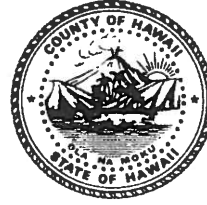


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

County of Hawai'i

PLANNING DEPARTMENT

May 18, 2022

Carol Fields
73-1368 A Kahualani Pl
Kailua-Kona, HI 96740

Dear Carol Fields:

Additional Farm Dwelling Agreement Application (PL-AFD-2021-000009)
Applicant: Carol Fields
Owner: George W & Carol M Fields Trust
State Land Use: Agriculture
County Zoning: Agricultural (A-3a)
Land Area: 3.171 acres
TMK: (3) 7-3-024:037

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. Name and address of the landowner(s) or lessee(s), if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.
2. Written authorization of the landowner(s) if the lessee filed the request.
3. A farm plan or evidence of the applicant's continual agricultural productivity or farming operation within the County, including an explanation of why this additional farm dwelling is needed in connection with the agricultural productivity or farming operation. Your farm plan included the following existing income-producing agricultural activities on the subject property:
 - (a) Ongoing agricultural activities:
 1. Livestock Management – Chickens
 2. Fruit/Citrus/Vegetable Management – Avocado, Olena, Wauke, Ti Leaf, Hala, Mamaki, Ulu, Kou, Banana, Hapu, Ohia, monstera, areca palm, lychee, anthurium and Kalo
 - (b) The labor man-hours for the above ongoing activities are: 27-36hours per week.

4. In additional support, various farm management expenses were provided and a general excise tax license.
5. The 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.** (emphases added)
2. The subject lot was created by subdivision (SUB-4649) approved on June 17, 1981, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan, agricultural dedication, 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:
 - (a) Department of Water Supply: No Comments Were Received
 - (b) Department of Health (Memorandum dated March 22, 2022): Attached as Exhibit 1
 - (c) Real Property Tax Office (Memorandum dated April 12, 2022): Attached as Exhibit 2

Decision:

In view of the above, your request to construct an additional dwelling as a farm dwelling is approved subject to the following conditions:

1. The additional farm dwelling 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.
3. The enclosed Additional Farm Dwelling Agreement ("AFDA") must be returned to the Planning Department with the appropriate notarized signatures of all persons comprising the "First Party" to the agreement along with a check made out to the Bureau of

Conveyances in the amount of \$41.00 in accordance with the enclosed Additional Farm Dwelling Agreement Instructions. **The Planning Department will not approve a building permit application for the additional dwellings until the AFDA document with all required attachments has been recorded at the Bureau of Conveyances.**

4. The First Party (owners and their lessees and their successors in interest) shall comply with 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 other reviewing agencies/divisions listed on the Building Permit Application.
5. Your Additional Farm Dwelling Agreement has been approved based on your existing activities as presented in your farm plan and summarized previously in this letter. **It is required that the First Party (owners and their lessees and their successors in interest) to the Agreement shall continue to carry out and maintain this farm plan for the life of the additional farm dwelling.** The Second Party (County of Hawai'i Planning Department) to the Agreement may, in its sole discretion, allow time extensions and modifications for good cause shown by the First Party.
6. The First Party (owners and their lessees and their successors in interest) shall allow the Second Party or its representative to inspect the farm from time to time upon reasonable prior notice.
7. **The First Party is required to secure a building permit from the Department of Public Works, Building Division, for the construction of the additional farm dwelling on or before May 18, 2024.** Failure to secure a building permit for this additional farm dwelling on or before May 18, 2024 may cause the Director to initiate proceedings to invalidate the AFDA.
8. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - a. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors, or assigns and that are not the result of their fault or negligence.
 - b. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - c. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
 - d. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this permit.

George W & Carol M Fields Trust
May 18, 2022
Page 4

Should you have any questions, please contact Deanne Bugado of our West Hawai'i office at 323-4770.

Sincerely,

Zendo Kern
Zendo Kern (May 24, 2022 14:58 HST)

ZENDO KERN
Planning Director

xc: Chief Sanitarian, DOH
Manager, DWS
Administrator, RPT



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: March 22, 2022

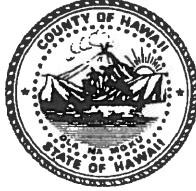
TO: Mr. Zendo Kern
Planning Director, County of Hawaii

FROM: Eric Honda
District Environmental Health Program Chief

SUBJECT: Additional Farm Dwelling Agreement Application (PL-AFD-2021-000009)
Applicant: Carol Fields
Owner: George W & Carol M Fields Trust
SLU: Agriculture
CZ: Agricultural A-3a
LA: 3.171 acres
TMK: 7-3-024:037

The Health Department found no environmental health concerns with regulatory implications in the submittals.

