

67- 41951⁶⁰

STATE OF HAWAII
BUREAU OF CONVEYANCES
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CIVIL NO. 30

IN THE CIRCUIT COURT OF THE FIFTH CIRCUIT

STATE OF HAWAII

JOHN GREGG ALLERTON and PAUL G. RICE,
Plaintiffs,

vs.

HEIRS OF HANAH K. AHI, et al.,
Defendants.

FINAL ORDER IN PARTITION

and

EXHIBITS "D" TO "H", INCLUSIVE

FILED at 4:00 o'clock PM on OCT 20 1967

BARBARA HARUKI
Filing Clerk

An Interlocutory Order having been filed herein on July 5, 1967, confirming the recommendations of HENRY C. WEDEMEYER, YELSO YAMAURA and NICHOLAS A. AKANA, Commissioners appointed herein, as to the partition of said Hui Lands, except as modified by said Interlocutory Order, and providing, among other matters, for the following matters to be carried out by said Commissioners, to-wit:

(a) The sale of four unawarded lots (being Lots 5, 6, 7 and 42), which sale was effected on June 23, 1967, and an order filed herein on July 10, 1967, confirming same to the parties mentioned therein;

(b) The staking of all lots and kuleanas (including the locating and staking of Land Commission Award 7946, which consists of 0.50 acre of wet (taro) land);

(c) The recording of all exchange deeds;
and

(d) The payment of all fees granted in said Interlocutory Decree;

all of which matters have been done and the Court fully advised as to the same, and metes and bounds description having been prepared as to each lot or parcel and final maps having been made showing the same, together with a notation of any easement to which each may be entitled

or which may encumber the same, and a notation of the area of wet (kalo or taro) land, if any, contained therein and a notation of the domestic water supply, if any, to which the same may be entitled (all pursuant to the data set forth in the Report of the Commissioners filed herein on April 11, 1967, and confirmed by said Interlocutory Order) and final maps of said Hui Lands (showing the first and second flats thereof with insets of the entire Ahupuaa of Haena) having been prepared showing said lots, said lots having been renumbered in consecutive order as set forth in Report and Order (filed herein on October 13, 1967), said renumbering in no way changing the substantive rights of the shareowners as set forth in said Interlocutory Order, said final maps being filed in the above Court contemporaneously with this Final Order in Partition together with a tabulation of the various lots showing the values thereof and the awardee or awardees thereof, said Maps and Tabulation being marked Exhibits "A", "B" and "C", respectively;

AND a full statement of all costs and expenses having been filed herein showing a net expense of said partition proceedings to be in the sum of \$50,388.00 (as more fully appears in Exhibit "D" attached hereto, thus resulting in a net charge of \$1,326.00 per each full share in said Hui Lands:

Now, therefore, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That performance and execution of the foregoing

matters by the Commissioners is hereby approved and confirmed, including, but not limited to, said metes and bounds survey descriptions of said lots together with easements, if any, appurtenant thereto and/or to which they may be subject and the areas, if any, of wet lands and the gallonage of water from Limahuli Streams, if any, to which they may be entitled for domestic water purposes;

2. That said lots, as so renumbered by Order filed herein on October 13, 1967 are hereby awarded to the following, subject to payment by way of owelty or adjustment to cover the pro-rata share of expenses as set forth:

<u>Allottee</u>	<u>Interest in Hui</u>	<u>Value</u>	<u>Allotted Land</u>	<u>Value</u>	<u>Over or (Under)</u>
Healani Aea	.3000	\$ 3,483.83	53	\$ 689.67	(76.20)
Bernice Davidson			67	<u>2,717.96</u>	
Gilbert S. Honda				3,407.63	
Colleen M. Kela					
Henrietta Medeiros					
Marjorie Ann Teixeira					
John Allerton	4.9487	57,468.11	31	3,614.03	
plus: value of L.C.		156.25	32	23,269.88	
Aw. 7949, Ap. 2 & 3			54	1,029.78	
and 11/24ths of L.C.		138.53	113	15,980.69	
Aw. 7943:2		<u>57,762.89</u>	122	100.00	
			123	no value	
			124	12,263.23	
			153	<u>170.00</u>	
				56,427.61	(1,335.28)
Sam Apo	.0857)				
Hazel Gross	.0857)	1,990.42	66	2,200.03	209.61
William & Patsy Asing (tenants by the entirety)	.0912	1,059.08	27	1,105.38	46.30
Adolph Bartels	.0150)				
George Bartels	.0150)				
Alma B. Kealoha	.0150)	870.95	68	923.40	52.45
Harriet B. Mariani	.0150)				
Helene B. Suganuma	.0150)				

