From:	Eric Robinson
To:	Planning WPC Testimony
Cc:	Maile Miller; Tess Tynan
Subject:	Windward Planning Commission March 5, 2026, Meeting - Testimony of Horizon Tower in Opposition to Agenda Item No. 2
Date:	Tuesday, March 3, 2026 8:47:37 AM
Attachments:	image001.png Testimony for 3.5.2026 Windward Planning Commission Meeting(3415066) (Reduced).pdf

Aloha:

Attached for the Windward Planning Commission's consideration, please find testimony in opposition to Agenda Item No. 2 (Petition for Declaratory Ruling Regarding Use Permit No. 15-000056), submitted on behalf of Horizon Tower Limited Partnership III, by Horizon Tower III, LLC. A higher quality version is also available at the below link.

Testimony for 3.5.2026 Windward Planning Commission Meeting(3415066).pdf

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March 3, 2026

VIA E-MAIL
Windward Planning Commission
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
WPCtestimony@hawaiicounty.gov

Re: Testimony of Horizon Tower Limited Partnership III, by Horizon Tower III, LLC in Opposition to Agenda Item No. 2 of the March 5, 2026, Agenda of the Windward Planning Commission

Dear Chair Daniele III, Vice Chair Perrin, and Commissioners:

I. Introduction

This firm represents Horizon Tower Limited Partnership III, by Horizon Tower III, LLC (collectively, "***Horizon***"). Horizon holds the right to construct the telecommunications tower that was authorized under Use Permit No. 15-000056 (the "***Permit***"). We respectfully submit this testimony[1] on behalf Horizon regarding Petitioner Brandy Camacho's ("***Petitioner***") Petition for Declaratory Ruling Regarding Use Permit No. 15-000056 (the "***Petition***"), agenda item 2 on the Windward Planning Commission's ("***Commission***") March 5, 2026, Agenda.

The Petition should be denied because Petitioner does not have standing to obtain the relief she is seeking, and revocation proceedings have neither been initiated nor noticed. To the extent the Commission intends to consider the Petition on the merits,[2] the Petition should be denied because: 1) the Petition is untimely; and 2) Condition No. 3 of the Permit was satisfied and the Permit remains valid and in full force and effect.

II. Additional Background Facts Regarding Horizon's Interest in the Permit and in Parcels 84 and 118

On December 3, 2018, Cellco Partnership d/b/a Verizon Wireless ("***Cellco***") and Hawaii Pacific District Church of the Nazarene (the "***Church***") executed a Land License Agreement ("***License***") concerning the properties identified as TMK Nos. (3) 1-5-017:084 ("***Parcel 84***") and

[1] For the purposes of this testimony, Horizon incorporates by reference the timeline set forth in the "Permit History" section of the Planning Department's Background Report.

[2] Because the Petition seeks revocation of the Permit (which will directly impact Horizon's rights), Horizon has petitioned to intervene by contested case out of an abundance of caution. *See* ***Exhibit 1*** (PL-CCH-2026-000029).

(3) 1-5-017:118 ("***Parcel 118***").[3] *See* ***Exhibit 2***. The purpose of the License was to facilitate the construction, maintenance, repair, and operation of, and access to a telecommunication tower and related improvements located on a portion of Parcel 118 (the "***Tower Site***"). *See id.* at § 8. A Memorandum concerning the License was recorded on or about April 27, 2021.

On September 2, 2024, Cellco assigned and Horizon assumed, the License with the Church. *See* ***Exhibit 3***. The Church had previously consented to the assignment on or about July 24, 2024. *See* ***Exhibit 4***. Thus, as a result of the License and assignment thereof, Horizon has an interest in the Permit that is concrete and distinguishable from the general public, and Horizon will suffer actual injury in fact if the Petition is granted.

III. Petitioner Does Not Have Standing to Obtain the Relief Sought by the Petition

As an initial point, the Commission's *decision* regarding a Use Permit falls outside the scope of allowable petitions for declaratory ruling. County of Hawai‘i Planning Commission Rules of Practice and Procedure ("***PCRPP***") Rule 3-1(a) provides that the Commission "may issue a declaratory order as to the applicability of any statutory provision, ordinance, or of any rule or order of the Commission." Pursuant to PCRPP Rule 7-7, the Commission makes a decision (not an order) to grant or deny a Use Permit application. *Cf., e.g.*, PCRPP Rule 4-29 (providing for a decision *and* order in contested cases). There is no statute or ordinance, or rule or order of the Commission raised by the Petition. Accordingly, the Petition should be denied.

The Petition expressly states that "Petitioner requests the Commission declare USE Permit 15-000056 void and issue an immediate Stay of Construction[.]" Petition at 2. Petitioner is requesting that the Permit be revoked. *Cf.* PCRPP Rule 7-11.[4] Pursuant to Rule 7-11, the Planning Director is given the authority to revoke a Use Permit or request that the Commission revoke a Use Permit. No such right or privilege exists for a private citizen such as Petitioner without the express written consent of the property owner under the permit. *See* PCRPP Rule 7-11(a). No such written consent has been provided. With respect to revocations pursuant to Rule 7-11(b), written notice of revocation proceedings must be provided to the property owner and permitholder. To Horizon's knowledge, no revocation proceedings have been initiated, and no written notice has been provided. Accordingly, the Petition's request to revoke the Permit should be denied.

Petitioner cites no authority (and none exists) in support of her request that the Commission "issue an immediate Stay of Construction[.]" *See* Petition at 2; *see generally* PCRPP (the word "stay" appears only in Rule 9-16(d), which provides that an appeal to court of the revocation of a Special Management Area Use Permit stays the provisions of the Commission's revocation order). Petitioner is essentially seeking a preliminary injunction, which the Commission is not empowered to grant. *See generally* [Rules]; County of Hawai‘i Charter (2010) § 6-7.5 (Duties and Functions

[3] At all times relevant, Parcel 84 and Parcel 118 have been owned by the Church.
[4] *See also* Hawai‘i County Code §§ 25-2-67(a) (Use permit may be revoked "by the director" where the development is not established or has been abandoned), 25-2-67(b) (Use permit may be revoked by the Commission upon the request of the director).

of the Windward and Leeward Planning Commissions). The Petition's request for a stay should be denied.

IV. Notwithstanding Petitioner's Lack of Standing, the Petition's Challenge of the Permit is Untimely

Challenges of the Commission's decision on a Use Permit must be made to the Third Circuit Court within 30 days. *See* PCRPP Rule 7-10(a). Here, the Commission's decision to grant the Permit was first made on November 5, 2015.[5] The time to appeal the Commission's decision expired thirty days thereafter, *i.e.*, December 5, 2015. *See* PCRPP Rule 7-10(a). The Commission's decision to amend the Permit and grant a five-year extension was made on January 8, 2020. *See* PD Exhs. 7, 8.[6] The time to appeal the Commission's January 8, 2020, decision expired thirty days thereafter, *i.e.*, February 7, 2020. *See* PCRPP Rule 7-10(a). Thus, the latest any interested party, including Petitioner, could challenge the Commission's decisions was on February 7, 2020.[7] *See id.* Because the Petition was not filed by February 7, 2020, it should be denied.

