under these circumstances, staff does not believe a Level I HWE should be required, and recommends that the Level I HWE be deferred to such time as a termination occurs under the new executive order.

This request is being made for record keeping/maintenance purposes as the transfer of jurisdiction of the teachers' cottage from HPHA to DOE was never properly documented and executed.

No comments were solicited from government agencies or interest groups as there will be no change in land use of the subject property.

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. Approve of and recommend to the Governor issuance of an executive order canceling Governor's Executive Order No. 3244 and subject to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or

- special session next following the date of the setting aside;
- 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.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Education under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
- A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - 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.
4. Authorize the issuance of an immediate management right-of-entry to the Department of Education, for the planning, constructing, repair, maintaining, and operating of the teachers' cottage, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
- A. The standard terms and conditions of the most current management right-of-entry form, as may be amended from time to time;
 - B. The term of this management right-of-entry shall commence upon date of this Land Board action and shall expire upon the issuance of the subject set aside document; and

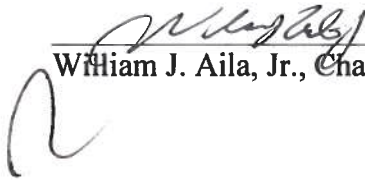
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

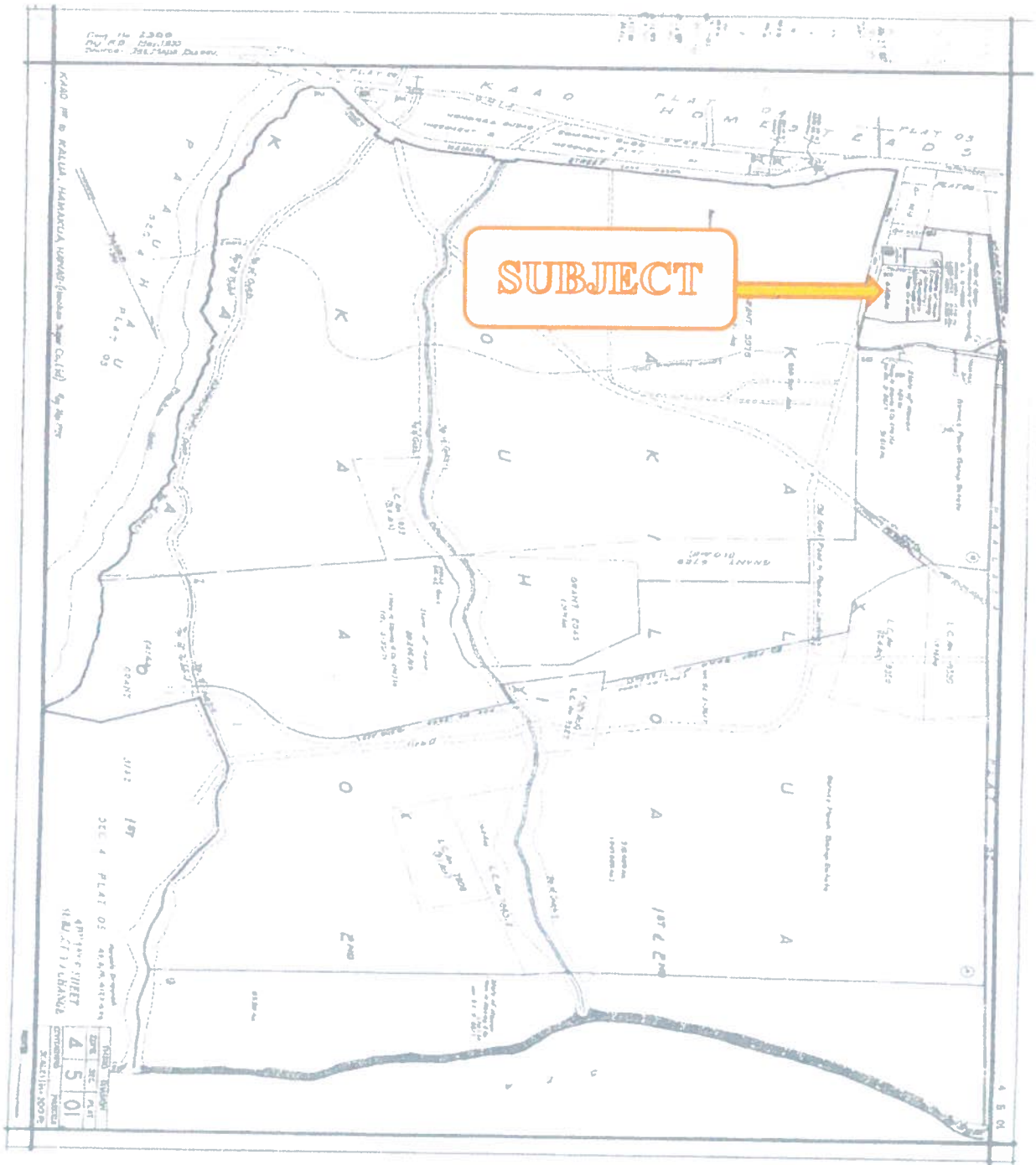


EXHIBIT A

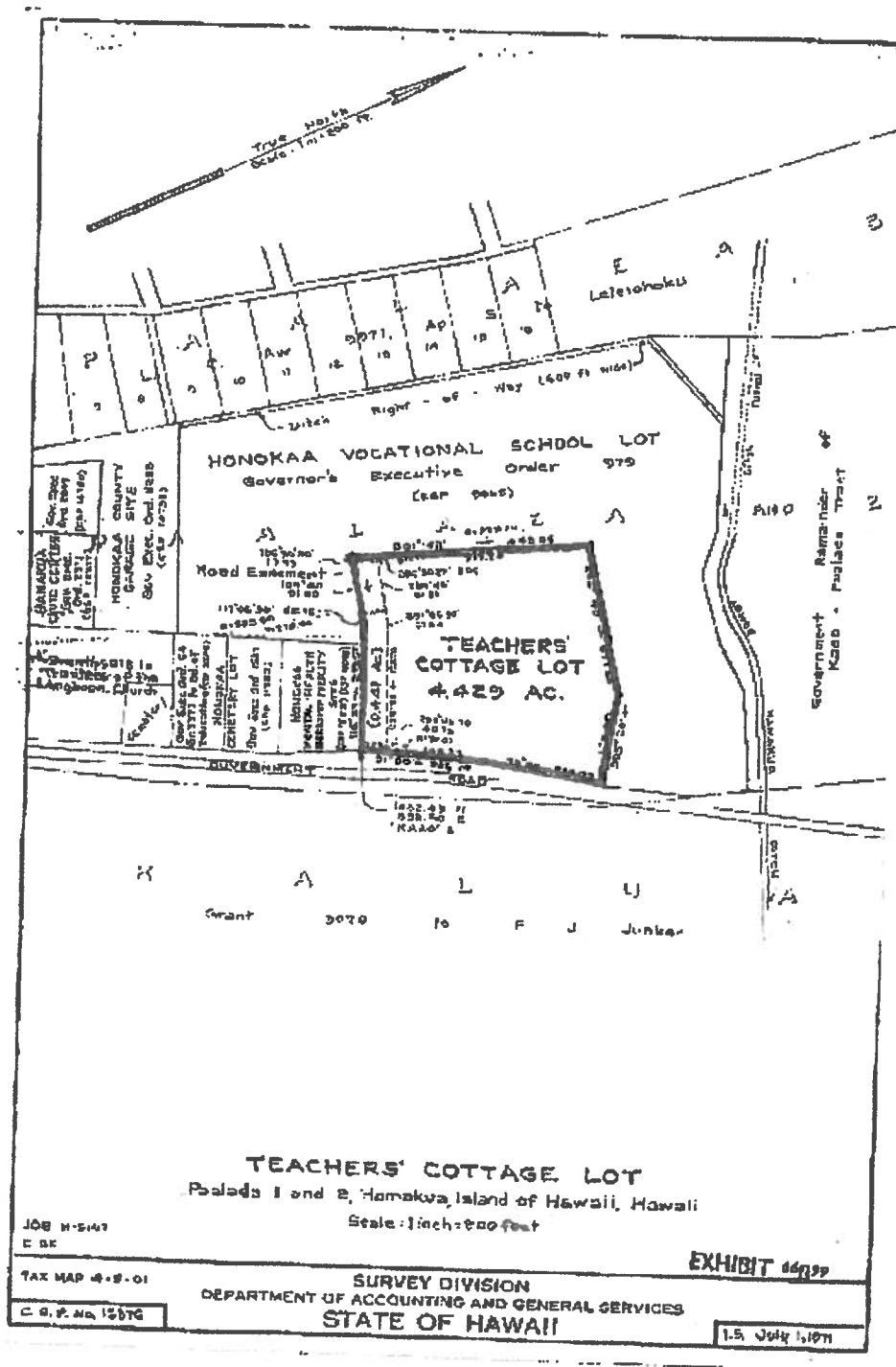


EXHIBIT A



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 23, 2013

EXEMPTION NOTIFICATION

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

Project Title: Set aside of Honokaa Teachers' Cottage to the Department of Education.

Project / Reference No.: 13HD-127

Project Location: Paalaea 1 & 2, Hamakua, Hawaii, TMK: (3) 4-5-001:011.

Project Description: Set Aside of former Honokaa Teachers' Cottage to DOE.

