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Attorney for Plaintiffs-Appellants

TAX APPEAL COURT  
STATE OF HAWAII  
FILED

2009 MAY -1 PM 3:20

KATHLEEN HANAWAHINE

CLERK

IN THE TAX APPEAL COURT OF THE STATE OF HAWAII

JOHN M. CORBOY and STEPHEN  
GARO AGHJAYAN,

Plaintiffs,

vs.

MARK J. BENNETT, in his official  
capacity as Attorney General, State of  
Hawaii; the COUNTY OF MAUI; and  
the COUNTY OF KAUAI,

Defendants.

GARRY P. SMITH and EARL F.  
ARAKAKI,

Plaintiffs,

vs.

MARK J. BENNETT, in his official  
capacity as Attorney General, State of  
Hawaii; and the CITY AND COUNTY  
OF HONOLULU,

Defendants.

*[caption continued]*

TA NO. 07-0086 CONSOLIDATED  
(Other Civil Action)

PLAINTIFFS'—APPELLANTS'  
COUNTER—MOTION FOR  
SUMMARY JUDGMENT;  
MEMORANDUM IN SUPPORT;  
DECLARATION OF JOHN M.  
CORBOY; EXHIBITS A—B;  
DECLARATION OF STEPHEN  
GARO AGHJAYAN; EXHIBIT A;  
DECLARATION OF GARRY P.  
SMITH; EXHIBITS A—D;  
DECLARATION OF EARL F.  
ARAKAKI; EXHIBITS A—D;  
DECLARATION OF J. WILLIAM  
SANBORN; EXHIBITS A—B;  
CERTIFICATE OF SERVICE

HEARING

DATE: ~~May 11, 2009~~ JUN - 8 2009

TIME: 9:00 a.m.

JUDGE: Gary W.B. Chang

TA NO. 07-0099 CONSOLIDATED  
(Other Civil Action)

J. WILLIAM SANBORN,

Plaintiff,

vs.

MARK J.BENNETT, in his official  
capacity as Attorney General, State of  
Hawaii; and the COUNTY OF  
HAWAII,

Defendants.

TA NO. 07-0102 CONSOLIDATED  
(Other Civil Action)

IN THE MATTER OF THE TAX  
APPEAL OF

STEPHEN GARO AGHJAYAN

Appellant,

and

STATE OF HAWAII,

Intervenor–Defendant–Appellee.

TA NO. 08-0039 CONSOLIDATED  
(Other Civil Action)

IN THE MATTER OF THE TAX  
APPEAL OF

JOHN M. CORBOY,

Appellant,

and

STATE OF HAWAII,

Intervenor–Defendant–Appellee.

TA NO. 08-0040 CONSOLIDATED  
(Other Civil Action)

*[caption continued]*

IN THE MATTER OF THE TAX  
APPEAL OF

GARRY P. SMITH

Appellant,

and

STATE OF HAWAII,

Intervenor–Defendant–Appellee.

TA NO. 08-0041 CONSOLIDATED  
(Other Civil Action)

IN THE MATTER OF THE TAX  
APPEAL OF

J. WILLIAM SANBORN,

Appellant,

and

STATE OF HAWAII,

Intervenor–Defendant–Appellee.

TA NO. 08-0042 CONSOLIDATED  
(Other Civil Action)

IN THE MATTER OF THE TAX  
APPEAL OF

EARL F. ARAKAKI,

Appellant,

and

STATE OF HAWAII,

Intervenor–Defendant–Appellee.

TA NO. 08-0043 CONSOLIDATED  
(Other Civil Action)

**PLAINTIFFS'–APPELLANTS'**  
**COUNTER–MOTION FOR SUMMARY JUDGMENT**

Plaintiffs-Appellants John M. Corboy, Stephen Garo Aghjayan, Garry P. Smith, Earl F. Arakaki and J. William Sanborn counter move for summary judgment in full in their favor and against Intervenors-Defendants and Appellees.

This motion is made pursuant to HRCP Rules 7 and 56, Tax Appeal Court Rule 15, Circuit Court Rule 7, and supported by the attached memorandum in support, declarations and exhibits and the files in this case.

DATED: Honolulu, Hawaii, May 1, 2009.



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H. WILLIAM BURGESS  
Attorney for Plaintiffs-Appellants

# PLAINTIFFS'–APPELLANTS' MEMORANDUM IN SUPPORT OF COUNTER–MOTION FOR SUMMARY JUDGMENT

## Key facts and argument

1. All four counties of the State of Hawaii provide special exemptions from real property taxes for lessees of DHHL<sup>1</sup> homestead lots.
2. Under the HHCA, only “native Hawaiians” are eligible for award of DHHL homestead leases.
3. The definition “native Hawaiian” which is the foundation and only reason for the existence of HHC-DHHL is a racial classification.
4. Use of a racial classification by any governmental actor, federal, state or local, is subject to strict scrutiny.
5. The counties’ special exemptions for homestead lessees have a racial purpose and a racial effect.
6. The counties’ exemptions cannot pass strict scrutiny because the counties, like the federal and state governments, have no compelling interest in discriminating between home owners on the basis of racial ancestry.

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<sup>1</sup> Unless the context suggests otherwise, this memorandum uses “DHHL” to mean the State of Hawaii Department of Hawaiian Home Lands; and “HCCA” to mean the Hawaiian Homes Commission Act, which governs DHHL. The term “**native Hawaiian**” (whether with a capital or lower case “n”) refers to “any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778 as defined in the HHCA. See HHCA §§ 201(7), 207(a) and 208(1). The term “**Hawaiian**” refers to any descendant, regardless of blood quantum, of the inhabitants of the Hawaiian Islands previous to 1778.

## **Historical background: Hawaii's ceded lands trust.**

The Ceded Lands Trust (also known as the “public land trust” and as the “§5(f) trust”) originated in 1898 with the Annexation Act. The Republic of Hawaii ceded all its public lands (about 1.8 million acres formerly called the Crown lands and Government lands) to the United States with the requirement that all revenue from or proceeds of these lands except for those used for civil, military or naval purposes of the U.S. or assigned for the use of local government "shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes". *Joint Resolution to Provide for Annexing the Hawaiian Islands to the United States*, Resolution No. 55, known as the *Newlands Resolution*, approved July 7, 1898; Annexation Act, 30 Stat. 750 (1898) (reprinted in 1 Rev. L. Haw. 1955 at 13-15).

