

REQUEST FOR LEGAL SERVICES

Date: October 1, 2018
From: Robert Carroll, Chair
Land Use Committee

TRANSMITTAL


Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: David Galazin, Esq.

Subject: LICENSE TO ALEXANDER & BALDWIN, LLC, AS LICENSEE, AND DORIS TODD CHRISTIAN ACADEMY, AS SUBLICENSEE, FOR EXISTING ENCROACHMENTS ON COUNTY OF MAUI REAL PROPERTY ALONG BALDWIN AVENUE (MAKAWAO) (LU-68)

Background Data: Revise proposed resolution and encroachment agreement in accordance with attached markup. Also, please confirm whether Subdivision File No. 2.2217, referenced on page 2, paragraph 2, of the Encroachment Agreement, is correct. The accompanying Fact Sheet contains a Subdivision File No. 2.2892. In addition to the proposed revisions to Exhibit "A," please substitute a better copy of the description and map (portions are not legible). A signed hard copy is requested with your response.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

Requestor's signature  Robert Carroll	Contact Person Carla Nakata or James Krueger (Telephone Extension: 7659 or 7761, respectively)
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☒ ROUTINE (WITHIN 15 WORKING DAYS)

☐ RUSH (WITHIN 5 WORKING DAYS)

☐ PRIORITY (WITHIN 10 WORKING DAYS)

☐ URGENT (WITHIN 3 WORKING DAYS)

☐ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): _____

REASON: _____

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)

☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

Resolution

No. _____

SITUATED

AUTHORIZING THE GRANTING OF A LICENSE TO USE COUNTY OF MAUI REAL PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAI'I TO ALEXANDER & BALDWIN, LLC, AS LICENSEE, AND TO DORIS TODD CHRISTIAN ACADEMY, AS SUBLICENSEE, FOR EXISTING ENCROACHMENTS ALONG A PORTION OF BALDWIN AVENUE

WHEREAS, the County of Maui ("County") is the owner of that certain right-of-way and roadway referred to as Baldwin Avenue, situated in Hamakuapoko, Makawao, Island and County of Maui, State of Hawai'i ("County's Property"); and

WHEREAS, ALEXANDER & BALDWIN, LLC ("Licensee") and DORIS TODD CHRISTIAN ACADEMY ("Sublicensee") desire to maintain certain improvements installed by Sublicensee that minimally encroach into a portion of the County's Property, immediately adjacent to Licensee's property, located at Hamakuapoko, Makawao, Island and County of Maui, State of Hawai'i, designated as Tax Map Key Nos. (2) 2-5-005-020 (por.), 044, and 004 & 052 ("Licensed Premises"), in accordance with the terms and conditions of that certain Encroachment Agreement and License ("License Agreement") attached hereto as Exhibit "1" and made a part thereof; and

WHEREAS, the Director of Public Works has reviewed the License Agreement and recommends approval of the same; and

Resolution No. _____

WHEREAS, the License Agreement is freely revocable at any time by the County; and

WHEREAS, pursuant to Section 3.44.020 of the Maui County Code, the County Council may authorize the disposition of real property by resolution; and

WHEREAS, although the License Agreement does not convey a real property interest in the County's Property to either Licensee or Sublicensee, the County may permit the encroachments into a portion of the County's Property for an indeterminate length of time; now, therefore,

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


1. That it does hereby grant Licensee and Sublicensee permission to use the Licensed Premises, in accordance with the terms and conditions of the Encroachment Agreement and License attached hereto as Exhibit "1"; and

2. That it does hereby authorize the Mayor of the County of Maui, or the Mayor's duly authorized representative, to execute all necessary documents in connection with the granting of the ~~license, including the~~ Encroachment Agreement and License; and

Resolution No. _____

3. That certified copies of this Resolution be transmitted to the Licensee, the Sublicensee, the Mayor, and the Director of Public Works.