<u>Allottee</u>	<u>Interest in Hui</u>	<u>Value</u>	<u>Allotted Land</u>	<u>Value</u>	<u>Over or (Under)</u>
Rachel M. Bickel	.0556)				
Joseph Malia	.0556)	\$ 2,582.68	62	\$ 2,640.02	57.34
William K. Malia	.0556)				
Caroline M. Nakamoto	.0556)				
Beryl D. Bruhn (1/6)	.0286)				
David Huddy (1/9)	.0191)				
Dwight Huddy (1/9)	.0191)	1,990.42	65	2,202.02	211.60
James Huddy (1/3)	.0571)				
Charla H. Lam (1/9)	.0191)				
Harriet D. Yoshino (1/6)	.0286)				
Elizabeth Chandler	.0469)				
Marie Inouye	.0469)				
Bernard Mahuiki	.0469)				
Donald Mahuiki	.0469)	4,354.78	59	4,413.84	59.06
Jeremiah Mahuiki	.0469)				
Lawrence Mahuiki	.0469)				
Ruth Mahuiki	.0469)				
Samson Mahuiki	.0469)				
William & Rosaline Chandler (tenants by the entirety)	.9250	10,741.81	28 30 128 129	4,226.24 6,033.13 716.51 420.00	654.07
Charles Chu	.3000	3,483.83	112	3,630.87	147.04
William Chu and Chu Wai (joint tenants)	.6250	7,257.98	2 110	2,470.33 1,784.81	
less: 11/24ths of L.C. Aw. 7943:2		138.53 7,119.45	111 116	1,846.44 1,444.50	
				7,546.08	426.63
Mildred M. Chung less dower (Myra Gloss)	.1300	1,509.66 130.59 1,379.07	51	1,559.57	180.50
Dora Jane Cole	1.0750	12,483.72	9 25 46 52 135 136	1,697.60 1,618.11 1,444.23 3,112.10 2,140.69 2,885.01	
				12,897.74	414.02
Jean Mary Cooke	.1322	1,535.67	39	1,393.04	(142.63)

<u>Allottee</u>	<u>Interest in Hui</u>	<u>Value</u>	<u>Allotted Land</u>	<u>Value</u>	<u>Over or (Under)</u>
County of Kauai	2.0000	\$ 23,225.54	43	\$ 20,098.51	
			44	100.00	
			48	no value	
			121	273.76	
			125	720.16	
			126	792.00	
			127	804.25	
			130	100.00	
			131	(exchg)	
			132	100.00	
			133	300.00	
				<u>23,288.68</u>	63.14
Kamala De Fries	.0208)				
Ben Kanealii	.0208)				
David Kanealii	.0208)	1,451.59	63	1,337.02	(114.57)
Joseph Kanealii	.0208)				
Michael Kanealii	.0208)				
Sam Kanealii	.0208)				
Helen R. Ellis & Wayne E. Ellis (tenants by the entirety) (1/4)	.2600)	12,077.28	10 16 20 (1/5)	857.36 4,881.32 128.00	
Helen K. Ellis (1/4)	.2600)		29	3,535.66	
Michael L. Ellis (1/4)	.2600)		45	1,585.89	
Wayne R. Ellis (1/4)	.2600)		47	2,320.81	
				<u>13,309.04</u>	1,231.76
Mary K. Ellis	.4000	4,645.10	3 114	2,090.83 <u>2,863.00</u>	
				4,953.83	308.73
Wayne E. Ellis	.1250	1,451.59	139	1,457.68	6.09
A. Lindsay Faye, Jr.	.1000	1,161.27	61 146	1,103.36 <u>448.57</u>	
				1,551.93	390.66
Myra Gloss	(dower)	652.95	24	784.98	132.03
Claire Bukoski Follner	.1250)				
Maria Laamea	.1250)				
Victoria Lindsey	.1250)	4,354.78	118	4,346.64	(8.14)
Joe & Dora Hashimoto (tenants by the entirety)	.5000	5,806.38	70	5,658.24	(138.14)

<u>Allottee</u>	<u>Interest in Hui</u>	<u>Value</u>	<u>Allotted Land</u>	<u>Value</u>	<u>Over or (Under)</u>
Elmer Keahi	.0666)				
Joseph Keahi	.0666)				
Norman Keahi	.0666)	\$ 3,870.92	40	\$ 2,589.68	
Raymond Keahi	.0666)		137	<u>1,500.03</u>	
Winona K. Rosehill	.0666)			4,089.71	218.79
F. C. & Jenny Kling (tenants by the entirety)	.2675	3,106.41	104	3,152.23	45.82
John & Helen Lee (tenants by the entirety)	.1250	1,451.59	60	1,437.84	(13.75)
Murphy Maka	.1300)				
Helena M. Santos	.1300)	4,528.98	55	5,489.72	1,352.51
Marjorie M. Yokotake	.1300)				
less dower (Myra Gloss)		<u>391.77</u>			
		4,137.21			
Chris Makaila	.0833	967.34	64	936.20	(31.14)
Maile Montervon	.0625	725.80	58	665.79	(60.01)
Howard H. Moore & Mary May Moore (tenants by the entirety)	.6400	7,432.17	105 106 108	6,026.56 443.00 <u>349.50</u>	6,819.06 (613.11)
Polly Moore	.0556	644.40	107	1,171.07	526.67
Catherine Moragne	.1322	1,535.67	35	1,652.24	116.57
Sally Ann Moragne	.1322	1,535.67	37	1,696.90	161.23
William M. & Jean W. Moragne (tenants by the entirety)	.1324	1,535.68	36	2,228.17	692.49
William Moragne, Jr.	.1322	1,535.67	38	1,637.11	101.44
Robert Morton	.1250	1,451.59	138	1,443.57	(8.02)
Adeline Ogawa	.0833	967.34	57	973.36	6.02
James Manji Ouye & Emma Ouye (tenants by the entirety)	.3335	3,872.86	102	4,178.67	305.81
Phyllis Pa Ragsac	.1250	1,451.59	69 115	1,357.92 <u>100.00</u>	1,457.92 6.33

