

COUNCIL OF THE COUNTY OF MAUI
**PUBLIC WORKS AND
FACILITIES COMMITTEE**

August 8, 2008

Committee
Report No.

08-94

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

Chair and Members:

Your Public Works and Facilities Committee, having met on July 23, 2008, makes reference to County Communication No. 08-160, from the Director of Public Works, transmitting a proposed resolution entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE WAIQHULI-KEOKEA HOMESTEADS, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE".

The purpose of the proposed resolution is to accept the dedication of Road Widening Lot 12-D-4 in Kihei, Maui, along Lipoa Street, consisting of approximately 5,210 square feet, identified as TMK: (2) 3-9-02:portion of 026.

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

At its meeting, your Committee met with the Director of Public Works and a Deputy Corporation Counsel.

There was no public testimony.

The Director stated that the subject road widening lot is approximately 14 feet wide and extends along the frontage of Lipoa Street. He stated that certain improvements were deferred when the Department granted final subdivision approval on November 26, 2003; however, this deferral has been rendered null and void by subsequent building permits, which require that all improvements be made concurrent with the construction.

Your Committee voted to recommend adoption of the proposed resolution and filing of the communication.

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Your Public Works and Facilities Committee RECOMMENDS the following:

1. That Resolution No. _____, attached hereto, entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE WAIOHULI-KEOKEA HOMESTEADS, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE", be ADOPTED; and

2. That County Communication No. 08-160 be FILED.

Adoption of this report is respectfully requested.

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BILL KAUAKEA MEDEIROS Co-Chair



MICHAEL P. VICTORINO Co-Chair

DANNY A. MATEO Member

JOSEPH PONTANILLA Member

G. RIKI HOKAMA Member

Resolution

No. _____

ACCEPTING DEDICATION OF A ROAD WIDENING LOT
FOR THE WAIOHULI-KEOKEA HOMESTEADS, PURSUANT
TO SECTION 3.44.015, MAUI COUNTY CODE

WHEREAS, LIPOA LAND, LLC and TRANS WAREHOUSE ASSOCIATES (hereinafter called "Subdividers"), desire to comply with the subdivision requirements for the Waiohuli-Keokea Homesteads, TMK: (2) 3-9-002:026 (portion), Subdivision File No. 3.2036, by dedicating that certain Road Widening Lot 12-D-4. Said lot is 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 the Department of Public Works has reviewed and approved said dedication; and

WHEREAS, pursuant to Maui County Code, Section 3.44.015(C), 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 Lot 12-D-4, as described in said Warranty Deed attached hereto as Exhibit "1" to be dedicated by said Subdividers 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 the Department of Public Works and the Subdividers.

APPROVED AS TO FORM AND LEGALITY:



DAVID A. GALASIN
Deputy Corporation Counsel
County of Maui

"A", attached hereto and incorporated herein by reference, unto the Grantee, as Tenant in Severalty, its legal successors and assigns, forever.

AND the reversions, remainders, rents, issues and profits thereof and all of the estate, right, title and interests of Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, together with all buildings, improvements, tenements, rights, easements, hereditaments, privileges and appurtenances thereto belonging or appertaining, or held and enjoyed in connection therewith unto the Grantee according to the tenancy hereinabove set forth, absolutely and in fee simple, forever.

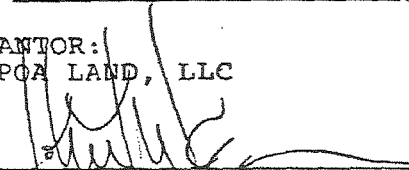
AND the Grantor hereby covenants with the Grantee that the Grantor is lawfully seized in fee simple of the described real and personal property and that the Grantor has good right to convey the same as aforesaid; that the property is free and clear of all encumbrances, except as may be described in Exhibit "A"; and the Grantor will WARRANT AND DEFEND the same unto Grantee, forever, against the lawful claims and demands of all persons.

It is understood and agreed that the term "property" shall be deemed to mean and include the property specifically described in Exhibit "A", all buildings and improvements thereon (including any personal property described in Exhibit "A") and all rights, easements, privileges and appurtenances in connection therewith, 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.

IN WITNESS WHEREOF, the undersigned have executed this instrument on this _____ day of _____, 20_____.

GRANTOR:
LIPCA LAND, LLC

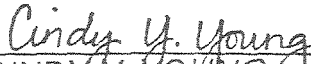


John M. Kean
Member



Edwardo F. Bello
Member

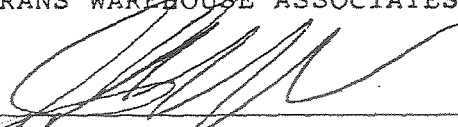
APPROVED AS TO FORM
AND LEGALITY:



CINDY Y. YOUNG
Deputy Corporation Counsel
County of Maui

S:\CLERICAL\PJK\FORMS\WARRANTY.DED

TRANS WAREHOUSE ASSOCIATES



C. Earl Stoner, Jr.
General Partner

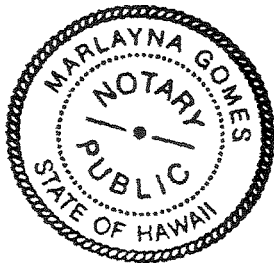


James J.C. Haynes II
General Partner

STATE OF HAWAII
COUNTY OF MAUI

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On this 8th day of August, 2003, before me personally appeared John M. Kean, to me personally known, being by me duly sworn, did say that he is Member of LIPOA LAND, LLC, a Hawaii limited liability company; that he executed the foregoing instrument as Member of said company, and acknowledged said instrument to be the free act and deed of said company.



