

STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION MEETING
AUGUST 21 & 22, 2023

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Kahana Albinio, Acting Land Management Division Administrator
SUBJECT: Item F-7 – For Information Only – Anahola Hawaiian Homes
Association License No. 609

This submittal will be sent under separate cover.


ITEM NO. F-7

LATE
8/17/23 10:39 a.m.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

August 21-22, 2023

To: Chairman and Members, Hawaiian Homes Commission

From: Peter “Kahana” Albinio, Jr., Acting Administrator
Land Management Division 

Subject: FOR INFORMATION ONLY – Status of License Agreement No. 609, Anahola
Hawaiian Homes Association, Anahola, Island of Kauai, TMK Nos. (4) 4-8-
015:046 & 4-8-003:004 (por.)

RECOMMENDED MOTION/ACTION:

None; For Information Only

BACKGROUND

The following pertinent information on LI No. 609 are as follows:

Licensee: Anahola Hawaiian Homes Association

Location: Anahola, Island of Kauai

TMK No./Land Area: (4) 4-8-015:046 / 0.532 Ac (23,174/sf); and
(4) 4-8-003:004 (por.) / 10.33 Ac (449,975/sf)
(217,452 sq.ft.)

Total Land Area: 10.862 Acre (473,149/sf)

Term: Forty (40) years; 09/16/04 – 09/15/2044

Annual Rent: GRATIS

Purpose: Public Service Facility to include use of additional acreage for new
AHHA Commercial Kitchen, Imu area, parking lot, open market,
agricultural crops, and road access easement

Chronology of executed docs attached.

Exhibit A – Issuance of First Amendment to Lic 609
Exhibit B – Issuance of Lic 609

ITEM NO. F-7

Exhibit "A"

Item No. F-7

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

First Amendment to License Agreement No. 609

THIS AGREEMENT made and entered into this 26TH day of APRIL, 2023, but effective on March 1, 2011 by and between the STATE OF HAWAI'I, DEPARTMENT OF HAWAIIAN HOME LANDS, whose principal place of business is 91-5420 Kapolei Parkway, Kapolei, Hawaii, 96707, and whose mailing address is P.O. Box 1879, Honolulu, Hawaii, 96805, hereinafter referred to as "LICENSOR," and the ANAHOLA HAWAIIAN HOMES ASSOCIATION, whose mailing address is P.O. Box 646, Anahola, Kauai 96703, hereinafter referred to as "LICENSEE."

WITNESSETH THAT

WHEREAS, License Agreement No. 609 was issued on September 16, 2004, for five (5) years to the Anahola Hawaiian Homes Association (AHHA) for the purpose of operating, managing, and maintaining a community public service facility;

WHEREAS, LICENSEE under License Agreement No. 609, currently uses approximately .532 acres of Hawaiian home lands in Anahola, island of Kauai (See Exhibit "A");

WHEREAS, LICENSEE requested an additional 10.33 acres be added to their licensed area for a total of 10.862 acres and a thirty-five (35) year extension to September 15, 2044; and

WHEREAS, LICENSOR has agreed to add 10.33 acres to the AHHA licensed area for a total are of 10.862 acres, and to extend the term of the license for forty years to September 15, 2044, and to change the monthly rental from \$125 to gratis;

NOW, THEREFORE, in consideration of the foregoing, LICENSOR and LICENSEE agree to the following:

1. License Agreement No. 609 shall be amended to change the licensed area from .532 acres to 10.862 acres.
2. The additional acreage will be used for the new AHHA commercial kitchen, imu area, parking lot, road access easement, agricultural crops, and marketplace.
3. The term of License agreement shall be for forty years from September 16, 2004, to September 15, 2044.

4. Ingress and egress by motor vehicles from Kuhio Highway is prohibited until AHHA obtains the proper approvals from the State Department of Transportation.
5. AHHA shall work with area neighbors before the construction of the road access easement from Kapunchu Street to the commercial kitchen site to minimize dust and traffic complaints from the increase in vehicular traffic near existing homes.
6. The processing and documentation fee of \$175.00 shall be waived.
7. The annual rental under License Agreement No. 609 shall be gratis.
8. AHHA shall mitigate and be responsible for a drainage channel that runs mauka of the project to ensure that the project is not prone to flooding.
9. AHHA shall provide a metes and bounds description of the entire 10.862 acre licensed area.
10. AHHA shall comply with the requirements of Chapter 343, Hawaii Revised Statutes, shall it undertake any development on the licensed area.
11. Except as otherwise provided herein, all the terms, conditions, covenants, and provisions of License Agreement No. 609 shall continue in full force and effect.

[REMAINDER OF PAGE BLANK -- SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed as of the day and year first above written.

Approved by the
Hawaiian Homes Commission,
On February 15, 2011

APPROVED AS TO FORM

State of Hawaii
DEPARTMENT OF HAWAIIAN HOME LANDS

By Kali Watson
Kali Watson, Chairman
Hawaiian Homes Commission

LICENSOR

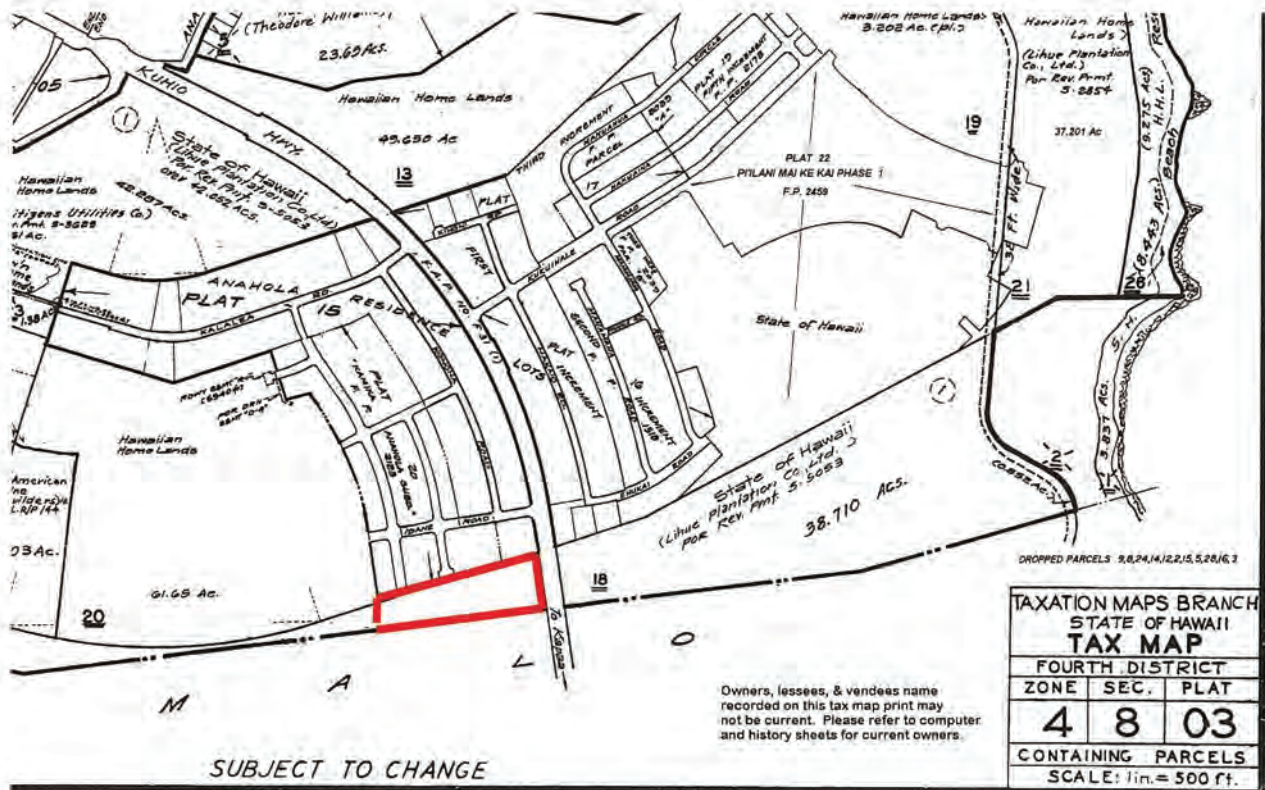
Alyson Marie Yukiko Kani
Deputy Attorney General
State of Hawaii

By Kipukai Kualii
Kipukai Kualii, President
Anahola Hawaiian Homes
Association

LICENSEE

EXHIBIT "A"

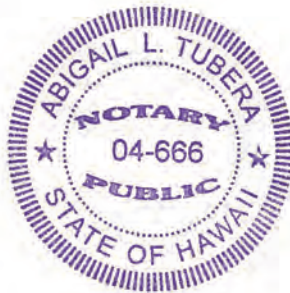
TMK No. (4) 4-8-003:004 (por.)



STATE OF HAWAII)
) ss:
CITY & COUNTY OF HONOLULU)

On April 27, 2023, in the First Circuit, State of Hawaii, before me appeared KALI WATSON, to me personally known, who, being by me duly sworn or affirmed, did say that such person is the CHAIRMAN of the HAWAIIAN HOMES COMMISSION, and the person executed the foregoing instrument identified or described as FIRST AMENDMENT TO LICENSE AGREEMENT NO. 609, as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

The foregoing instrument is undated and contained 6 pages at the time of this acknowledgment/certification.