V. Condition No. 3 Was Satisfied—Access "For the Duration of the life of the Telecommunication Facility" was Provided by the License

When the Commission considered the request to amend and extend the Permit on January 8, 2020, the Planning Director "recommend[ed] a condition be added to the permit to ensure access is provided during the life of the telecommunication facility over Parcel 84 [(a second parcel)], even if the parcel is sold to another owner by the landowner." *See* PD Exh. 8 at Commission Findings, p. 2; *see also* PD Exh. 5; PD Exh. 7, at Transcript pp. 19-20 (discussing the reason for Condition No. 3 and confirming that a license for access was already in place for Parcel 84).

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[5] When the application for the Permit was considered by the Commission on November 5, 2015, it appears that Petitioner's then predecessors-in-interest, the Donald J & Patricia A. Pirch Trust,[5] did not oppose or offer testimony on the Commission's consideration of the application for the Permit. *See* Commission Hearing Tr. (Nov. 5, 2015), at 2-4 (denying petitions for contested case submitted by Shun Kwan and Yuk Wah Wong), 5-6 (receiving public testimony from Steve Dalrymple).

[6] As with the Commission's consideration of the application for the original permit, it appears that Petitioner's then predecessors-in-interest, Lance & Kari Martin, did not oppose or offer testimony on the Commission's consideration of the amendment and extension request. *See* Commission Hearing Tr. (Jan. 8, 2020) (PD Exh. 7), at 6-15 (receiving public testimony from Mary Couch, Nancy Young, Ric Wirick, and Jaerick Medeiros); *see also* PD Exh. 4 (List of Tax Map Keys, addresses, and owners).

[7] Horizon further notes for the Commission's awareness that from November 5, 2015 (at the time the Permit was first granted) until at least May 2018, Petitioner's parcel was undeveloped and entirely covered by trees. *See* ***Exhibit 5*** (satellite imagery obtained from Google Earth). On May 14, 2019, building permit BH2019-00416 was issued for the construction of a single-family dwelling on Petitioner's parcel, and the permit was finalized on March 5, 2021. Thus, the telecommunications tower was permitted and entitled (both of which are matters of public record) before Petitioner's parcel was even developed.

Both during the January 8, 2020, Commission hearing and after, access over Parcel 84 was guaranteed for the life of the telecommunication facility. Contrary to the Petition's assertion that the License "is revocable and term-limited, failing the 'life of the facility' requirement," the License is not revocable by the Licensor (*i.e.*, the Church) and access is guaranteed for the life of the facility because the telecommunication facility is required to be removed at the expiration of the Term of the License.[8] *See* ***Exhibit 2***, §§ 3.a. (initial term), 4 (extensions), 6 (additional extensions), 14 (removal at end of term). When construing agreements or servitudes in land, courts look at the substance of the agreement over form (*e.g.*, the agreement's name). *Cf. Bremer v. Weeks*, 104 Hawai'i 43, 67-69, 85 P.3d 150, 174-76 (2004) (finding an agreement labeled "easement" was actually a "revocable license").

A license is "permission, usu[ally] revocable, to commit some act that would otherwise be unlawful; esp[ecially], an agreement . . . that it is lawful for the licensee to enter the licensor's land to do some act that would otherwise be illegal[.]" Black's Law Dictionary, *License* (12th ed. 2024). Licenses are "not assignable" and are "revocable at the will of the licensor." *Kiehm v. Adams*, 109 Hawai'i 296, 302, 126 P.3d 339, 345 (2005); *see also Matter of Fasi*, 63 Haw. 624, 629, n.8, 634 P.2d 98, 102, n.8 ("A license in the law of real property . . . is a personal privilege, is not assignable, ceases upon the death of either party and is revoked by a sale of the land by the licensor."). In contrast, an easement is:

> [A]n interest in land in the possession of another which
>
> (a) entitles the owner of such interest to a limited use or enjoyment of the land in which the interest exists;
> (b) entitles him to protection as against third persons from interference in such use or enjoyment;
> (c) is not subject to the will of the possessor of the land;
> (d) is not a normal incident of the possession of any land possessed by the owner of the interest[;] and
> (e) is capable of creation by conveyance.

Bremer, 104 Hawai'i at 67, 85 P.3d at 174 (quoting Restatement of Property § 450 (1944)) (second brackets in original).

Here, the substance of the License is akin to an easement.[9] For example, the License is *not* revocable at the will of the Licensor, expressly continues if the land is sold, contains a covenant of

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[8] Although Condition No. 3 was already satisfied by the License, a Grant of Easement was also filed with the Land Court on January 23, 2026, in response to Petitioner's lawsuit (which was subsequently dismissed). *See* PD Exh. 29.

[9] Alternatively, the License could also be construed as a license coupled with an interest, which is irrevocable. *See* Black's Law Dictionary, *License coupled with an interest* (defined as "[a]n irrevocable license in real estate that confers the right (not the mere permission) to perform an act or acts on the property; esp[ecially], a license incidental to the ownership of an interest in a chattel located on the land with respect to which the license exists."); *id.*, *Chattel* ("Movable or

quiet enjoyment; and *is* assignable by the licensee. *See* ***Exhibit 2*** §§ 3.a., 4, 6 (conferring no right of revocation to Licensor); 17 (rights upon sale); 18 (quiet enjoyment); and 22 (assignment). Accordingly, Condition No. 3 was satisfied, and the Petition fails on the merits.

Very truly yours,

Eric S. Robinson

Maile S. Miller
Eric S. Robinson

<u>Exhibits</u>
1 – Petition for Standing in a Contested Case Hearing (Feb. 26, 2026)
2 – Land License Agreement (Dec. 3, 2018)
3 – Assignment and Assumption of Land License Agreement (Sept. 2, 2024)
4 – Consent to Assignment (July 24, 2024)
5 – Google Earth Satellite Imagery

transferable property; personal property; esp[ecially], a physical object capable of manual delivery and not the subject matter of real property."); ***Exhibit 2*** § 14 (providing "that all of the equipment, conduits, fixtures and personal property of LICENSEE shall remain the personal property of LICENSEE).

EXHIBIT 1

PETITION FOR STANDING IN A CONTESTED CASE HEARING

NAME: Horizon Tower Limited Partnership III, by Horizon Tower III, LLC

ADDRESS: c/o Starn O'Toole Marcus & Fisher (Attn: MSM, ESR)
733 Bishop Street, Suite 1900
Honolulu, Hawai'i 96813

PHONE NO.: 808-537-6100

APPLICANT/ DOCKET NO.: Brandy Camacho's Petition for Declaratory Ruling Re: Use Permit No. 15-000056

A. Is your interest in this matter clearly distinguishable from that of the general public?

Yes X No ______

If the answer is "yes", please explain:
Horizon holds the right to construct the telecommunications tower that was authorized under Use Permit No. 15-000056. Ms. Camacho's Petition seeks to revoke and invalidate Use Permit No. 15-000056, which will directly impact Horizon's rights and interests.