The Organic Act of April 30, 1900 (c. 330, 31 Stat. 141) reiterated that “All funds arising from the sale or lease or other disposal of public land shall be applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the Joint Resolution of Annexation approved July 7, 1898.” As the Supreme Court recently emphasized in *Hawaii v. Office of Hawaiian Affairs*, 129 S.Ct. 1436, 1440 (2009), the Organic Act made clear that the new Territory consisted of the land that the United States acquired in “absolute fee” under the Newlands resolution; and that:

[T]he portion of the public domain heretofore known as Crown land is hereby declared to have been, on [the effective date of the Newlands Resolution], and prior thereto, the property of the Hawaiian government, and to be free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever, upon the rents, issues, and profits thereof. It shall be subject to alienation and other uses as may be provided by law. § 99.

The *Newlands Resolution* established the ceded lands trust. Such a special trust was recognized by the Attorney General of the United States in Op. Atty. Gen. 574 (1899); *State v. Zimring* 58 Haw. 106, 124, 566 P.2d 725 (1977) and *Yamasaki*, 69 Haw. 154, 159, 737 P.2d 446, 449 (1987); see also Hawaii Attorney General Opinion July 7, 1995 (A.G. Op. 95-03) to Governor Benjamin J. Cayetano from Margery S. Bronster, Attorney General, “Section 5 [Admission Act] essentially continues the trust which was first established by the Newlands Resolution in 1898, and continued by the Organic Act in 1900. Under the Newlands Resolution, Congress served as trustee; under the Organic Act, the Territory of Hawaii served as Trustee.”

The insistence of the Republic of Hawaii in 1898 that the United States hold the ceded lands solely for the benefit of the inhabitants of Hawaii was based on historic precedent and had significant, long-reaching consequences for the future State of Hawaii. The United States had held a similar trust obligation as to the lands ceded to it by the original thirteen colonies. Once those new states were established, the United State’s authority over the lands would cease. Other future

states, Nevada for example, did not have such an arrangement. As the Ninth Circuit held in *U.S. v. Gardner*, 107 F.3d 1314, 1318 (9th Cir. 1997), citing *Light v. United States*, 220 U.S. 523, 536, 31 S.Ct. 485, 488, 55 L.Ed. 570 (1911), the United States still owns about 80% of the lands in Nevada and may sell or withhold them from sale or administer them any way it chooses.

### **HHCA injects race and the special real property tax exemption.**

In 1921, Congress enacted the Hawaiian Homes Commission Act, 42 Stat. 108 (1921) which set aside about 200,000 acres of Hawaii's ceded lands and provided in §208(2) for long term homestead leases (99 years renewable by the Department for another 100 years) each at a rent of \$1 per year to "native Hawaiians," defined in §201 as "any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778."

HHCA §208(7) referring to "Leases to Hawaiians" provided "The lessee shall pay all taxes assessed upon the tract and improvements thereon" and under §208(8), "an original lessee shall be exempt from all taxes for the first seven years after commencement of the term of the lease."

### **The counties' special exemptions.**

The City and County of Honolulu ("C&C") and the counties of Hawaii, Maui and Kauai all recognize and implement the seven year real property tax exemption of land and improvements for Hawaiian homestead lessees required

by HHCA §208(8) and each county extends the exemption in some respects through the remaining years of the lease terms.

The C&C (R.O.H. Art. 10, Sec. 8-10.23) and Maui County Code (Sec. 3.48.555) exempt Hawaiian homestead lessees from real property tax on land and improvements throughout the term of the leases (except for the minimum real property tax of \$100 per year). Kauai County Code § 5A-11.23 is apparently the same, except that its minimum tax may be \$25. Hawaii County Code § 19-89 exempts Hawaiian homestead lessees from real property tax on their land (except for a minimum tax) and allow the regular homeowner exemption for the improvements if the claim is timely filed.

The real property taxes paid to the City and County of Honolulu by Appellant Garry P. Smith for the three years since he began protesting the DHHL exemptions were: \$2,148.26 for 2006; \$3,244.93 for 2007; and \$3,457.46 for 2008. If he and his wife had the same exemptions as DHHL lessees, their real property taxes would have been only \$100 for each of those years. Deprivation of his right to equal privileges and immunities under the laws, has so far taken from him \$8,550.65, and more is sure to be removed indefinitely into the future. Appellant Earl Arakaki was luckier, his loss calculated the same way was only \$3,248.72 for those three years.

The lease report on page 15 of the June 30, 2007 DHHL annual report (EXH A Dec. SPB attached to Plaintiffs' - Appellants' opposition filed May 1, 2009 concurrently with this memorandum), almost two years ago, shows 3,744 homestead leases on Oahu then. According to the SMS Research and Marketing Services report to the DHHL of May 2007, filed April 17, 2009 by the State with its motion for summary judgment, homestead lessee households are "significantly more likely to be large (eight or more members). (See page 4.) Assuming 3,700 homestead households with 8 members each would mean 29,600 people on Oahu are using the City and County streets, water supplies, sewer systems, bus transportation, parks, beaches, golf courses, fire and police services, at no charge

**The definition "native Hawaiian" is a racial classification.**

On February 23, 2000 the United States Supreme Court in *Rice v. Cayetano*, 528 U.S. 495, 514-516 (2000) held that the definitions of "Hawaiian" and "native Hawaiian" are racial classifications. Because these classifications were the basis for state restrictions on voting in statewide elections for OHA trustees, the court held that those restrictions violated the Fifteenth Amendment.

The message of Rice was clear: Hawaii's laws defining "Hawaiian" and "native Hawaiian" are racial classifications. These definitions are the foundation and only reason for the existence of OHA and HHC/DHHL **and the special exemptions from real property taxes at issue here.** Other messages from the

Supreme Court were equally clear. “Accordingly, we hold today that all racial classifications, imposed by whatever federal, state, or local governmental actor, must be analyzed by a reviewing court under strict scrutiny.” *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200, 227, 229-30 (1995) ; *City of Richmond v. J.A. Croson*, 488 U.S. 469, 496-97 (1989). “A racial classification, regardless of purported motivation, is presumptively invalid and can be upheld only upon an extraordinary justification.” *Shaw v. Reno*, 509 U.S. 630, 643-44 (1993).

Recent events in Hawaii’s jurisprudence have demonstrated that no compelling interest requires the State or its counties to discriminate between citizens *or homeowners* on the basis of race. The Hawaii Supreme Court has brought to life the powerful force in Article XI, section 5 of Hawaii’s Constitution that limits the exercise of legislative power over State lands to the enactment of general laws: The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised *only by general laws*[.]

That our Constitution prohibits laws which provide disparate treatment intended to favor a specific individual, class, or entity or to discriminate against a specific individual, class, or entity is a fundamental principle of the democratic nature of our government: equal rights and treatment for all persons under the law.

*Sierra Club v. Department of Transportation*, 120 Hawai’i 181, 202 P.3d 1226 (2009).

