

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

September 22, 2023

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

File No. 10753(H)
HAWAII

Issuance of Land Patent in Confirmation of Land Commission
Award No. 5785 to Keakualaaumoku, situate at Keahou 2,
District of North Kona, Island and County of Hawaii, Tax
Map Key: (3) 7-8-019-025.

APPLICANT:

Mattson C. Davis and Thalia A. Davis, Trustees under the
unrecorded "Davis Family 2012 Trust", dated March 22, 2012.

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 Tax Map Key: (3) 7-8-019-025 (see
attached Exhibit A) is comprised of the subject Land Commission
Award No. 5785 to Keakualaaumoku, situate at Keahou 2, District
of North Kona, Island and County of Hawaii containing 23,727
square feet, more or less, as shown on Exhibit B.

DCCA VERIFICATION:

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

REMARKS:

Applicants applied for the issuance of land patent in confirmation of Land Commission Award No. 5785 to Keakualaaumoku, which includes their private property designated as Tax Map Key (3) 7-8-019-025. State law allows a land patent to issue provided there is no commutation due to the State.

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 5785 was adjudicated as free and clear of commutation to Keakualaaumoku on December 9, 1854, 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.

Applicants have provided a copy of Preliminary Title Report dated June 28, 2023, prepared by Title Guaranty of Hawaii reflecting applicants as the current owner(s) of the subject property. By Warranty Deed dated March 22, 2012, recorded as Document No. A-44760615, the acquisition of title to the same is confirmed in Mattson C. Davis and Thalia A. Davis, Trustees under the unrecorded "Davis Family 2012 Trust" dated March 22, 2012, with full powers to sell, mortgage, lease or otherwise deal with the land. Said Preliminary Title Report is attached hereto as Exhibit C.

Applicants' property designated as Tax Map Key: (3) 7-8-019-025 is comprised of 23,727 square feet, more or less and the applicants have requested that a patent be issued on the whole of Land Commission Award 5785 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 Land Commission Award No. 5785 to Keahualaaumoku, 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,