If the answer is "no", please explain how the proposed action will nevertheless cause you actual or threatened injury:

____
____
____

B. Are you a government agency whose jurisdiction includes the land involved in the subject request?

Yes ______ No X

If the answer is "yes", please explain the nature of the agency's jurisdiction:

____
____
____

C. Do you lawfully reside on or have some property interest in the land involved in the subject request?

Yes X No ______

If the answer is "yes", please explain:
See section A., above.
____
____

PETITION FOR STANDING IN A CONTESTED CASE HEARING

D. Are you a person or persons descended from native Hawaiians who inhabited the Hawaiian Islands prior to 1778, who practiced those rights which were customarily and traditionally exercised for subsistence, cultural, or religious purposes?

Yes _______ No X

If the answer is "yes", please submit any genealogical evidence and historical evidence showing the exercise of those rights to support your statement:

____

Petitioner's Signature

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 26th day of February, 2026 before me personally appeared Eric Robinson, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

HEIDI WURM
NOTARY
21-27
PUBLIC
STATE OF HAWAII

Heidi Wurm
Notary Public, State of Hawaii

My commission expires: 4/18/2029

EXHIBIT 2

LAND LICENSE AGREEMENT

This Agreement, made this 3rd day of December, 2018, ("Effective Date") between Hawaii Pacific District Church of the Nazarene, a eleemosynary Hawaii corporation, with its principal offices located at 15-1839 32nd Avenue, Kea'au, Hawaii 96749, hereinafter designated LICENSOR and Cellco Partnership d/b/a Verizon Wireless, with its principal office located at [redacted] Basking Ridge, New Jersey 07920 [redacted], hereinafter designated LICENSEE. The LICENSOR and LICENSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

1. PREMISES. LICENSOR hereby licenses to LICENSEE a portion of that certain parcel of property (the entirety of LICENSOR's property is referred to hereinafter as the Property), located at 15-1839 32nd Avenue, Kea'au, County of Hawaii, State of Hawaii, TMK # (3) 1-5-017-118, and being described as a 30' by 30' parcel containing 900 square feet (the "Land Space"), together with the non-exclusive right (the "Rights of Way") for ingress and egress, seven (7) days a week twenty-four (24) hours a day, on foot or motor vehicle, including trucks over or along a right-of-way extending from the public right-of-way, 31st Avenue, and with access from Tax Parcel TMK # (3) 1-5-017-084, to the Land Space, and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along one or more rights of way from the Land Space, said Land Space and Rights of Way (hereinafter collectively referred to as the "Premises") being substantially as described herein in Exhibit "A" attached hereto and made a part hereof.

In the event any public utility is unable to use the Rights of Way, the LICENSOR hereby agrees to grant an additional right-of-way either to the LICENSEE or to the public utility at no cost to the LICENSEE.

Expansion of the Premises. Notwithstanding anything to the contrary in the Agreement, LICENSOR and LICENSEE hereby agree that at LICENSEE's option, LICENSEE shall have the right to license additional space from LICENSOR for the continued installation, operation and maintenance of its wireless communications facility on the Property (the "Additional Leased Area"). Upon LICENSOR's approval of the Additional Leased Area, which approval shall not be unreasonably withheld, conditioned or delayed, the parties agree to negotiate in good faith an amendment to the Agreement to memorialize the location of the Additional Leased Area. The parties further agree that rent for the Additional Leased Area shall be [redacted] Dollars [redacted] per square foot per month. Such rent increase shall become effective on the first day of the month after LICENSEE commences construction within the Additional Lease Area. LICENSEE shall be permitted to use the Additional Leased Area for the same purposes LICENSEE is permitted to use the Property.

2. SURVEY. LICENSOR also hereby grants to LICENSEE the right to survey the Property and the Premises, and said survey shall then become Exhibit "B" which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and Exhibit "A". Cost for such work shall be borne by the LICENSEE.

3. TERM; RENTAL.

a. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of [redacted] to be paid in equal monthly installments on the first day of the month, in advance, to LICENSOR or to such other person, firm or place as LICENSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 23 below. The Agreement shall commence based upon the date LICENSEE commences installation of the equipment on the Premises. In the event the date LICENSEE commences installation of the equipment on the Premises falls between the 1st and 15th of the month, the Agreement shall commence on the 1st of that month and if the date installation commences falls between the 16th and 31st of the month, then the Agreement shall commence on the 1st day of the following month (either the "Commencement Date"). LICENSOR and LICENSEE agree that they shall acknowledge in writing the Commencement Date. LICENSOR and LICENSEE acknowledge and agree that initial rental payment(s) shall not actually be sent by LICENSEE until thirty (30) days after a written acknowledgement confirming the Commencement Date. By way of illustration of the preceding sentence, if the Commencement Date is January 1 and the written acknowledgement confirming the Commencement Date is dated January 14, LICENSEE shall send to the LICENSOR the rental payments for January 1 and February 1 by February 13.

Upon agreement of the Parties, LICENSEE may pay rent by electronic funds transfer and in such event, LICENSOR agrees to provide to LICENSEE bank routing information for such purpose upon request of LICENSEE.

b. LICENSOR hereby agrees to provide to LICENSEE certain documentation (the "Rental Documentation") evidencing LICENSOR's interest in, and right to receive payments under, this Agreement, including without limitation: (i) documentation, acceptable to LICENSEE in LICENSEE's reasonable discretion, evidencing LICENSOR's good and sufficient title to and/or interest in the Property and right to receive rental payments and other benefits hereunder; (ii) a complete and fully executed Internal Revenue Service Form W-9, or equivalent, in a form acceptable to LICENSEE, for any party to whom rental payments are to be made pursuant to this Agreement; and (iii) other documentation requested by LICENSEE in LICENSEE's reasonable discretion. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LICENSEE, LICENSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LICENSEE. The Rental Documentation shall be provided to LICENSEE in accordance with the provisions of and at the address given in Paragraph 23. Delivery of Rental Documentation to LICENSEE shall be a prerequisite for the payment of any rent by LICENSEE and notwithstanding anything to the contrary herein, LICENSEE shall have no obligation to make any rental payments until Rental Documentation has been supplied to LICENSEE as provided herein.

