

[illegible]

TO BE SENT BY CERTIFIED U.S. MAIL

November 13, 2011

Vill Balisacan
TVR Inspector

Michael A. Dahilig
Director of Planning

County of Kauai Planning Department
4444 Rice Street
Kapule Building, Suite A473
Lihue, HI 96766-1326

Subject: Revocation of Non Conforming Use Permit # TVNC-1258
TMK: 5-8-012:014 SWAYING PALMS

I have received your letter of denial dated October 12, 2011. As the Certified mail receipt indicates, I did not receive it until November 12, 2011.

This denial comes as a complete surprise, as the reasons stated are EXACTLY the same as the Planning Department claimed in 2009, then later reconsidered their error in assumptions/conclusions and proceeded to issue the TVR permit.

Nothing has changed since that 2009 approval, so I see no reason why it should be denied now, more than two years later.

To reiterate the facts under which the original TVR permit was approved, Swaying Palms has been a vacation rental property since I purchased it in February, 2002, and had been for several years before I purchased it. All relevant records attesting to this fact are available. It has never been rented as anything but a single-family temporary vacation residence, always to a single individual and his/her family and/or guests. All associated property, TAT, and GET taxes have been paid in full as and when due. Well over \$100,000 in all.

I wish herein to again respond to each of the reasons given for denial:

- a. **The use of the Single Family Dwelling as a Multi-Family Dwelling are a violation of density. The existing Dwelling contains (3) Units.**

Swaying Palms does not contain three units and has never been used as such. Swaying Palms consists of seven bedrooms, two of which are bedroom suites. All seven bedrooms, five bathrooms, kitchen, living room and dining room contained within Swaying Palms are:

COUNTY OF KAUAI
11 NOV 14 08:14
PLANNING DEPT.

1. Built upon a common foundation
2. Covered by a common roof
3. Served by a single, common electrical service and one meter
4. Served by a single, common water service and one meter
5. Served by a single, common propane tank and one meter
6. Served by a single, common telephone, cable TV, and Internet connection
7. Served by two common, interconnected water heaters
8. Served by a single set of washer/dryer
9. Use a single, common key, all locks keyed alike.

I believe the above presents sufficient evidence that Swaying Palms does not contain "three dwelling units"

- b. Additions to and the conversion of the Single Family Dwelling into a Multi-Family Dwelling are a violation of density. The existing dwelling contains (3) three Units.**

Again, this is not correct. There has not been any construction, addition, conversion or other modification to Swaying Palms since 1997.

The County of Kauai Real Property Tax Division record contains a sketch of the building, unchanged since 1997. It is quite clearly depicted as a Single Family Dwelling, consisting of (1) unit.

All construction, modifications etc. were conducted under the following permit numbers, all were inspected, and all received final approval. These permits were indicated on the affidavit I submitted with my application.

95-3000	ZONING PERMIT APPLICATION-CLASS I
95-10000434	ALTER/REPAIR RESIDENCE-OEP
97-2291	ALTER/REPAIR RESIDENCE ELE1
98-346	ZONING PERMIT APPLICATION-CLASS I

b (2). Definition of Dwelling Unit

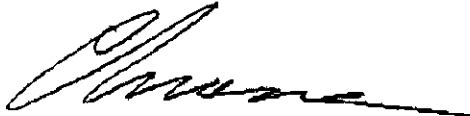
There is one, single kitchen at Swaying Palms. Each of the (2) suite bedrooms includes a small bar sink, which is allowed under the building code.

The suite bedrooms do NOT contain an oven/range, cook top, coffee pot, microwave or gas supplies, so it is difficult to understand how they can be deemed "dwelling units" as stated in your letter of denial.

In conclusion, I find the reasons cited for denial to be inaccurate and mistaken.

Based on the above, I ask you to reconsider your determination, if necessary to re-inspect the property with the above facts in mind, and to approve my permit renewal without further delay.