April L. Tucker

Print Name: Abigail L. Tubera

Notary Public, State of Hawaii

My commission expires: November 21, 2024

STATE OF HAWAII

)

) SS.

COUNTY OF KAUAI

)

On this 26th day of April, 2023, before me appeared KIPUKAI KUALI'I, to me personally known, who, being by me duly sworn, did say that he/she is the person who executed the foregoing instrument and acknowledged to me that he/she executed the same freely and voluntarily for the use and purposes therein set forth.




Joel Groomes

Notary Public, State of Hawaii

Printed Name: Joel C. Groomes

My commission expires: 10/16/2023

Document Date:	<u>Undated</u>	# of Pages:	<u>6</u>
Notary Name:	<u>Joel C. Groomes</u>	<u>5th</u>	Circuit
Doc. Description:	<u>First Amendment to</u>		
	<u>License Agreement No. 609</u>		
<i>Joel Groomes</i>		<u>10/16/2023</u>	
Notary Signature		my Commission expires	
NOTARY CERTIFICATION			



1st Amendment to License 609, Anahola Hawaiian Homes Association

Final Audit Report

2023-04-27

Created:	2023-04-26 (Hawaii-Aleutian Standard Time)
By:	Bradley Duncan (Kaipo.Duncan@hawaii.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAjWIIQx8NnyG9AOFmH5Z_gVvra54H68yw

"1st Amendment to License 609, Anahola Hawaiian Homes Association" History

-  Document created by Bradley Duncan (Kaipo.Duncan@hawaii.gov)
2023-04-26 - 6:57:53 PM HST
-  Document emailed to Alyssa-Marie Kau (alyssamarie.kau@hawaii.gov) for signature
2023-04-26 - 6:59:32 PM HST
-  Email viewed by Alyssa-Marie Kau (alyssamarie.kau@hawaii.gov)
2023-04-27 - 6:11:45 AM HST
-  Document e-signed by Alyssa-Marie Kau (alyssamarie.kau@hawaii.gov)
Signature Date: 2023-04-27 - 6:13:35 AM HST - Time Source: server
-  Agreement completed.
2023-04-27 - 6:13:35 AM HST

1st Amendment to License 609, Anahola Hawaiian Homes Association

Final Audit Report

2023-04-27

Created:	2023-04-27 (Hawaii-Aleutian Standard Time)
By:	Bradley Duncan (Kaipo.Duncan@hawaii.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAASw2m4dI_OBz8Im5cAzmpROjEnDtY51s-

"1st Amendment to License 609, Anahola Hawaiian Homes Association" History

-  Document created by Bradley Duncan (Kaipo.Duncan@hawaii.gov)
2023-04-27 - 9:21:20 AM HST
-  Document emailed to Kali Watson (kali.watson@hawaii.gov) for signature
2023-04-27 - 9:22:46 AM HST
-  Email viewed by Kali Watson (kali.watson@hawaii.gov)
2023-04-27 - 9:30:17 AM HST
-  Document e-signed by Kali Watson (kali.watson@hawaii.gov)
Signature Date: 2023-04-27 - 9:30:49 AM HST - Time Source: server
-  Agreement completed.
2023-04-27 - 9:30:49 AM HST

(cont. Item No. D-1)

satisfactory responses through a consultation process with both the fire department and DHHL on all issues, including the noise and safety features. She welcomes the opportunity to assist the fire department with whatever project they envision in the future for the community. Testimony submitted by Homelani Schaedel to be made a part of these minutes as Exhibit "A".

ACTION

Motion carried unanimously.

ITEM NO: D-2

SUBJECT: Amendment to License Agreement No. 609, Anahola Hawaiian Homes Association, Anahola, Kaua'i

RECOMMENDATION

1. To rescind HHC action of April 20, 2010 granting an extension of license term and incorporating additional land for the licensed area;
2. Extension of the license term from the original 5-year term to 40-year term from September 16, 2004 to September 15, 2044; and
3. Incorporating of 10.33 acres of lands to the existing 0.532-acre parcel for a total of 1.862 acres.

MOTION

Moved by Commissioner M. Kamaka, seconded by Commissioner S. Han chett.

DISCUSSION

Land Management Administrator Linda Chinn introduced Anahola Hawaiian Homestead Association (AHHA) president, Lorraine Rapoza, who pointed out that the community is eager to persevere in making Anahola community sustainable to benefit the beneficiaries. She is encouraged by the community's commitment to work cohesively with one another. She claims the certified kitchen is nearly complete and volunteers have put in nearly \$50,000 worth of landscaping. Robin Danner, CNHA director elaborated that Uncle Eddie and others in the community have initiated a ten-year strategic plan which began in 2003. She added that \$2 million (\$2,000,000) in capital is being utilized for the project. She thanked Chairman Nahale-a and Senator Koichi for their efforts in urging the Department of Transportation (DOT) to re-stripe the highway fronting Anahola, allowing entry into their community, at no cost to the community or to DHHL.

(cont. Item No. D-2)

Commissioner M. Kamaka congratulated Lorraine Rapoza for her commitment to all the beneficiaries in Anahola and for her strength and guidance. Chairman Nahale-a commented he had the pleasure of visiting the Anahola site recently and was invariably impressed with the activity to revitalize this neighborhood.

ACTION

Motion carried unanimously.

ITEM NO: D-3

SUBJECT: Notices of Default/Revocation, Statewide

MOTION

Moved by Commissioner M. Kamaka, seconded by Commissioner P. Artates.

Linda Chinn reported the following payments were received as of February 15, 2011:

1. RP# 383 Devon Donahue - paid in full
2. RP# 435 Pacific Trucking paid \$1160.00; balance due \$1160.00
3. RP# 381 Highway Construction partial payment of \$2847.00
4. RP# 256 William Sanchez paid \$534.00
5. RP# 227 Sam and Angela Pa have agreed to pay an additional \$100 each month to clear their outstanding debt.

Three RP's will be terminated due to lapse in payment. These are RP# 210 (Rufus/Henrie-Rose Kauai); RP# 217 (Emmaline White) and RP# 322 (James Kaaui).

DISCUSSION

Chairman Nahale-a was pleased to learn there has been a definite drop in delinquencies due to late fee interest charges implemented by Land Management staff.

ACTION

Motion carried unanimously.

ITEM NO: E-1


SUBJECT: West Kaua'i Regional Plan Approval


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

February 15, 2011

To: Chairman and Members, Hawaiian Homes Commission

Thru: Linda Chinn, Administrator
Land Management Division 

From: Kaipo Duncan, Land Agent 

Subject: License No. 609, Anahola Hawaiian Homes Association,
Anahola, Kauai

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) grant its approval to the following:

- A. Rescind Hawaiian Homes Commission action of April 20, 2010 granting an extension of license term and incorporation of additional land area to the license (see Exhibit "A");
- B. Extension of the license term from the original 5-year term to forty (40) years, from September 16, 2004 to September 15, 2044; and
- C. Incorporation of an additional 10.33 acres of lands to the existing 0.532-acre parcel, for a total land area of 10.862 acres (See Exhibit "B").

The requested approval is subject to the following conditions:

- 1. That the annual fees for the license shall remain gratis;
- 2. The effective date of the Amendment shall be March 1, 2011;
- ✓ 3. The additional acreage shall be used for the new AHHA Commercial kitchen, imu area, parking lot, open market, agricultural crops, and road access easement;
- 4. The Licensee (AHHA) shall provide a metes and bounds description of the entire area to be used for the project. The final survey and maps will be used by DHHL amend the license document;

5. The Licensee (AHHA) shall mitigate and be responsible for the drainage channel that runs mauka of the project to ensure that the project is not prone to flooding;
6. The Licensee (AHHA) shall work with area neighbors before construction of the road access easement from Kapunohu Street. This is to minimize complaints from the increase in vehicular traffic near existing homes;
7. The Licensee (AHHA) shall ensure that ingress and egress by motor vehicles from Kuhio Highway be limited to tourist vehicles only. All employees, contractors, representatives of AHHA and its affiliates, and community users of the facilities shall use Kapunohu and Ioane Roads for access, until such time that AHHA obtains the proper consents from the State Department of Transportation;
8. The Licensee (AHHA) shall comply with Chapter 343 for any proposed development on the licensed premises;
9. Processing and documentation fee shall be gratis;
10. The consent and amendment documents shall be reviewed and approved by the Department of the Attorney General;
11. The Hawaiian Homes Commission may set forth any additional terms and conditions which shall ensure and promote the purposes of the licensed premises; and
12. Except as amended, all of the terms and conditions of LA 609 shall remain in full force and effect.

DISCUSSION

On September 16, 2004 License Agreement No. 609 was issued to Anahola Hawaiian Homes Association (AHHA) to use a 0.532 acre parcel in Anahola, Kauai for the purpose of providing a community public service facility. In 2004, AHHA through the use of grant funds, purchased two (2) house structures from DHHL that were previously occupied by a DHHL beneficiary. Today AHHA makes great use of both dwellings by providing computer skills training, home buying education, credit counseling, conducting community meetings, etc. to DHHL beneficiaries living in Anahola.

