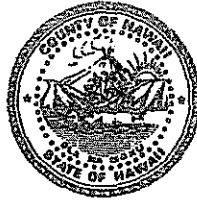


Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

November 5, 2008

Mr. and Mrs. Leonard E. Freeman
P.O. Box 449
Laupahoehoe, Hawai'i 96764

Dear Mr. and Mrs. Freeman:

SUBJECT: Additional Farm Dwelling Agreement (FDA-08-000231)
Applicant: Leonard E. and Marianne B. Freeman
Land Owner: Leonard E. and Marianne B. Freeman
State Land Use: Agricultural
County Zoning: A-20a
Land Area: 11.5 Acres
Tax Map Key: (3) 3-5-004:030

Pursuant to authority conferred to the Planning Director by Chapter 25, Article 5, Division 7, Section 25-5-77 of the Zoning Code and Planning Department Rule 13, Farm Dwellings, we have reviewed your request for an additional farm dwelling on the subject property. Your submittals included the following information:

1. Names, address and the signatures of the applicants/landowners.
2. A farm plan or evidence of the applicants' continual agricultural productivity or farming operation within the County, including an explanation of why this AFD is needed in connection with the agricultural productivity or farming operation. Your farm plan included the following ongoing income producing agricultural activities:
 - a. Ongoing agricultural activities include the following:
 - i. The property is dedicated to agricultural use through the Real Property Tax Division;
 - ii. The activity involves raising of cattle, poultry, propagation of awa, pineapple, edible and ornamental bamboos, various tropical fruit trees and;

EXHIBIT A

NOV 07 2008

Mr. and Mrs. Leonard E. Freeman
Page 2
November 5, 2008

- iii. Approximately 15 hours or more per day, 7 days per week are required for running the farm; and
 - iv. Approximate annual income is more than \$50,000
3. Applicant's commitment to the farm plan will be shown in the form of the enclosed Additional Farm Dwelling Agreement affidavit, to be notarized and submitted for recordation with the Bureau of Conveyances, which states that the additional dwelling shall be used for farm-related purposes.

Findings:

1. In Chapter 205, Hawai'i Revised Statutes (HRS), the State Land Use Law does not authorize residential dwellings as a permitted use in the State Land Use Agricultural district unless the dwelling is related to an agricultural activity or is a farm dwelling. **A farm dwelling as defined in Section 205-4.5, Chapter 205, HRS, means a single family dwelling located on and used in connection with a farm, including clusters of single family farm dwellings permitted within agricultural parks developed by the State, or where agricultural activity provides income to the family occupying the dwelling.** (emphasis added)
2. The subject lot was created prior to June 4, 1976 which, pursuant to HRS §205-4.5(b), allows the first dwelling on the lot to be a single-family dwelling.
3. The Farm Plan and the agreement to use the dwelling for agricultural or farm-related activity on the building site demonstrate that there is income producing agricultural activity.
4. In addition, the following agencies have submitted their comments as stated below:
 - a. Department of Water Supply (DWS):

"We have reviewed the subject application and have the following comments and conditions.

Please be informed that there are two existing accounts that service this property. Each account has a 5/8-inch meter which is adequate for only one dwelling unit at an average daily usage of 400 gallons. Inasmuch as this application is proposing an additional (third) dwelling, the installation of a separate 5/8-inch meter would normally be required in accordance with the

Mr. and Mrs. Leonard E. Freeman
Page 3
November 5, 2008

Department's Rules and Regulations. However, the Department's existing water system facilities cannot support an additional water meter at this time. Extensive improvements and additions, which may include, but not be limited to, source, storage, booster pumps, transmission and distribution facilities, would be required. Currently, sufficient funding is not available from the Department for such improvements and no time schedule is set.

Therefore, the Department has no objections to the proposed application, subject to the applicant understanding and accepting that the Department cannot provide service to the proposed additional farm dwelling. Further, should the application be approved, both dwellings shall not share the existing meter.

Should there be any questions, please contact Mr. Ryan Quitoriano of our Water Resources and Planning Branch at 961-8070, extension 256."

b. Department of Health (DOH):

"Lands formerly used for sugarcane production are now being developed into communities where residential homes, schools and commercial businesses are being constructed. Chemicals associated with the sugarcane industry persist in soil today and may be a threat to public health and the environment. Elevated arsenic levels were discovered in soil at former sugarcane production areas on the islands. The HEER Office has identified former sugarcane production areas for assessment throughout the state and plans to work with property owners to conduct environmental assessments to identify and address elevated soil arsenic levels prior to finalizing development plans for the property.