<u>Allottee</u>	<u>Interest in Huf</u>	<u>Value</u>	<u>Allotted Land</u>	<u>Value</u>	<u>Over or (Under)</u>
Charles Rice Estate	.0089	\$ 103.35	134	\$ 100.00	(3.35)
Edward and Martha Rice (tenants by the entirety)	1.2300	14,283.70	18 20 (1/10)	14,553.28 <u>64.00</u> 14,617.28	333.58
Paul G. Rice	.1514	1,758.07	22 117	2,365.86 <u>1,057.85</u> 3,423.71	1,665.64
Paul Land Joyce Rice (tenants by the entirety)	1.2300	14,283.70	19 20 (1/10)	14,118.49 <u>64.00</u> 14,182.49	(101.21)
Richard K. Rice	.1700	1,974.17	8	1,982.96	8.79
William Harrison Rice	1.0400	12,077.28	12 14 20 (1/5) 109	3,015.04 8,240.40 128.00 <u>1,120.33</u> 12,503.77	426.49
Alice Robinson Estate	6.9189	80,347.59	33 71 119	3,580.20 25,060.79 <u>34,054.61</u> 62,695.60	(17,651.99)
Eleanor Robinson	1.000	11,612.77	34	11,837.32	224.55
Selwyn Robinson	1.0269	11,925.15	120	7,968.98	(3,956.17)
Alice W. Sheehan & Gaylord Wilcox	.6667	7,741.84	1	7,880.21	138.37

<u>Allottee</u>	<u>Interest in Hui</u>	<u>Value</u>	<u>Allotted Land</u>	<u>Value</u>	<u>Over or (Under)</u>
John Steelquist	.2300	\$ 2,670.93	11 20 (1/10)	\$ 2,727.36 64.00 <u>2,791.36</u>	120.43
Agnes Thronas Fred Thronas Samuel Thronas	.0357) .0357) .0357)	1,243.72	50	1,081.71	(162.01)
Bertha Tom	.0833	967.34	56	963.27	(4.07)
Francelia K. Veech	.6400	7,432.17	15 20 (1/10)	7,120.58 64.00 <u>7,184.58</u>	(247.59)
Waioli Hui'ia Church	.2000	2,322.55	23	2,496.98	174.43
Dora Wallis	1.0400	12,077.28	17 20 (1/5) 21 26 49	6,081.58 128.00 1,591.04 1,522.35 2,467.62 <u>11,790.59</u>	(286.69)
Charles R. Wichman (11.28%) and	.3000	3,483.83	101 & 101-A 103	5,123.39 7,593.08	
Juliet Atwood Wichman (88.72%) (as to all except Lots 103 and 150, which are awarded solely to Juliet Atwood Wichman)	3.1333	<u>36,386.29</u> <u>39,870.12</u>	140 141 142 143 144 145 147 148 149 150 151 152	2,054.40 2,375.76 2,891.02 2,408.68 2,288.80 2,424.92 624.03 1,322.77 2,778.07 1,406.20 100.00 8,165.00 <u>41,556.12</u>	1,686.00

<u>Allottee</u>	<u>Interest in Hui</u>	<u>Value</u>	<u>Allotted Land</u>	<u>Value</u>	<u>Over or (Under)</u>
Winifred Willis plus: value of roadway in Lot 2, Wainiha Hui	1.3333	\$ 15,483.68 652.95 <u>16,136.63</u>	4 .13	\$1,719.36 <u>16,845.21</u> 18,564.57	2,427.94
Hilda Make Zaima less dower (Myra Gloss)	.1300	1,509.66 <u>130.59</u> 1,379.07	41	1,953.40	574.33
TOTAL	<u>38.0000</u>	<u>\$442,094.42</u>		<u>\$433,045.61</u>	<u>(\$9,048.81)</u>