APPROVED AS TO FORM
AND LEGALITY:



DAVID A. GALAZIN
Deputy Corporation Counsel
County of Maui
2014-2755
2018-07-31 Resolution

LAND COURT SYSTEM

REGULAR SYSTEM

After Recordation Return by Mail ☒ Pick Up ☐

COUNTY OF MAUI
DEPT. OF PUBLIC WORKS
200 South High Street
Wailuku, Hawaii 96793

TOTAL NUMBER OF PAGES 15

TITLE OF DOCUMENT

ENCROACHMENT AGREEMENT AND LICENSE

PARTIES TO DOCUMENT

LICENSOR:	COUNTY OF MAUI 200 South High Street Wailuku, Hawaii 96793
LICENSEE:	ALEXANDER & BALDWIN, LLC 822 Bishop Street Honolulu, Hawaii 96813
SUBLICENSEE:	DORIS TODD CHRISTIAN ACADEMY 519 Baldwin Avenue Paia, Maui, Hawaii 96779

TAX MAP KEY: (2) 2-5-005-020 (portion), 044 & 052

EXHIBIT "1"

T.M.K.: (2) 2-5-005-020 (portion), 044 & 052

ENCROACHMENT AGREEMENT AND LICENSE

THE ENCROACHMENT AGREEMENT AND LICENSE made and entered into by and among the **COUNTY OF MAUI**, a political subdivision of the State of Hawaii, whose address is 200 South High Street, Wailuku, Maui, Hawaii 96793, hereinafter, called the "Licensor" or "County", and **ALEXANDER & BALDWIN, LLC**, a Delaware limited liability company, whose address is 822 Bishop Street, Honolulu, Hawaii 96813, hereinafter called the "Licensee", and **DORIS TODD CHRISTIAN ACADEMY**, a Hawaii nonprofit corporation, whose address is 519 Baldwin Avenue, Paia, Maui, Hawaii 96779, hereinafter called the "Sublicensee".

WHEREAS, the Licensee is the legal and equitable owner of that certain parcel of land situate in **Hamakuapoko, Makawao, Maui, Hawaii**, being **Lot B of the Paia Store Village Subdivision**, as shown on Subdivision File No. 2.2217, designated as **Tax Map Key Nos. (2) 2-5-005-020, 044, & 052**, hereinafter called the "Property"; and

WHEREAS, Sublicensee leases a portion of said **Lot B** containing **3.432 acres** and designated as **Tax Map Key Nos. (2) 2-5-005-020 portion, 044, & 052**; and

WHEREAS, portions of the Sublicensee's improvements minimally encroach into the Licensor's right-of-way along **Baldwin Avenue** adjacent to the Property, encroaching as shown on the Plat map showing as "License Area No. 1" prepared by Bruce R. Lee, Licensed Professional Land Surveyor, and as more particularly described by the metes and bounds description and sketch for said license area, attached hereto as Exhibit "A" and made a part hereof, hereinafter called the "Licensed Premises"; and

WHEREAS, Licensee and Sublicensee desire to maintain Sublicensee's encroachments in the Licensed Premises, until the Licensor desires to make improvements to Baldwin Avenue in the vicinity of the Licensed Premises, or until the Licensor desires for any public purpose that the Licensee and Sublicensee remove Sublicensee's encroachments from the Licensor's ~~right-of-way~~ ^{right-of-way} along Baldwin Avenue; and

WHEREAS, the Licensor is willing to accommodate the Licensee's and Sublicensee's request but only on the terms, covenants and conditions hereinafter set forth.

NOW, THEREFORE, THE LICENSEE AND SUBLICENSEE COVENANT AND AGREE WITH THE LICENSOR AS FOLLOWS:

1. Grant of License. The Licensor, for and in consideration of the terms, covenants and conditions contained herein, all on the part of the Licensee and Sublicensee to be kept, observed and performed, does hereby license the Licensed Premises to the Licensee and Sublicensee for the limited purpose of maintaining the existing portions of Sublicensee's encroachments on the Licensed Premises in the Licensor's right-of-way along Baldwin Avenue, until the Licensor's Director of the

Department of Public Works, hereinafter called the "Director", desires to make improvements to the Baldwin Avenue in the vicinity of the Licensed Premises, or until the Director desires for any public purpose that the Licensee and Sublicensee remove Sublicensee's encroachments and any appurtenances from the Licensors right-of-way along Baldwin Avenue.