Kayo Watanabe

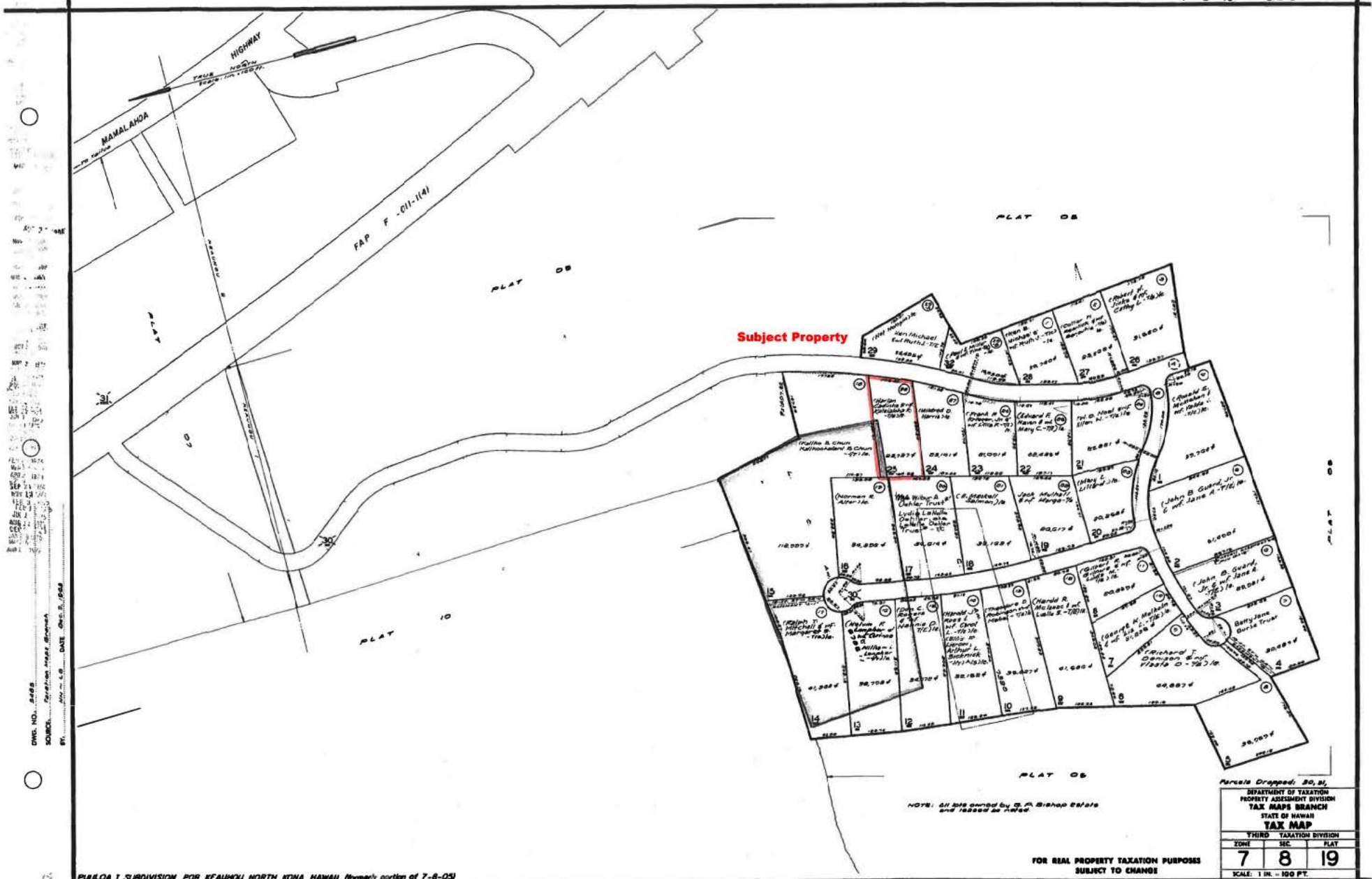
Kayo Watanabe
Abstractor

APPROVED FOR SUBMITTAL:



RT

Dawn N. S. Chang, Chairperson



DRAWN NO. 2665
SOURCE: Aerial photos taken by G. A. Bishop Estate
DATE: Dec. 8, 1964

PAALOA I SUBDIVISION, FOR KEAUMOU, NORTH KOHA, HAWAII (Formerly portion of 7-8-03)

EXHIBIT A

File 10753(H)

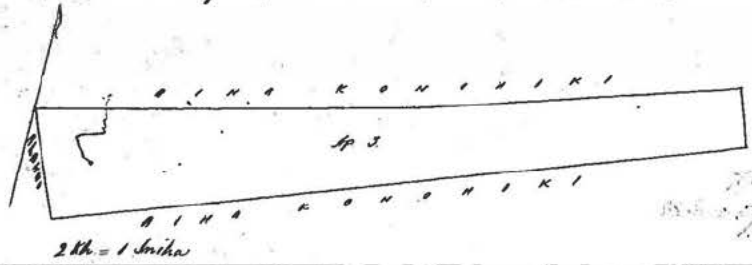
1408.

No. 1047 Poopuu (1775) Kaunohā 1. Kōwa, Hawaii.

Apunui 3. Ke auna o Poopuu ma kaunohā 1. Kōwa, Hawaii. Ehoowaka ma ka hiki Kōwa a u hō. Maui 23' Kōwhāwa 275 Ahi. ma ke Alala
 Maui 75° 30' Ahiwa 5.53 ahi, Kōwhāwa
 Maui 72° 15' Ahiwa 8.10
 Kōwa 79° 30' Ahiwa 1.50
 Maui 69° 30' Kōwhāwa 17.17 a hiki i hiki i hōmaka'i.
 Ahi o Kōwa Apunui hō 3 1/2 Eha.

