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

December 11, 2020

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

File No. 10712(K)

KAUAI

Issuance of Land Patent in Confirmation of Land Commission Award No. 8044, Apana 2 to Alauka, situate at Kalaheo, Koloa, Island and County of Kauai, Hawaii, Tax Map Key: (4) 2-4-001:015.

APPLICANT:

Keith A, Silva and Joann B, Silva, husband and wife, as Tenants by the Entirety, as to an undivided $\frac{1}{2}$ interest, and Clyde Joseph Silva, Successor Trustee of the Silva Family Trust dated August 3, 2001, as to an undivided $\frac{1}{2}$ interest, as Tenants in Common (referred to collectively as Applicants).

LEGAL REFERENCE:

Section 171-23, Hawaii Revised Statutes, as amended (HRS),
Sections 172-11 and 12, HRS,
Section 182-2, HRS and
Section 664-5, HRS.

LOCATION:

The Applicants' property, designated as Tax Map Key: (4) 2-4-001:015 (see attached Exhibit A), is comprised of a portion of the subject Land Commission Award No. 8044, Apana 2 to Alauka, situate at Kalaheo, Koloa, Kauai, containing 0.68 acre, more or less, as shown on Exhibit B.

DCCA VERIFICATION:

Not applicable. Applicants as landowners are not required to register with the Department of Commerce and Consumer Affairs.

APPLICANT REQUIREMENTS:

Applicants have provided a copy of Preliminary Title Report prepared by Title Guaranty of Hawaii reflecting Applicants as the owners of the subject property, as shown on Exhibit C.

REMARKS:

Commutation is the payment an awardee makes to the government to confirm an absolute fee simple title to the land. A landowner may choose to apply for the issuance of a land patent grant to confirm the tenure of an absolute fee simple title to the landowner's property from the State. Where records can be found to establish that no commutation was due to the Hawaiian Kingdom at the time of the award, the State of Hawaii is currently authorized by statute to issue such a patent, if requested by the landowner.

In the subject case, Land Commission Award 8044, Apana 2 was adjudicated as free and clear of commutation to Alauka on May 8, 1852 in accordance with the Kuleana Act of August 5, 1850 (see Exhibit B). However, since that time, no patent was issued to confirm the subject award because no patent application had been submitted.

While Applicants' property, designated as Tax Map Key: (4) 2-4-001:015, is comprised of a 0.68 acre portion of Land Commission Award 8044, Apana 2, the Applicants have requested that a patent be issued on the whole of Apana 2 of Land Commission Award 8044 to evidence that the government's right to commutation therein is relinquished. Staff has confirmed that no commutation is due and that no patent has been issued to date.

Comments were requested from the Office of Hawaiian Affairs, however, none were provided by the suspense date.

RECOMMENDATION:

Staff recommends that the Board consent to the issuance of a Land Patent in Confirmation of the whole of Land Commission Award No. 8044, Apana 2 to Alauka subject to the following:

1. The terms and conditions as prescribed by law upon the issuance of Land Patents in confirmation of Land Commission Awards, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and

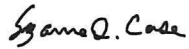
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State of Hawaii.

