

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



WENDY GADY
Executive Director

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OU LU AINA MAHIAI
235 S. Beretania Street, Suite 205
Honolulu, HI 96813

Regular Meeting of the Board of Directors

Held via Teleconference with In-Person Viewing Location

September 21, 2023
9:00 a.m.

Pursuant to section 92-3.7, Hawaii Revised Statutes, this meeting will be held using interactive conference technology (ICT). Board members, staff, persons with business before the Board, and the public may participate remotely online using ICT, or may participate via the in-person meeting site which provides ICT.

Interested persons may submit written testimony in advance of the meeting, which will be distributed to Board members prior to the meeting. We request that testimony be received by our office not less than seventy-two hours prior to the meeting to ensure that staff has time to disseminate it and that Board members have time to review it. Written testimony may be submitted electronically to dbedt.adc@hawaii.gov or sent via U.S. Postal Service to: Agribusiness Development Corporation, 235 South Beretania Street, Suite 205, Honolulu, Hawaii 96813.

When testifying via ICT, via telephone, or in-person, you will be asked to identify yourself and the organization you represent, if any. Each testifier will be limited to two minutes of testimony per agenda item.

The public may participate in the meeting via:

ICT: [click here to join](#)

Telephone: **(669) 900-6833, Webinar ID: 895 8790 7128**

In-Person: **at the meeting location indicated below**

ICT ACCESS

To view the meeting and provide live oral testimony, please use the link at the top of the agenda. You will be asked to enter your name. The Board requests that you enter your full name, but you may use a pseudonym or other identifier if you wish to remain anonymous. You will also be asked for an email address. You may fill in this field with any entry in an email format, e.g., ****@****.com.

Your microphone will be automatically muted. When the Chairperson asks for public testimony, you may click the Raise Hand button found on your Zoom screen to indicate that you wish to testify about that agenda item. The Chairperson or staff will individually enable each testifier to unmute their microphone. When recognized by the Chairperson, please unmute your microphone before speaking and mute your microphone after you have finished speaking.

For ICT, telephone, and in-person access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to two minutes of testimony per agenda item.

TELEPHONE ACCESS

If you do not have ICT access, you may get audio-only access by calling the Telephone Number listed at the top on the agenda.

Upon dialing the number, you will be prompted to enter the Meeting ID listed next to the Telephone Number at the top of the agenda. After entering the Meeting ID, you will be asked to either enter your panelist number or wait to be admitted into the meeting. Please wait until you are admitted into the meeting.

When the Chairperson asks for public testimony, you may indicate you want to testify by entering “#” and then “9” on your telephone’s keypad. After entering “#” and then “9”, a voice prompt will let you know that the host of the meeting has been notified. When recognized by the Chairperson, you may unmute yourself by pressing “#” and then “6” on your telephone. A voice prompt will let you know that you are unmuted. Once you are finished speaking, please enter “#” and then “6” again to mute yourself.

For ICT, telephone, and in-person access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to two minutes of testimony per agenda item.

Instructions to attend State of Hawaii virtual board meetings may be found online at <https://cca.hawaii.gov/pvl/files/2020/08/State-of-Hawaii-Virtual-Board-Attendee-Instructions.pdf>.

IN-PERSON ACCESS

There will also be one meeting location, open to the public, which will have an audio-visual connection. That meeting will be held at:

State of Hawaii, Leiopapa A Kamehameha
State Office Tower Building
235 S. Beretania St, Room 204
Honolulu, HI 96813

For ICT, telephone, and in-person access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to two minutes of testimony per agenda item.

LOSS OF CONNECTIVITY

In the event of a loss of ICT connectivity, the meeting will be recessed for a period not to exceed thirty minutes to restore connectivity with all board members and the public in-person access location noted above. In the event that audio connectivity is re-established within thirty minutes without video connectivity, interested participants can access the meeting via the telephone number and Meeting ID number noted above.

In the further event that connectivity is unable to be restored within thirty minutes, the meeting will be automatically continued to a date and time to be posted on the ADC website at <https://dbedt.hawaii.gov/adc/> no later than close of business the next business day. New ICT, telephone, and in-person access information will be posted on the website no less than twenty-four hours prior to the continued meeting date. Alternatively, if a decision is made to terminate the meeting, the termination will be posted on the ADC website.

SPECIAL ASSISTANCE

If you require special assistance, accommodations, modifications, auxiliary aids, or services to participate in the public hearing process please contact staff at (808) 586-0186 preferably at least three business days prior to the meeting so arrangements can be made. To request translation or interpretation services please contact staff at (808) 586-0186 or email: dbedt.adc@hawaii.gov. Please allow sufficient time for the ADC to meet translation or interpretation services requests.

NOTE: MATERIALS FOR THIS AGENDA WILL BE AVAILABLE FOR REVIEW IN THE ADC OFFICE, 235 SOUTH BERETANIA STREET, SUITE 205, HONOLULU, HAWAII 96813 ON AND AFTER SEPTEMBER 15, 2023.

Agribusiness Development Corporation Non-Discrimination Statement

The Agribusiness Development Corporation does not discriminate on the basis of race, color, sex, national origin, age, or disability, or any other class as protected under applicable federal or state law, in administration of its programs, or activities, and the Agribusiness Development Corporation does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in actions protected by, or oppose action prohibited by, 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights.

If you have any questions about this notice or any of the Agribusiness Development Corporation’s non-discrimination programs, policies, or procedures, you may contact:

Mark Takemoto
Acting Title VI Non-Discrimination Coordinator
235 S. Beretania St., Ste 205
Honolulu, HI 96813
(808) 586-0186
dbedt.adc.titlevi@hawaii.gov

AGENDA

- A. Call to Order
- B. Approval of Minutes
 - 1. Board Meeting Minutes, August 8, 2023
 - 2. Executive Session Minutes, August 8, 2023
- C. Chairperson's Report
 - 1. None
- D. Committee Reports
 - 1. None
- E. Action Items
 - 1. Request for approval to refer License Agreement No. LI-GA1810 issued to Liu's Plantation, Inc. to the Department of the Attorney General for enforcement action, TMK (1) 7-1-012:001 (por.)
 - 2. Request for approval to conduct due diligence for the purpose of negotiating the fee simple interest of 155.702 acres, more or less, in real property located at Waialua, Oahu, Hawaii, TMK (1) 6-5-005:008
 - 3. Request to amend prior Board approval to issue a 35-year non-exclusive license to the County of Kauai for two monitoring wells in Field 311 in Kekaha, Kauai, Hawaii, TMK (4) 1-2-002:001 (por.)
 - 4. Request for settlement authority on complaint by Ohana Best LLC vs. State of Hawaii, Agribusiness Development Corporation and James Nakatani (deceased) in his individual capacity, and Wendy L. Gady, in her capacity as executive director of ADC, Civil No. 19-1-1640-10, First Circuit Court, State of Hawaii

The Board may go into executive session, pursuant to HRS section 92-5(a)(4), to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities.

