

Resolution

No. _____

AUTHORIZING THE ACCEPTANCE OF ACCESS EASEMENT AT WAINEE STREET, LAHAINA, MAUI, HAWAII

WHEREAS, Hione, LLC, a Delaware limited liability company, is the current owner of the property located at 0 Wainee Street, Lahaina, Maui, Hawaii, TMK: (2) 4-5-007:004 ("Subject Property"); and

WHEREAS, a private sidewalk and asphalt paving are located within the Subject Property, adjacent to Wainee Street, as shown on the map attached hereto as Exhibit "1"; and

WHEREAS, the private sidewalk connects publicly used sidewalks adjacent to both sides of the Subject Property; and

WHEREAS, many senior citizens living in the adjacent Hale Mahaolu residential facility are using the private sidewalk on a consistent basis; and

WHEREAS, the asphalt pavement serves as a slight safety buffer for traffic movement within the area adjacent to the Subject Property and is used by members of the general public for parking; and

WHEREAS, in order to secure the continued public use of the asphalt pavement and sidewalk, the Director of Public Works has approved of the acceptance of a gift of a temporary access easement for pedestrian and vehicular purposes as set forth in the document attached hereto as Exhibit "2"; and

WHEREAS, the access easement shall be considered temporary and shall terminate upon the dedication of roadway improvements to the County of Maui, including, but not limited to road widening lot, curb, gutter, and sidewalk installation, when the owner of the Subject Property chooses to exercise any relevant development rights it may have; and

Resolution No. _____

WHEREAS, pursuant to Section 3.44.015(C), Maui County Code, the County Council may accept donation of real property or any interest in real property by the adoption of a resolution; now, therefore,

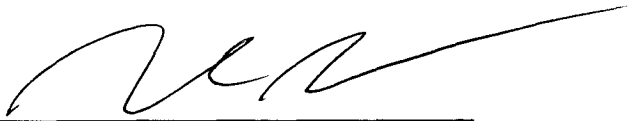
BE IT RESOLVED by the Council of the County of Maui:

1. That, pursuant to Section 3.44.015(C), Maui County Code, it hereby accepts the donation of the Access Easement identified in Exhibit "2" from Hione, LLC; and

2. That it does hereby authorize the Mayor of the County of Maui to execute all documents necessary to finalize the acceptance of said real property interests; and

3. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of Public Works, and Hione, LLC.

APPROVED AS TO FORM
AND LEGALITY:

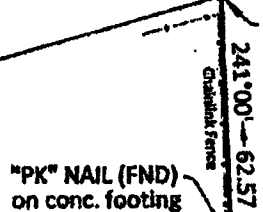
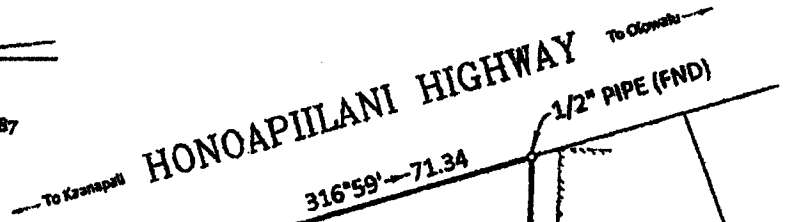


MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

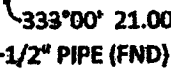
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This map was prepared by me or under my direct supervision.

Randall Sherman
Licensed Professional Land Surveyor
State of Hawaii Certificate Number LS4187
License Expiration Date: April 30, 2014
Land Court Certificate Number 189



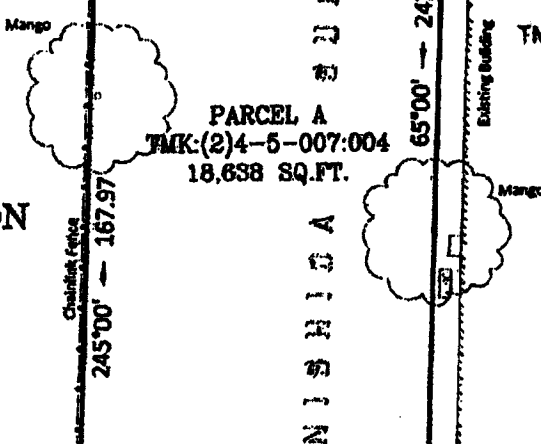
TMK:(2)4-5-007:005



**Exhibit Showing
PARCEL A**
of the
NISHIDA SUBDIVISION

(Land Patent 8278, Land Commission
Award 11093 to Shaw & Maunahina)
Situated at
Kuhelilea 1, Lahaina, Maui, Hawaii

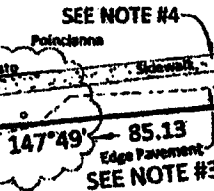
PARCEL A
TMK:(2)4-5-007:004
18,638 SQ.FT.