Respectfully Submitted,



for _____
E. Mahoe Collins
State Abstractor

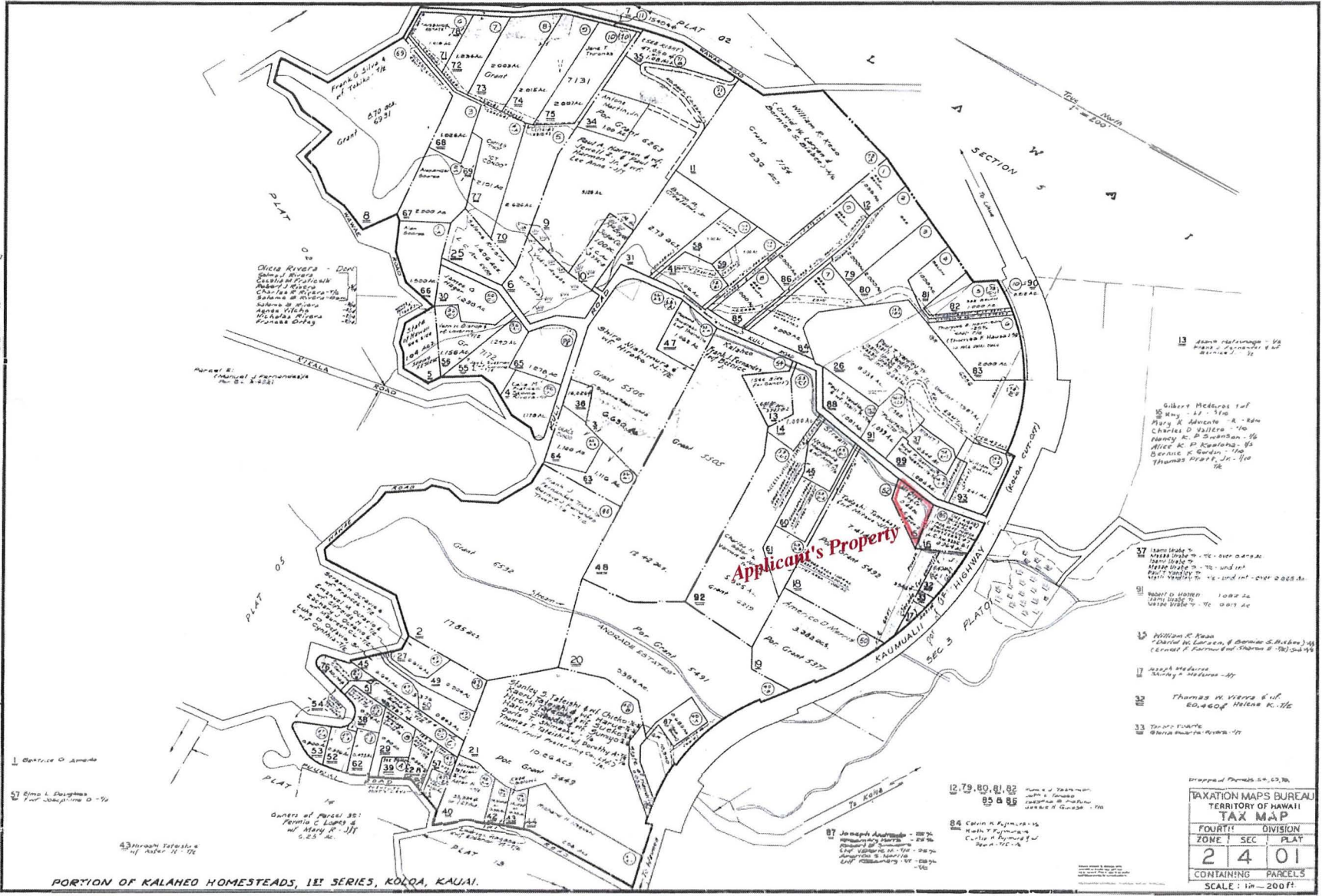
APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

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File 10712(K)

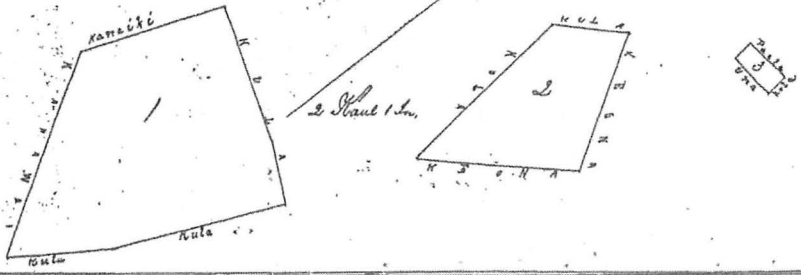
EXHIBIT A

Apana 1, Aina Lili me kula maloko, ka ili o Pahi Katalaha Hawaii o hoomaka ana ona ke kapu
 akau o ka kahawai o Katalaha Kokohe i ka alanui A 55° 15' o kaula e pili ana i ke kula Konoehiki
 A 45° 15' o kaula e pili ana i ke kula Konoehiki A 40° 15' o kaula e pili ana i ke kula Konoehiki
 A 45° 15' o kaula e pili ana i ke kula Konoehiki He 43° 15' o kaula e pili ana ina Lili o Konoehiki
 He 11° 15' o kaula e pili ana i ke kahawai o Katalaha Lili ana i laka o Paha

Apana 2, Aina Kalo maloko, ka ili o Hahamane o hoomaka ana ona ke kiki Hem. He o ova Lili
 o Konoehiki A 74° 15' o kaula e pili ana ina Lili o Konoehiki A 45° 15' o kaula e pili ana ina Lili o Konoehiki
 He 44° 15' o kaula e pili ana i ke kula o Konoehiki He 22° 15' o kaula e pili ana i ke kula o Konoehiki
 Lili ana i Paha o Paha