Mitchell D. Roth
Mayor



Deanna S. Sako
Finance Director

Steven A. Hunt
Deputy Director

County of Hawai'i

DEPARTMENT OF FINANCE - REAL PROPERTY TAX

Aupuni Center • 101 Pauahi Street • Suite No. 4 • Hilo, Hawai'i 96720-4679 • Fax (808) 961-8415
Appraisers (808) 961-8354 • Clerical (808) 961-8201 • Collections (808) 961-8282
West Hawai'i Civic Center • 74-5044 Ane Keohokalole Hwy. • Bldg. D, 2nd Flr. • Kailua Kona, Hawai'i 96740
Fax (808) 327-3538 • Appraisers (808) 323-4881 • Clerical (808) 323-4880

Date: 4/12/2022

Tax Map Key: 730240370000

To: Planning Director

From: Real Property Tax Office

Subj: Request for Comments and/or Review

Comments from the Appraisal Section:

- Property is receiving agricultural use value
- Property is dedicated to agricultural use
- Possible rollback taxes
- x There are no comments at this time

Remarks:

Appraiser to Contact: Wendy Hunt

Phone: 323-4884

Comments from the collection section:

- Status of real property taxes:
- Current
- Delinquent / Amounts \$ _____
Amount includes tax, penalty & interest up to _____

Remarks: Real property taxes are paid good thru 4/30/2022.

Collection personnel to contact: Namele Walker

Phone: 808-961-8285

Additional Farm Dwelling Agreement Instructions

Attached is the Additional Farm Dwelling Agreement form for your approved application. **It is important that you follow these instructions in the completion of the form.** Failure to complete and submit a properly completed agreement form to the Planning Department for recordation with the Bureau of Conveyances may cause your Additional Farm Dwelling Agreement to be rejected by the Bureau and delay approval of your application for a building permit for the additional farm dwelling. Building permit applications for additional farm dwellings will not be approved by the Planning Department until the AFDA form and the required submittals specified below have been returned to the Planning Department from the Bureau of Conveyances. You may make as many copies of the AFDA document for your records as necessary. A copy of the final recordation page will be available from the Planning Department when received back from the Bureau of Conveyances upon request.

1. All persons in the "First Party" must sign before a Public Notary in the appropriate location on the signature page (Page 4). Photocopies of this page may be made and sent to any persons listed on the page whose notarized signatures are required and then attached to the agreement document along with the original signature page. Facsimiles or FAX copies of signatures will not be accepted.

Note: All signatures must be the same as the typed name. Therefore, if John L. Doe is the name typed the signature must also be John L. Doe. Signing John Doe or Jonathan L. Doe will cause the agreement document to be rejected by the Bureau of Conveyances for recordation purposes.

2. Please leave the document undated (on Page 2), as the Planning Department will date the document when it is signed by the Director.
3. **Enclose a check or money order in the amount of \$41.00, made out to the Bureau of Conveyances,** for the Bureau of Conveyance recordation fee.
4. Return the **original** completed AFDA document with all required signatures and the recordation fee payment to the Planning Department for the Director's signature and submittal to the Bureau of Conveyances for recordation.

AFTER RECORDATION, RETURN BY MAIL TO:

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

Total Pages: _____

TITLE OF DOCUMENT:

ADDITIONAL FARM DWELLING AGREEMENT

PARTIES TO DOCUMENT:

**FIRST PARTY: CAROL M FIELDS, TRUSTEE OF THE GEORGE W &
CAROL M FIELDS TRUST
GEORGE W FIELDS, TRUSTEE OF THE GEORGE W &
CAROL M FIELDS TRUST**

SECOND PARTY: COUNTY OF HAWAII

PROPERTY DESCRIPTION:

TMK: (3) 7-3-024:037

ADDITIONAL FARM DWELLING AGREEMENT

THIS AGREEMENT made and executed this ____ day of _____, _____, by and between Carol M Fields, Trustee of the George W & Carol M Fields Trust & George W Fields, Trustee of the George W & Carol M Fields Trust, hereinafter referred to as the "First Party," whose mailing address is 73-1368 A Kahualani Place, Kailua-Kona, HI 96740, and the COUNTY OF HAWAII, whose mailing address is Planning Department, 101 Pauahi Street, Suite 3, Hilo, HI 96720, hereinafter referred to as the "Second Party."

