

LAW OFFICE OF
LANCE D COLLINS

A LAW CORPORATION

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February 17, 2015

Rep. Karl Rhoads
Chairperson
Special Committee to Consider MC No. 1003
House of Representatives
Hawai'i State Capitol
Honolulu, HI 96813

Dear Mr. Rhoads,

This letter serves as a reply to the additional legal argument and the submission of supplemental evidence by Mr. Calvin Say dated February 17, 2015.

I. Statements of Say in Declaration Conflict with Previous Sworn Statements of Say

Paragraph 3 of Calvin K.Y. Say's declaration states that "I have resided at 1822 10th Avenue since I purchased the property with my wife, Cora, in 1980." However, the Land Court Document No. 1065097, dated April 30, 1981, "Agreement of Sale" between a Ms. Donna Stockwell and Mr. Calvin K.Y. Say and Ms. Cora Kimie Kotake indicates that the Agreement of Sale was not entered into until 1981 and that Calvin Say and Cora Kotake (now Say) were not married at that time. There were no other signatories or parties to the Agreement of Sale and the signatures were made before a notary public.

Paragraph 24 of Calvin K.Y. Say's declaration states that "My wife and I were young when we purchased the home at 1822 10th Avenue and therefore my wife's father, Mr. Kotake, had to co-sign on the mortgage. As co-signer, Mr. Kotake wanted the tax assessment information to be sent to his home at 2247 Star Road." However, the Land Court Doc. No. 1185060, filed August 9, 1983, is

the Mortgage for the 1822 10th Avenue house filed the same day as the Deed conveying the property from Ms. Stockwell to Mr. and Mrs. Say. (Land Court Doc. No. 1185059, also filed August 9, 1983). The borrowers are “Calvin Kwai Yen Say” and “Cora Kimie Say” “husband and wife” and only Calvin and Cora Say are the signatories to the mortgage. There is no mention, notation or any other suggestion that Mr. Richard Toshiichi Kotake was to be subject to the mortgage.

It should also be noted that Mr. Kotake passed away March 26, 2001 and the holder of the mortgage, the State's Employee Retirement System released the mortgage on September 9, 2002 (Land Court Doc. No. T2843720) so it is unclear what the purpose of continuing to receive tax assessments and bills to 2247 Star Road would be for another decade other than the fact that 2247 Star Road was the long time residence of Calvin Say.

This additional evidence brought to light by Mr. Say furthers the strong inference that Mr. Say moved from his childhood home of 1984 10th Avenue (and the residence that Mr. Say was first registered to vote from 1974 until the 1982 election) to 2247 Star Road and continued to live there thereafter. No evidence has been submitted to contradict this inference.

Paragraph 4 of Calvin K.Y. Say's declaration states that he has “been registered to vote in the district without interruption since 1980.” Mr. Say was first registered in Palolo at his parent's house in 1974 at 1984 10th Avenue. He did not transfer his registration to his 1822 10th Avenue Property after the 1980 election.

II. *Dupree* is Relevant to Mr. Say's Claims

There is no evidence that Mr. Say actually established a residency at 1822 10th Avenue after he abandoned his childhood residence at 1984 10th Avenue. *Dupree* and this case are factually identical as the Supreme Court stated, “In addition to satisfying the basic residency test of HRS 11-13(1), i.e., that he had a “habitation ... fixed” [at the new residence] and that he intended to return there when absent, he also needed to have a sufficient “physical presence” ... under HRS 11-13(4)

to corroborate his intent[.]” In this case, there is no credible evidence of physical presence. Having mail addressed and mailed to a property where someone has an intent to make the property their residence simply does not constitute physical presence. The evidence, rather, overwhelmingly demonstrates a total lack of physical presence from 1981 to present.

Please do not hesitate to contact me if you have any questions.

Very truly yours,
LAW OFFICE OF LANCE D COLLINS

A handwritten signature in black ink, appearing to read "Lance D. Collins". The signature is fluid and cursive, with a large initial "L" and a distinct "D" at the end.

LANCE D COLLINS
Attorney for the Voters

enclosures

AMERICAN PACIFIC TITLE COMPANY, INC.

1000 Broadway, Suite 1000
Honolulu, Hawaii 96813
Phone (808) 523-8555

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STATE OF HAWAII
LAND COURT
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RECORDATION REQUESTED BY

AM-PAC

AFTER RECORDATION, RETURN TO

RETURN BY: MAIL () PICKUP ()

SPACE ABOVE THIS LINE FOR REGISTRAR'S USE

AGREEMENT OF SALE

THIS AGREEMENT made this 13TH day of April, A.D., 1981, by and between

DONNA LOUISE STOCKWELL, unmarried,

hereinafter called the "Seller" and CALVIN KWAI YEN SAY, unmarried, and CORA KIMIE KOTAKE, unmarried, whose residence and post office address is 2247 Star Road, Honolulu, Hawaii,

hereinafter called "Buyer".

WITNESSETH:

That Seller promises and agrees to sell to Buyer, and Buyer promises and agrees to buy from Seller for the consideration and price, and on and subject to the terms and conditions hereinafter set forth in EXHIBIT "A", annexed hereto and by reference made a part hereof, all of the property particularly described in EXHIBIT "B", annexed hereto and by reference made a part hereof, which property is hereinafter designated and referred to as "the premises".