Maui Hawaii Oct 17 1854

J. Fuller
Lunaanaina



Uluapaua

Sp 3 00

W. L. Lee
S. M. Robinson
J. H. Smith
C. K. Kaula

Kōwhāwa 9 1854.

No. 5785 Keahualaanumoku (5748) Kaunohā 2. Kōwa, Hawaii.

Apunui 1. Ke auna o Keahualaanumoku ma Kaunohā 2. Kōwa, Hawaii Ehoowaka ma ka hiki Maui a u hō.
 Maui 14° 15' Ahiwa 5.10 Ahi. ma ke auna Kōwhāwa
 Maui 14' Kōwhāwa 2.27 Alala
 Maui 87° 45' Kōwhāwa 7.00
 Maui 15° 45' Kōwhāwa 3.54 ahi Kōwhāwa
 Maui 74° 30' Ahiwa 9.14 a hiki i hiki i hōmaka'i. Ahi
 Ahi o Kōwa Apunui hō 1 1/2 Eha

1412

Apunui 2. Pōhaku o Keahualaanumoku Maikai Kaunohā 2: Ehoowaka ma ka hiki Maui, a u hō. Maui 66' Kōwhāwa 2.65 Ahi. ma ke auna Kōwhāwa
 Maui 27' Ahiwa 0.81
 Maui 78° 30' Ahiwa 2.15
 Maui 14° 45' Kōwhāwa 1.29 ahi o Kapela. a hiki i hiki i hōmaka'i.
 Ahi o Kōwa Apunui hō 2 1/2 Eha.

Maui Hawaii Oct. 16. 1854.

J. Fuller
Lunaanaina

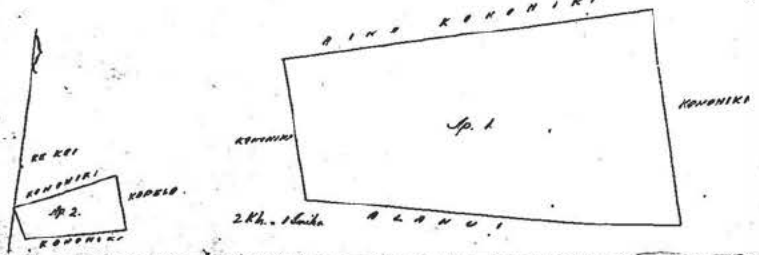


EXHIBIT C

REVISED 7/25/2023

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:

MATTSON C. DAVIS and
THALIA A. DAVIS,
Trustees under the unrecorded
"Davis Family 2012 Trust",
dated March 22, 2012,
with full powers to sell, mortgage,
lease or otherwise deal with the land,
as Fee Owner

This report is dated as of July 12, 2023 at 8:00 a.m.

Inquiries concerning escrow should be directed to:

Escrow Officer - Jeremy Trueblood; Office: (808)521-0208
Email: jtrueblood@tghawaii.com

Inquiries concerning this report should be directed to:

Title Officer - Carol Armstrong; Office: (808)533-5811
Email: carmstrong@tghawaii.com
Please reference Order No. 7311427302, Escrow No. 7322379203

**SCHEDULE B
EXCEPTIONS**

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

Tax Key: (3) 7-8-019-025 Area Assessed: 23,727 sq. ft.

Tax Classification: RESIDENTIAL

Street Address : [REDACTED], KAILUA-KONA, HAWAII 96740

2. Mineral and water rights of any nature.

3. Matters arising out of the failure of a patent to have issued on Land Commission Award 5785 to Keahualaaumoku, 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.

4. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF PROTECTIVE PROVISIONS

DATED : August 15, 1985

RECORDED : Liber 18865 Page 640

Said Declaration was amended by instruments dated May 15, 1987, recorded in Liber 20687 at Page 751, and dated May 24, 2005, recorded as Document No. 2005-262834.