Prepared For:

Marlene Ritts
Island Sotheby's International Realty
161 Wailea Ike Pl., #B-104
Wailea, HI 96753

Utility Pole #13
w/ Guy Wires
SEE NOTE #2



NOTES:

- 1. This map is based on an actual field survey performed on 1 JUL 13.
- 2. Utility pole & guy wires are not covered by an easement.
- 3. A.C. pavement encroachment (approx. 280 sq.ft.).
- 4. Sidewalk encroachment (approx. 278 sq.ft.).





LAND COURT

REGULAR SYSTEM

AFTER RECORDATION

RETURN BY: MAIL (X) PICK UP ()

COUNTY OF MAUI
Department of Finance
200 South High Street
Wailuku, Maui, Hawaii 96793

Tax Key Number:(2)4-5-007:004

No. of Pages: _____

ACCESS EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That Hione, LLC, a limited liability company, whose mailing address is 1227 Bonnama Court, Naperville, Illinois 60565 (hereinafter called the "Grantor"), for consideration received from the COUNTY OF MAUI, a political subdivision of the State of Hawaii, with its principal place of business and post office address being 200 South High Street, Wailuku, Hawaii 96793 (hereinafter called the "Grantee"), the receipt of which is hereby acknowledged, does hereby grant and convey unto the Grantee and its legal successors and assigns, a non-exclusive easement for ingress and egress purposes for the general public by pedestrians and vehicles, including construction, reconstruction, maintenance, operation, repair and/or replacement of any asphaltic pavement or sidewalk

structure, over, under and across the easement area described in Exhibit "A" attached hereto and made a part hereof.

THE PARTIES HERETO DO FURTHER MUTUALLY COVENANT AND AGREE:

That Grantor shall not at any time during the term of this indenture erect any building foundation or any other physical improvements, including, but not limited to a fence or the planting of any obstructive vegetation, in the easement area without the express permission of the Grantee. The Grantee shall be permitted to remove any such obstructions within the easement area; however, it shall not be obligated to maintain any existing vegetation in the easement area. Grantor shall not replace or remove sidewalk or asphaltic pavement improvements within the easement area without the approval of the Grantee.

That the Grantee shall exercise the rights herein granted in such manner as will not unreasonably interfere, except during the period of construction, reconstruction, maintenance, operation, repair or removal of any asphaltic pavement or sidewalk structure, with the use of said easement area by said Grantor as herein provided, and that after the completion of any work by the Grantee, the Grantee shall restore the surface of the ground above said easement area to an appropriate condition to the extent that such restoration is reasonably possible.

That the Grantee shall indemnify and hold the Grantor harmless from and against all claims for property damage, personal injury, or wrongful death arising out of or in connection with the Grantee's use, maintenance or operations on the subject easement areas, to the extent that the Grantee's liability for such damage, loss or injury has been determined by a court of competent jurisdiction or otherwise agreed to by the Grantee, and

further, to the extent the payment for such damage, loss or injury is permitted by law and approved by the Maui County Council.

That Grantee shall be responsible for damages or injury caused by the Grantee's agents, officers and employees in the course of their employment to the extent that the Grantee's liability for such damage or injury has been determined by a court or otherwise agreed to by the Grantee, and the Grantee shall pay for such damages and injury to the extent permitted by law and approved by the Maui County Council.

This access easement shall be considered temporary and shall automatically terminate upon the dedication to the Grantee of any roadway improvements, including, but not limited to road widening lot, curb, gutter and sidewalk, at such time when the Grantor or its successors choose to exercise any development rights it may have and said dedicated improvements are located at or within the subject easement area identified in Exhibit "A" attached hereto.

This Agreement shall be binding upon and inure to the parties, their heirs, personal representatives and assigns.

It is understood and agreed that the terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine and/or feminine, the singular or plural number, individuals, firms or corporations, that the rights and obligations of the Grantor and Grantee shall be binding upon and inure to the benefit of their respective estates, heirs, personal representatives, successors in trust and assigns and that where there is more than one Grantor or Grantee, any covenants of the respective party shall be and for all purposes deemed to be joint and several.

This Agreement may be executed in counterparts, each of which shall be deemed an original and said counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed this 24 day of JULY, 2014.

GRANTOR: HIONE, LLC

By [Signature]
R. RAVICHANDRAN Date 7/24/2014
(Print/Type Name)
Its MANAGER, HIONE, LLC (Title)

By _____

(Print/Type Name) Date
Its _____ (Title)

GRANTEE:

COUNTY OF MAUI

By _____
ALAN M. ARAKAWA
Its Mayor

By _____
DANILO F. AGSALOG
Its Director of Finance

APPROVAL RECOMMENDED::

DAVID GOODE
Director of Public Works

**APPROVED AS TO FORM
AND LEGALITY:**

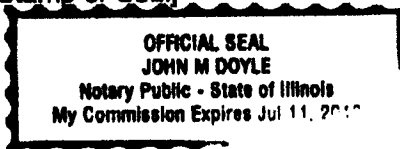
MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

STATE OF ILLINOIS }
COUNTY OF DUPAGE } SS.