- 5. Update and discussion regarding RFP 2022, including a) dissolve the permitted interaction group established on January 25, 2023, and b) establish a new permitted interaction group of Board Members and project professionals to assess and evaluate the offeror's proposal

The Board may go into executive session pursuant to §92-5(a)(8), Hawaii Revised Statutes, to deliberate or make a decision upon a matter that requires

the consideration of information that must be kept confidential pursuant to HRS section 103D-101 to ensure a fair procurement process.

6. Discussion of Sunshine Law complaint (S APPEAL 24-02) by anonymous complainant regarding the hiring of the new ADC Executive Director

The Board may go into executive session, pursuant to section §92-5(a)(4), Hawaii Revised Statutes.

7. Confirmation vote regarding the hiring of the new ADC Executive Director

F. Informational Items

1. Appointment of members to the standing Technical Assistance Committee and the Marketing & Communications Committee
2. Executive Director's Report

G. Adjourn

The Board may go into executive session on any agenda item pursuant to the exceptions provided under section §92-5, Hawaii Revised Statutes.

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on August 8, 2023

Via Zoom Teleconference and In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Pursuant to section 92-3.7, Hawaii Revised Statutes (HRS), this meeting was held remotely with Board members, Staff, Applicants, and the Public participating via Zoom meeting venue, and at the In-Person meeting location available for public participation at the State of Hawaii, Leiopapa A Kamehameha, State Office Tower Building, 235 S. Beretania St., Room 204, Honolulu, HI 96813.

Members Present, in person:

Warren Watanabe, Member-At-Large (Chair)

Glenn Hong, Member-At-Large (Mr. Hong)

Sharon Hurd, HBOA, Ex-Officio Member (Ms. Hurd) (arrived at 9:50 A.M.)

Jason Okuhama, Member-At-Large (Mr. Okuhama)

Lyle Tabata, Kauai County Member, Vice-Chair (Mr. Tabata) (left at 12:30 P.M.)

Jayson Watts, Maui County Member (Mr. Watts)

Dane Wicker, DBEDT Designated Representative for Ex-Officio Member James Tokioka (Mr. Wicker) (left at 12:30 P.M.)

Members Excused:

Kaleo Manuel, Designated Representative, DLNR for Ex-Officio Member Ms. Dawn Chang (Mr. Manuel),
Karen Seddon, Member-At-Large (Ms. Seddon)

Counsel Present, in person:

Delanie Prescott-Tate, Deputy Attorney General (Ms. Prescott-Tate)

Staff Present, in person

Ken Nakamoto, Project Manager (Mr. Nakamoto)

Staff Present, virtually:

Mark Takemoto, Executive Assistant

Lyle Roe, Property Manager

Guests Present, virtually:

Beth Amaro

Brian Miyamoto

Dexter Kishida

Mark Ladao

Thomas Heaton

Guests Present, physical location: None.

A. Call to Order

Chair called the meeting to order at 9:11 a.m.

B. Roll Call

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Chair conducted a roll call of the Board. Chair called the name of each board member and asked them to identify their presence with a “here” or “present”. Chair stated that the roll call served as the roll call vote, and for each subsequent vote, the Chair would ask if there were any objections. If there were no objections the motion will be approved on the same basis as the roll call.

Roll call: Chair, Mr. Hong, Mr. Okuhama, Mr. Tabata, Mr. Watts, and Mr. Wicker acknowledged attendance with no guests present. Ms. Hurd entered the meeting at 9:50 A.M.

C. Approval of Minutes

None.

SEE OLD BUSINESS AGENDA ITEM E-1, WHICH WAS TAKEN OUT OF ORDER AS THE FIRST AGENDA ITEM.

D. New Business

Chair stated HRS Section 92-4 allows the board to hold an executive meeting closed to the public. The board will be discussing new business items 1, 2, and 3, which is the interview of the top 2 applicants, salary discussion, selection of the applicant and salary amount, and decide on the public notification method. This discussion may be closed to the public pursuant to HRS Section 92-5(a)(2) to allow discussion of a hiring decision where consideration of matters affecting privacy will be involved. Chair said before they go into executive session is there any public testimony. Please be advised that testimony is limited to the decision to go into executive session.

There was no public testimony.

Chair asked for a motion to go into executive session.

Motion: Mr. Tabata; Second: Mr. Okuhama.

Chair noted there was no staff presentation.

Chair asked for board discussion. There was none.

Chair called for the vote. Hearing no objection the motion was approved: 6-0

Chair stated that the public meeting was in recess subject to reconvening at the conclusion of the executive session. The Board entered into executive session at 9:20 A.M. pursuant to HRS section 92-5(a)(2).

The Board lost quorum at 12:30 p.m. with the departure of Mr. Tabata and Mr. Wicker.

Chair Watanabe called the virtual meeting back to order at 12:31 p.m.

Chair stated that pursuant to Act 19, SLH 2023, the board took the following actions based upon discussions by the full board in executive session. The board of directors conducted in-person interviews of the top 2 applicants; the board of directors discussed the salary range to be offered to the selected executive director applicant; the board of directors selected the person to be offered the executive director position and salary amount; the board of directors will offer the selected person

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on August 8, 2023

Via Zoom Teleconference and In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

the executive director position in writing via letter to be delivered by the US postal service. If the offer is accepted, the name of the new executive director will be made public by press release.

E. Old Business (taken out of order as first agenda item)

1. Deliberation and decision making on the recommendation(s) of the Executive Director Search Committee permitted interaction group submitted to the Board at the July 20, 2023 regular meeting.

Chair stated that on July 20, 2023 the Executive Director Search Committee presented its findings and recommendations to the full board. The committee recommended that the full board conduct in person interviews of the top 2 applicants in executive session. The term in-person interview means all board members and two applicants attend the executive session in-person. It was suggested that the in-person interviews take place on Thursday, August 3, 2023 provided that the 2 applicants were available that day. If the applicants were unavailable, the committee recommended that the in-person interviews be scheduled on a mutually agreeable date. Following the in-person interviews, the committee recommended that in executive session the full board discuss the salary to be offered and select the applicant who will be offered the Executive Director position and the salary amount. The committee recommended that the selected candidate be notified of the offer by written letter and if the offer is accepted, the board decide how the public should be notified, such as by press release, posting on the ADC website, and/or at the next board meeting to be held on August 17, 2023.