5. SETBACK (20 feet wide)

PURPOSE : building

ALONG : Puuloa Road

REFERENCED : in Deed dated April 10, 1991, recorded as Document No. 91-069548

SCHEDULE B CONTINUED

6. MORTGAGE

MORTGAGOR : MATTSON C. DAVIS and THALIA A. DAVIS, husband and wife

MORTGAGEE : FIRST HAWAIIAN BANK, a Hawaii corporation

DATED : January 11, 2008

RECORDED : Document No. 2008-006414

AMOUNT : Line of Credit in the amount of \$183,000.00

SUBORDINATION AGREEMENT

DATED : April 21, 2014

RECORDED : Document No. A-52320324

Subordinates said above Mortgage to the lien of that certain Mortgage dated April 21, 2014, recorded as Document No. A-52320323.

7. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF CONDITIONS

DATED : November 6, 2009

RECORDED : Document No. 2009-176255

Variance Permit No. VAR07-067

SCHEDULE B CONTINUED

8. MORTGAGE

LOAN/ACCOUNT NO. 1868322 (RRE)

MORTGAGOR : MATTSON C. DAVIS and THALIA A. DAVIS, Trustees
under the unrecorded Davis Family 2012 Trust dated
March 22, 2012

MORTGAGEE : FIRST HAWAIIAN BANK, a Hawaii corporation

DATED : April 21, 2014

RECORDED : Document No. [A-52320323](#)

AMOUNT : \$750,000.00 (covers the land described herein,
besides other land)

ABOVE MORTGAGE AMENDED BY INSTRUMENT

DATED : August 18, 2014

RECORDED : Document No. [A-53520183](#)

RE : extended until May 1, 2044

SCHEDULE B CONTINUED

9. MORTGAGE

MORTGAGOR : MATTSON C. DAVIS and THALIA A. DAVIS, as Trustees
under the unrecorded Davis Family 2012 Trust dated
March 22, 2012

MORTGAGEE : FIRST HAWAIIAN BANK, a Hawaii corporation

DATED : March 10, 2017

RECORDED : Document No. [A-62880351](#)

AMOUNT : \$1,000,000.00

(covers the land described herein, besides other land)

RELEASE OF MORTGAGE

DATED : April 7, 2021

RECORDED : Document No. [A-77950206](#)

BY : FIRST HAWAIIAN BANK, a Hawaii corporation

RELEASING : the above mortgage [A-62880351](#)

Said Release states that the Mortgage has not been fully paid.

10. Structure position discrepancies and encroachment(s) as referenced on the survey map prepared by Thomas G. Pattison, Land Surveyor, with Pattison Land Surveying, dated August 11, 2022 and revised July 24, 2023.

-Note:- The Company will, in its ALTA Loan Policy to insured lenders, issue its endorsement covering this item.

- (A) The fence along the West boundary line, apparently belonging to Lot 20, encroaches into the subject lot, up to 0.8 of a foot at the South end.

SCHEDULE B CONTINUED

(B) The CRM (concrete, rock, masonry) wall and fence running along the North boundary line, encroaches across the East boundary line into the street, up to 0.5 of a foot.

(C) The CRM wall along the East boundary line, encroaches into the street, up to 0.3 of a foot at the South end.

11. Encroachment(s) as referenced on the survey map prepared by Thomas G. Pattison, Land Surveyor, with Pattison Land Surveying, dated August 11, 2022 and revised July 24, 2023.

The terms and provisions contained in Variance Letter by the City and County of Honolulu, dated September 30, 2009, referred to VARIANCE-VAR 07-067; re: said encroachment(s).

(A) Northwest corner of the residence is 10.81 feet from the West (rear) boundary line, being a building setback violation of 9.19 feet and the overhang (eave) at that building corner is in violation by 6.87 feet.

(B) The Southwest corner of the residence is 8.63 feet from the West (rear) boundary line, being a building setback violation of 11.37 feet and the overhang (eave) at that building corner is in violation by 9.4 feet.

(C) The Northwest corner of the carport is 4.55 feet from the North (side) boundary line, being a projection setback violation up to 0.45 of a foot and the Northeast corner of the carport is 4.75 feet from the North (side) boundary line, being a projection setback violation up to 0.25 of a foot.