Respectively,



Clifford T. Krouse
Owner

Cc: County Attorney
Prosecuting Attorney
Finance Department, Real Property Division
Office of the Mayor
Kauai County Council
Director of Planning
Kauai Vacation Rentals

700A 3230 0002 4925 7099

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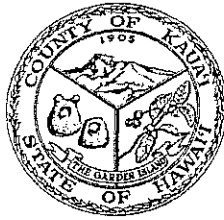
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Bernard P. Carvalho, Jr.
Mayor



Michael A. Dahilig
Interim Director of Planning

Gary K. Heu
Managing Director

Dee M. Crowell
Deputy Director of Planning

PLANNING DEPARTMENT
County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite A-473, Līhu'e, Hawai'i 96766
TEL (808) 241-4050 FAX (808) 241-6699

CERTIFIED

OCT 12 2011

Clifford T. Krouse
PO Box 692
Kalāheo HI 96741

SUBJECT: Non-Conforming Use Certificate Application # TVNC-1258
TMK: 5-8-12:014 Swaying Palms
Hanalei District, Haena, Kauai, Hawaii

Mahalo for your renewal application for the above referenced Transient Vacation Rental (TVR) certificate. Under authority set forth in Section 8-17.10(h)(2), Kaua'i County Code, the Planning Department has conducted a routine inspection and review of filed plans. The inspection reveals the following violations of the Comprehensive Zoning Ordinance and other pertinent land use laws on the subject property:

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)

- 1. Additions to and the conversion of the Single Family Dwelling into a Multi-Family Dwelling are a violation of density. The existing Single Family contains (3) three Dwelling Units.**

Remedial action to remedy the said violation would entail total;

- a. **All Construction and Additions/Alterations, which Plans will not be provided to the Planning Department for approval shall be demolished or removed.**

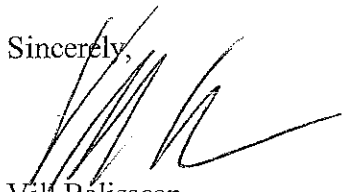
CEASE AND DESIST NOTICE

Given the above findings by the Department, and under authority of Section 8-17.10(h)(2), Kaua'i County Code, we are hereby withholding renewal of your certificate until the above referenced violations have been resolved. You must suspend TVR use immediately.

The lack of a valid certificate means any TVR use on the above referenced property after the date of this letter will be considered a violation of County Law. Should further activity persist, this matter may be referred to either the County Attorney and/or the County Prosecutor for further civil or criminal proceedings.


We encourage your prompt compliance with the CZO so we may issue your renewal. If you believe this finding is in error, you are entitled to appeal the Department's decision under the Rules of Practice and Procedure of the Kaua'i Planning Commission. If you have any further questions please call the Planning Department at (808) 241-4050.

Sincerely,



Vili Balisacan
TVR Inspector

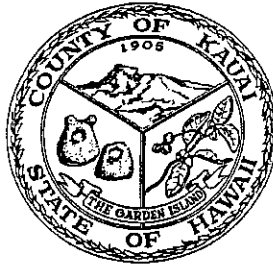
CONCUR:



Michael A. Dahilig
Interim Director of Planning

BERNARD P. CARVALHO
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



IAN K. COSTA
DIRECTOR OF PLANNING

IMAICALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

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

TELEPHONE: (808) 241-6677 FAX: (808) 241-6699

June 26, 2009

Clifford T. Krouse
PO Box 692
Kalaheo, HI 96741

RE: Non-Conforming Use Certificate Application TVNC-1258, TMK 5-8-012:014

DEAR MR. KROUSE:

Upon a review of your appeal received ^{5/8}~~April 27~~, 2009, our office has determined that your Non-Conforming Use Certificate application will now be recommended for approval before the Kaua'i Planning Commission on July 14, 2009. This recommendation nor an issued certificate are evidence of compliance with any and all pertinent zoning and use regulations. Furthermore, this recommendation does not bear upon any subsequent non-conforming certificate renewal inspections of the property by the Planning Department. Should the Commission approve your application, this Department will issue the appropriate documentation shortly thereafter.