Less: Value of
Willis roadway and
Award 7949, Aps 2
and 3

<u>809.20</u>	<u>809.20</u>
\$441,285.22	\$432,236.41

TOTAL VALUE, Lots Allotted	\$432,236.41
APPRAISED VALUE, Lots Unallotted and later sold (5, 6, 7 and 42)	9,048.81
TOTAL APPRAISED VALUE, Hui Lots for Distribution	\$441,285.22

That said Lot 123 (containing the hula grounds and heiau) is awarded to John Allerton, for and during his lifetime or until he should transfer his title to either or both of Lot 123 and Lot 124, whichever event shall first occur, (subject to an easement in favor of the County of Kauai for the purpose of permitting the public to visit same at reasonable times), remainder in fee, as to said Lot 123, to the County of Kauai.

3. That the following persons are entitled to dower or curtesy rights as follows:

(a) William C. Bartels is entitled to curtesy rights as to the whole of said Lot 68 awarded to Adolph Bartels, et al.;

(b) Maile Kaapuni is entitled to dower rights as to the one-third undivided interest in Lot 65 awarded to David Huddy, Dwight Huddy and Charla Huddy Lum;

(c) Esther M. Keahi is entitled to dower rights as to the whole of said Lots 40 and 137 awarded to Elmer Keahi, et al.;

(d) Rachel Mahuiki is entitled to dower rights as to the whole of said Lot 59 awarded to Elizabeth Chandler, et al.; and

(e) Fred Medeiros is entitled to curtesy rights as to the whole of said Lots 53 and 67 awarded to Healani Aea, et al.

4. That said Lot 23 awarded to Waioli Hui'ia Church is subject to an agreement of sale in favor of James L. Meriam; that said Lots 35, 37, 38 and 39 awarded to Catherine Moragne, Sally Ann Moragne, William Moragne, Jr., and Jean Mary Cooke, respectively, are subject to a lease in favor of William M. Moragne and Jean W. Moragne as tenants by the entirety; that said Lot 109 has been conveyed by William Harrison Rice to Howard H. Moore and

Mary May Moore, as tenants by the entirety, who are entitled to receive title to same from the Commissioners.

5. That the following Roads and Pathways are awarded to the following:

Roads A and A-1 (the main government road traversing the Hui lands): To the County of Kauai;

Road B-1: To the owners of Lots 8 and 13 in equal shares;

Road B-2: To the owners of Lots 1 to 9, inclusive, and Lot 13 in equal shares subject to an easement in favor of the County of Kauai;

Road B-3: To the owners of Lots 3, 4 and 13 in equal shares;

Road B-4 (portion of Lot 2 of Wainiha Hui conveyed to the Commissioners by Winifred Willis): To the owner of that portion of Lot 2 of Wainiha Hui adjoining same and to the owners of Lots 1 to 9, inclusive, and Lot 13 in equal shares subject to an easement in favor of the County of Kauai;

Road C: To the owners of Lots 23, 24, 25 and 28 in equal shares;

Road D-1: To the County of Kauai;

Road D-2: To the owners of Lots 19, 27, 28, 29, 30, 31 and 32 in equal shares, subject to an easement in favor of the County of Kauai;

Road E: To the County of Kauai;

Road F-1: To the owner of Lot 71 subject to an

easement in favor of the County of Kauai and the owners of Lots 46, 47, 48 and 49 and of L. C. Award 10562, Apana 2;

Road F-2: To the owners of Lot 71, subject to an easement in favor of the County of Kauai;

Road G: To the owners of Lots 56 to 64, inclusive, in equal shares;

Road H: To the owners of Lots 65 to 68, inclusive, in equal shares;

Road J: To the owners of Lot 102, subject to an easement in favor of the owner of Lot 103;

Road K: To the owners of Lot 104, subject to an easement in favor of the owners of L. C. Award 10,562, Apana 1, and also in favor of the owner of the area embraced by School Grant 41, Apana 8;

Road L: To the owners of Lots 105 and 107 to 112, inclusive, in equal shares, subject to an easement in favor of the owners of L. C. Award 7913, L. C. Award 7943, Apana 2, L. C. Award 7942 and L. C. Award 10965;

Road M: To the owners of Lot 113, subject to an easement in favor of L. C. Award 7943, Apana 1;

Road N: To the owners of Lots 115 to 119, inclusive, in equal shares, subject to an easement in favor of the owners of L. C. Award 10941, L. C. Award 7996 and L. C. Award 10674;

Road P-1: To the owners of Lot 152, subject to an easement in favor of the owners of Lots 137 to 145, inclusive, and the owner of L. C. Award 7946;

Road P-2: To the owners of Lot 152, subject to an easement in favor of the owners of Lots 140, 141, 142 and the owner of L. C. Award 7946;

Easement Q-1: To the owners of Lot 127, subject to an easement in favor of the owners of Lots 128 and 129;

