

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

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July 20, 2007

Andrew B. Sprenger, Esq.
Native Hawaiian Legal Corporation
1164 Bishop Street, Suite 1205
Honolulu, HI 96813

Dear Mr. Sprenger:

DETERMINATION OF PRE-EXISTING LOTS
Puehuehu, North Kohala, Hawai'i
Tax Map Key (3) 5-4-008:044

This is to acknowledge your request dated November 16, 2006. We apologize for the delay in this response.

We have reviewed the documents submitted, our department records and those of the Department of Finance – Real Property Tax Division (RPT) in accordance with Article 11 (Pre-existing Lots) of the Subdivision Code (Sections 23-117 through 23-120).

Our review of the records has found the following:

The history that you have outlined in the narrative shows that there were several conveyances by deeds of portions of Grant 748 as follows:

1. 24.82 acres of Grant 748 to Kaikuahine 2 on September 25, 1876;
2. Then 12 acres (as indicated in your attachments 8 & 12) of that 24.82 acres to Kaluakapu (a.k.a. Pau) on November 12, 1883; and
3. 6 acres of the 12 acres to George F. Beckley on April 21, 1885.

All of these deeds were duly recorded prior to November 22, 1944, thus satisfying Section 23-118 of the Hawai'i County Code.

Andrew B. Sprenger, Esq.
Native Hawaiian Legal Corporation
Page 2
July 20, 2007

The net result of our findings is that there are four (4) existing lots of record within Parcel 044 as follows: .

1. One (1) lot, 6 acres, deeded to George F. Beckley on April 21, 1885 from Kaluakapu (a.k.a. Pau);
2. One (1) lot, 6 acres, the balance of 12 acres deeded to Kaluakapu (a.k.a. Pau) on November 12, 1883 from Kaikuahine 2;
3. One (1) lot, 12.82 acres, the balance of 24.82 acres deeded to Kaikuahine 2 on September 25, 1876; and
4. One (1) lot, 32.58 acres, the balance of the 57.40 acres presently identified as the area of Parcel 044.

We do not have any records of the lots being consolidated or deeded back into Grant 748 or with any other adjacent parcels.

Should you have any questions, please feel free to contact Jonathan Holmes or Daryn Arai of this department.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

JRH:lnm

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xc: Tax Maps and Records Supervisor I
Real Property Tax Division-Kona
Planning Department-Kona
Manager, DWS
Director, DPW

FILED

2011 SEP 22 PM 12: 59

C. GANDALIRA, CLERK
CIRCUIT COURT OF
THE THIRD CIRCUIT
STATE OF HAWAII

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Attorneys for Plaintiff
EWM ENTERPRISES LP

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

EWM ENTERPRISES LP, a Nevada limited
partnership,

Plaintiff,


vs.

HEIRS AND ASSIGNS OF KAPALIHOU
(w), also known as KAPALEHAO (w), et al.;
HEIRS AND ASSIGNS OF G. F. BECKLEY
(k); HEIRS AND ASSIGNS OF KAWAINUI
(w); STATE OF HAWAII; COUNTY OF
HAWAII; the following owners or occupants
of adjoining lands: JOSEPH DE PONTE;
MANUEL DE PONTE, JR.; GLORIA P.
GIDADE; LUCY SANTOS; BEATRICE
FERNANDEZ; LOUISE DOWNING C/O
DOROTHY FERNANDEZ; ANTONE PARO;
ALEXANDRINA DE PONTE PARO;
DOROTHY CHING; ERNEST PARO;
RAYMOND PARO; JOAN SHIM; MRS.
JOSE DE PONTE C/O DOROTHY
FERNANDEZ; JOSEPH FAISCA and

CIVIL NO. 01-1-0302
(Other Civil Action)

FINAL JUDGMENT; EXHIBITS A-D

I hereby certify that this is a full, true and correct
copy of the original on file in this office.


Clerk, Third Circuit Court, State of Hawaii

[CAPTION CONT'D]

HELEN FAISCA, Trustee of the Joseph Faisca and Helen Faisca Revocable Living Trust Under Unrecorded Trust, dated July 29, 1996; MONIZ-CIESLAK PARTNERS; Heirs of persons named above who are deceased, or persons holding under said Heirs, and spouses, assigns, successors, personal representatives, executors, administrators, and trustees of persons named above who are deceased; DOES 1 through 100; and all other persons unknown claiming any right, title, estate, lien or interest in the real property described and TO ALL WHOM IT MAY CONCERN,

Defendants.