Pertinent information of License Agreement No. 609 is as follows:

Licensee: Anahola Hawaiian Homes Association
Location: Anahola, island of Kauai
Tax Map Key No. (4) 4-8-015:046
Term: 5 years; 5/1/2004-4/30/2009
Rent: Gratis
Improvements: Two (2) house structures
Purpose: Public Service facility and Commercial kitchen

The site is located mauka of Kuhio Highway near the corner of Kuhio Highway and Ioane Road. DHHL also issued a month-to-month Revocable Permit No. 323 (RP 323) to AHHA for the use of an approximately 10.33 acre site. This site was to be used for farming by AHHA but has been temporarily used as a marketplace. Subject to final survey to be provided by AHHA, RP 323 will be cancelled and the lands incorporated into LA 609. The additional acreage will be used for the new AHHA Commercial kitchen, imu area, parking lot, open market, agricultural crops, and road access easement.

To further their support for the Anahola community, AHHA obtained grant funding of over \$400,000 from Kauai Community College through the Department of Housing and Urban Development (HUD) for the construction of the commercial kitchen facility. AHHA also received \$73,000 grant from DHHL to complete the purchase of the kitchen equipment. The kitchen will be available for all to use however, AHHA will allow Hawaiian Homesteaders to use the kitchen facility at a discounted price for fundraisers, baby luaus, reunions, etc.

The Council for Native Hawaiian Advancement (CNHA) is assisting AHHA with this project and had completed an Environmental Assessment (EA) for the kitchen. The Hawaiian Homes Commission granted a Findings of No Significance Impact at its regular monthly meeting of. CNHA has helped AHHA with construction management support, grant management, and staff support for this site.

The cost of the commercial kitchen, road access, imu area, parking lot, open market, etc. is estimated to cost approximately \$1.4 million. AHHA will obtain the entire amount of these funds through grants.

In 2009, AHHA set up a subsidiary community development corporation, Homestead Community Development Corporation (HCDC)

to act as its non-profit arm to accept grant funds. To ensure capacity and maximize limited human resources, AHHA also invited tow other homestead associations to share the administration of HCDC. AHHA has requested that LI 609 be transferred to HCDC. LMD is currently reviewing the request to determine the qualification and eligibility of HCDC. LMD will submit another recommendation on a later date if transferred is deemed appropriate.

AUTHORITY

The authority for the Hawaiian Homes Commission to issue licenses is found in Section 207(c)(1)(A) and (3), HHCA, 1920, as amended. The procedure to implement this or similar type licenses is found in Sections 10-4-21 and 10-4-22, DHHL Administrative Rules, 1998, as amended.

The same DHHL Rules permit DHHL, subject to the approval of the commission, to negotiate and consummate the rental rate (or license value) of a license, when prudent management does not dictate that the rental rate be established by appraisal. Further, the Administrative Rules allow for the issuance of licenses for public purposes on such terms and conditions as may be prudently and reasonable set by the department.

RECOMMENDATION

Land Management Division recommends approval of the requested motion/action as stated.

- Lilia Kapuniai

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

April 20, 2010

To: Chairman and Members, Hawaiian Homes Commission

Thru: Linda Chinn, Administrator
Land Management Division *[Signature]*

From: Kaipo Duncan, Land Agent *[Signature]*

Subject: Amendment to License No. 609, Anahola Hawaiian Homes Association, Anahola, Kauai

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) grant its approval to amend License No. 609 (LI 609), issued to the Anahola Hawaiian Homes Association (AHHA), located in Anahola, Kauai, to add up to two (2) acres of Hawaiian home lands to the current 0.532-acre parcel, further identified as Tax Map Key No. (4) 4-8-003:004 (Por) (See Exhibit "A"). The amendment is subject to the following conditions:

1. That the gratis annual rental for the license shall remain the same;
2. The effective date of the Amendment shall be June 1, 2010;
3. The additional acreage will be used for the new AHHA Commercial kitchen, imu area, parking lot, and road access easement ("project").
4. AHHA shall provide a metes and bounds description of the entire area to be used for the project. Once the land survey is received by DHHL it will be used to amend the license document;
5. AHHA shall mitigate and be responsible for a drainage channel that runs mauka of the project to ensure that the project is not prone to flooding;
6. AHHA shall work with area neighbors before construction of the road access easement from Kapunohu Street. This is to

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ITEM NO. D-2

EXHIBIT "A"

minimize complaints from the increase in vehicular traffic near existing homes;

7. Ingress and egress by motor vehicles shall not be from Kuhio Highway until such time that AHHA obtains the proper consents from the State Department of Transportation;

8. Processing and documentation fee shall be gratis;

9. The Department of the Attorney General shall review and approve the terms of the amended document;

10. The Hawaiian Homes Commission may set forth any additional terms and conditions which shall ensure and promote the purposes of the licensed premises; and

11. Except as amended, all of the terms and conditions of License Agreement No. 609 shall remain in full force and effect.

DISCUSSION

On September 16, 2004 License Agreement No. 609 was issued to Anahola Hawaiian Homes Association (AHHA) to use a 0.532 acre parcel in Anahola, Kauai for the purpose of providing a community public service facility. In 2004, AHHA through the use of grant funds, purchased two (2) house structures from DHHL that were vacated by the previous owner. Today AHHA makes great use of both dwellings by providing computer skills training, home buying education, conducting community meetings, etc. to DHHL beneficiaries living in Anahola.

Pertinent information of License Agreement No. 609 is as follows:

Licensee:	Anahola Hawaiian Homes Association
Location:	Anahola, island of Kauai
	Tax Map Key No. (4) 4-8-015:046
Term:	35 years; 5/1/2004-4/30/2039
Rent:	Gratis
Improvements:	Two (2) house structures
Purpose:	Public Service facility

The site is located mauka of Kuhio Highway near the corner of Kuhio Highway and Ioane Road. DHHL issued a month-to-month

Revocable Permit No. 323 (RP 323) to AHHA for the use of an approximately 10.33 acre site. This ten (10) acre site was to be used for farming by AHHA but has been temporarily used as a marketplace. Subject to final survey to be provided by AHHA, up to two (2) acres of RP 323 will be withdrawn and incorporated to LA 609. The additional acreage will be used for the new AHHA Commercial kitchen, imu area, parking lot, and road access easement ("project") (See Exhibit "B").

To further their support for the Anahola community, AHHA has been planning to construct a commercial kitchen for the last few years. They have obtained grant funding of over \$1 million from Kauai Community College through the Department of Housing and Urban Development (HUD) for the construction of this facility. The kitchen will be available for all to use however, AHHA will allow Hawaiian Homesteaders to use the kitchen facility at a discounted price for fundraisers, baby luaus, reunions, etc.

The Council for Native Hawaiian Advancement (CNHA) is assisting AHHA with this project by conducting a Draft Environmental Assessment (EA), obtaining the proper building permits, construction management support, and grant management. The Draft EA is complete and DHHL Land Management Division is now providing comments and feedback.

It is estimated that the cost of the commercial kitchen, road access, imu area, parking lot, etc. will cost approximately \$1.4 million. AHHA has been awarded these funds and construction will start once the Final EA is complete. The Final EA will be presented to the HHC for final approval.