12. HECO Utility Box as referenced on the survey map prepared by Thomas G. Pattison, Land Surveyor, with Pattison Land Surveying, dated August 11, 2022 and revised July 24, 2023.

SCHEDULE B CONTINUED

13. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.

SCHEDULE B CONTINUED

14. This transaction may be subject to a FinCEN Geographic Targeting Order issued pursuant to the Bank Secrecy Act. Information necessary to comply with the order must be provided prior to closing. This transaction will not be insured until this information is submitted, reviewed and found to be complete.

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 7844 to Lota Kamehameha and part of Apana 1 of Land Commission Award Number 5785 Keahualaaumoku) situate, lying and being at Keauhou 2, District of North Kona, Island and County of Hawaii, State of Hawaii, being LOT 28 of the "PUULOA 1 SUBDIVISION", as delineated on Bishop Estate Map 6692, and thus bounded and described:

Beginning at the southeast corner of this parcel of land, the northeast corner of Lot 27 and on the west side of Puuloa Road and running thence by azimuths measured clockwise from true South:

1. 97° 37' 15" 222.80 feet along Lot 27;
2. 194° 49' 10" 104.28 feet along Lots 20 and 19;
3. 278° 05' 15" 238.57 feet along Lot 18;

Thence on a curve to the right having a radius of 1,407.92 feet, the chord azimuth and distance to the point of beginning being:

4. 23° 29' 01" 105.49 feet to the point of beginning and containing an area of 23,727 square feet, more or less.

SCHEDULE C CONTINUED

BEING THE PREMISES ACQUIRED BY WARRANTY DEED

GRANTOR : MATTSON C. DAVIS and THALIA A. DAVIS, husband and wife

GRANTEE : MATTSON C. DAVIS and THALIA A. DAVIS, Trustees under the unrecorded "Davis Family 2012 Trust" dated March 22, 2012, with full powers to sell, mortgage, lease or otherwise deal with the land

DATED : March 22, 2012

RECORDED : Document No. [A-44760615](#)

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 bonds of matrimony existing between THALIA ADRIENNE DAVIS and MATTSON COPTHORNE DAVIS were dissolved by Decree of Divorce filed in the Family Court of the Third Circuit, State of Hawaii, on November 21, 2022, with Divorce No. 3FDV-22-0000641. THALIA ADRIENNE DAVIS shall resume the use of her legal middle and last name used prior to any marriage and shall be known hereafter as: THALIA ADRIENNE FAJANS.

BUYER(S) LIEN INFORMATION

1. The Company finds no liens docketed against STEPHEN JOHN HEDGE and CHRISTINE ANN COURTIE, 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: 07/25/2023

STATEMENT OF ASSESSED VALUES AND REAL PROPERTY TAXES DUE

TAX MAP KEY

DIVISION ZONE SECTION PLAT PARCEL HPR NO.
(3) 7 8 019 025 0000

CLASS: RESIDENTIAL AREA ASSESSED: 23,727 SF

ASSESSED VALUES FOR CURRENT YEAR TAXES: 2022

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

BUILDING	\$	828,000
EXEMPTION	\$	185,000
NET VALUE	\$	643,000
LAND	\$	579,900
EXEMPTION	\$	0
NET VALUE	\$	579,900
TOTAL NET VALUE	\$	1,222,900

Installment (1 - due 8/20; 2 - due 2/20) Tax Info As Of - 02/20/2023

Tax Year	Installment	Tax Amount	Penalty Amount	Interest Amount	Other Amount	Total Amount	
2023	2	6,787.09				6,787.09	PENDING
2023	1	6,787.10				6,787.10	PENDING
2022	2	6,255.40				6,255.40	PAID
2022	1	6,255.41				6,255.41	PAID

Total Amount Due: 13,574.19

Penalty and Interest Computed to: 02/20/2023

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.