

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no. Na Pali Properties, Inc. P.O. Box 475 Hanalei HI 96714 (808) 826 - 7272		OMB No. 1545-0115 2006 Form 1099-MISC Miscellaneous Income		
PAYER'S federal identification number 99-0216398	RECIPIENT'S identification number 559-62-0434	1 Rents 57084.79	4 Federal income tax withheld \$	18 State income \$
		2 Royalties \$		
RECIPIENT'S name Roger L. Batty		3 Other income \$	6 Medical and health care payments \$	Copy 2 To be filed with recipient's state income tax return, when required.
		5 Fishing boat proceeds \$	8 Substitute payments in lieu of dividends or interest \$	
Street address (including apt. no.) P.O. Box 1937		7 Nonemployee compensation \$	10 Crop insurance proceeds \$	
		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/> \$	11	
City, state, and ZIP code Hanalei HI 96714		11	12	
Account number (see instructions) MAHANA		13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$	
15a Section 409A deferrals \$	15b Section 409A income \$	16 State tax withheld \$	17 State/Payer's state no. \$	

Form **1099-MISC**

Department of the Treasury - Internal Revenue Service



Search Details

Taxpayer Name:	BATTY ROGER L/BARBARA A ETAL
DBA Name:	
Taxpayer ID:	W40387786-01
Former Taxpayer ID:	40036512
Business Location:	Po Box 1337 Hanalei, HI 96714-1337
Tax Type:	General Excise and Use
Tax Status:	Open
Business Began:	01/01/1987
<-Back New Search->	

Last Updated on 04/23/2008

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Taxation

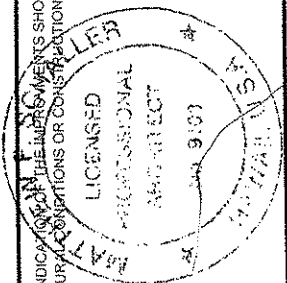
[Hawaii State homepage](#) || [Department of Taxation](#)

BATTY UNIT-3

P.O. BOX 120, HANAIEI, HI. 96714; 808-828-6999

MATTHEW SCHALLER ARCHITECT INC.

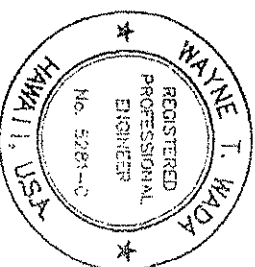
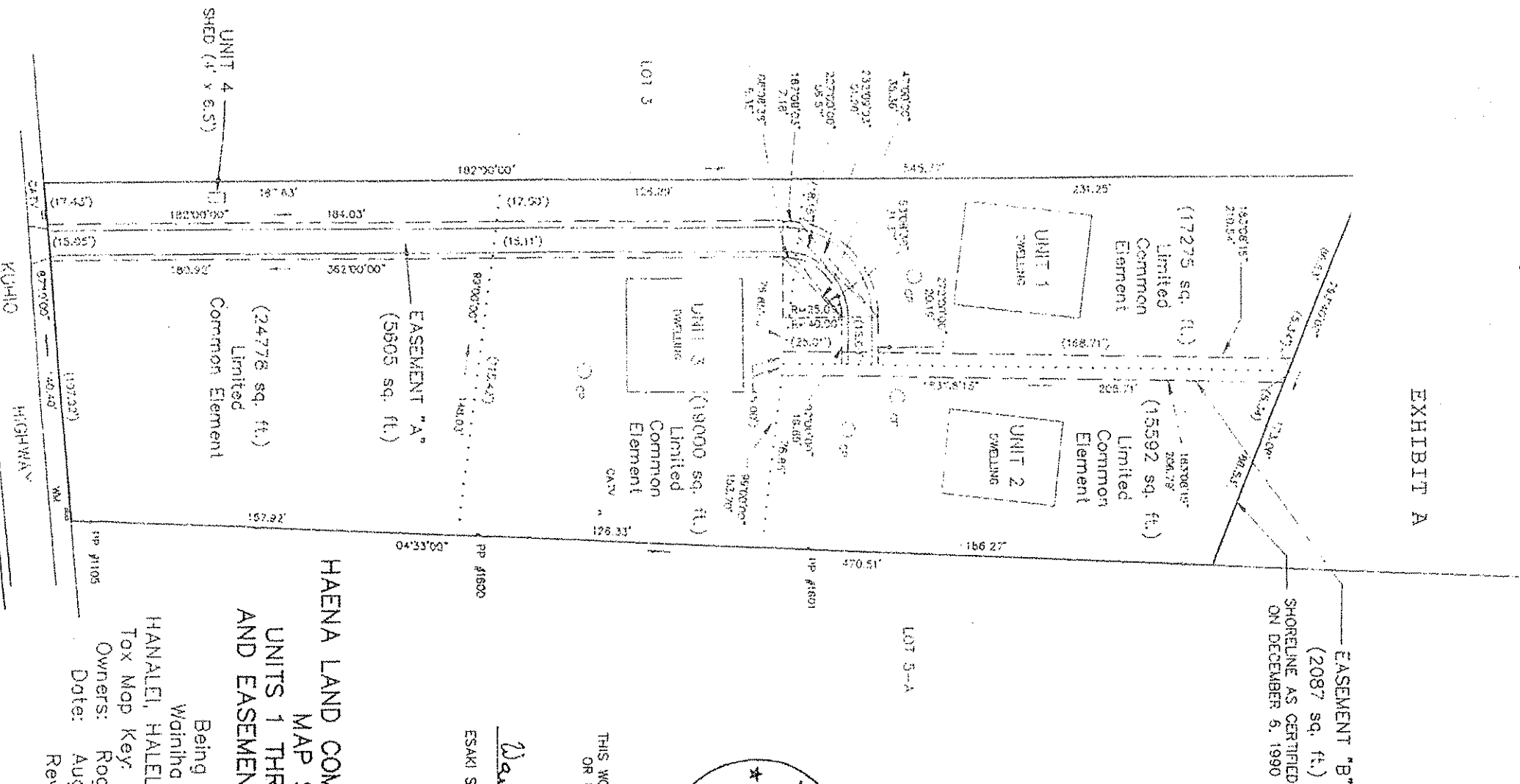
THESE PLANS ARE AN ACCURATE INDICATION OF THE MEASUREMENTS SHOWN, AS PERMITTED. THESE PLANS DO NOT REFLECT A STRUCTURAL, MECHANICAL, ELECTRICAL, OR ENVIRONMENTAL SOUNDNESS INSPECTION.



Matthew Schaller

TRUE NORTH
SCALE: 1" = 50'

EXHIBIT A



THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION

Wayne T. Wada
Signature
ESAKI SURVEYING & MAPPING, INC.

HAENA LAND COMPANY CONDOMINIUM
MAP SHOWING

UNITS 1 THRU 4 INCLUSIVE
AND EASEMENTS "A" AND "B"