Those stirring words tell us exactly why the State and counties must stop exercising their legislative powers over the 1.2 million acres of the Ceded Lands

Trust and over the 200,000 or so acres of ceded lands now called Hawaiian home lands to favor one class of beneficiaries at the expense the other.

Judgment for refunds to Appellants for the two or three years since they each raised the protests and requiring that Appellants be given equal rights, treatment and exemptions in future real property tax assessments would be a good beginning.

### **Conclusion**

For the above reasons and for the reasons stated in the opposition to the State's motion for summary judgment, being filed concurrently, summary judgment should be entered in favor of Plaintiffs-Appellants.

DATED: Honolulu, Hawaii, May 1, 2009.



H. WILLIAM BURGESS  
Attorney for Plaintiffs-Appellants

DECLARATION OF DR. JOHN M. CORBOY

I am the Plaintiff-Appellant in Tax Appeal Cases No. 07-0086 and No. 08-0040 and I make this declaration based on my personal knowledge in opposition to the State's motion for summary judgment filed April 20, 2009 and in support of Plaintiff-Appellants' motion for summary judgment to be filed May 1, 2009.

I am a citizen, registered voter and taxpayer of the County of Maui, State of Hawaii and the United States and am the owner of real property located at Lot 202, Makaiki Road, Kaunakakai, Hawaii 96848, TMK #5-4-016-012-0000.

I was raised in Hawaii and have lived here for 65 years. I am not "native Hawaiian" as defined in the Hawaiian Homes Commission Act.

I have read the complaint in TA No. 07-0086 and the appeal in TA No. 08-0040 and believe the statements of fact relating to my claim in both are true and correct.

The attached documents relating to my appeals of the assessments for the above parcel are true copies of:

A. 8/2/07 – My payment under protest and letter to County of Maui, Real Property Tax Division protesting having to pay more than DHHL Hawaiian Homestead lessees.

B. 8/14/07 – Letter from County of Maui Real Property Tax Division responding to my 8/2/07 letter of protest.

I declare under penalty of perjury the above statements are true and correct.

DATED: Honolulu, Hawaii April 30, 2009.

  
DR. JOHN M. CORBOY  
Plaintiff-Appellant

**John M. Corboy, M.D.**  
P.O. Box 546  
Kaunakakai, HI 96748  
Ph: (808) 553-9040 Fax: (808) 553-4259  
Email: [John@Corboy.com](mailto:John@Corboy.com)

August 2, 2007

County of Maui  
Real Property Tax Division  
P.O. Box 1405  
Wailuku, HI 96793-6405

Re: Protest HRS 40-35

Dear Sirs:

I protest payment of any more real property tax than would be payable if I had the same real property tax exemption as given to DHHL Hawaiian Homestead lessees.

Under the 14<sup>th</sup> Amendment and federal civil rights laws, I am entitled to equal protection, privileges and immunities without regard to race or ancestry.

Mahalo,

  
John M. Corboy, M.D.

JMC/spk

**LIBERTY & JUSTICE FOR ALL**

John M. Corboy, M.D.  
Trustee Ph. 808-623-4134  
Corboy Revocable Trust  
93-717 Kipapa Dr., #23  
Mililani, HI 96789

59-7076-3213  
1668  
8/2 20 07

PAY TO THE ORDER OF DIRECTOR OF FINANCE \$1023<sup>10</sup>/<sub>100</sub>

One thousand twenty three and 10/100 DOLLARS

AMERICAN SAVINGS BANK  
P.O. BOX 2300  
HONOLULU, HAWAII 96804-2300  
WWW.ASBHAWAII.COM

FOR 2-5-4-016-12-HRS40-35 UNDER PROTEST

⑆321370765⑆1668 02606⑆07⑆⑆⑆



EXHIBIT A

**CHARMAINE TAVARES**  
Mayor



**KALBERT K. YOUNG**  
Director of Finance

**AGNES M. HAYASHI**  
Deputy Director of Finance

**LANCE OKUMURA**  
Administrator

**SCOTT K. TERUYA**  
Assistant Administrator

**COUNTY OF MAUI  
DEPARTMENT OF FINANCE**

**REAL PROPERTY TAX DIVISION**  
70 E. KAAHUMANU AVENUE, SUITE A-16  
KAHULUI, MAUI, HAWAII 96732  
(808) 270-7297 Fax (808) 270-7884  
www.mauipropertytax.com

August 14, 2007

John M. Corboy, M.D.  
P.O. Box 546  
Kaunakakai, HI 96748

**RE: PROTEST OF PAYMENT OF REAL PROPERTY TAXES PURSUANT TO HRS  
40-35**

Dear Mr. Corboy:

This letter is in response to your letter dated August 2, 2007, protesting "any more real property tax than would be payable if I had the same real property tax exemption as given to DHHL Hawaiian Homestead lessees".

Property taxes applied to the Department of Hawaiian Home Land (DHHL) are governed by the Maui County Code (MCC) 3.48.555 and authorized under the Hawaii State Constitution and Hawaii Revised Statutes (HRS).

Your property does not fall under either provision and is, therefore, not appropriate for an exemption under the MCC or the HRS.

Please be advised that all first half real property tax payments are due and payable by August 20, 2007. In accordance with the MCC, any property taxes not paid by the due date are subject to penalty and interest as stated in the MCC.

Sincerely,

**SCOTT K. TERUYA**  
Acting Real Property Tax Administrator

Xc: Kalbert K. Young, Director of Finance  
Corporation Counsel

EXHIBIT B

**DECLARATION OF STEPHEN GARO AGHJAYAN**

I am the Plaintiff-Appellant in Tax Appeal Cases No. 07-0086 and No. 08-0039 and I make this declaration based on my personal knowledge in opposition to the State's motion for summary judgment filed April 20, 2009 and in support of Plaintiff-Appellants' motion for summary judgment to be filed May 1, 2009.

I am a citizen, registered voter and taxpayer of the County of Kauai, State of Hawaii and the United States and am the owner of real property located at 4121 Rice Street, Lihue, Hawaii 96766, TMK # 3-6-003-026-0074.

I am not "native Hawaiian" as defined in the Hawaiian Homes Commission Act.

I have read the complaint in TA No. 07-0086 and the appeal in TA No. 08-0039 and believe the statements of fact relating to my claim in both are true and correct.

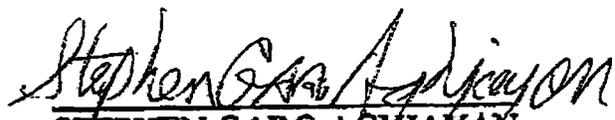
The attached document relating to my appeals of the assessments for the above parcel is a true copy of:

A. My payment under protest and letter to County of Kauai, Real Property Tax Collection protesting having to pay more than DHHL Hawaiian Homestead lessees for the first half of the 2007-2008 tax year.

