

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
MITSUGI and FUSAKO YAMAMURA) DOCKET NO. A78-442
To Amend the Agricultural Land Use) MITSUGI and FUSAKO YAMAMURA
District Boundary to Reclassify)
Approximately 5.584 Acres, TMK:)
2-7-03: portion of Parcel 65, at)
Haiku, Makawao District, Island)
and County of Maui, into the Rural)
Land Use District)

DECISION AND ORDER

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Haiku, Makawao District, Island)
and County of Maui, into the Rural)
Land Use District)

DECISION

THE PETITION

This matter arises from a petition for an amendment to the Land Use Commission district boundary filed pursuant to Section 205-4 of the Hawaii Revised Statutes, as amended, and Part VI, Rule 6-1 of the Land Use Commission's Rules of Practice and Procedure and District Regulations by the fee owners of the property who are requesting that the designation for the subject property be amended from Agricultural to the Rural district. The requested change consists of property comprising approximately 5.584 acres of land situated at Haiku, Island and County of Maui. The property is more specifically identified as Tax Map Key No. 2-7-03: portion of Parcel 65.

PURPOSE OF PETITION

Petitioners' stated purpose for requesting the reclassification of the subject property from Agricultural to Rural is so that Petitioners can subdivide the property into ten (10) lots and to convey the same to immediate members of their family, including their grandchildren,

so that they may have the opportunity of building their own residences on the subject property.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on August 7, 1978. Due notice of the hearing on this Petition was published in the Honolulu Advertiser and the Maui News on November 1, 1978. Notice of the hearing was also sent by certified mail to all parties involved herein on October 31, 1978, and no timely application for intervention or request to appear as a witness was received by the Land Use Commission.

THE HEARING

The hearing on this Petition was held on December 5, 1978, in Kahului, Maui, Hawaii.

The Petitioners herein were represented by Meyer Ueoka, Esq.; Maui County Planning Department was represented by Roy Yempuku, Esq.; and the Department of Planning and Economic Development was represented by Tatsuo Fujimoto.

POSITION OF THE PARTIES

Maui County Planning Department - Approval.

Department of Planning and Economic Development - Approval.

APPLICABLE REGULATION

Standards for determining the establishment of a Rural District is found under Part II, Section 2-2(4) of the State Land Use Commission's District Regulations. Said regulation provides in pertinent part that:

"(4) 'R' Rural District. In determining the boundaries for the 'R' Rural District, the following standards shall apply:

- (a) Areas consisting of small farms; provided that such areas need not

be included in this District if their inclusion will alter the general characteristics of the areas.

- (b) Activities or uses as characterized by low density residential lots of not less than one-half (1/2) acres and a density of not more than one single-family dwelling per one-half (1/2) acre in areas where 'city-like' concentration of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with the low density residential lots.
- (c) Generally, parcels of land not more than five (5) acres; however, it may include other parcels of land, which are surrounded by, or contiguous to this District and are not suited to low density residential uses or for small farm or agricultural uses."

FINDINGS OF FACT

The panel of the Land Use Commission, after having duly considered the record in this docket, the testimony of the witnesses, and the evidence introduced herein, makes the following findings of fact:

1. The subject property, owned in fee simple by the Petitioners herein, is located at Haiku, Makawao District, County of Maui, and consists of approximately 5.584 acres, more particularly described as Tax Map Key No. 2-7-03: portion of Parcel 65. The subject property is approximately fourteen (14) miles east from Wailuku, and eleven (11) miles away from Kahului town. The property is situated .5 and 2.2 miles south, respectively, of the Haiku urban district and the Hana Highway. The subject property is part of a parcel containing a total of 24.98 acres, which are also owned in fee simple by the Petitioners.

2. The existing State Land Use classification of the subject property is Agricultural. There is no County General Plan or County Zoning designation for the subject property, and no General Plan amendment would be therefore required to develop the property as proposed by the Petitioners.

3. The subject property is presently used for residential and agricultural purposes. A single-family dwelling along with agricultural storage and maintenance structures are located at the northeastern section of the subject property. The remaining acreage, formerly under pineapple cultivation, is presently idle.

4. Lands immediately to the north, south, and west of the subject property, are in the State Land Use Agricultural District. Lands immediately to the east of the subject property are in the State Land Use Rural District. The proposed reclassification is contiguous with the Rural District along the entire length of the eastern boundary. The undeveloped Maliko Gulch area, Tax Map Key No. 2-7-03: 60, abuts the western boundary of Tax Map Key No. 2-7-03: 65, and is owned by the State of Hawaii.