Easement Q-2: To the owners of Lot 128, subject to an easement in favor of the owners of Lot 129;

Pathways S and T: To the County of Kauai;

Pathway U: To the owners of Lots 105 and 107 to 112, inclusive, in equal shares, subject to an easement in favor of the owners of Lots 106, 114, 115, 135 to 146, inclusive, 151, and 152 and L. C. Awards 7913, 7942, 7943, Apana 2, 7945, Apana 1, 7946, 10562, Apana 1 and 10965;

Pathway V: To the owners of Lot 113, subject to an easement in favor of the owners of L. C. Award 10675;

Pathway W: To the owners of Lot 118, subject to an easement in favor of the owners of the easterly one-half portion of L. C. Award 10941;

Pathways X and Y (within Lot 153): To the owners of Lot 153, subject to an easement in favor of the State of Hawaii, being the existing trail to Kalalau Valley; and

Pathway Z (within Lots 122 and 124): To the owners of Lot 153, subject to an easement in favor of the County of Kauai for access to Lot 123.

6. That as set forth in said Order filed herein on July 10, 1967, the following lots were sold at the following prices to the following persons who are entitled to deeds therefor:

Lot 5 to Francis E. Chandler and Elizabeth Mahuki Chandler, as tenants by the entirety, for \$6,300.00;

Lot 6 to Samuel Thronas for \$7,000.00;

Lot 7 to Charles Chu for \$7,000.00; and
 Lot 42 to Samson K. Mahuiki for \$15,501.00;
 that taking into consideration said sales and all expenses
 of this proceeding, as set forth in said Exhibit "D"
 attached hereto, showing a net, final, total expense of
 \$50,388.00 (or \$1,326.00 per each full share in said Hui
 Lands), the following list sets forth the net amount or
 amounts owed to the Commissioners or owed by the Commissioners
 to the foregoing awardees:

	<u>Over or Under</u>	<u>Share of Expense</u>	<u>Amount Owed</u>
Healani Aea (Madeiros family)	(\$ 76.20)	\$ 397.80	\$ 321.60
John Allerton	(1,335.28)	6,561.96	
(Less payments:		40,925.20)	(35,698.52)
Apo and Cross	209.61	227.28	436.89
William and Patsy Asing	46.30	120.94	167.24
Bartels family	52.45	99.44	151.89
Rachel Bickel (Malia family)	57.34	294.90	352.24
Beryl Bruhn (Huddy family)	211.60	227.28	438.88
Elizabeth Chandler (Mahuiki family)	59.06	497.25	556.31
William and Rosaline Chandler	654.07	1,226.55	1,880.62
Charles Chu	147.04	397.80	544.84
William Chu and Wai Chu	426.63	828.74	1,255.37
Mildred M. Chung	180.50	157.44	337.94
Dora Jane Cole	414.02	1,425.44	1,839.46
Jean Mary Cooke (Moragne family)	929.10	876.75	1,805.85
County of Kauai	63.14	2,652.00	2,715.14

	<u>Over or Under</u>	<u>Share of Expense</u>	<u>Amount Owed</u>
Kamala de Fries (Kanealii family)	\$ (114.57)	\$ 165.75	\$ 51.18
Helen R. Ellis (Ellis family)	1,231.76	1,379.04	2,610.80
Mary K. Ellis	308.73	530.40	839.13
Wayne E. Ellis	6.09	165.75	171.84
Clare Follner, M. Laamea and V. Lindsay	(8.14)	497.25	489.11
A. Lindsay Faye, Jr.	390.66	132.60	523.26
Myra Gloss	132.03	74.55	206.58
Joe and Dora Hashimoto	(138.14)	663.00	524.86
Elmer Keahi (Keahi family)	218.79	442.00	660.79
F. C. and Jenny Kling	45.82	354.71	400.53
John and Helen Lee	(13.75)	165.75	152.00
Murphy Maka, Helena Santos and M. Yokotake	1,352.51	472.33	1,824.84
Chris Makaila	(31.14)	110.46	79.32
Maile Montervon	(60.01)	82.87	22.86
Howard H. and Mary May Moore	(613.11)	848.64	235.53
Polly Moore	526.67	73.73	600.40
Robert Morton	(8.02)	165.75	157.73
Adeline Ogawa	6.02	110.46	116.48
Emma Ouye	305.81	442.22	748.03
Phyllis Pa Ragsac	6.33	165.75	172.08
Charles Rice Est.	(3.35)	11.79	8.44
Edward and Martha Rice	333.58	1,630.98	1,964.56