We recommend that you review all of the Standard Comments on our website: www.state.hi.us/health/environmental/env-planning/landuse/landuse.htm. Any comments specifically applicable to this project should be adhered to.

The use of individual wastewater systems is allowed. The type and number of individual wastewater systems will be determined by the wastewater rules in effect at the time of building permit application."

c. Department of Real Property Tax (RPT):

Clearance dated October 30, 2008, TMK (3) 3-5-004-030-0000

“This is to certify that the real property taxes due to the County of Hawaii on the parcel(s) listed above have been paid up to and including June 30, 2009.

This clearance was requested on behalf of LEONARD EDWIN & MARIANNE BROWN FREEMAN and is issued for this/these parcel(s) only.

By Ann Kekahuna – Clerk
REAL PROPERTY TAX DIVISION”

Decision:

In view of the above, your request to construct an **Additional Farm Dwelling** on the property is approved subject to the following conditions:

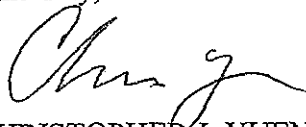
1. The AFD shall only be used to provide shelter for persons involved in the agricultural or farm-related activity on the building site. Family members who are not engaged in agricultural or farm-related activities are allowed to reside in the farm dwelling.
2. The agreement shall run with the land and apply to all persons who may, now or in the future, use or occupy the additional farm dwelling. The enclosed AFD Agreement must be returned to the Planning Department with the appropriate notarized signatures along with a check made out to the Bureau of Conveyances in the amount of \$25.00 in accordance with the enclosed AFDA Instructions. The Planning Department will not approve a building permit application for the additional dwelling until the AFDA document and all required attachments have been accepted for recordation.
3. All other applicable rules, regulations, and requirements of the Planning Department (including but not limited to the Zoning Code, Chapter 25), Department of Public Works, Department of Water Supply, Fire Department and State Department of Health and any other reviewing agencies/divisions listed on the Building Permit (BP) Application shall be adhered to.
4. The applicant is responsible for any State and Federal tax consequences due to the incomes produced from the farm activity.

Mr. and Mrs. Leonard E. Freeman
Page 5
November 5, 2008

5. Your AFDA has been approved based on ongoing agricultural activity as summarized previously in this letter.
6. The First Party shall allow the Second Party or its representative to inspect the farm upon reasonable prior notice.
7. This AFDA shall be valid for a period of two (2) years from the date of this approval letter to secure a Building Permit for the additional farm dwelling. Failure to secure a BP for this additional farm dwelling on or before November 3, 2010 may cause the Director to initiate proceedings to invalidate the AFDA.

Please feel free to contact Larry Nakayama of this office at 961-8288 should you have any further questions and/or concerns.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

LN/JG;jlh

O:\AFDA\AFDALHN\Approvals\Freeman-Aprvl.doc

Enclosures: AFDA document
AFDA document instruction sheet

xc: Mr. Milton Pavao, DWS
Mr. Mike McCall, RPT

AFTER RECORDATION, RETURN BY MAIL TO:

County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

FIRST PARTY: LEONARD E. AND MARIANNE B. FREEMAN

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 3-5-004:030

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this 3rd day of November, by and between **LEONARD E FREEMAN AND MARIANNE B. FREEMAN**, herein called the "First Party," whose mailing address is P.O. Box 449, Laupahoehoe, Hawaii 96764 and the COUNTY OF HAWAII, herein called the "Second Party."

IT IS HEREBY AGREED that the First Party may construct a farm dwelling located on the property described by Tax Map Key (3) 3-5-004:030 situated within the State Land Use Agricultural district and zoned Agricultural (A-20a) by the Second Party.

IT IS HEREBY ACKNOWLEDGED that the First Party is the legal owner of the property above described.

IT IS HEREBY FURTHER AGREED that this approval to construct one additional farm dwelling is given subject to the following conditions:

1. The additional farm dwelling shall be used to provide shelter to person(s) involved in the agricultural or farm-related activity on the property. Family members who are not engaged in agricultural or farm-related activity are allowed to reside in the farm dwelling.
2. The agreement shall run with the land and apply to all persons who may now or in the future use or occupy the additional farm dwelling.
3. This agreement shall include any and all conditions specified in the Additional Farm Dwelling Agreement letter, attached to this document as Exhibit "A".

IT IS HEREBY FURTHER AGREED that if this agreement is with a lessee, the legal owner shall be a party to this agreement.