Should you decline to accept the form of the Planning Department's recommendation, this letter will serve as notice that a contested case hearing will be scheduled for your appeal before the Kaua'i Planning Commission on July 14, 2009 at 1:30 p.m. A pre-hearing conference is scheduled for July 6, 2009 at 10:00 a.m. at the Kaua'i County Planning office. Please contact Imaikalani Aiu at 241-4050 if you have decided to decline acceptance of the Planning Department's recommendation, or wish to reschedule your contested case hearing and/or pre-hearing conference.

If you have any questions, please do not hesitate to contact our office.

Mahalo,

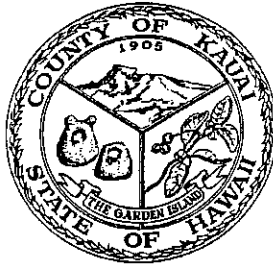
Ian K. Costa
Director, Planning Dept.

CC: County Attorney, Real Property

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BERNARD P. CARVALHO
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



IAN K. COSTA
DIRECTOR OF PLANNING

IMAICALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

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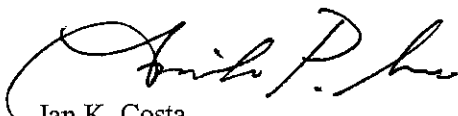
DEAR MR. KROUSE:

5/8/09
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If you have any questions, please do not hesitate to contact our office.

Mahalo,


Ian K. Costa
Director, Planning Dept.

CC: County Attorney, Real Property

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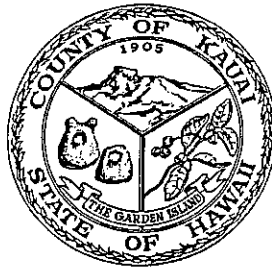
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PS Form 3800, August 2006

See Reverse for Instructions

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) 241-6677 FAX: (808) 241-6699

COPY

TO: Clifford T. Krouse
PO Box 692
Kalaheo HI 96741

SUBJECT: Issuance on NCU # TVNC-1258

At its July 14th regular meeting the Planning Commission voted to consent to issuance of the subject Non-Conforming Use certificate(s) pursuant to the following conditions

1. An issued certificate is not evidence of compliance with any and all pertinent zoning and use regulations.
2. The certificate does not bear upon any subsequent non-conforming certificate renewal inspections of the property by the Planning Department.
3. The Certificates expire on July 31st 2010.

The property and operation is subject to the applicable provisions of Section 8-17 of the Kaua'i County Code, in particular those provisions adopted by Ordinance 864. Any violations of these sections will be considered grounds to revoke the certificate.

If you have any questions please call the Planning Department at 241-4050

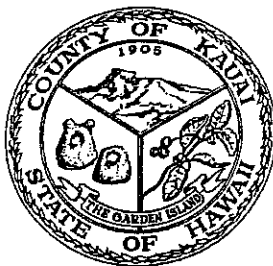
Sincerely

Ian K. Costa
Planning Director

cc: Finance Department, Real Property Division

BERNARD P. CARVALHO
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



IAN K. COSTA
DIRECTOR OF PLANNING

IMAIKALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

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TELEPHONE: (808) 241-6677 FAX: (808) 241-6699

June 26, 2009

Jonathan J. Chun, Esq.
Belles Graham Proudfoot Wilson & Chun, LLP
4334 Rice Street, Suite 202
Lihu'e, HI 96766

RE: Non-Conforming Use Certificate Application TVNC-1258, TMK ~~5-8-010:024~~ ^{5-8-012:014}

DEAR MR. CHUN:

Upon a review of your appeal received ^{5/21} April 30, 2009, our office has determined that your Non-Conforming Use Certificate application will now be recommended for approval before the Kaua'i Planning Commission on July 14, 2009. This recommendation nor an issued certificate are evidence of compliance with any and all pertinent zoning and use regulations. Furthermore, this recommendation does not bear upon any subsequent non-conforming certificate renewal inspections of the property by the Planning Department. Should the Commission approve your application, this Department will issue the appropriate documentation shortly thereafter.

