

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL () PICKUP ()

(DO NOT WRITE IN THIS SPACE)

Tax Map Key No.:

SUBORDINATION AGREEMENT

This SUBORDINATION AGREEMENT is entered into this _____ day of _____, 20_____, by and between the County of Kauai, Planning Department (hereinafter "County"), whose business and mailing address is 4444 Rice Street, Lihue, Hawaii 96766 and _____

(hereinafter "Borrower"), whose address is _____

and _____

_____ (hereinafter "Financial Institution"), whose address is _____

W I T N E S S E T H

WHEREAS, the Borrower owns that certain parcel of land, Tax Map Key No. _____ being the premises described in _____ (deed) granted to _____ recorded as Document No. _____ in the Bureau of Conveyances of the State of Hawaii;

WHEREAS, Hawaii Revised Statutes Chapter 205 places restrictions on the use of Borrower's land which is in an agricultural district;

WHEREAS, Chapter 205, H.R.S. further requires that the restrictions on the use of Borrower's land which is in an agricultural district;

WHEREAS, the Borrower and the County in compliance with the requirements of H.R.S. Chapter 205 entered into a Farm Dwelling Agreement which is filed in the Bureau of Conveyances as an encumbrance running with the land; said Agreement is filed with the Bureau as Document no. _____;

WHEREAS, H.R.S. Chapter 205 places the responsibility of enforcing its provisions on the County government, and said Chapter also grants the County the right to seek civil fines, injunctions, other judicial relief and any other remedy available to it under the law;

WHEREAS, H.R.S. Chapter 205 allows a conditional waiver by the County if the Borrower's mortgage financing is jeopardized solely due to the required encumbrance;

WHEREAS, the Borrower has shown to the satisfaction of the County that Financial Institution will not provide mortgage financing to the Borrower so long as the Farm Dwelling Agreement remains an encumbrance on the subject property;

WHEREAS, the Financial Institution is a lender qualified under HRS Section 205-4.5;

NOW, THEREFORE, in consideration of loans made or to be made or continued by the Financial Institution to the Borrower, the Borrower and the County hereby agree with the Financial Institution as follows:

1) In the event of a default by the Borrower under a mortgage with the Financial Institution, the Borrower and County agree to subordinate all claims or rights accruing under the Farm Dwelling Agreement to the claims and rights of the Financial Institution which it may have under its mortgage with the Borrower.

2) The County agrees to withhold any enforcement action under H.R.S. Chapter 205 until all judicial foreclosure proceedings instituted by the Financial Institution are completed and a final decree of foreclosure has been entered by a court of competent jurisdiction.

3) The Borrower, the County and the Financial Institution agree that this waiver applies only in the event of a civil action for foreclosure filed in a court of competent jurisdiction.

4) This agreement shall extend to and bind the respective successors, assigns, and administrators of the parties hereto.

The covenants of County and the Borrower respecting subordination of the claims of the County in favor of the Financial Institution shall extend to, include and be enforceable by any transferee or endorsee of the Financial Institution of any of its claims.

5) This agreement shall be construed in accordance with and governed by the laws of the State of Hawaii.

In witness whereof, this Agreement has been executed by the parties the day and year first above written.

Borrower

Borrower

By: _____
Financial Institution

County of Kauai
Deputy Planning Director

Approved as to Form:

Deputy County Attorney

STATE OF HAWAII)
) ss:
COUNTY OF KAUAI)

On this _____ day of _____, 20_____,
before me personally appeared _____
_____, to me known to be the person
described in and who executed the foregoing instrument, and
acknowledged that he/she executed the same as his/her free act
and deed.

Notary Public, State of Hawaii

My commission expires:

STATE OF HAWAII)
) ss:
COUNTY OF KAUAI)

On this ____ day of _____, 20_____, before me
appeared _____, to me
personally known, who, being by me duly sworn, did say that
he/she is the _____ of _____

_____; that he/she is authorized to execute the foregoing
instrument for and on behalf of said corporation; and that said

_____ acknowledged that he/she executed
the same as his/her free act and deed for and on behalf of said
corporation.

Notary Public, State of Hawaii

My commission expires:

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this day of _____, before me appeared MICHAEL A. DAHILIG, to me personally known, who being by me duly sworn, did say that he is the Planning Director of the PLANNING DEPARTMENT of the COUNTY OF KAUAI; and that this ____-page _____, dated _____, was subscribed and sworn to before me in the Fifth Circuit of the State of Hawaii, by MICHAEL A. DAHILIG; said instrument was executed on behalf of the PLANNING DEPARTMENT; and that said MICHAEL A. DAHILIG acknowledged that he executed the same as his free act and deed of the PLANNING DEPARTMENT of the COUNTY OF KAUAI. Said Department has no seal.

LESLIE K. TAKASAKI
Notary Public, State of Hawaii

My commission expires: 11-04-15