IT IS HEREBY FURTHER AGREED that should the pertinent provisions of the State and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, this Agreement may be reconsidered for possible amendment and/or severance.

IT IS HEREBY FURTHER AGREED that if the property is situated within the State Land Use Agricultural district, the Second Party may impose a fine of not more than \$5,000 for violation of Section 205-4.5, Hawaii Revised Statutes. If the violation is not corrected within six months of such citation and the violation continues, a citation for a new and separate violation may be imposed. There shall be a fine of not more than \$5,000 for any additional violation. The Second Party may also impose fines for any violation of Chapter 25, Hawaii County Code, as amended, in accordance with the procedures and fine schedule outlined in Division 3, Article 2, of said code.

IN CONSIDERATION OF THE AFORESAID, the Second Party hereby approves this Agreement as being in conformity with Sections 205-2 and 205-4.5 of the Hawaii Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawaii County Code, as amended.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first
above written.

FIRST PARTY:




LEONARD E. FREEMAN, Legal Owner



MARIANNE B. FREEMAN, Legal Owner

SECOND PARTY:



Christopher J. Yuery, Planning Director
County of Hawaii Planning Department

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 13th day of November, 2008 before me personally appeared **LEONARD E. FREEMAN and MARIANNE B. FREEMAN** to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.



Sharon H. Goya Sharon H. Goya
Notary Public, State of Hawaii

My commission expires: 2/18/09

Doc. Date: 11/3/08 # Pages: 6

Notary Name: Sharon H. Goya 3rd Circuit

Doc. Description: Additional Farm Dwelling Agreement

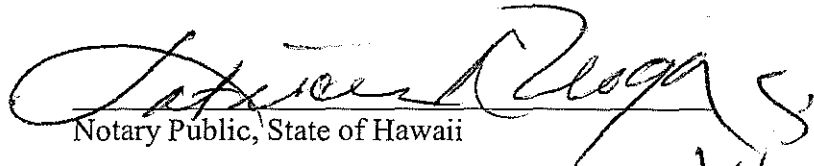
Sharon H. Goya 11/13/08
Notary Signature Date



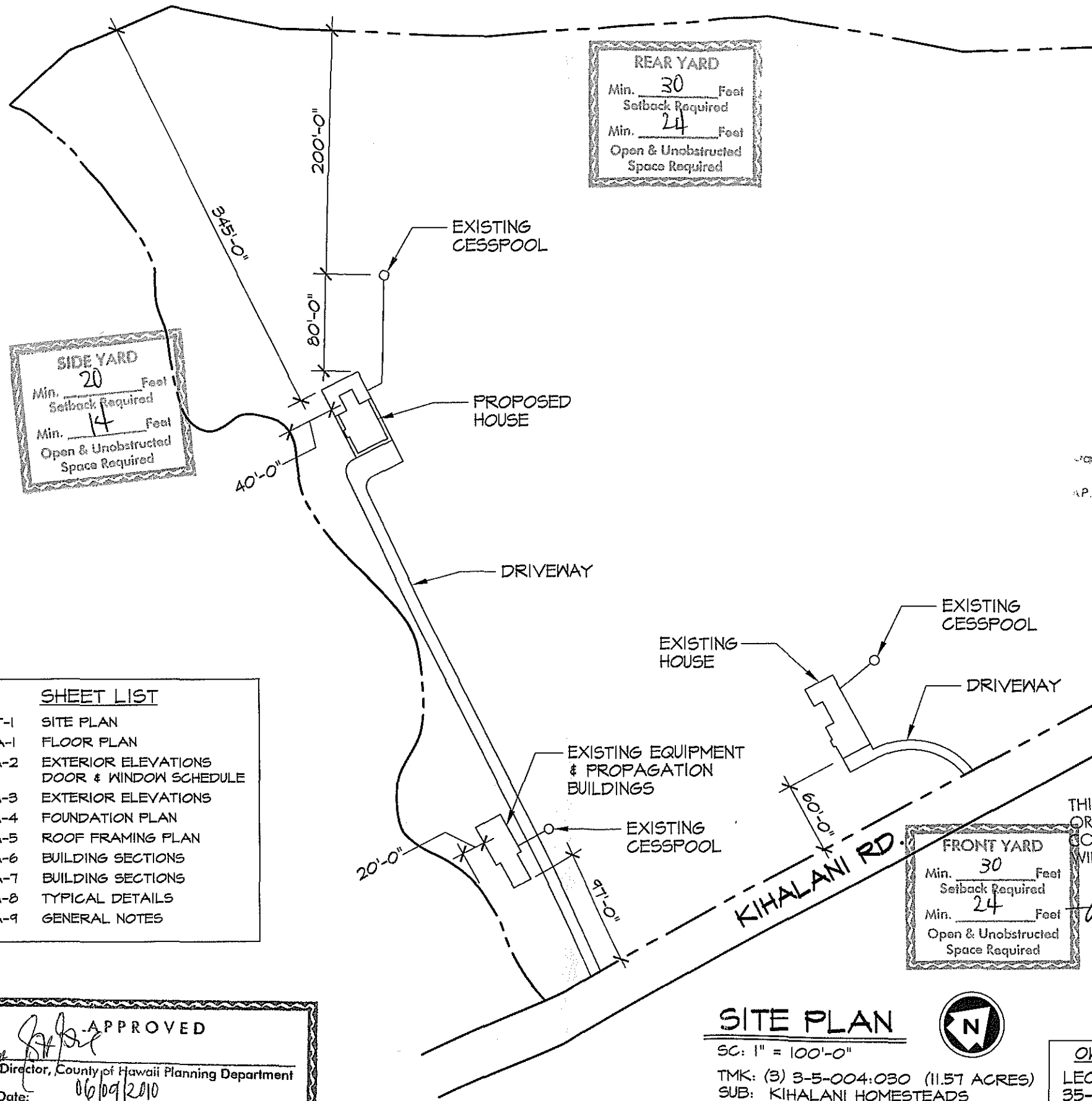
STATE OF HAWAII)
) SS
COUNTY OF HAWAII)

