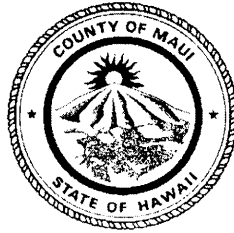


MICHAEL P. VICTORINO
Mayor

MOANA M. LUTEY
Acting Corporation Counsel

EDWARD S. KUSHI, JR.
First Deputy

LYDIA A. TODA
Risk Management Officer
Tel. No. (808) 270-7535
Fax No. (808) 270-1761



RECEIVED

2019 MAY 22 PM 3:41

OFFICE OF THE
COUNTY COUNSEL

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET, 3RD FLOOR
WAILUKU, MAUI, HAWAII 96793
EMAIL: CORPCOUN@MAUICOUNTY.GOV
TELEPHONE: (808) 270-7740
FACSIMILE: (808) 270-7152

May 22, 2019

MEMO TO: Michael J. Molina, Chair
Governance, Ethics and Transparency Committee

FROM: Caleb P. Rowe, Deputy Corporation Counsel 

SUBJECT: Litigation Matters
Settlement of Claim: John Lukas
Claim No. 30192322650-0001

Pursuant to Section 3.16.020B of the Maui County Code, our department hereby requests authorization to discuss settlement of the aforementioned claim. It is anticipated that an executive session may be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee. There is no immediate deadline to this matter.

Copies of the claim and proposed resolution are enclosed. If you have any questions, or concerns, please do not hesitate to contact me.

CPR:cs
Enclosures

cc: Rowena M Dagdag-Andaya, Acting Director
Department of Public Works

Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 30192322650-0001 OF
JOHN LUKAS

WHEREAS, John Lukas filed Claim No. 30192322650-0001 on March 29, 2019, against the County of Maui for damage to his property located at 1755 Olinda Road, Makawao, Hawaii, resulting from large trees within the County right-of-way falling onto his property on February 10, 2019; and

WHEREAS, the County of Maui and John Lukas, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a proposed resolution of this claim by way of negotiated settlement; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this case under the terms set forth in an executive meeting before the Governance, Ethics and Transparency Committee; and

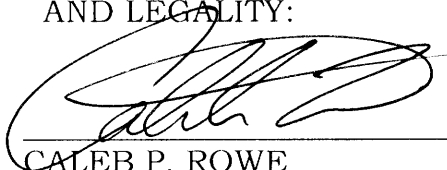
WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

Resolution No. _____

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves settlement of Claim No. 30192322650-0001 in the amount of NINE THOUSAND FIVE HUNDRED SEVENTY-SEVEN AND 45/100 DOLLARS (\$9,577.45); and
2. That payment is authorized to satisfy settlement of this claim following the execution of the Release of Property Damage Claim by John Lukas; and
3. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Director of Public Works and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



CALEB P. ROWE
Deputy Corporation Counsel
County of Maui
RISK 2019-0080

COUNTY OF MAUI
CLAIM FOR DAMAGE OR INJURY

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PLEASE PRINT CLEARLY

- 1. Claimant: Mr. Mrs. Ms. John (Jack) Lukas
- 2. Address: 1755 Olinda Rd. Makawao, HI
- 3. Telephone No.: Business 201-232-8200 Residence 201-206-6821
- 4. Date of Accident: 2/10/2019
- 5. Location of Accident: 1755 Olinda Rd. Makawao, HI 96768
- 6. Amount of Claim: Property Damage \$ 9577.45 Personal Injury \$ 0

OFFICE OF THE
COUNTY CLERK

7. Describe the accident in detail. Indicate all the facts, causes, persons involved, witnesses, extent of damage, etc., and why you think the County is responsible. You may write on the back if needed.

2/10/19 extreme windstorm 2 large county trees fell onto our property, taking other trees with them and hitting our fencing, gate and our carport. They also completely blocked our driveway causing us to get emergency tree removal so we could get in and out of our property. Our insurance company doesn't cover clean up over \$500. We are asking for cleanup fees as well as assistance with our deductible and the depreciated expenses. Request non covered clean up \$4652.45; deductible \$4925

8. If you carry insurance applicable to this claim, please provide the name and address of the insurance company and your policy number.