Within fifteen (15) days of obtaining an interest in the Property or this Agreement, any assignee(s), transferee(s) or other successor(s) in interest of LICENSOR shall provide to LICENSEE Rental Documentation in the manner set forth in the preceding paragraph. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LICENSEE, any assignee(s) or transferee(s) of LICENSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LICENSEE. Delivery of Rental Documentation to LICENSEE by any assignee(s), transferee(s) or other successor(s) in interest of LICENSOR shall be a prerequisite for the payment of any rent by LICENSEE to such party and notwithstanding anything to the contrary herein, LICENSEE shall have no obligation to make any rental payments to any assignee(s), transferee(s) or other successor(s) in interest of LICENSOR until Rental Documentation has been supplied to LICENSEE as provided herein.

c. As additional consideration for this Agreement, LESSEE shall pay LESSOR [redacted] which shall be considered additional rent for the Premises for the period from the Effective Date until the Commencement Date. The signing bonus shall be paid by LESSEE to LESSOR within 60 days of the date of full execution of this Agreement by the Parties. LESSOR agrees the payment to be made by LESSEE under this Paragraph 3(c) is fair and adequate payment in exchange for LESSEE intentionally delaying installation of LESSEE's communications equipment, and LESSOR recognizes that Paragraph 2 of this Agreement governs the Commencement Date. This Paragraph 3(c) does not impact whether or not LESSEE chooses to install LESSEE's communications equipment and commence the Term.

4. EXTENSIONS. This Agreement shall automatically be extended for four (4) additional five (5) year terms unless LICENSEE terminates it at the end of the then current term by giving LICENSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

5. EXTENSION RENTALS. The annual rental for the first (1st) five (5) year extension term shall be [redacted]; the annual rental for the second (2nd) five (5) year extension term shall be [redacted]; the annual rental for the third (3rd) five (5) year extension term shall be [redacted]; and the annual rental for the fourth (4th) five (5) year extension term shall be [redacted].

6. ADDITIONAL EXTENSIONS. If at the end of the fourth (4th) five (5) year extension term this Agreement has not been terminated by either Party by giving to the other written notice of an intention to terminate it at least three (3) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of five (5) years and for five (5) year terms thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least three (3) months prior to the end of such term. Annual rental for each such additional five (5) year term shall be equal to the annual rental payable with respect to the immediately preceding five (5) year term. The initial term and all extensions shall be collectively referred to herein as the "Term".

7. TAXES. LICENSEE shall have the responsibility to pay Hawaii State General Excise Tax (currently 4.166%) and any personal property, real estate taxes, assessments, or charges owed on the Property which LICENSOR demonstrates is the result of LICENSEE's use of the Premises and/or the installation, maintenance, and operation of the LICENSEE's improvements, and any sales tax imposed on the rent (except to the extent that LICENSEE is or may become exempt from the payment of sales tax in the jurisdiction in which the Property is

located), including any increase in real estate taxes at the Property which LICENSOR demonstrates arises from the LICENSEE's improvements and/or LICENSEE's use of the Premises. LICENSOR and LICENSEE shall each be responsible for the payment of any taxes, levies, assessments and other charges imposed including franchise and similar taxes imposed upon the business conducted by LICENSOR or LICENSEE at the Property. Notwithstanding the foregoing, LICENSEE shall not have the obligation to pay any tax, assessment, or charge that LICENSEE is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed provided that no lien attaches to the Property. Nothing in this Paragraph shall be construed as making LICENSEE liable for any portion of LICENSOR's income taxes in connection with any Property or otherwise. Except as set forth in this Paragraph, LICENSOR shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property and shall do so prior to the imposition of any lien on the Property.

LICENSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which LICENSEE is wholly or partly responsible for payment. LICENSOR shall reasonably cooperate with LICENSEE at LICENSEE's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by LICENSEE, there is a reduction, credit or repayment received by the LICENSOR for any taxes previously paid by LICENSEE, LICENSOR agrees to promptly reimburse to LICENSEE the amount of said reduction, credit or repayment. In the event that LICENSEE does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, LICENSOR will pursue such dispute at LICENSEE's sole cost and expense upon written request of LICENSEE.

8. USE; GOVERNMENTAL APPROVALS. LICENSEE shall use the Premises for the purpose of constructing, maintaining, repairing and operating a communications facility and uses incidental thereto. A security fence consisting of chain link construction or similar but comparable construction may be placed around the perimeter of the Premises at the discretion of LICENSEE (not including the access easement). All improvements, equipment, antennas and conduits shall be at LICENSEE's expense and their installation shall be at the discretion and option of LICENSEE. LICENSEE shall have the right to replace, repair, add or otherwise modify its utilities, equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, whether the equipment, antennas, conduits or frequencies are specified or not on any exhibit attached hereto, during the Term. It is understood and agreed that LICENSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as satisfactory soil boring tests which will permit LICENSEE use of the Premises as set forth above. LICENSOR shall cooperate with LICENSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by LICENSEE. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to LICENSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; (iii) LICENSEE determines that

such Governmental Approvals may not be obtained in a timely manner; (iv) LICENSEE determines that any soil boring tests are unsatisfactory; (v) LICENSEE determines that the Premises is no longer technically compatible for its use, or (vi) LICENSEE, in its sole discretion, determines that the use of the Premises is obsolete or unnecessary, LICENSEE shall have the right to terminate this Agreement. Notice of LICENSEE's exercise of its right to terminate shall be given to LICENSOR in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by LICENSEE, or upon such later date as designated by LICENSEE. All rentals paid to said termination date shall be retained by LICENSOR. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other hereunder. Otherwise, the LICENSEE shall have no further obligations for the payment of rent to LICENSOR.

9. INDEMNIFICATION. Subject to Paragraph 10 below, each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents.

10. INSURANCE.

a. Notwithstanding the indemnity in Paragraph 9, the Parties hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or to the Property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the Parties, or either of them. These waivers and releases shall apply between the Parties and they shall also apply to any claims under or through either Party as a result of any asserted right of subrogation. All such policies of insurance obtained by either Party concerning the Premises or the Property shall waive the insurer's right of subrogation against the other Party.

b. LICENSEE will maintain at its own cost;

i. Commercial General Liability insurance [redacted]

ii. Commercial Auto Liability insurance [redacted]

iii. Workers Compensation insurance [redacted]

LICENSEE will include the LICENSOR as an additional insured on the Commercial General Liability and Auto Liability policies.

c. LICENSOR will maintain at its own cost commercial general liability insurance [redacted]

11. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraphs 9 and 29, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

12. ANNUAL TERMINATION. Notwithstanding anything to the contrary contained herein, provided LICENSEE is not in default hereunder beyond applicable notice and cure periods, LICENSEE shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date provided that three (3) months prior notice is given to LICENSOR.

13. INTERFERENCE. LICENSEE agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of LICENSOR or other lessees of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed LICENSEE's equipment causes such interference, and after LICENSOR has notified LICENSEE in writing of such interference, LICENSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at LICENSEE's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will LICENSOR be entitled to terminate this Agreement or relocate the equipment as long as LICENSEE is making a good faith effort to remedy the interference issue. LICENSOR agrees that LICENSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of LICENSEE. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

14. REMOVAL AT END OF TERM. LICENSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its building(s), antenna structure(s) (except footings), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LICENSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LICENSEE shall remain the personal property of LICENSEE and

LICENSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws (as defined in Paragraph 33 below). If such time for removal causes LICENSEE to remain on the Premises after termination of this Agreement, LICENSEE shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed.