AUTHORITY

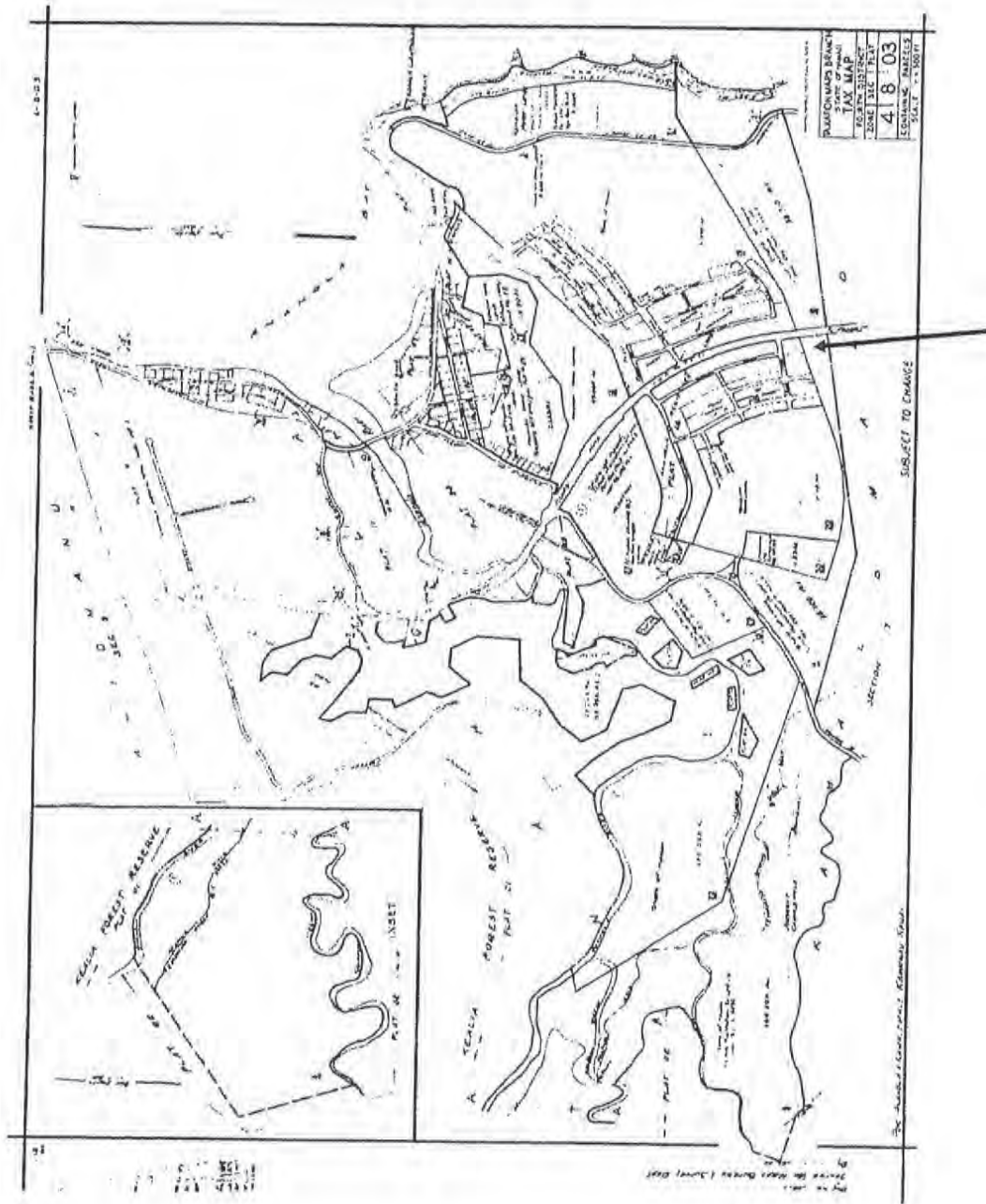
The authority for the Hawaiian Homes Commission to issue licenses is found in Section 207(c)(1)(A) and (3), HHCA, 1920, as amended. The procedure to implement this or similar type licenses is found in Sections 10-4-21 and 10-4-22, DHHL Administrative Rules, 1998, as amended.

The same DHHL Rules permit DHHL, subject to the approval of the commission, to negotiate and consummate the rental rate (or license value) of a license, when prudent management does not dictate that the rental rate be established by appraisal.

Further, the Administrative Rules allow for the issuance of licenses for public purposes on such terms and conditions as may be prudently and reasonable set by the department.

RECOMMENDATION

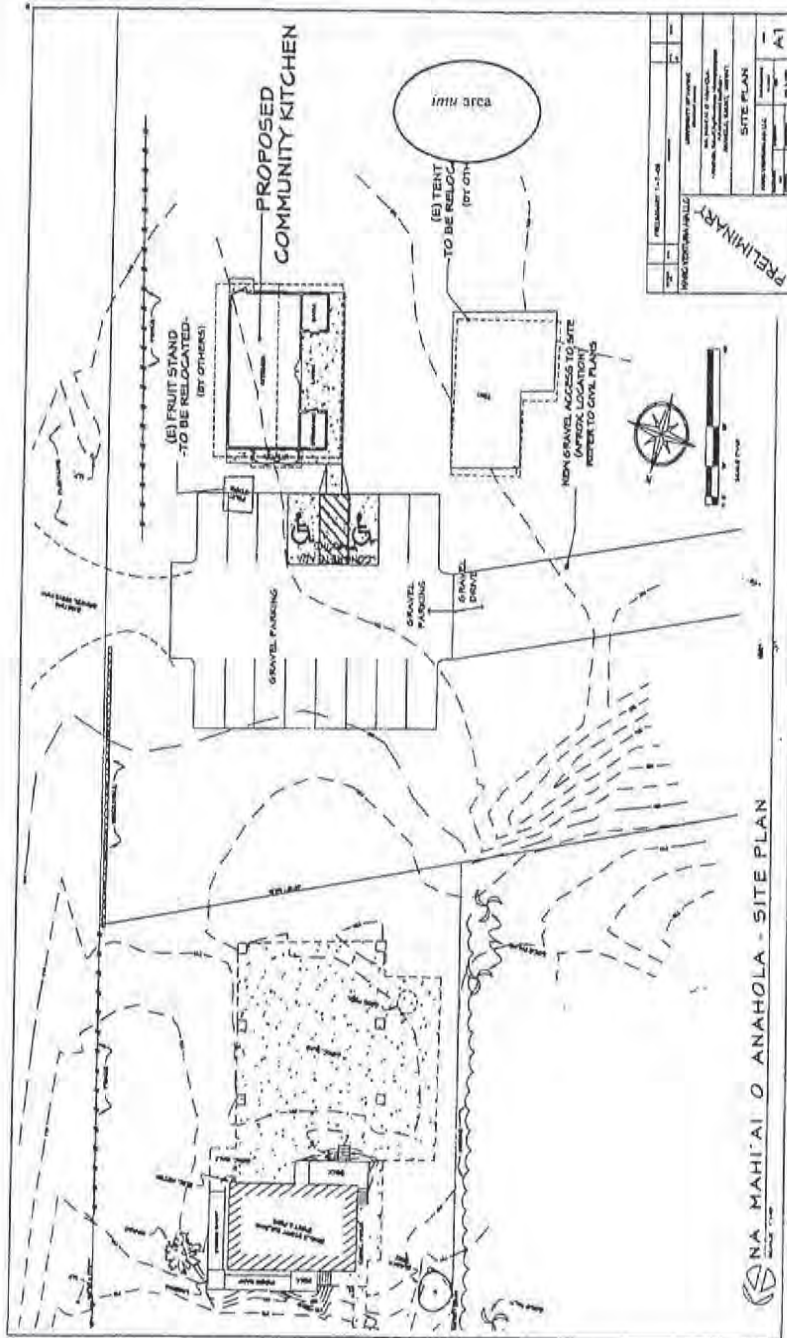
Land Management Division recommends approval of the requested motion/action as stated.



Tax Map Key: (4) 4-8-03:04

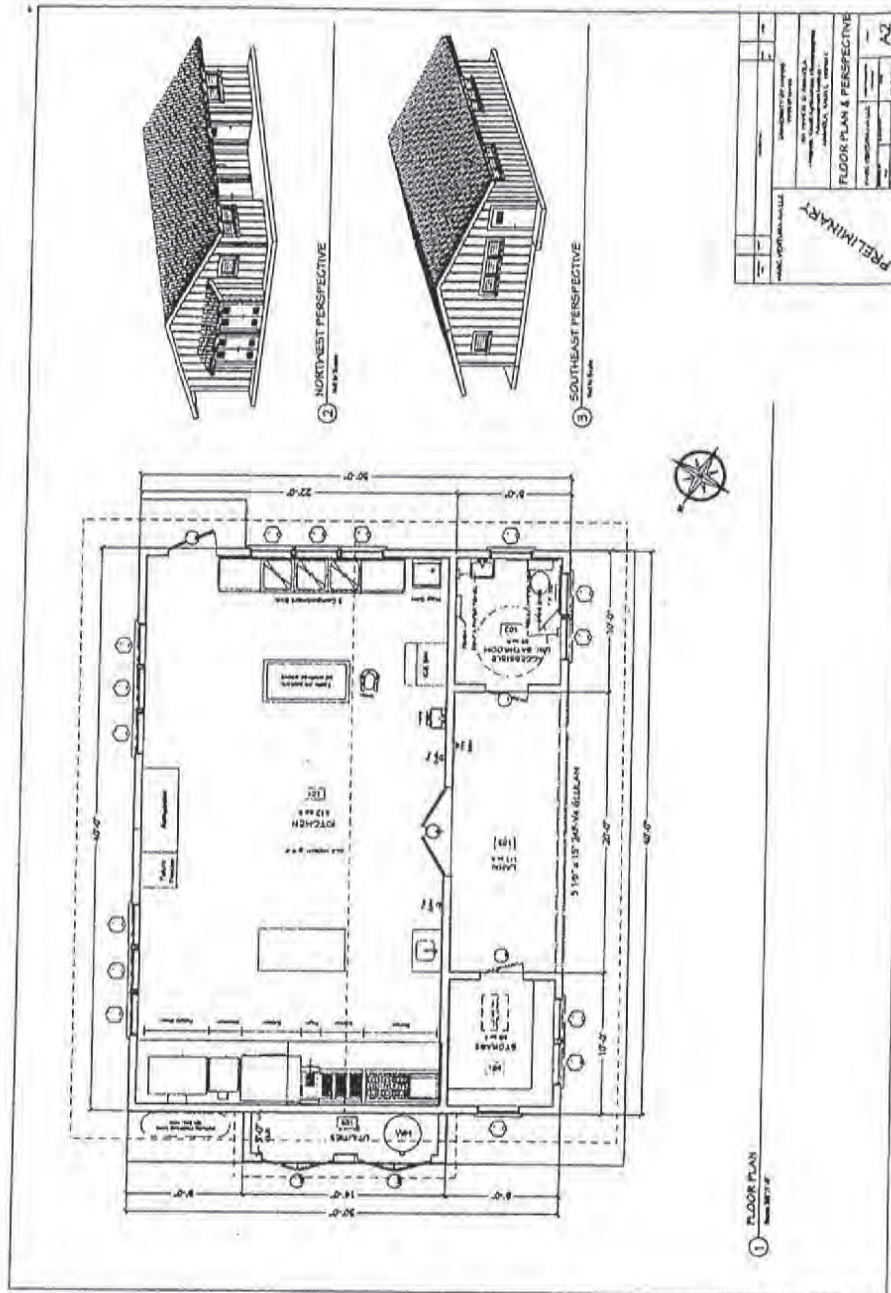
Exhibit 2

ITEM NO. D-2
EXHIBIT "A"