State Farm-See their assessment attached

Policy No. 51-BH-G940-9

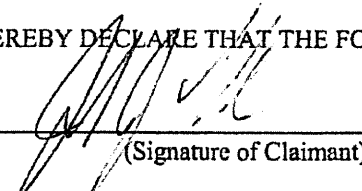
A. Did you file a claim with your insurance company? yes

If yes, amount claimed \$ 21,521.58 Deductible amount \$ 4925.00

B. If a claim was filed with your insurance company, what action do they intend to take?

none

I HEREBY DECLARE THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT.



(Signature of Claimant)

3-27-19

(Date)

(Rev. 05/11/95)

KALAE LANDSCAPING LLC,
P.O.BOX 1223
PUUNENE, HI 96784-1223
(808)870-4696
tmkalae25@aol.com

Invoice

BILL TO
Jack Lucas
1775 Olinda Road

SHIP TO
Jack Lucas
1775 Olinda Road

INVOICE #	DATE	TOTAL DUE	DUE DATE	TERMS	ENCLOSED
5927	02/20/2019	\$3,645.85	02/20/2019	Due on receipt	

TRACKING NO.
1775 Olinda Rd

DATE	ACTIVITY	QTY	RATE	AMOUNT
02/20/2019	Job-Done Remove trees from driveway and sides Equipment use 2- Flat beds Excavator Skid Steer 8 Total Labors on job side	1	3,500.00	3,500.00T

SUBTOTAL	3,500.00
TAX (4.167%)	145.85
TOTAL	3,645.85
BALANCE DUE	\$3,645.85

*Pd by check
2/29/19*

INVOICE

Scott Sturdivant.

Po Box 1342
Haiku, HI 96708
(808) 352-8369
sturcottjr@gmail.com

Bill To Sue Lukas

Invoice Num 1
Date Feb 25, 2019
Due Date Mar 27, 2019
Terms 30 days

Description	Quantity	Rate	Amount
Drive way clearing	5	\$75.00	\$375.00
Storm clean up/ bucking	8	\$75.00	\$600.00
Chipper rental	2	\$210.00	\$420.00

Thank you for your business.

Subtotal	\$1,395.00
Tax (8%)	\$111.60
Total	\$1,506.60
Paid	\$0.00
Balance Due	\$1,506.60

*Pd by check
2/11
2/24
to
clear
driveway
for use*

PROPOSAL



P.O. Box 1072, Makawao, HI 96758, ph: (808) 870-0082, fax: (808) 872-3504, jason.spencer@mcrae.com

GENERAL CONTRACTOR Lic. HCS007 / HC2048

PROPOSAL SUBMITTED TO:

Jack Lucas

Date: FEB 21, 2019

Job Location or TMS: 1755 OLINDA ROAD
Architect: MAKAWAO HI 96768
Date of plans:

Table with 2 columns: DESCRIPTION, AMOUNT. Rows include: REMOVE AND REPLACE DAMAGED SECTION OF GARAGE ROOF INCLUDING FRONT FASCIA BOARD AND GUTTER PER DAMAGE; REPLACE DAMAGED WOOD FENCE INCLUDING DIG OUT 14 4X4 POSTS AND RE-SET IN CONCRETE FOOTING REDD 13 8FOOT WIDE BY 6FOOT HIGH WOOD PANELS TO MATCH.

Subtotal 15,572.90
Tax @ 1.0% 156.24

WE PROPOSE hereby to furnish material and labor for the sum of \$14,138.44

Table with 2 columns: Terms of Payment, 50% ON ACCEPTANCE, 50% ON COMPLETE

All materials is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes accidents or delays beyond our control. Owner to carry fire, flood and other necessary insurances.