Apana 3, Aina Paha maloko, ka ili o Anomaha o hoomaka ana ona ke kiki K. He o ova Lili o lina
 He 67° 15' o kaula e pili ana ina Lili o Konoehiki He 40° 15' o kaula e pili ana ina Lili o Konoehiki
 A 67° 15' o kaula e pili ana ina Lili o Paha He 25° 15' o kaula e pili ana i ke kula Konoehiki
 Lili ana i Paha

Hawaii January 20 1852
 W. H. Pease



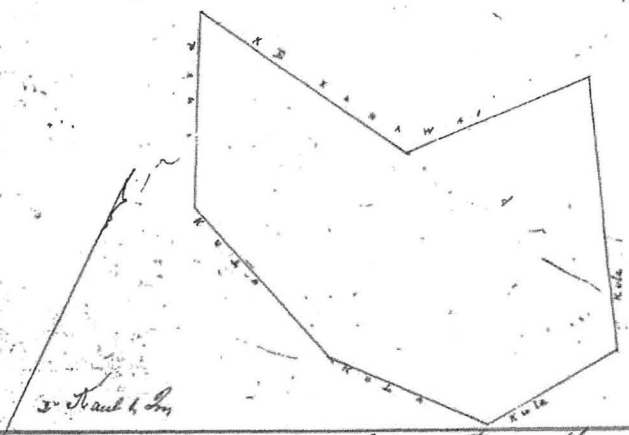
Wm Pau Loa \$5.

W. L. Lee
 G. M. Robinson
 J. H. Smith
 S. Subantaras

Honolulu Mei 8 1852

Aina Kalo Pahala me kula maloko, ka ili o Kahi Lawai Hawaii o hoomaka ana ona kahi
 pohaku ona ke kapu He o ka kahawai o Lawai He 22° 15' o kaula e pili ana i ke pali He 65°
 He 4 kaula e pili ana i ke kula o Konoehiki A 44° 15' o kaula e pili ana i ke kula Konoehiki
 A 35° 15' o kaula e pili ana i ke kula Konoehiki A 29° 15' o kaula e pili ana i ke kula Konoehiki
 He 42° 15' o kaula e pili ana i ke kula o Lawai He 30° 15' o kaula e pili ana i ke kahawai o Lawai
 Lili ana i laka o Paha o Paha

Hawaii January 20 1852
 W. H. Pease



Wm Pau Loa \$5.

W. L. Lee
 G. M. Robinson
 J. H. Smith
 S. Subantaras

Honolulu May 8 1852

REVISED 3/17/20
 report date unchanged

PRELIMINARY REPORT
 (No Liability Hereunder)

This report (and any revisions thereto) is issued solely for the convenience of the titleholder, the titleholder's agent, counsel, purchaser or mortgagee, or the person ordering it for the purpose of facilitating the issuance of a policy of title insurance by Title Guaranty of Hawaii, LLC and no liability will arise under this report.

SCHEDULE A

Title Guaranty of Hawaii, LLC (the "Company") hereby reports that, subject to those matters set forth in Schedule "B" hereof, the title to the estate or interest to the land described in Schedule "C" hereof is vested in:

KEITH A. SILVA and
 JOANN B. SILVA,
 husband and wife,
 as Tenants by the Entirety,
 as to an undivided 1/2 interest, and
 CLYDE JOSEPH SILVA,
 Successor Trustee of the
 Silva Family Revocable Living Trust
 dated August 3, 2001,
 of which an Abstract of Trust Agreement
 was recorded as Document No. 2001-125307,
 with full powers to sell, mortgage,
 lease or otherwise deal with the land,
 as to an undivided 1/2 interest,
 as Tenants in Common,
 as Fee Owner

SCHEDULE A CONTINUED

This report is dated as of February 28, 2020 at 8:00 a.m.

Inquiries concerning this report
should be directed to
TAYLOR LUM.
Email tlum@tghawaii.com.
Fax (808) 521-0210.
ventura@tghawaii.com.
Telephone (808) 533-5628.
Refer to Order No. 201759631.