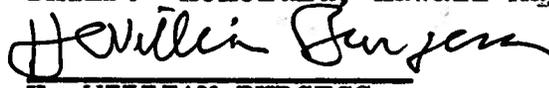
I declare under penalty of perjury the above statements are true and correct.

DATED: Honolulu, Hawaii April 30, 2009.

Mr. Aghjayan is out of the country and will return May 6. We will file the original at that time.

  
**STEPHEN GARO AGHJAYAN**  
Plaintiff-Appellant

DATED: Honolulu, Hawaii May 1, 2009

  
**H. WILLIAM BURGESS**  
Attorney for Plaintiffs-Appellants

Stephen Garo Aghjayan  
4121 Rice Street #2706  
Lihue, HI 96766  
16 August 2007

Director of Finance  
County of Kauai  
Real Property Tax Collection  
Division of Treasury  
4444 Rice Street, Ste 463  
Lihue, HI 96766

TMK# 4-3-6-3-26-74  
Payment Under Protest pursuant to H.R.S. §40-35

Dear Sir;

It is my understanding that the real property tax payment for my property described above is to be made from my escrow account by August 20, 2007 by my mortgagee.

Please consider that payment to be made under protest. Specifically, I protest payment of real property taxes greater than the amount required of Department of Hawaiian Homelands (DHHL) lessees. It is my understanding that DHHL lessees are exempt from County of Kauai real property taxes except for \$25 per year.

This protest is based on the 5th and 14th Amendments of the United States Constitution and federal civil rights laws mandating equal protection, privileges and immunities under law without regard to race or ancestry.

By exempting only DHHL Hawaiian homestead lessees from most real property taxes, the County of Kauai, acting in concert with the State of Hawaii and the United States, deprives me of equal privileges and immunities under the laws because I have no native Hawaiian ancestry (not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778).

I can never become a Hawaiian homestead lessee and my interest in real property in the County of Kauai, can never qualify for the exemption.

I request that you refund to me or my mortgage company within 10 days all but \$25 for the first half of the 2007-2008 tax year.

Very truly yours,

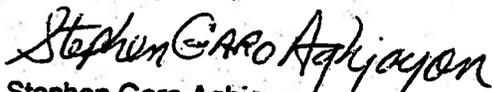
  
Stephen Garo Aghjayan

EXHIBIT A

## DECLARATION OF GARRY P. SMITH

I am the Plaintiff-Appellant in Tax Appeal Cases No. 07-0099 and No. 08-0041 and I make this declaration based on my personal knowledge in opposition to the State's motion for summary judgment filed April 20, 2009 and in support of Plaintiff-Appellants' motion for summary judgment to be filed May 1, 2009.

I am a citizen, registered voter and taxpayer of the City & County of Honolulu, State of Hawaii and the United States and am the owner of real property located at 91-321 Pupū Place, Ewa Beach, Hawaii 96706, TMK #1-9-1-030-014-0000-000.

Although I have been a resident of Hawaii since 1975 I am not "native Hawaiian" as defined in the Hawaiian Homes Commission Act.

I have read the complaint in TA No. 07-0099 and the appeal in TA No. 08-0041 and believe the statements of fact relating to my claim in both are true and correct.

The attached documents relating to my appeals of the assessments for the above parcel are true copies of:

A. 1/24/06 – File stamped Notice of Real Property Assessment Appeal for tax year 2006.

B. 11/3/06 – City & County of Honolulu Board of Review Decision that assessed value for tax year 2006 as determined by the director is correct. (I did not

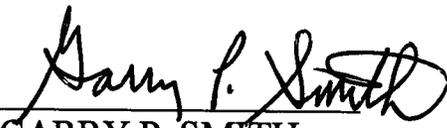
appeal the valuation but challenged the unequal treatment. I should be entitled to the same exemptions as DHHL properties. Special treatment of Hawaiian Homestead lots is a violation of the 14<sup>th</sup> Amendment.)

C. 1/23/07 – File stamped Notice of Real Property Assessment Appeal for tax year 2007-2008.

D. 8/3/07 – My letter protesting payment to City & County of Honolulu, Real Property Tax Collection of more than \$50 for the first half of tax year 2007-2008.

I declare under penalty of perjury the above statements are true and correct.

DATED: Honolulu, Hawaii April 30, 2009.

  
GARRY P. SMITH  
Plaintiff-Appellant



**NOTICE OF REAL PROPERTY ASSESSMENT APPEAL**  
**BOARD OF REVIEW FOR THE**  
**CITY AND COUNTY OF HONOLULU**

PAID RECEIPT

BUSINESS ACTUAL TIME  
 1/24/2006 1/23/2006 15:22:13

REG RP01 REAL MA MA  
 >>RECEIPT # 019278 1/23/2006  
 Dept 2 8983 COST OF APPEALS  
 FISCAL YR: 2006  
 FUND: 110 GENERAL FUND  
 TMK #: 910300140000

PARCEL ID (TMK)	910300140000
LAND CLASSIFICATION	IMPROVED RESIDENTIAL

501

Notice is hereby given that Appellant GARRY P. SMITH  
(print or type name of owner or taxpayer and title if applicable)

appeals the assessment made for the purpose of real property taxation for tax year 2006

upon real property identified on the tax maps and records by the above TMK (Parcel ID). Appellant believes the total assessment of the real property (before exemptions) should be \$ 37,500 **\$100 TAX**

**Appellant's grounds of objection to the assessment are as follows:**

- (1) Assessment of the property exceeds by more than 10% the market value of the property.
- (2) Lack of uniformity or inequality, brought about by illegality of the methods used or error in the application of the methods to the property involved. DHHL property treated better. NOT EQUAL OR FAIR
- (3) Denial of an exemption to which the taxpayer is entitled and for which such person has qualified. I should be entitled to same exemption as DHHL properties.  
 Exemption Type \_\_\_\_\_ Exemption Amount \$ \_\_\_\_\_
- (4) Illegality, on any ground arising under the Constitution or laws of the United States or the laws of the state or the ordinances of the city in addition to the ground of illegality of the methods used, mentioned in clause (2). SPECIAL TREATMENT OF HAWAIIAN HOMESTEAD LOTS A VIOLATION OF 14th AMENDMENT.

Appellant:  Owner  Taxpayer\* Appeal Filed By:  Owner  Taxpayer\*  Other\*\*

\* Proof of contractual obligation to pay property tax must accompany this appeal.  
 \*\* Written authorization to represent appellant must accompany this appeal.  
 A deposit of \$25.00 must be remitted for each appeal.