2. Use of License. The Licensee and Sublicensee shall not make or suffer any strip or waste within the Licensed Premises, use or cause the Licensed Premises to be used for any improper, offensive, illegal or unlawful purpose or conduct or cause to be conducted within the Licensed Premises any activity which is contrary to or in violation of any governmental law or regulation.

3. Due Care and Diligence. The Licensee and Sublicensee shall use due care and diligence to keep the wall and the encroachments and the Licensed Premises in good and safe condition and repair and shall exercise its rights hereunder in such manner as to occasion the least practicable interference with the use of the County right-of-way by the County, its successors and assigns, and members of the traveling public, and shall at times take all necessary safety precautions, measures and controls for the protection of persons and property.

4. Indemnity. The Licensee and Sublicensee shall defend, indemnify and hold harmless the County, its officers, agents, employees and any person acting on its behalf: (1) from and against any and all claims or demands for loss, liability or damage, including claims for property damage, personal injury or wrongful death, arising from an accident on, about or in connection with Sublicensee's encroachments and any appurtenances, or the use of the Licensed Premises in the exercise by the Licensee and Sublicensee of said rights, or growing out of or caused by any failure on the part of the Licensee and Sublicensee to maintain the Licensed Premises in a safe condition; (2) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms, covenants, and conditions herein or the rules, regulations, ordinance and laws of the federal, state, municipal or county governments, and (3) shall reimburse the County for all costs and expenses, including but not limited to paying the County's attorney's fees and costs, in connection with the defense of such claims.

5. Restoration of Surface. After construction, reconstruction, installation, repair or removal of the encroachments and any appurtenances, the surface of the Licensed Premises shall be restored by the Licensee and Sublicensee to its original condition, to the extent that such restoration is reasonably possible, to the Director's satisfaction.

6. Damage to Improvements. The Licensee and Sublicensee shall be responsible for any and all damages to fences, walls, barriers, utility improvements, driveways, roadways or any other improvements, driveways, roadways or any other improvement that result or arise from entry and use of the Licensed Premises under this Encroachment Agreement and License.

7. Nonwaiver. Any forbearance or failure of the County to strictly enforce any condition or covenant of this Encroachment Agreement and License shall not be construed as a waiver of the right of the County to pursue any remedy hereunder for existing or subsequent defaults or for breach of any other similar or different term, covenant or condition herein on the part of Licensee and Sublicensee to be observed and performed.

8. Duration. This Encroachment Agreement and License shall be effective as of the date of these presents below written, and shall continue until such time that the Director desires to make improvements to Baldwin Avenue in the vicinity of the Licensed Premises or until the Director desires for any public purpose that the Licensee and Sublicensee remove the encroachments and any appurtenances from the County's right-of-way along Baldwin Avenue.

9. Abandonment. In the event the Licensee and Sublicensee shall at any time completely abandon the Licensed Premises and for a period of six (6) months thereafter fail to use the Licensed Premises, this Encroachment Agreement and License shall terminate automatically without the requirement of any further act or documentation of such termination. Notwithstanding the foregoing, the Licensee and Sublicensee shall, at the County's written request forthwith execute and deliver to the County an instrument suitable for recordation in the appropriate registry of the State of Hawaii as shall be sufficient to evidence the termination and surrender of the Licensed Premises to the County.

10. Surrender. The Licensee and Sublicensee shall at the termination of this Encroachment Agreement and License, remove Sublicensee's encroachments and any appurtenances from the Licensor's right-of-way along Baldwin Avenue, within thirty (30) days of the termination of this Encroachment Agreement and License or such extension of time that may be granted, in its sole discretion, by the Director, and the Licensee and Sublicensee shall at the time peacefully deliver unto the Licensor possession of the Licensed Premises, excluding all improvements existing or constructed thereon. Furthermore, upon the termination of this license, should the Licensee and Sublicensee fail to remove the encroachments and any appurtenances from the Licensor's right-of-way along Baldwin Avenue, the Licensor may remove any and all such property from the Licensed Premises at the sole cost and expense of Licensee and Sublicensee, and the Licensee and Sublicensee do hereby agree to pay all costs and expenses for such removal, and such costs and expenses shall be a lien on the Licensee's Property until paid in full by the Licensee and Sublicensee to the Licensor.