- Tenancy of Buyer:** Buyer's interest in the Agreement of Sale, and in the premises, is taken and accepted by Buyer as Joint Tenants and any conveyance or conveyances to Buyer under the provisions of Paragraph 23 hereof shall so provide.
- Taxes, Assessments, Etc.:** Buyer shall pay all real property taxes, lease rent (if any), maintenance fees (if any), all assessments of every kind and nature levied against the premises, or any part or portion thereof, and all other charges of whatsoever kind or nature levied or assessed by any lawful authority upon or against the premises, or upon or against any person or persons, with respect to the premises, or the use thereof, and Buyer shall at all times save and hold Seller harmless from each, every and all thereof.
- Insurance:** Buyer shall insure, and keep insured, at his own and sole cost and expense, all improvements now existing or hereafter built or placed upon the premises to the extent of the full replacement value thereof, against loss or damage by fire, and all of the perils specified in the Extended Coverage Endorsement, in the name of and for the protection and benefit of the Seller, and in any company licensed to transact insurance in the State of Hawaii. The policy or policies of insurance, together with the receipts of premiums thereon, shall be deposited and remain with Seller. In the event of loss or damage to the premises, the proceeds of all such insurance payable shall be promptly used for the purpose of repairing or rebuilding or replacing all improvements or personal property which may have been damaged or destroyed.
- Utilities:** Buyer shall pay for, and save Seller harmless from the cost of all electric power, gas, water, sewer charges, refuse disposal service, and any other utilities furnished to, or used or consumed in, on or about the premises.
- Title as Seller's Security:** Title to the premises shall remain in Seller until Buyer has performed all of the things required to be performed by Buyer under the terms hereof, specifically including, but not limited to, the payment of all monies due to Seller.
- Possession:** Upon the execution of this Agreement by all of the parties hereto, Buyer may enter upon and take possession of the premises and enjoy the use, rents, issues and profits thereof for so long as Buyer is not in default under any of the terms hereof. Buyer's possession of the premises shall be as the purchaser thereof under the provisions of this Agreement, and not as the tenant, agent or representative of Seller.
- Risk of Loss:** The risk of complete or partial destruction of, or injury to, all or any part of the premises shall rest solely upon Buyer from and after the date of this Agreement, or the date Buyer assumes possession, whichever first occurs. Damage to or destruction of all or any part of the premises shall not constitute a ground for rescission of this Agreement.
- Use of Premises:** Buyer shall faithfully observe, perform and abide by all laws, ordinances, rules and regulations of every governmental authority applicable to the premises, or the use thereof, and (if the premises comprise a leasehold estate) shall abide by all terms, conditions and covenants of the lease or leases which create said leasehold estate and shall not use, or suffer any other person or persons to use the premises for or in connection with any unlawful purpose.
- Maintenance and Inspection:** Buyer shall keep and maintain the premises in good repair, and shall not commit or suffer to be committed any strip, waste or other willful or negligent damage to, or destruction of the premises, or any part or portion thereof. Buyer shall allow Seller or his agent, at all reasonable times, free access to the premises for the purpose of examining the same and determining whether the covenants hereof are being fully observed and performed.
- Improvements, Repairs, Alterations and Additions:** Buyer shall not, without the prior written consent of Seller, construct nor permit the construction of any improvements upon any land comprising all or any portion of the premises and shall not, without such consent, repair, alter or add to any improvements which may at any time comprise any portion of the premises; and any improvements constructed and any repairs, replacements, alterations or additions made to any improvements, with or without the Seller's consent, shall immediately be and become the property of Seller and subject to all of the terms and provisions of this Agreement.
- Liens and Indemnity:** Buyer shall not engage in nor permit the performance of any act which might cause a lien to be filed against the premises, and shall save harmless and indemnify the Seller from and against any and all liens of every kind or nature which may be levied upon or against the premises or any part thereof.
- Transfer of Buyer's Interest:** No sale, assignment, mortgage or other disposition or hypothecation of this Agreement or of Buyer's interest in the premises, or any part or portion thereof, shall have any validity without the prior written consent of Seller.
- Transfer of Buyer's Right to Possession:** Buyer shall not lease, rent, license or otherwise transfer or share the exclusive possession of the premises, or any part or portion thereof, without the prior written consent of the Seller.

14. **Advance by Seller:** If Buyer neglects or fails to pay any of the charges required to be paid by him under the terms hereof, or by any other act or neglect causes Seller's title to or interest in the premises, or any part or portion thereof, to be jeopardized, then and in such event Seller may pay any and all of such items for Buyer's account, and claim and recover from Buyer, upon demand, all sums so advanced, together with interest thereon at the rate of 12% per annum and, if not paid on demand, all such advances made by Seller may, at his option, be added to and considered as a part of the purchase price of the premises.
15. **Condemnation:** If all or any part of the premises is taken by condemnation or in eminent domain proceedings, Seller or Buyer or either or both may appear and defend or prosecute any litigation in cooperation with Seller's Lessor (if any). Any recovery obtained, whether by agreement, compromise, stipulation or judicial award shall be applied first toward the payment of Seller's counsel fees, costs and expenses in such litigation, next toward the payment of the balance of all sums, and interest thereon, payable under or secured by the terms of this Agreement, and the surplus, if any, shall become the property of Buyer. Condemnation of all or any portion of the premises shall not constitute a ground for rescission of this Agreement.
16. **Buyer's Default:** An essential condition of this Agreement shall be conclusively presumed to have been breached, and Buyer shall be deemed to be in default, if (a) Buyer fails to pay, as and when due, any sum of money (including interest) required by this Agreement, or if (b) Buyer fails to observe or perform any other of Buyer's undertakings hereunder, or if (c) Buyer becomes insolvent or bankrupt, or makes any assignment for the benefit of his creditors, or files a debtor's petition under any Bankruptcy Act, or if (d) Buyer suffers all or any part of the premises, or all or any part of Buyer's interest therein, or in this Agreement, to be seized, subjected to a lien, or in any manner to be restrained or impounded by any lawful process, or if (e) Buyer vacates or abandons or threatens to vacate or abandon all or any part of the premises, or if (f) Buyer assigns or hypothecates, or attempts to assign or hypothecate this Agreement, or Buyer's interest in the premises, or in any part or portion thereof, without the prior written consent of Seller, or if (g) the premises comprise a leasehold estate if (g) Buyer violates or breaches any of the terms, conditions or covenants of the lease or leases which create said leasehold estate.
17. **Attorney's Fees:** If Buyer shall be in default, in that term is defined in Paragraph 16 hereof, Seller shall have the right, at Buyer's expense, to retain an attorney to make any demand, or otherwise protect or enforce his rights herein. Buyer hereby promises to pay all costs and expenses so incurred by Seller, including court costs and a reasonable attorney's fee, and the failure of Buyer promptly to pay the same upon demand shall in itself constitute a further and additional default.
18. **Seller's Remedies:** Upon the occurrence of any default, as defined in Paragraph 16 hereof, and the continuance of such default for a period of fifteen (15) days or more, Seller may take either or any of the following courses of action, at his option:
- (a) **Accelerated Maturity:** Without notice or demand, Seller may declare immediately due and payable all sums of money due hereunder and secured hereby, and may bring action against Buyer therefor. Buyer shall pay all expenses of any such action, including court costs and a reasonable attorney's fee. In any such action, the interest of Buyer in this Agreement, and in the premises, shall be liable to seizure and sale.
- (b) **Cancellation:** Seller may bring an action against Buyer to secure the judicial cancellation of this Agreement. In any such action, Seller shall be entitled to treat all payments of principal and interest made by Buyer pursuant hereto, as the consideration for Seller's execution of this Agreement; and as the agreed rental for the use and possession of the premises during Buyer's occupancy thereof. In any such action, Seller shall be entitled to recover, as a part of his judgment, all costs and expenses reasonably incurred, including court costs and a reasonable attorney's fee.
- (c) **Foreclosure and Sale:** Seller may elect to regard himself as mortgagee of the premises, and the whole thereof, and may treat the interest of Buyer in the premises as a mortgagee's interest, and may foreclose Buyer's interest in the premises, and sell the same pursuant to and upon compliance with the provisions of Section 667.5 et. seq., of the Hawaii Revised Statutes. Upon giving the notices required by law, Seller may sell the premises, and the whole thereof, including any improvements placed thereon by Buyer, at public auction, and at such time and place as to Seller may seem best. Seller may (but is not required to) buy in all or any portion of the premises, and any sale conducted and made pursuant to the provisions hereof shall render debtor and preclude Buyer, and all persons claiming through or under Buyer, from all right, title and interest in the premises, both at law and in equity. The proceeds of sale shall be applied toward the payment of the following items, in the order named: (1) the costs and expenses of sale, including Seller's counsel fees; (2) the balance of all sums of money (including interest) required to be paid or secured by this Agreement; and (3) the surplus, if any, shall be paid to Buyer.
- (d) **Deficiency:** If the proceeds realized upon any sale of the premises are insufficient to pay the items numbered (1) and (2) in sub-paragraph (c) of Paragraph 18 hereof, Buyer shall forthwith make good the deficiency, and, if action is instituted by Seller to collect the same, Seller or any attorney at law designated by Seller, may appear in any court and contest judgment for and on behalf of Buyer. In any such action Seller shall be entitled to recover, as a part of his judgment, all costs and expenses reasonably incurred, including court costs and attorney's fees.
- (e) **Buyer's Retention of Premises:** In the event that Buyer shall remain in possession of the premises after this Agreement is cancelled as aforesaid, or in any other manner permitted by law, Buyer agrees that it shall be conclusively presumed that Buyer is a Tenant at Will and that Buyer shall be obligated to pay, and he hereby promises to pay during the period of such Tenancy at Will, a monthly rental equal to twice the monthly payment provided for in said EXHIBIT "A" and Seller shall have in addition to all other remedies for the collection of rentals and the recovery of possession that are available to landlords under the laws of the State of Hawaii, the right to institute and maintain an action for summary possession as provided by Chapter one of the Hawaii Revised Statutes.
19. **Waiver:**
- (a) **What Constitutes:** The acceptance by Seller of any payment due hereunder, whether or not the same is past due and delinquent, shall not constitute a waiver of the right of Seller to pursue any remedy or right to breach or the cancellation of this Agreement.
- (b) **Effect of Previous Waiver:** No waiver by Seller of a violation of any provision of this Agreement shall constitute or be construed as a waiver of any subsequent violation whether at the time or some other provision hereof.
20. **Seller's Consent:** Seller hereby agrees that whenever his consent is required as a condition precedent to any action by Buyer, he will not withhold such consent arbitrarily, maliciously, capriciously nor otherwise than for reasonable cause, nor will he require the payment of any money for his consent other than a reasonable charge for the preparation and recording of the instrument of consent.
21. **Notices:** Any notice required or permitted by law or this Agreement shall be in writing, and shall either be delivered or sent by registered mail to Seller or Seller, as the case may be. Notices shall be made by handing the notice to the other party. Registered mail shall be sent to the address of which the sender has in writing been notified by the other party. Where Buyer or Seller consists of more than one person, notice by or to any one person shall be sufficient.
22. **Amendments:** This Agreement may be amended only by written instrument executed and acknowledged by both Buyer and Seller.
23. **Conveyance of Premises to Buyer:** Upon the observance and full performance by Buyer of all undertakings of Buyer hereunder, and upon full discharge of all other obligations of Buyer secured hereby, Seller shall cause to be prepared, executed and delivered to Buyer, at Seller's expense, a good and sufficient conveyance of the premises. Such conveyance shall warrant the premises to be free and clear of all encumbrances, other than such as may have been made or suffered by Seller, or such as may be specifically stated and described in said EXHIBIT "B", any such encumbrances being hereby expressly approved and accepted by Buyer, unless otherwise herein provided.
24. **Time of the Essence:** Time is specifically declared to be of the essence of this Agreement, and of all acts required to be done and performed by Buyer, including, but not limited to, the payment by Buyer of the sums and items required by the terms hereof to be paid.
25. **Paragraph Headings:** The paragraph headings used herein are intended as identifications only, and are not to be considered as controlling, enlarging or restricting the language or meaning of the paragraphs to which they apply.
26. **Premises:** As used herein, the term "premises" shall mean all of the property described or enumerated in said EXHIBIT "B", together with any repairs, improvements, replacements or additions thereto, whether made or constructed by Seller, Buyer or both.
27. **Gender, Number, Successors:** The terms "Seller" and "Buyer", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine gender, the singular or plural number, individuals, partnerships or corporations, and their and each of their respective survivors, heirs, executors, administrators, successors and permitted assigns.
28. **Obligations Joint and Several:** If either the Seller or the Buyer, as herein defined, shall consist of more than one person, all covenants and obligations of such persons shall be joint and several to and for the benefit of the other.