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If you have any questions, please do not hesitate to contact our office.

Mahalo,

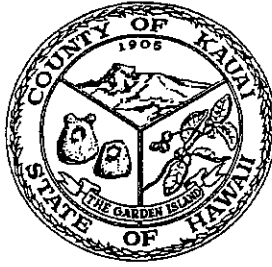
Ian K. Costa
Director, Planning Dept.

CC: County Attorney, Real Property

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BERNARD P. CARVALHO
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT



IAN K. COSTA
DIRECTOR OF PLANNING

IMAICALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

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TELEPHONE: (808) 241-6677 FAX: (808) 241-6699

June 26, 2009

Clifford T. Krouse
PO Box 692
Kalaheo, HI 96741

RE: Non-Conforming Use Certificate Application TVNC-1258, TMK 5-8-012:014

DEAR MR. KROUSE:

5/8/09
Upon a review of your appeal received April 27, 2009, our office has determined that your Non-Conforming Use Certificate application will now be recommended for approval before the Kaua'i Planning Commission on July 14, 2009. This recommendation nor an issued certificate are evidence of compliance with any and all pertinent zoning and use regulations. Furthermore, this recommendation does not bear upon any subsequent non-conforming certificate renewal inspections of the property by the Planning Department. Should the Commission approve your application, this Department will issue the appropriate documentation shortly thereafter.

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Mahalo,

Ian K. Costa
Director, Planning Dept.

CC: County Attorney, Real Property

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BERNARD P. CARVALHO
MAYOR

GARY K. HEU
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June 26, 2009

Clifford T. Krouse
PO Box 692
Kalaheo, HI 96741

RE: Non-Conforming Use Certificate Application TVNC-1258, TMK 5-8-012:014

DEAR MR. KROUSE:

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Director, Planning Dept.

CC: County Attorney, Real Property

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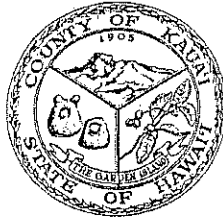
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PS Form 3800, August 2006

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Bernard P. Carvalho, Jr.
Mayor



Michael A. Dahilig
Director of Planning



Gary K. Heu
Managing Director

Dee M. Crowell
Deputy Director of Planning

PLANNING DEPARTMENT
County of Kaua'i, State of Hawai'i

4444 Rice Street, Suite A-473, Lihu'e, Hawai'i 96766
TEL (808) 241-4050 FAX (808) 241-6699

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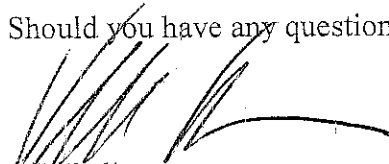
Clifford Krouse
PO Box 692
Kalāheo HI 96741

SUBJECT: Illegal Dwelling Units on: TMK: (4) 5-8-012:014 TVNC-1258
6920 Kūhi'ō Hwy., Hā'ena, Kauai, Hawaii , Hanalei District

A follow up inspection was conducted on November 11, 2011, at which time it was noted that such violation regarding the establishment of illegal use has been rectified. The use of the bedrooms as Single Family Dwelling Units has been rectified. The construction of the kitchen facilities without proper approval has been removed.

As a reminder, the Department would like to inform you that at no time in the future should the use and or construction be re-established without proper permits. The re-establishment without proper permits of such shall be deemed a violation according to the Comprehensive Zoning Ordinance of the County of Kauai.

Should you have any questions, please call me at (808)241-4050.


Will Balisacan
TVR Inspector

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Clifford T. Krouse
P.O. Box 692
Kalaheo, HI 96741

2. Article Number
(Transfer from service label)

7003 0500 0001 9835 0506

PS Form 3811, August 2001

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Signature]*

☐ Agent

☒ Addressee

B. Received by (Printed Name)

C.T. Krouse

C. Date of Delivery

6/23

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Clifford T. Krouse
P.O. Box 692
Kalaheo, HI 96741

2. Article Number
(Transfer from service label)

7008 1300 0002 0050 9964

PS Form 3811, February 2004 Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Signature]*

☐ Agent

☒ Addressee

B. Received by (Printed Name)

C.T. Krouse

C. Date of Delivery

6/23/2003

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

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(Endorsement Required)

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Clifford T. Krouse

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or PO Box No.