WITNESSETH

WHEREAS, IT IS HEREBY AGREED that the First Party may construct an additional dwelling (the farm dwelling) located on the property described by Tax Map Key (3) 7-3-024:037 situated within the State Land Use Agricultural district and zoned Agricultural (A-3a) (the "Property") 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 the additional dwelling as a farm dwelling are 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 dwellings.
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 dwellings.
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 of Hawai‘i and County laws and rules and regulations change to authorize said farm dwelling, upon request of the First Party, its successors, heirs, personal representatives and assigns, 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 shall impose a fine against the First Party, its successors, heirs, personal representatives and assigns, of not more than \$5,000.00 for violation of any provision under section 205-4.5, Hawaii Revised Statutes. If the First Party fails to remove such violation within six months of such citation and the violation continues to exist, the First Party shall be subject to a citation for a new and separate violation. There shall be a fine of not more than \$5,000 for any additional violation. The Second Party may impose fines for any violation of Chapter 25, Hawaii County Code, as amended, in accordance with the procedures and fine schedule outlined in Section 25-2-35 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 Hawai‘i Revised Statutes, relative to permitted uses within the State Land Use Agricultural district. This Agreement is also in conformance with Chapter 25, Hawai‘i County Code, as amended.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

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

Carol M Fields, Trustee of the George W & Carol M Fields
Trust, Legal Owner

FIRST PARTY

George W Fields, Trustee of the George W & Carol M
Fields Trust, Legal Owner

FIRST PARTY

COUNTY OF HAWAII

By _____
Zendo Kern
Its Planning Director

SECOND PARTY

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this _____ day of _____, 20____ before me personally appeared Carol M Fields, Trustee of the George W & Carol M Fields Trust & George W Fields, Trustee of the George W & Carol M Fields Trust, 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.

Signature: _____

Name: _____

Notary Public, State of _____

My commission expires: _____

(Official Stamp or Seal)

<u>NOTARY CERTIFICATION STATEMENT</u>	
Document Identification or Description: _____ _____	
Doc. Date: _____	
No. of Pages: _____ [including exhibits]	
Jurisdiction: _____	
Signature of Notary	Date of Notarization and Certification Statement
_____ (Official Stamp or Seal)	
Printed Name of Notary	

STATE OF HAWAI'I)
) SS.
COUNTY OF HAWAI'I)

On this ____ day of _____ 20____, before me personally appeared Zendo Kern, to me personally known, who, being by me duly sworn, did say that Zendo Kern is the Planning Director of the County of Hawai'i, and that the Planning Department of the County of Hawai'i has no corporate seal; and that the instrument was signed on behalf of the Planning Department of the County of Hawai'i, a government agency, and said Zendo Kern acknowledged the instrument to be the free act and deed of said Planning Department, County of Hawai'i.

Rachelle Ley

Notary Public, State of Hawai'i
Third Judicial Circuit

My Commission Expires: June 12, 2023

Document Date:	_____	No. of Pages:	_____
Notary Name:	<u>Rachelle Ley</u>	<u>Third Judicial Circuit</u>	
Doc. Description:	<u>Additional Farm Dwelling Agreement</u>		
	<u>Tax Map Key (3) 7-3-024:037</u>		
Notary Signature	Date		

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

County of Hawai'i PLANNING DEPARTMENT

May 18, 2022

Carol Fields
73-1368 A Kahualani Pl
Kailua-Kona, HI 96740

Dear Carol Fields:

Additional Farm Dwelling Agreement Application (PL-AFD-2021-000009)
Applicant: Carol Fields
Owner: George W & Carol M Fields Trust
State Land Use: Agriculture
County Zoning: Agricultural (A-3a)
Land Area: 3.171 acres
TMK: (3) 7-3-024:037

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. Name and address of the landowner(s) or lessee(s), if the latter has a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement.
2. Written authorization of the landowner(s) if the lessee filed the request.
3. A farm plan or evidence of the applicant's continual agricultural productivity or farming operation within the County, including an explanation of why this additional farm dwelling is needed in connection with the agricultural productivity or farming operation. Your farm plan included the following existing income-producing agricultural activities on the subject property:
 - (a) Ongoing agricultural activities:
 1. Livestock Management – Chickens
 2. Fruit/Citrus/Vegetable Management – Avocado, Olena, Wauke, Ti Leaf, Hala, Mamaki, Ulu, Kou, Banana, Hapu, Ohia, monstera, areca palm, lychee, anthurium and Kalo
 - (b) The labor man-hours for the above ongoing activities are: 27-36hours per week.