Chair asked for a motion to accept the July 20, 2023 recommendations of the Executive Director Search Committee.

Motion: Mr. Watts; Second: Mr. Tabata.

Chair noted that the applicants were not available on August 3, 2023 and the next mutually agreeable date is today, August 8, 2023.

Chair asked for public testimony on the Committee's recommendations. There was none.

Chair asked for board discussion. There was none.

Chair called for the vote. Hearing no objection the motion was approved: 6-0.

F. Adjourn

Chair stated seeing no other business he asked for a motion to adjourn.

Motion to adjourn: Mr. Hong; Second: Mr. Watts.

Chair called for the vote – hearing no objections the motion was approved.

Vote: 5-0. Mr. Wicker and Mr. Tabata excused.

Meeting adjourned at 12:32 p.m.

Date of Next Meeting: The next meeting will be held on August 17, 2023, at 9 A.M.

AGRIBUSINESS DEVELOPMENT CORPORATION

Minutes of the Board of Directors Meeting held Virtually on August 8, 2023

Via Zoom Teleconference and In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

DRAFT



STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

235 S. Beretania Street, Suite 205
Honolulu, HI 96813
Phone: (808) 586-0186 Fax: (808) 586-0189

September 21, 2023

Subject: Request for approval to refer License Agreement No. LI-GA1810 issued to Liu's Plantation Inc. to the Department of the Attorney General for enforcement action, TMK (1) 7-1-012:001 (por.)

Licensee: Liu's Plantation, Inc.

Authority: 163D-4(a)(5), Hawaii Revised Statutes

Area: 24.202 gross acres

Field No(s).: Galbraith Lot 7

Tax Map Key: (1) 7-1-012:001

Land Status: Acquired in fee by the Agribusiness Development Corporation in 2012

Trust Land Status: Section ____ lands of the Hawaii Admission Act
Yes ____ No X

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution?
Yes ____ No X

Zoning: AG-1

SLU Designation: Agricultural

Chapter 343: In accordance with the Comprehensive Exemption List for the Agribusiness Development Corporation dated May 1, 2018, this request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 10¹

Character of Use: Diversified Agriculture

Land Doc. Type: License

Term: 35 years (currently in year 5)

Current Rental Rate: \$400 per acre per year
Annual Rent: \$9,258.40/year

¹ Exemption Class 10: Continuing administrative activities, including, but not limited to, purchase of supplies and personnel-related actions.

BACKGROUND:

The Agribusiness Development Corporation (ADC), through the Trust for Public Lands, purchased approximately 1,700² acres of agricultural lands from the Galbraith Estate in 2012, including the subject TMK and field/lot. The purchase was made possible, in part, through a monetary contribution of \$2,000,000 from the City & County of Honolulu in lieu of the establishment of a Grant of Conservation Easement (for agricultural preservation)³ (CE) to protect the agricultural values of the property. The CE states, in part:

IV. PROHIBITIONS AND OTHER RESTRICTIONS OF OR ON THE PROPERTY

The following activities and uses are prohibited or restricted without the prior consent of Grantee pursuant to Section VI.A of the Covenants and Restrictions and the concurrence of the Army, which shall not be unreasonably withheld to the extent that exemption is expressly provided:

A. Impervious Surfaces. The aggregate Impervious Surfaces on the Property shall not exceed six percent (6%) of the total area of the Property.

In April 2016, the Board of Directors of ADC (Board) approved a license to be issued to Youming Luo and Dehua Liu dba Liu's Plantation Inc. for Lot 7 of the Galbraith small farmer lots (Exhibit A). License Agreement No. LI-GA1810 (License) was executed on August 12, 2019, and later amended to update the licensed entity to Liu's Plantation Inc. (Licensee).

While monitoring the property in early 2021, staff observed the construction of an unapproved roofed structure. Upon closer inspection, staff noted not only the permanent nature of the structure, complete with poured concrete footings that was used to store dry goods, equipment, and provide an eating area for workers, but also that a concrete slab had been poured upon which to situate a daikon washing machine, neither of which were approved by ADC. Licensee was advised that both structures were in violation of the terms of the License. Licensee was further advised that upon request, ADC may approve the concrete slab for the washing machine but that the structure would have to be removed. Staff did note that Licensee would be permitted to replace the permanent structure with a non-permanent structure (e.g., a roof constructed over two shipping containers). Licensee said he would remove the structure by December 2021. As of December 2022, the structure was still standing and no request for approval for the cement slab had been submitted.

In early 2023, staff observed several inoperable busses and an inoperable SUV parked on Licensee's premises. A follow-up inspection documented the abandoned vehicles, as

² Approximately 510.9 acres were transferred to the Office of Hawaiian Affairs for cultural preservation and agricultural purposes.

³ *Grant of Conservation Easement (For Agricultural Preservation)* Covenants and Restrictions pt. IV, art. A (December 10, 2012) ADC files

well as a potential violation of pesticide law. On May 25, 2023, the ADC property manager issued a Notice of Violation (1st Notice) (Exhibit B) sent via email and certified mail. Mr. Luo verbally confirmed receipt of the email but USPS tracking showed that the certified letter was never delivered. A follow up inspection on June 27, 2023 documented that none of the issues related to the 1st Notice had been cured. A Second Notice of Violation (2nd Notice) (Exhibit C) was sent via email and certified mail on June 28, 2023, however, USPS tracking showed that the 2nd Notice, likewise, was not delivered. A follow-up inspection on July 28th documented that only the pesticide violation had ostensibly been cured; the abandoned vehicles and the un-approved structures remained.

Staff notes that on or about July 30, 2023, the busses were removed from the premises but the abandoned SUV remained, as did the un-approved structures.

REQUEST:

Staff requests that the Board approve the referral of the License to the Department of the Attorney General for possible enforcement action (Request).

WATER NEEDS AND SOURCE OF WATER:

Licensee sources water from Bott Well but has not yet completed construction of their own irrigation pond. They currently draw water from adjacent irrigation pond operated by Touan Farm LLC by mutual agreement.

OPERATIONAL PLAN:

Licensee grows daikon, cilantro, green onion, choy sum, and other assorted herbs and vegetables for local markets.

CONSERVATION PLAN:

Licensee has developed an approved conservation plan which appears to be largely implemented.