Signature Garry P. Smith Print Name GARRY P. SMITH

Title (if applicable) \_\_\_\_\_  
 Mailing Address for Appeal 91-321 PuPu Pl., EWA BEACH, HI 96706  
(see instructions)

Telephone Number 689-5559 E-mail Address GARRYPSMITH@JUNO.COM

FOR OFFICIAL USE ONLY		
Received by _____	Reviewed by _____	Case No. _____

**EXHIBIT A**



**BOARD OF REVIEW OF THE  
CITY AND COUNTY OF HONOLULU**

MUFI HANNEMANN  
Mayor

Ruth Lin, Vice Chair, Board 1  
Dean Senda, Chair, Board 2

In the Matter of the Tax Appeal of:

Tax Map Key: 910300140000

SMITH, GARRY P

Land Classification: IMPROVED RESIDENTIAL

Case No.: 33121

**DECISION:**

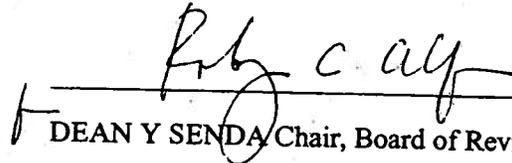
Having heard the above entitled appeal on September 22, 2006 concerning the assessment made for the purpose of real property taxation for the tax year 2006 upon real property identified on the map and records by tax key: 910300140000 It is hereby determined that the value of the subject property as of October 1, 2005 shall be:

	<u>VALUE</u>	<u>EXEMPTION</u>	<u>NET TAXABLE</u>
Total	638400	40000	598400

New Land Classification:

Upon consideration of all the facts before the Board and any written submissions, the Board finds that:  
The assessed value of the property as determined by the director is correct.

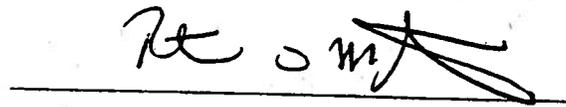
Decision Filed: November 3, 2006

  
DEAN Y SENDA, Chair, Board of Review

**CERTIFICATION**

I hereby certify this to be a true and correct copy of the original document which is on file in the office of the Director of Budget and Fiscal Services, City and County of Honolulu, Hawaii.

Date: November 3, 2006

  
Robert O. Magota, For City and County of Honolulu

**IMPORTANT/FURTHER APPEAL RIGHTS:**

The taxpayer may file an appeal within 30 days after this decision has been filed.

**EXHIBIT B**



**NOTICE OF REAL PROPERTY ASSESSMENT APPEAL  
BOARD OF REVIEW FOR THE  
CITY AND COUNTY OF HONOLULU**

**TAX YEAR 2007-2008**

APPEAL FILING DEADLINE IS JANUARY 16, 2007

A \$25.00 DEPOSIT MUST BE INCLUDED WITH EACH APPEAL

PLEASE READ INSTRUCTIONS ON THE REVERSE SIDE

PAID RECEIPT  
BUSINESS RECEIPT  
1/17/2007 1:54:54 PM  
REG. FUND  
RECEIPT # 00674  
DEPT. OF PUBLIC WORKS  
FUND - 110 GENERAL FUND  
TKM # 910300140000  
RCPT Tot \$25.00  
OK



PARCEL ID (TMK) 910300140000	LAND CLASSIFICATION IMPROVED RESIDENTIAL
------------------------------	--

NAME OF OWNER OR TAXPAYER <b>GARRY P. SMITH</b>	(Must be filled in)
---	---------------------

The owner's or taxpayer's opinion of property value must be filled in, otherwise the appeal is subject to dismissal.

OWNER'S OR TAXPAYER'S OPINION OF PROPERTY VALUE IS \$ <b>28,000.00</b>	(Must be filled in)
--	---------------------

One or more of the grounds of objection listed below must be selected, otherwise the appeal is subject to dismissal. My grounds of objection to the real property assessment are: (check one or more boxes below)

- (1) Assessment of the property exceeds by more than 10% the market value of the property.
- (2) Lack of uniformity or inequality, brought by illegality of the methods used or error in the application of the methods to the property involved.  
(If disputing land classification, refer to paragraph 3 on the reverse side.)
- (3) Denial of an exemption to which the taxpayer is entitled and for which such person has qualified.  
Enter Exemption Type \_\_\_\_\_ Enter Exemption Amount \$ \_\_\_\_\_
- (4) Illegality, on any ground arising under the Constitution or laws of the United States or the laws of the state or the ordinances of the city in addition to the ground of illegality of the methods used, mentioned in clause (2). Violation of 14th Amendment unequal treatment from Hawaiian Homelands according to race

SIGNATURE <b>Garry P. Smith</b>	PRINT NAME <b>GARRY P. SMITH</b>
---------------------------------	----------------------------------

I am the:  Owner  Taxpayer under contractual obligation to pay taxes\*  Other\*\*

\* Proof of contractual obligation to pay real property tax must accompany this appeal.  
\*\* Written authorization to represent owner or taxpayer must accompany this appeal.

YOUR TITLE (For employee, officer or representative of the taxpayer)
--

MAILING ADDRESS FOR APPEAL <b>91-321 Pulu Pl., EWA BEACH HI 96706</b>
---

TELEPHONE NUMBER (Daytime) <b>689-5559</b>	E-MAIL ADDRESS <b>garrypsmith@juno.com</b>
--	--

FOR OFFICIAL USE ONLY		
Received / U.S. Postmark <b>1/17/07</b>	Reviewed By <b>[Signature]</b>	Case No. _____

**Garry P. Smith**  
91-321 Pupū Place  
Ewa Beach, Hi 96706

August 3, 2007

City and County of Honolulu  
Real Property Tax Collection  
Division of Treasury  
PO Box 4200  
Honolulu, Hi 96812-4200

Parcel ID 1-9-1-030-014-0000-000  
Payment under protest pursuant to HRS Section 40-35

Dear Sir:

Enclosed is my check in the amount of \$1,522.47 as payment under protest of the first half of my 2007-2008 real property tax bill.

I protest payment of any real property tax greater than would be payable if I had the same real property tax exemption as DHHL Hawaiian homestead lessees. Since, as I understand it, Hawaiian homestead lessees currently are required to pay no more than \$100 per year, I protest paying any more than \$50 for the current installment.

Under the 5th and 14th Amendments and federal civil rights laws, I am entitled to equal protection, privileges and immunities under the laws without regard to race or ancestry. However, by exempting only DHHL Hawaiian homestead lessees from most real property taxes, the City & County of Honolulu, acting in concert with the State of Hawaii and the United States, deprives me of equal privileges and immunities under the laws. Solely because I have no native Hawaiian ancestry (not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778) I can never become a Hawaiian homestead lessee and my interest in real property in the City & County of Honolulu, can never qualify for the exemption.