Being Lot 4 of

Wai'ahua Hui Londs

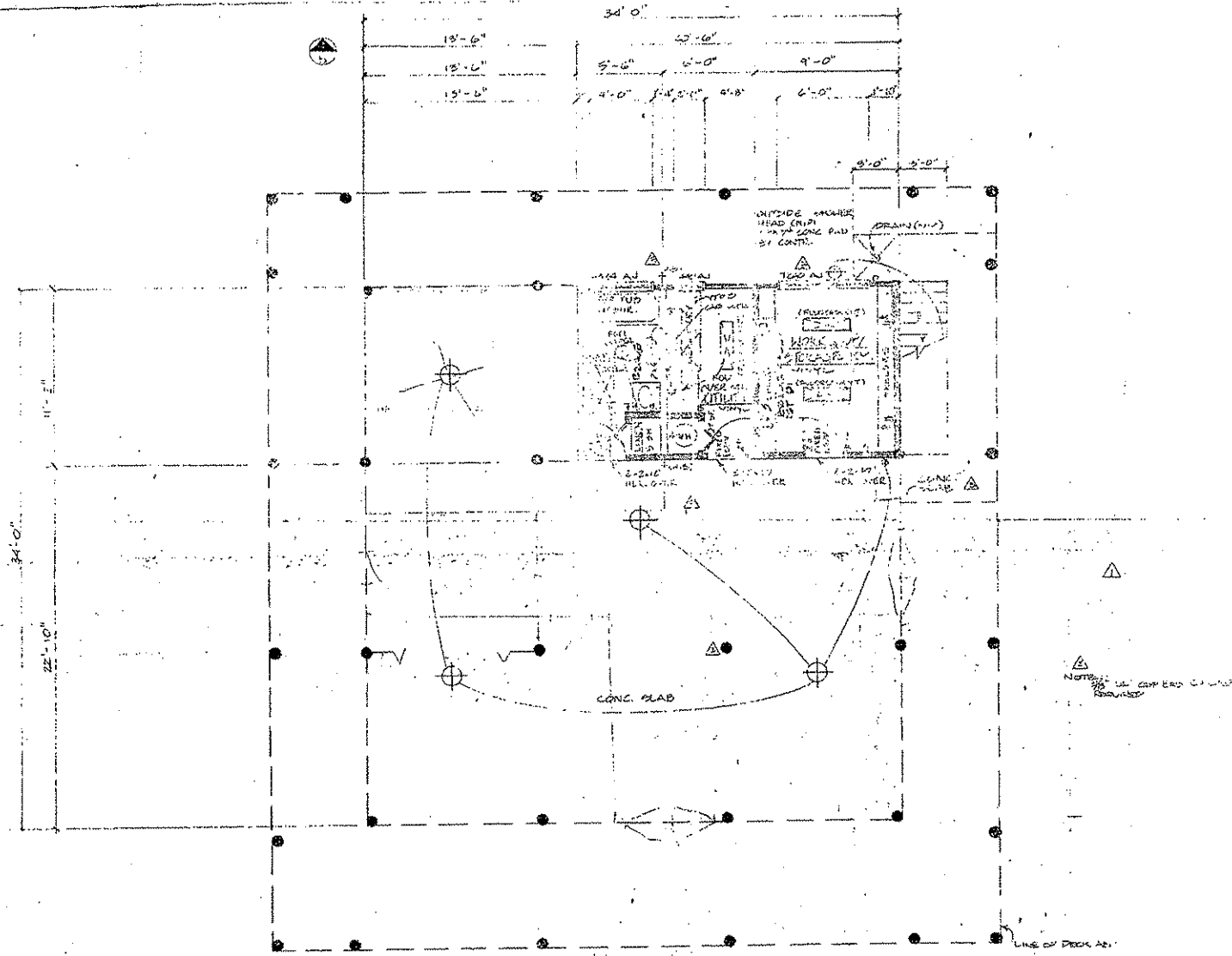
HANAIEI, HALELEA, KAUAI, HAWAII

Tox Mop Key, (4) 5-8-10: 15

Owners: Roger Batty, et. al.

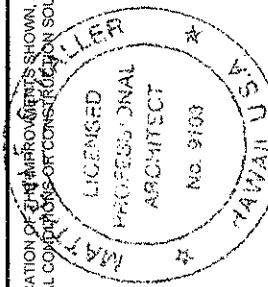
Date: August 28, 1990

Rev. January 30, 1991



LOWER FLOOR PLAN
1/8" = 1'-0" 1/4" = 1'-0"

THESE PLANS ARE AN ACCURATE INDICATION OF THE PROPOSED WORK. THEY ARE NOT TO BE USED FOR CONSTRUCTION WITHOUT THE SUPERVISION OF A REGISTERED PROFESSIONAL ENGINEER OR ARCHITECT. THESE PLANS DO NOT REFLECT A STRUCTURAL CONSTRUCTION SOUNDNESS INSPECTION.

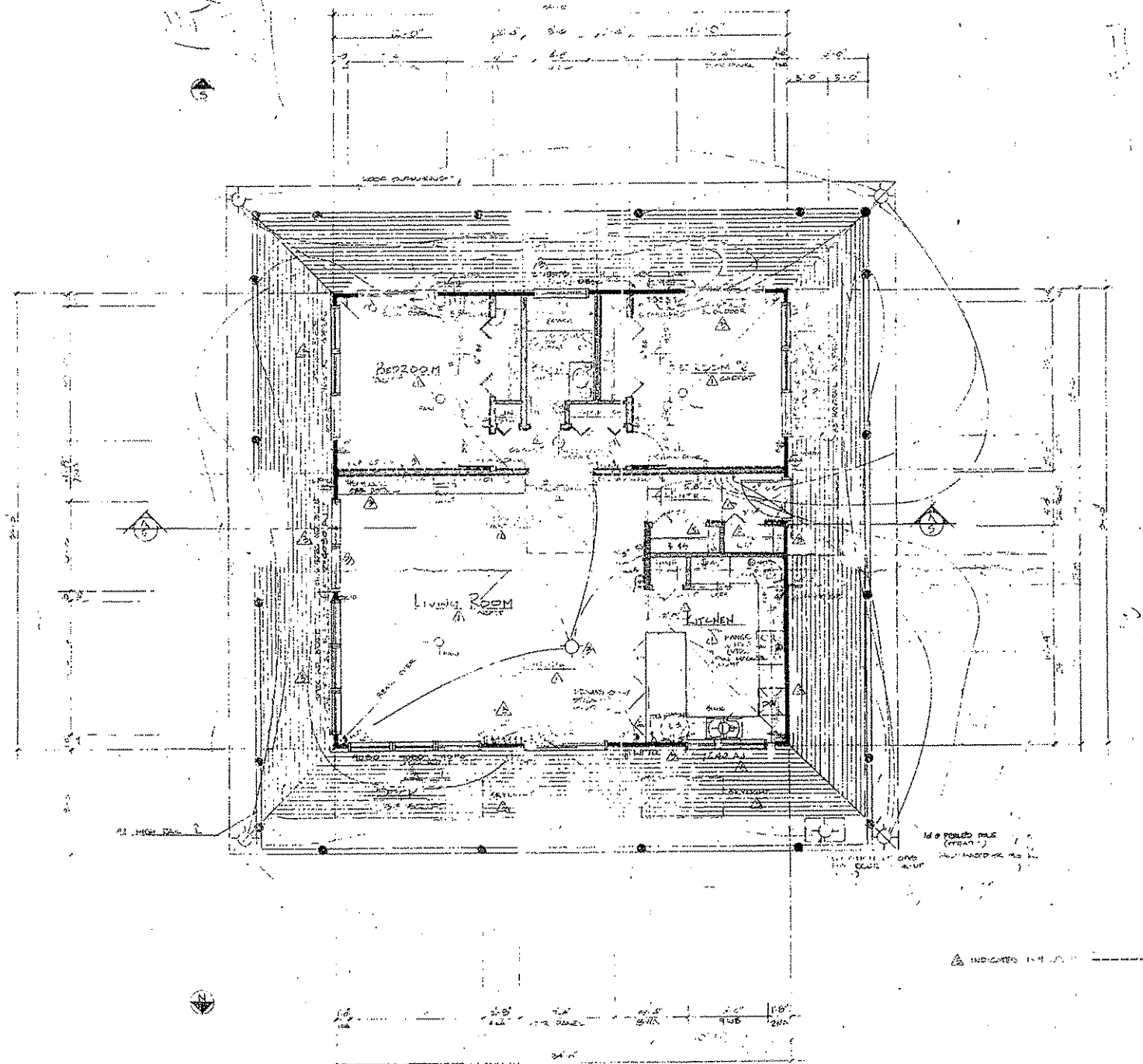


MATTHEW SCHALLER, ARCHITECT INC.

P.O. BOX 120, HANALEI, HI. 96714; 808-826-4699

BATTY UNIT-3

Matthew Schaller
11/13/2018



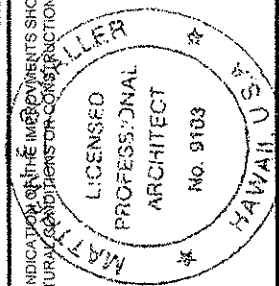
MAIN FLOOR PLAN

1/4" = 1'-0"

BUILDING DEPT.