DISCUSSION:

The CE, among other things, limits the impervious surfaces⁴ on the property to 6% of the total area of the property. Licensee's structure qualifies as an impervious surface. While ADC is not currently at risk of violating the 6% impervious surface ceiling, it does need to manage the risk by requiring approval of structures to both ensure that all tenants are treated equally and fairly, and to monitor the impervious surface area for compliance. To date, it has been staff's position to allow non-permanent structures such as two shipping containers with an overhead tarped structure, which does not meet the definition of an impervious surface.

⁴ " 'Impervious Surface' means permanent, non-seasonal roof tops, concrete or asphalt surfaces, including farm dwellings, agricultural buildings (with or without flooring), and other paved areas but specifically excluding paved areas used for drainage, irrigation systems, water storage infrastructure, and covered facilities used for agricultural that are not paved beneath the covered areas, such as greenhouses, nurseries and livestock holding pens."

Failure to enforce the terms of the CE potentially exposes ADC to enforcement action and possible legal liability, including damages. In the event the License is terminated, annual rent revenues would decrease by \$9,258.40.

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board:

1. Approve the Request noted above on the condition that any subsequent request to terminate the License shall be brought to the Board for consideration and final disposition; and
2. Declare that, pursuant to ADC's Comprehensive Exemption List dated May 1, 2018, the proposed disposition will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment, pursuant to Chapter 343, Hawaii Revised Statutes.

Respectfully Submitted,

Wendy Gady

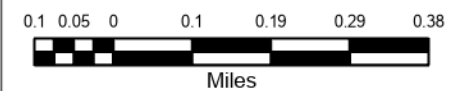
Wendy Gady
Executive Director



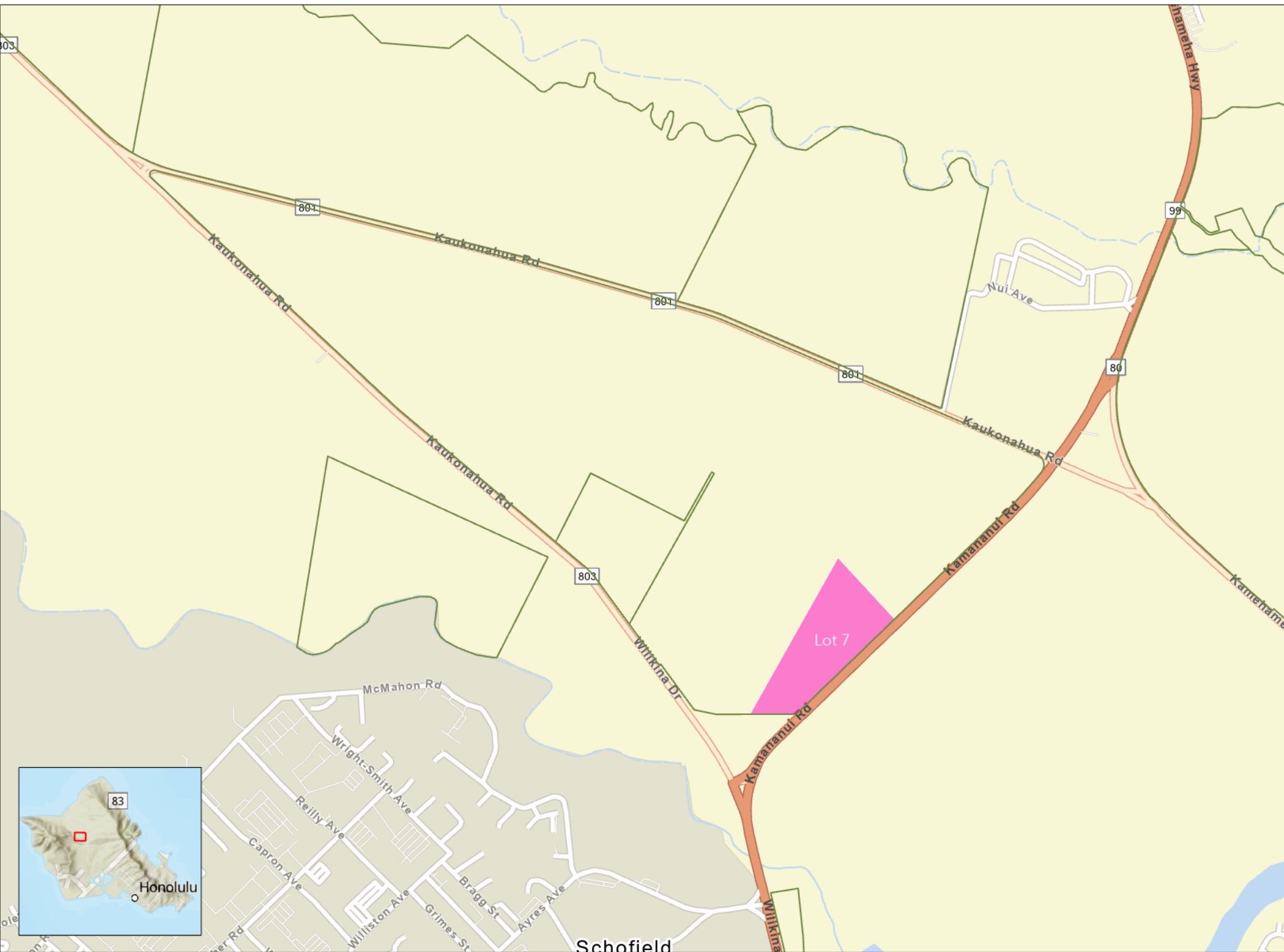
STATE OF HAWAII
AGRIBUSINESS
DEVELOPMENT CORPORATION

Liu's Plantation Inc.
Galbraith Lot 7

TMK (1) 7-1-012:001 (por.)



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JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



MARK H. TAKEMOTO
ACTING EXECUTIVE DIRECTOR

Emailed 5/25/23

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
HUI HO'OU LU AINA MAHIAI
PROPERTY & ASSET MANAGEMENT OFFICE

May 25, 2023

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED;
VIA EMAIL TO: YOUMING [REDACTED]

Mr. Youming Luo
Ms. Dehua Liu
Liu's Plantation Inc.
[REDACTED]

RE: License Agreement No. LI-GA1810 dated August 12, 2019 (as amended, the "License") by and between the State of Hawaii, Agribusiness Development Corporation (Licensor) and Liu's Plantation Inc. (Licensee) for Lot 7 located at Wahiawa, Oahu, TMK No. (1) 7-1-012:001 (por.) containing approximately 24.202 acres (Premises)

NOTICE OF VIOLATION

Dear Mr. Luo and Ms. Liu:

I am writing to advise you of a number of license violations which I documented on your farm on the morning of Monday, May 22, 2023:

Violation 1: License Paragraph 56 states: "Abandoned Vehicles. Licensee shall take all steps necessary to prevent the placing or storing of abandoned vehicles within the Premises. Any and all abandoned vehicles within the Premises shall be removed by the Licensee at Licensees's cost and expense." On May 22, 2023, three non-operational buses were observed to be stored within the Premises. See Exhibit A.