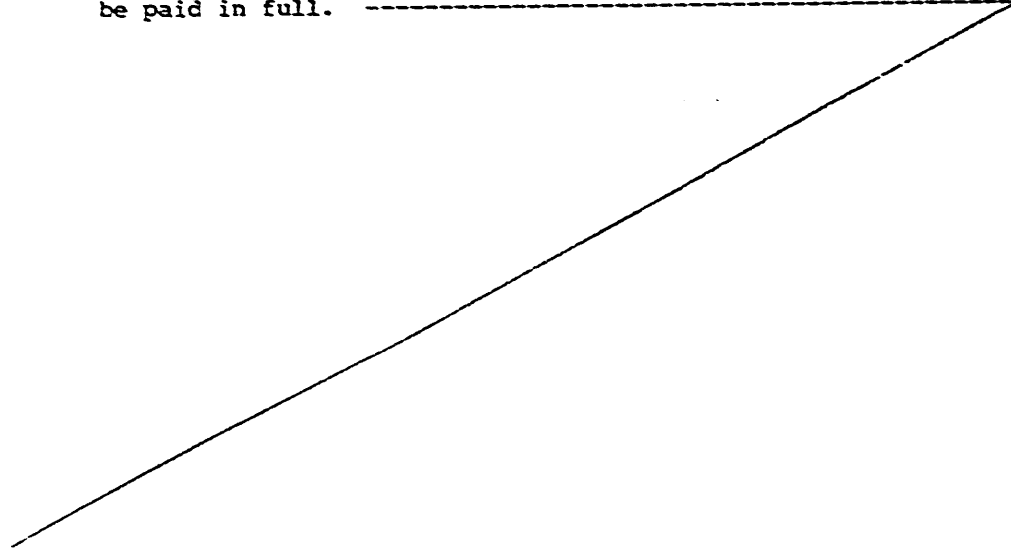
29. Existing Mortgage: The premises are presently subject to the lien of that certain mortgage identified and described in Exhibit "B", attached hereto and incorporated herein by reference. The repayment of all monies secured by said mortgage, which Seller covenants with Buyer to pay when due, and the cost of obtaining and recording release thereof, is the sole obligation of Seller, and any conveyance to Buyer under the provisions of paragraph 23 hereof, shall be free of the lien of said mortgage.

Buyer shall at all times have the right to ascertain from said Mortgagee, its successors and assigns, the status of its account with Seller, and said Mortgagee, its successors and assigns, are irrevocably authorized and requested to make such information available to Buyer at his request. Should Seller become delinquent with respect to his obligations under said mortgage and/or the note secured thereby, Buyer may make all payments required by the terms of this Agreement directly to said Mortgagee to be applied as required by the terms of said note and mortgage. All payments so made by Buyer shall be considered as having been made pursuant to the provisions of this Agreement.

30. Collection Account: All payments to be made to Seller by Buyer under this Agreement of Sale shall be made into a collection account to be established by Seller and the cost of establishing and maintaining such collection account shall be shared equally by Seller and Buyer.