NOV 21 1980

THESE PLANS ARE AN ACCURATE INDICATION OF THE IMPROVEMENTS SHOWN, AS PERMITTED, THESE PLANS DO NOT REFLECT A STRUCTURAL ANALYSIS OR CONSTRUCTION SOUNDNESS INSPECTION.

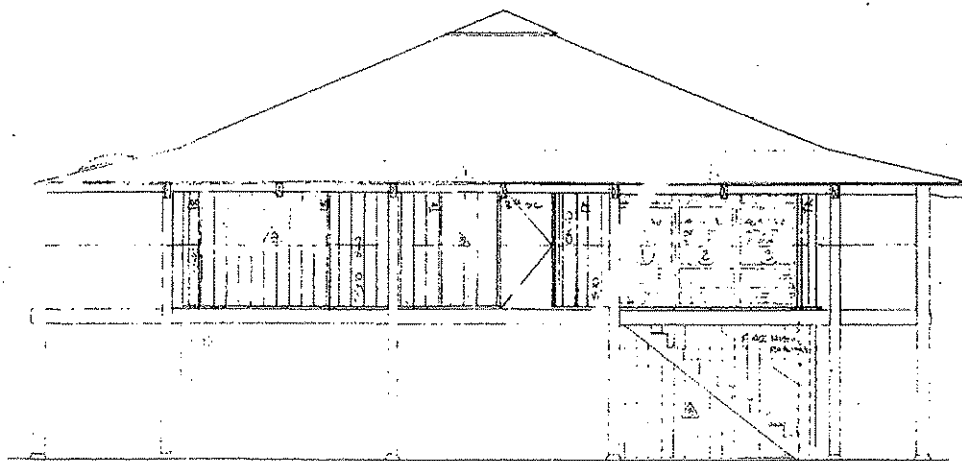


MATTHEW SCHALLER, ARCHITECT, INC.

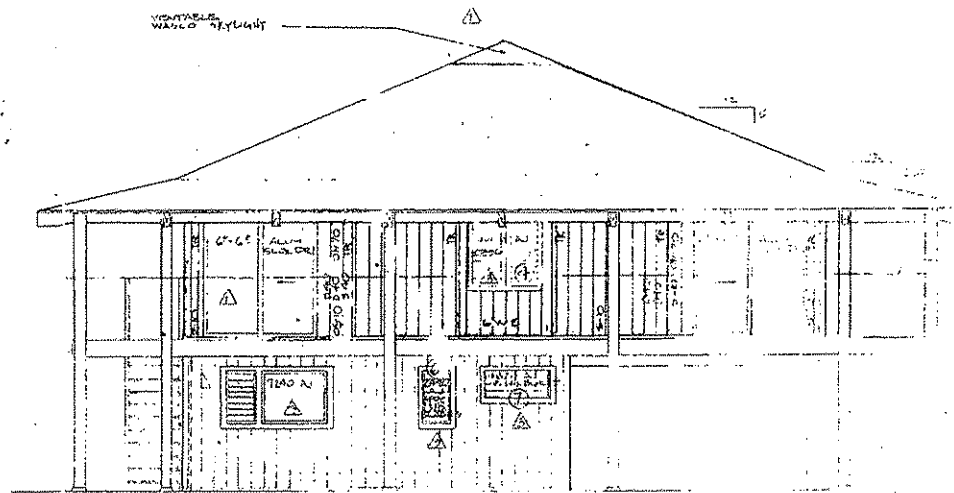
P.O. BOX 120, HANAIEI, HI. 96714; 808-826-4699

BATTY UNIT-3

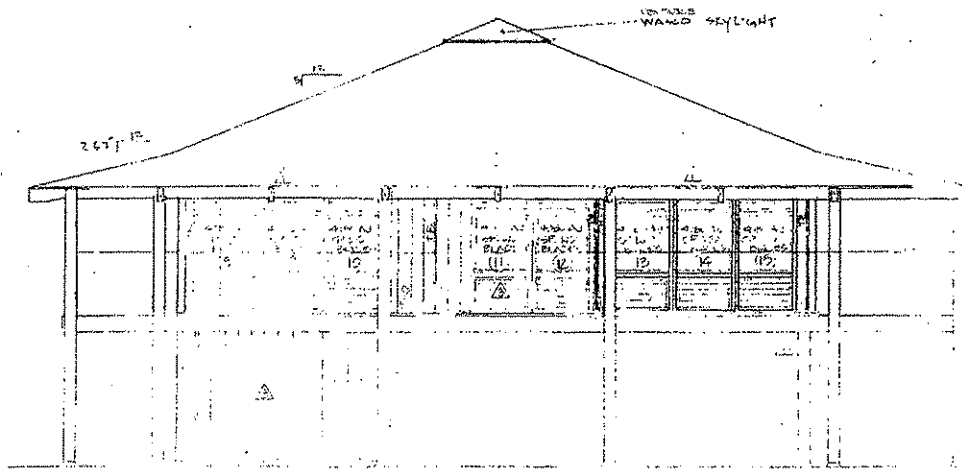
Matthew Schaller



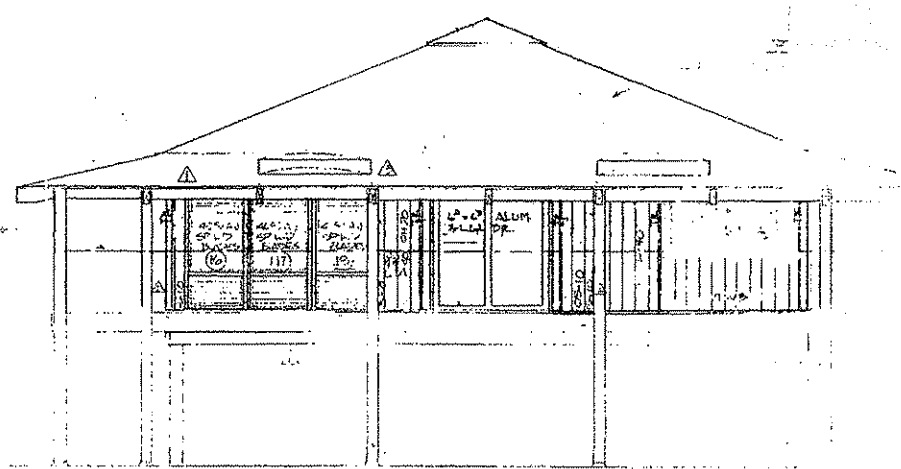
WEST ELEVATION



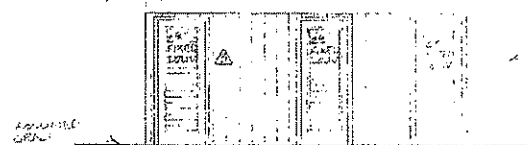
SOUTH ELEVATION



EAST ELEVATION



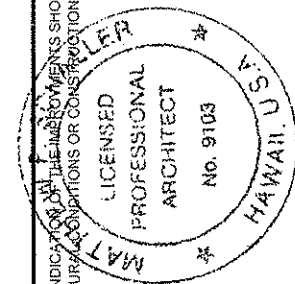
NORTH ELEVATION



ELEVATION

BUILDING DEPT.