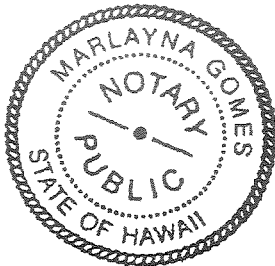
Marlayna Gomes
Print Name: Marlayna Gomes
Notary Public, State of Hawaii

My commission expires: 2/6/2004

STATE OF HAWAII
COUNTY OF MAUI

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On this 8th day of August, 2003, before me personally appeared Edwardo F. Bello, to me personally known, being by me duly sworn, did say that he is Member of LIPOA LAND, LLC, a Hawaii limited liability company; that he executed the foregoing instrument as Member of said company, and acknowledged said instrument to be the free act and deed of said company.



Marlayna Gomes
Print Name: Marlayna Gomes
Notary Public, State of Hawaii

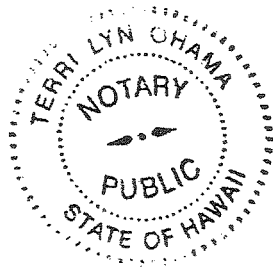
My commission expires: 2/6/2004

STATE OF HAWAII

COUNTY OF MAUI

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On this 11th day of August, 2003, before me personally appeared C. Earl Stoner, Jr., to me personally known, being by me duly sworn, did say that he is General Partner of TRANS WAREHOUSE ASSOCIATES, a Hawaii general partnership; that he executed the foregoing instrument as Member of said partnership, and acknowledged said instrument to be the free act and deed of said partnership.



[Handwritten Signature]

Print Name: Terri Lyn Ohama
Notary Public, State of Hawaii

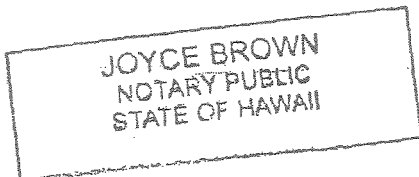
My commission expires: 10/15/04

STATE OF HAWAII

COUNTY OF MAUI

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On this 13th day of August, 2003, before me personally appeared James J.C. Haynes II, to me personally known, being by me duly sworn, did say that he is General Partner of TRANS WAREHOUSE ASSOCIATES, a Hawaii general partnership; that he executed the foregoing instrument as Member of said partnership, and acknowledged said instrument to be the free act and deed of said partnership.



[Handwritten Signature]

Print Name: JOYCE BROWN
Notary Public, State of Hawaii

My commission expires: 7/18/04

Exhibit A

Lot 12-D-4(Road Widening)
Waiohuli-Keokea Homesteads
Portion of Land Patent 6967 to John Brown Jr.
Waiohuli (Kihei), Maui, Hawaii

ALL OF THAT CERTAIN PARCEL OF LAND known as road widening Lot 12-D-4 of Waiohuli-Keokea Homesteads (Subdivision File No. 3.2036), being a portion of Lot 12-D being also a portion of Land Patent 6967 to John Brown Jr., situate at Waiohuli (Kihei), Island and County of Maui, State of Hawaii, and more particularly described as follows:

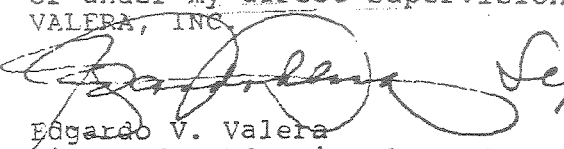
BEGINNING at a 1/2 inch pipe at the northwest corner of this lot and the north side of Lipoa Street, the coordinates of said point of beginning being

North 6,703.73 feet
West 22,858.63 feet

referred to Government Survey Triangulation Station "PUU O KALI" and running by azimuths measured clockwise from true South (meridian of said "PUU O KALI"); thence,

1. 263° 44' 372.14 feet along Lots 12-D-1, 12-D-2 and 12-D-3 of Waiohuli-Keokea Homesteads (LUCA File No. 3.2036) to a 1/2 inch pipe; thence,
2. 350° 36' 30" 14.02 feet along Lot 12-E-1-B of Waiohuli-Keokea Homesteads (LUCA File No. 3.2007) to a 1/2 inch pipe; thence,
3. 83° 44" 372.02 feet along Lipoa Street to a 1/2 inch pipe; thence,
4. 170° 08' 14.03 feet along portion of Lipoa Street to the point of beginning and containing an area of 5,210 square feet, more or less.

This work was prepared by me
or under my direct supervision.
VALERA, INC.


Edgardo V. Valera
Licensed Professional Land Surveyor No. 5076
State of Hawaii Certificate No. 5076
End of description.
5082L12D4