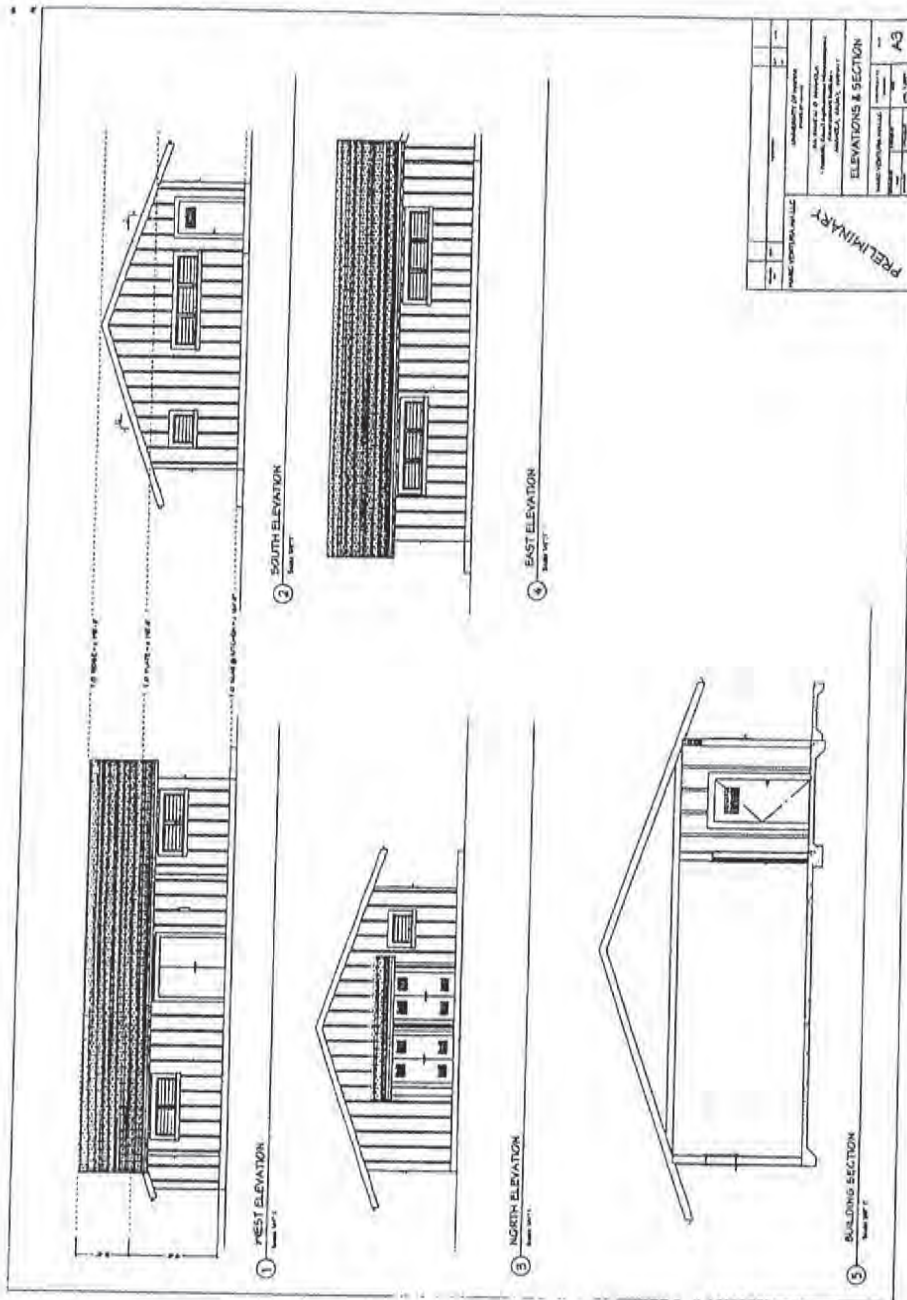
Site Plan

Exhibit 3



Floor Plan & Perspective

Exhibit 4



Elevations

Exhibit 5

LEASE AREA

LAND SITUATED AT ANAHOLA AND KAMALOMALO, KAWAIIHAU, KAUAI, HAWAII

Being a Portion of Parcel 1
Being Also Portion of the Government (Crown) Land of Anahola
and
Portion of the Government Land of Kamalomalo
designated as Hawaiian Home Lands

Beginning at the northeast corner of this parcel of land, on the south side of Kuhio Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KIKOO" being 6,003.72 feet South and 9,028.41 feet East, thence running by azimuths measured clockwise from true South:

- | | | |
|-------------|--------|--|
| 1. 348° 06' | 799.00 | feet along the south side of Kuhio Highway; |
| 2. 77° 12' | 578.58 | feet along the remainder of Parcel 1, the Government Land of Kamalomalo; |
| 3. 168° 06' | 718.01 | feet along the remainder of Parcel 1, the Government Land of Kamalomalo and the Government (Crown) Land of Anahola; |
| 4. 249° 15' | 585.48 | feet along Lots 69, 59, 64, and 66, F. P. 2123, and Lots 32 and 33, Hawaiian Home Lands Anahola Residence Lots to the point of beginning and containing an area of 10.073 acres. |



Lihue, Hawaii
September 2010

DESCRIPTION PREPARED BY:
ESAKI SURVEYING & MAPPING, INC.

Wayne T. Wada
Wayne T. Wada
Licensed Professional Surveyor
Certificate Number 4596

ITEM NO. D-2

EXHIBIT "B"

Exhibit "B"
Item No. F-7

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

LICENSE AGREEMENT NO. 609

THIS LICENSE made and issued this 16th day of September, 2004, between the State of Hawaii, by its DEPARTMENT OF HAWAIIAN HOME LANDS, whose principal place of business is 1099 Alakea Street, Honolulu, Hawaii and whose mailing address is P. O. Box 1879, Honolulu, Hawaii 96805, hereinafter called "LICENSOR", and ANAHOLA HAWAIIAN HOMES ASSOCIATION whose mailing address is P. O. Box 646, Anahola, Hawaii 96703, hereinafter called "LICENSEE."

WITNESSETH THAT:

That LICENSOR, pursuant to the authority granted to it by Section 207(c)(1)(A) of the Hawaiian Homes Commission Act, 1920, as amended (HHCA), is authorized to grant licenses for the use of Hawaiian home lands for public purposes;

That LICENSOR has determined that the license established herein is essential for management, operation and maintenance of LICENSEE'S community public service center; and

That the license is not detrimental to LICENSOR and/or LICENSOR'S beneficiaries because the programs and services offered by LICENSEE shall enhance the quality of life for many of LICENSOR'S beneficiaries residing in the Anahola community and on the island of Kauai.

NOW, THEREFORE, LICENSOR, in consideration of the rent to be paid and the terms, covenants and conditions herein contained to be kept, observed and performed on the part of LICENSEE, its successors and approved assigns, hereby grants and conveys unto LICENSEE an exclusive right and privilege (hereinafter "License") to use Hawaiian home lands located in Anahola, Kauai, identified by Tax Map Key No. (4)4-8-15:46, containing a land area of approximately 0.532 acres, and shown as the diagonally lined area on the map attached hereto as Exhibit "A", hereinafter referred to as the "Premises".

TO HAVE AND TO HOLD the same unto LICENSEE, its successors and approved assigns, for a term of five (5) years, commencing on May 1, 2004, and expiring on April 30, 2009, unless sooner

terminated or extended as hereinafter provided. Based upon LICENSOR'S favorable evaluation of LICENSEE'S operations, the Chairman of the Hawaiian Homes Commission may extend the term for additional five (5) year periods but not to exceed a maximum term of twenty (20) years from the date this License is first executed by LICENSEE. If an extension is desired, LICENSEE shall, not less than sixty (60) days prior to the expiration date, make a written request and provide such information as LICENSOR may request for evaluation of LICENSEE'S operations.

AND LICENSEE hereby covenants with LICENSOR, that:

1. RENT. The rent for the initial five (5) year term of the License shall be \$125.00 per month. All rent shall be due without demand and payable in monthly installments. Should LICENSEE request a change in the purpose (as described below) for which the License is issued, or an extension of the License beyond the initial term, LICENSOR shall have the option to renegotiate the rent and all other terms and conditions.

2. PURPOSE. The purpose for which this License is issued is to allow LICENSEE to operate, manage and maintain a community public service facility. No other uses, such as residential, commercial, pastoral or agricultural, shall be permitted without prior written approval of LICENSOR, except that fundraising events to support LICENSEE'S programs and the Anahola Hawaiian homestead community is permitted.