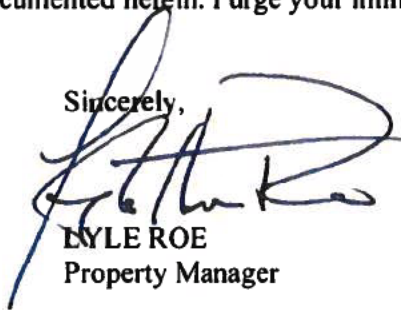
Violation 2: License Paragraph 14 states: "Improvements. During the term of this License, Licensee shall not construct, place, maintain, or install on the Premises any building, structure, sign, or improvement, except with the prior written approval of the Licensor and upon such conditions as Licensor may impose. All buildings, structures, signs, or improvements constructed, placed, maintained, or installed pursuant to this paragraph shall be in accordance with all applicable federal, state, and county laws, ordinances, and rules." On May 22, 2023, a wooden open-air shed with fixed foundations was observed to be constructed on the Premises. See Exhibit B.

Violation 3: License Paragraph 43 states: "Compliance with Laws. Licensee shall comply with the requirements of all federal, state, and county authorities and observe all federal, state, and county laws, ordinances, and rules pertaining to the Premises which are now in force or later may be in force." On May 22, 2023, pesticide containers were observed to be improperly stored in violation of sections 149A-31(1)(E) & 31(2), Hawaii Revised Statutes. See Exhibit C.

Pursuant to Licensor's policies and procedures, you have thirty (30) days from the date of this notice to fully cure the above-noticed violations. If Licensee does not fully cure the violations within the time specified, Licensor may refer the matter to its Board of Directors for referral to the Attorney General's office for legal action. Further, ongoing pesticide violations will be reported to the Hawaii Department of Agriculture for enforcement action. I will be conducting a **follow-up inspection on Monday, June 26, 2023 at 10:00 a.m.** Please have your farm open and accessible and please be available to assist and answer questions.

Please contact me at (808) 589-0187 if you have any questions and to discuss your specific plans and options to remedy the violations documented herein. I urge your immediate attention to this matter.

Sincerely,



LYLE ROE
Property Manager

c: Tenant File
Mark Takemoto
Attorney General's Office

EXHIBIT A



EXHIBIT B



EXHIBIT C



Tracking Number:

Remove X

9589071052700897554898

Copy Add to Informed Delivery (<https://informedelivery.usps.com/>)

Latest Update

Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.

Get More Out of USPS Tracking:

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- Delivered
- Out for Delivery
- Preparing for Delivery

Moving Through Network
In Transit to Next Facility, Arriving Late
May 31, 2023

Departed USPS Regional Facility
HONOLULU HI DISTRIBUTION CENTER
May 27, 2023, 8:41 pm

See All Tracking History

Feedback

Text & Email Updates



USPS Tracking Plus®



Product Information



See Less 

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

FAQs

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



MARK H. TAKEMOTO
ACTING EXECUTIVE DIRECTOR

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
HUI HO'OU LU AINA MAHIAI
PROPERTY & ASSET MANAGEMENT OFFICE

*Emailed 6/26/23
cm 6/29/23*

June 28, 2023

VIA CERTIFIED & PRIORITY MAIL, RETURN RECEIPT REQUESTED;
VIA EMAIL TO: YOUMING [REDACTED]

Mr. Youming Luo
Ms. Dehua Liu
Liu's Plantation Inc.
[REDACTED]

RE: License Agreement No. LI-GA1810 dated August 12, 2019 (as amended, the "License") by and between the State of Hawaii, Agribusiness Development Corporation (Licensor) and Liu's Plantation Inc. (Licensee) for Lot 7 located at Wahiawa, Oahu, TMK No. (1) 7-1-012:001 (por.) containing approximately 24.202 acres (Premises)

SECOND NOTICE OF VIOLATION

Dear Mr. Luo and Ms. Liu:

On May 25, 2023, I wrote to advise you of a number of license violations which I documented on your farm on the morning of Monday, May 22, 2023. You received that letter via email and we had a phone discussion regarding the violation several days later. However, the notice sent by certified mail was never delivered so we are re-issuing the notice and sending again via certified mail. I am also including documentation from my follow-up inspection on June 27, 2023 which shows the violations have not yet been remediated (see Exhibit D). The notice includes the following documented violations:

Violation 1: License Paragraph 56 states: "**Abandoned Vehicles**. Licensee shall take all steps necessary to prevent the placing or storing of abandoned vehicles within the Premises. Any and all abandoned vehicles within the Premises shall be removed by the Licensee at Licensee's cost and expense." On May 22, 2023, three non-operational buses were observed to be stored within the Premises. See Exhibit A.

Violation 2: License Paragraph 14 states: "**Improvements**. During the term of this License, Licensee shall not construct, place, maintain, or install on the Premises any building, structure, sign, or improvement, except with the prior written approval of the

Mr. Youming Luo

Ms. Dehua Liu

Page 2

Licensors and upon such conditions as Licensors may impose. All buildings, structures, signs, or improvements constructed, placed, maintained, or installed pursuant to this paragraph shall be in accordance with all applicable federal, state, and county laws, ordinances, and rules." On May 22, 2023, a wooden open-air shed with fixed foundations was observed to be constructed on the Premises. See Exhibit B.

Violation 3: License Paragraph 43 states: "Compliance with Laws. Licensee shall comply with the requirements of all federal, state, and county authorities and observe all federal, state, and county laws, ordinances, and rules pertaining to the Premises which are now in force or later may be in force." On May 22, 2023, pesticide containers were observed to be improperly stored in violation of sections 149A-31(1)(E) & 31(2), Hawaii Revised Statutes. See Exhibit C.

Pursuant to Licensors' policies and procedures, you have thirty (30) days from the date of this notice to fully cure the above-noticed violations. If Licensee does not fully cure the violations within the time specified, Licensors may refer the matter to its Board of Directors for referral to the Attorney General's office for legal action. Further, ongoing pesticide violations will be reported to the Hawaii Department of Agriculture for enforcement action. I will be conducting a follow-up inspection on Friday, July 28, 2023 at 10:00 a.m. Please have your farm open and accessible and please be available to assist and answer questions.