Authorized Signature [Signature]
Jason Spencer, Multicraft LLC

Acceptance of Proposal: THIS PROPOSAL EXPIRES THIRTY DAYS FROM THIS DATE. The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.
Signature:
Signature:
Date of Acceptance:



State Farm
P.O. Box 106169
Atlanta, GA 30348-6169
Fax: 1-844-236-3646
statefarmfireclaims@statefarm.com

Structural Damage Claim Policy

When you have a covered structural damage claim to your real property, you should know:

- We want you to receive quality repair work to restore the damages to your property.
- We will provide you with a detailed estimate of the scope of the damage and costs of repairs. Should the contractor you select have questions concerning our estimate, they should contact your claim representative directly.
- Depending upon the complexity of your repair, our estimate may or may not include an allowance for general contractor's overhead and profit. If you have questions regarding general contractor's overhead and profit and whether general contractor services are appropriate for your loss, please contact your claim representative before proceeding with repairs.
- There may be building codes, ordinances, laws, or regulations that affect the repairs of your property. These items may or may not be covered by your policy. Please contact your claim representative if you have any questions regarding coverage which may be available under your policy.
- If you select a contractor whose estimate is the same as or lower than our estimate, based on the same scope of damages, we will pay based upon their estimate. If your contractor's estimate is higher than ours, you should contact your claim representative prior to beginning repairs.
- State Farm® cannot authorize any contractor to proceed with work on your property. Repairs should proceed only with your authorization.
- State Farm does not guarantee the quality of the workmanship of any contractor or guarantee that the work will be accomplished within any specific time frame.
- It is understood that the contractor is hired by you, our insured, and that they work for you - not State Farm.

If you have any questions or need additional information regarding your claim, please contact your claim representative immediately.

State Farm

LUKAS, SUSAN

51-7639-Z17

Insured: LUKAS, SUSAN
 Property: 1755 Olinda Rd
 Makawao, HI 96768-7124
 Cellular: 201-232-8200
 Type of Loss: Wind Damage
 Deductible: \$4,925.00
 Date of Loss: 2/10/2019
 Date Inspected: 2/20/2019

Estimate: 51-7639-Z17
 Claim Number: 517639Z17
 Policy Number: 51-BH-G940-9
 Price List: HIWA28_FEB19
 Restoration/Service/Remodel

Summary for Coverage A - Dwelling - 35 Windstorm and Hail

Line Item Total	20,415.00
Material Excise Tax	265.82
Subtotal	20,680.82
General Excise Tax	840.76
Replacement Cost Value	21,521.58
Less Depreciation (Including Taxes)	(6,480.82)
Less Deductible	(4,925.00)
Net Actual Cash Value Payment	\$10,115.76

Maximum Additional Amounts Available If Incurred:

Total Line Item Depreciation (Including Taxes)	6,480.82
Less Non-recoverable Depreciation (Including Taxes)	<4,254.68>
Subtotal	2,226.14
Replacement Cost Benefits	2,226.14
Total Maximum Additional Amount Available If Incurred	2,226.14
Total Amount of Claim If Incurred	\$12,341.90

Schmid, Jacqueline
 844-458-4300 x 2534395527

ALL AMOUNTS PAYABLE ARE SUBJECT TO THE TERMS, CONDITIONS AND LIMITS OF YOUR POLICY.



Explanation of Building Replacement Cost Benefits
Homeowner Policy
Coverage A - Dwelling - 35 Windstorm and Hail

To: Name: LUKAS, SUSAN
Address: 1755 Olinda Rd
City: Makawao
State/Zip: HI, 96768-7124

Insured: LUKAS, SUSAN
Date of Loss: 2/10/2019
Claim Number: 517639Z17
Cause of Loss: WIND

Your insurance policy provides replacement cost coverage for some or all of the loss or damage to your dwelling or structures. Replacement cost coverage pays the actual and necessary cost of repair or replacement, without a deduction for depreciation, subject to your policy's limit of liability. To receive replacement cost benefits you must:

1. Complete the actual repair or replacement of the damaged part of the property within two years of the date of loss; and
2. Notify us within 30 days after the work has been completed.
3. Confirm completion of repair or replacement, by submitting invoices, receipts or other documentation to your agent or claim office.

