

DICKSON C.H. LEE 1086
TAKUSHI WONG LEE & YEE - A LAW CORPORATION
841 Bishop Street, Ste. 925
Honolulu, Hawai'i 96813
Telephone No. (808) 543-9803; FAX (808) 791-0063
E-mail: lee@twly.org

LAND USE COMMISSION
STATE OF HAWAII

2019 MAY 28 A 9:04

Attorney for Petitioner
A CHARITABLE FOUNDATION CORPORATION

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of	)	Docket No. A05-758
)	
A CHARITABLE FOUNDATION CORPORATION	)	MEMORANDUM RE AMENDED
	)	AFFIDAVIT OF AUTHORIZED
	)	OFFICER (DAVID S. DRUZ);
To Amend The Agricultural Land Use District	)	AMENDED AFFIDAVIT OF
Boundary Into The Conservation Land Use	)	AUTHORIZED OFFICER (DAVID S.
District for Approximately 28.759 Acres Of Land	)	DRUZ); AND CERTIFICATE OF
And The Conservation Land Use District Into The	)	SERVICE
Agricultural Land Use District For)	
Approximately 5.129 Acres Of Land At Pupukea,	)	Hearing Date: July 11, 2019
Ko'olauloa And Waialua, O'ahu, Hawai'i, Tax	)	Time: 9:00 a.m.
Map Keys.: 5-9-23: Por. 1; 5-9-24:1; And 6-1-02:	)	Place: Daniel K. Inouye International
Por. 22	)	Airport
	)	(HDOT Airports Conference
	)	Room (Interisland side, 7 th
	)	Floor))
	)	300 Rodgers Boulevard
	)	Honolulu, Hawai'i 96819
)	

MEMORANDUM RE
AMENDED AFFIDAVIT OF AUTHORIZED OFFICER (DAVID S. DRUZ)

Petitioner A Charitable Foundation Corporation, by its attorney Dickson C.H. Lee, is attaching hereto an Amended Affidavit of Authorized Officer (David S. Druz), which sets forth the following corrections to the Affidavit of Authorized Officer (David S. Druz) filed with the Motion for Order to Partially Release Certain Conditions Set forth in the Findings of Fact and


Conclusions of Law, and Decision and Order Dated April 21, and Decision and Order filed in the above captioned matter on April 9, 2019.

The corrections to the Affidavit of Authorized Officer (David S. Druz) are explained as follows:

(a) In the references to compliance with conditions 6 and 7, the "Declaration of Restrictive Covenants (Agricultural Uses)" should have been "Exhibit 2" and the "Declaration of Conditions" should have been "Exhibit 3". (i.e., the references to those exhibits incorrectly reversed); and

(b) The reference to compliance with condition 10 is and should have been to the "Notice of Imposition of Conditions" was recorded on June 1, 2006 as Document No. 2006- 104859 in the Bureau of Conveyances instead of to the Commission's Declaration of Conditions. recorded on June 7, 2006 as Document No. 2006- 105635 in the Bureau of Conveyances. The Notice of Imposition of Conditions will not be an exhibit since the Commission's Declaration of Conditions superseded it.

DATED: Honolulu, Hawaii, May 28, 2019.



DICKSON C.H. LEE
Attorney for Petitioner A CHARITABLE
FOUNDATION CORPORATION

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	Docket No. A05-758
)	
A CHARITABLE FOUNDATION	)	AMENDED AFFIDAVIT OF
CORPORATION	)	AUTHORIZED OFFICER (DAVID S.
	)	DRUZ)
To Amend The Agricultural Land Use District)	
Boundary Into The Conservation Land Use)	
District for Approximately 28.759 Acres Of Land)	
And The Conservation Land Use District Into The)	
Agricultural Land Use District For)	
Approximately 5.129 Acres Of Land At Pupukea,)	
Ko'olauloa And Waialua, O'ahu, Hawai'i, Tax)	
Map Keys.: 5-9-23: Por. 1; 5-9-24:1; And 6-1-02:)	
Por. 22)	

**AMENDED AFFIDAVIT OF AUTHORIZED OFFICER
(DAVID S. DRUZ)**

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU)

DAVID S. DRUZ, upon oath duly sworn, does hereby depose and state as follows:

1. I am a member of the board of directors of A Charitable Foundation Corporation ("Petitioner"), a Nevada nonprofit corporation duly registered as a foreign nonprofit corporation in the State of Hawai'i, and in that capacity, I am familiar with matters relating to the land which is the subject of Docket No. A05-758 and duly authorized and knowledgeable to make this affidavit and testify on behalf of the Petitioner.

2. On April 9, 2019, Petitioner filed a "Motion for Order Releasing Condition Nos. 1, 4, 7, 8, 10 and 11 as Set Forth in the Findings of Fact, Conclusions of Law, and Decision and Order Dated April 21, 2006 and in the Declaration of Conditions Recorded in the Bureau of

Conveyances of the State of Hawai'i as Document No. 2006-106635; Affidavit of Authorized Officer (Davis S. Druz)."

3. In this Amended Affidavit of Authorized Officer (Davis S. Druz), I am making the following corrections to my Affidavit.

(a) In the references to compliance with conditions 6 and 7, the "Declaration of Restrictive Covenants (Agricultural Uses)" should be and is "Exhibit 2" and the "Declaration of Conditions" should be and is "Exhibit 3"; and

(b) The reference to compliance with condition 10 is and should be to the "Notice of Imposition of Conditions" was recorded on June 1, 2006 as Document No. 2006-104859 in the Bureau of Conveyances (which is not attached where it was superseded by the Commission's Declaration of Conditions recorded on June 7, 2006 as Document No. 2006-105635 in the Bureau of Conveyances (Exhibit 3)).