31. Liability Insurance: Buyer will procure or cause to be procured, at his own cost and expense, in an insurance company qualified to transact insurance in the State of Hawaii a policy of public liability insurance in the amount of \$100,000.00 for personal injury and for damage to property. Said policy shall name the Seller and the holder of the mortgage described in Exhibit "B" as additional insured persons, and shall cover the whole of the premises described in Exhibit "B".

32. Acceleration of Balance on Sale: Notwithstanding anything to the contrary contained in paragraph 12 hereinabove, in the event that during the term of this Agreement of Sale, the premises are sold by Buyer, the entire principal balance remaining due hereunder shall immediately be paid in full.



IN WITNESS WHEREOF, the parties hereto have executed these presents on the day and year first above written.

Donna Louise Stockwell
DONNA LOUISE STOCKWELL

Seller

Calvin Kwai Yen Say
CALVIN KWAI YEN SAY

Mrs. Cora Kimie Kotake
CORA KIMIE KOTAKE

Buyer

STATE OF HAWAII)
) : SS.
CITY AND COUNTY OF HONOLULU)

On this 13TH day of April, 1981,
before me personally appeared DONNA LOUISE STOCKWELL, to me
known to be the person described herein and who executed the
foregoing instrument, and acknowledged that she executed the
same as her free act and deed.

[Signature]
Notary Public, State of Hawaii

My commission expires: 1-19-83

STATE OF HAWAII)
 : SS.
CITY AND COUNTY OF HONOLULU)

On this 29th day of April, 1981,
before me personally appeared CALVIN KWAI YEN SAY, to me
known to be the person described herein and who executed the
foregoing instrument, and acknowledged that he executed the
same as his free act and deed.

[Signature]
Notary Public, State of Hawaii

My commission expires: 1-19-85

STATE OF HAWAII)
 : SS.
CITY AND COUNTY OF HONOLULU)

On this 22nd day of April, 1981,
before me personally appeared CORA KIMIE KOTAKE, to me known
to be the person described herein and who executed the
foregoing instrument, and acknowledged that she executed the
same as her free act and deed.

[Signature]
Notary Public, State of Hawaii

My commission expires: 1-19-83

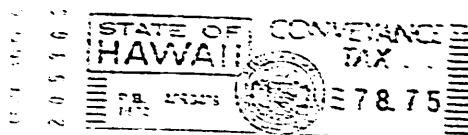


EXHIBIT "A"

1. Purchase Price: The purchase price of the premises is ONE HUNDRED FIFTY SEVEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$157,500.00) which Buyer promises and agrees to pay to Seller in the manner following:

(a) A down payment of \$40,000.00, receipt whereof by Seller from Buyer is hereby acknowledged.

(b) The balance of \$117,500.00, plus accrued interest thereon as hereinafter provided, shall be paid in monthly installments of \$ 1,125.00 or more each, including interest and real property taxes, beginning on the 15 day of JUNE, 1981, and continuing monthly thereafter until the 15 day of JUNE, 1985, upon which date, all sums then remaining due hereunder shall be paid in full.

(c) The deferred balance of the purchase price shall bear interest at Eleven per cent (11%) per annum from and after the 30 day of April, 1981, and each monthly payment shall be applied as follows:

(1) First, to the interest then due, computed at the rate aforesaid on the balance of principal then remaining unpaid.

(2) Next to defray the monthly pro-rata portion of the real property taxes.

(3) Next to reimburse Seller for any monies advanced for the account of Buyer, under the provisions of paragraph 14 hereof.

(4) And the balance, if any, to principal.

(d) Buyer may, at any time, make additional payments on account of principal in excess of those herein required to be made, or may pay the entire remaining balance of the purchase price, without penalty.

(e) In the event that the charges for real property taxes shall at any time, or from time to time be increased, the monthly installments hereinabove required shall be increased by the exact dollar amount of any such increase.

(f) In the event that the rate of interest charged upon the note secured by the mortgage made by Seller, as Mortgagor, in favor of First Hawaiian Bank, as Mortgagee, shall at any time or from time to time during the term hereof be increased, the rate of interest set forth hereinabove in paragraph 1(c) shall likewise be increased by the same percentage or fraction thereof, but in no event to a rate less than 11% per annum. and the monthly installment payments hereinabove required shall be increased in an amount equivalent to the increase in interest thereafter accruing hereunder. -----

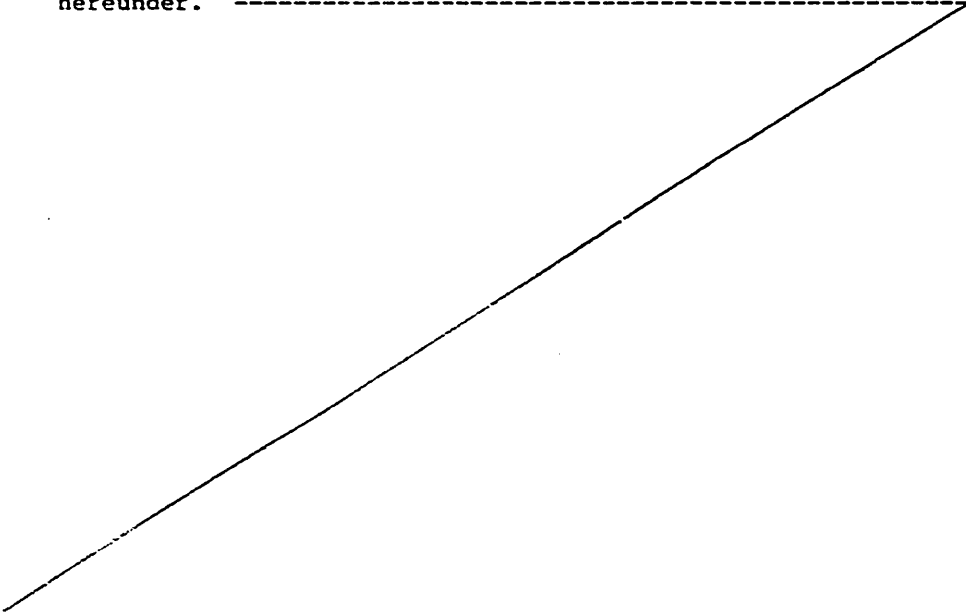


EXHIBIT "B"

ALL that certain parcel of land situate at Palolo, City and County of Honolulu, State of Hawaii, described as follows:

LOT 40-C-2, area 4,073.0 square feet, more or less, as shown on Map 292, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 284 of Palolo Land and Improvement Company, Limited.

TOGETHER WITH an easement for a common driveway and a right of way for all purposes and with or without vehicles across Easement 9 across Lot 40-B-2, pursuant to Grant 205743.

BEING the same land described in and covered by TRANSFER CERTIFICATE OF TITLE NO. 204,923.

Together with all built-in furniture, attached fixtures, built-in appliances, water heater, electrical and/or gas and plumbing fixtures, attached carpeting, existing drapes, range, refrigerator, disposal, washer, dryer and furniture inventory, attached hereto as Exhibit "C".

SUBJECT, HOWEVER, TO:

1. EASEMENT 8 as shown on Map 191, as set forth by Land Court Order No. 15632, filed August 27, 1957.

2. GRANT OF EASEMENT dated August 26, 1957, filed as aforesaid as Document No. 205743.

IN FAVOR OF: JERRY KOON BUTT CHOCK

GRANTING : Easement for a common driveway and a right of way for all purposes, in favor of Lot 40-A-2 across Easement 8.