Until these requirements have been satisfied, our payment(s) to you will be for the actual cash value of the damaged part of the property, which may include a deduction for depreciation.

Without waiving the above requirements, we will consider paying replacement cost benefits prior to actual repair or replacement if we determine repair or replacement costs will be incurred because repairs are substantially under way or you present a signed contract acceptable to us.

The estimate to repair or replace your damaged property is \$21,521.58 . The enclosed claim payment to you of \$10,115.76 is for the actual cash value of the damaged property at the time of loss, less any deductible that may apply. We determined the actual cash value by deducting depreciation from the estimated repair or replacement cost. Our estimate details the depreciation applied to your loss. Based on our estimate, the additional amount available to you for replacement cost benefits (recoverable depreciation) is \$ 2,226.14 .

If you cannot have the repairs completed for the repair/replacement cost estimated, please contact your claim specialist prior to beginning repairs.

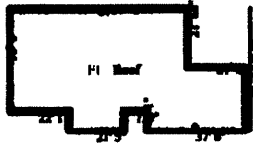
All policy provisions apply to your claim.

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Main Level



Roof

3,400.74 Surface Area
283.39 Total Perimeter Length

34.01 Number of Squares

QUANTITY	UNIT PRICE	TAX	RCV	AGE/LIFE CONDITION	DEPREC. DEP %	ACV
1. Tear off, haul and dispose of modified bitumen roofing						
1.50 SQ	57.25	3.58	89.46			89.46
2. Modified bitumen roof						
1.50 SQ	385.77	32.07	610.73			610.73
3. R&R Sheathing - plywood - 5/8" CDX						
96.00 SF	2.45	13.88	249.08			249.08
4. R&R Flashing, 14" wide						
24.25 LF	4.95	6.19	126.23			126.23
The above line items include the repair to the roof including for an 18" overlap for the mod bit.						
Totals: Roof		55.72	1,075.50		0.00	1,075.50

Carport

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls & Ceiling
0.00 SF Floor	0.00 SF Short Wall	0.00 LF Floor Perimeter
0.00 SF Long Wall		0.00 LF Ceil. Perimeter

QUANTITY	UNIT PRICE	TAX	RCV	AGE/LIFE CONDITION	DEPREC. DEP %	ACV
* 5. R&R Gutter - aluminum - up to 5"						
36.00 LF	6.75	14.48	257.48	5/25 yrs Avg.	(51.50) 20.00%	205.98
6. R&R Gutter guard/screen						
36.00 LF	3.38	6.61	128.29	5/20 yrs Avg.	(32.07) 25.00%	96.22
7. 2" x 10" x 20' #2 treated pine (material only)						
2.00 EA	43.60	7.41	94.61			94.61
8. 2" x 4" x 18' #2 treated pine (material only)						
2.00 EA	13.24	2.25	28.73			28.73
9. Carpenter - General Framer - per hour						
8.00 HR	73.30	24.43	610.83			610.83
10. Prime & paint exterior fascia - wood, 6"- 8" wide						
76.00 LF	2.36	8.13	187.49	5/15 yrs Avg.	(62.50) 33.33%	124.99

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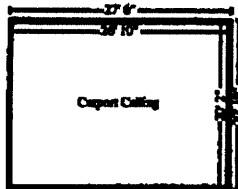
State Farm

LUKAS, SUSAN

51-7639-Z17

CONTINUED - Carport

QUANTITY	UNIT PRICE	TAX	RCV	AGE/LIFE CONDITION	DEPREC. DEP %	ACV
The above line items include to replace the damaged gutter, gutter screen, fascia boards, and 2x4 bracing. Allowed to paint fascia and trim boards.						
Totals: Carport		63.31	1,387.43		146.07	1,161.36
Area Totals: Main Level						
892.71	Exterior Wall Area					
3,400.74	Surface Area	34.01	Number of Squares	566.77	Total Perimeter Length	
Total: Main Level		119.03	2,382.93		146.07	2,236.86