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

Exemption Class No. and Description: In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to:

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

This action before the Board is merely a transfer of management jurisdiction and does not constitute an "action" that triggers the need for an environmental assessment.

Exemption Item Description from Agency Exemption List: Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing.


Consulted Parties:

Recommendation: The set-aside to transfer land jurisdiction from the Hawaii Public Housing Authority (HPHA) to the Department of Education (DOE) will probably have minimal or no significant effect on the environment. It is recommended that the Board

of Land and Natural Resources find that the proposed action is exempt from the preparation of an environmental assessment.



William J. Aila, Jr., Chairperson



Date 8/30/03

EXHIBIT B

NEIL ABERCROMBIE
GOVERNOR



RECEIVED
LAND DIVISION

HAKIM OUANSAFI
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
P.O. BOX 17907
Honolulu, Hawaii 96817

2012 OCT 11 A 10:10
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII
BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT
IN REPLY REFER TO
12:CMS/101

October 5, 2012

Mr. Russell Y. Tsuji
Land Division Administrator
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

RECEIVED
LAND DIVISION
HILO, HAWAII
2012 OCT 15 P 4:05

Dear Mr. Tsuji:

Subject: Request for Cancellation of Executive Order No. 3244 and New Executive Order to Reset Aside Such Lands (Honoka'a Teachers' Cottages, 4.429 acres; TMK (3) 4-5-001:011)

The Hawaii Public Housing Authority (HPHA) requests approval of the Board of Land and Natural Resources, regarding Honoka'a Teachers' Cottages, as follows: Cancellation of Executive Order No. 3244 to withdraw lands and a new Executive Order to reset aside such lands to the Department of Education (DOE) for Teachers' Cottage purposes, pursuant to Act 204, Session Laws of Hawaii 2005, as amended, and as codified within section 302A-831, Hawaii Revised Statutes (hereinafter "Request").

Please find two copies of the following incorporated documents in support of this Request:

1. Attachment 1: Site Plan of Honoka'a Teachers' Cottages at Honoka'a, Hawaii.
2. Attachment 2: Executive Order No.3244 (with internal Exhibits A and B).
3. Attachment 3: July 30, 2012 letter request to the DOE from the HPHA for DOE Acknowledgement and Acceptance of Teachers' Housing Program, pursuant to Act 204, Session Laws of Hawaii 2005 (hereinafter "Transfer").
4. Attachment 4: Executed Acknowledgement and Acceptance of the Transfer, effective July 1, 2008, by and between the DOE and by the HPHA.
5. Attachment 5: Act 204, Session Laws of Hawaii 2005.
6. Attachment 6: Section 302A-831, Hawaii Revised Statutes (HRS).

AN EQUAL OPPORTUNITY AGENCY

EXHIBIT C

Mr. Russell Y. Tsuji
October 5, 2012
Page 2

7. Attachment 7: July 30, 2008 letter to the Department of Accounting and General Services from the HPHA, regarding the Transfer.

As reflected within Attachments 1 through 7, the administration of the Teachers' Housing program was transferred to the DOE from the HPHA, effective July 1, 2008, under Act 204, Session Laws of Hawaii 2005, as amended, and as codified in section 302A-831, HRS.

The HPHA therefore submits this Request to the Board of Land and Natural Resources for approval to cancel Executive Order No. 3244 and to issue a new executive order to reset such lands to the DOE, regarding Honoka'a Teachers' Cottages, TMK (3) 4-5-001:011, situate at Honoka'a, Hawaii.

If you should have any questions regarding this request, please contact Mr. Nicholas Birck, Chief Planner at (808) 832-4673. Thank you for your attention to this matter.

Sincerely,



Hakim Ouansafi
Executive Director

c: Kathryn Matayoshi, Superintendent
Department of Education

EXHIBIT C

AN EQUAL OPPORTUNITY EMPLOYER

NEIL ABERCROMBIE
GOVERNOR



2 AUG -6 P2:24

HAKIM QUANSAFI
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
P.O. BOX 17907
Honolulu, Hawaii 96817

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

IN REPLY REFER TO:

12:CMS/057

JUL 31 2012

July 30, 2012

The Honorable Kathryn S. Matayoshi
Superintendent
Raymond L'Heureux
Assistant Superintendent
The Department of Education
Office of School Facilities and Support Services
State of Hawai'i
P.O. Box 2360
Honolulu, Hawai'i 96804

Subject: Acknowledgement of Transfer of Teachers' Housing Program From HPHA to DOE pursuant Act 249, SLH 2004, as amended by Act 204, SLH 2005

Dear Superintendent Matayoshi and Assistant Superintendent L'Heureux:

The purpose of this letter is to respectfully request your acknowledgement of the transfer of the Teacher Housing program which was under the control and management of the Hawai'i Public Housing Authority (HPHA), and its predecessor entities, up to July 1, 2008, when the program and the teachers' housing properties were transferred in an as-is condition to the Department of Education in accordance with Act 204, SLH 2005. Accordingly, Act 204 effectively by operation of law, cancelled the respective Executive Orders which previously had assigned the Teachers Housing properties to HPHA or its predecessors (See, Exhibits "A", Session Law 2005, Act 204, A Bill for an Act Relating to Education, "B", Session Law 2007, Act 204, which recognizes Housing and Community Development Corporation of Hawaii as the Hawaii Public Housing Authority, and "C", Subpart E, Teachers' Housing, attached).