11. Non-Warranty and Acceptance of Premises. The Licensor does not warrant the conditions of the Licensed Premises, as the same is being licensed as is. Licensee and Sublicensee accept the Licensed Premises in the condition they are in at the commencement of this Encroachment Agreement and License, and acknowledges that the Licensor has made no representations concerning the conditions of the Licensed Premises or their suitability for the use intended to be made thereof. The Licensee and Sublicensee accept~~s~~ and assum~~es all risks with respect to entry upon the~~

Licensed Premises and the conditions thereof, including without limitation, any dangerous conditions (latent or patent).

Encroachment Agreement and License
12. Termination. The Licensors hereby reserves the right to terminate this license at will, by notice from the Director and in his sole discretion, with or without cause, upon the Director giving ninety (90) days advance written notice to the Licensee and Sublicensee.
the Director's

13. Nature of this License. The Licensors and the Licensee and Sublicensee hereby acknowledge and agree that the nature of this license is as follows:

Through this
a. ~~This~~ *Encroachment Agreement and License* Encroachment Agreement and License, the Licensors grants a license to the Licensee and Sublicensee. This Encroachment Agreement and License grants the permission of the Licensors for the Licensee and Sublicensee to enter the property of the Licensors for the specific and limited purpose stated herein.

b. This Encroachment Agreement and License grants to the Licensee and Sublicensee the privilege to use the Licensors's property for the particular purpose set forth herein.

c. This Encroachment Agreement and License does not convey to the Licensee and Sublicensee any interest in the land of the Licensors. This ~~license~~ *Encroachment Agreement and License* is not an easement and it is not a lease. The Licensee and Sublicensee hold no estate in the property of the Licensors. At all times hereunder, the Licensors retains legal possession of the Licensed Premises, and the Licensee and Sublicensee ~~has~~ *have* only a privilege to enter for the particular purpose stated herein.

14. Definitions. As used herein, unless clearly repugnant to the context:

a. "Licensee" and "Sublicensee" shall mean and include the Licensee and Sublicensee named herein, their agents, representatives, heirs, devisees, personal representatives, successors or any other Permitted Assigns. "Permitted Assigns" shall mean those assignees approved by Licensors.

b. "Licensors" shall mean and include the County of Maui, its officers, agents and assigns.

c. "Roadway Encroachment" or "Licensed Premises" means the land hereby licensed upon which the Sublicensee's existing encroachments encroaches on the County's right-of-way along Baldwin Avenue, as shown on the Plat Map showing said licensed area, prepared by Bruce R. Lee, Licensed Professional Land Surveyor, and as more particularly described by the metes and bounds description of said license area, collectively attached hereto as Exhibit "A" and made a part hereof.

d. "Waste" shall be deemed to include, but not limited to:
be

1. Permitting the Licensed Premises, or any portion thereof, to become unduly eroded and/or failure to take proper precautions or make reasonable effort to prevent or correct same;

2. Permitting any material increase in weeds in uncultivated portions thereof.

15. Agreement Between Licensee and Sublicensee. It is agreed that the Sublicensee shall be responsible for the Licensed Premises which fronts its leased portion of Licensee's Property during the term of its lease with Licensee. In the event Sublicensee purchases Sublicensee's leased property and the portions of the parcels fronting Baldwin Avenue that contain the entire Licensed Premises, the parties agree that Licensee shall be automatically released from all of the terms, covenants and conditions herein to be observed or performed by Licensee, including without limitation, Licensee's obligation to indemnify the County pursuant to Section 4 of this Encroachment Agreement and License. The parties acknowledge that Licensee is joining in this Encroachment Agreement and License solely in Licensee's capacity as the owner of the Property, and that Licensee does not own any of the encroachments covered by this Encroachment Agreement and License.

