

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

October 22, 2021

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

File No. 10722 (K)
KAUAI

Issuance of Land Patent in Confirmation of Land Commission
Award No. 7585, Apana 1 to Kamiona, situate at Kalihikai,
Hanalei, Island and County of Kauai, Tax Map Key: (4)5-3-
004:034.

APPLICANT:

Anini Hale, LLC, a Colorado limited liability company, by its
agent, Ben Welborn.

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 applicant's property Tax Map Key: (4) 5-3-004:034, as shown
on Exhibit A is comprised of the whole of subject Land Commission
Award No. 7585, Apana 1 to Kamiona, situate at Kalihikai,
Hanalei, Kauai, containing 1.000 acre, more or less, as shown on
Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed:	YES	<u>X</u>	NO	_____
Registered business name confirmed:	YES	<u>X</u>	NO	_____
Applicant in good standing confirmed:	YES	<u>X</u>	NO	_____

APPLICANT REQUIREMENTS:

None. Applicant has furnished a copy of Preliminary Title Report
as discussed below.

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 to confirm the tenure of an absolute fee simple title to their 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 7585, Apana 1 was adjudicated as free and clear of commutation to Kamiona on July 17, 1851 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 since no patent application had been submitted.

Applicant has provided a copy of Preliminary Title Report dated July 9, 2021, prepared by Title Guaranty of Hawaii reflecting Applicant as the current owner of the subject property. By Quitclaim Deed dated July 7, 1998, recorded as Document No. 98-114329, the acquisition to title to the same is confirmed in Anini Hale, LLC, a Colorado limited liability company.

Applicant's property designated as Tax Map Key: (4) 5-3-004:034 is comprised of 1.000 acre, more or less and the Applicant have requested that a patent be issued on the whole of Apana 1 of Land Commission Award 7585 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 (OHA) however, none were provided by the suspense date.

RECOMMENDATION:

Staff recommends that the Board consent to the issuance of a Land Patent in Confirmation on the whole of Land Commission Award No. 7585, Apana 1 to Kamiona, 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

BLNR – Issuance of Patent in
Confirmation of L. C. Award 7585,
Apana I

October 22, 2021

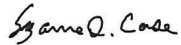
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State of Hawaii.

Respectfully Submitted,



Kayo Watanabe
Abstractor

APPROVED FOR SUBMITTAL:



RT

Suzanne D. Case, Chairperson

File 10722(K)

Apr 2 Mha Loi, mabiki o he ete i Hakiki, Puni na Hikama E komahe au, maha kaha i to

EXHIBIT C

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:

ANINI HALE, LLC,
a Colorado limited liability company,
as Fee Owner

This report is dated as of July 9, 2021 at 8:00 a.m.

Inquiries concerning this report should be directed to:

Title Officer - Elizabeth Andrade; Office: (808) 539-7742
Email: eandrade@tghawaii.com

Inquiries concerning escrow should be directed to:

Escrow Officer - Glenda Matsushima; Office: (808) 826-5313
Email: gmatsushima@tghawaii.com
Please reference Order No. 202130398, Escrow No. 7322113372.

**SCHEDULE B
EXCEPTIONS**

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

Tax Key: (4) 5-3-004-034 Area Assessed: 1.000 acre

Tax Classification: RESIDENTIAL INVESTOR

Street Address: 3630 ANINI ROAD, KILAUEA, HAWAII 96754

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

Tax Key: (4) 5-3-004-034 Area Assessed: 1.000 acre

3. Mineral and water rights of any nature.

4. Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance.

5. Matters arising out of the failure of a patent to have issued on Land Commission Award 7585 to Kamiona, 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. Reservation of water rights for Kuleanas as set forth in Land Commission Award 11215, Apana 3.