Please contact me at (808) 589-0187 if you have any questions and to discuss your specific plans and options to remedy the violations documented herein. I urge your immediate attention to this matter.

Sincerely,



LYLE ROE
Property Manager

c: Tenant File
Mark Takemoto
Attorney General's Office

Mr. Youming Luo
Ms. Delia Liu
Page 3

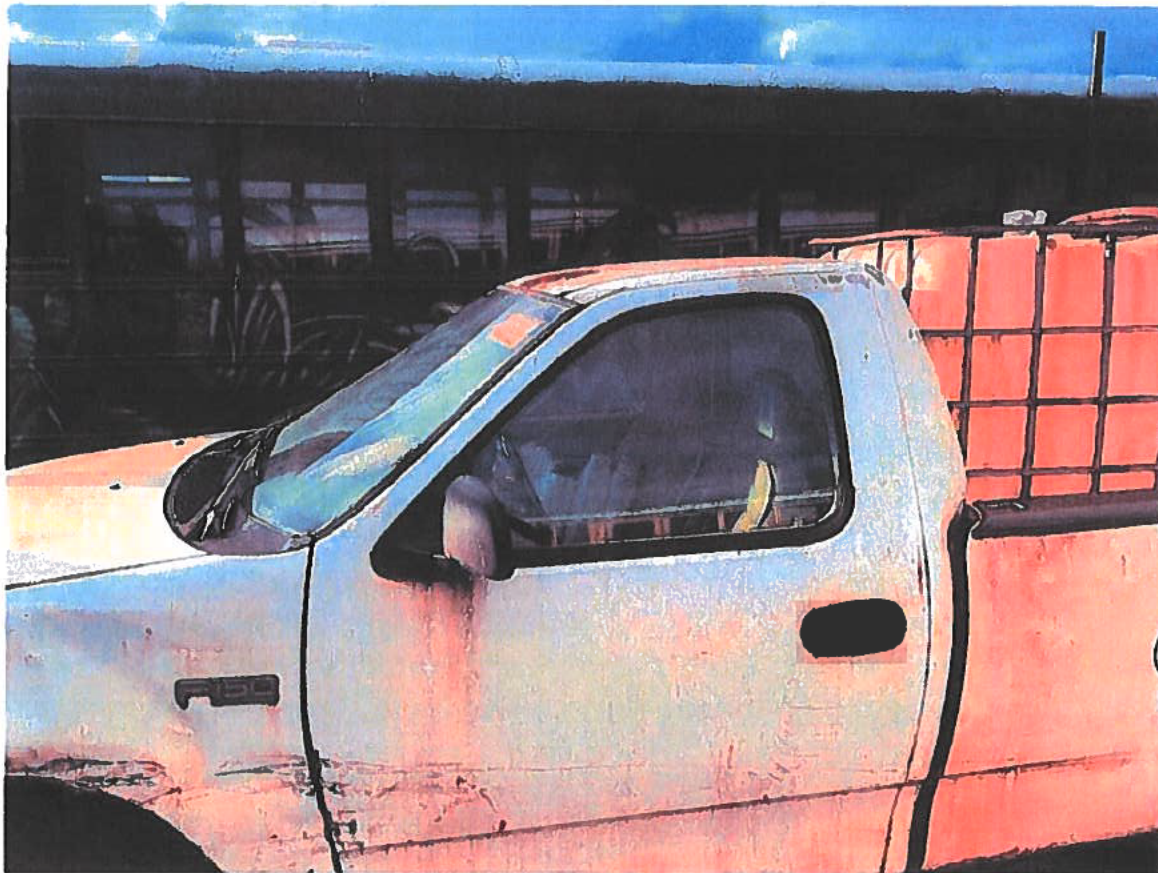
EXHIBIT A



EXHIBIT B

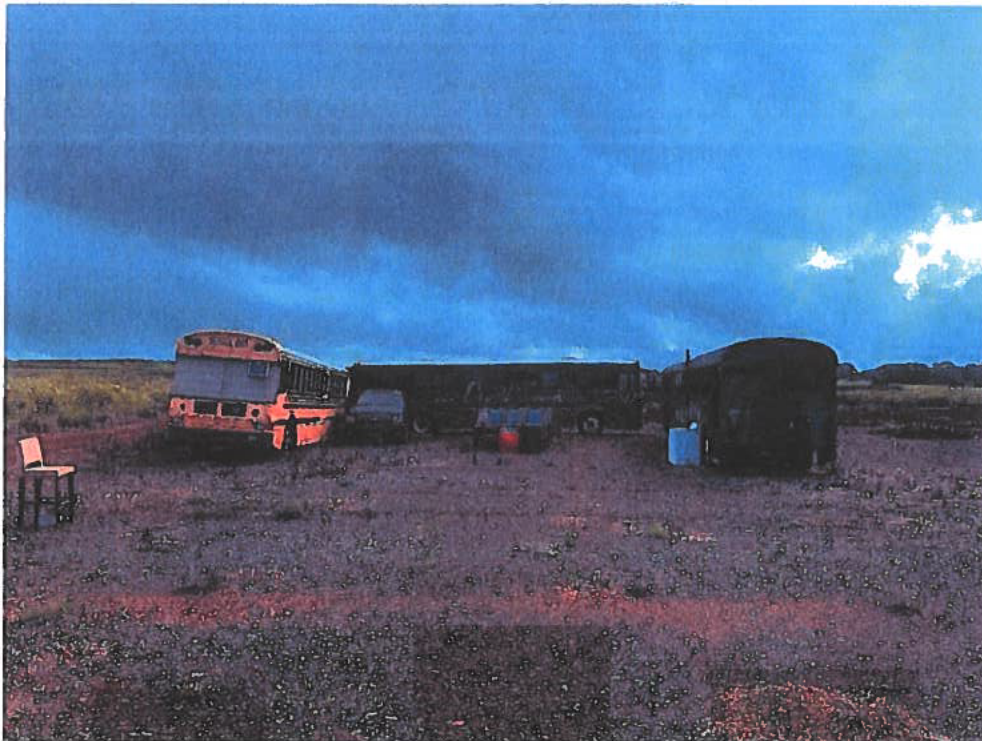


EXHIBIT C



Galbraith Small Farm Lots
Lot 7
Liu's Plantation Inc.
Follow-up Inspection, June 27, 2023

EXHIBIT D



9589 0710 5270 0897 5576 22

U.S. Postal ServiceTM
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Ewa Beach, HI 96706

Certified Mail Fee	\$4.15
Extra Services & Fees (check box, add fee as appropriate)	
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$1.50
Total Postage and Fees	\$5.65



Sent To Youning Luo
Street and Apt. No., or PO Box No. 91-1329 Ulukheua St
City, State, ZIP+4[®] Ewa Beach HI 96706

Tracking Number:

9589071052700897557622

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Contact USPS Tracking support for further assistance.