3. GRANT OF EASEMENT dated October 1, 1957, filed as aforesaid as Document No. 207273.

IN FAVOR OF: HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation

GRANTING : A perpetual right and easement across Easement 8 to build, construct, etc., appliances and equipment necessary to the transmission of electricity.

4. MORTGAGE dated October 10, 1978, filed as aforesaid as Document No. 902136.

MORTGAGOR: DONNA LOUISE STOCKWELL, unmarried.

MORTGAGEE: FIRST HAWAIIAN BANK, a Hawaii corporation.

EXHIBIT "C"

Living Room:

- 1 light-colored ~~floral-designed~~ sofa (worn)
- 1 glass & chrome coffee table
- 1 glass & chrome corner table
- 1 olive/gold striped smoking chair
- 3 drawer, brown desk
- 2 beige imitation sandstone base lamps

Master Bedroom:

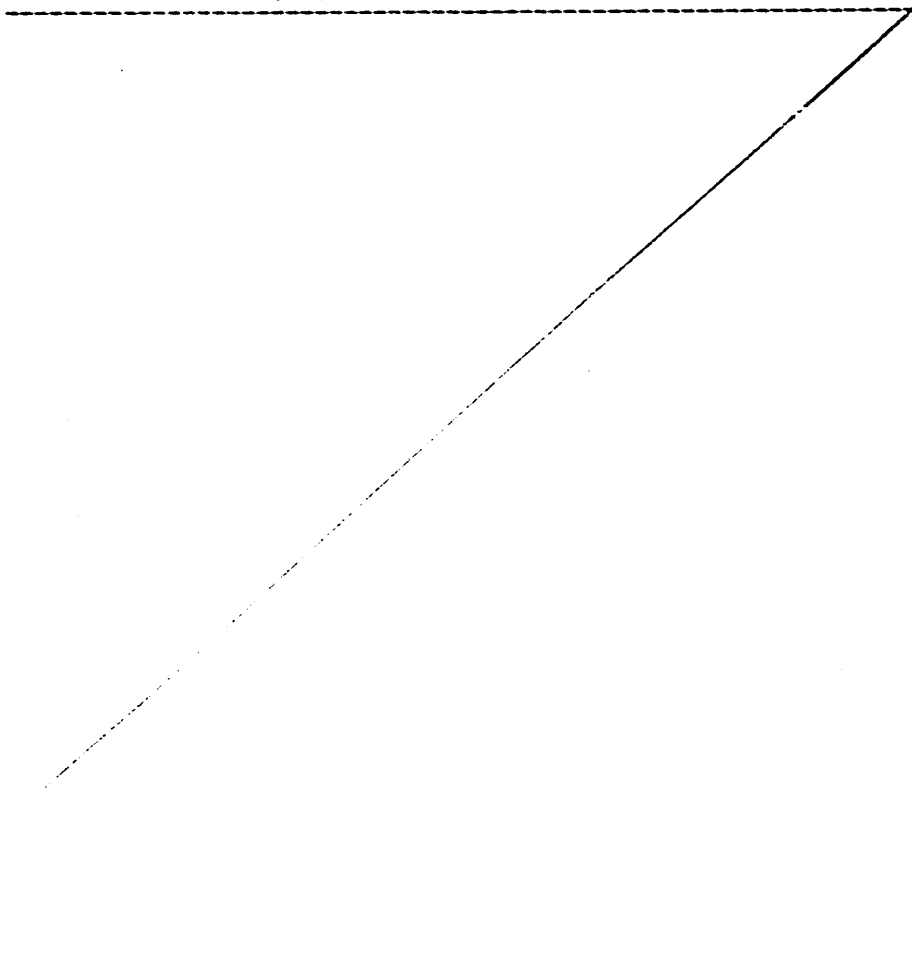
- 1 double bed
- 2 - 3 drawer, brown nightstands
- 1 purple chair
- 1 bedroom valet

Bedrooms:

- 2 twin beds with corner table

Dining Room (Bedroom):

- 1 white rattan dining room set with 6 chairs
- 1 hanging rattan overhead lamp



1185060

25/1/00

RECORDATION REQUESTED BY

WHEN RECORDED RETURN TO

RETURN BY MAIL CHECK

MORTGAGE

THIS MORTGAGE is made this 19/ day of July, 1967, between the Mortgagor, CALVIN KWAI YEN SAY and CORA KIMZE SAY, husband and wife (herein "Borrower"), and the Mortgagee, BANK OF HAWAII, a corporation organized and existing under the laws of the State of Hawaii, whose address is The Financial Plaza of The Pacific, Honolulu, Hawaii 96813 (herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of ONE HUNDRED EIGHT THOUSAND SEVEN HUNDRED FIFTY AND NO/100 Dollars, which indebtedness is evidenced by Borrower's note dated July 19, 1967 (herein "Note"), providing for monthly payments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on July 19, 1967.

To SECURE to Lender (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower herein contained, and (b) the repayment of any future advances, with interest thereon, made to Borrower by Lender pursuant to paragraph 21 hereof (herein "Future Advances"), Borrower does hereby mortgage, grant and convey to Lender, with power of sale, the following described property located in the City and County of Honolulu, State of Hawaii

All of that certain property set forth and described in Exhibit "A" attached hereto and made a part hereof for all purposes.

which has the address of 1822 10th Avenue Honolulu
(Street) (City)
Hawaii 96816 (herein "Property Address")
(State and Zip Code)

2
 N.P. TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rents, rights, appurtenances, ~~and all other rights and interests in and to the property~~ water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if the Mortgage is on a leasehold) are herein referred to as the "Property".

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, that the Property is unencumbered, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

KNOWN COVENANTS. Borrower and Lender agree that the action is follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay, when due, the principal of and interest on the Note, and when due, the principal of and interest on any Future Advances secured by this Mortgage.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly installments of principal and interest and payable under the Note, and the Note is paid or full, a sum (herein "Funds") equal to one-twelfth of the yearly taxes and assessments which may attach to the Property under this Mortgage, and ground rents on the Property, if any, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof.

The Funds shall be held in an institution, the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for so holding and applying the Funds, analyzing said account, or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency within 30 days from the date notice is mailed by Lender to Borrower requesting payment thereof.

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 18 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraph 2 hereof, then to interest payable on the Note, then to the principal of the Note, and then to interest and principal on any Future Advances.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attach to this Mortgage, and household payments or ground rents, if any, in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Mortgage, provided that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

5. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require; provided that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the insurance carrier.

All insurance policies and renewals thereof shall be in form acceptable to Lender and shall include a standard mortgage clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments. If under paragraph 18 hereof the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

6. **Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents. If a condominium or planned unit development rider is executed by Borrower and recorded together with this Mortgage, the covenants and agreements of such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider were a part hereof.

7. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy or decedent, then Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of a reasonable attorney's fees and entry upon the Property to make repairs. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law. Borrower shall pay the amount of all mortgage insurance premiums in the manner provided under paragraph 2 hereof.