PLANS DO NOT REFLECT A STRUCTURAL ANALYSIS OR CONSTRUCTION SOUNDNESS INSPECTION. NO ACCURATE INDICATION OF THE MEASUREMENTS SHOWN, AS PERMITTED, THESE



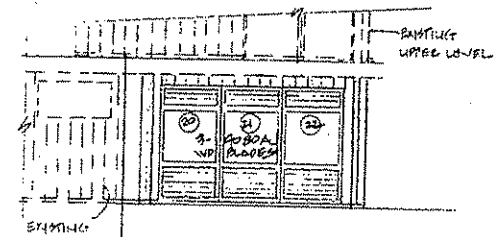
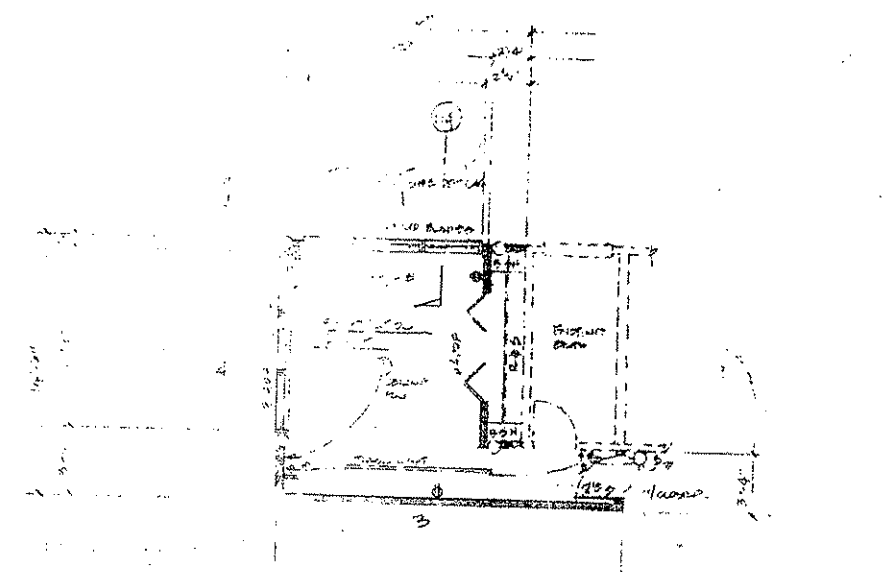
MATTHEW SCHALLER, ARCHITECT INC.

P.O. BOX 120, HANALEI, HI. 96714; 808-826-4699

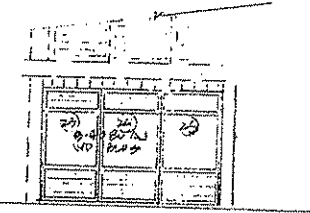
BATTY UNIT-3

Matthew Schaller
11/13/2018

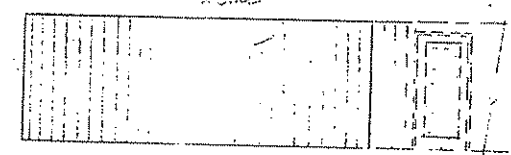
PHIT



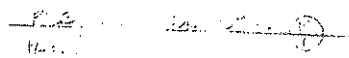
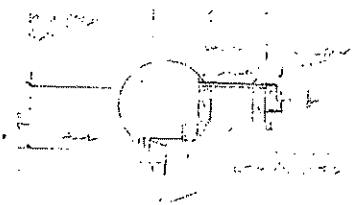
ELEVATION 1
1/8"=1'-0"



ELEVATION 4
1/8"=1'-0"

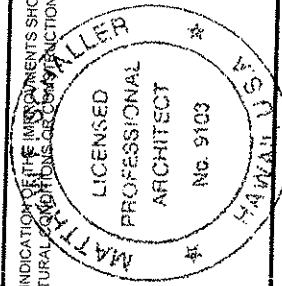


ELEVATION 3
1/8"=1'-0"



FLOOR PLAN
1/8"=1'-0"

THESE PLANS ARE AN ACCURATE INDICATION OF THE IMPROVEMENTS SHOWN, AS PERMITTED. THESE PLANS DO NOT REFLECT A STRUCTURAL CONDITION OR CONSTRUCTION SOUNDNESS INSPECTION.



MATTHEW SCHALLER, ARCHITECT INC.

P.O. BOX 120, HANAIEI, HI. 96714; 808-826-4699

BATTY UNIT-3

Matthew Schaller
5/15/88

BUILDING DEPT.

MAY 0 1 1988

TRANSIENT VACATION RENTAL AFFIDAVIT OF

STATE OF Hawaii)
COUNTY OF Kauai) ss.

I, Roger L. Botly, being first sworn upon oath, deposes and says:

1. My name is, Roger L. Botly and I make this affidavit based on my personal knowledge.

2. I am the owner of the property identified as TMK: 4-5-8-010-015-003-000 with a mailing address of P.O. Box 1337 Hanalei HI 96718

3. I have operated a transient vacation rental(s) on the property since 1981 under the business name of Botly Roger L / Bonanza A et al.

4. My State of Hawai'i General Excise Tax license number is W40387786-01 and I have paid General Excise and Transient Accommodation Taxes in accordance with State Law during the period(s) the Transient Vacation Rental was in operation.

5. Building permit number(s) Property was built 28 years ago. No permit is county record but have stopped plan were approved on _____ for all structures on the property and there were no expansions, alterations, improvements, or uses contrary to State and County land use and planning laws.

6. There _____ were ✓ were not any legal expansions or improvements made on the property after March 7th 2008. Improvements and expansions took place under the following permits _____

County of Kaua'i
Planning Department

NCU # _____
Operation Name Hale Mahalo

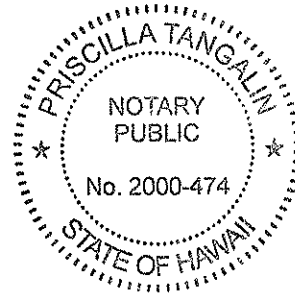
FURTHER AFFIANT SAYETH NAUGHT.

Roy L. Baly
Name: _____

WITNESS my hand and official seal.

Priscilla Tangalin
Notary Public, State of Hawai'i

3/11/09
Date



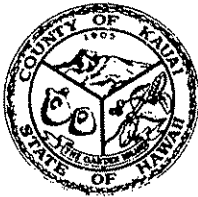
My commission expires:

Doc. Date: 3/11/09 # Pages 2

Notary Name: Priscilla Tangalin 5th Circuit

Doc. Description: Transient Vacation Rental
Affidant

JOANN A. YUKIMURA
MAYOR



PETER A. NAKAMURA
PLANNING DIRECTOR

ROLAND D. SAGUM, III
DEPUTY PLANNING DIRECTOR

TELEPHONE (808) 245-3919

COUNTY OF KAUAI
PLANNING DEPARTMENT
4280 RICE STREET
LIHUE, KAUAI, HAWAII 96766

March 8, 1991

Mr. Steven R. Lee
Attorney at Law
P. O. Box 1166
Lihue, Hawaii 96766

Subject: Certification of Inspection of Existing Buildings for
Haena Land Company Condominium at Haena, Kauai
TMK: 5-8-10:15

The developer of the above-mentioned condominium project ("project") has requested that this office, as an agency of the County of Kauai, review the project for compliance with all ordinances, codes, rules, regulations and other requirements of the County of Kauai (Section 514A-39, HRS). Subject to the disclosures and waiver (item "c" below) specified herein, we certify the following:

- a. The developer has contracted a private engineer to certify that the project is in compliance with all ordinances, codes, rules, regulations and other requirements in force at the time of its construction, and to that extent, and subject to the condition of waiver herein, the Planning Department adopts that certification as it pertains to our requirements.
- b. We have no record of any zoning variances that have been granted on the subject property.
- c. WAIVER


The foregoing certification is not a warranty as to any afore-mentioned compliance, nor a representation as to the condition of the property in question. No rights against the County of Kauai shall arise as a result of this certification. The sole reason for the execution hereof being to comply with statutory requirements

EXHIBIT I

Mr. Steven R. Lee
Attorney at Law
Page 2
March 8, 1991

relating to the regulation of condominiums under Subsection 514(A), HRS. This certification shall not be misconstrued to guarantee that all County Codes and Ordinances have been complied with. Subsequent development and use shall comply to all applicable County Codes and Ordinances. It should also be noted that the Condominium Property Regime (CPR) does not mean that all County requirements pertaining to subdivision of lands have been met. Therefore, such facilities/improvements that are normally associated with County approved subdivisions such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., will not be provided. Further, such services as County street maintenance and trash collection will not be available for interior roads and driveways, if any.