Inquiries concerning Escrow
should be directed to
Jeri Miyaji-Ventura.
LIHUE OFFICE
Email jmiyaji-
Fax (808) 245-7257.
Telephone (808) 241-1573.
Escrow No. 17105397

**SCHEDULE B
EXCEPTIONS**

1. Real Property Taxes, if any, that may be due and owing.

Tax Key: (4) 2-4-001-015 Area Assessed: 0.680 acre

Tax Classification: RESIDENTIAL

Street Address: 4531 KULI ROAD, KALAHEO, HAWAII 96741

2. Improvement Assessments for Residential Refuse Collection, if any, that may be due and owing.

Tax Key: (4) 2-4-001-015 Area Assessed: 0.680 acre

3. Mineral and water rights of any nature.

4. Kalaheo Stream running across subject land as shown on Tax Map.

5. Matters arising out of the failure of a patent to have issued on Land Commission Award 8044, Apana 2 to Alauka, and any matters that may be set forth in any such patent. The Company assumes no obligation to procure any patent or to pay commutation, if any, which may be owed thereon.

6. The terms and provisions contained in the following:

INSTRUMENT : DEED

DATED : March 30, 1979

RECORDED : Liber 13800 Page 173

The foregoing includes, but is not limited to, matters relating to water reservation.

7. Easement for electric transmission line being a strip 60 feet wide extending 30 feet on each side of centerline in favor of McBryde Sugar Co., Ltd., covered by General Lease No. 2594.

SCHEDULE B CONTINUED

8. The terms and provisions contained in the following:

INSTRUMENT : DEED

DATED : February 8, 1990

RECORDED : Document No. 90-033383

9. The terms and provisions contained in the following:

INSTRUMENT : FARM DWELLING AGREEMENT

DATED : March 8, 1991

RECORDED : Document No. 91-044272

PARTIES : RANDALL G. SILVA and PATRICE SILVA, and COUNTY OF
KAUAI, PLANNING DEPARTMENT

No joinder given by KEITH A. SILVA and JOANN B. SILVA

10. The terms and provisions contained in the following:

INSTRUMENT : ROAD WIDENING RESERVE AGREEMENT

DATED : March 18, 1991

RECORDED : Document No. 91-057285

PARTIES : KEITH A. SILVA and wife JOANN B. SILVA, and RANDALL
G. SILVA and wife PATRICE SILVA, "Applicant", and
COUNTY OF KAUAI PLANNING DEPARTMENT, "Department"

11. MORTGAGE

MORTGAGOR : KEITH A. SILVA and JOANN B. SILVA, husband and
wife, and GABRIEL SILVA and BERNICE R. SILVA,
husband and wife

MORTGAGEE : McBRYDE FEDERAL CREDIT UNION, a federally chartered
credit union

DATED : October 25, 1999

RECORDED : Document No. 99-172604

AMOUNT : \$44,000.00

END OF SCHEDULE B

SCHEDULE C

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number ----, Land Commission Award Number 8044, Apana 2 to Alauka) situate, lying and being Kalaheo, Koloa, Island and County of Kauai, State of Hawaii, and thus bounded and described "as per survey dated February 14, 2018":

Beginning at the northeast corner of this parcel of land, the east corner of Lot 52, Kalaheo Homesteads, First Series and the west corner of Kuli Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAPAPAHOLAHOLA" being 5,132.26 feet south and 2,969.35 feet east thence running by azimuths measured clockwise from true South:

1. 8° 03' 197.14 feet along the west side of Kuli Road;
2. 83° 56' 220.94 feet along Lot 85, Kalaheo Homesteads First Series, and L.C. Aw. 3395:1 to Keoua;
3. 215° 33' 256.00 feet along Lot 52, Kalaheo Homesteads First Series;
4. 264° 03' 99.00 feet along same to the point of beginning and containing an area of: 0.68 acres (Record), 0.70 acres (Calculated), more or less.

Said above described parcel of land having been acquired as follows:

1. By KEITH A. SILVA and JOANN B. SILVA, husband and wife, as Tenants by the Entirety, as to an undivided one-half (1/2) interest by QUITCLAIM DEED of RANDALL G. SILVA and PATRICE J. SILVA, husband and wife, and KEITH A. SILVA and JOANN B. SILVA, husband and wife, dated July 12, 1999, recorded as Document No. 99-124349; and

SCHEDULE C CONTINUED

2. By GABRIEL SILVA and BERNICE SILVA, husband and wife, as Co-Trustees of the Silva Family Revocable Living Trust by QUITCLAIM DEED INTO TRUST of GABRIEL SILVA and BERNICE R. SILVA, also known as BERNICE SILVA, husband and wife, dated August 3, 2001, recorded as Document No. 2001-125309.