PO Box 692

City, State, ZIP+4

Kalaheo HI 96741

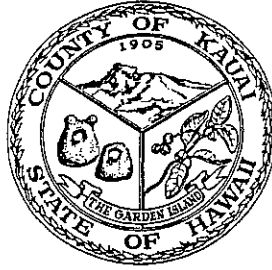
PS Form 3800, August 2006

See Reverse for Instructions

7008 1300 0002 0050 9964

4/20-
BE
TVN#1258
MK: 5-8-D12:
014

BERNARD P. CARVALHO JR.
MAYOR



IAN K. COSTA
DIRECTOR OF PLANNING

GARY K. HEU
ADMINISTRATIVE ASSISTANT

IMAIKALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

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CERTIFIED

April 20, 2009

Clifford T. Krouse
Po Box 692
Kalaheo Hi 96741

SUBJECT: Non-Conforming Use Certificate Application # TVNC-1258
TMK: 5-8-012:014 SWAYING PALMS

We have reviewed your application for a Non-Conforming Use Certificate to continue Transient Vacation Rental operations on TMK 5-8-012:014 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 use of the Single Family Dwelling as a Multi- Family Dwelling are a violation of density. The existing Dwelling contains (3) three Units.
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Clifford T. Krouse

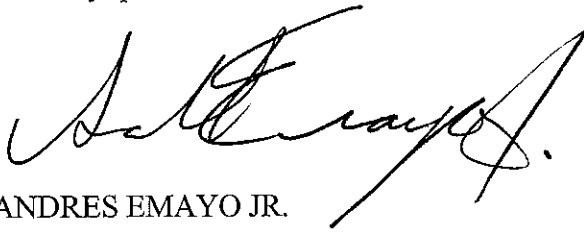
April 20, 2009

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ANDRES EMAYO JR.
Planning Inspector

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

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 KAUA'I
PLANNING DEPARTMENT
4444 RICE STREET
KAPULE BUILDING, SUITE A473
LIHU'E, KAUA'I, HAWAII 96766-1326

TELEPHONE: (808) 241-6677 FAX: (808) 241-6699

CERTIFIED

April 20, 2009

Clifford T. Krouse
Po Box 692
Kalaheo Hi 96741

SUBJECT: Non-Conforming Use Certificate Application # TVNC-1258
TMK: 5-8-012:014 SWAYING PALMS

We have reviewed your application for a Non-Conforming Use Certificate to continue Transient Vacation Rental operations on TMK 5-8-012:014 and have found the following on your property.

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Clifford T. Krouse

April 20, 2009

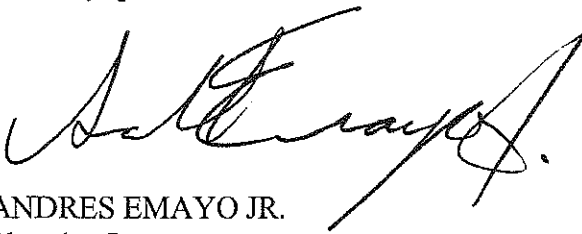
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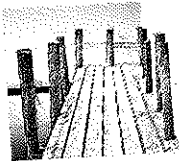
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ANDRES EMAYO JR.
Planning Inspector

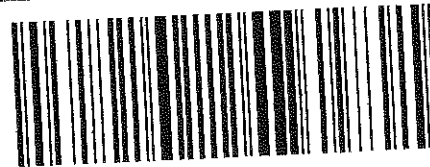
cc: County Attorney
Prosecuting Attorney
Finance Department, Real Property Division
Office of the Mayor, PIO



C. T. Krouse
PO Box 692
Kalaheo, HI 96741

DEANK

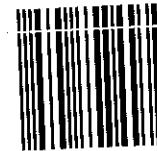
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MAYOR