Carport Ceiling

Height: 8'

752.00 SF Walls	541.14 SF Ceiling
1,293.14 SF Walls & Ceiling	541.14 SF Floor
94.00 LF Ceil. Perimeter	94.00 LF Floor Perimeter

QUANTITY	UNIT PRICE	TAX	RCV	AGE/LIFE CONDITION	DEPREC. DEP %	ACV
11. R&R Sheathing - plywood - 5/8" CDX .						
1.00 SF	2.45	0.15	2.60			2.60
12. R&R Siding - tongue & groove - pine or equal						
30.00 SF	5.32	8.84	168.44			168.44
13. Seal & paint wood siding						
30.00 SF	1.42	2.29	44.89			44.89
14. Paint the surface area - one coat						
541.14 SF	0.71	18.59	402.80	5/15 yrs Avg.	(134.27) 33.33%	268.53
The above line item includes to replace the damaged ceiling portion, pain the new wood, and paint the entire ceiling.						

Totals: Carport Ceiling		29.87	618.73		134.27	484.46
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Fencing

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls & Ceiling
0.00 SF Floor	0.00 SF Short Wall	0.00 LF Floor Perimeter
0.00 SF Long Wall		0.00 LF Ceil. Perimeter

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State Farm

LUKAS, SUSAN

51-7639-Z17

QUANTITY	UNIT PRICE	TAX	RCV	AGE/LIFE CONDITION	DEPREC. DEP %	ACV
Fence along Driveway						
15. R&R Wood fence 5'- 6' high - cedar or equal						
76.50 LF	44.54	225.32	3,632.63			3,632.63
* 16. Stain - stain entire wood fence both sides						
2,400.00 SF	0.90	109.78	2,269.78	5/15 yrs Avg.	(756.59) 33.33%	1,513.19
17. Fencing Installer - per hour						
6.00 HR	61.13	15.28	382.06			382.06
The above line items include to replace the 9 sections of fence, stain the new sections, and stain entire fence on both sides. Additional labor to dig out gate posts, install concrete to stabilize. The sections would be considered a repair and no depreciation was applied to the wood fencing itself.						
Fence along road						
18. R&R Wood fence 5'- 6' high - cedar or equal						
112.00 LF	44.54	329.86	5,318.34	10/12 yrs Avg.	<4,254.68> 80.00%	1,063.66
19. Seal & paint - wood fence/gate						
1,344.00 SF	1.26	90.38	1,783.82	10/15 yrs Avg.	(1,189.21) 66.67%	594.61
The above two line items include to replace the run of fence along the road. Allowed to paint both sides.						
Totals: Fencing		770.62	13,386.63		6,200.48	7,186.15

Debris Removal

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls & Ceiling
0.00 SF Floor	0.00 SF Short Wall	0.00 LF Floor Perimeter
0.00 SF Long Wall		0.00 LF Cell. Perimeter

QUANTITY	UNIT PRICE	TAX	RCV	AGE/LIFE CONDITION	DEPREC. DEP %	ACV
20. Dumpster load - Approx. 30 yards, 5-7 tons of debris						
1.00 EA	850.00	35.41	885.41			885.41
The above line item includes for the non tree debris removal.						
Totals: Debris Removal		35.41	885.41		0.00	885.41

Tree Debris Removal

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls & Ceiling
0.00 SF Floor	0.00 SF Short Wall	0.00 LF Floor Perimeter
0.00 SF Long Wall		0.00 LF Cell. Perimeter

QUANTITY	UNIT PRICE	TAX	RCV	AGE/LIFE CONDITION	DEPREC. DEP %	ACV
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Date: 2/21/2019 2:57 PM