5. The land use of the immediate surrounding area is a mixture of residential, quasi-public, and agricultural uses. The development surrounding the subject property includes:

- West - pine cultivation
- North - pine cultivation and residences
- East - residences and church
- South - pine cultivation and residences

A total of eighteen (18) residences are located in the immediate area. In general, the surrounding area and

region can best be described as a Rural residential community with lands involved in extensive agricultural activities and natural open areas, due to the presence of gulches and high sloped terrain. The density of housing is concentrated in the Haiku urban district, with lower densities in the surrounding areas wherein the subject property is located.

6. The elevation of the subject property ranges from 530 to 580 feet above sea level. The parcel has a 6% slope downward in a westerly direction toward Maliko Gulch. The average rainfall for the area is approximately 50 inches annually, and the subject property is not amenable to any known flood hazard. The drainage conditions appear excellent in that the gulch which separates the pineapple growing area from the area to be reclassified is able to handle excess waters.

7. The Land Study Bureau's "Detailed Land Classification - Island of Maui", Map No. 61, indicates that the subject land has an overall productivity rating of "C". Selected crop productivity ratings for this area are as follows: "c" for pineapple, vegetable, sugarcane, and grazing; "b" for orchard and forage.

8. The subject property contains no known significant natural, scenic or recreational resources. No known archaeological or historic sites are present on the subject property. No significant adverse and environmental impacts are expected to result from this project.

9. Petitioners have represented that the subject property is to be subdivided into a Rural subdivision. The proposed subdivision will incorporate an adjacent parcel owned by the Petitioners' daughter, comprising .72 acre of

land, which is already in the Rural District and contains a residential dwelling thereon. The consolidated parcels will create a total project of approximately 6.3 acres, which will in turn be divided into ten (10) half acre lots and a roadway lot. Seven (7) of the proposed lots will be served by the on-site street, while the other three (3) lots will have access directly from the Haiku-Kokomo Road. The Petitioners have further represented that lots in the proposed subdivision will be conveyed only to members of their immediate family, including their grandchildren, and that no sales by them will occur to anyone outside of said parties. Petitioners have indicated the willingness to work with the Maui County Planning Department in establishing appropriate restrictions in documents of title to assure that their representations of transfer of property only to immediate family members are fulfilled.

10. Public utilities in the area include overhead telephone and electrical lines and 6 and 12 inch water lines on the Haiku-Kokomo Road. Sewage facilities are limited to individual private cesspool systems. Since a man-made drainage system does not exist in the area, drainage is handled by sheetflow into existing drainageways and gulches. Access to the subject property is from the Haiku-Kokomo Road. The road right-of-way is 40 feet wide with an A.C. pavement width of 18 feet. Fire protection is available, but limited to two standpipes and one hydrant located nearby. The subject property is approximately one-half (1/2) mile south of Haiku town which contains a post office, grocery stores, other business and numerous residences. Haiku Elementary School and a community center is situated on Hana Highway, approximately 2 miles away.

11. Petitioners have represented that they will assume all of the improvement costs for the development of the proposed subdivision to alleviate any unreasonable burden upon public agencies to provide necessary facilities or services to said area.

12. Comments received from the Department of Agriculture, the Department of Land and Natural Resources, the Department of Education, and Hawaii Housing Authority indicate that the proposed subdivision would not conflict with existing or proposed State programs for the area.

13. The Maui County Department of Water Supply and Department of Public Works do not have any negative comments on the proposed reclassification.

14. Maui County Planning Department has found that the proposed development will not adversely impact the surrounding area inasmuch as the property is contiguous to an existing Rural District; is situated in an area established and utilized for Rural-residential use; will lessen or eliminate the impact of agricultural cultivation normally experienced by neighboring residents; and will not alter the general character of the area.

15. The Department of Planning and Economic Development has found that the proposed subdivision of the subject property is not expected to have any appreciable adverse economic effect inasmuch as pineapple production has already been given up on the subject sites and that Petitioners have represented that they will maintain pineapple cultivation on the Agricultural portion of Parcel 2-7-03: 65, as well as on other lands they own (i.e. TMK: 2-7-03: 23 (119.997 acres)). The Department of Planning and Economic Development further finds

that the land use amendment is reasonably necessary to accommodate growth and development, and is not expected to cause significant adverse effects upon resources of the area; that the proposed subdivision will make use of existing services and facilities and avoid scattered urban development.