Please note that the condominiumization of the property does not create separate lots with separate interests. Should you have any questions, please contact Keith Nitta or Bryan Mamaclay of my staff at 245-3919.


PETER A. NAKAMURA
Planning Director

PETER N. TAYLOR INCORPORATED
CONSULTING ENGINEERS
4444 RICE STREET ROOM 201A
LIHUE, KAUAI, HAWAII 96766
(808) 245-9154

September 10, 1990.

Hawaii State Bureau of Conveyances,
P.O. Box 2867,
Honolulu, Hawaii 96813.

Hawaii Real Estate Commission,
Attn: Ms. Linda Saito,
828 Fort Street Mall, Suite 600,
Honolulu, Hawaii 96813.

COPY

To Whom It May Concern:

This office has inspected Units 1, 2 and 3 and improvements located thereon of the **Haena Land Company Condominium**, Tax Map Key: (4th Division) 5-8-10:15 Lot 4, to wit:

Unit 1 - 2 storey house with loft - 8 yrs of age
Unit 2 - 2 storey house with loft - 22 yrs of age
Unit 3 - 2 storey house with loft - 9 yrs of age

The inspection has included the exterior roof, foundations, visible electrical and plumbing systems, and I find as follows:

1. Due to the age of the structures, no records of the County of Kauai Planning Department or Building Division currently exist, which show approved plans or specifications for the improvements on Units 1, 2 and 3.
2. The improvements appear to be constructed in the manner described in the drawings constituting the condominium file plan for Haena Land Company including specifically Units 1, 2 and 3.
3. The systems and components of the improvements, including visible structural, electrical and plumbing, appear to be in satisfactory condition for the stated age thereof and appear to be in sound condition.
4. (a) Without conducting invasive examinations of covered plumbing, electrical and structural components, the improvements appear to be constructed in conformity with the County of Kauai Rules and Regulations applicable to construction at the time of construction thereof, including specifically Unit 1.

September 10, 1990.
Haena Land Co. Condominium.

Page 2.

4. (b) Without conducting invasive examinations of covered plumbing, electrical and structural components, the following improvements appear NOT to be constructed in conformity with the County of Kauai Rules and Regulations applicable to construction at the time of construction thereof, including specifically Units 2 and 3:

Unit 2 - Installation of GFI electrical breaker required for the kitchen and bathroom.

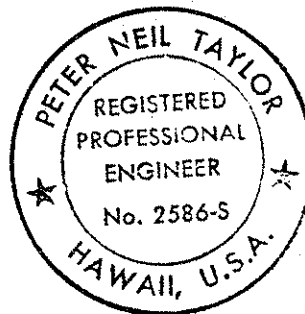
Unit 3 - Installation of 1/2" drywall with laminated sheet required at combustible area above stove.

THIS IS NOT A WARRANTY OF COMPLIANCE WITH ALL RULES AND REGULATIONS, ONLY A WARRANTY THAT INSPECTION WAS MADE AND NO APPARENT VIOLATIONS APPEAR TO EXIST. NO RIGHT SHALL ACCRUE TO ANY THIRD PARTY FOR SUBSEQUENT DISCOVERY OF ANY PROBLEMS WITH CODE COMPLIANCE OR FOR FUTURE CHANGES IN SUCH CODE(S).

Very truly yours,

Peter N. Taylor

Peter N. Taylor, P.E.
President.



Copy to: Haena Land Company.
Steven R. Lee, Esq.

BERNARD P. CARVALHO JR.
MAYOR



IAN K. COSTA
DIRECTOR OF PLANNING

GARY K. HEU
ADMINISTRATIVE ASSISTANT

IMAIKALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

COUNTY OF KAUAI
PLANNING DEPARTMENT
4444 RICE STREET
KAPULE BUILDING, SUITE A473
LIHU'E, KAUAI, HAWAII 96766-1326

TELEPHONE: (808) 241-4050 FAX: (808) 241-6699

September 4, 2009

Batty Family Trust
Michael Batty
PO Box 1337
Hanalei, HI 96714

SUBJECT: TV-1024-NCU TMK 5-8-010:015:0003

Dear Mr. Batty

We are in receipt of your appeal the Directors decision to deny issuance of a Non-Conforming Use application TVNC-1286. We have reviewed the appeal and application and found that under Section 1-9-2 of the Rules and Procedures of the Planning Commission, "[t]he appeal shall be submitted to the Planning Commission, County of Kauai, Lihue, Kauai, Hawaii and shall be filed within twenty-one (21) days for appeals..." the appeal was not filed in a timely manner.

A letter dated April 24th, 2009 notifying your client of denial was received on April 28th, 2009. Per Section 1-9-2 appeal should have been filed by May 29th, 2009. The appeal was received at the Planning Department on August 3rd 2009.

Your letter mentions extenuating circumstances, including the death of your husband and medical conditions. While we sympathize with these circumstances the Department cannot consider such rules.

We will be requesting that the Planning Commission meet.

If you have any questions please

Mahalo


Ian K. Costa
Director, Planning Dept.

CC: County Attorney, Real Property

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11 SEP 2009 PM 1

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COUNTY OF KAUAI
PLANNING DEPARTMENT
4444 Rice Street, Suite 473
Lihue, Kauai, Hawaii 96766

IA
9/4/09
TV-1024-NCU
TMK: 5-8-010:015:0003
Receipt of Appeal

COUNTY OF KAUAI

09 SEP 14 P2:00

July 29, 2009

Ian K. Costa
Director of Planning
Kauai County Planning Department
4444 Rice Street
Kapule Building, Suite A473
Lihue, Kauai, HI 96766-1326

Dear Mr. Costa,

I am writing today regarding two previously submitted applications for Non-Conforming Use Certificates (NCUCs) for my vacation rental houses located in Wainiha. I hope we can clarify the status of those applications and finish the process needed to appeal their apparent denial. The application numbers are TV-1023-NCU ("Lihi Kai") and TV-1024-NCU ("Hale Mahana"). The owner name on the applications is "The Batty Family Trust," of which I am the sole remaining Trustee.

Before I discuss specifics, I need to inform you of two things. First, on May 5, 2009, my husband, Roger Batty, passed away at our home in Wainiha from a heart attack. I have enclosed a copy of the death certificate. Roger submitted the original NCUC applications and was solely responsible for managing our properties (for reasons that will become clear below). He spoke with Andres Emayo in April about the application for Hale Mahana, including the steps needed to get the home approved. He used Mr. Emayo's name when he wrote the Planning Department shortly thereafter. As you can imagine, my family and I are devastated. Forgive me if we cover ground my husband already did.

Second, I suffer from paralysis due to multiple sclerosis. I have been confined to a wheelchair since 1984 and have almost no use of my hands. Without assistance I am not able to type or even to use the telephone. I require a full-time caregiver to see to even my most basic needs. This makes it impossible for me to take the necessary steps to appeal the denials on my own. To assist me, I have named my sons, David Batty and Michael Batty, as my "attorneys-in-fact." I have attached a copy of my Durable Power of Attorney. Going forward, please consider David Batty the primary contact in this matter.

My husband successfully submitted all initial paperwork for both TVR/NCUC applications. It appears that both applications have been denied. I have a copy of the letter sent by the Planning Department on April 24, 2009, regarding the denial of the application for Hale Mahana. That letter clearly stipulates what is needed to bring the property into conformity and for the County to grant an NCUC. However, we have never directly received any information about a denial for Lihi Kai. The only notice appeared on a webpage the County maintains for tracking application status. It had been listed as "Pending for Comments" and was recently changed to "Denied." As of this writing no letter has been sent to deny the application officially or to cite the reasons for the denial. Until the County provides further information, we cannot address any problems.

According to the denial letter for Hale Mahana (copy enclosed), the Planning Department took exception to two things found during inspection. First, a screened porch area surrounding the downstairs bedroom included a wet bar and refrigerator. The County says that the previous owners never had proper permits for these changes. Second, the downstairs bedroom was labeled "Recreation Room" on the County-approved building plans (stamped and dated May 1, 1981). The inspection results appear to state that using the space as a bedroom does not conform to the building codes in place at the time (as opposed to those in place now). These changes were made by the previous owners. We were unaware of any problems until reading the County's letter. Unfortunately, the prior owners have since passed away and are unavailable to provide further information.

