

CARLSMITH, WICHMAN, CASE, MUKAI AND ICHIKI

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS

121 WAIANUENUE AVENUE

HILO, HAWAII 96720

CABLE ADDRESS: CWCFMI

TELEX 723-8770 CWCFMI HR

TELECOPIER (808) 935-7975

May 24, 1990

HONOLULU OFFICE:

P. O. BOX 656  
HONOLULU, HAWAII 96809  
(808) 523-2500

GUAM OFFICE:

P. O. BOX BF  
AGANA, GUAM 96910  
(671) 472-6813  
TELEX 721-6445 CWCFMI GM

LOS ANGELES OFFICE:

P. O. BOX 71169  
LOS ANGELES, CALIFORNIA 90071-0169  
(213) 955-1200

HILO OFFICE:

P. O. BOX 686  
HILO, HAWAII 96721-0686  
(808) 935-6644

KONA OFFICE:

P. O. BOX 1720  
KAILUA-KONA, HAWAII 96745-1720  
(808) 329-6464

MAUI OFFICE:

P. O. BOX 1086  
WAILUKU, HAWAII 96793  
(808) 242-4535

SAIPAN OFFICE:

P. O. BOX 241 CHR  
SAIPAN, MP 96950  
(670) 322-3455  
TELEX 783-658 CWCFMI SPN

Hugh Y. Ono, Chief Engineer  
Department of Public Works  
ATTN: Robert K. Yanabu,  
Engineering Division Chief  
25 Aupuni Street  
Hilo, Hawaii 96720

Re: Subdivision No.: 90-39; Subdivider: Christopher Norrie  
Kaawaloa, South Kona, Hawaii,  
TMK No. 3rd/ 8-1-09:27 and 8-1-10:02

Dear Mr. Yanabu:

Please find enclosed for your review, a copy of the Declaration of Covenants executed by our client, Christopher Norrie, per your letter to the Planning Department, dated May 1, 1990 regarding the above application for consolidation and Resubdivision.

As noted in Comment No. 1 of your memo, the applicant has included in said declaration all lots owned by him which have access from the Kaawaloa roadway, more specifically: TMK Nos: 3rd/ 8-1-09:17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27; and 8-1-10:02.

It is my understanding that tentative approval of the subject application was issued today incorporating your comments of May 4, 1990. The surveyor is submitting the final plats which delineates that public right-of-way known as the Kaawaloa Road.

We appreciate your consideration of the above. However, should you have any questions, please feel free to contact me.

Very truly yours,



TIM LUI-KWAN

TLK:ch

cc: Planning Department  
Corporation Counsel  
Wes Thomas and Associates, Inc.  
Applicant

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, Return by Mail ( X ) Pickup ( )

**Carlsmith, Wichman,  
Case, Mukai and Ichiki  
P.O. Box 686  
Hilo, Hawaii 96721-0686**

TITLE OF DOCUMENT:

DECLARATION OF COVENANTS

Affects: TMK Nos. 3rd/ 8-1-09:17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27  
and 8-1-10:02

DECLARATION OF COVENANTS

This Declaration, made this 11<sup>TH</sup> day of MAY, 1990, by CHRISTOPHER NORRIE, unmarried, whose residence is Kaawaloa, South Kona, County and State of Hawaii and whose post office address is P. O. Box 339, Captain Cook, Hawaii 96704.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain parcels of real property presently designated on the tax maps of the Third Taxation District of the State of Hawaii as TMK Nos: 3rd/8-1-09:17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27, and 8-1-10:02 in Kaawaloa, South Kona, County of Hawaii, State of Hawaii, and

WHEREAS, Declarant has applied for a consolidation and resubdivision of two of the above parcels, to wit, TMK Nos. 3rd/8-1-09:27 and 8-1-10:02 into two parcels of a different configuration, known as Lots 1 and 2, and more particularly described in Exhibit "A" attached hereto, and

WHEREAS, the legal access to all of the parcels set out above is by way of a government road known as Kaawaloa Road, and whereas Kaawaloa Road has been and continues to be an unimproved substandard roadway.

NOW THEREFORE, Declarant hereby declares and agrees that parcels presently designated as TMK Nos. 3rd/8-1-09:17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27, and 8-1-10:02 are held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, and improved, subject to the following declarations, which declarations shall constitute covenants running with the land and shall be binding on the Declarant, his successors and assigns, and all subsequent owners, lessees, or occupants of all or any part of the property and their respective heirs, executors, administrators, successors, and assigns.

1. The present unimproved substandard condition of Kaawaloa Road is recognized by the Declarant and notice of said condition is given to his successors in interest by these Covenants. The Declarant accepts the condition of Kaawaloa Road "AS IS" for himself and his successors in interest.

2. The Declarant and his successors, by taking any interest in the parcels described hereinabove subject to these covenants, each assumes the risk of using Kaawaloa Road for the purposes of ingress and egress to the Property, and agrees to hold the State and County of Hawaii harmless from any liability arising out of the condition or maintenance of Kaawaloa Road.

3. The Declarant and his successors in interest shall make no demand on the County of Hawaii or the State of Hawaii to make any improvements whatsoever to Kaawaloa Road at any time.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed the day and year first hereinafter written.

  
\_\_\_\_\_  
CHRISTOPHER NORRIE

STATE OF HAWAII  
COUNTY OF HAWAII

)  
) SS:  
)

On this 11th day of May, 1990,  
before me personally appeared CHRISTOPHER NORRIE, to me known  
to be the person described in and who executed the foregoing  
instrument, and acknowledged to me that he executed the same as  
his free act and deed.

Stephanie W.M. Place  
Notary Public, State of Hawaii

My Commission expires: 12/01/93

L.S.