Any amounts disbursed by Lender pursuant to the paragraph 7 with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower or Lender agrees to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower respecting payment thereof, and shall be deducted from the principal disbursement of the Note payable from time to time on outstanding principal under the Note unless payment of such amount is made by Borrower to applicable tax authority from which such amounts shall bear interest at the highest rate permitted under applicable law. Such amounts shall be paid throughly by Borrower. Lender to incur any expense or take any action hereunder.

8. Inspection. Lender may make or cause to be made reasonable entry, inspection and inspections of the Property, provided the Lender shall have Borrower's prior written consent, any such inspection shall be made at reasonable times thereafter related to Lender's interest in the Property.

9. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property or part thereof, or for condemnation or other taking, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemner offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Borrower and Lender otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments.

10. Borrower Not Released. Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest.

11. Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

12. Remedies Cumulative. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

13. Successors and Assigns Bound; Joint and Several Liability; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

14. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

15. Uniform Mortgage; Governing Law; Severability. This form of mortgage combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property. This Mortgage shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable.

16. Borrower's Copy. Borrower shall be furnished a confirmed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.

17. Transfer of the Property; Assumption. If all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer, Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Lender and that the interest payable on the sums secured by this Mortgage shall be at such rate as Lender shall request. If Lender has waived the option to accelerate provided in this paragraph 17, and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Mortgage and the Note.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 14 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 18 hereof.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

18. Acceleration; Remedies. Except as provided in paragraph 17 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender prior to acceleration shall mail notice to Borrower as provided in paragraph 14 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 30 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorney's fees.

If Lender invokes the power of sale, Lender shall mail Borrower a notice of sale in the manner provided in paragraph 14 hereof. Lender shall publish a notice of sale and shall sell the Property at the time and place and under the terms specified in the notice of sale. Lender or Lender's designee may purchase the Property at any sale. The proceeds of any sale shall be applied in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable

attorney's fees and costs of title and lender; (b) to all sums secured by this Mortgage; and (c) the excess, if any, to the person or persons legally entitled thereto.

19. **Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to the earlier to occur of (a) the fifth day before sale of the Property pursuant to the power of sale contained in this Mortgage or (b) entry of a judgment enforcing this Mortgage, and 30 days from the certified date upon which Lender entered upon and took possession of the Property if (a) Borrower pays Lender all sums which would be then due under this Mortgage, the Note and notes securing Lender's Advances, if any, had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage; and in enforcing Lender's remedies as provided in paragraph 18 hereof, including, but not limited to, reasonable attorney's fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

20. **Assignment of Rents; Appointment of Receiver.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 18 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 18 hereof or abandonment of the Property, Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

21. **Future Advances.** Upon request of Borrower, Lender, at Lender's option prior to release of this Mortgage, may make Future Advances to Borrower. Such Future Advances, with interest thereon, shall be secured by this Mortgage when evidenced by promissory notes stating that said notes are secured hereby.

22. **Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

23. **Waiver of Dower.** Borrower hereby relinquishes all right of dower in the Property.

See Riders attached hereto and made a part hereof.

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

Calvin Kwai Yen Say
.....
CALVIN KWAI YEN SAY —Borrower

Cora Kimie Say
.....
CORA KIMIE SAY —Borrower

STATE OF HAWAII, City and County of Honolulu, ss:

On this 29th day of July, 1983, before me personally appeared CALVIN KWAI YEN SAY and CORA KIMIE SAY to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged to me that they executed the same as their free act and deed.

My Commission expires: Nov 14 '84

Jane L. Kately
.....
Notary Public

First Judicial Circuit, State of Hawaii

(Space Below This Line Reserved For Lender and Recorder)

EXHIBIT "A"

All of that certain parcel of land situate at Paiele, City and County of Honolulu, State of Hawaii, described as follows:

LOT 40-C-2, area 4,073.0 square feet, more or less, as shown on Map 292, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 284 of Paiele Land and Improvement Company, Limited.

TOGETHER WITH an easement for a common driveway and a right of way for all purposes and with or without vehicles across Easement 9 across Lot 40-B-2, pursuant to Grant 205743.

Being the same premises described in Transfer Certificate of Title No. 251520 issued to Borrower herein.

SUBJECT, HOWEVER, to the following:

1. Easement 8 as shown on Map 191, as set forth by Land Court Order No. 15632, filed August 27, 1957.
2. Grant of Easement dated August 26, 1957, in favor of JERRY KOON BUTT CHOCK, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 205743, granting an easement for a common driveway and a right of way for all purposes, in favor of Lot 40-A-2 across Easement 8.
3. Grant of Easement dated October 1, 1957, in favor of HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation, filed as aforesaid as Document No. 207273, granting a perpetual right and easement across Easement 8 to build, construct, etc., appliances and equipment necessary to the transmission of electricity.

END OF EXHIBIT "A"

RIDER TO FEDERAL HOME LOAN MORTGAGE

IT IS AGREED AND UNDERSTOOD that should this mortgage and the note secured hereby not be eligible for purchase by the Employees' Retirement System of the State of Hawaii (written statement of the System declining to purchase said note being deemed conclusive proof of ineligibility) the holder of said mortgage and note pay, at its option, at any time thereafter, declare all sums secured hereby immediately due and payable.

Notwithstanding any other provision in this mortgage to the contrary, if this mortgage and the loan secured hereby are purchased by the Employees' Retirement System of the State of Hawaii, in the event the Borrower conveys or transfers all or any part of the property secured hereby, or any interest therein, without the prior written consent of the Employees' Retirement System, all of the indebtedness secured by this mortgage shall immediately become due and payable.

Furthermore, notwithstanding any other provision in this mortgage to the contrary, the parties hereto expressly agree and acknowledge that the aforesaid consent of the Employees' Retirement System shall be subject to and in compliance with the Member Home Loan Program Policy of the Board of Trustees of the Employees' Retirement System in force and effect on the date that the request for such consent is received by the Employees' Retirement System.

That should this mortgage and the note secured hereby be purchased by the Employees' Retirement System of the State of Hawaii, Borrower shall, upon prepayment of the entire outstanding principal balance during the first 12 months from the date of the note, pay the note holder a premium of Six Percent (6%) of the entire amount prepaid, and there shall be no premium due after the first 12 months.

PROVIDED, HOWEVER, that this Rider shall be void and of no effect during such periods as this mortgage is held in whole or in part by either the Federal Home Loan Mortgage Corporation or the Government National Mortgage Association, or the Federal National Mortgage Association; PROVIDED FURTHER, that in the event that at any time subsequent thereto neither the Federal Home Loan Mortgage Corporation nor the Government National Mortgage Association nor the Federal National Mortgage Association shall hold any interest in this Mortgage, Lender reserves the right to declare this Rider in full force and effect. Notice of such declaration(s) shall be given to the Borrower in writing through the United States mail, addressed to Borrower at Borrower's last known address, registered mail, return receipt requested, and shall be effective upon the mailing of such notice to the Borrower.

IN WITNESS WHEREOF, the Borrower has executed this Rider contemporaneously with the foregoing mortgage to acknowledge the attachment hereof.