FINAL JUDGMENT

In accordance with Rules 54 and 58 of the Hawaii Rules of Civil Procedure, and pursuant to the Order on Plaintiff's Motion for Partial Summary Judgment filed May 15, 2002, the Partial Summary Judgment filed November 1, 2002, Surety Kohala Corporation's Stipulation with the State of Hawaii filed February 11, 2003, the Order Granting Plaintiff's Motion for Determination of Heirs of G. F. Beckley, Filed June 8, 2004 filed July 22, 2004, the Order Granting Plaintiff's Motion to Confirm the Boundaries of the Beckley Lot filed October 21, 2009, the Order on Defendants Michael S. Enos, et al.'s Motion for Summary Judgment on Title, and Continuing Hearing on Defendants Michael S. Enos, et al.'s Motion for Summary Judgment on Easement, Filed October 27, 2009 filed December 8, 2009, the Stipulation to Dismiss All Claims Against Plaintiff EWM Enterprises, LP with Prejudice and Order filed September 28, 2010, Defendants Michael S. Enos, et al.'s Stipulation of Dismissal of Cross-Claims as to Moniz-Cieslak Partners, without Prejudice filed September 30, 2010, the Order Granting Plaintiff's Motion for Rule 54(B) Certification of (1) Order on Plaintiff's Motion for Partial Summary Judgment, Filed May 15, 2002; and (2) Order Granting Plaintiff's Motion to Confirm the Boundaries of the Beckley Lot,

Filed October 21, 2009 filed November 20, 2010, the Rule 54(B) Judgment and Decree on Title to Grant 748 to Kaikuahine filed November 30, 2010, and the Order Granting Motion to Confirm Boundaries of Plaintiff's Interest in Grant 748 filed August 10, 2011, judgment is hereby entered as follows:

1. Pursuant to the Order On Plaintiff's Motion for Partial Summary Judgment filed May 15, 2002 and the Partial Summary Judgment filed November 1, 2002:

a. Plaintiff Surety Kohala Corporation¹ is the owner, in fee simple, absolute, free and clear of all claims, liens, clouds or encumbrances, of a portion of Royal Patent Grant Number 748 to Kaikuahine, situate lying and being at Kapua, District of North Kohala, Island and County of Hawaii, State of Hawaii, containing 38.448 acres, more or less, being all of Grant 748 located within Tax Key (3) 5-4-008:001, except for 6 acres which were deeded to G. F. Beckley (the "Beckley Lot") subject also to the reservations of the State of Hawaii.

b. The portion of Grant 748 which is Tax Key (3) 5-4-008:007, 2.9 acres, and the portion of Grant 748 which is Tax Key (3) 5-4-008:009, 8.652 acres, are owned by the Moniz-Cieslak Partnership.

2. Pursuant to Surety Kohala Corporation's Stipulation with the State of Hawaii filed February 11, 2003:

a. The State owns all minerals and metallic mines including all geothermal rights of every kind and description including the right to remove and the method of entry of removal;

b. The parcel is subject to the rights of native tenants;

c. The State's right, title, interest and claim to all water is reserved;

¹ EWM Enterprises, LP substituted in as plaintiff pursuant to the Stipulation to Substitute EWM Enterprises, LP as Plaintiff; Order filed August 30, 2010.

d. The State's and public's right of access through the public roadways on the parcel is protected and not restricted;

e. An easement for the free flowage of any waters over and across any stream is reserved;

3. Pursuant to the Order Granting Plaintiff's Motion for Determination of Heirs of G. F. Beckley, Filed June 8, 2004, filed July 22, 2004, the living heirs of G. F. Beckley were determined to be the following:

- a. Marilyn Keahaulani Fox
- b. William Gary Enos
- c. Helen Joyle Keonaona Goldberg
- d. Michael Steven Enos
- e. Robert Wayne Enos
- f. Anita Kuuleialoha Weber
- g. Nancy Ann Hill Keaweoluna
- h. Adatchie Kalehuimakanoenoe Eaton
- i. Erleen Haunani Eaton-Revilla
- j. Thomas Harry Eaton
- k. Joseph Raymond Eaton
- l. Thomas William Keala Eaton

4. Pursuant to the Order Granting Plaintiff's Motion to Confirm the Boundaries of the Beckley Lot filed October 21, 2009, the boundaries of the Beckley Lot shown as "Lot 1" on Exhibit "A" attached hereto and the metes and bounds description for "Lot 1" as set forth on Exhibit "B" attached hereto were confirmed.