15. HOLDOVER. LICENSEE has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal period set forth in Paragraph 14 herein, unless the Parties are negotiating a new license or license extension in good faith. In the event that the Parties are not in the process of negotiating a new license or license extension in good faith, LICENSEE holds over in violation of Paragraph 14 and this Paragraph 15, then the rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 14 shall be equal to the rent applicable during the month immediately preceding such expiration or earlier termination.

16. RIGHT OF FIRST REFUSAL. If LICENSOR elects, during the Term (i) to sell or otherwise transfer all or any portion of the Property, whether separately or as part of a larger parcel of which the Property is a part, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LICENSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, with or without an assignment of this Agreement to such third party, LICENSEE shall have the right of first refusal to meet any bona fide offer of sale or transfer on the same terms and conditions of such offer. If LICENSEE fails to meet such bona fide offer within thirty (30) days after written notice thereof from LICENSOR, LICENSOR may sell or grant the easement or interest in the Property or portion thereof to such third person in accordance with the terms and conditions of such third party offer. For purposes of this Paragraph, any transfer, bequest or devise of LICENSOR's interest in the Property as a result of the death of LICENSOR, whether by will or intestate succession, or any conveyance to LICENSOR's family members by direct conveyance or by conveyance to a trust for the benefit of family members shall not be considered a sale of the Property for which LICENSEE has any right of first refusal.

17. RIGHTS UPON SALE. Should LICENSOR, at any time during the Term decide (i) to sell or transfer all or any part of the Property to a purchaser other than LICENSEE, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LICENSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LICENSEE's rights hereunder under the terms of this Agreement. To the extent that LICENSOR grants to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LICENSEE for the purpose of operating and maintaining communications facilities or the management thereof and in conjunction therewith, assigns this Agreement to said third party, LICENSOR shall not be

released from its obligations to LICENSEE under this Agreement, and LICENSEE shall have the right to look to LICENSOR and the third party for the full performance of this Agreement.

18. QUIET ENJOYMENT. LICENSOR covenants that LICENSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

19. TITLE. LICENSOR represents and warrants to LICENSEE as of the execution date of this Agreement, and covenants during the Term that LICENSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LICENSOR further covenants during the Term that there are no liens, judgments or impediments of title on the Property, or affecting LICENSOR's title to the same and that there are no covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by LICENSEE as set forth above.

20. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between LICENSOR and LICENSEE and that no verbal or oral agreements, promises or understandings shall be binding upon either LICENSOR or LICENSEE in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing signed by the Parties or in a written acknowledgment in the case provided in Paragraph 3. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

21. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State in which the Property is located.

22. ASSIGNMENT. This Agreement may be sold, assigned or transferred by the LICENSEE without any approval or consent of the LICENSOR to the LICENSEE's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of LICENSEE's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the LICENSOR, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of LICENSEE or transfer upon partnership or corporate dissolution of LICENSEE shall constitute an assignment hereunder. LICENSEE may sublet the Premises within its sole discretion, upon notice to LICENSOR. Any sublease that is entered into by LICENSEE shall be subject to the provisions of this Agreement and shall be binding upon the successors, assigns, heirs and legal representatives of the respective Parties hereto.

23. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LICENSOR: Hawaii Pacific District Church of the Nazarene
[redacted]

LICENSEE: Cellco Partnership
d/b/a Verizon Wireless
[redacted]

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

24. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representative, successors and assigns of the Parties hereto.

25. SUBORDINATION AND NON-DISTURBANCE. LICENSOR shall obtain not later than fifteen (15) days following the execution of this Agreement, a Non-Disturbance Agreement, as defined below, from its existing mortgagee(s), ground lessors and master lessors, if any, of the Property. At LICENSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") by LICENSOR which from time to time may encumber all or part of the Property or right-of-way; provided, however, as a condition precedent to LICENSEE being required to subordinate its interest in this Agreement to any future Mortgage covering the Property, LICENSOR shall obtain for LICENSEE's benefit a non-disturbance and attornment agreement in the form reasonably satisfactory to LICENSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LICENSEE's right to remain in occupancy of and have access to the Premises as long as LICENSEE is not in default of this Agreement beyond applicable notice and cure periods. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in the Property, Lender or such successor-in-interest or Purchaser will (1) honor all of the terms of the Agreement, (2) fulfill LICENSOR's obligations under the Agreement, and (3) promptly cure all of the then-existing LICENSOR defaults under the Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or its participants and on all Purchasers. In return for such Non-Disturbance Agreement, LICENSEE will execute an agreement for Lender's benefit in

which LICENSEE (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the Property and (3) agrees to accept a cure by Lender of any of LICENSOR's defaults, provided such cure is completed within the deadline applicable to LICENSOR. In the event LICENSOR defaults in the payment and/or other performance of any mortgage or other real property interest encumbering the Property, LICENSEE, may, at its sole option and without obligation, cure or correct LICENSOR's default and upon doing so, LICENSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or other real property interest and LICENSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LICENSEE to cure or correct such defaults.

26. RECORDING. LICENSOR agrees to execute a Memorandum of this Agreement which LICENSEE may record with the appropriate recording officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either the Term or rent payments.

27. DEFAULT.

a. In the event there is a breach by LICENSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, LICENSOR shall give LICENSEE written notice of such breach. After receipt of such written notice, LICENSEE shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which to cure any non-monetary breach, provided LICENSEE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LICENSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LICENSOR may not maintain any action or effect any remedies for default against LICENSEE unless and until LICENSEE has failed to cure the breach within the time periods provided in this Paragraph.

b. In the event there is a breach by LICENSOR with respect to any of the provisions of this Agreement or its obligations under it, LICENSEE shall give LICENSOR written notice of such breach. After receipt of such written notice, LICENSOR shall have thirty (30) days in which to cure any such breach, provided LICENSOR shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LICENSOR commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LICENSEE may not maintain any action or effect any remedies for default against LICENSOR unless and until LICENSOR has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if LICENSOR fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by LICENSOR if the failure to perform such an obligation interferes with LICENSEE's ability to conduct its business on the Property; provided, however, that if the nature of LICENSOR's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

28. REMEDIES. Upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Premises are located; provided, however, LICENSOR shall use reasonable efforts to mitigate its damages in connection with a default by LICENSEE. If LICENSEE so performs any of LICENSOR's obligations hereunder, the full amount of the reasonable and actual cost and expense incurred by LICENSEE shall immediately be owing by LICENSOR to LICENSEE, and LICENSOR shall pay to LICENSEE upon demand the full undisputed amount thereof with interest thereon from the date of payment at the greater of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by applicable Laws. Notwithstanding the foregoing, if LICENSOR does not pay LICENSEE the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due from LICENSOR, LICENSEE may offset the full undisputed amount, including all accrued interest, due against all fees due and owing to LICENSOR until the full undisputed amount, including all accrued interest, is fully reimbursed to LICENSEE.