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CERTIFIED

April 20, 2009

Clifford T. Krouse
Po Box 692
Kalaheo Hi 96741

SUBJECT: Non-Conforming Use Certificate Application # TVNC-1258
TMK: 5-8-012:014 SWAYING PALMS

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Clifford T. Krouse

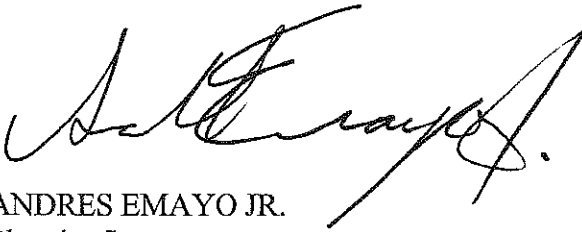
April 20, 2009

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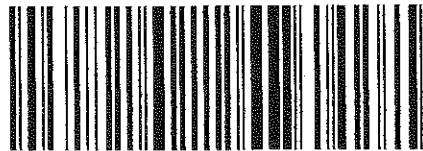
cc: County Attorney
Prosecuting Attorney
Finance Department, Real Property Division
Office of the Mayor, PIO



C. T. Krouse
PO Box 692
Kalaheo, HI 96741

PLAN

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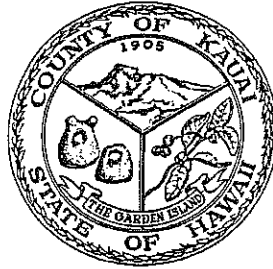
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FIRST CLASS

MR. ANDRES EMAYO
PLANNING INSPECTOR
COUNTY OF KAUAI PLANNING DEPT.
4444 RICE ST.

KAPULE BLDG STE A 473
LIHUE, HI 96766-1326

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CERTIFIED

April 20, 2009

Clifford T. Krouse
Po Box 692
Kalaheo Hi 96741

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April 20, 2009

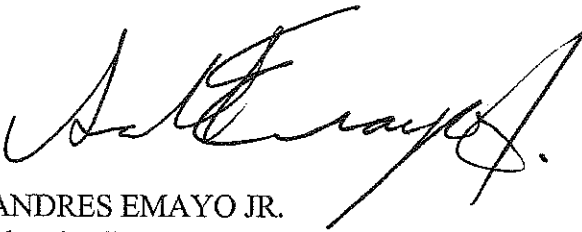
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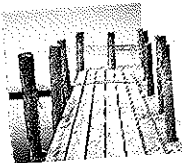
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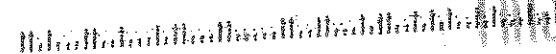
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COUNTY OF KAUAI
FINANCE DEPT - REAL PROPERTY DIVISION
4444 RICE ST, SUITE 463
LIHUE, HI 96766