5. Pursuant to the Order Granting Plaintiff's Motion for Default Judgment filed October 21, 2009, default judgment was entered against Defendant Joseph Raymond Eaton also known as Joseph Raymond Keanu, with respect to all issues in this action.

6. Pursuant to the Order on Defendants Michael S. Enos, et al.'s Motion for Summary Judgment on Title, and Continuing Hearing on Defendants Michael S. Enos, et al.'s Motion for Summary Judgment on Easement, Filed October 27, 2009 filed December 8, 2009, the following individuals were listed as the living Heirs of G. F. Beckley, and as such, the owners of the following respective undivided shares in the Beckley Lot:

- a. Defendant Nancy Ann Hill Keaweoluna (a.k.a. Nancy Ann Beckley): 1/4th undivided interest;
- b. Defendant Marilyn Keahaulani Fox: 1/20th undivided interest;
- c. Defendant William Gary Enos: 1/20th undivided interest;
- d. Defendant Helen Joyle Keonaona Goldberg: 1/20th undivided interest;
- e. Defendant Michael Steven Enos: 1/20th undivided interest;
- f. Defendant Robert Wayne Enos: 1/20th undivided interest;
- g. The Heirs and Assigns of Adatchie Kalehuamakanoenoe Eaton: 1/16th undivided interest;
- h. Defendant Erleen Haunani Eaton-Revilla: 1/16th undivided interest;
- i. Defendant Thomas Harry Eaton: 1/16th undivided interest;
- j. Joseph Raymond Eaton (a.k.a. Joseph R. Keanu): 1/16th undivided interest;

- k. Douglas Wade Kimo Weber: 1/8th undivided interest; and
- l. Thomas William Keala Eaton (a.k.a. Thomas Keala Weber): 1/8th

undivided interest.

7. Pursuant to the Stipulation to Dismiss all Claims Against Plaintiff EWM Enterprises, LP with Prejudice and Order filed September 28, 2010, all claims that have or could have been asserted in this action by Defendants Michael Steven Enos, William Gary Enos, Marilyn Keahaulani Fox, Helen Joyle Keonaona Goldberg, Robert Wayne Enos, Douglas Wade Kimo Weber, Nancy Ann Hill Keaweoluna (a.k.a. Nancy Ann Beckley), Erleen Haunani Eaton-Revilla, Thomas Harry Eaton, Thomas William Keala Eaton (a.k.a. Thomas Keala Weber) (collectively the "Enos Defendants") and Defendant Moniz-Cieslak Partners ("MCP") against Plaintiff EWM Enterprises, LP, including but not limited to, the claims asserted by the Enos Defendants in their Motion for Summary Judgment on Title and Easement filed on October 27, 2009, are dismissed with prejudice.

8. Pursuant to Defendants Michael S. Enos, et al.'s Stipulation of Dismissal of Cross-Claims as to Moniz-Cieslak Partners, without Prejudice, filed September 30, 2010, all of the Enos Defendants' claims against MCP were dismissed without prejudice.

9. Pursuant to the Order Granting Plaintiff's Motion for Rule 54(B) Certification of (1) Order on Plaintiff's Motion for Partial Summary Judgment, Filed May 15, 2002; and (2) Order on Plaintiff's Motion to Confirm the Boundaries of the Beckley Lot, Filed October 21, 2009 filed November 30, 2010 and the Rule 54(B) Judgment and Decree on Title to Grant 748 to Kaikuahine filed November 30, 2010:

a. Plaintiff EWM Enterprises, LP is the sole owner of all right, title and interest in and to the following real property in fee simple absolute:

All of that certain parcel of land (being all of the land described in and covered by Royal Patent Grant Number 748 to Kaikuahine) situate, lying and being at Honomakau, District of North Kohala, Island and County of Hawaii, State of Hawaii, now bearing Tax Map Key Nos. (3) 5-4-008: 044, 056, and 57, containing an area of 32.43 acres, 6.00 acres, and 13.00 acres respectively, more or less, as shown on Exhibit "C" attached hereto.