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State Farm

LUKAS, SUSAN

51-7639-Z17

CONTINUED - Tree Debris Removal

QUANTITY	UNIT PRICE	TAX	RCV	AGE/LIFE CONDITION	DEPREC. DEP %	ACV
21. General Demolition (Bid Item)						
1.00 EA	2,000.00 *	83.32	2,083.32			2,083.32
The above line item includes to move the tree debris removal off of covered property.						
22. Tree - removal - per hour (Labor only)						
10.00 HR	55.00	22.91	572.91			572.91
The above line item includes for the labor conducted by the policyholder in order to move the tree debris off the covered property. (PH assisted the tree removal service.)						
23. General Demolition (Bid Item)						
1.00 EA	500.00 *EN	0.00	500.00			500.00
The above line item includes to haul the tree debris from the property.						
Totals: Tree Debris Removal		106.23	3,156.23		0.00	3,156.23

Temporary Repairs

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls & Ceiling
0.00 SF Floor	0.00 SF Short Wall	0.00 LF Floor Perimeter
0.00 SF Long Wall		0.00 LF Ceil. Perimeter

QUANTITY	UNIT PRICE	TAX	RCV	AGE/LIFE CONDITION	DEPREC. DEP %	ACV
24. Tarp - all-purpose poly - per sq ft (labor and material)						
120.00 SF	1.13	6.90	142.50			142.50
25. R&R 4" x 4" square wood post (1.33 BF per LF)						
8.00 LF	6.34	2.70	53.42			53.42
26. Carpenter - General Framer - per hour						
1.00 HR	73.30	3.05	76.35			76.35
The above line items includes for the tarp placed on the roof and the wood post installed by the policyholder to minimize further damage to the fence.						
Totals: Temporary Repairs		12.65	272.27		0.00	272.27

Labor Minimums Applied

QUANTITY	UNIT PRICE	TAX	RCV	AGE/LIFE CONDITION	DEPREC. DEP %	ACV
* 27. Gutter labor minimum						
1.00 EA	39.66	1.65	41.31			41.31
* 28. Siding labor minimum						
1.00 EA	159.06	6.63	165.69			165.69