4. To the best of my knowledge, information and belief, the status of Petitioner's compliance with, among other conditions, conditions 6, 7, and 10 are amended as follows:

<p>6. <i>Compliance with Representations to the Commission. Petitioner shall comply with the representations made to the Commission. Failure to so comply may result in reversion of the Petition Areas to their former classification, or change to a more appropriate classification</i></p>	<p>Petitioner has complied with representations made to the Commission.</p> <p>In addition to the recordation of Declaration of Restrictive Covenants (Agricultural Uses) (Exhibit 2) and Declaration of Conditions (Exhibit 3), Petitioner will record a Declaration of Conditions, Covenants and Restrictions which provides that the composite area of Petition Area B shall not be comprised of more than two (2) subdivided or zoning lots and no more than four (4) farm dwellings may be situated thereon. (See: <u>Exhibit 5</u>)</p> <p>By the recording of the forego, the representations made to the Commission will run with Petition Area B.</p>
---	--

<p>7. Notice of Change to Ownership Interest. <i>Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Areas, prior to any development of the Petition Areas.</i></p>	<p>Request Release</p> <p>Petitioner conveyed Petition Area A in compliance with Condition 1 above.</p> <p>This condition is acknowledged with respect to Petition Area B and will be complied with should this situation arise. Any sale, lease, assignment, place in trust, or otherwise voluntary alteration of the ownership interests of Petition Area B will be subject to the Declaration of Restrictive Covenants (Agricultural Uses) (Exhibit 2), Declaration of Conditions (Exhibit 3), and upon recordation, (Petitioner's) Declaration of Conditions, Covenants and Restrictions (Exhibit 5). Petitioner informs the Commission of Petitioner's intent to sell Petition Area B.</p>
<p>10. Recording of Conditions. <i>Within seven days of the issuance of the Commissioner's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Petition Areas are subject to conditions imposed herein by the Commission in the reclassification of the Petition Areas, and (b) shall file a copy of such recorded statement with the Commission.</i></p>	<p>Request Release</p> <p>A Notice of Imposition of Conditions was recorded on June 1, 2006 as Document No. 2006- 104859 in the Bureau of Conveyances. Upon information and belief, a copy of Notice of Imposition of Conditions was filed with the Commission.</p>

6. Except as amended hereby, all of the statements set forth in the Affidavit of Authorized Officer (David S Druz) dated April 8, 2019 are not changed and are incorporated by reference.

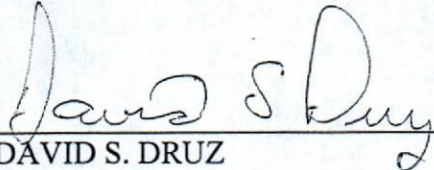
7. I declare under penalty of law that the foregoing, as corrected, is true and correct and that except as amended hereby, all of the references to the "Commission's Condition" and "Status and Compliance" set forth in the Affidavit of Authorized Officer (Davis S. Druz) dated

April 8, 2019 and attached to the Motion for Order Releasing Condition Nos. 1, 4, 7, 8 10 and 11 filed in the above captioned matter on April 9, 2019 are incorporated by reference.

Further affiant sayeth naught.

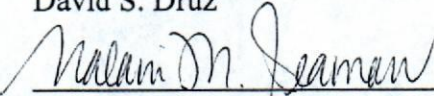
[The remainder of this page is blank. The following page is a signature page.]

DATED: Honolulu, Hawai'i, May 21, 2019

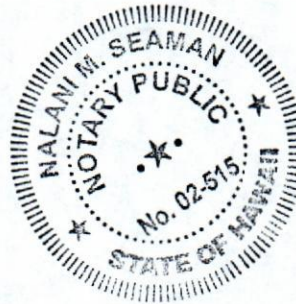


DAVID S. DRUZ

This 5-page Amended Affidavit of Authorized Officer (David S. Druz) dated May 21, 2019, was subscribed and sworn to before me this 21st day of May, 2019 in the First Circuit of the State of Hawai'i, by David S. Druz



Nalani M. Seaman
Notary Public, State of Hawai'i
My Commission expires: October 20, 2022



Amended Affidavit of David S. Druz
In the Matter of the Petition of A Charitable Foundation Corporation
Motion for Order to Release and Delete Conditions Set Forth in the
Findings of Fact, Conclusions of Law, and Decision and Order
Docket No. A05-758

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	Docket No. A05-758
)	
A CHARITABLE FOUNDATION	)	CERTIFICATE OF SERVICE
CORPORATION)	
)	
To Amend The Agricultural Land Use District)	
Boundary Into The Conservation Land Use)	
District for Approximately 28.759 Acres Of Land)	
And The Conservation Land Use District Into The)	
Agricultural Land Use District For)	
Approximately 5.129 Acres Of Land At Pupukea,)	
Ko'olauloa And Wailua, O'ahu, Hawai'i, Tax Map)	
Keys.: 5-9-23: Por. 1; 5-9-24:1; And 6-1-02: Por.)	
22)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that due service of a copy of the within document was made by depositing the same with the U.S. mail, postage prepaid, on May 28, 2019 addressed to:


Director, Office of Planning
P.O. Box 2359
Honolulu, Hawai'i 96804-2359

Dawn Takeuchi Apuna
Department of the Attorney General
Hale Auhau, Third Floor
425 Queen Street
Honolulu, Hawai'i 96813

Director, Department of Planning and
Permitting
650 South King Street
Honolulu, Hawai'i 96813

Department of the Corporation Counsel
City and County of Honolulu
530 South King Street
Honolulu, Hawai'i 96813

DATED: Honolulu, Hawai'i, May 28, 2019.



DICKSON C.H. LEE
Attorney for Petitioner A CHARITABLE
FOUNDATION CORPORATION