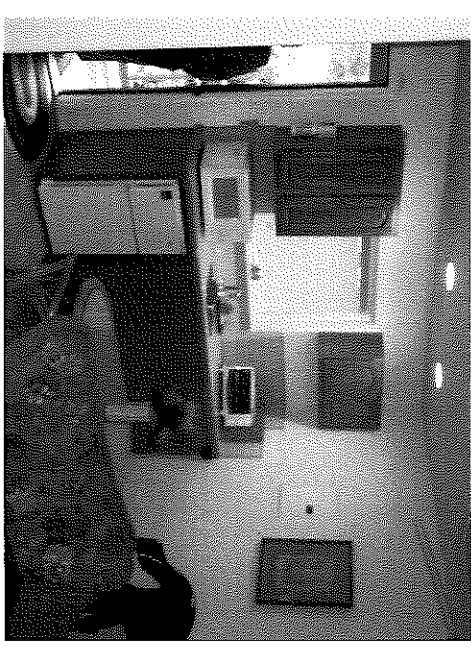
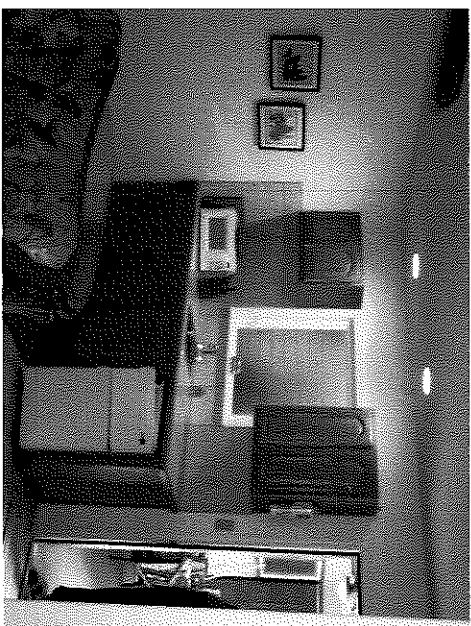
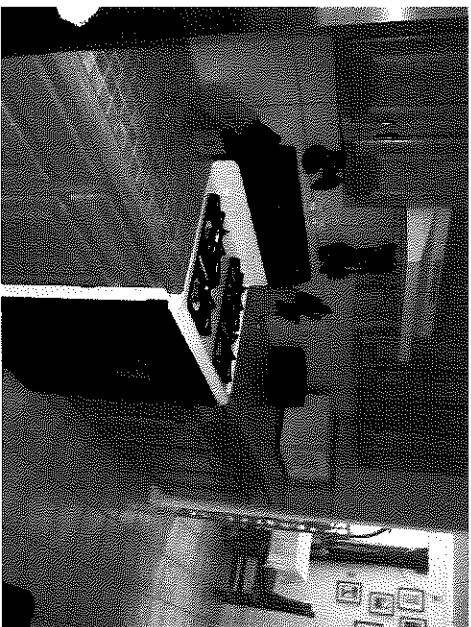
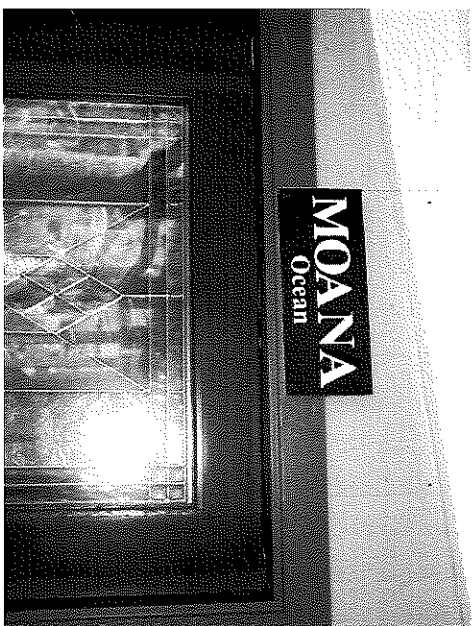
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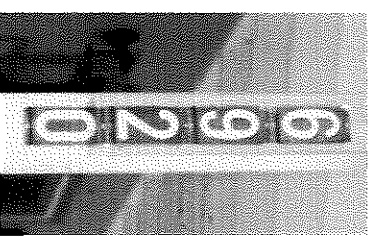
FIRST CLASS

() COMPLAINT		(X) REGISTRATION INSPECTION	
NAME:		UNIT/S:	NCU
TMK: 5-8-012:014		LAND AREA: 9,100sq. Ft.	TV#: 1258
DIST: Hanalei		LOC: Wainiha	
ZONING: O		OWNER: Clifford T. Krouse	
SLUC DIST:		MNGR Co.	
LOG # 09-0013		SITE ADDR: 6920 KUHIO HWY	
OWNER:		MANAGING COMPANY:	
NAME: Clifford T. Krouse		NAME:	
ADDR: Po Box 692		ADDR:	
Kalaheo Hi 96741			
PHONE:		PHONE:	
NATURE OF VIOLATION: 3 rental unit on property			
INSPECTOR:			