7. DESIGNATION OF EASEMENT(S) "2" (10 feet wide)

PURPOSE : shoreline access

REFERENCED : on Subdivision Map prepared by Dennis M. Esaki,
Land Surveyor, approved by the Planning Commission
of the County of Kauai on November 6, 1986

SCHEDULE B CONTINUED

8. GRANT

TO : COUNTY OF KAUAI

DATED : October 31, 1986

RECORDED : Liber 20303 Page 589

GRANTING : an easement over said Easement "2", said easement being more particularly described therein

9. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF RESTRICTIVE COVENANTS

DATED : November 6, 1986

RECORDED : Liber 20336 Page 327

10. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR NANI O' KALIIHIKAI

DATED : February 25, 1987

RECORDED : Liber 20558 Page 150

RESIGNATION OF MEMBERS OF THE DESIGN COMMITTEE FOR NANI O'KALIIHIKAI dated August 5, 1998, recorded as Document No. 98-119651.

11. NOTICE OF RESIGNATION AND REPLACEMENT OF DESIGN COMMITTEE MEMBER FOR NANI O'KALIIHIKAI SUBDIVISION dated August 7, 1990, August 23, 1990, August 20, 1990, August 17, 1990, August 29, 1990 and September 24, 1990, recorded as Document No. 90-155297; re: Lloyd S. Zeiderman resigns as a member of the Nani O'Kalihikai Design Committee and Patrick A. Harrington is appointed to replace him.

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 Land Patent 8183, Land Commission Award Number 11215, Apana 3 to A. Keliiahonui and Land Patent _____, Land Commission Award Number 7585, Apana 1 to Kamiona) situate, lying and being at Kalihikai, Hanalei, Island and County of Kauai, State of Hawaii, being LOT 3, and thus bounded and described:

Beginning at a pipe at the south corner of this parcel of land, at the west corner of Lot 4, the coordinates of said point of beginning referred to Government Survey Triangulation Station "POOKU" being 6,253.42 feet north and 7,428.89 feet east, thence running by azimuths measured clockwise from true South:

- | | | | | |
|----|------|-----|--------|--|
| 1. | 103° | 42' | 238.40 | feet along the remainder of L. C. Aw. 11215, Apana 3 to A. Keliiahonui and L. C. Aw. 7585, Apana 1 (Lot 8); |
| 2. | 193° | 42' | 182.72 | feet along the remainder of L. C. Aw. 11215, Apana 3 to A. Keliiahonui (Lot 2); |
| 3. | 277° | 57' | 62.37 | feet along highwater mark; |
| 4. | 286° | 11' | 89.59 | feet along highwater mark; |
| 5. | 296° | 13' | 65.80 | feet along highwater mark; |
| 6. | 281° | 12' | 22.62 | feet along highwater mark; |
| 7. | 13° | 42' | 171.81 | feet along the remainder of L. C. Aw. 11215, Apana 3 to A. Keliiahonui (Lot 4) to the point of beginning and containing an area of 1.000 acre, more or less. |

SCHEDULE C CONTINUED

BEING THE PREMISES ACQUIRED BY WARRANTY DEED

GRANTOR : MICHAEL H. HURTT and KAYE L. HURTT, husband and
wife

GRANTEE : ANINI HALE, LLC, a Colorado limited liability
company

DATED : July 7, 1998

RECORDED : Document No. 98-114329

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.

BUYER(S) LIEN INFORMATION

1. The Company finds no liens docketed against WAILANA MALIE LLC, a California limited liability company, 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: 7/15/2021

STATEMENT OF ASSESSED VALUES AND REAL PROPERTY TAXES DUE

TAX MAP KEY

DIVISION ZONE SECTION PLAT PARCEL HPR NO.
(4) 5 3 004 034 0000

CLASS: RESIDENTIAL INVESTOR AREA ASSESSED: 1.000 AC

ASSESSED VALUES FOR CURRENT YEAR TAXES: 2021

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 \$ 6,574,000
TOTAL EXEMPTION \$ 0
TOTAL NET VALUE \$ 6,574,000

Installment (1 - due 8/20; 2 - due 2/20) Tax Info As Of - 6/30/2021

Tax Year	Installment	Tax Amount	Penalty Amount	Interest Amount	Other Amount	Total Amount	
2020	2	1.32	.13	.03		1.48	PENDING
2020	1	27,274.57				27,274.57	PAID
2019	2	24,158.45				24,158.45	PAID
2019	1	24,158.46				24,158.46	PAID
Total Amount Due:						1.48	

Penalty and Interest Computed to: 6/30/2021

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.

END OF EXHIBIT C