29. ENVIRONMENTAL.

a. LICENSOR will be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any way related to activity now conducted in, on, or in any way related to the Property, unless such conditions or concerns are caused by the specific activities of LICENSEE in the Premises.

b. LICENSOR shall hold LICENSEE harmless and indemnify LICENSEE from and assume all duties, responsibility and liability at LICENSOR's sole cost and expense, for all duties, responsibilities, and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is in any way related to: a) failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as may now or at any time hereafter be in effect, unless such non-compliance results from conditions caused by LICENSEE; and b) any environmental or industrial hygiene conditions arising out of or in any way related to the condition of the

Property or activities conducted thereon, unless such environmental conditions are caused by LICENSEE.

30. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LICENSEE's operations at the Premises for more than forty-five (45) days, then LICENSEE may, at any time following such fire or other casualty, provided LICENSOR has not completed the restoration required to permit LICENSEE to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days prior written notice to LICENSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LICENSEE's use of the Premises is impaired.

31. CONDEMNATION. In the event of any condemnation of all or any portion of the Property, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Premises or Property, LICENSEE, in LICENSEE's sole discretion, is unable to use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt LICENSEE's operations at the Premises for more than forty-five (45) days, LICENSEE may, at LICENSEE's option, to be exercised in writing within fifteen (15) days after LICENSOR shall have given LICENSEE written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. LICENSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the equipment, conduits, fixtures, its relocation costs and its damages and losses (but not for the loss of its licensehold interest). Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If LICENSEE does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises. In the event that this Agreement is not terminated by reason of such condemnation, LICENSOR shall promptly repair any damage to the Premises caused by such condemning authority.

32. SUBMISSION OF AGREEMENT/PARTIAL INVALIDITY/AUTHORITY. The submission of this Agreement for examination does not constitute an offer to license the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the

Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

33. APPLICABLE LAWS. During the Term, LICENSOR shall maintain the Property in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). LICENSEE shall, in respect to the condition of the Premises and at LICENSEE's sole cost and expense, comply with (a) all Laws relating solely to LICENSEE's specific and unique nature of use of the Premises (other than general office use); and (b) all building codes requiring modifications to the Premises due to the improvements being made by LICENSEE in the Premises.

34. SURVIVAL. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

35. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LICENSOR: Hawaii Pacific District Church of the Nazarene, a eleemosynary Hawaii corporation

By: [signature]
Name: Raymond Seamon
Title: Pastor
Date: 9/20/17

LICENSEE: Cellco Partnership d/b/a Verizon Wireless

By: [signature]
Name: Gordon Cook
Title: Director - Network Field Engineering
Date: 3 DEC '18

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 3rd day of December, 201 8 before me, a Notary Public in and for the State of Washington, personally appeared Gordon Cook, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the Director Network of Cellco Partnership, d/b/a Verizon Wireless, to be the free and voluntary act and deed of said party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

JANNETTE L CLARK
Notary Public
State of Washington
Commission # 173345
My Comm. Expires Aug 29, 2022

Jannette L. Clark
NOTARY PUBLIC in and for the State of WA,
residing at Kirkland
My appointment expires 8/29/2022
Print Name Jannette L. Clark

EXHIBIT "A" (Page 1 of 3)
Legal Description

All of that certain parcel of land situate at Keaau, District of Puna, Island and County of Hawaii, State of Hawaii, described as follows:

LOT 8988, area 2,000 acres, more or less, BLOCK 8, as shown on Map 308, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1053 (amended) of W. H. Shipman, Limited;

Together with an easement over the following roadway lots to be used in common with others entitled thereto, for roadway and utilities purposes only, subject, however, to a power in favor of Hawaiian Paradise Park Corp., its successors and assigns, to convey said roadway lots or any of them, to appropriate governmental authority for use as public roadways, or to convey undivided interests therein to the owners of all lots requiring or for whom it would be convenient to have access over the same, and upon any such conveyance said easement over the roadway lots conveyed shall terminate;

Lot 1508-A, in Block 8, as shown on Map 69;
Lots 1509, 1510, 1511 and 1512, in Block 8, as shown on Map 60;
Lot 1638-H, in Block 7, as shown on Map 63;
Lots 1559 and 1560, in Block 9, as shown on Map 64; and
Lot 1, in Block 11, as shown on Map 66, of said Application No. 1053 (amended); and
Lot 4-C, as shown on Map 2 of Land Court Application No. 1689;

Being the land(s) described in Transfer Certificate of Title No. 187,072 issued to HAWAII PACIFIC DISTRICT CHURCH OF THE NAZARENE, an eleemosynary Hawaii corporation.

BEING THE PREMISES ACQUIRED BY LAND COURT DEED

GRANTOR : HAWAIIAN PARADISE PARK CORP. a Hawaii corporation

GRANTEE : HAWAII DISTRICT OF THE CHURCH OF THE NAZARENE, a eleemosynary Hawaii corporation

DATED : December 1, 1976
FILED : Land Court Document No. 792334

EXHIBIT 3

ASSIGNMENT AND ASSUMPTION OF LAND LICENSE AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF LAND LICENSE AGREEMENT (the "**Assignment**") is made this 2nd day of September, 2024, between Cellco Partnership d/b/a Verizon Wireless ("**Assignor**") and Horizon Tower Limited Partnership III, a Kansas limited partnership, by Horizon Tower III, LLC, a Delaware limited liability company, its General Partner ("**Assignee**"), who agree as follows:

1. Assignment and Assumption. For good and valuable consideration, effective as of the Effective Date (as hereinafter defined), (a) Assignor assigns to Assignee all of its right, title and interest as licensee under that certain Land License Agreement by and between Assignor, as licensee, and Hawaii Pacific District Church of the Nazarene, a eleemosynary Hawaii corporation, as licensor, ("**Licensor**") dated December 3, 2018, (the "**License**") pertaining to all or a portion of that certain real property as more particularly described in **Exhibit A** (the "**Property**") attached hereto and by this reference made a part hereof, and (b) Assignee accepts the assignment and hereby assumes and agrees to perform, as a direct obligation to licensor under the License all the obligations and liabilities of Assignor as licensee under the License to be performed from and after the Effective Date. Notwithstanding the foregoing, Assignor shall retain all rights to its pro rata share of any rent, reimbursable expenses and other additional rent or charges payable under the License for the period prior to the Effective Date.

2. Effective Date. This Assignment shall be deemed effective upon the date of full execution hereof ("**Effective Date**").

3. Indemnification.

(a) Assignee hereby agrees to indemnify, defend and hold harmless Assignor from and against all liabilities, claims, losses, actions, damages, fines, costs (including, without limitation, reasonable attorneys' fees and costs, including on appeal), expenses, causes of action and demands, arising out of or in any way connected with (i) Assignee's failure to perform licensee's obligations under the License to the extent that such obligations are to be performed from and after the Effective Date, or (ii) Assignee's breach of any of its obligations under this Assignment.