Please tell me within 10 days if you will refund all but \$50 of this payment.

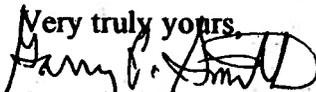
Very truly yours,  
  
Garry P. Smith

EXHIBIT D

## DECLARATION OF EARL F. ARAKAKI

I am the Plaintiff-Appellant in Tax Appeal Cases No. 07-0099 and No. 08-0043 and I make this declaration based on my personal knowledge in opposition to the State's motion for summary judgment filed April 20, 2009 and in support of Plaintiff-Appellants' motion for summary judgment to be filed May 1, 2009.

I am a citizen, registered voter and taxpayer of the City & County of Honolulu, State of Hawaii and the United States and am the owner of real property located at 91-030 Amio Street, Ewa Beach, Hawaii 96706, TMK # 1-9-1-027-035-0000.

Although I was born and raised in Hawaii and have lived here all my life, I am not "native Hawaiian" as defined in the Hawaiian Homes Commission Act.

I have read the complaint in TA No. 07-0099 and the appeal in TA No. 08-0043 and believe the statements of fact relating to my claim in both are true and correct.

The attached documents relating to my appeals of the assessments for the above parcel are true copies of:

A. 7/21/06 – City & County of Honolulu Notice of Proposed Dismissal because I did not state a claimed valuation, showing that my appeal of the assessment for tax year 2006 was then pending.

B. 11/3/06 – City & County of Honolulu Board of Review Decision that assessed value for tax year 2006 as determined by the director is correct. (I did not appeal the valuation but challenged the illegality and constitutionality of denying me the exemption equivalent to Hawaiian Homestead lessees.)

C. 1/23/07 – File stamped Notice of Real Property Assessment Appeal for tax year 2007-2008 timely postmarked 1/16/07.

D. 8/15/07 – My letter protesting payment to City & County of Honolulu, Real Property Tax Collection of more than \$50 for the first half of tax year 2007-2008.

I declare under penalty of perjury the above statements are true and correct.

DATED: Honolulu, Hawaii April 30, 2009



---

EARL F. ARAKAKI  
Plaintiff-Appellant

**CITY AND COUNTY OF HONOLULU  
BOARD OF REVIEW**

842 Bethel Street, Third Floor, Honolulu, Hawaii 96813

MUFI HANNEMANN  
Mayor

Ruth Lin, Vice Chair, Board 1  
Dean Senda, Chair, Board 2

July 21, 2006

ARAKAKI,EARL F  
91-030 AMIO ST  
EWA BEACH HI 96706

Dear ARAKAKI,EARL F,

Re: Notice of Proposed Dismissal for Parcel ID: 910270350000 Year: 2006

The proposed **dismissal** of your tax appeal has been set for hearing by the Board of Review ("Board") in the Conference Room, Third Floor, 842 Bethel Street Honolulu Hawaii on August 16, 2006. Appeals are heard starting at 2:00 PM. The Real Property Assessment employee assigned to your appeal is GAIL NAKAMOTO, 808-692-5535. The reason for proposed dismissal is attached.

If you attend this hearing:

1. Any person(s) representing the owner/taxpayer must provide a letter of authorization.
2. You are requested to limit presentation of your case **against proposed dismissal** to 10 minutes. Additional time may be requested and granted at the Board's discretion. You may also submit written testimony or other evidence at or prior to the hearing. If you submit written testimony, please provide six (6) copies.

If you cannot attend this hearing:

1. Please notify the Board in writing two (2) business days before the hearing date by mail or fax, Attention: GAIL NAKAMOTO. Fax number: 808 692-5550.
2. In lieu of your attendance at the hearing, you may submit written testimony or evidence prior to your hearing date, addressed to: Chair, Tax Board of Review, Real Property Assessment Division, Attention: GAIL NAKAMOTO. Please include the appeal hearing date, case number and tax year, as shown above, and provide six (6) copies to submit to the Board.
3. Failure to appear at the hearing and failure to notify the Board in advance of the hearing of your absence, and to submit written testimony or evidence, shall result in the dismissal of your appeal.

BOARD OF REVIEW  
CITY AND COUNTY OF HONOLULU

/s/ DEAN Y SENDA

EXHIBIT A

**Attachment**

Your appeal is proposed for dismissal because:

- The appellant is not the taxpayer or owner of the property, or person under a contractual obligation to pay the real property tax at the time of the appeal, and therefore lacks standing to appeal.
- Your appeal was not filed or postmarked by the United States Postal Service on or before the date fixed by law for taking of the appeal.
- Your appeal was not filed or postmarked by the United States Postal Service within 30 days of the mailing date of the amended notice of assessment.
- Appellant did not identify the assessment involved in the appeal.
- Appellant did not state the grounds of objection to the assessment.
- Appellant did not state a claimed valuation.
- The assessed value does not exceed by more than 10% the appellant's claimed value.
- Proper authorization to represent the taxpayer, owner, or person under a contractual obligation to pay the real property tax was not enclosed with the appeal.
- Other: No Remittance.

# BOARD OF REVIEW OF THE CITY AND COUNTY OF HONOLULU

MUFI HANNEMANN  
Mayor

Ruth Lin, Vice Chair, Board 1  
Dean Senda, Chair, Board 2

In the Matter of the Tax Appeal of:

Tax Map Key: 910270350000

Land Classification: IMPROVED RESIDENTIAL

Land Classification: IMPROVED RESIDENTIAL

Case No.: 32041

### DECISION:

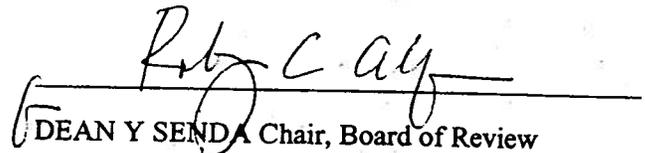
Having heard the above entitled appeal on September 22, 2006 concerning the assessment made for the purpose of real property taxation for the tax year 2006 upon real property identified on the map and records by tax key: 910270350000 It is hereby determined that the value of the subject property as of October 1, 2005 shall be:

	<u>VALUE</u>	<u>EXEMPTION</u>	<u>NET TAXABLE</u>
Total	388600	80000	308600

New Land Classification:

Upon consideration of all the facts before the Board and any written submissions, the Board finds that:  
The assessed value of the property as determined by the director is correct.

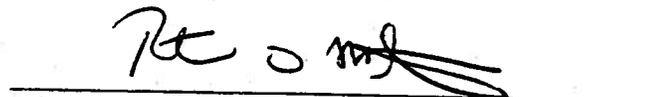
Decision Filed: November 3, 2006

  
DEAN Y SENDA Chair, Board of Review

### CERTIFICATION

I hereby certify this to be a true and correct copy of the original document which is on file in the office of the Director of Budget and Fiscal Services, City and County of Honolulu, Hawaii.