	<u>Over or Under</u>	<u>Share of Expense</u>	<u>Amount Owed</u>
Paul G. Rice	\$ 1,665.64	\$ 200.76	
(Less payments		9,462.80)	(\$7,596.40)
Paul I. and Joyce Rice	(101.21)	1,630.98	1,529.77
Richard K. Rice	8.79	225.42	234.21
W. H. Rice	426.49	1,379.04	1,805.53
Alice Robinson Est.	(17,651.99)	9,174.46	(8,477.53)
Eleanor Robinson	224.55	1,326.00	1,550.55
Selwyn Robinson	(3,956.17)	1,361.66	(2,594.51)
Patricia Sheehan and Gaylord Wilcox	138.37	884.00	1,022.37
John Steaiquist	120.43	304.98	425.41
Agnes Thronas (Thronas family)	(162.01)	142.01	(20.00)
Bertha Tom	(4.07)	110.46	106.39
Francelia K. Veech	(247.59)	848.64	601.05
Waioli Hui'ia Church	174.43	265.20	439.63
Dora Wallis	(286.69)	1,379.04	1,092.35
Charles Wichman and Juliet Wichman	1,686.00	4,552.56	6,238.56
Winifred Willis	2,427.94	2,768.00	4,195.94
Hilda M. Zaima	574.33	157.44	731.77
Totals	(\$ 9,048.81)	\$50,388.00	(\$9,048.81)
Less payments of John Allerton (\$40,935.20) and Paul G. Rice (\$9,462.80)		50,388.00	
Plus assessed value of Lots 5, 6, 7 and 42	<u>9,048.81</u>	<u>50,388.00</u>	<u>9,048.81</u>
Final Totals	-0-	-0-	-0-

7. That said Commissioners are hereby authorized and directed to prepare, execute and deliver deeds of said Lots, Roads, Easements and Pathways to the foregoing persons, and subject to the foregoing dower or curtesy rights, as the case may be; and in all cases where counsel of record for any party in this cause has requested delivery to him of any deed or deeds running in favor of his clients, said deed or deeds shall be delivered by the Commissioners to said counsel of record.

8. That in each case title to the lot or lots so awarded to each owner is hereby vested in fee simple in the particular awardee or awardees, subject to any lesser estates, rights, easements, liens and/or encumbrances allocated thereto, as hereinafter particularly set forth and adjudged to be applicable thereto; and all right, title and interest, claim or demand whatsoever of every party or claimant, including minors and unknown or undetermined owners, is hereby divested as to every part and parcel of the said lands except only as to or concerning the lot or parcel by this Final Order allotted to such owner or claimant individually; that the awards of said lots are made together with appurtenant easements and rights, or subject to easements and rights, as the case may be; that metes and bounds descriptions of each of said lots, being attached hereto as Exhibit E-1 to E-71 inclusive, and F-101 to F-153 inclusive, and by reference hereby made a part hereof, are hereby confirmed,

each such metes and bounds description also naming the awardee or awardees entitled to receive a deed thereof from the Commissioners; that the descriptions of each of the roadways and pathways being attached hereto as Exhibits G-A to G-Z, inclusive, and by reference hereby made a part hereof are hereby confirmed, each such description also naming the awardee or awardees entitled to receive a deed therefor from the Commissioners; that, notwithstanding any lack of mention thereof in any of the deeds, perpetual easements for existing utility lines are hereby awarded to County of Kauai (Board of Water Supply) Hawaiian Telephone Company and Kauai Electric Company, Limited;

9. That within the outer bounds of the lands partitioned by these proceedings are 20 kuleanas (consisting of 27 apanas) and School Grant 41, Apana 8; that said parcels of land, together with lands heretofore conveyed by the Commissioners by way of exchange or otherwise, form 23 or 24 (depending upon the status of said School Grant parcel) Exclusions within said Hui Lands, descriptions of the same being attached hereto as Exhibits H-1 to H-24, inclusive, and by reference hereby made a part hereof;

10. That in any case where the particular party has received an award of a lot or lots and there remains an excess sum to be paid to him by the Commissioners, the Commissioners, or any two of them, shall forthwith execute and deliver to such party a deed of the particular parcel

or parcels awarded to him and shall likewise forthwith tender to him payment of the adjusting balance due him as above set forth;

11. That in cases where an adjusting payment is due from any particular party or parties to the Commissioners, as above set forth, the Commissioners, or any two of them, upon receiving such adjusting payment (provided such payment is tendered to the Commissioners within sixty (60) days from the date of the entry of this Final Order in Partition), shall deliver to such party or parties a deed of the particular lot or lots herein awarded to him or them, but if no such adjusting payment is tendered by such party or parties within said sixty-day period, the Commissioners shall make a report thereof to this Court for such further action as the Court may deem proper;

12. That should the Commissioners fail to receive the adjusting payment due from one or more parties within a family group who are entitled to a deed but full payment shall be tendered by other members of said family group, the Commissioners shall, at the request of said paying parties, convey said lot or lots so awarded to said family group, including the person or persons failing to pay his or their share of said sum, but should such paying members request otherwise, the Commissioners may, with the approval of this Court first obtained, convey said lot or lots to all of said family group, said deed containing a lien or charge upon the undivided interest of the nonpaying member of said family group in favor of the member or members paying same;