Calvin Kwai Yen Say
CALVIN KWAI YEN SAY

Cora Kinie Say
CORA KINIE SAY

RIDER TO FWA FHLMC UNIFORM MORTGAGE

It is hereby agreed that the Mortgage to which this Rider is attached is hereby amended and supplemented as follows:

Paragraph 2 pertaining to Taxes and Insurance is hereby supplemented by adding the following sentence after the last sentence of the second subparagraph:

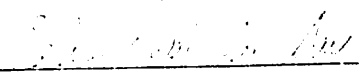
"Borrower hereby agrees sums collected pursuant to this paragraph are to be held by the Lender without interest."

Paragraphs 18 and 19 on pages 3 and 4 pertaining to acceleration, remediation and Borrower's right to reinstatement are hereby deleted in their entirety, and the following paragraph is hereby inserted in lieu thereof:

"Time is of the essence hereunder and upon default in the performance or observance of any covenant or condition herein or in any promissory note contained or of the terms of any other indebtedness hereby secured, or if the Borrower for any of them, if there be more than one, is adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking relief as a debtor under any law for the relief of and of debtors, or shall enter into any arrangement or composition with creditors, or if a receiver is appointed with respect to said Property, or if the Property or any part thereof shall be seized or levied upon under any legal process or under any claim of legal right, then, in each such event, the whole amount of all indebtedness owing by or chargeable to the Borrower under any provision of this Mortgage, or intended to be secured hereby, on any and every account, shall at the option of the Lender become at once due and payable without notice or demand, and with or without foreclosure the Lender shall have the immediate right to receive and collect all rents and profits due or accrued or to become due, and said rents and profits are hereby assigned to the Lender, and the Lender is hereby irrevocably appointed the attorney in fact of the Borrower with power in the name of the Borrower or the Lender to demand, sue for, collect, recover and receive all such rents and profits, to compromise and settle claims for rents and profits upon such terms and conditions as may seem proper, and to enter into, renew or terminate leases or tenancies, and the Lender may foreclose this Mortgage, by court proceeding (with immediate right to a receivership with the aforesaid powers on ex parte order and without bond pending foreclosure), or, as now or hereafter provided by law, either by entry and possession, or with or without entry and possession by advertisement and sale of the mortgaged property or any part or parts thereof at public auction in Honolulu, Hawaii and may in the name of the Lender or as the

attorney in fact of the Borrower, for such purpose hereby irrevocably appointed, effectively convey or assign the Property so sold to the purchaser or purchasers and any foreclosure shall forever bar the Borrower and all persons claiming under the Borrower from all right and interest in said Property; and out of the proceeds of any foreclosure sale, the Lender may deduct all costs and expenses of foreclosure and of suit, including an attorney's fee, and retain or be awarded all sums then payable by or chargeable to the Borrower, rendering to the Borrower the surplus, if any. If such proceeds shall be insufficient to discharge the same in full, the Lender may have any other legal recourse against the Borrower for the deficiency. The Lender shall have the right to enforce one or more remedies hereunder, or any other remedy the Lender may have, successively or concurrently, including the right to foreclose this Mortgage with respect to any portion of the Property without thereby impairing the lien of this Mortgage or the remainder of the Property or affecting the remedies of the Lender available with respect thereto. The Lender or any person in its behalf may purchase at any foreclosure sale; and in the event of any sale of said Property or any part or parts thereof under and by virtue of the provisions of this Mortgage, the purchaser or purchasers thereof shall have immediate and peaceable possession of the same and, if the Borrower shall remain in possession after the effective date of such sale, such possession shall be construed as a tenancy at sufferance only, giving to the purchaser or purchasers all remedies by way of summary possession or otherwise conferred by law in such case."

PROVIDED, HOWEVER, that this Rider shall be void and of no effect during such periods as this Mortgage is held in whole or in part by either the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or the Federal National Mortgage Association; provided, further, that in the event that at any time subsequent thereto, neither the Federal Home Loan Mortgage Corporation, nor the Government National Mortgage Association, nor the Federal National Mortgage Association shall hold any interest in this Mortgage, Lender reserves the right to declare this Rider in full force and effect. Notice of such declaration(s) shall be given to the Borrower in writing through the United States mail, registered mail, return receipt requested and shall be effective upon the mailing of such notice to the Borrower.


CALVIN KWAI YEN SAY


CORA KINIE SAY

2152138

1185059

AMERICAN EXPRESS THE COMPANY, INC.
1230 AVENUE OF THE AMERICAS
NEW YORK, N.Y. 10020

05/15/00
05/15/00
05/15/00

RECORDATION REQUESTED BY :

AFTER RECORDATION, RETURN TO :

RETURN BY: MAIL () ⁶²¹⁵¹⁶ PICKUP () :

D E E D

KNOW ALL MEN BY THESE PRESENTS:

That DONNA LOUISE STOCKWELL, unmarried, of Spring Valley, California (hereafter the "Grantor"), for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration to Grantor paid by CALVIN KWAI YEN SAY and CORA KIMIE SAY, husband and wife, whose residence and post office address is 2247 Star Road, City and County of Honolulu, State of Hawaii (hereafter the "Grantee"), receipt whereof is hereby acknowledged, does hereby give, grant, bargain, sell and convey all of that certain property more fully described in Exhibit "A" hereto attached and incorporated herein by reference, including any fixtures, appliances, furniture and/or items of personal property itemized therein, unto the Grantee as Tenants by the Entirety with full rights of survivorship, and not as tenants in common, their assigns and the heirs and assigns of the survivor of them, forever.

AND 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, therein and thereto.

Obituaries

Thursday, March 29, 2001

Asterio Gacuscus Alconcel Jr., 44, of Honolulu, died March 8 in Straub Hospital. He was born in Honolulu. He is survived by parents Asterio Sr. and Francisca; and siblings Estrelita, Edward and Arnold Alconcel, Hilario Martin, Carolann Hernandez and Wesley Santos. Private services.

Shinobu Joan Amaral, 72, of Kamuela, Hawaii, who died March 19 in Hale Hoola Hamakua, is survived by sister Sumi Ito. Incorrect information was published for an obituary Tuesday.

Pascual Manuel Andres, 69, of Ewa Beach, a retired employee for Tropicana Villages Phase Two and Three, died March 10. He was born in the Philippines. He is survived by wife Fermina "Emmin," sons Jesus and Gino, daughter Norma Cauilan, sisters Maximina Andres and Joaquina Pascual, and five grandchildren. Services: 7 p.m. Sunday at Mililani Mortuary, mauka chapel. Call after 6 p.m. Additional services: noon Monday at the mortuary. Call after 10 a.m. Burial: 12:30 p.m. Monday at Mililani Memorial Park. Casual attire.

Miriam Kulamanu "Darling" Apana, 74, of Nanakuli, a homemaker, died Saturday. She was born in Honolulu. She is survived by hanai sons Douglas Mahoe and Peter Mahoe; sons James "Butchie" and Morris; daughters Imaikalani Bertelmann, Kulamanu Kikila, Kaipoleimanu Brown, NakooOkalani Apana, Pililua Apana-Okī and Kalauokealoha Payne; 37 grandchildren and 76 great-grandchildren. Services: 10 a.m. Saturday at Kaunakakai Church. Call after 9 a.m. Scattering of ashes: 10 a.m. Sunday at Nanakuli Beach Park. Casual attire.