FAQs

Feedback



STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

235 S. Beretania Street, Suite 205
Honolulu, HI 96813
Phone: (808) 586-0186 Fax: (808) 586-0189

September 21, 2023

Subject: Request for approval to conduct due diligence for the purpose of negotiating the fee simple interest of 155.702 acres, more or less, in real property located at Waialua, Oahu, Hawaii, TMK (1) 6-5-005:008

Applicant: N/A

Authority: 163D-(4)(a)(6) & 3(g), Hawaii Revised Statutes

Area: 155.702 aces

Field No(s).: Currently designated "Parcel 8"

Tax Map Key: (1) 6-5-005:008

Land Status: Owned in fee by Dole Food Company, Inc.

Trust Land Status: Section ____ lands of the Hawaii Admission Act
Yes ____ No X

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution?
Yes ____ No X

Zoning: AG-1

SLU Designation: Agricultural

Chapter 343: In accordance with the Comprehensive Exemption List for the Agribusiness Development Corporation dated May 1, 2018, this request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 10¹. Should further information be discovered during the due diligence and appraisal process, and environmental assessment may be required.

Character of Use: Agricultural

Land Doc. Type: N/A

Term: N/A

Current Rental Rate: N/A

¹ Exemption Class 10: Continuing administrative activities, including, but not limited to, purchase of supplies and personnel-related actions.

Request for approval to conduct due diligence for the purpose of negotiating the fee simple interest of 155.702 acres, more or less, in real property located at Waialua, Oahu, Hawaii, TMK (1) 6-5-005:008

September 21, 2023

Page 2 of 2

BACKGROUND:

The real property identified as Tax Map Key (1) 6-5-005:008 and consisting of approximately 155.702 acres, more or less (Property) (Exhibit A), is currently owned by Dole Food Company, Inc. (Dole) and is currently used for growing pineapple for local and export markets.

REQUEST:

That the Board approve the request for staff to conduct due diligence for the Property, including sending a letter of interest or intent to Dole, and to seek funding for the purchase (Request).

WATER NEEDS AND SOURCE OF WATER:

The Property has water access via the Wahiawa Ditch, currently owned and managed by Dole. Additionally, it has a moderately sized, non-jurisdictional irrigation pond situated on-site for water storage.

OPERATIONAL PLAN:

N/A

CONSERVATION PLAN:

N/A

DISCUSSION:

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board:

1. Approve the Request noted above on the condition that final request for purchase authority will be brought before the Board for consideration and final disposition; and
2. Declare that, pursuant to ADC's Comprehensive Exemption List dated May 1, 2018, the proposed disposition will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment, pursuant to Chapter 343, Hawaii Revised Statutes.

Respectfully Submitted,

Wendy Gady

Wendy Gady
Executive Director



- Dole Parcel TMK (1)6-5-5-8
- ADC owned parcel TMK (1)6-5-5-9

Sale parcel: TMK (1)6-5-005:008

Acres : 155.702

Ownership : Dole Food Company

Asking Price : \$9,100,000

\$/acre : \$58,445

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



WENDY GADY
Executive Director

ITEM E-3

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

235 S. Beretania Street, Room 205
Honolulu, HI 96813
Phone: (808) 586-0186 Fax: (808) 586-0189

September 17, 2023

Subject: Request to amend prior Board approval to issue a 35-year non-exclusive license to the County of Kauai for two monitoring wells in Field 311 in Kekaha, Kauai, Hawaii, TMK (4) 1-2-002:001 (por.)

Applicant: County of Kauai

Authority: 163D-4(a)(5), Hawaii Revised Statutes

Area: Not to exceed 1.0 gross acres, more or less

Field No(s).: Field 311

Tax Map Key: (4) 1-2-002:001

Land Status: Set aside to the Agribusiness Development Corporation by Governor's Executive Order No. 4007 for Agricultural and Related Purposes

Trust Land Status: Section ____ lands of the Hawaii Admission Act
Yes ☒ No ____

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution?
Yes ☒ No ____

Zoning: AG

State Land Use: Agricultural

Chapter 343: This request is subject to the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes

Character of Use: Monitoring Well

Land Doc. Type: License

Term: 35 years

Rental Rate: N/A

BACKGROUND:

At the April 20, 2023 meeting of the Board of Directors (Board) of the Agribusiness Development Corporation (ADC), the Board approved the issuance of a 35-year license to the County of Kauai (County) for two monitoring wells in Field 311, subject to the land area first being withdrawn from License Agreement No. LI-K0802 issued to Hartung Brothers Hawaii, LLC (Hartung) ([See 4/20/23 Agenda Item D-4](#)).

In preparing the submittal for the Board, staff consulted ADC maps which noted that the field was being used by Hartung. However, the field is licensed under License Agreement No. LI-K1001 issued to Sunrise Capital, Inc. (Sunrise) who, in turn, sublicenses to Hartung¹. Staff inadvertently noted the incorrect licensee in the submittal to the Board and seeks to correct the record prior to executing the withdrawal amendment and license to the County.

REQUEST:

Due to staff error, staff requests that the Board amend its prior approval to withdraw a portion of Field 311 by noting that the withdrawal is from License Agreement No. LI-K1001 issued to Sunrise rather than the license issued to Hartung (Request).

WATER NEEDS AND SOURCE OF WATER:

[See 4/20/23 Agenda Item D-4](#)

OPERATIONAL PLAN:

[See 4/20/23 Agenda Item D-4](#)

CONSERVATION PLAN:

[See 4/20/23 Agenda Item D-4](#)

DISCUSSION:

[See 4/20/23 Agenda Item D-4](#)

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board:

1. Approve the Request noted above; and
2. Declare that the Request is subject to the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes

Respectfully Submitted,

Wendy Gady

Wendy Gady
Executive Director

¹ Item D-4 submittal for the April 20, 2023 board meeting accurately notes that Hartung has already indicated their consent to the withdrawal.