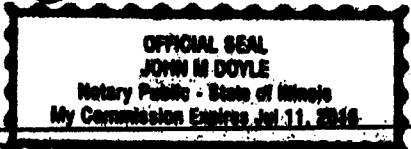
On this 24 day of JULY, 2014, before me appeared R. RAVICH ANDERSON, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Stamp or Seal]



John M. Doyle
Notary Public, State of ILLINOIS
Print Name: John M. Doyle
My commission expires: 07-11-2016



NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: _____
Doc. Description: <u>Access Easement</u>	

Notary Signature: _____	
Date: _____	

[Stamp or Seal]

STATE OF _____ }
COUNTY OF _____ } SS.

On this _____ day of _____, 20____, before me appeared _____, to me personally known, 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.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Stamp or Seal]

Notary Public, State of _____
Print Name: _____
My commission expires: _____

NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: _____
Doc. Description: <u>Access Easement</u>	

Notary Signature: _____	[Stamp or Seal]
Date: _____	

STATE OF HAWAII)
) SS.
COUNTY OF MAUI

On this _____ day of _____, 20____, before me appeared ALAN M. ARAKAWA, to me personally known, who being by me duly sworn did say that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Charter, and the said ALAN M. ARAKAWA acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Stamp or Seal]

Notary Public, State of Hawaii
Printed Name: _____
My Commission Expires: _____

NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: <u>Second</u>
Doc. Description: <u>Access Easement</u>	

_____	(Stamp or Seal)
Notary Signature: _____	
Date: _____	

STATE OF HAWAII
COUNTY OF MAUI

} SS.

On this ___ day of _____, 20 ____, before me appeared **DANILO F. AGSALOG**, to me personally known, who being by me duly sworn, did say that he is the Director of Finance of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Section 9-18 of the Charter of the County of Maui; and the said **DANILO F. AGSALOG** acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Stamp or Seal]

Notary Public, State of _____
Print Name: _____
My commission expires: _____

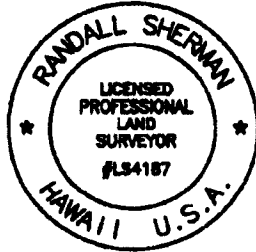
NOTARY PUBLIC CERTIFICATION	
Doc. Date: _____	# Pages: _____
Notary Name: _____	Judicial Circuit: <u>Second</u>
Doc. Description: <u>Access Easement</u>	

Notary Signature: _____	
Date: _____	

[Stamp or Seal]

This map was prepared by me or under my direct supervision.

Randall Sherman
Licensed Professional Land Surveyor
State of Hawaii Certificate Number LS4187
License Expiration Date: April 30, 2024
Land Court Certificate Number 189



HONOAPILANI HIGHWAY
To Hanalei 316°59'—71.34
To Olowalu

1/2" PIPE (SET)
241°00'—62.57
Cantilever Fence

"PK" NAIL (FND)
on conc. footing

TMK:(2)4-5-007:005
L.P. 8391, L.C. Aw. 11216:19
to Kekauonohi

Exhibit Showing
PARCEL A

of the
NISHIDA SUBDIVISION

(Land Patent 8278, Land Commission
Award 11033 to Shaw & Maunahina)

and
**SIDEWALK & PAVEMENT
EASEMENT**

Situated at
Kuhulua 1, Lahaina, Maui, Hawaii

Mergo
L. P. 8278,
PARCEL A
TMK:(2)4-5-007:004
18,688 SQ.FT.

**N I S H I D A
S U B D**

**SIDEWALK
& PAVEMENT
EASEMENT**
1,265 Sq.Ft.

L. C. Aw. 11033
TMK:(2)4-5-007:009
**WADA
CONSOLIDATION**

Maunahina

Prepared For:

Kyle Kaneshige
Finance Factors, Ltd.
1164 Bishop St., Suite 300
Honolulu, HI 96813

Utility Pole #11
w/ Guy Wires
SEE NOTE #3

1/2" PIPE (FND)

147°49'—85.13
Edge Pavement

"PK" NAIL (FND)
on A.C. pavement

6,011.24 S
4,098.76 W
"LAINA" Δ

NOTES:

1. This map is based on an actual field survey performed on 1 JUL 13.
2. Azimuths and coordinates are referred to Government Survey Triangulation Station "LAINA".
3. Utility pole & guy wires are not covered by an easement.



REVIEWED: 30 AUG 13
DATE: 3 JUL 13

JOB NO: 13141

NAME: KANESHIGE-Easement Wadec

TMK: (2)4-5-007:004

Exhibit "A"