(b) Assignor hereby agrees to indemnify, defend and hold harmless Assignee from and against all liabilities, claims, losses, actions, damages, fines, costs (including, without limitation, reasonable attorneys' fees and costs, including on appeal), expenses, causes of action and demands, arising out of or in any way connected with (i) Assignor's failure to perform the licensee's obligations under the License to the extent that such obligations were to have been performed prior to the Effective Date, or (ii) Assignor's breach of any of its obligations under this Assignment.

4. Tower License. Concurrent with the execution of this Assignment, the Parties will execute a separate Tower License Agreement ("**SLA**"), to identify Assignor's reserved tower and ground space and mutually agreed rent at the Property, including any rental abatement, if applicable.

5. Successors and Assigns. This Assignment shall inure to the benefit of, and be binding upon, the successors, executors, administrators, legal representatives and assigns of the parties hereto.

6. **Governing Law**. This Assignment shall be construed under and enforced in accordance with the laws of the State of Hawaii.

7. **Further Assurances**. Assignor and Assignee each agree to execute and deliver to the other party, upon demand, such further documents, instruments and conveyances, and shall take such further actions as are necessary or desirable to effectuate this Assignment.

8. **Attorney's Fees; Costs**. Upon the bringing of any action, suit or arbitration by either party against the other arising out of this Assignment or the subject matter hereof, the prevailing party shall be entitled to recover from the other party all costs and expenses of suit including, without limitation, attorneys' fees and costs.

9. **Counterparts**. This Assignment may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO
ASSIGNMENT AND ASSUMPTION OF LAND LICENSE AGREEMENT

IN WITNESS WHEREOF, this Assignment has been executed as of the date first above written.

ASSIGNOR:

Cellco Partnership d/b/a Verizon Wireless

By: Bryan Adams (Aug 15, 2024 12:42 PDT)
Name: Bryan Adams
Title: Assoc Dir Ntwk REG/RE
Date: 08/15/2024

ASSIGNEE:

Horizon Tower Limited Partnership III, a Kansas limited partnership, by Horizon Tower III, LLC, a Delaware limited liability company, its General Partner

By: ______________________
Name: JOHN KAPULKA
Title: CEO / 9-2-24

Exhibit A

The Property

All of that certain parcel of land situate at Keaau, District of Puna, Island and County of Hawaii, State of Hawaii, described as follows:

LOT 8988, area 2.000 acres, more or less, BLOCK 8, as shown on Map 308, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1053 (amended) of W. H. Shipman, Limited;

Together with an easement over the following roadway lots to be used in common with others entitled thereto, for roadway and utilities purposes only, subject, however, to a power in favor of Hawaiian Paradise Park Corp., its successors and assigns, to convey said roadway lots or any of them, to appropriate governmental authority for use as public roadways, or to convey undivided interests therein to the owners of all lots requiring or for whom it would be convenient to have access over the same, and upon any such conveyance said easement over the roadway lots conveyed shall terminate;

Lot 1508-A, in Block 8, as shown on Map 69;
Lots 1509, 1510, 1511 and 1512, in Block 8, as shown on Map 60;
Lot 1638-H, in Block 7, as shown on Map 63;
Lots 1559 and 1560, in Block 9, as shown on Map 64; and
Lot 1, in Block 11, as shown on Map 66, of said Application No. 1053 (amended); and
Lot 4-C, as shown on Map 2 of Land Court Application No. 1689;

Being the land(s) described in Transfer Certificate of Title No. 187,072 issued to HAWAII PACIFIC DISTRICT CHURCH OF THE NAZARENE, an eleemosynary Hawaii corporation.

BEING THE PREMISES ACQUIRED BY LAND COURT DEED

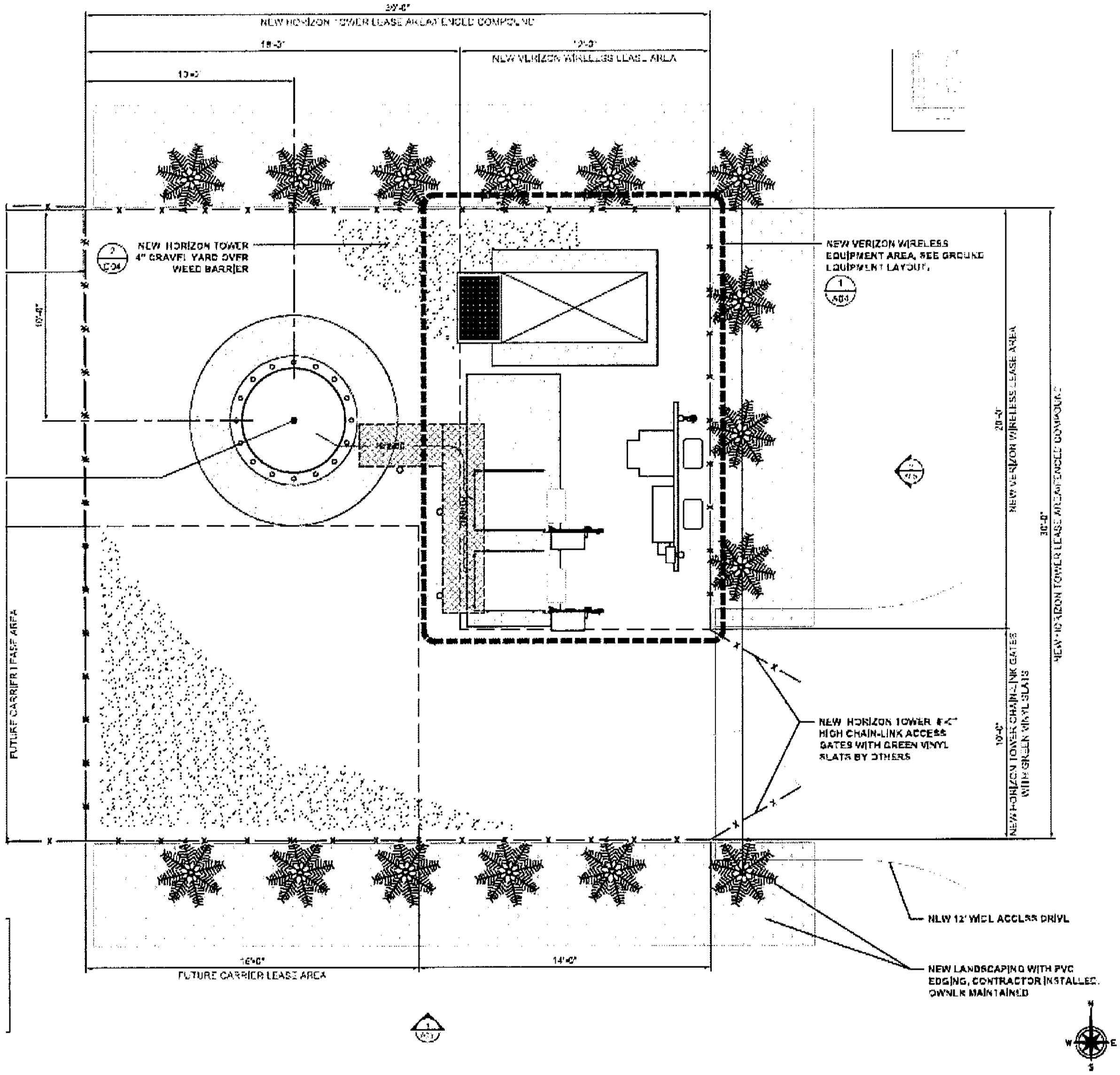
GRANTOR : HAWAIIAN PARADISE PARK CORP. a Hawaii corporation