16. Based on a review of the Petition, the evidence adduced at the hearing, and the policies and criteria of the Interim Statewide Land Use Guidance Policy, the Department of Planning and Economic Development and Maui County Planning Department have recommended that the reclassification be approved.

CONCLUSIONS OF LAW

Reclassification of the subject property, consisting of approximately 5.584 acres, situated at Haiku, Makawao District, Island and County of Maui, from Agricultural to Rural and an amendment to the District boundaries accordingly is reasonable, non-violative of Section 205-2 of the Hawaii Revised Statutes, and is consistent with the Interim Statewide Land Use Guidance Policy established pursuant to Section 205-16.1 of the Hawaii Revised Statutes, as amended.

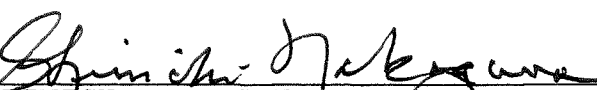
ORDER

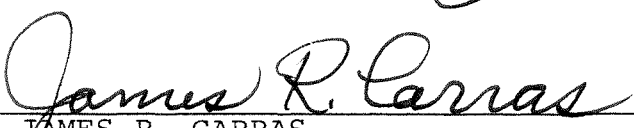
FOR GOOD CAUSE APPEARING, it is hereby ordered that the property which is a subject of the Petition in this Docket No. A78-442, consisting of approximately 5.584 acres, situated at Haiku, Makawao District, Island and County of Maui, identified as Tax Map Key No. 2-7-03: portion of Parcel 65, shall be and the same is hereby reclassified from the "Agricultural" district to the "Rural" district classification, and the district boundaries are amended accordingly.


DONE at Honolulu, Hawaii, this 20th day of
March, 1979, per Motion on February 21, 1979.


LAND USE COMMISSION

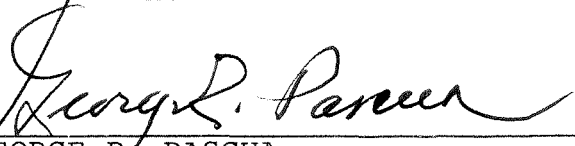
By 
C. W. DUKE
Chairman and Commissioner

By 
SHINICHI NAKAGAWA
Vice Chairman and Commissioner

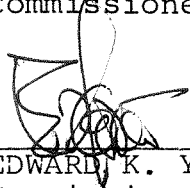
By 
JAMES R. CARRAS
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
MITSUO OURA
Commissioner

By 
GEORGE R. PASCUA
Commissioner

By 
CAROL B. WHITESELL
Commissioner

By 
EDWARD K. YANAI
Commissioner

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OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A78-442
MITSUGI and FUSAKO YAMAMURA,)
for a Petition to Amend the)
District Boundary of Property)
situate at Haiku, Island and)
County of Maui, State of Hawaii)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use
Commission's Decision and Order was served upon the following
by either hand delivery or depositing the same in the U.S.
Postal Service by certified mail:

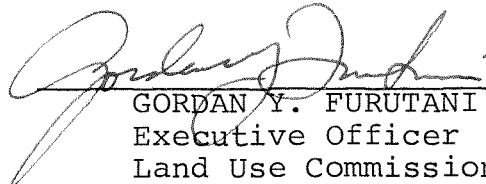
HIDETO KONO, Director
Department of Planning & Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

