

Harry Kim  
Mayor



Michael Yee  
Director

Duane Kanuha  
Deputy Director

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563

**County of Hawai'i**  
**PLANNING DEPARTMENT**

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

May 13, 2019

Ms. Laura Kaakua, Chief Executive Officer  
Hawaiian Islands Land Trust  
126 Queen Street, Suite 306  
Honolulu, HI 96813

Dear Ms. Kaakua:

**State Land Use Commission Docket No. A99-729 (SLU 1128)**  
**Change of Zone Ordinance No. 06 27 (REZ 05-000017)**  
**Landowner: Hawaiian Islands Land Trust (formerly The Newton Family Limited Partnership)**  
**Tax Map Key: (3) 2-4-008: por. 033, Kukuau, South Hilo District, Hawai'i**

On April 25, 2019 the Planning Department (Department) was informed by Carlsmith Ball LLP that the ownership of the subject property was transferred to Hawaiian Islands Land Trust (HILT) on February 27, 2019 by Limited Warranty Deed.

The property is subject to Land Use Commission Docket No. A99-729, which reclassified the property from the Conservation to the Agricultural State Land Use District in 1999. In 2006, Change of Zone Ordinance No. 06-27 was approved by the County Council to change the County zoning of the property from Unplanned to Agricultural-80 acres (minimum lot size of 80 acres). The docket and ordinance are enclosed for your information.

Ordinance No. 06-27 contains two conditions, Conditions D and E, which have lapsed because they were not performed in a timely manner. Prior to the transfer of the property's ownership to HILT, the Department was initiating procedures to change the zoning of a portion of the subject property to Agricultural-800 acres (A-800a) because subdivision of the property into 80-acre lots is not feasible due to water quality issues.

2019 MAY 15 A 8:55

LAND USE COMMISSION  
STATE OF HAWAII

Ms. Laura Kaakua, Chief Executive Officer  
Hawaiian Islands Land Trust  
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May 13, 2019

By **May 31, 2019**, please inform the Department of HILT's plans for developing the property so the Department can determine if changing the zoning to Agricultural-800 acres or another zoning district is appropriate. If we do not receive a response by that date, we will initiate procedures to change the zoning of the property as described above.

If you have any questions, please feel free to contact Jeff Darrow at (808) 961-8158 or Maija Jackson at (808) 961-8159.

Sincerely,



*Kal* MICHAEL YEE  
Planning Director

MJJ:mad

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Enclosure: LUC No. A99-729 Findings of Fact, Conclusions of Law, and Decision & Order  
County Change of Zone Ordinance No. 06 27

/ cc w/ltr: State Land Use Commission

2019 APR 25 PM 2:18

PLANNING DEPARTMENT  
COUNTY OF HAWAII

## CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

ASB TOWER, SUITE 2100  
1001 BISHOP STREET  
HONOLULU, HAWAII 96813  
TELEPHONE 808.523.2500 FAX 808.523.0842  
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

OUR REFERENCE NO. 064374-00002

April 25, 2019

### VIA HAND DELIVERY

Mr. Daniel E. Orondenker  
Executive Officer  
State of Hawai'i Land Use Commission  
P.O. Box 2359  
Honolulu, Hawai'i, 96804-2359

Re: Docket No. A99-729 - The Newton Family Limited Partnership: Notice of Transfer of Ownership

Dear Mr. Orondenker:

The Newton Family Limited Partnership (the "**Petitioner**"), by and through its legal counsel, Carlsmith Ball LLP, hereby respectfully submits this letter to the State of Hawai'i Land Use Commission (the "**Commission**") as its notice of change in ownership of the Petition Area (as defined below).

By its Findings of Fact, Conclusions of Law, and Decision and Order, dated November 15, 2001 (the "**D&O**"), in the above-referenced docket, the Commission approved Petitioner's petition to reclassify the State Land Use District Boundary of approximately 885.40 acres of land from the Conservation Land Use District into the Agricultural Land Use District (the "**Petition**") located at Kukuau, South Hilo, County of Hawai'i, identified by Tax Map Key No. (3) 2-4-008-033 (por.) (the "**Petition Area**") for the development of an agricultural subdivision.

The Commission's approval of the Petition was subject to certain conditions as more particularly set forth in the D&O. Condition No. 19 requires Petitioner to give notice to the Commission of any intent to "voluntarily alter the ownership interests in the Petition Area" at any time prior to development of the Petition Area. On February 27, 2019, the Petitioner transferred all of its right, title and ownership in the Petition Area to the Hawaiian Islands Land Trust ("**HILT**") under a Limited Warranty Deed, recorded in the Bureau as regular Document No. 10663066, attached hereto as Exhibit 1 (Limited Warranty Deed). Accordingly, by this letter, and pursuant to Condition No. 19 of the D&O, Petitioner hereby gives notice to the Commission that Petitioner has transferred ownership of the Petition Area to HILT.