b. Defendants Michael Steven Enos, William Gary Enos, Marilyn Keahaulani Fox, Helen Joyle Keonaona Goldberg, Robert Wayne Enos, Douglas Wade Kimo Weber, Nancy Ann Hill Keaweoluna (a.k.a. Nancy Ann Beckley), Erleen Haunani Eaton-Revilla, Thomas Harry Eaton, Thomas William Keala Eaton (a.k.a. Thomas Keala Weber), Joseph Raymond Eaton (a.k.a. Joseph Raymond Keanu), Kalehua Makanoenoe Manuia (a.k.a. Kalehua B. Minchew-Eaton), Kananiokeaupunimalalama Manuia (a.k.a. Kanani Minchew-Eaton), Ainoa Kaiaokamalie Manuia (a.k.a. Ainoa K. Minchew-Eaton), and the Heirs and/or Assigns of Adatchie Kalehuamakanoenoe Eaton, Jr., are the sole owners, as tenants in common, of all right, title and interest in and to the following real property in fee simple absolute:

All of that certain parcel of land (being all of the land described in and covered by Royal Patent Grant Number 748 to Kaikuahine) situate, lying and being at Honomakau, District of North Kohala, Island and County of Hawaii, State of Hawaii, bearing Tax Map Key Nos. (3) 5-4-008: 055, containing an area of 6.00 acres, more or less as shown on Exhibit "A". A metes and bounds description of Parcel 55 is attached hereto as Exhibit "B".

10. Pursuant to the Order Granting Motion to Confirm Boundaries of Plaintiff's Interest in Grant 748 filed August 10, 2011:

a. Plaintiff's interest in Royal Patent Grant Number 748 to Kaikuahine in Honomakau, District of North Kohala, Island and County of Hawaii, is depicted as Lots 2, 3 and 4 on the map attached hereto as Exhibit "A", and is designated on the map attached hereto as Exhibit C as Tax Map Key Nos. (3) 5-4-008:056, 057, and 044, respectively

and the boundaries of said properties described by metes and bounds on Exhibit "D" attached hereto are confirmed.

11. All other claims not specifically covered by this judgment are hereby dismissed.

12. This Court expressly directs that this judgment shall be entered as a Final

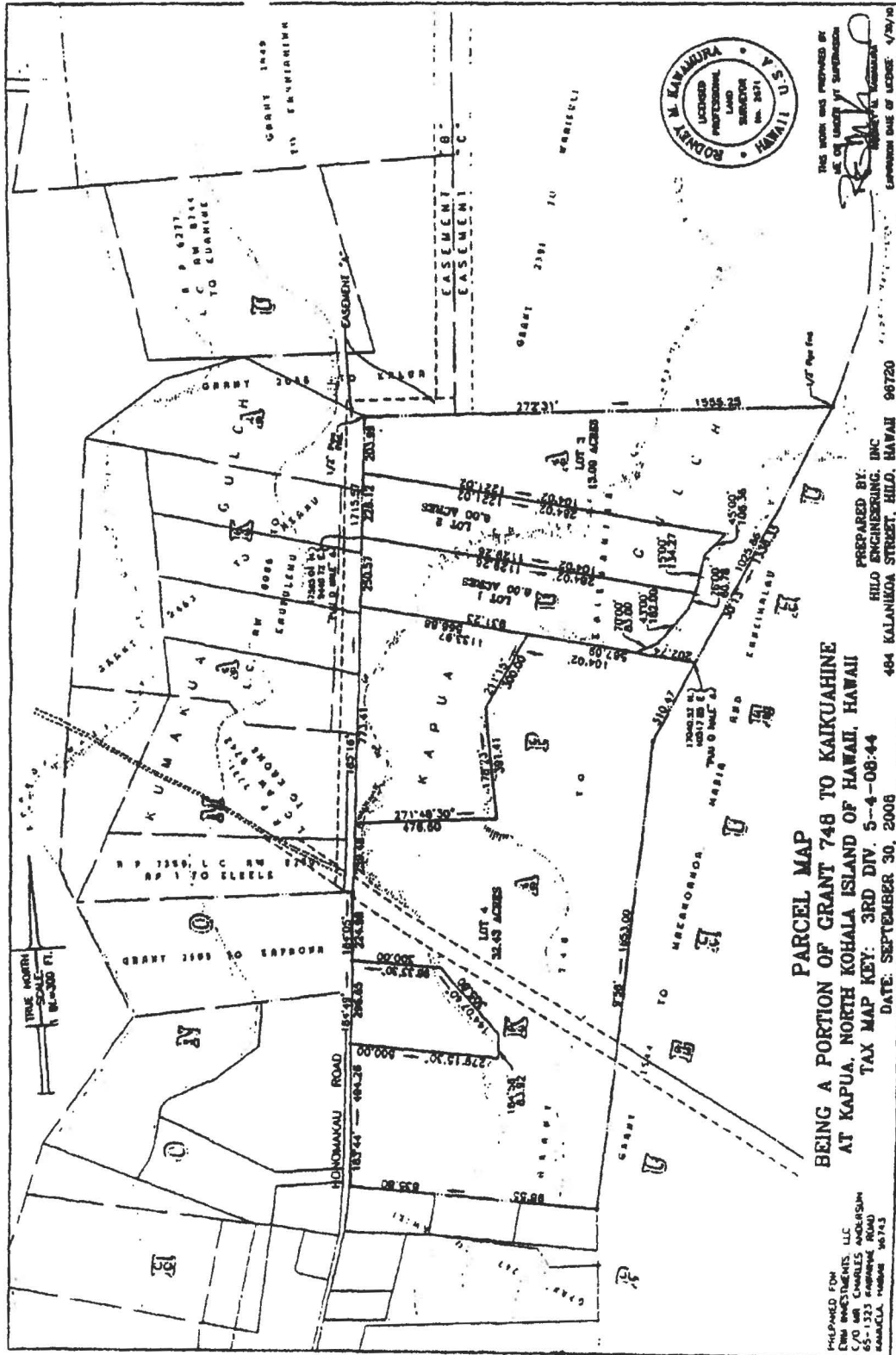
Judgment as it resolves all claims against all parties to this action.