4. In additional support, various farm management expenses were provided and a general excise tax license.
5. The 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.** (emphases added)
2. The subject lot was created by subdivision (SUB-4649) approved on June 17, 1981, which, pursuant to HRS §205-4.5(b), requires the first dwelling on the lot to be a farm dwelling.
3. The Farm Plan, agricultural dedication, 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:
 - (a) Department of Water Supply: No Comments Were Received
 - (b) Department of Health (Memorandum dated March 22, 2022): Attached as Exhibit 1
 - (c) Real Property Tax Office (Memorandum dated April 12, 2022): Attached as Exhibit 2

Decision:

In view of the above, your request to construct an additional dwelling as a farm dwelling is approved subject to the following conditions:

1. The additional farm dwelling 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.
3. The enclosed Additional Farm Dwelling Agreement ("AFDA") must be returned to the Planning Department with the appropriate notarized signatures of all persons comprising the "First Party" to the agreement along with a check made out to the Bureau of

Conveyances in the amount of \$41.00 in accordance with the enclosed Additional Farm Dwelling Agreement Instructions. **The Planning Department will not approve a building permit application for the additional dwellings until the AFDA document with all required attachments has been recorded at the Bureau of Conveyances.**

4. The First Party (owners and their lessees and their successors in interest) shall comply with 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 other reviewing agencies/divisions listed on the Building Permit Application.
5. Your Additional Farm Dwelling Agreement has been approved based on your existing activities as presented in your farm plan and summarized previously in this letter. **It is required that the First Party (owners and their lessees and their successors in interest) to the Agreement shall continue to carry out and maintain this farm plan for the life of the additional farm dwelling.** The Second Party (County of Hawai'i Planning Department) to the Agreement may, in its sole discretion, allow time extensions and modifications for good cause shown by the First Party.
6. The First Party (owners and their lessees and their successors in interest) shall allow the Second Party or its representative to inspect the farm from time to time upon reasonable prior notice.
7. **The First Party is required to secure a building permit from the Department of Public Works, Building Division, for the construction of the additional farm dwelling on or before May 18, 2024.** Failure to secure a building permit for this additional farm dwelling on or before May 18, 2024 may cause the Director to initiate proceedings to invalidate the AFDA.
8. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - a. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors, or assigns and that are not the result of their fault or negligence.
 - b. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - c. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
 - d. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this permit.

George W & Carol M Fields Trust
May 18, 2022
Page 4

Should you have any questions, please contact Deanne Bugado of our West Hawai'i office at 323-4770.

Sincerely,

Zendo Kern
Zendo Kern (May 24, 2022 14:58 HST)

ZENDO KERN
Planning Director

xc: Chief Sanitarian, DOH
Manager, DWS
Administrator, RPT



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: March 22, 2022

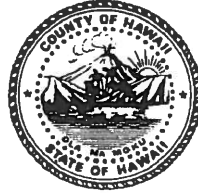
TO: Mr. Zendo Kern
Planning Director, County of Hawaii

FROM: Eric Honda
District Environmental Health Program Chief

SUBJECT: Additional Farm Dwelling Agreement Application (PL-AFD-2021-000009)
Applicant: Carol Fields
Owner: George W & Carol M Fields Trust
SLU: Agriculture
CZ: Agricultural A-3a
LA: 3.171 acres
TMK: 7-3-024:037

The Health Department found no environmental health concerns with regulatory implications in the submittals.

Mitchell D. Roth
Mayor



Deanna S. Sako
Finance Director

Steven A. Hunt
Deputy Director

County of Hawai'i

DEPARTMENT OF FINANCE - REAL PROPERTY TAX

Aupuni Center • 101 Pauahi Street • Suite No. 4 • Hilo, Hawai'i 96720-4679 • Fax (808) 961-8415
Appraisers (808) 961-8354 • Clerical (808) 961-8201 • Collections (808) 961-8282
West Hawai'i Civic Center • 74-5044 Ane Keohokalole Hwy. • Bldg. D, 2nd Flr. • Kailua Kona, Hawai'i 96740
Fax (808) 327-3538 • Appraisers (808) 323-4881 • Clerical (808) 323-4880

Date: 4/12/2022 Tax Map Key: 730240370000

To: Planning Director
From: Real Property Tax Office
Subj: Request for Comments and/or Review

Comments from the Appraisal Section:

- Property is receiving agricultural use value
- Property is dedicated to agricultural use
- Possible rollback taxes
- x There are no comments at this time

Remarks:

Appraiser to Contact: Wendy Hunt Phone: 323-4884

Comments from the collection section:

- Status of real property taxes:
- Current
- Delinquent / Amounts \$ _____
Amount includes tax, penalty & interest up to _____

Remarks: Real property taxes are paid good thru 4/30/2022.

Collection personnel to contact: Namele Walker
Phone: 808-961-8285