16. Paragraph Headings. The paragraph headings throughout this Encroachment Agreement and License are for the convenience of the Licensors, Licensee and the Sublicensee and are not intended to construe the intent or meaning of any of the provisions thereof.

17. Hawaii Law. This Encroachment Agreement and License shall be construed and governed by the laws of the State of Hawaii.

18. Entire Agreement; Amendment. This written Encroachment Agreement and License represents the entire agreement of the parties hereto. This Encroachment Agreement and License may be amended only by written amendment executed by all parties.

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

Pursuant to Section 18-215 of the Delaware Limited Liability Company Act, Licensee established within itself Series R, to which the Property has been allocated. Licensee is hereby executing this Encroachment Agreement and License on behalf of Series R.

20. Gender. The use of any gender shall include all genders, and if there be more than one (1) Licensee, then all words used in the singular shall extend to and include the plural.

21. Insurance. Licensee and Sublicensee shall procure, ^{their} at own cost and expense, and maintain during the entire period of this Agreement, a policy or policies of comprehensive liability insurance issued by an insurance company authorized to do business in the State of Hawaii, or by a company not authorized to do business in the State of Hawaii only through a general insurance agent or broker rated not less than "A-" as established by "AM Best" or "Standard and Poor" ratings.

The insurance policies as evidenced by issuance of a "Policy Endorsements", shall name the Licenser and Licensee, as appropriate, their officers, employees and agents as "Additional Named Insured", and shall include a duty to defend the Licenser and Licensee, as appropriate, their officers, employees and agents against any loss, liability, claims and demands for injury or damage, personal injury, or wrongful death, arising out of, or in connection with Licensee's or Sublicensee's actions and/or use of the Licensed Premises under this Agreement. The policy or policies shall cover the entire Licensed Premises, including any improvements on the Licensed Premises in the control or use by the Licensee and/or Sublicensee.

Unless otherwise agreed to by the Licenser, through the joint decision and discretion of the Director of Public Works and the Director of Finance, the insurance policy shall contain the following minimum requirements:

- 1) No less than a Combined Single Limit of liability coverage of \$1,000,000; and
- 2) No erosion of limit by payment of defense costs; and
- 3) Minimum annual aggregate limit of \$2,000,000

Licensee and Sublicensee shall furnish Licenser and Licensee ^{ok} with a certificate showing the policy to be initially in force and shall furnish a like certificate upon each renewal of the policy, each certificate to contain or be accompanied by an assurance of the insurer to notify Licenser and Licensee of any intention to cancel the policy no later than sixty (60) days prior to actual cancellation. The procuring of this policy shall not release or relieve Licensee or Sublicensee of Licensee's and Sublicensee's responsibilities under this Agreement or limit the amount of Licensee's and Sublicensee's liability under this Agreement. Any notice to cancel shall be sent to Licenser and Licensee no later than sixty (60) days prior to the date of cancellation. Licensee and Sublicensee shall cause the policy or policies for liability insurance to be delivered to Licenser and Licensee, as appropriate, within thirty (30) days of execution of this Agreement by Licensee and Sublicensee.

If Licensee or Sublicensee fails, refuses, or neglects to obtain such insurance or to maintain the same, Licenser and Licensee shall have the right, but not the obligation, to procure such insurance, and the costs thereof with interest shall be paid by Licensee

or Sublicensee to Licensor or Licensee, as appropriate, upon demand. If during the term of this Agreement higher limits of insurance than those mentioned herein above shall be appropriate, customary and generally required for similar Licensed Premises utilized for similar uses, then upon request by Licensor, Licensee and Sublicensee shall procure such insurance with higher limits.

In addition to the insurance carried by Licensee and Sublicensee during the course of any construction, alteration, or repair work undertaken by a contractor selected by or for Licensee or Sublicensee, such contractor shall carry public liability insurance with limits of at least ONE MILLION AND NO/100 DOLLARS (\$1,000,000).