Legend		Notes: ft msl = feet above mean sea level		<div>Site Layout</div> <div>Kekaha Municipal Solid Waste Landfill Kaua'i, Hawai'i</div> <div>Geosyntec consultants</div> <div>WG3074 January 2023</div>		
MWI-1A	Groundwater Monitoring Well	Wet Well (Leachate Sump)				<div>Figure 2</div>
		Sump Location	Property Boundary			
		Phase Boundary	Roads			
		Cell Boundary				



JOSH GREEN, M.D.
GOVERNOR

**STATE OF HAWAII
OFFICE OF INFORMATION PRACTICES**

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: qip@hawaii.gov
www.oip.hawaii.gov

CHERYL KAKAZU PARK
DIRECTOR

August 24, 2023

VIA EMAIL

Mr. Warren Watanabe
Chair
Board of Directors
Agribusiness Development Corporation

Re: Notice of Appeal of Sunshine Law Complaint (S APPEAL 24-02)

Dear Chair Watanabe:

The Office of Information Practices (OIP) received an appeal from an anonymous complainant (Complainant) concerning the meetings of the Agribusiness Development Corporation Board of Directors (ADC) on August 8 and 17, 2023, regarding the hire of a new ADC Executive Director (ED). Specifically, the Complainant asks whether ADC voted in executive session¹ to approve the hire of a new ED in violation of the provisions on openness in the Sunshine Law, Part I of chapter 92, Hawaii Revised Statutes (HRS). A copy of the Complainant's appeal is enclosed for your information.

The ADC's response to this appeal is ADC's opportunity to provide justification for its actions or any additional information that the ADC would like OIP to consider for this appeal. Within ten business days of receipt of this notice, please provide OIP with a written statement that includes the information listed in the attached summary of appeal procedures. Please remember that OIP is required to interpret the Sunshine Law to favor openness and to disfavor closed meeting provisions. HRS § 92-1. For this reason, when a member of the public complains to OIP that a board's action was not in compliance with the Sunshine Law, the board has the burden to justify any departure from the law's general requirement of openness to OIP.

Please provide OIP with unaltered copies of the recordings of the ADC meetings on August 8 and 17, 2023, including relevant portions of any executive sessions. Please also provide copies of the meeting minutes, including relevant portions of the executive session minutes for both meetings for OIP's use in reviewing this appeal. OIP would appreciate receiving the copies of the recordings and

¹ OIP generally advises boards that they should not vote in executive sessions. See *Quick Review: Executive Meetings Closed to the Public* at page 7, a copy of which is enclosed.

minutes no later than ten business days from receipt of this notice.² For your information, OIP will destroy the copies of the executive session recordings and executive minutes OIP's possession upon completion of this matter. If the ADC prefers that the copies of the executive recordings and minutes be returned at the conclusion of this matter, please let OIP know. Even when OIP believes all or part of an executive session should have been opened to the public, OIP will not disclose the executive session recording or minutes to the complainant or any other requester. If the recordings or minutes are to be disclosed, disclosure will be by the board and not by OIP.

The ADC and Complainant, by copy of this notice, are informed that OIP appeals are informal proceedings. Parties are not required to provide each other with copies of their submissions to OIP unless so ordered by OIP. With the exception of records provided for OIP's *in camera* review, OIP will, upon request, provide copies of a submission by a party to other parties without notice to the submitting party. Submissions to OIP are generally considered public records subject to the exceptions to disclosure at section 92F-13, HRS. If a party's submission to OIP contains what the party believes to be nonpublic information, it should indicate on the submission what the nonpublic information is.

Please be advised that any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law. HRS § 92-12(c).

Please be aware that OIP is currently operating with a backlog of cases, so it will take time to resolve this appeal. Moreover, OIP's decision for this appeal will be limited to a finding as to whether the ADC violated the Sunshine Law. Even if OIP determines that the Sunshine Law was violated, OIP does not have the power to enforce its decisions by voiding the ADC's final actions.

Only the court may void a final action of a board that was taken in violation of the open meeting or notice requirements of the Sunshine Law. HRS § 92-11. While any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law, a suit to void any final action must be commenced within ninety days of the action. HRS §§ 92-11, -12. After determining whether the Sunshine Law was or will be violated, the court may also order payment of reasonable attorney's fees and costs to the prevailing party. HRS § 92-12(c).

Note that the ninety-day deadline to file a lawsuit is not tolled while an appeal is pending with OIP. This appeal refers to violations that allegedly occurred at meetings on August 8 and 17, 2023. Please be aware that if the Complainant wants to have any final action taken by the ADC voided, there appears to be only a limited time left in which to file a timely court action.

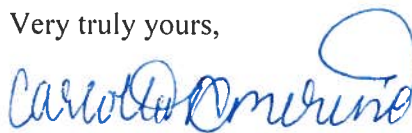
This letter also serves as notice that OIP is not representing anyone in this appeal. OIP's role herein is as a neutral third party.

² OIP acknowledges that under section 92-9, HRS, the ADC has 40 days to prepare meeting minutes and that minutes for the August 8 and 17 meetings may not be available in ten business days. If this is the case, please let OIP know and we will accept the minutes after 40 days.

Mr. Warren Watanabe
August 24, 2023
Page 3

Thank you for your attention to this matter. If you have any questions or would like to discuss this, please do not hesitate to contact the undersigned attorney.

Very truly yours,



Carlotta Amerino
Staff Attorney

CMA:rtt
Enclosures

cc: Complainant (w/o enclosures)

From: [local](#)
To: [OIP](#)
Subject: [EXTERNAL] ADC Inquiry regarding sunshine
Date: Monday, August 21, 2023 3:40:03 PM

Aloha,

I am writing to request a review of the process that was taken to hire the Executive Director (ED) of the Agribusiness Development Corporation. It appears that a vote for the appointment for the ED was taken on August 8, 2023 at a Special ADC Committee meeting (per the public agenda). However, the announcement of the ED appointment was withheld from the public until August 17, 2023 when the press release was issued. Also, on the press release, it does not state when the vote was taken or ratified by the board of directors.

Based on the ADC website, it also appears a Regular ADC Meeting was held on August 17, 2023. It was held the same day the ADC issued a press release announcing the ED. Can you please confirm whether the executive session vote on August 8, 2023 was ratified or whether a motion, second and call for a vote to approve the Executive Director's appointment was made at that meeting. I am questioning why the announcement was made on August 17 vs. August 8. The minutes of the August 17, 2023 meeting has not yet posted so I am unable to confirm a vote.

Nevertheless, I ask that you look into this process and also ask for information. If you are able to provide per the Sunshine Law, I would like to know how the vote was taken, when it was taken and the outcome (who voted in favor and who voted against this candidate).

Mahalo for looking into this. I look forward to hearing from you.