13. That the expense of recording all deeds from the Commissioners and all federal of state documentary stamps or taxes shall be borne by the grantee or grantees named therein, and each grantee shall thenceforth assume and pay all real property taxes assessed against the land (and improvements, if any), described in his deed commencing January 1, 1968; that previously assessed real property taxes shall be paid and discharged by the persons already billed for such taxes through the Office of the Director of Taxation of the State of Hawaii; that all parties receiving awards of lands hereunder shall take the same free and clear of any delinquent real property taxes, including unpaid taxes for the year 1967, save and except that any real property taxes heretofore assessed against any part or parties hereto by virtue of their interests in said Hui lands and which are delinquent shall become a lien upon the particular parcel or parcels herein awarded to such delinquent taxpayer;

14. That should any awardee have died prior to the execution and delivery by the Commissioners of the deed to which the awardee is entitled, such deed shall nevertheless be effective and fee simple title shall be construed as having passed to the heirs-at-law or devisees, as the case may be, of such awardee;

15. That notwithstanding any language hereinabove which may be construed to the contrary and notwithstanding

any language or lack of language, in any of the deeds or in the descriptions of the lot or lots involved in same, the following easements and rights shall be appurtenant to or encumber said Hui lands in the following manner:

(a) This Order shall work no derogation of the common-law right for free flowage of water in all existing streams, auwais, ditches and drains together with access for those entitled thereto to clean and maintain the same, but without liability to the owners of the land through which the same pass to clear or maintain any of the same, and language in any deed referring to easements for free flowage of such water shall mean the foregoing common-law right.

(b) There shall be easements for utility lines within all Road Lots (as distinct from Pathway Lots), except as to Lot J;

(c) There shall be cross easements for drains in reasonable locations within Lots 102 to 112, inclusive, in order to drain spring water and swamp waters, said drains to be located with as little inconvenience as reasonably necessary to the owners of the land through which said drains pass;

(d) Holders of easement rights and owners

of fee simple interests in easement areas shall have the right to construct and maintain roadways or pathways, as the case may be, within said areas and to install overhead and/or underground utility lines (with due regard to avoid unnecessary obstruction to the travelled portion of said areas) but without responsibility or liability to construct or install roadways, pathways, utility lines, etc., or to maintain the same and that all persons using said easement areas shall do so at their sole risk (save and except as to liability as may exist by law regardless of whether a roadway, pathway, utility line, etc., had been in existence or not).

(e) Owners of certain of the kuleanas within said Hui lands and the awardees of certain of the lots within said Hui shall be entitled to water for taro or similar culture from Manoa Stream or Limahuli Stream, as the case may be, at the rate of 15,000 gallons per day, per acre (all surplus water not exhausted by reasonable seepage or evaporation to be returned to the stream from which the same was diverted), as follows:

(1) Lot 71 (1.60 acres) and Award 7967:1 (2.38 acres) from the water of Manoa Stream within said Lot 71 (59,700 gallons);

(2) Award 8262 (0.75 acre) and Award 9140 (0.68 acre) from the spring waters arising on Lots 151, 102 and 104 (21,500 gallons);

(3) Lot 104 (1.17 acres), Lot 105 (2.96 acres)
 Lot 106 (1.14 acres) and Award 10562:1 (1.09 acres)
 from the spring waters arising on Lots 104, 105, 106 and
 107 (95,400 gallons);

(4) The following kuleanas and Hui lands all
 from the Limahuli Stream arising on Lot 152:

<u>Lot</u>	<u>Area</u>	<u>Gallons</u>
Lot 107	2.33 acres	35,000
Lot 108	1.40 acres	21,000
Lot 112 (including Award 7949:3)	2.01 acres	30,200
Award 10965	0.84 acre	12,600
Award 7942	1.27 acres	19,100
Award 7913	1.56 acres	23,400
Award 10940	1.82 acres	27,300
Award 10223	1.25 acres	18,800
Award 7943:1	2.33 acres	35,000
Lot 113	5.05 acres	75,800
Award 10674	1.35 acres	20,300
Award 7996	1.35 acres	20,300
Lot 114	0.42 acre	6,300
Lot 115	0.30 acre	4,500
Lot 116 (including Award 7949:2)	1.49 acres	22,400
Award 10941 (east half)	1.35 acres	20,300
Award 10941 (west half)	0.99 acre	14,900
Lot 119	1.40 acres	21,000

<u>Lot</u>	<u>Area</u>	<u>Gallons</u>
Award 8200C:3	0.43 acre	6,500
Award 8200B:2	0.29 acre	4,400
Award 8200C:1	3.74 acres	56,100
Award 7946	0.50 acre	7,500
Lot 137	0.28 acre	4,200
Lot 138	0.14 acre	2,100
Lot 139	0.20 acre	3,000
Lot 143	0.57 acre	8,600
Lot 144	0.46 acre	6,900
Lot 145	0.32 acre	(4,800)
TOTAL (from Limahuli Stream)		532,300