END OF SCHEDULE C

GENERAL NOTES

1. There is hereby omitted from any covenants, conditions and reservations contained herein any covenant or restriction based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law. Lawful restrictions under state or federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.
2. The vital statistics records contained in the applicable government agency reveal the death of GABRIEL SILVA on March 14, 2011 in Kauai, Hawaii.
3. The vital statistics records contained in the applicable government agency reveal the death of BERNICE CECILIA SILVA on August 29, 2018 in Honolulu, Hawaii.
4. ABSTRACT OF TRUST AGREEMENT dated August 3, 2001, recorded as Document No. 2001-125307 sets forth the Successor Trustee to be CLYDE JOSEPH SILVA.

BUYER(S) LIEN INFORMATION

1. Title Guaranty of Hawaii, LLC finds no liens docketed against TIMOTHY K. O. KANEHE, JR. and KEILAH E. K. KANEHE, the proposed purchaser(s).

GUIDELINES FOR THE ISSUANCE OF INSURANCE

- A. Taxes shown in Schedule B are as of the date such information is available from the taxing authority. Evidence of payment of all taxes and assessments subsequent to such date must be provided prior to recordation.
- B. Evidence of authority regarding the execution of all documents pertaining to the transaction is required prior to recordation. This includes corporate resolutions, copies of partnership agreements, powers of attorney and trust instruments.
- C. If an entity (corporation, partnership, limited liability company, etc.) is not registered in Hawaii, evidence of its formation and existence under the laws where such entity is formed must be presented prior to recordation.
- D. If the transaction involves a construction loan, the following is required:
 - (1) a letter confirming that there is no construction prior to recordation; or
 - (2) if there is such construction, appropriate indemnity agreements, financial statements and other relevant information from the owner, developer, general contractor and major sub-contractors must be submitted to the Company for approval at least one week prior to the anticipated date of recordation.

Forms are available upon request from the Company.

- E. Chapter 669, Hawaii Revised Statutes, sets forth acceptable tolerances for discrepancies in structures or improvements relative to private property boundaries for various classes of real property. If your survey map shows a position discrepancy that falls within the tolerances of Chapter 669, call your title officer as affirmative coverage may be available to insured lenders.
- F. The right is reserved to make additional exceptions and/or requirements upon examination of all documents submitted in connection with this transaction.
- G. If a policy of title insurance is issued, it will exclude from coverage all matters set forth in Schedule B of this report and in the printed Exclusions from Coverage contained in an ALTA policy or in the Hawaii Standard Owner's Policy, as applicable. Different forms may have different exclusions and should be reviewed. Copies of the policy forms are available upon request from the Company or on our website at www.tghawaii.com.
- H. Please be aware that due to the conflict between federal and state laws concerning the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or insure any transaction involving Land that is associated with these activities.

DATE PRINTED: 3/17/2020

STATEMENT OF ASSESSED VALUES AND REAL PROPERTY TAXES DUE

TAX MAP KEY

DIVISION ZONE SECTION PLAT PARCEL HPR NO.
(4) 2 4 001 015 0000

CLASS: RESIDENTIAL AREA ASSESSED: .680 AC

ASSESSED VALUES FOR CURRENT YEAR TAXES: 2019

The records of this division show the assessed values and taxes on the property designated by Tax Key shown above are as follows:

TOTAL ASSESSED VALUE \$ 324,500
TOTAL EXEMPTION \$ 0
TOTAL NET VALUE \$ 324,500

Installment (1 - due 8/20; 2 - due 2/20) Tax Info As Of - 8/20/2019

Tax Year	Installment	Tax Amount	Penalty Amount	Interest Amount	Other Amount	Total Amount	
2019	2	981.61				981.61	PENDING
2019	1	981.62				981.62	PAID
2018	2	720.86				720.86	PAID
2018	1	720.86				720.86	PAID
Total Amount Due:						981.61	

Penalty and Interest Computed to: 8/20/2019

The real property tax information provided is based on information furnished by the respective counties, is deemed reliable but not guaranteed, and no warranties are given express or implied. Billing and tax collection details may have changed. Please refer to the appropriate county real property tax offices for any further information or updates for the subject property.