22. Maui County Council Approval. This agreement shall be subject to the approval of the Maui County Council.

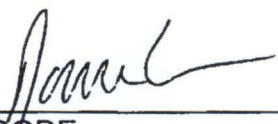
IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed this _____ day of _____, 2018.

LICENSOR:

COUNTY OF MAUI

By _____
ALAN M. ARAKAWA
Its Mayor

APPROVAL RECOMMENDED



DAVID C. GOODE
Director of Department of Public Works


APPROVED AS TO FORM AND LEGALITY:

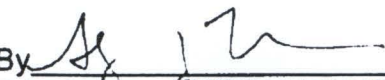


DAVID A. GALAZIN
Deputy Corporation Counsel
County of Maui

LICENSEE:

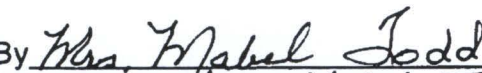
ALEXANDER & BALDWIN, LLC,
a Delaware limited liability company

By 
Print Name: MEREDITH J. CHING
Its SENIOR VICE PRESIDENT, Series R

By 
Print Name: ALYSON J. NAKAMURA
Its SECRETARY, Series R

SUBLICENSEE:

DORIS TODD CHRISTIAN ACADEMY, a
Hawaii nonprofit corporation

By 
Print Name: Mrs. Mabel Todd
Its DTCA board president

STATE OF HAWAII

COUNTY OF MAUI

)
) ss.
)

This 15-page ENCROACHMENT AGREEMENT AND LICENSE dated _____ was subscribed and sworn to before me, _____, on _____ in the Second Circuit of the State of Hawaii, by **ALAN M. ARAKAWA**, to me personally known, who being by me duly sworn did say that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Council, and the said **ALAN M. ARAKAWA** acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Print Name: _____
Notary Public, State of Hawaii
My commission expires: _____

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: ENCROACHMENT
AGREEMENT AND LICENSE

☐ Doc. Date: _____ or ☐ Undated at time of notarization

No. of Pages: _____ Jurisdiction: Second Circuit
(in which notarial act is performed)

Signature of Notary

Date of Notarization and
Certification Statement

Printed Name of Notary

(Official Stamp or Seal)

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

This 15-page ENCROACHMENT AGREEMENT AND LICENSE dated undated at time of notarization was subscribed and sworn to before me, KATHLEEN CHAPMAN, on August 9, 2017 in the First Circuit of the State of Hawaii, by MEREDITH J. CHING and ALYSON J. NAKAMURA, to me personally known, who being by me duly sworn did say that they are the Senior vice president & Secretary, respectively, of ALEXANDER & BALDWIN, LLC, a Delaware limited liability company, and that said instrument was signed on behalf of said company and the said officers acknowledged said instrument to be the free act and deed of said company.



(Official Stamp or Seal)

(Kathleen Chapman)
Print Name: KATHLEEN CHAPMAN
Notary Public, State of Hawaii
My commission expires: 10/11/2019

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: ENCROACHMENT AGREEMENT AND LICENSE

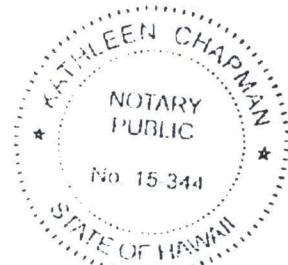
☐ Doc. Date: _____ or ☒ Undated at time of notarization

No. of Pages: 15 Jurisdiction: First Circuit
(in which notarial act is performed)

(Kathleen Chapman) 8/9/2017
Signature of Notary Date of Notarization and
Certification Statement

KATHLEEN CHAPMAN

Printed Name of Notary



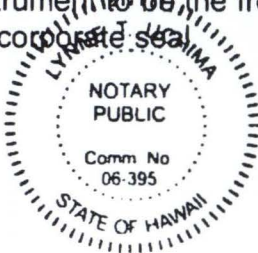
(Official Stamp or Seal)

STATE OF HAWAII

COUNTY OF MAUI

)
) ss.
)

This 15-page ENCROACHMENT AGREEMENT AND LICENSE dated undated at time of notarization was subscribed and sworn to before me, LYNNE T. UCHIMA, on July 31, 2017 in the Second Circuit of the State of Hawaii, by Nabel Todd, to me personally known, who being by me duly sworn did say that he/she is the Board President of **DORIS TODD CHRISTIAN ACADEMY**, a Hawaii non-profit corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors and said officer acknowledged said instrument to be the free act and deed of said corporation and that said corporation has no corporate seal.