HONOLULU

HILO

KONA

MAUI

LOS ANGELES



Mr. Daniel E. Orodener  
April 25, 2019  
Page 2

If you have any questions or require further information with regard to this notification please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'S.S.C. Lim', with a long horizontal line extending to the right.

Steven S.C. Lim

cc: ✓ County of Hawai'i Planning Department; Hawaiian Islands Land Trust

4837-9465-5116.1

D26  
0750



STATE OF HAWAII  
OFFICE OF ASSISTANT REGISTRAR  
RECORDED

March 13, 2019 8:01 AM

Doc No(s) T - 10663066  
on Cert(s) 510288  
Issuance of Cert(s) 1172671



/s/ LESLIE T. KOBATA  
ASSISTANT REGISTRAR

1 1/2 ZMA  
B - 33298699

Conveyance Tax: \$0.00

   LAND COURT SYSTEM |    REGULAR SYSTEM  
After Recordation, Return by: Mail (XX) Pickup ( )

Hawaii Islands Land Trust  
P.O. Box 965  
Wailuku, Hawaii 96793

TG: 201910592 -5 LC  
TGE: 21019124838 (1)  
Jeremy Trueblood

TYPE OF DOCUMENT:

**LIMITED WARRANTY DEED**

PARTIES TO DOCUMENT:

GRANTOR: THE NEWTON FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership

GRANTEE: HAWAIIAN ISLANDS LAND TRUST,  
a Hawaii non-profit corporation  
P.O. Box 965  
Wailuku, Maui, Hawaii 96793

Tax Map Key: (3) 2-4-008-033  
Number of pages: 1



LIMITED WARRANTY DEED

LOG 6  
THE NEWTON FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership ("Newton"), whose mailing address is P.O. Box 426, Kailua, HI 96734, hereinafter called the "Grantor", in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to the Grantor paid by HAWAIIAN ISLANDS LAND TRUST, a Hawaii non-profit corporation, whose mailing address is P.O. Box 965, Wailuku, Maui, Hawaii 96793, hereinafter called the "Grantee", the receipt and sufficiency of which is acknowledged, **HEREBY GRANTS, BARGAINS, SELLS AND CONVEYS** unto the Grantee, its successors and assigns, as Tenant in Severalty, the property described in Exhibit A attached hereto and made part hereof, hereinafter called the "Property".

**TOGETHER WITH** the reversions, remainders, rents, issues and profits thereof and all of the estate, right, title and interest of the Grantor, both at law and in equity, in and to the Property;

**TO HAVE AND TO HOLD** the Property, including the improvements thereon, and all tenements, hereditaments, rights, easements, privileges and appurtenances belonging or appertaining to or held and enjoyed with the Property, unto the Grantee, its successors and assigns according to the tenancy set forth herein, forever.

**AND** Grantor does hereby covenant with the Grantee, its successors and assigns, subject to the exceptions set forth in said Exhibit A, that: (a) Grantor is lawfully seised in fee simple of the Property described in said Exhibit A and has full power and authority to sell and convey its interest in said Property; (b) said Property is free of all encumbrances made or suffered by Grantor except for the encumbrances mentioned in Exhibit A and real property taxes and assessments not yet due and payable; and (c) Grantor will **WARRANT AND DEFEND** the foregoing unto the said Grantee, its successors and assigns forever against the lawful claims and demands of all persons claiming by, through or under Grantor, except as aforesaid.

This instrument shall be binding upon and inure to the benefit of the persons identified above as "Grantor" and "Grantee." The terms "Grantor" and "Grantee" as and when used herein, or any pronouns used in place thereof, shall mean and include the singular or plural number, individuals, partnerships, trustees and corporations, and each of their respective successors and assigns.

Grantee hereby understands and agrees that said Property, improvements, and other items, are being conveyed to Grantee "AS IS", "WHERE IS" and "WITH ALL FAULTS", in their present state and condition, except as otherwise provided herein or in the Gift Agreement (as defined below). Grantor makes no other representations or warranties, express or implied, with respect to the use, condition, fitness for any particular purpose, merchantability or any other aspect thereof, and it is expressly understood and agreed that any and all liability for any and all such representations or warranties is expressly disclaimed, except as otherwise provided herein or in the Gift Agreement.

Notwithstanding anything herein to the contrary, Grantee understand that this deed shall not expand the liability of Grantor under that certain unrecorded Gift Agreement, dated February 20, 2019 (as it may be amended, the "Gift Agreement").

The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

The person or company recording or arranging for the recordation of this document is authorized to complete any blanks contained in this document with the applicable number of pages, dates, and recordation information, whether before or after this document has been notarized by a notary public, and in no event shall completion of such blanks be deemed an alteration of this document by means of the insertion of new content.

*[remainder of page intentionally left blank]*

IN WITNESS WHEREOF, Grantor and Grantee have executed this instrument to be effective as of: February 27, 2019.