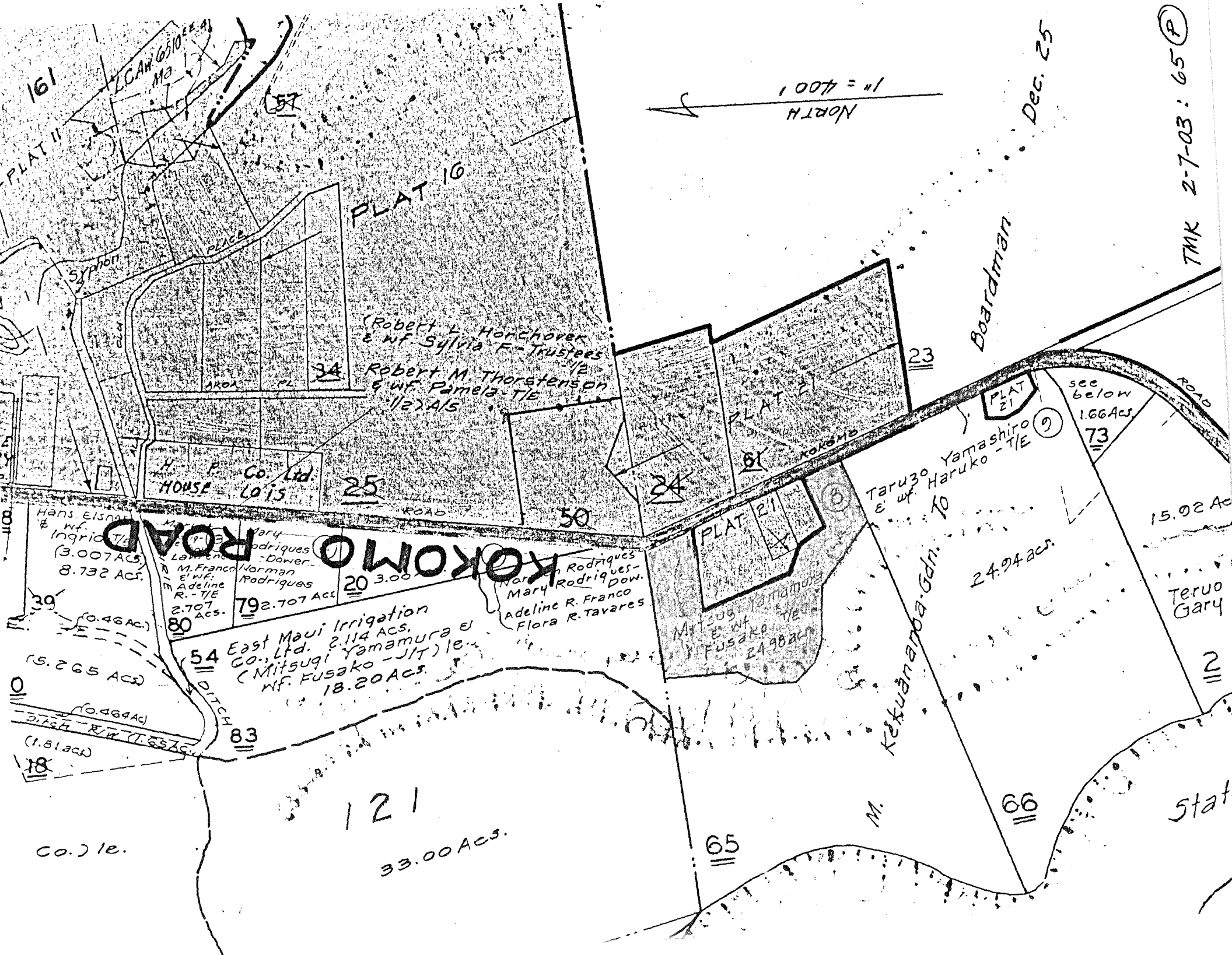
TOSH ISHIKAWA, Planning Director
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County of Maui
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Ueoka & Luna
Attorneys at Law
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MITSUGI and FUSAKO YAMAMURA
Haiku, Maui, Hawaii 96708

DATED: Honolulu, Hawaii, this 22nd day of March, 1979.


GORDAN Y. FURUTANI
Executive Officer
Land Use Commission



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PLAT 16

34

(Robert L. Honchover & wife Sylvia F. Trustees
Robert M. Thorstenson & wife Pamela T.E.
1/2 A/S

H.P. Co. Ltd.
HOUSE LOIS

25

50

24

23

PLAT 21

PLAT 21

see below
1.66 Acs.

73

Taruzo Yamashiro & wife Haruko - T/E

15.92 Acs.

Teruo Gary

24.94 acs.

2

KOKOMO ROAD

Hans E. Eismann & wife Ingrid T.E.
(3.007 Acs.)
8.732 Acs.

Mary Rodrigues
Norman Rodrigues
Adeline R. Franco
2.707 Acs.
792.707 Acs.

20

3.00

Mary Rodrigues
Norman Rodrigues
Adeline R. Franco
Flora R. Tavares

East Maui Irrigation Co., Ltd.
(Mitsugi Yamamura & wife Fusako - J/T)
2.114 Acs.
18.20 Acs.

Mitsugi Yamamura & wife Fusako - T/E
24.98 acs.

M. Kekuānāoa-Gdn.

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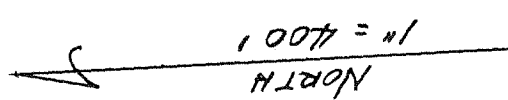
33.00 Acs.

18

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Co.) le.

Stat



Dec. 25

Boardman

TMK 2-7-03: 65 P