Before he died, my husband addressed the problem with the screened porch. After speaking with Mr. Emayo, he paid to have the screens and wet bar removed. He felt this would be easier for everyone than trying to get the changes permitted after the fact. The County is welcome to inspect the area to confirm that it now matches the original plans.

The solution to the problem with the use of the downstairs room is less clear. The building codes in place when the plans were approved did allow bedrooms at ground level. Further, when the property was inspected in 1991 (for the purposes of turning it into a condominium), the County approved a set of plans for Hale Mahana as being in conformity with the appropriate building codes. These plans clearly labeled the downstairs room as "Bedroom #3." Moreover, a licensed engineer certified the plans as being in conformity. There have been no actual changes to the room from the original plans. The room itself looks just as it did when it was built.

I have enclosed copies of both of those official letters. I think this issue may need further research. If, after review, the County could provide specific information on the pre-1982 code that is being violated, we should be able to confirm whether that use was or was not allowed. If we were to discover that it does not conform we would, of course, immediately stop using that room as a bedroom.

I would like to formally request an appeal of the application for Hale Mahana. Two days before his death, my husband sent a certified letter to the County. This letter documented both the removal of the screened porch at Hale Mahana and the question regarding the use of the downstairs room. I have attached a copy of the letter and a certified receipt showing delivery to the Planning Department on May 4. No one from the Planning Department or County of Kauai has ever responded. Since the guidelines on the appeal process for the NCUC/TVR applications are vague at best, I am unsure what other information or paperwork the County might require to reconsider the application for Hale Mahana. I understand that many homeowners have successfully appealed their denials, and I would like to move forward with that process as soon as possible.

I would also like to request some sort of documentation of the reasons why the application for Lihi Kai was denied, if the status posted on the website is in fact accurate.

Until we know what problems exist with that house, we cannot take appropriate steps to remedy them or to appeal the decision.

I hope we can resolve this problem as soon as possible. I am dependent upon the income from these two properties for my medical care and living expenses. It is very stressful to have my primary source of income cut off just after losing my husband.

My family has a long history on the North Shore of Kauai. In 1967 my parents purchased the property on which the two houses under review now stand; they built the first house on the lot (the house in which I now live permanently) in 1969. The two houses under consideration have been used for vacation rentals continuously since they were built over 27 years ago. My husband and I were pleased to move to Wainiha permanently in 1998.

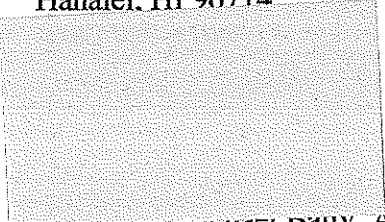
If you have any questions, please contact my son David Batty. He will be on the island soon; if necessary, he can meet with you in person to work through these issues. You can contact him at the address below, at 310-990-8349, or at dbatty@yahoo.com. If we do not hear back from the Planning Department or the County two weeks after confirmed receipt of this letter and enclosures, he will follow up with a phone call.

Thank you very much for any assistance you can provide.

Yours truly,

Barbara Batty P.O. Michael R. Batty

Barbara Batty
Trustee, Batty Family Trust
P.O. Box 1337
Hanalei, HI 96714


Signed by Michael Batty, Attorney-in-Fact,
on behalf of Barbara A. Batty

WITNESS No. 2:

Signature: *Michael W. Weaver*

Printed Name: Michael W. Weaver

Address: 277 Oakvue Rd
Pleasant Hill, Ca 94523

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

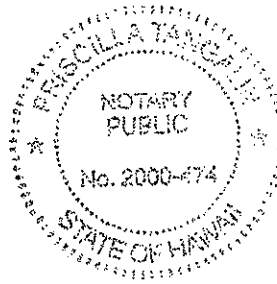
State of Hawaii
County of Kauai

Acknowledged before me this 26th day of May (month), 2009 (year)
by Barbara Ann Batty (name of principal). The affiant is (choose one):
_____ personally known to me, or X produced the following identification:
Hawaii State ID

Priscilla Tangul
Signature of Notary
My commission expires: 9/24/2012

(Seal, if any)

5/26/09 4
Hawaii General
Durable Power of Attorney
Priscilla Tangul 5/26/09



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HELP CONTACT US

County > State



Home Property Search

Address Parcel ID Advanced

RECORD DETAILS

Parcel Data
 Assessment Data
 Residential
 Commercial
 Com. Bldg. Sections
 Other Buildings
 Sketch
 Tax Bill
 Tax Details 2008
 Tax Details 2007
 Tax Details 2006
 Tax Details 2005
 Tax Details 2004
 Tax Details 2003
 Tax Details 2002

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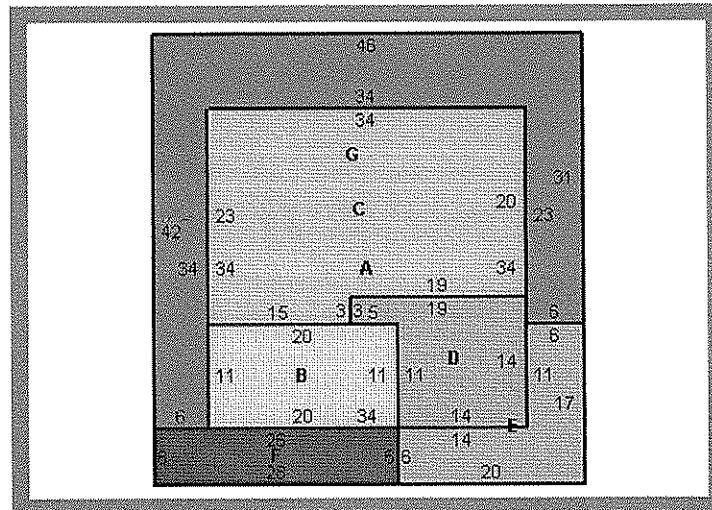
7462 B KUHIO HWY

BATTY FAMILY TRUST

CURRENT RECORD

6 of 7

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Legend

Options

- | | |
|--|---|
| A MAIN, 1156 | D BASMENT GARAGE, 220 |
| C BELOW DWELL PARKING, 725 | I BSMNT FIN, 211 |
| E BELOW DWELL PARKING, PCH CD PTLY ENC, 186 | G BELOW DWELL PARKING, PCH UNC W/RAIL, 156 |
| F BELOW DWELL PARKING, PCH UNC W/RAIL, 710 | |

Data Last Updated : 8/15/2008

Disclaimer

The County of Kauai Real Property Assessment and Treasury Divisions make every possible effort to produce and publish the most current and accurate information available. No warranties, expressed or implied, are provided for the data herein, its use, or its interpretation. Utilization of the search facility indicates understanding and acceptance of this statement by the user.