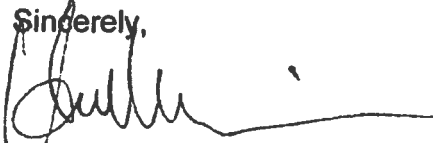
Our present request is actually due because of a recent request we received from the Department of Land and Natural Resources (DLNR) Land Management Branch that for its own record purposes, DLNR requires a formal documented acknowledgement that DOE accepted the as-is transfer, control and management of the various Teachers Housing Program and the respective properties and cottages from HPHA on July 1, 2008. (See also, Exhibit "D", July 30, 2008 letter from HPHA executive director Chad Taniguchi to Wayne Horie, Department of Accounting and General Services).

EXHIBIT C

The Honorable Kathryn S. Matayoshi
Superintendent
Raymond L'Heureux
Assistant Superintendent
July 23, 2012
Page 2

We appreciate your cooperation and assistance in formally executing the attached Acknowledgment for DLNR's purposes and completing what essentially had already been accomplished on July 1, 2008, and return to us for final processing. If you have any questions, please feel free to contact me at (808) 832-4694 or Ms. Becky Choi, State Housing Development Administrator at (808) 832-5315.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hakim Ouansafi', with a long horizontal flourish extending to the right.

Hakim Ouansafi
Executive Director

EXHIBIT C

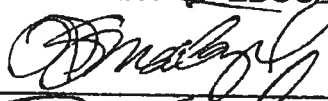
**ACKNOWLEDGEMENT AND ACCEPTANCE
OF TEACHERS HOUSING PROGRAM
PURSUANT TO ACT 204, SLH 205**

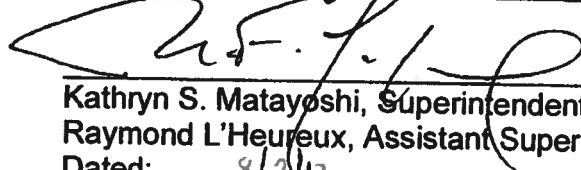
The Department of Education (DOE), State of Hawai'i, and the Hawai'i Public Housing Authority (HPHA), hereby agree and acknowledge, that pursuant to Act 204, SLH 2005, the Teachers Housing Program, including the responsibility, management and control of the respective properties and fixtures included in the Program in their present condition, were transferred to, and accepted by, DOE, on July 1, 2008.

ACKNOWLEDGED AND AGREED:

DEPARTMENT OF EDUCATION

By:

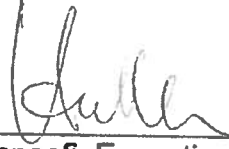




Kathryn S. Matayoshi, Superintendent
Raymond L'Heureux, Assistant Superintendent
Dated: 8/24/12

HAWAI'I PUBLIC HOUSING AUTHORITY

By:



Hakim Ouansafi, Executive Director
Dated: AUG 09 2012

EXHIBIT C

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
POST OFFICE BOX 17907
Honolulu, Hawaii 96817
FAX: (808) 832-4879
July 30, 2008

CHAD K. TANIGUCHI
EXECUTIVE DIRECTOR

BARBARA E. ARASHI
EXECUTIVE ASSISTANT

IN REPLY REFER TO:
08:PM 143

Wayne Horie
Accounting Division
Department of Accounting and General Services
1151 Punchbowl Street
Honolulu, Hawaii 96813

Dear Mr. Horie:

In accordance with Act 204, SLH 2005, the responsibility for the Teacher Housing program has been transferred to the Department of Education, effective July 1, 2008.

Because all revenues for the Teacher Housing Program are deposited in the program accounts and to facilitate the transfer, the Hawaii Public Housing Authority (HPHA) authorizes the Department of Education representative to sign all payroll deduction forms (D-60) canceling deductions previously initiated by the Housing and Community Development Corporation of Hawaii (HCDCH) or HPHA for cottage rentals.

If you should have any questions, please contact Mr. Michael Hee of my staff at 832-4691.

Sincerely,

A handwritten signature in cursive script that reads "Chad K. Taniguchi".

Chad K. Taniguchi
Executive Director

Dispatched:

replied

7/20/08

Date

EXHIBIT C