Date: November 3, 2006

  
Robert O. Magota, For City and County of Honolulu

### IMPORTANT/FURTHER APPEAL RIGHTS:

The taxpayer may file an appeal within 30 days after this decision has been filed.

EXHIBIT B



**NOTICE OF REAL PROPERTY ASSESSMENT APPEAL  
BOARD OF REVIEW FOR THE  
CITY AND COUNTY OF HONOLULU**

**PAID RECEIPT**  
BUSINESS ACTUAL TIME  
1/25/2007 1/22/2007 10:46:15  
REG REUS MAIL FB BB  
RECEIPT # 432636 1/22/2007  
Dept 2 8983 COST OF APPEALS  
FISCAL YR: 2007  
FUND: 110 GENERAL FUND  
TRF ID: 910270350000  
Receipt Tot \$25.00  
\$25.00 OK \$00.00

**TAX YEAR 2007-2008**

APPEAL FILING DEADLINE IS JANUARY 16, 2007

A \$25.00 DEPOSIT MUST BE INCLUDED WITH EACH APPEAL

PLEASE READ INSTRUCTIONS ON THE REVERSE SIDE



PARCEL ID (TMK) 910270350000	LAND CLASSIFICATION IMPROVED RESIDENTIAL
------------------------------	--

NAME OF OWNER OR TAXPAYER **EARL F. ARAKAKI** (Must be filled in)

The owner's or taxpayer's opinion of property value must be filled in, otherwise the appeal is subject to dismissal.

OWNER'S OR TAXPAYER'S OPINION OF PROPERTY VALUE IS \$ **28,000.00** (Must be filled in)

One or more of the grounds of objection listed below must be selected, otherwise the appeal is subject to dismissal. My grounds of objection to the real property assessment are: (check one or more boxes below)

- (1) Assessment of the property exceeds by more than 10% the market value of the property.
- (2) Lack of uniformity or inequality, brought by illegality of the methods used or error in the application of the methods to the property involved.  
(If disputing land classification, refer to paragraph 3 on the reverse side.)
- (3) Denial of an exemption to which the taxpayer is entitled and for which such person has qualified.  
Enter Exemption Type \_\_\_\_\_ Enter Exemption Amount \$ \_\_\_\_\_

- (4) Illegality, on any ground arising under the Constitution or laws of the United States or the laws of the state or the ordinances of the city in addition to the ground of illegality of the methods used, mentioned in clause (2). *Violation of 14th Amendment, U.S. Constitution - Equal application of law. not applied in CAC of Honolulu Property tax laws.*

SIGNATURE *Earl F Arakaki* PRINT NAME **EARL F. ARAKAKI**

I am the:  Owner  Taxpayer under contractual obligation to pay taxes\*  Other\*\*

\* Proof of contractual obligation to pay real property tax must accompany this appeal.  
\*\* Written authorization to represent owner or taxpayer must accompany this appeal.

YOUR TITLE (For employee, officer or representative of the taxpayer)

MAILING ADDRESS FOR APPEAL **91-030 ANIO STREET, EWA BEACH, H.I. 96706**

TELEPHONE NUMBER (Daytime) **689-3400 (H)** E-MAIL ADDRESS  
**927-1333 (C)**

FOR OFFICIAL USE ONLY  
Received / U.S. Postmark *1/16/07* Reviewed By *J. Edmund SM* Case No. \_\_\_\_\_

August 15, 2007

City and County of Honolulu  
Real Property Tax Collection  
Division of Treasury  
PO Box 4200  
Honolulu, HI 96812-4200

TMK: 91027035  
Homeowner: Earl F. Arakaki  
91-030 Amio Street, Ewa Beach, HI. 96706

Payment under protest pursuant to HRS Section 40-35

Dear Sir,

It is my understanding that property tax payment is to be made on my behalf August 15, 2007, by Bank of Hawaii where I have a mortgage on my home, via escrow company.

I realize I must fulfill my contractual mortgage obligations. However, I protest payment of real property taxes greater than the one-hundred-dollars (\$100) required of Department of Hawaiian Homelands (DHHL) lessees.

This protest is based on the 5th and 14th Amendments of the United States Constitution and federal civil rights laws mandating equal protection, privileges and immunities under law without regard to race or ancestry.

By exempting only DHHL Hawaiian homestead lessees from most real property taxes, the City & County of Honolulu, acting in concert with the State of Hawaii and the United States, deprives me of equal privileges and immunities under the laws because I have no native Hawaiian ancestry (not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778).

I can never become a Hawaiian homestead lessee and my interest in real property in the City & County of Honolulu, can never qualify for the exemption.

I request remedy within 10 days in the form of a refund of all but Fifty-dollars (\$50) for the first half of 2007-2008 tax year.

Sincerely,

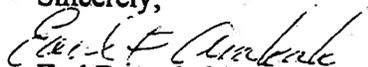
  
Earl F. Arakaki

EXHIBIT D

Copy

## DECLARATION OF J. WILLIAM SANBORN

I am the Plaintiff-Appellant in Tax Appeal Cases No. 07-0102 and No. 08-0042 and I make this declaration based on my personal knowledge in opposition to the State's motion for summary judgment filed April 20, 2009 and in support of Plaintiff-Appellants' motion for summary judgment to be filed May 1, 2009.

I am a citizen, registered voter and taxpayer of the County of Hawaii, State of Hawaii and the United States and am the owner of real property located at 62-596 Emmalani Street, Kamuela, Hawaii 96743, TMK #3-6-2-003-007-0000-000.

Although I was born and raised in Hawaii and have lived here all my life, I am not "native Hawaiian" as defined in the Hawaiian Homes Commission Act.

I have read the complaint in TA No. 07-0102 and the appeal in TA No. 08-0042 and believe the statements of fact relating to my claim in both are true and correct.

The attached documents relating to my appeals of the assessments for the above parcel are true copies of:

A. 8/20/07 – My letter protesting payment to County of Hawaii, Real Property Tax Division of more than \$50 for the first half of tax year 2007-2008.

B. 8/20/07 – Corrected letter of protest changing "City & County of Honolulu" to "County of Hawaii".

I declare under penalty of perjury the above statements are true and correct.

DATED: Honolulu, Hawaii April 30, 2009

  
J. WILLIAM SANBORN  
Plaintiff-Appellant

**J. William Sanborn**

P.O. Box 2824  
Kamuela, HI 96743

August 20, 2007

County of Hawai'i  
Real Property Tax Division  
Aupuni Center  
101 Pauahi Street, Suite 4  
Hilo, HI 96720-4224

Dear Sir: Parcel ID 3-6-2-003-007-0000-000  
Payment Under Protest pursuant to H.R.S. §40-35

Enclosed is my check in the amount of \$654.08 as payment under protest of the first half of my 2007-2008 real property tax per attached tax bill.

