

COUNCIL OF THE COUNTY OF MAUI
**INFRASTRUCTURE MANAGEMENT
COMMITTEE**

December 4, 2009

**Committee
Report No.** _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Infrastructure Management Committee, having met on November 16, 2009, makes reference to County Communication No. 09-275, from the Director of Public Works, transmitting a proposed resolution entitled "ACCEPTING DEDICATION OF ROADWAY LOTS FOR THE KULAMANU RIDGE LARGE LOT SUBDIVISION, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE".

The purpose of the proposed resolution is to accept dedication of Roadway Lots 219-A and 219-E, consisting of a total of approximately 0.706 acre, on Kulamanu Circle in the Kulamanu Ridge Large Lot Subdivision, Kula, Maui, affecting TMK: (2) 2-3-23:011.

Your Committee notes that, pursuant to Section 3.44.015(C), Maui County Code (MCC), the Council may accept gifts or donations of real property or any interest in real property for public purposes by the passage of a resolution, approved by a majority of its members.

The Director of Public Works informed your Committee that the subdivision was granted final approval on June 9, 1994, and the Department inspected and approved the improvements on April 15, 1994. He confirmed that all the improvements satisfy the requirements of Title 18, MCC, and are, therefore, acceptable for dedication to the County.

The Director commented that the delay between the subdivision final approval date and the requested dedication of the roadway lots to the County was due to the original developer filing for bankruptcy.

Your Committee was assured that all required improvements have been completed, including the terms and provisions contained in an Agreement for Deferral of Subdivision Water System Improvements, filed June 8, 1993, as Land Court Document No. 2032213.

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December 4, 2009
Page 2

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Your Committee voted 7-0 to recommend adoption of the proposed resolution and filing of the communication. Committee Chair Medeiros, Vice-Chair Pontanilla, and members Baisa, Kaho'ohalahala, Mateo, Molina, and Victorino voted "aye".

Your Infrastructure Management Committee RECOMMENDS the following:

1. That Resolution No. _____, attached hereto, entitled "ACCEPTING DEDICATION OF ROADWAY LOTS FOR THE KULAMANU RIDGE LARGE LOT SUBDIVISION, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE" be ADOPTED; and
2. That County Communication No. 09-275 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



BILL KAUAKEA MEDEIROS, Chair

Resolution

No. _____

ACCEPTING DEDICATION OF ROADWAY LOTS FOR
THE KULAMANU RIDGE LARGE LOT SUBDIVISION,
PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE

WHEREAS, KRS ASSOCIATES II, LLC, a Hawaii limited liability company (hereinafter called "Subdivider"), desires to comply with the subdivision requirements for the Kulamanu Ridge Large Lot Subdivision, Tax Map Key Number (2) 2-3-023:011, Subdivision File No. 2.1925, by dedicating those certain Roadway Lots 219-A and 219-E, as more fully described in Exhibit "A" of the Warranty Deed attached hereto as Exhibit "1" and made a part hereof; and

WHEREAS, the Director of Public Works has reviewed said dedication and recommends approval of the same; and

WHEREAS, pursuant to Section 3.44.015(C), Maui County Code, the County Council may accept donations of real property or any interest in real property by the passage of a resolution approved by a majority of its members; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby accepts Lots 219-A and 219-E, as described in the Warranty Deed attached hereto as Exhibit "1", to be dedicated by the Subdivider to the County of Maui in accordance with said Warranty Deed; and

Resolution No. _____

2. That it does hereby authorize the Mayor of the County of Maui to execute all necessary documents in connection with the acceptance of said dedication; and

3. That certified copies of this Resolution be transmitted to the Mayor of the County of Maui, the Director of Public Works, and the Subdivider.

APPROVED AS TO FORM
AND LEGALITY:



DAVID A. GALAZIN
Deputy Corporation Counsel
County of Maui

S:\ALL\DAGRESOK\KulamauRidgeRoadwayLots218A, 219-E.sxd

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICK UP (XX)

To: WATANABE ING LLP
Wray H. Kondo, Esq.
999 Bishop Street, 23rd Floor
Honolulu, HI 96813

This document contains 6 pages.

390191.4A

Tax Map Key: (2) 2-3-023-011
Subdivision File No. 2.1925

WARRANTY DEED

THIS INDENTURE is made on _____, by **KRS ASSOCIATES II, LLC, a Hawaii limited liability company**, whose principal place of business is 8 Kiopa'a Street, Suite 201, Pukalani, Hawaii 96768, hereinafter called the "Grantor", in favor of the **COUNTY OF MAUI, a political subdivision of the State of Hawaii**, whose principal place of business and mailing address is 200 South High Street, Wailuku, Hawaii 96793, hereinafter called the "Grantee".