TO MAKE A PAYMENT

Make your check or money order payable to:

DIRECTOR OF FINANCE

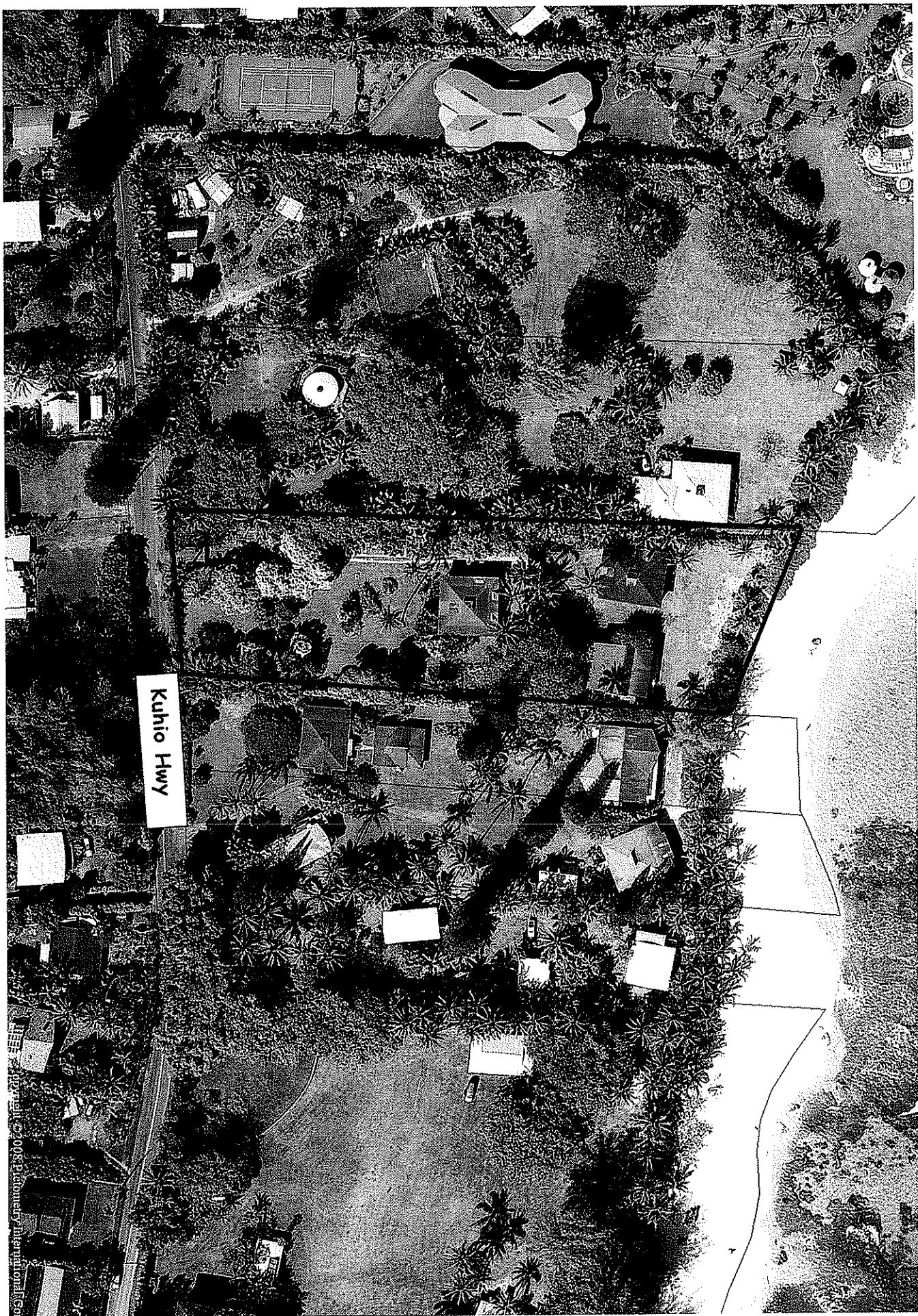
Mail to or pay in person at the following address:

COUNTY OF KAUAI
 REAL PROPERTY TAX COLLECTION
 4444 RICE ST STE 463
 LIHUE HI 96766

Or pay online at:
www.kauai.gov/paypropertytax

<

IVIN 5-8-010:015



**BELLES GRAHAM PROUDFOOT
WILSON & CHUN, LLP**
ATTORNEYS AT LAW

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Federal I.D. No. 99-0317663

WATUMULL PLAZA
4334 RICE STREET, SUITE 202
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705
FACSIMILE NO: (808) 245-3277
E-MAIL: mail@kauai-law.com

OF COUNSEL
DAVID W. PROUDFOOT

COUNSEL
LORNA A. NISHIMITSU

ASSOCIATE
DAWN N. MURATA

September 14, 2009

Via Hand Delivery

Mr. Ian K. Costa, Director
Planning Department
County of Kauai
4444 Rice Street
Moikeha Building, Suite A473
Lihue, Kauai, Hawaii 96766-1326

Re: TV-1024-NCU TMK 5-8-015:0003
TV-1023-NCU TMK 5-8-015:0001

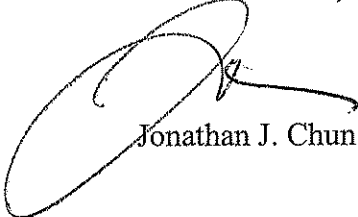
Dear Mr. Costa:

We are in receipt of your letter dated September 4, 2009, addressed to our client Batty Family Trust. Please be advised that we have been retained to represent the Batty Family Trust for both TV-1024 and TV-1023.

Please forward all correspondences and notices to our office. Thank you for your kind attention and consideration in this matter.

Sincerely,

BELLES GRAHAM PROUDFOOT
WILSON & CHUN, LLP



Jonathan J. Chun

JJC:so

cc: ✓ Mr. Imaikalani P. Aiu, Deputy Director
Batty Family Trust

April 29, 2009

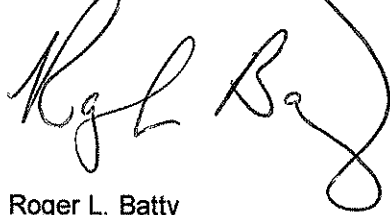
Andre Emayo, Jr.
Planning Inspector
County of Kauai
Planning Department
4444 Rice Street
Kapule Building, Suite A473
Lihue, Kauai HI.96766-1326

Subject: Non-Conforming Use Certificate Application #TVNC-1024
5-8-010:015-0003 HALE MAHANA

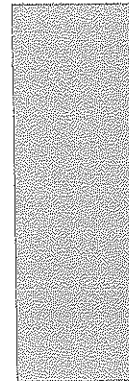
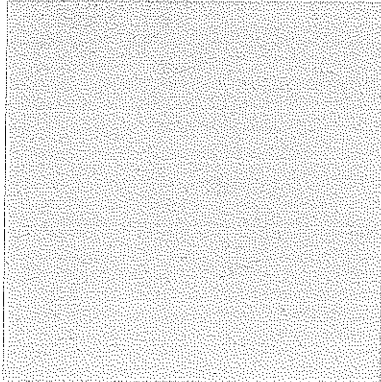
Yesterday, I received your registered letter of April 24, 2009. I appreciate the time and courtesy, you were able to extend me on our telephone conversation of yesterday.

As I mentioned I have a set of plans stamped by the Building Department dated May 1, 1980 that shows the downstairs room with doors in the same place they are now, closets in place, en suite bathroom, all electric outlets as they exist now. In short, no change in the room for the past 28 years.

I'm at a loss to understand the denial based on a room that was approved 28 years ago and not changed since. The downstairs room is seldom used in the course of vacation rentals. I'm open to suggestions as to what to do with it to make you feel better about the rental of the house.



Roger L. Batty
P.O. Box 1337
Hanalei, HI. 96714



PLANNING DEPT.
APR 29 5 40 PM '09

BERNARD P. CARV
MAYOR

GARY K. H
ADMINISTRATIVE ASS

7008 1300 0002 0050 9612

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PS Form 3800, August 2006 See Reverse for Instructions	

4/24-
BE
TVNC-1024
TMK: 5-8-010:
015-0003

IAN K. COSTA
DIRECTOR OF PLANNING

IMAIKALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

CERTIFIED

April 24, 2009

Batty, Family TRUST
PO Box 1337
Hanalei HI 96714

SUBJECT: Non-Conforming Use Certificate Application # TVNC-1024
TMK: 5-8-010:015-0003 HALE MAHANA

We have reviewed your application for a Non-Conforming Use Certificate to continue Transient Vacation Rental operations on TMK 5-8-010:015-0003 and have found the following on your property.

- a. "Section 8-17.8 Single Family Transient Vacation Rentals.
(b) ...Development standards shall be the same as those for single-family detached dwellings in Sections 8-3.5 through 8-3.8, ...
The enclosure of the ground floor and the use of such as a bedroom and or studio constitute a violation.
- b. Article 19. Zoning Permits Sec. 8-19.1 When Required. No person shall undertake any construction or development or carry on any activity or use, for which a zoning permit is required by this Chapter, or obtain a building permit for construction, development, activity or use regulated by this Chapter, without first obtaining the required zoning permit. (Ord. No. 164, August 17, 1972; Sec. 8-18.1, R.C.O. 1976)
The use of the ground floor area along with associated construction of interior partitions creating living space without the proper permits constitutes a violation.