DATED: Kealahou, Hawaii, SEP 22 2011, 2011.

ELIZABETH A. STRANCE (SEAL)

JUDGE OF THE ABOVE-ENTITLED COURT

EWM Enterprises, LP v. Heirs and Assigns of Kapalihau (w), also known as Kapalehao (w), et al.; Civil No. 01-1-0302; FINAL JUDGMENT.



THIS MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION
 RODNEY M. KAMBURA
 LICENSED PROFESSIONAL LAND SURVEYOR
 NO. 2671
 STATE OF HAWAII

PARCEL MAP
BEING A PORTION OF GRANT 748 TO KAIKUAHINE
AT KAPUA, NORTH KOHALA ISLAND OF HAWAII, HAWAII
 TAX MAP KEY: 3RD DIV. 5--4-08-44
 DATE: SEPTEMBER 30, 2008

PREPARED BY:
 HILO ENGINEERING, INC.
 404 KALANIOA STREET, HILO, HAWAII 96720

ENCLOSED FOR:
 ENVIROPLAN, LLC
 C/O MR. CHARLES ADAMS
 65-1322 KAPAHULA ROAD
 KAPAHULA, HAWAII 96743

EXHIBIT A

LOT 1


Being a portion of Grant 748 to Kaikuahine

Kapua, North Kohala, Island of Hawaii, Hawaii

Beginning at the northwest corner of this parcel of land, also being the southwest corner of Lot 2 on the easterly side of Grant 2463 to Heanu, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE" being 17,565.01 feet north and 9,440.72 feet east and running by azimuths measured clockwise from true south:

- | | | | |
|----|----------|---------|--|
| 1. | 284° 02' | 1129.26 | feet along Lot 2; |
| 2. | 26° 00' | 60.78 | feet along Lot 3; |
| 3. | 43° 00' | 162.00 | feet along Lot 3; |
| 4. | 70° 00' | 83.00 | feet along Lot 3; |
| 5. | 104° 02' | 931.23 | feet along the remainder of Grant 748 to Kaikuahine; |
| 6. | 185° 16' | 250.57 | feet along Grant 2463 to Heanu to the point of beginning and containing an area of 6.00 Acres. |




RODNEY M. KAWAMURA
Licensed Professional Land Surveyor
Certificate No. 2671
Expiration Date of License: 4/30/10

September 30, 2008
HILO ENGINEERING, INC.
484 Kalanikoa Street
Hilo, Hawaii 96720

Tax Map Key: 3rd Div. 5-4-08: Portion 44

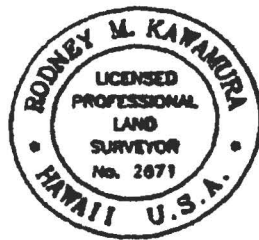
LOT 2


Being a portion of Grant 748 to Kaikua hine

Kapua, North Kohala, Island of Hawaii, Hawaii

Beginning at the southwest corner of this parcel of land, also being the northwest corner of Lot 1 on the easterly side of Grant 2463 to Heanu, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE" being 17,565.01 feet north and 9,440.72 feet east and running by azimuths measured clockwise from true south:

- | | | | |
|----|----------|----------|--|
| 1. | 185° 16' | 228.12 | feet along Grant 2463 to Heanu and Grant 2056 to Kahua; |
| 2. | 284° 02' | 1,221.02 | feet along Lot 3; |
| 3. | 45° 00' | 106.36 | feet along Lot 3; |
| 4. | 15° 00' | 134.27 | feet along Lot 3; |
| 5. | 104° 02' | 1,129.26 | feet along Lot 1 to the point of beginning and containing an area of 6.00 Acres. |




RODNEY M. KAWAMURA
Licensed Professional Land Surveyor
Certificate No. 2671
Expiration Date of License: 4/30/12

September 20, 2010
HILO ENGINEERING, INC.
484 Kalanikoa Street
Hilo, Hawaii 96720

Tax Map Key: 1st Div. 5-4-08:56

EXHIBIT D

LOT 3


Being a portion of Grant 748 to Kaikuaohine

Kapua, North Kohala, Island of Hawaii, Hawaii

Beginning at the southeast corner of this parcel of land, also being the northeast corner of Lot 4 on the westerly side of Grant 1544 to Makanoanoa, Maria and Kaneihalaui, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE" being 17,040.52 feet north and 10,517.85 feet east and running by azimuths measured clockwise from true south:

- | | | | |
|-----|----------|----------|---|
| 1. | 104° 02' | 202.74 | feet along Lot 4; |
| 2. | 250° 00' | 83.00 | feet along Lot 1; |
| 3. | 223° 00' | 162.00 | feet along Lot 1; |
| 4. | 206° 00' | 60.78 | feet along Lot 1 |
| 5. | 195° 00' | 134.27 | feet along Lot 2; |
| 6. | 225° 00' | 106.36 | feet along Lot 2; |
| 7. | 104° 02' | 1,221.02 | feet along Lot 2; |
| 8. | 185° 16' | 203.99 | feet along Grant 2056 to Kalua; |
| 9. | 272° 31' | 1,555.25 | feet along Grant 2056 to Kalua
and Grant 2391 to Wahikuli; |
| 10. | 30° 13' | 1,025.86 | feet along Grant 1544 to Makanoanoa, Maria
and Kaneihalaui to the point of beginning and
containing an area of 13.00 Acres. |




RODNEY M. KAWAMURA
Licensed Professional Land Surveyor
Certificate No. 2671
Expiration Date of License: 4/30/12

September 20, 2010
HILO ENGINEERING, INC.
484 Kalanikoa Street
Hilo, Hawaii 96720
Tax Map Key: 3^d Div. 5-4-08:57

LOT 4

Being a portion of Grant 748 to Kaikuahine

Kapua, North Kohala, Island of Hawaii, Hawaii

Beginning at the northeast corner of this parcel of land, also being the southeast corner of Lot 3 on the westerly side of Grant 1544 to Makanoanoa, Maria and Kaneihala, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE" being 17,040.52 feet north and 10,517.85 feet east and running by azimuths measured clockwise from true south:

1.	30° 13'	310.47	feet along Grant 1544 to Makanoanoa, Maria and Kaneihala;
2.	9° 58'	1,653.00	feet along Grant 1544 to Makanoanoa, Maria and Kaneihala;
3.	98° 55'	835.80	feet along Grant 749 to Awiki;
4.	183° 44'	494.26	feet along Honomakau Road;
5.	279° 15' 30"	500.00	feet along the remainder of Grant 748 to Kaikuahine;
6.	184° 58'	83.92	feet along the remainder of Grant 748 to Kaikuahine;
7.	144° 07' 40"	305.80	feet along the remainder of Grant 748 to Kaikuahine;
8.	98° 33' 30"	300.00	feet along the remainder of Grant 748 to Kaikuahine;
9.	184° 05'	224.98	feet along Honomakau Road;
10.	185° 16'	259.48	feet along Honomakau Road;
11.	271° 48' 30"	476.60	feet along the remainder of Grant 748 to Kaikuahine;
12.	178° 23'	391.41	feet along the remainder of Grant 748 to Kaikuahine;