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State Farm

LUKAS, SUSAN

51-7639-Z17

CONTINUED - Labor Minimums Applied

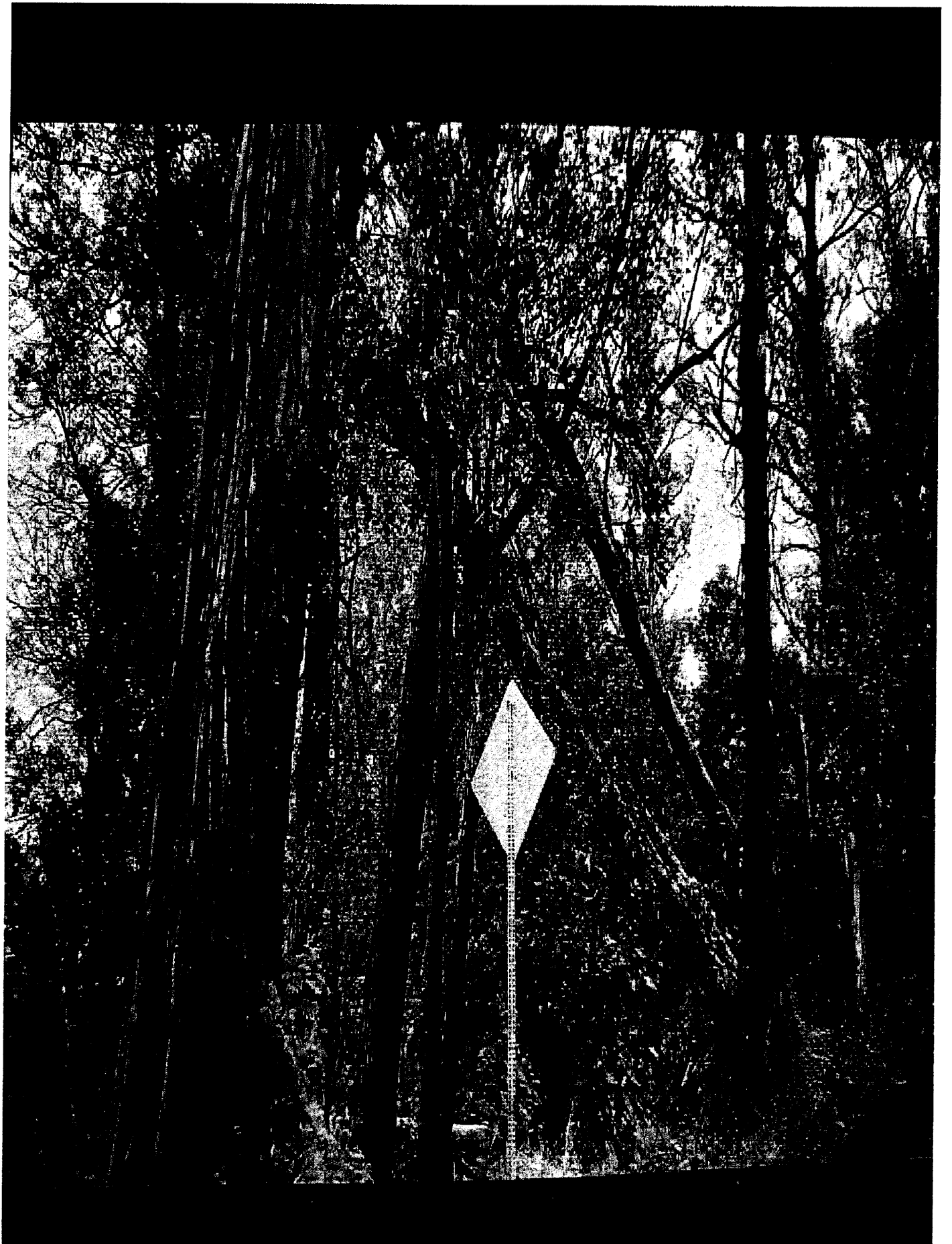
QUANTITY	UNIT PRICE	TAX	RCV	AGE/LIFE CONDITION	DEPREC. DEP %	ACV
* 29. Roofing labor minimum						
1.00 EA	587.89	24.49	612.38			612.38
Totals: Labor Minimums Applied		32.77	819.38		0.00	819.38
Line Item Totals: 51-7639-Z17		1,166.58	21,521.58		6,480.82	15,040.76