**Grantor:**

**THE NEWTON FAMILY LIMITED  
PARTNERSHIP**

By: Newton Family LLC, its General Partner

By: Rachel Newton-Weaver

Rachel Newton-Weaver


Its Manager  
\_\_\_\_\_

*[signatures continued on next page]*



Grantee:

HAWAIIAN ISLANDS LAND TRUST

By:   
Kawika Burgess  
Chief Executive Officer

STATE OF HAWAII

City County of Honolulu

ss:

On this 27 day of February, 2019, in the 1 Circuit, State of Hawaii, before me personally appeared Rachel Newton-Weaver, to me known or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument identified or described as **Limited Warranty Deed**, 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. The foregoing instrument is dated Feb. 27, 2019, and contained 9 page(s), including Exhibit A, at the time of this acknowledgment/certification.



JEREMY TRUEBLOOD

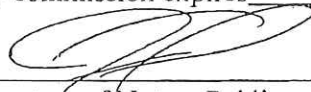
Print Name of Notary Public

Notary Public, STATE OF HAWAII

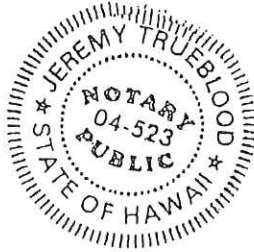
My commission expires

JEREMY TRUEBLOOD

Expiration Date: September 12, 2020



Signature of Notary Public



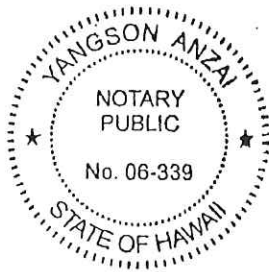
STATE OF HAWAII

City and County of Honolulu

ss:

On this 25th day of February, 2019, in the First Circuit, State of Hawaii, before me personally appeared Kawika Burgess, to me known or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument identified or described as **Limited Warranty Deed**, 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. The foregoing instrument is dated February 25, 2019, and contained 12 page(s), including Exhibit A, at the time of this acknowledgment/certification.

**YANGSON ANZAI**



Print Name of Notary Public

Notary Public, STATE OF HAWAII

My commission expires JUN 11 2022

Signature of Notary Public

*[Handwritten Signature]*

Exhibit A

All of that certain parcel of land situate Kukuau 1st, South Hilo, Island and County of Hawaii, State of Hawaii, described as follows:

LOT 11-A, area 1,645.823 acres, more or less, as shown on Map 53, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1205 of Cooke Trust Company, Limited, Trustee under the Will and of the Estate of Akana Amelia Richardson, deceased.

Together with access to a public road, across a 40 foot easement as granted by Land Court Document No. 976483 and being more particularly described therein, and across Lot 330 and Easement 209 as shown on Map 73 of Land Court Application No. 1205, as provided by Land Court Order No. 104144.

NOTE: Easement 209 is connected to Lot 331. Lot 331 has been conveyed to the County of Hawaii as a public road.

Being land(s) described in Transfer Certificate of Title No. 510,288 issued to THE NEWTON FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership.

BEING THE PREMISES ACQUIRED BY LIMITED WARRANTY DEED

GRANTOR: GEORGE N. NEWTON, Trustee under Revocable Trust of George N. Newton dated April 5, 1976, and MARY JO NEWTON, Trustee under Revocable Trust of Mary Jo Newton dated August 7, 1989

GRANTEE: THE NEWTON FAMILY LIMITED PARTNERSHIP, a Hawaii limited partnership

DATED: --- (acknowledged May 15, 1998)  
FILED: Land Court Document No. 2458280

Subject, however, to the following:

1. Mineral and water rights of any nature, if any, in favor of the State of Hawaii, but only to the extent applicable to the Property.
2. Right of Way for flume and water purposes in favor of Olaa Sugar Company, as granted by instrument dated November 5, 1900, recorded in Liber 21 at Page 474, and as modified by Quitclaim Deed dated March 31, 1938.
3. DESIGNATION OF EASEMENT "107"

SHOWN: on Map 53 of Land Court Application 1205, as set forth by Land Court Order No. 72554, filed on January 30, 1985

4. A right of way in favor of Lot 11-B over and across said Easement "107".
5. DESIGNATION OF EASEMENT "156"

PURPOSE : electrical transmission line  
SHOWN : on Map 71 of Land Court Application No. 1205, as set forth by Land Court Order No. 100893, filed on January 24, 1991

6. GRANT

TO : HAWAII ELECTRIC LIGHT COMPANY, INC.

DATED : ---

FILED : Land Court Document No. 1929212

GRANTING : a right and easement over and across said Easement "156"

7. The terms and provisions contained in the following:

INSTRUMENT : NOTICE OF IMPOSITION OF CONDITIONS BY THE LAND USE COMMISSION

DATED : December 4, 2001

RECORDED : Document No. 2001-189429

(Not noted on Transfer Certificate(s) of Title referred to herein)

8. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

DATED : April 16, 2002

FILED : Land Court Document No. 2797546

9. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes, but only to the extent applicable to the Property.

10. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose, but only to the extent applicable to the Property.