David George Backen, 64, of Kula, Maui, a retired heavy-equipment mechanic for Kiewit Pacific Construction, died Monday. He was born in Great Falls, Mont. He is survived by wife Louise M.; sons David, Raymond and George; daughter Charlotte Ost; stepdaughter Debbie Shirai; stepson Guy Freitas; brothers Rodney, Gerald, Dan, Jack and Joe; sister Teddy Hyde; six grandchildren and two great-grandchildren. Services: 11:30 a.m. tomorrow at Holy Ghost Catholic Church. Call after 9:30 a.m. Inurnment to follow at a later date in Montana. Aloha attire. Leis only.

Virginia Cabral, 71, of Kalaeo, Kauai, a homemaker, died Tuesday at home. She was born in Wailua Homesteads, Kauai. She is survived by sons Daniel and Hartwell, daughter Michelle Gushiken, brother Louie Pontes, sister Rose Kurtie and 10 grandchildren. Services: 11 a.m. Tuesday at Holy Cross Catholic Church. Call after 9 a.m. Burial: Kauai Veterans Cemetery, Hanapepe. Casual attire.

Francis Philip "Buster" Carvalho, 78, of Hilo, a retired purchasing agent for C. Brewer Co., died Tuesday in Hilo Medical Center. He was born in Hilo. He is survived by wife Marguerite; daughter Ethel M. Peroff; brothers William R. and Clement; sisters Geraldine Shuman, Mary J. Abbey and Patricia Silva; and two grandchildren. Services: 10 a.m. Friday at St. Joseph Catholic Church. Call after 9 a.m. Burial: Homelani Memorial Park, Hilo. Casual attire.

Verna Reece DeBoer, 71, of Keauhou Uka, Hawaii, a homemaker, died Tuesday in Kona Community Hospital. She was born in Sedro Woolley, Wash. She is survived by sons David and Steve, sister Velma Moore and one grandchild. Services: 3 p.m. tomorrow at the DeBoer residence, 75-355 Nohealani St. Casual attire. Donations suggested to West Hawaii Home Health Services.

Randolph R. "Randy" Freitas, 41, of Honolulu, who died March 24 in St. Francis Medical Center, will be buried in graveside services at 10 a.m. Saturday at Valley of the Temples. The mortuary provided incorrect information for an obituary published yesterday.

Akitomi "Peter" Hamasaki, 81, of Honolulu, a retiree, died Friday. He was born in Wainaku, Hawaii. He is survived by wife Melina "Rita"; daughters Eva Jones and Rosa Hamasaki; son Peter; sisters Nancy Torigoe, Sally Crum and Sue Nakamura; brothers James and Goichi; and five grandchildren. Services: 2 p.m. Sunday at Soto Mission, 1708 Nuuanu Ave. Burial: 1 p.m. Monday at the National Memorial Cemetery of the Pacific, Punchbowl. Casual attire.

Stephen Toshiichi Kotake, 87, of Honolulu, president of Kotake Shokai, died Monday in Straub Clinic and Hospital. He was born in Honolulu. He is survived by wife Haruyo, son Dr. John, daughters Vera Hu and Cora Say, sister Jane K. Nishimoto, four grandchildren and three great-grandchildren. Services: 4 p.m. Sunday at Hosoi Garden Mortuary. Casual attire.

Manuel Henry Lara, 62, of Kaneohe, died Friday at home. He is survived by brothers Joe Brito and Ernest Brito; sisters Gloria Magdaleno, Esperanza Directo, Artie Sueda, Valerie Lopez and Brenda Magdaleno; daughter Delann Kelii and one grandchild. Graveside services: 10 a.m. Monday at Hawaii State Veterans Cemetery, Kaneohe.

Rose Kawehiwehi Muller McCarty, 91, of Honolulu, died Sunday at home. She is survived by daughters Pam Barton and Winona Aina, sister Annabelle Fyfe, nine grandchildren, 11 great-grandchildren and 10 great-great-grandchildren. Services: 2 p.m. Sunday at Hawaiian Memorial Park Mortuary. Call after noon. Private inurnment to follow.

Ruby Geneva Nesnow, 92, of Hauula, a retired print shop administrator, died Tuesday in Kapunawai Ola. She was born in North Dakota. She is survived by sons Maurice, Joseph and David; brother Ole Synoground Jr.; sisters Mable Beavers and Laura Swenson; four grandchildren and eight great-grandchildren. Private services.

Joyce Yvonne Nobriga, 64, of Kaimuki, a foster mother, died March 21. She was born in Honolulu. She is survived by sons George Jr., Chris and Matthew; daughters Barbara Holmes, Jackie Toilolo and Lori Tufaga; sister Lynn Rondiak and 17 grandchildren. Services: 11:30 a.m. Monday at Hawaiian Memorial Park Mortuary. Call after 9:30 a.m. Burial to follow at Hawaii State Veterans Cemetery. Aloha attire.

Jenny Marie Nycek, 40, of Honolulu, died Monday in St. Francis Hospice. She was born in Michigan. She is survived by daughter Leilani Perez, brother Stanley and sisters Jackie Nycek and Sandy Pelletier. Services: 2 p.m. tomorrow at Nuuanu Mortuary, east chapel. Call after 1 p.m.

Paulino Saholan, 72, of Makakilo, a retired cook for Hale Koa Hotel, died March 14 in Honolulu. He was born in Hawi, Hawaii. He is survived by wife Shizuko; daughters Christine Plumberg, Josephine Koriotoh and Kitty Burgess; brothers Santo, Theodore and Alfred Sajolan; sisters Connie Kehano and Rose Hipolito; and four grandchildren. Services: 10:30 a.m. Friday at Hawaiian Memorial Park Mortuary. Call after 9:30 a.m. Burial: 1 p.m. Friday at Hawaii State Veterans Cemetery.

Sadako Tanaka, 75, of Hilo, a retired accounting clerk for Mauna Loa Macadamia Nut Corp., died March 18 at home. She was born in Hilo. She is survived by brothers Yoshito and Jiro, and sisters Mitsue and Miyoko. Private services. No koden.

Lynn K. Waters, 69, of Hana, Maui, a social services caseworker for the ARC of Maui, died Tuesday in Hale Makua, Kahului. He was born in South Dakota. He is survived by sons Richard and Sean, daughters Jacquelyn Waters and Camille Woodworth, brother Gene Baldwin, sister Shirley Grant, 12 grandchildren and one great-grandchild. No services.

Yue Woo, 80, of Kaneohe died March 14 in Castle Medical Center. He was born in China. He is survived by wife Chui F.L. Woo; sons Kwok K., Eric Y.K., Wai K. and Francis; daughter Maria Arriaga and 14 grandchildren. Visitation: 8:30 a.m. Monday at Borthwick Mortuary. No services. Burial: 11 a.m. Monday at Hawaiian Memorial Park.

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