3. SECURITY DEPOSIT. LICENSEE, upon execution of this License, shall deposit with the DEPARTMENT OF HAWAIIAN HOME LANDS the sum of \$ 250.00 in cash, certified or cashier's check, as security for the faithful performance on its part of all the terms and conditions, inclusive of the special terms and conditions, if any, under this License, to which it hereby agrees, or in such other form of security therefor as may be satisfactory to LICENSOR. The deposit will be returned without interest to LICENSOR within a reasonable time after the termination of this License only if LICENSEE has faithfully performed all terms and conditions to the satisfaction of LICENSOR. In the event, however, that LICENSEE does not perform, LICENSOR, at its option, may declare the deposit forfeited to LICENSOR or apply it as an offset to any amounts owed by LICENSEE to LICENSOR under this License or to any damages or loss to LICENSOR caused by LICENSEE'S breach of such terms and conditions. The exercise of this option is without prejudice to the right of LICENSOR to institute action for debt or damages against LICENSEE or to resort to any recourse against

LICENSEE provided by law for the enforcement of LICENSOR'S rights under this License.

4. SANITARY CONDITION AND WASTE. LICENSEE shall keep the Premises and the improvements thereon in a clean, sanitary and orderly condition, and shall not make, permit or suffer, any waste, strip, spoil, nuisance or unlawful, improper or offensive use of the easement area.

5. DUE CARE AND DILIGENCE. LICENSEE shall use due care and diligence in the construction, installation, modification, repair, maintenance, and operation of the improvements and shall keep the Premises in good, safe condition and repair.

6. INSURANCE. LICENSEE shall, at its own expense, effect, maintain and keep in force throughout the life of this License, a general liability insurance policy with an aggregate limit of not less than \$1,000,000 and a \$300,000 limit for each occurrence, including property damage, personal injury and medical expenses for any person or persons. The specification of the limits as contained herein shall not be construed in any way to be a limitation on the amount of liability of LICENSEE for rent, interest or other charges under this License.

Such insurance policy shall (a) be issued by an insurance company or surety company authorized to do business in the State of Hawaii or approved in writing by the Chairman, Hawaiian Homes Commission; (b) name the State of Hawaii, DEPARTMENT OF HAWAIIAN HOME LANDS, as an insured; (c) provide that the DEPARTMENT OF HAWAIIAN HOME LANDS shall be notified at least thirty (30) days prior to any termination, cancellation or material change in the insurance coverage; and (d) cover all injuries, losses or damages arising from, growing out of or caused by any acts or omissions of LICENSEE, its officers, agents, employees, or invitees in connection with LICENSEE'S use or occupancy of the Premises.

LICENSEE shall furnish to LICENSOR upon the execution of this License, certificates showing such liability insurance policy or policies to be in favor of LICENSOR and to be in force, and shall furnish like certificates upon each renewal thereof.

7. INDEMNITY. LICENSEE shall at all times with respect to the Premises, use due care for public safety in the exercise of the rights granted to it hereunder and shall defend, hold harmless and indemnify LICENSOR, its officers, agents and

employees from and against any and all loss or damages to real or personal property, or liability for injury to or death of persons when such loss, damage, injury or death, arises from, grows out of, or is proximately caused by any act or omission on the part of LICENSEE, its officers, agents, employees, or invitees, in its use or occupancy of the Premises, or by reason of fire or explosion upon the Premises.

8. HAZARDOUS MATERIAL. LICENSEE shall not cause or permit the escape, disposal, or release of any hazardous materials. LICENSEE shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the premises any such materials except to use in the ordinary course of LICENSEE'S activities, and then only after written notice is given to the LICENSOR of the identity of such materials and upon LICENSOR'S consent, which consent may be withheld at the LICENSOR'S sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by LICENSEE, then LICENSEE shall be responsible for the costs thereof. In addition, LICENSEE shall execute affidavits, representations and the like from time to time at LICENSOR'S request concerning LICENSEE'S best knowledge and belief regarding the presence of hazardous materials on the Premises placed or released by LICENSEE.

LICENSEE agrees to indemnify, defend, and hold LICENSOR, its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorney's fees, and all claims, suits, and demands therefor, arising out of or resulting from and use or release of hazardous materials on the Premises occurring while LICENSEE is in possession, or elsewhere if caused by LICENSEE or persons acting under LICENSEE. These covenants shall survive the expiration or earlier termination of the License.

For the purpose of this License, the term "hazardous material" as used herein shall include any substance, waste or material designated as hazardous or toxic or radioactive or other similar term by any present or future federal, state or local statutes, regulation or ordinance, such as the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, and the Federal Clean Water Act, as amended from time to time, and also including but not limited to petroleum,

petroleum based substances, asbestos, polychlorinated-biphenyls ("PCB"), formaldehyde, and also including any substance designated by federal, state or local regulations, now or in the future, as presenting a risk to human health or the environment.

Prior to the termination of the subject License, LICENSEE may be required to conduct a Level One (1) Hazardous Waste Evaluation and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Department of Health and LICENSOR.

9. CONDEMNATION. If at any time the Premises, or any part thereof, shall be condemned or taken for any public project by any governmental authority, LICENSEE shall have the right to claim and recover from the condemning authority, but not from LICENSOR, such compensation as is then payable for this License, the rights hereto, and for the LICENSEE'S equipment used in connection with this License, which shall be payable to LICENSEE as its interests appear.

10. ABANDONMENT. In the event the license area, hereby granted, shall be abandoned or shall remain unused for a continuous period of one (1) year, all rights granted hereunder shall terminate, and LICENSEE shall remove its personal property and any improvements owned by LICENSEE and clear the Premises of any debris or abandoned structures, the LICENSOR hereby consenting and agreeing to such removal. Failure of LICENSEE to remove its personal property, owned improvements, or clear the Premises within sixty (60) days after notification to do same from LICENSOR by certified mail at LICENSEE'S last known address, will constitute a breach and LICENSOR may thereafter remove LICENSEE'S personal property and owned improvements and clear the Premises to a condition acceptable to LICENSOR and LICENSEE will reimburse LICENSOR for all reasonable costs in connection with such removal and/or clearing.

11. BREACH. If LICENSEE shall fail to observe or perform any of the covenants, terms, or conditions herein contained, and on its part to be observed and performed, LICENSOR shall deliver written notice of the breach or default by service as provided by section 634-35 or 634-36 of the Hawaii Revised Statutes or by registered mail or certified mail to LICENSEE at its last known address, making demand upon LICENSEE to cure or remedy the breach or default within sixty (60) days from the date of receipt of the notice. Upon failure of LICENSEE to cure or remedy the breach or default within the time period provided

herein or within such additional period as LICENSOR may allow for good cause, LICENSOR may terminate this License without prejudice to any other remedy or right of action.

12. RIGHT TO ENTER. LICENSOR or the County, and the agents or representatives thereof, shall have the right to enter and cross any portion of said easement area for the purpose of performing any public or official duties, provided, that in the exercise of such rights, LICENSOR or the County shall not interfere unreasonably with LICENSEE or LICENSEE'S use and enjoyment of the easement area.

13. WITHDRAWAL. All or portions of the land under this License may be withdrawn by LICENSOR, at its sole discretion, upon one hundred eighty (180) days advance notice in writing to LICENSEE should LICENSOR need to use the Premises herein described for purposes of the Hawaiian Homes Commission Act, 1920, as amended.

14. TERMINATION. That upon the expiration, termination or revocation of this License, LICENSEE shall peaceably deliver unto LICENSOR possession of the Premises. If LICENSEE is not in default of the terms and conditions of this License, LICENSEE shall have the right to remove any or all of LICENSEE'S personal property and owned improvements from the Premises and should LICENSEE fail to remove such personal property and owned improvements, after notice thereof, LICENSOR shall have the right to retain or dispose of any or all said personal property and owned improvements. LICENSEE agrees to pay all cost of removal, disposal and/or storage of LICENSEE'S personal property and owned improvements not retained by LICENSOR.

15. EXTENSION OF TIME. That notwithstanding any provision contained herein to the contrary, wherever applicable, LICENSOR may for good cause shown, allow additional time beyond the time or times specified herein to LICENSEE, in which to comply with, observe and perform any of the terms, conditions and covenants contained herein.

16. SEVERABILITY. Whenever possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License should be prohibited, or invalidated under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remaining provisions of this License.

17. SINGULAR/PLURAL. The singular or plural depends on its appropriate use.

18. AGREEMENT. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal successors and approved assigns.

19. SPECIAL CONDITIONS.

A. Not less than sixty (60) days prior to the expiration of this License, LICENSEE agrees to inform LICENSOR of LICENSEE'S intent to vacate the Premises on the expiration date or make a written request for extension of the License.

B. LICENSOR acknowledges that LICENSEE has purchased the pre-existing structures on the Premises from LICENSOR. In view of this, it is LICENSEE'S option to insure the structures against fire. However, LICENSEE agrees, herein, to indemnify LICENSOR against all claims for liability that may arise due to fire occurring on the Premises. The Premises and all improvements thereon are rented "as is". LICENSEE shall retain ownership of all structures existing on the Premises and may remove such structures at anytime during the term of the License, however, upon termination of the License, LICENSOR can require that LICENSEE remove all structures and restore the Premises to a clean, level vacant lot.