GRANTEE : HAWAII DISTRICT OF THE CHURCH OF THE NAZARENE, a eleemosynary Hawaii corporation

DATED : December 1, 1976
FILED : Land Court Document No. 792334

<u>Exhibit A</u>

The Property



Verizon Wireless Site: HI3 MALAMALAMA (MDG# 5000054598)
Horizon Site Name: MALAMALAMA – HI4104
4874-5989-2141, v. 2

EXHIBIT 4

255 Kahelu Avenue
Mililani, HI 96789

Pastor Jenica Lawrence
Hawaii Pacific District Church of the Nazarene
15-1839 32nd Avenue
Kea'au, Hi 96749

Re: MALAMALAMA – CONSENT TO ASSIGNMENT
MDG# 5000054598

Dear Pastor Lawrence,

Pursuant to Section 22. ASSIGNMENT, of the Land License Agreement between Hawaii Pacific District Church of the Nazarene, LICENSOR, and Cellco Partnership d/b/a Verizon Wireless, LICENSEE, dated December 3, 2018, which states in part, ". . . . As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the LICENSOR, which such consent will not be unreasonably withheld, delayed or conditioned." Licensee requests that you consent to the assignment of the Land License Agreement to Horizon Tower Limited Partnership III, a Kansas limited partnership, by Horizon Tower III, its General Partner, a Delaware limited liability company. Please acknowledge your consent by signing below and returning this letter. If you have any questions or concerns, please contact Danette Martin at 808-[redacted]

Sincerely,

Cellco Partnership d/b/a Verizon Wireless

Signed by:
By: Bryan Adams
ACCDD2E14F4A420...
Its: Bryan Adams Assoc Dir Ntwk REG/RE
Dated: Aug 19, 2024

The Hawaii Pacific District Church of the Nazarene hereby consents to the assignment of the Land License Agreement dated December 3, 2018 from Cellco Partnership d/b/a Verizon to Horizon Tower Limited Partnership III.

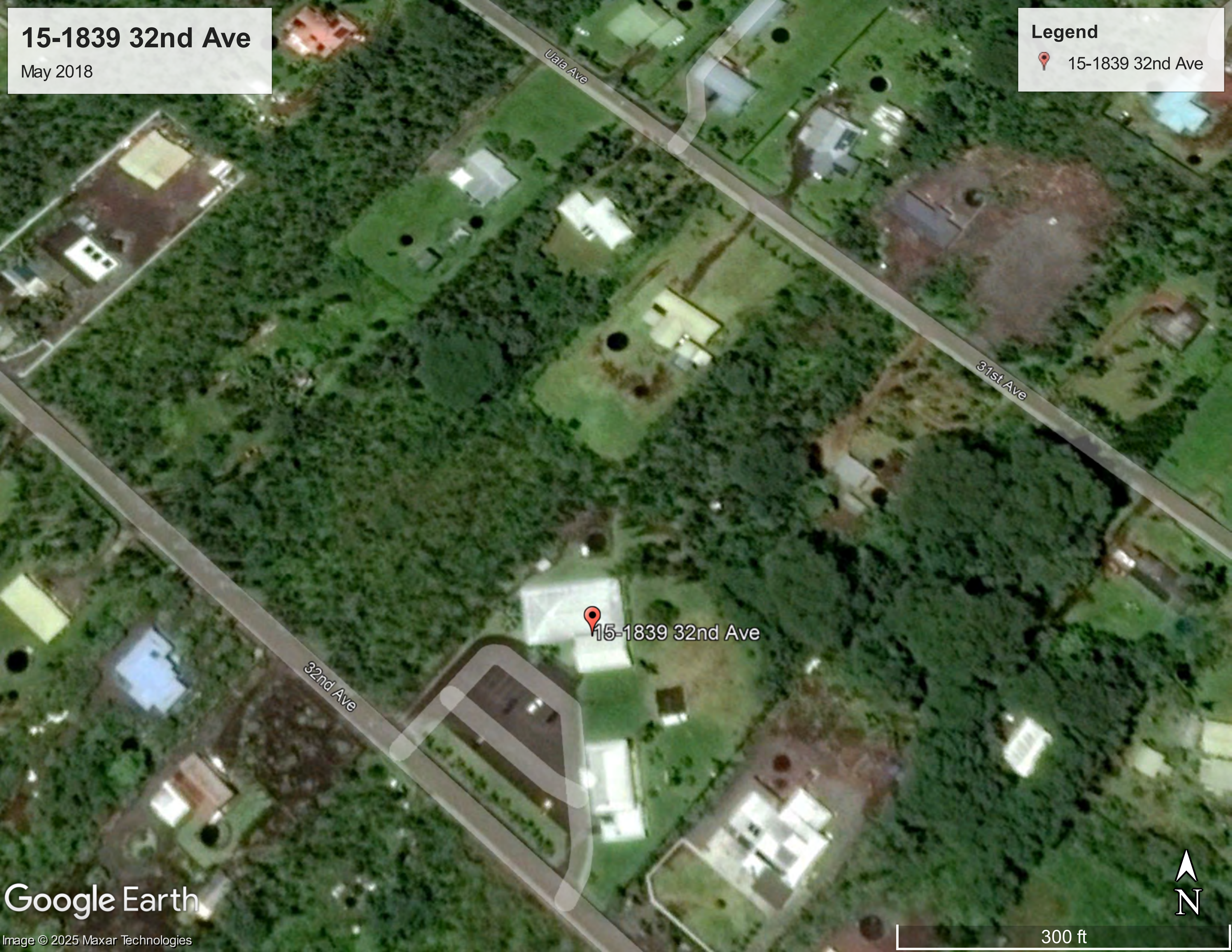
Hawaii Pacific District Church of the Nazarene

By Jenica Lawrence
Jenica Lawrence (Jul 24, 2024 15:39 HST)
Its: Pastor
Dated: 24/07/24

verizon

EXHIBIT 5


15-1839 32nd Ave
March 2016
Legend
15-1839 32nd Ave
31st Ave
32nd Ave
15-1839 32nd Ave
Google Earth
Image © 2025 Maxar Technologies
300 ft
N


15-1839 32nd Ave
May 2018
Legend
15-1839 32nd Ave
Uala Ave
31st Ave
32nd Ave
15-1839 32nd Ave
Google Earth
Image © 2025 Maxar Technologies
N
300 ft


15-1839 32nd Ave
July 2019
Legend
15-1839 32nd Ave
Uala Ave
31st Ave
32nd Ave
15-1839 32nd Ave
Google Earth
N
300 ft