(f) The awardees of certain of the lots within the "Second Flat" of said Hui lands are awarded water rights from the surface waters of Limahuli Stream, for domestic consumption, at the rate of 500 gallons per day, per acre (but not less than 500 gallons per day, per Lot) as follows:

<u>Lot</u>	<u>Area</u>	<u>Gallons</u>
101	3.039 acres	1,500
102	2.428 acres	1,200
103	6.250 acres	3,100
104	3.478 acres	1,700
105	6.199 acres	3,100
106	1.139 acres	600

<u>Lot</u>	<u>Area</u>	<u>Gallons</u>
107	2.548 acres	1,300
108	1.398 acres	700
109	19,989 sq. ft.	500
110	33,924 sq. ft.	500
111	38,555 sq. ft.	500
112	5.101 acres	2,600
113	14.341 acres	7,200
114	2.017 acres	1,100
115	13,253 sq. ft.	500
116	1.595 acres	900
117	1.816 acres,	900
118	2.485 acres	1,200
119	13.156 acres	6,600
120	2.246 acres .	1,100
124	4.296 acres	2,100
125	18,880 sq. ft.	500
126	17,600 sq. ft.	500
127	21,500 sq. ft.	500
128	30,000 sq. ft.	500
129	21,000 sq. ft.	500
135	2.040 acres	1,000
136	1.458 acres	700
137	35,218 sq. ft.	500
138	38,119 sq. ft.	500
139	33,256 sq. ft.	500
140	41,088 sq. ft.	500

<u>Lot</u>	<u>Area</u>	<u>Gallons</u>
141	2.727 acres	1,400
142	3.318 acres	1,700
143	2.397 acres	1,200
144	2.192 acres	1,100
145	1.313 acres	700
146	1.259 acres	600
147	1.276 acres	600
148	1.659 acres	800
149	3.306 acres	1,700
150	1.832 acres	<u>900</u>
TOTAL		55,800 gallons

16. That upon completion of all acts herein required of the Commissioners, the Commissioners shall file herein a full statement of their doings showing all their receipts and vouchers for all their expenditures, at which time, if the Court finds such statement in order, this Court shall enter an Order discharging the Commissioners from further responsibility; save and except that said Commissioners are hereby vested with title, and shall remain vested with title, subject to further order and direction of this Court, as Commissioners or Trustees for all of the shareowners of said Hui, in the proportions as set forth in the full list thereof herein, of all kuleanas, grants or other lands, and interests therein, as may lie within said Ahupuaa of Haena

(R. P. 3596 L. C. Aw. 10613, Apana 6 to Abner Paki), title to which may have escheated to or reverted to said Ahupuaa and to the owners of said Ahupuaa, even though title to the same may now be believed to be vested in other putative owners.

17. That each of Lots 44 (dry cave), 130 (wet cave), 131 (wet cave) and 123 (hula grounds and Heiau) is subject to a condition prohibiting concessions or commercial activities thereon, said conditions being enforceable by the owner of any lot created by the partition of said Hui Lands.

18. That in view of the fact that certain of the Exhibits attached to and forming a part of this Final Order in Partition are of such size as not to be recordable and certain other exhibits consist solely of many pages of metes and bounds descriptions of the various Lots, Roads, Easements and Pathways which will be repeated in the various deeds of the Commissioners to the shareowners or awardees entitled thereto, and in view of the fact that it is desirable that the contents of this Final Order be placed of record for the convenience of the parties to this cause and to provide an easier means of checking chains of title, the Commissioners are further ordered to record in the Bureau of Conveyances of Hawaii that portion of this Final Order commencing with the flyleaf

hereof and ending with this page.

DATED: Lihue, Hawaii, October 20, 1957.



Benjamin W. Lee

Judge of the above entitled Court

Approved as to Form:

151 Toshio Kabutan
Toshio Kabutan
Attorney for County of Kauai

151 Robert Brown
Robert Brown

151 Norito Kawakami
Norito Kawakami
Guardian-ad-litem and counsel
for various parties.

151 Walter Heen
Walter Heen

151 Howard H. Moore
Howard H. Moore
Counsel for Plaintiffs

151 Arthur S. Komori
Arthur S. Komori

151 Kinji Kanazawa
Kinji Kanazawa
Counsel for Mason family,
owners of kuleanas

151 Hugh Shearer
Hugh Shearer

151 Morris Shinsato
Morris Shinsato

151 Clinton I. Shiraishi
Clinton I. Shiraishi

Counsel for various parties

I do hereby certify that the foregoing
is a full, true and correct copy of the
original on file in this office.

Barbara Haruki
Clerk, Circuit Court, Fifth Circuit,
State of Hawaii