WITNESSETH THAT:

I. CONVEYANCE:

The Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration to Grantor paid by the Grantee, the receipt whereof is hereby acknowledged, does by these presents grant, bargain, sell and convey the real property described in Exhibit A attached hereto and incorporated herein and made a part hereof by this reference, hereinafter referred to as the "real property", and does assign and transfer the personal property (if any) described in said Exhibit A, hereinafter referred to as the "personal property", unto Grantee, as **TENANT IN SEVERALTY, its successors and assigns;**

EXHIBIT " 1 "

And the reversions, remainders, rents, issues and profits thereof and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto;

TO HAVE AND TO HOLD the same, as to said real property, together with all buildings, improvements, tenements, hereditaments, rights, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed therewith unto the Grantee, absolutely and in fee simple, and as to said personal property (if any), absolutely and forever.

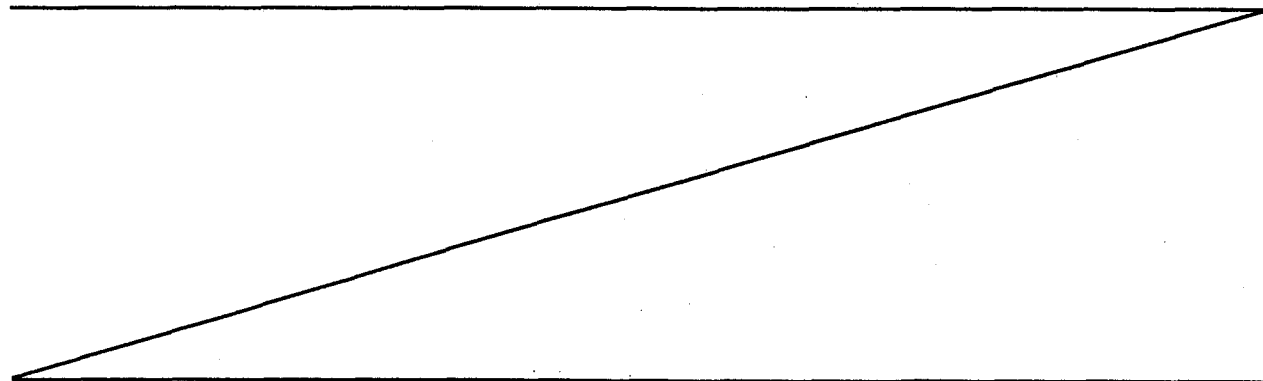
II. GRANTOR'S COVENANTS AND WARRANTY:

The Grantor does hereby covenant and agree with the Grantee as follows:

- a. That the Grantor is lawfully seized and is the owner in fee simple of said real property and is the absolute owner of all of said personal property (if any);
- b. That the Grantor's title to all of said real property and personal property (if any) is free and clear of and from all liens and encumbrances except as herein mentioned, those mentioned in said Exhibit A attached hereto and the real property taxes not yet by law required to be paid;
- c. That the Grantor has good right to grant, sell and convey said real property and personal property (if any) as aforesaid; and
- d. That the Grantor will WARRANT and DEFEND the title hereby conveyed unto the Grantee against the lawful claims and demands of all persons except as aforesaid.

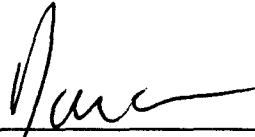
III. MISCELLANEOUS:

The terms "Grantor", "Grantee", "Purchaser", "Mortgagor" and/or "Mortgagee", as, when and if used herein, or any pronouns used in place thereof, shall mean and include the masculine, feminine or neuter, the singular or plural number, individuals, trustees, partnerships or corporations, and their and each of their respective successors, heirs, personal representatives, successors in trust and assigns, according to the context thereof. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed elsewhere herein.



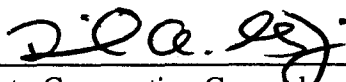
IN WITNESS WHEREOF, the Grantor has duly executed these presents as of the day and year first above written.

KRS ASSOCIATES II, LLC

By 
DAVID C. GOODE
Its President

Grantor

APPROVED AS TO FORM AND LEGALITY:

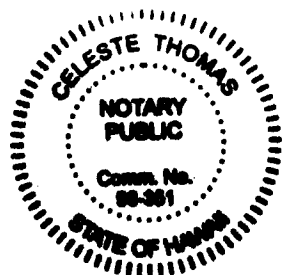

Deputy Corporation Counsel
County of Maui
DAVID A. GALAZIN
Date: July 21, 2009

STATE OF HAWAII

SS:

COUNTY OF MAUI

On JULY 15, 2009, before me personally appeared DAVID C. GOODE, to me known to be the person, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument 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.