C. LICENSEE shall not undertake any new construction without the prior written approval and consent of LICENSOR.

D. No residential use shall be permitted on the premises, including overnight camping.

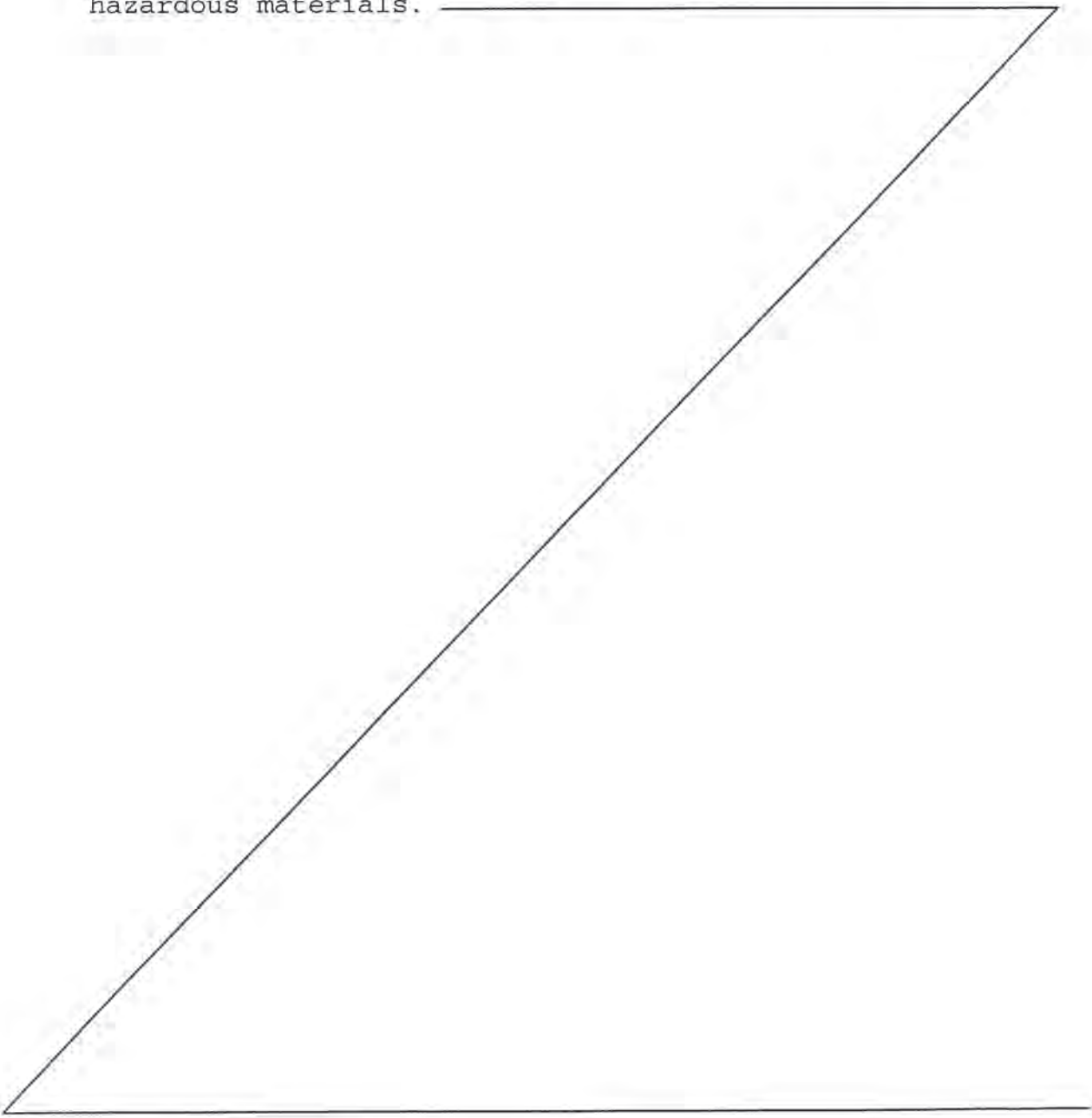
E. LICENSEE is expressly prohibited from using the Premises for the storage, sorting and sale of materials such as fill soil or rock, construction debris, manure, rubble, junk, waste, scrap, discarded or salvage items including machinery, vehicular parts, tires, batteries, waste oils, solvents, equipment, flammables and contaminants of every description whatsoever.

F. LICENSEE shall pay all real property taxes assessed by the County of Kauai for both the land and improvements on the Premises.

G. LICENSEE shall be responsible for the security of the Premises and all of LICENSEE'S personal property and improvements thereon.

H. LICENSEE shall be responsible and pay for all utilities consumed on the Premises.

I. LICENSEE'S use of the Premises shall comply with all governmental laws, rules, regulations, ordinances, and requirements, including, but not limited to, environmental issues and the safe handling and disposal of toxic or hazardous materials.



IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

State of Hawaii
DEPARTMENT OF HAWAIIAN HOME LANDS

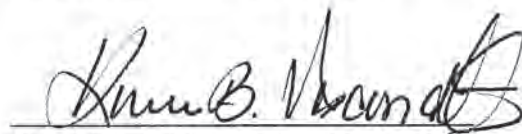
Approved by the HHC
at its meeting held
on July 20, 2004



By _____
Micah A. Kane, Chairman
Hawaiian Homes Commission

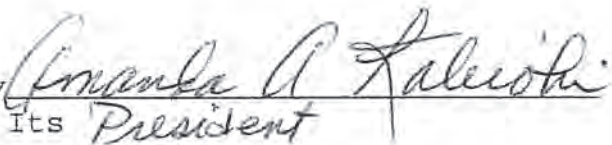
APPROVED AS TO FORM:

LICENSOR



Deputy Attorney General
State of Hawaii

ANAHOLA HAWAIIAN HOMES ASSOCIATION

By 
Its President

By _____
Its

LICENSEE

STATE OF HAWAII
COUNTY OF KAUAI

)
) SS
)

On this 16th day of September, 2004, before me personally appeared Amanda Kaleiohi and _____ to me known, who, being by me duly sworn, did say that she are the _____ and _____, respectively, of the ANAHOLA HAWAIIAN HOMES ASSOCIATION, and that said instrument was signed on behalf of said ANAHOLA HAWAIIAN HOMES ASSOCIATION by authority of its Board of Directors, and acknowledged that she executed the same as the free act and deed of said ANAHOLA HAWAIIAN HOMES ASSOCIATION.



Jessica Galiza
JESSICA GALIZA
Notary Public, Fifth Judicial Circuit
State of Hawaii

My Commission expires: 11/18/05

KUHIO

HIGHWAY

Lie. No 609
Anahola Hawaiian
Homes Assoc

COMPRESSED PARCELS 1/40.

NOTE: All lots owned by
Hawaii State Lands
Commission, Home Land
Trust, or other public agency,
shall be marked as such.

PLAT 03

DEPARTMENT OF THE LAND COMMISSION TAXATION MAPS BUREAU HISTORICAL RECORDS TAX MAP			
SCALE	FOOT	INCH	FEET
4	8	1	5
CONTAINING 100 PARCELS			

SUBJECT TO CHANGE

ANAHOLA RESIDENCE LOTS, KAWAIIHAU, KAUAI

472

EXHIBIT "A"

ITEM NO: C-2
SUBJECT: Purchase of Lots at Discovery Harbour Subdivision, Kau,
Island of Hawaii

MOTION/ACTION

Moved by H. Kalua, seconded by H. Cho. Motion carried unanimously.

ITEM NO: D-1
SUBJECT: Issuance of Right-of-Entry, Oihi Lokahi o Ka Mokupuni o
Keawe, Upper Piihonua, Hawaii

MOTION/ACTION

Moved by H. Kalua, seconded by H. Cho. Motion carried unanimously.

ITEM NO: D-2
SUBJECT: Issuance of License Agreement, Anahola Hawaiian Homes
Association, Anahola, Kauai

MOTION/ACTION

Moved by H. Kalua, seconded by H. Cho. Motion carried unanimously.

ITEM NO: D-3
SUBJECT: Issuance of Land Licenses, Piha Mauka Forest Management
Area, Humuula, Hawaii

MOTION/ACTION

Moved by H. Cho, seconded by H. Kalua. Motion carried unanimously.