Batty, Family TRUST

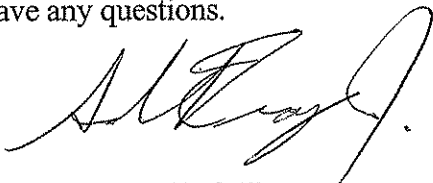
April 24, 2009

Pursuant to **Section 8-17.10** of the Kauai County Code which states:

your application has been denied and you are directed to comply with the following requirements immediately:

- a. **Cease and desist transient vacation rental operations immediately**
- b. **Cease and desist use of above noted enclosure, as a living unit and remove all illegal gas and/or electric service supplies along with cooking facilities within 30 days from receipt of this notice.**
- c. **Submit plans and applications along with filing fees for review by the Department for all illegal construction, additions and alterations. Such construction, additions and alterations without proper approval shall be demolished and removed.**

Failure to contact the Planning Department in **writing** within **15** calendar days upon receipt of this letter to provide an acceptable plan for compliance provides us with no other alternative but to issue a Notice of Violation and pursue litigation. Please call the Planning Department at 241-6677 if you have any questions.

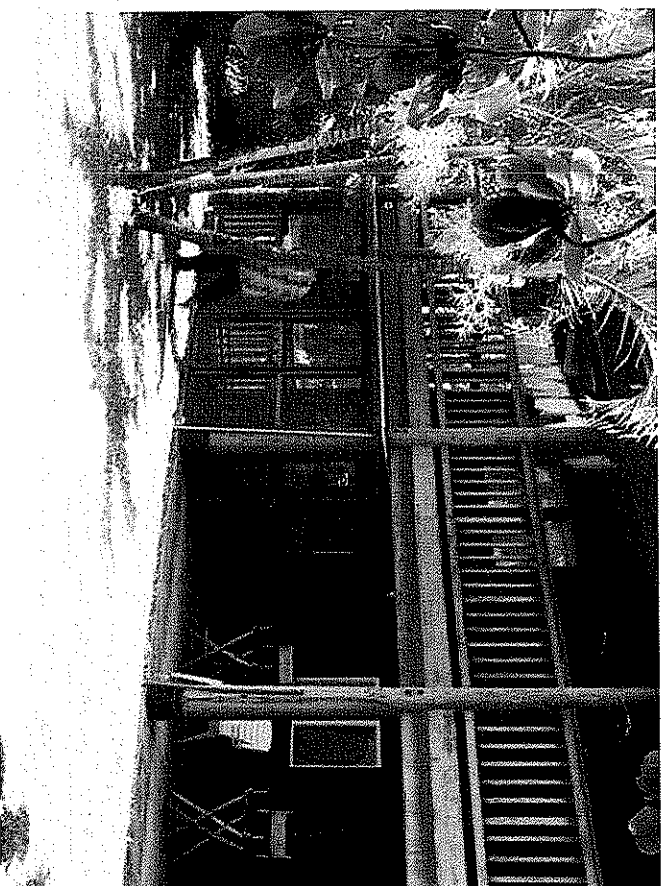
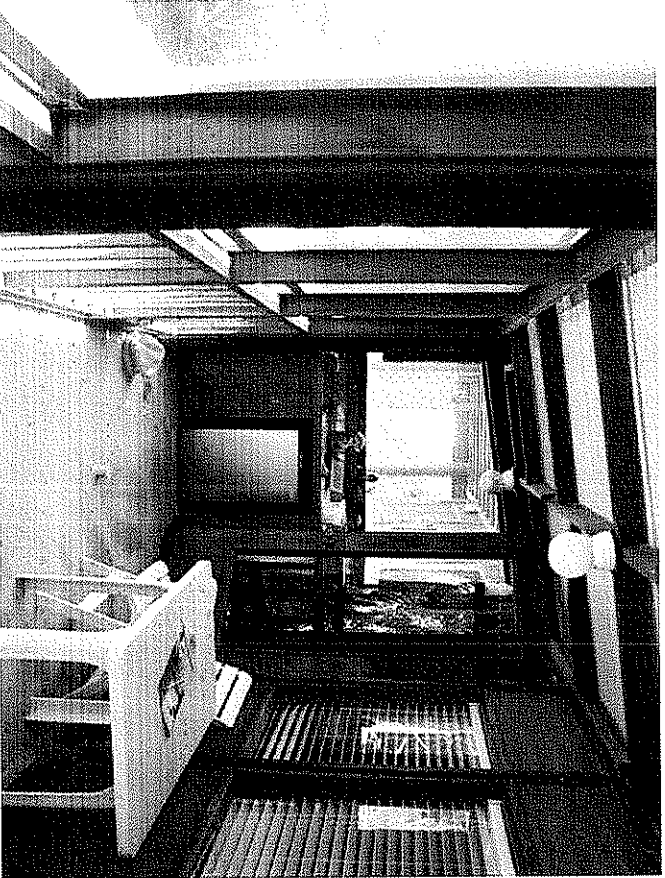
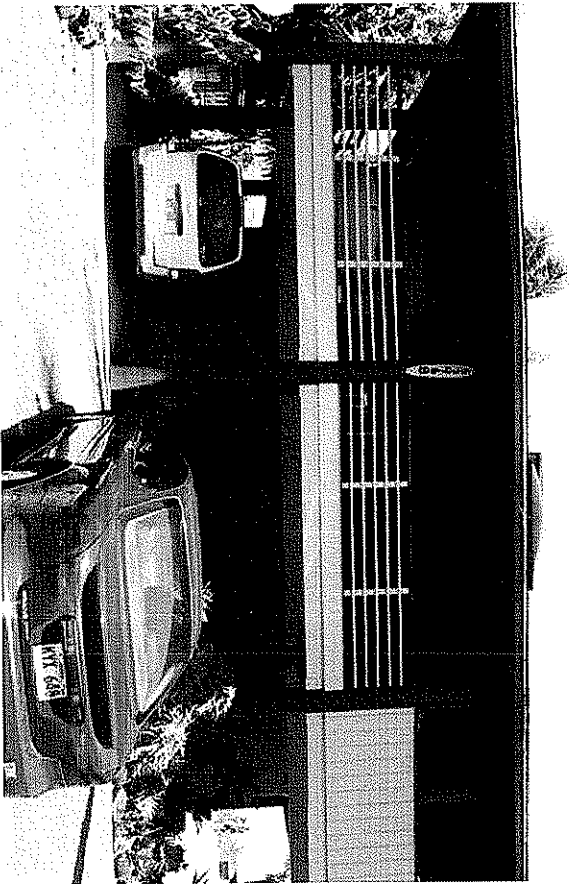


ANDRES EMAYO JR.
Planning Inspector

cc: County Attorney
Prosecuting Attorney
Finance Department, Real Property Division
Office of the Mayor, PIO

() COMPLAINT		(x) REGISTRATION INSPECTION	
NAME: Hale Mahana	UNIT/S:	TYPE: NCU	
TMK: 5-8-010:015-0003	LAND AREA:	TV#: TV-1024	
DIST: Hanalei	LOC: Haena		
ZONING: R-2	OWNER:		
SLUC DIST:	MNGR CO.		
LOG # 09-0026	SITE ADDR: 7462 B KUHIO HWY		
COMPLAINEE / OWNER:		MANAGING COMPANY:	
NAME: Batty, Family TRUST	NAME:		
ADDR: PO Box 1337	ADDR:		
Hanalei Hi 96714			
PHONE:	PHONE:		
NATURE OF VIOLATION: Lower Floor Enclosure & Used As			
HABITABLE SPACE. SEPARATE UNIT.			
INSPECTOR:			

TMK 5-8-010:015



TXN 2-8-010:015