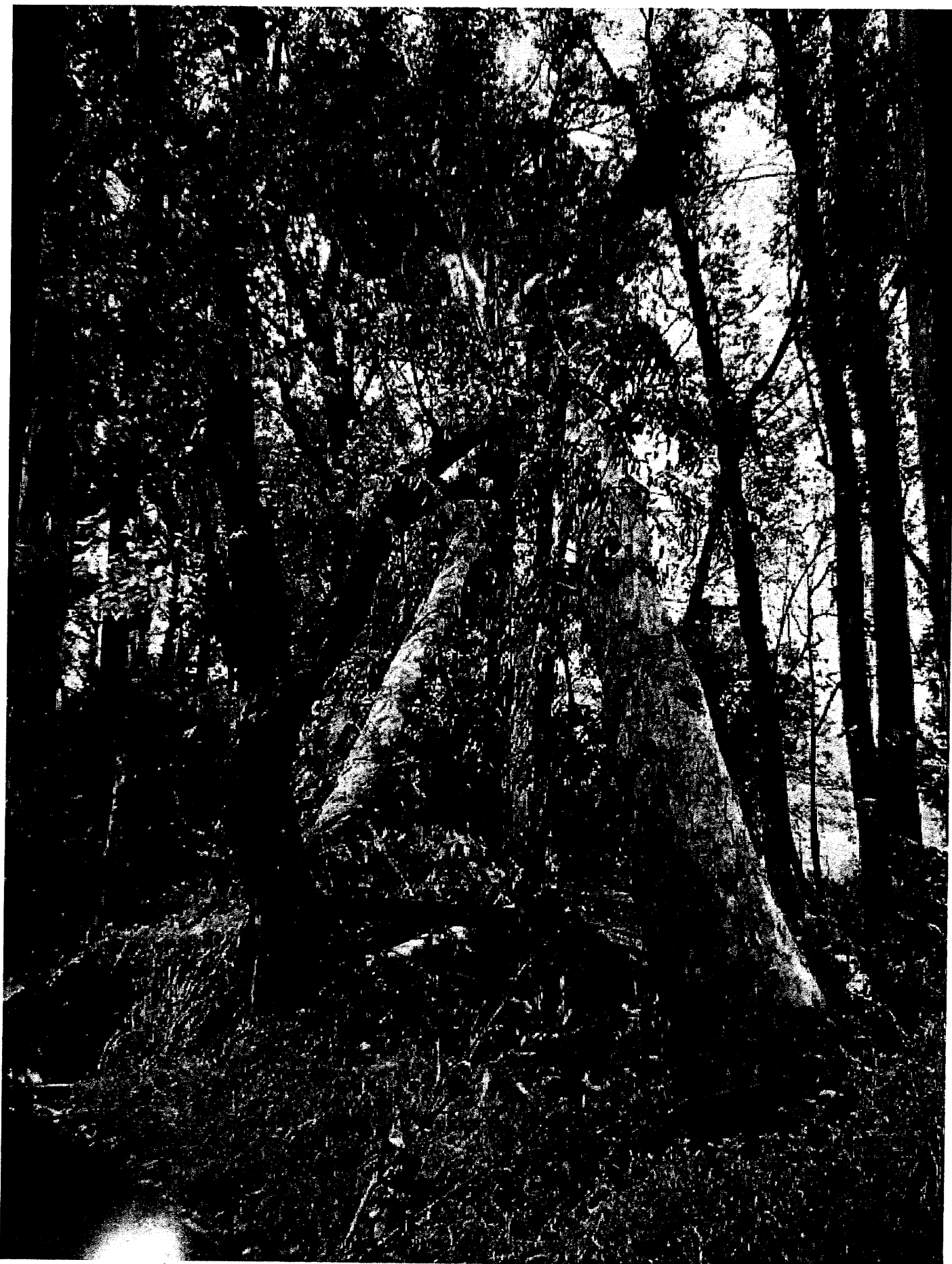
Grand Total Areas:

1,504.00 SF Walls	1,082.28 SF Ceiling	2,586.28 SF Walls and Ceiling
1,082.28 SF Floor		94.00 LF Floor Perimeter
		94.00 LF Ceil. Perimeter
541.14 Floor Area	572.92 Total Area	752.00 Interior Wall Area
1,762.71 Exterior Wall Area	96.67 Exterior Perimeter of Walls	
3,400.74 Surface Area	34.01 Number of Squares	566.77 Total Perimeter Length

Date: 2/21/2019 2:57 PM

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RELEASE OF PROPERTY DAMAGE CLAIM

John Lukas, his heirs, assigns and successors, thereby release and forever discharge the County of Maui, its officers, employees and agents, from all causes of action, and agree to withdraw, dismiss or refrain from filing any claim, complaint, charge or appeal against the County of Maui with any court, government board, agency, department or entity concerning the incidents, occurrences or losses on February 10, 2019, at 1755 Olinda Road, in Makawao, Maui, in the State of Hawaii.

In consideration of this release of property damage claim, County of Maui agrees to pay nine thousand five hundred seventy seven and 45/100 dollars (\$9,577.45) as full and final release and satisfaction of the property damage claim brought by John Lukas against the County of Maui.

It is hereby expressly understood and agreed that the payment or granting of the consideration described above is not an admission of liability or fault of any kind, but compromises and settles all property damage disputes between the parties for the purpose of avoiding further litigation or expense. Said payment is the final consideration of this Property Damage Release, and no other payment or consideration has been promised or will be paid for this property damage claim. This release is for property damage only and does not waive or release claims for bodily injury. This release is non-binding pending County of Maui approval. Each party to this agreement agrees to bear their own costs and attorney's fees.

Signed this 10 day of MAY 2019.


SIGNATURE
JOHN J. LUKAS
PRINTED NAME OF SIGNER