ITEM NO: D-4
SUBJECT: General Lease Nos. 226 and 227, Yim Development Corp.,
Waiakea, Hawaii

MOTION/ACTION


Moved by H. Kalua, seconded by H. Cho. Motion carried unanimously.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

July 20, 2004

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Linda Chinn, Acting Administrator
Land Management Division 

SUBJECT: Issuance of License Agreement, Anahola Hawaiian Homes Association, Anahola, Kauai

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission authorize the issuance of an exclusive, non-benefit license agreement (License) to the Anahola Hawaiian Homes Association (LICENSEE) for the use of approximately 0.532 acres of Hawaiian Home Lands in Anahola, Kauai, identified by Tax Map Key No. (4)4-8-15:46, and shown as the diagonally-lined area on Exhibit "A", attached hereto, subject to the following conditions:

1. LICENSEE shall use the Premises to operate, manage and maintain a community public service facility. No other uses, such as residential, commercial, pastoral or agricultural, shall be permitted without prior written approval of LICENSOR, except that fundraising events to support LICENSEE'S programs and the Anahola Hawaiian homestead community may be allowed.
2. The term of the License shall be for five (5) years from the date the License document is first executed by LICENSEE. Based upon LICENSOR'S favorable evaluation of LICENSEE'S operations, the Chairman of the Hawaiian Homes Commission may extend the term for additional five (5) year periods but not to exceed a maximum term of twenty (20) years from the date this License is first executed by LICENSEE. *(See attached)*
3. The rent for the initial five (5) year term shall be \$125.00 per month. LICENSOR reserves the right to adjust the rent for any extended period of the License.

4. LICENSEE shall pay a non-refundable processing and documentation fee totaling \$275.00.
5. The Premises and all improvements thereon are rented "as is". LICENSEE shall retain ownership of all structures existing on the Premises and may remove such structures at anytime during the term of the License, however, upon termination of the License, LICENSOR can require that LICENSEE remove all structures and restore the Premises to a clean, level vacant lot.
6. LICENSEE shall not undertake any new construction without the prior written approval and consent of LICENSOR.
7. No residential use shall be permitted on the premises, including overnight camping.
8. LICENSEE shall pay all real property taxes assessed by the County of Kauai.
9. LICENSEE shall be responsible for the security of the Premises and all of LICENSEE'S personal property thereon.
10. LICENSEE agrees to pay for all utilities consumed on the Premises.
11. LICENSEE'S use of the Premises shall comply with all governmental laws, rules, regulations, ordinances, and requirements, including environmental issues and the safe handling and disposal of toxic or hazardous materials.
12. Other standard terms and conditions of similar licenses issued by DHHL.
13. The License shall be subject to the review and approval of the Department of the Attorney General.
14. Other terms and conditions deemed prudent by the Chairman of the Hawaiian Homes Commission.

DISCUSSION

The Anahola Hawaiian Homes Association (AHHA) is recognized as a non-profit homestead organization whose members are lessees of Hawaiian home lands in Anahola, Kauai. In November 2002,

AHHA was issued Revocable Permit No. 273 (RP 273) to use the land and existing structures on the subject property. The structures, basically residential homes erected by a former lessee, were in disrepair and did not conform to county building code standards. The issuance of RP 273 allowed AHHA to take possession and make improvements that included removing trash, trimming overgrown vegetation and renovating the structures. Once the structures were brought into conformance, AHHA applied for and received grant funds allowing it to purchase the structures from DHHL. DHHL has recently received payment for the structures and, as stated in RP 273, AHHA now seeks to convert RP 273 into a longer-termed license for the Premises.

LMD's June 28, 2004, site inspection revealed that AHHA has done a very good job of renovating and maintaining the property and implementing community based programs within the past 18 months. Besides structural renovations and site clean up, AHHA has created 12 job opportunities for Anahola residents in the field of document digitization and hopes to increase that number to 20 by year-end. These 12 individuals have been trained to convert standard documents into a computerized format for both local and out of state customers. AHHA recently obtained approval for the issuance of a revocable permit for approximately 10 acres of vacant land adjacent to the subject Premises. AHHA intends to clear the land of debris and begin holding community craft fairs and fundraisers. It will also use some of the vacant land in partnership with Kauai Community College to create an agricultural training program.

Since AHHA has purchased the structures on the site, rent under this license is based solely on the use of 0.532 acres of land. Assuming that the recent tax assessed value of the land at \$69,800 is correct, LMD would normally charge an annual rent of \$5,500 (8% of land value). AHHA obtains grant funding from many sources that require the use of those funds for the benefit of all persons, including those who may not reside in the community or do not have any Hawaiian ancestry and because of this, DHHL Administrative Rules require that rent be paid. In view of the fact that nearly all of the services provided by AHHA benefit the Hawaiian homestead community in some way, LMD recommends that the annual rent be discounted \$1,800 (approximately 2.6% of tax assessed value).

The authority for the Hawaiian Homes Commission to issue licenses is found in Section 207(c)(1), HHCA, 1920, as amended. The procedure to implement this or similar type licenses is

found in Sections 10-4-21 and 10-4-22, DHHL Administrative Rules, 1998, as amended.

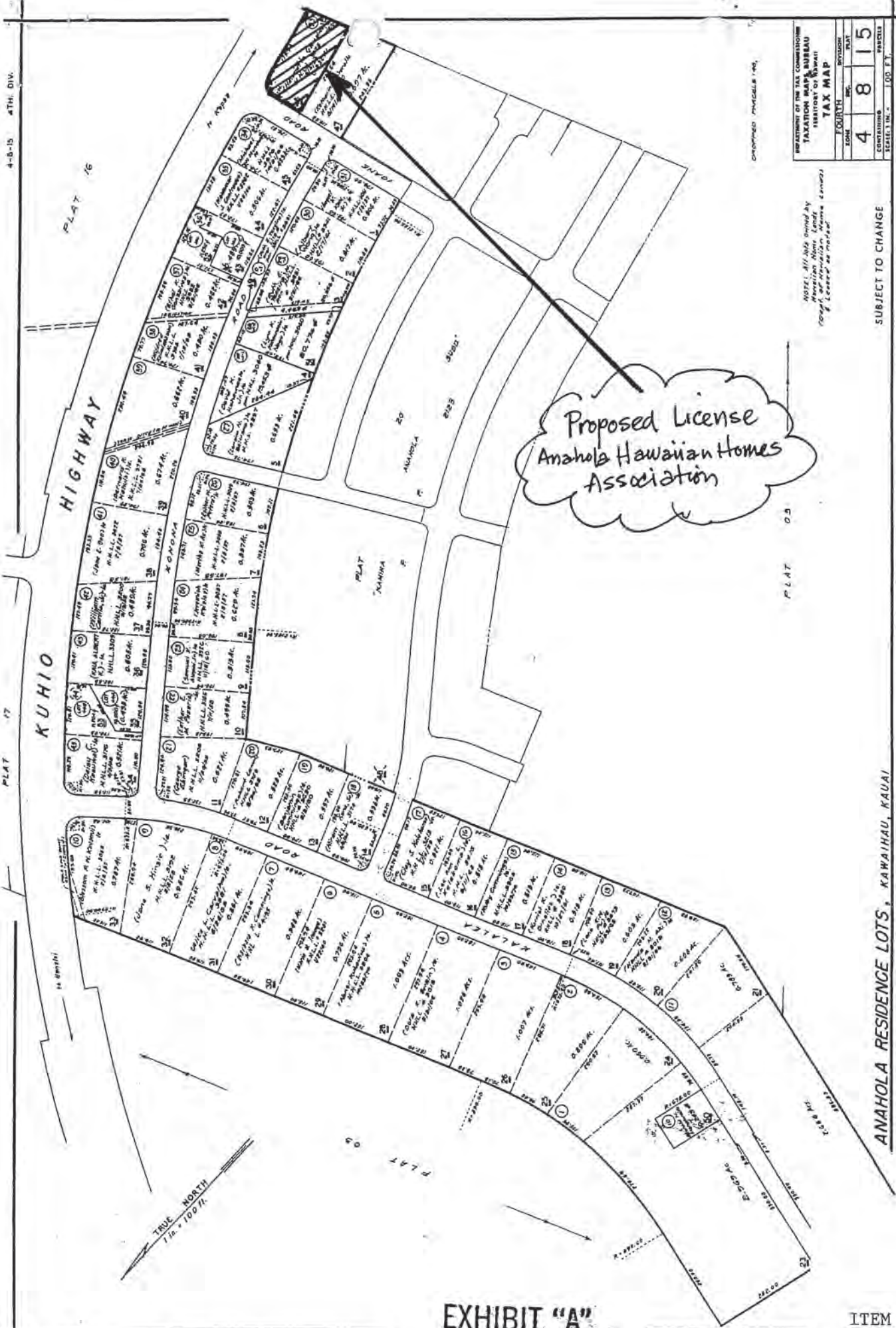
The same DHHL Rules permit DHHL, subject to the approval of the commission, to negotiate and consummate the rental rate (or license value) of a license, when prudent management does not dictate that the rental rate be established by appraisal. Further, the Administrative Rules allow for the issuance of licenses for public purposes on such terms and conditions as may be prudently and reasonably set by the department. LMD believes that the recommended annual rent of \$1,800.00 has been prudently and reasonably set and is acceptable in view of the training, employment opportunities and other potential benefits to the Anahola Hawaiian homestead community.

Chapter 343, Environmental Assessment: The proposed use does not differ from the past use of the subject area. Therefore, pursuant to Section 11-200-8(a)(1), Exempt Classes of Action of the Environmental Impact Statement Rules of the Hawaii Administrative Rules, the action is exempt from the preparation of an environmental assessment. This section exempts "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."

RECOMMENDATION

Land Management Division recommends approval of the requested motion/action as stated.

1



ANAHOLA RESIDENCE LOTS, KAWAII, KAUAI

1

ITEM NO. D-2

PLAT 24.3 H.N.