Lynne T. Uchima
Print Name LYNNE T. UCHIMA
Notary Public, State of Hawaii
My commission expires: 7/2/2018

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: ENCROACHMENT AGREEMENT AND LICENSE

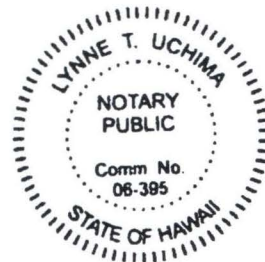
☐ Doc. Date: _____ or ☒ Undated at time of notarization

No. of Pages: 15 Jurisdiction: Second Circuit
(in which notarial act is performed)

Lynne T. Uchima 7/31/17
Signature of Notary Date of Notarization and
Certification Statement

LYNNE T. UCHIMA

Printed Name of Notary



(Official Stamp or Seal)

Encroachment
EXHIBIT "A"
(For ~~License~~ Agreement)

and License

> or just delete

DESCRIPTION
LICENSE AREA NO. 1
(FOR EXISTING IMPROVEMENTS)
AFFECTING THE BALDWIN AVENUE RIGHT-OF-WAY

All of that certain parcel of land known as a portion of the Baldwin Avenue right-of-way, situated at Hamakuapoko, Makawao, Island and County of Maui, State of Hawaii and being more particularly described as follows:

Beginning at the east corner of this parcel of land, being the south corner of Lot B-1 of the Paia Store Village Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUUNENE 2" being:

1,443.52 feet North
8,492.15 feet East

And running by azimuths measured clockwise from true south:

1. 48° 36' 00" 10.00 feet along the remainder of the Baldwin Avenue right-of-way to a point;
2. 138° 36' 00" 560.02 feet along the same to a point;
3. 228° 36' 00" 10.00 feet along the same to a point;
4. 318° 36' 00" 560.02 feet along the southwest boundary of Lot B-1 of the Paia Store Village Subdivision to the point of beginning and containing an area of 5,600 Square Feet.

Prepared by:

NEWCOMER-LEE
LAND SURVEYORS, INC., a Hawaii Corporation

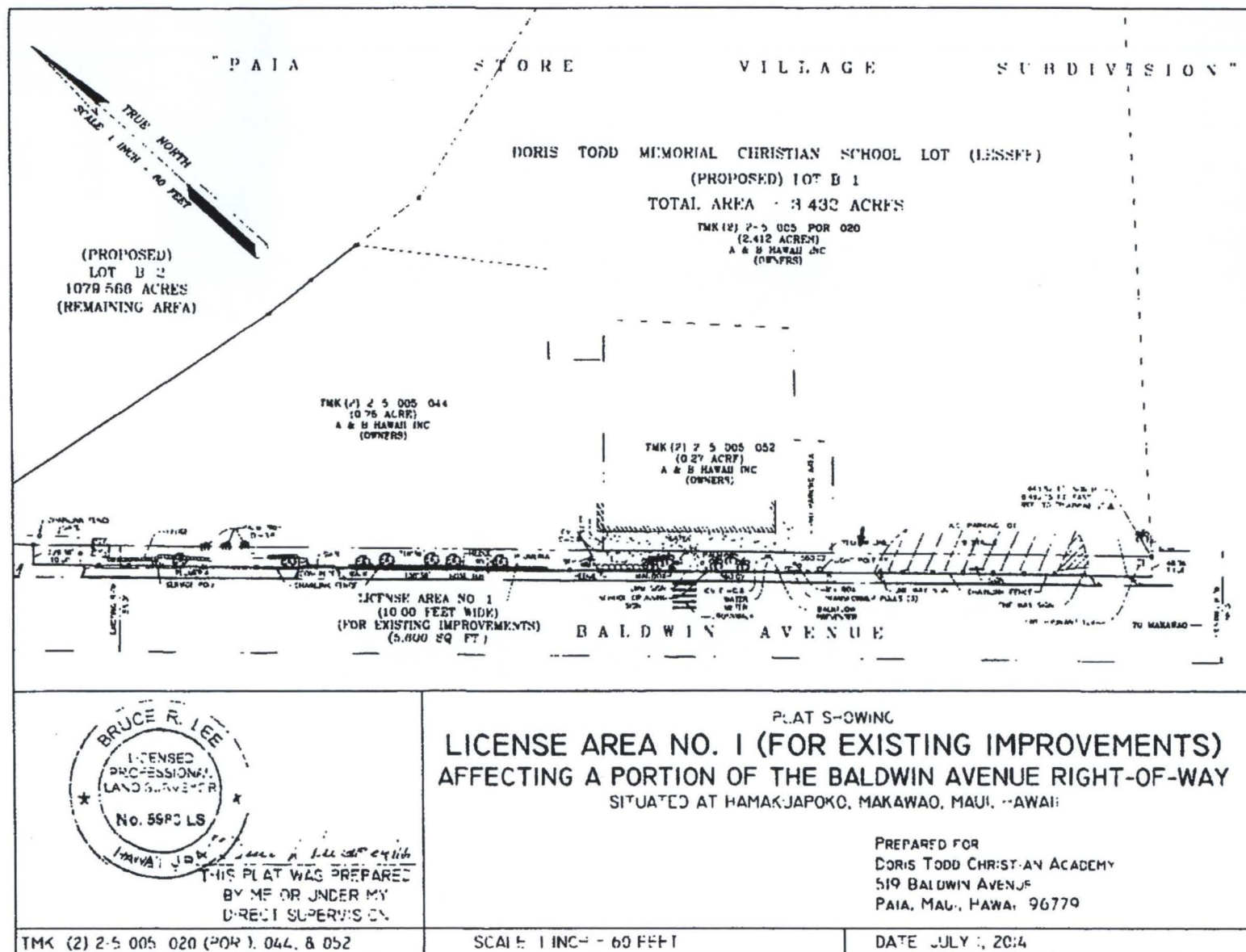


This description was prepared from a survey on the ground performed by me or under my supervision.

Bruce R. Lee

BRUCE R. LEE
Licensed Professional Land
Surveyor Certificate No. 5983-I.S.

8-29-14
DORIS TODDMORE
File 13-9787
13-9787 CHD-101A License Agreement Description



**FACT SHEET
FOR
ENCROACHMENT AGREEMENT AND LICENSE**

1. Project Name: ***Paia Store Village Subdivision
Doris Todd Christian Academy
Subdivision File No. 2.2892***
2. Tax Map Key No.: ***(2) 2-5-005:020 (portion), 044, & 052***
3. Licensee: ***Alexander & Baldwin, LLC***
Sublicensee: ***Doris Todd Christian Academy***
4. Applicant: ***Melanie Takushi
A&B Properties, Inc.
11 Puunene Aveue
Kahului, Hawaii 96732***
5. Area of easement to be dedicated: **5,600 sf**
6. Confirmation that all improvements have been completed. Specific agency and date of approval will be listed. If improvements were not made, we will indicate so and provide an explanation. **Not applicable; the license will cover existing encroachments.**
7. A statement that the dedication is consistent with conditions of approval and are in conformance with County standards:

This statement is not applicable as this is a license and not a dedication to the County of Maui.
8. Title of the proposed Resolution:

***AUTHORIZING THE GRANTING OF A LICENSE TO USE COUNTY OF MAUI
REAL PROPERTY SITUATED AT MAKAWAO, MAUI, HAWAI'I TO
ALEXANDER & BALDWIN, LLC, AS LICENSEE, AND TO DORIS TODD
CHRISTIAN ACADEMY, AS SUBLICENSEE, FOR EXISTING
ENCROACHMENTS ALONG A PORTION OF BALDWIN AVENUE***