Celeste Thomas
CELESTE THOMAS
Notary Public, State of Hawaii

My commission expires: JULY 21, 2010

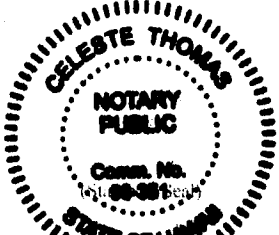
Date of Document: <u>UNDATED</u>		# Pages: <u>4</u>	
Name of Notary Public: <u>CELESTE THOMAS</u>		<u>SECOND</u> Circuit	
Document Description: <u>Warranty Deed</u>			
<u>Celeste Thomas</u> Notary Signature			
NOTARY CERTIFICATION			

EXHIBIT "A"

(2) 2-3-023-011

All of those certain parcels of land situate at Omaopio, Kula, District of Makawao, Island and County of Maui, State of Hawaii, described as follows:

LOT 219-A, area 0.610 acre, more or less, and
LOT 219-E, area 0.096 acre, more or less,

as shown on Map 118, filed with Land Court Application No. 342 of Frank Gonsalves Correa.

NOTE: 219-E shall have access over Lot 219-A, as set forth by Land Court Order No. 121520, filed August 15, 1995.

Being a portion of the premises described in and covered by the following:

1. Transfer Certificate of Title No. 619,934 issued to KRS ASSOCIATES II, LLC, a Hawaii limited liability company, as to an undivided 21/32 interest (Limited Warranty Deed filed August 15, 2002 in said Office as Land Court Document No. 2832236); and
2. Transfer Certificate of Title No. 946,068 issued to KRS ASSOCIATES II, LLC, a Hawaii limited liability company, as to an undivided 11/32 interest (Warranty Deed filed May 18, 2009 in said Office as Land Court Document No. 3859147).

SUBJECT, HOWEVER, to the following:

1. As to Lot 219-A only:
 - a. Easement 29 for drainage purposes, in favor of Kulamanu Community Association, shown on Map No. 86 filed with Land Court Application No. 342, as set forth by Land Court Order No. 43100, filed October 23, 1975.
 - b. Rights of access over Lot 219-A, in favor of Lots 219-B, 219-C, 219-D, and 219-E, as set forth by Land Court Order No. 121520 filed August 15, 1995.
 - c. Rights of access over private roadway Lot 219-A until such time as said lot is dedicated to the County of Maui, in favor of Lots 219-B-1 to 219-B-8, inclusive, and Lots 219-C-1 to 219-C-6, inclusive, as set forth by Land Court Order No. 133801 filed December 31, 1998.
 - d. A Grant of Easement for utility purposes, in favor of Maui Electric Company, Limited, a Hawaii Corporation, GTE Hawaiian Telephone Company Incorporated, a Hawaii corporation (now Hawaiian Telcom, Inc.), filed December 11, 1996 in said Office as Land Court Document No. 2353122.

2. As to Lot 219-E only:
- a. Easement 55 for water pipeline purposes, in favor of the Board of Water Supply and/or the Department of Water Supply, County of Maui, shown on Map No. 108 filed with Land Court Application No. 342, as set forth by Land Court Order No. 106084, filed March 6, 1992.
 - b. Rights of access over Lot 219-E, in favor of Lot 219-D, as set forth by Land Court Order No. 121520 filed August 15, 1995.
 - c. Grants of Easement for the installation, maintenance, operation &c of cable television system facilities, in favor of Time Warner Entertainment Company, L.P., a Delaware limited partnership, through its Hawaii division, doing business as Oceanic Time Warner Cable, for so long as Operator (or its successor-in-interest) holds a cable television franchise in the Community, filed February 10, 2004 in said Office as Land Court Document Nos. 3067830, 3067831 and 3067832, respectively.
 - d. A Grant of Easement for utility purposes in favor of Maui Electric Company, Limited, and Verizon Hawaii Inc. (now Hawaiian Telcom, Inc.), filed February 10, 2004 in said Office as Land Court Document No. 3067833.
3. The terms and provisions contained in the Subdivision Agreement (Large Lots) filed June 15, 1992 in said Office as Land Court Document No. 1921488.
4. The terms and provisions contained in the Agreement for Deferral of Subdivision Water System Improvements, filed June 8, 1993 in said Office as Land Court Document No. 2032213.
5. The terms and provisions contained in Kulamanu Project Water System Agreement recorded January 16, 1987 in said Bureau in Book 20203 at Page 637, and filed in said Office as Land Court Document No. 1433143.
6. Terms, provisions, reservations, covenants, conditions and restrictions as contained in Kulamanu Community Declaration of Covenants, Conditions and Restrictions filed December 8, 1994 in said Office as Land Court Document No. 2202398.

Said Declaration was supplemented by instrument filed October 3, 2000 in said Office as Land Court Document No. 2655405.

Said Supplemental Declaration was amended by instrument filed December 22, 2000 in said Office as Land Court Document No. 2672902.