On this 28th day of November, 2008 before me personally appeared Christopher J. Yuen, to me personally known, who, being by me duly sworn, did say that he is the Planning Director of the County of Hawaii; and that the Planning Department of the County of Hawaii has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawaii, a government agency, and said Christopher J. Yuen acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawaii.

Patricia A. Koga


Notary Public, State of Hawaii

My commission expires: 07/17/10



REAR YARD
 Min. 30 Feet
 Setback Required
 Min. 24 Feet
 Open & Unobstructed
 Space Required

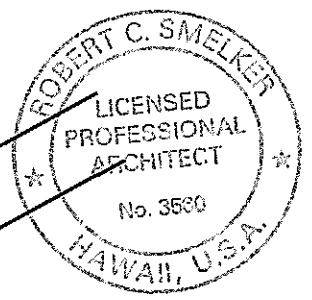
SIDE YARD
 Min. 20 Feet
 Setback Required
 Min. 14 Feet
 Open & Unobstructed
 Space Required

SIDE YARD
 Min. 20 Feet
 Setback Required
 Min. 14 Feet
 Open & Unobstructed
 Space Required

FRONT YARD
 Min. 30 Feet
 Setback Required
 Min. 24 Feet
 Open & Unobstructed
 Space Required

RECEIVED HILO
 This set of approved plans and specifications shall be kept on job site at all times during construction.

APPROVED _____
 PLANNING DIVISION CHIEF



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY OBSERVATION.

SETBACKS:
 30' - FRONT & BACK
 20' - SIDES

SHEET LIST

T-1	SITE PLAN
A-1	FLOOR PLAN
A-2	EXTERIOR ELEVATIONS DOOR & WINDOW SCHEDULE
A-3	EXTERIOR ELEVATIONS
A-4	FOUNDATION PLAN
A-5	ROOF FRAMING PLAN
A-6	BUILDING SECTIONS
A-7	BUILDING SECTIONS
A-8	TYPICAL DETAILS
A-9	GENERAL NOTES

APPROVED _____
 Director, County of Hawaii Planning Department
 Date: 06/09/2010

SITE PLAN

SC: 1" = 100'-0"
 TMK: (3) 3-5-004:030 (11.57 ACRES)
 SUB: KIHALANI HOMESTEADS
 NORTH HILO, HAWAII
 (SOLAR WATER HEATER)

OWNER:
 LEONARD & MARIANNE FREEMAN
 35-272 KIHALANI HOMESTEAD RD.
 NORTH HILO, HI. 96764
 (808) 962-6146 HM.

REVISIONS	DESCRIPTION	DATE
TITLE:	A NEW HOME FOR: LEONARD & MARIANNE FREEMAN	
CONTENTS:	SITE PLAN	
DATE:	JUNE 2009	
DRAWN BY: A.A.		
SHEET NO.	T-1 OF 1	

TMK: (3) 3-5-004 : 030