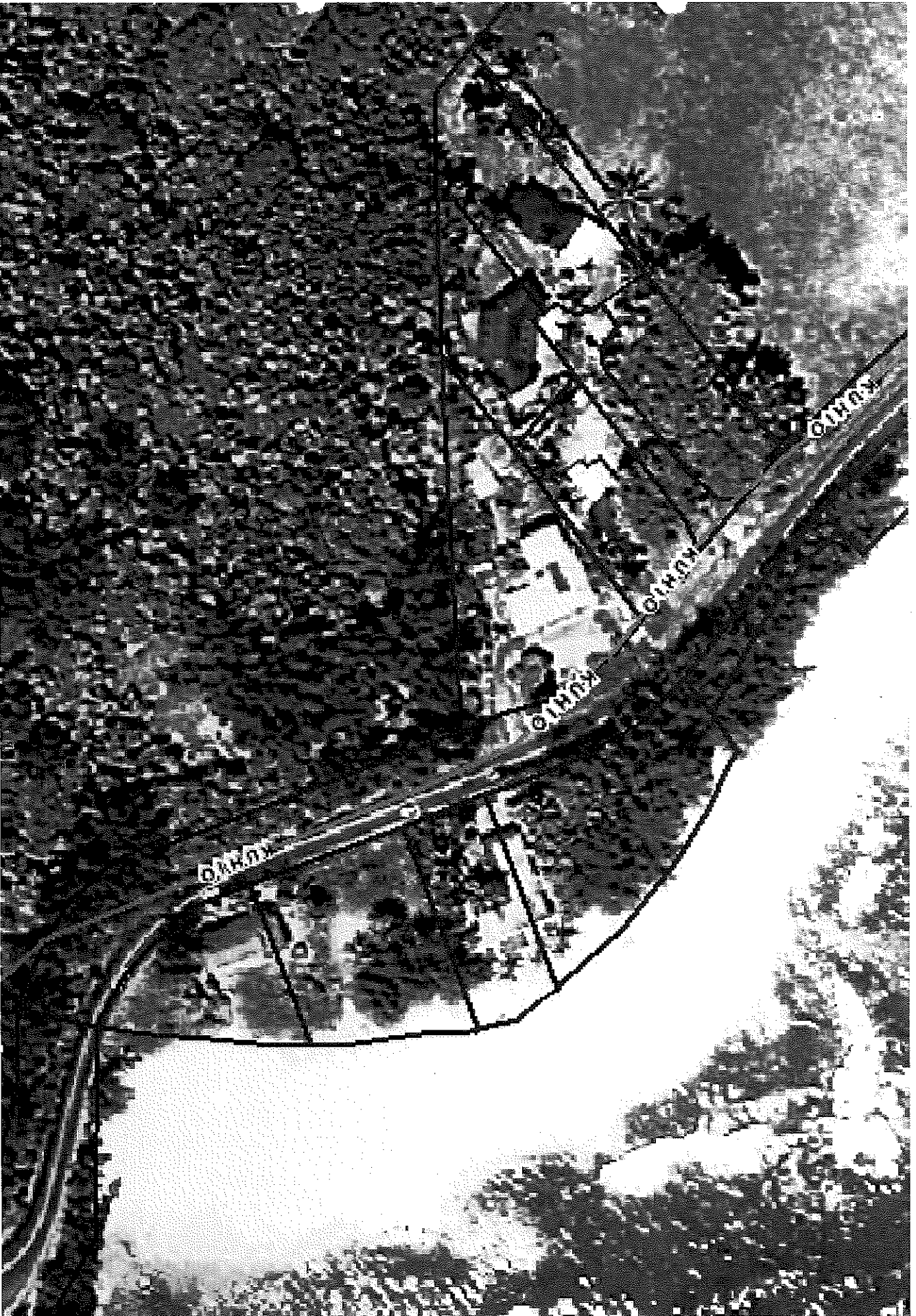
TMK 5-8-012:014 03/05/2009



Single family dwellings w/ 3 kitchens and separate named units



TMK 5-8-012:014



TMK 5-8-012:014

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