I protest payment of any real property tax greater than would be payable if I had the same real property tax exemption as DHHL Hawaiian homestead lessees. Since, as I understand it, Hawaiian homestead lessees currently are required to pay no more than \$100 per year, I protest paying any more than \$50 for the current installment.

Under the 5<sup>th</sup> and 14<sup>th</sup> Amendments and federal civil rights laws, I am entitled to equal protection, privileges and immunities under the laws without regard to race or ancestry. However, by exempting only DHHL Hawaiian homestead lessees from most real property taxes, the City & County of Honolulu, acting in concert with the State of Hawaii and the United States, deprives me of equal privileges and immunities under the laws. Solely because I have no "native Hawaiian" ancestry ("not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778"), I can never become a Hawaiian homestead lessee and my interest in real property in the City & County of Honolulu, can never qualify for the exemption.

Please tell me within 10 days if you will refund all but \$50 of this payment.

Very truly yours,

*J. William Sanborn*  
J. William Sanborn, Trustee

J. WILLIAM SANBORN P.O. BOX 2824 PH. 808-885-6041 KAMUELA, HI 96743		59-7076/3213 0510943732	4988
Pay to the order of <u>DIRECTOR OF FINANCE</u>		DATE <u>8-20-07</u>	
<u>SIX HUNDRED FIFTY FOUR &amp; 08/100</u>		<u>\$ 654.08</u>	
AMERICAN Savings Bank P.O. Box 2300 Honolulu, Hawaii 96804-2300 www.asbhi.com		<i>J. William Sanborn</i>	
PAID UNDER PROTEST - HRS 40-35 DATE 8/20/2007 PARCEL 3-6-2-003-007			
⑆321370765⑆4988 05109⑆43732⑆			

DF-RPC A-5



COUNTY OF HAWAII  
REAL PROPERTY TAX DIVISION  
AUPUNI CENTER  
101 PAUAAHI STREET SUITE 4  
HILO, HI 96720-4224  
TELEPHONE: (808) 961-8282

**RETURN THIS PORTION WITH YOUR PAYMENT.**

MAKE CHECK PAYABLE TO: DIRECTOR OF FINANCE.  
MAKE ADDRESS CHANGES ON THE REVERSE SIDE

TAX MAP KEY/PARCEL ID	PAYMENT DUE DATE	PRIOR YEAR(S)	CURRENT YEAR	AMOUNT DUE NOW	TOTAL DUE
3-6-2-003-007-0000-000	08/20/2007	\$ 0.00	\$ 1,308.15	\$ 654.08	\$ 1,308.15

PAID UNDER PROTEST  
032765 HRS 40-35  
*JWS*

AMOUNT PAID: \$ 654.08

SANBORN, J WILLIAM TRS  
P O BOX 2824  
KAMUELA HI 96743-2824



**EXHIBIT A**

**J. William Sanborn**

P.O. Box 2824  
Kamuela, HI 96743

August 20, 2007  
(Corrected)

County of Hawai'i  
Real Property Tax Division  
Aupuni Center  
101 Pauahi Street, Suite 4  
Hilo, HI 96720-4224

Dear Sir:                    Parcel ID 3-6-2-003-007-0000-000  
   **Payment Under Protest** pursuant to H.R.S. §40-35

Enclosed is my check in the amount of **\$654.08** as payment under protest of the first half of my 2007-2008 real property tax per attached tax bill.

I protest payment of any real property tax greater than would be payable if I had the same real property tax exemption as DHHL Hawaiian homestead lessees. Since, as I understand it, Hawaiian homestead lessees currently are required to pay no more than \$100 per year, I protest paying any more than \$50 for the current installment.

Under the 5<sup>th</sup> and 14<sup>th</sup> Amendments and federal civil rights laws, I am entitled to equal protection, privileges and immunities under the laws without regard to race or ancestry. However, by exempting only DHHL Hawaiian homestead lessees from most real property taxes, the **County of Hawai'i**, acting in concert with the State of Hawaii and the United States, deprives me of equal privileges and immunities under the laws. Solely because I have no "native Hawaiian" ancestry ("not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778"), I can never become a Hawaiian homestead lessee and my interest in real property in the **County of Hawai'i**, can never qualify for the exemption.

Please tell me within 10 days if you will refund all but \$50 of this payment.

Very truly yours,

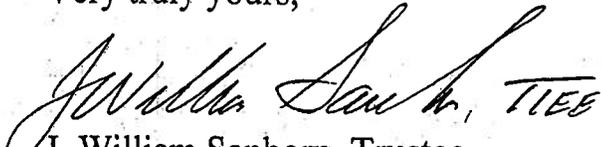
  
J. William Sanborn, Trustee

EXHIBIT B

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the following parties and attorneys as addressed below via First Class U. S. Mail, postage prepaid on May 1, 2009:

MARK J. BENNETT, ESQ.  
Attorney General State of Hawaii  
GIRARD D. LAU, ESQ.  
CHARLEEN M. AINA, ESQ.  
HUGH R. JONES, ESQ.  
Deputy Attorneys General  
425 Queen Street  
Honolulu, Hawaii 96813

Attorneys for Intervenor-Defendant-Appellee State of Hawaii, and Defendant-Appellee Mark J. Bennett, in his official capacity as Attorney General of Hawaii

ALFRED B. CASTILLO, JR., ESQ.  
JENNIFER S. WINN, ESQ.  
Office of the Kauai County Attorney  
4444 Rice Street, Suite 220  
Lihue, Kauai, Hawaii 96766

Attorneys for Defendant County of Kauai

BRIAN T. MOTO, ESQ.  
RICHARD B. ROST, ESQ.  
Office of Maui Corporation Counsel  
200 South High Street  
Wailuku, Maui, Hawaii 96793

Attorneys for Defendant County of Maui

LINCOLN S.T. ASHIDA, ESQ.  
CRAIG T. MASUDA, ESQ.  
Office of Hawaii Corporation Counsel  
101 Aupuni Street, Suite 325  
Hilo, Hawaii 96720

Attorneys for Defendant County of Hawaii

CARRIE OKINAGA, ESQ.  
LEE M. AGSALUD, ESQ.  
Real Property Tax Division  
842 Bethel St. Fl. 2  
Honolulu, Hawaii 96813

Attorneys for Defendant City & County of Honolulu

DATED: Honolulu, Hawaii, May 1, 2009.



H. WILLIAM BURGESS  
Attorney for Plaintiffs-Appellants