

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

December 9, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Oahu

Consent to Assign Applicant's 1/3 undivided interest in Certificate of Occupation No. 90-A, Carinthia Judd, Assignor, to William H.K. Judd and Raymond M. Judd, Assignees, Waiomao, Pukele, Palolo, Oahu, Tax Map Key: (1) 3-4-003:009.

APPLICANT:

Carinthia Judd, as Assignor, to William H.K. Judd, a single person, and Raymond M. Judd, married person, tenants in common, as Assignees.

LEGAL REFERENCE:

Section 171-99(e), Hawaii Revised Statutes.

LOCATION:

Portion of Government lands of Waiomao situated at Pukele, Palolo, Oahu, identified by Tax Map Key: (1) 3-4-003:009, as shown on the attached map labeled Exhibit 1.

AREA:

1.183 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES _ NO X

CHARACTER OF USE:

Homestead purposes.

TERM OF CERTIFICATE OF OCCUPATION:

Nine hundred ninety nine (999) years, commencing on April 19, 1919.

REMARKS:

On April 19, 1919, the Territory of Hawaii issued Certificate of Occupation No. 90-A to Mrs. Amelia King for 1.18 acres in Waiomao, Pukele, Palolo, Oahu, identified as TMK: (1) 3-4-003:009. Mrs. King passed away on October 20, 1939, and her entire interest vested through intestate succession to her daughter, Elizabeth K. Judd (nee Keonaona), as determined by decree in Civil No. 9000 on March 1, 1962.

Elizabeth Keonaona married Samuel H. Kahalewai on June 11, 1921. The marriage produced four children: Herman Harry, Carinthia, Myrna Haunani and Samuel, III. Samuel H. Kahalewai passed away on December 1, 1939. Elizabeth Kahalewai remarried and took the surname Judd. The marriage dissolved prior to Elizabeth Judd's death, with no children resulting from it. Elizabeth Judd passed away on June 22, 1967.

HRS 171-99(e) prescribed a precise order of descendants who could receive the lessee's interest in a 999-year Certificate of Occupation or Homestead Lease. In this case, Elizabeth Judd's interest vested in her four children upon her death, as she left no widower. Following the death of one of those children, Myrna Hauani Kahalewai on March 2, 1982, Myrna's undivided interest vested equally among her three surviving siblings.

In a letter dated March 23, 1983 to the City & County of Honolulu's Department of Finance, the Land Management Administrator noted that the Department's records would be updated to reflect the fact that the Certificate of Occupation now vested in Herman Harry Kahalewai, Carinthia Judd and Samuel Kahalewai, III as joint tenants.

Herman Harry Kahalewai passed away on September 10, 2001, and Samuel Kahalewai III passed away on November 20, 2008. The status of both Herman's and Samuel's interest is undetermined at this time. Staff's concern with this submittal is the assignment of the applicant's undivided 1/3 interest in the Certificate of Occupation. A family tree is attached as Exhibit 2.

Act 166, 2000 SLH 300 (Act 166), which went into effective on June 6, 2000, amended HRS 171-99(e) by changing the way that a lessee's interest could be assigned; i.e. allowing an interest to be assigned to a member or members of the occupier's family with the prior approval of the Board of Land and Natural Resources. Act 166 also extinguished the right of survivorship that previously controlled the disposition of interests in a

Homestead Lease, resulting in joint tenants becoming tenants in common.

The applicant, who is elderly, wishes to assign her undivided 1/3 interest in the certificate of occupation to her children in order to avoid a costly and protracted probate. Staff has reviewed the birth certificates of both sons and verified that they are the children of Carinthia Judd and eligible to acquire an interest in the Homestead Lease under Section 171-99, HRS, as amended.

Staff has confirmed that the real property taxes are current.

Neither Assignee has had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION:

That the Board consent to the assignment of Applicant's undivided 1/3 interest in Certificate of Occupation No. 90-A from Carinthia Judd, as Assignor, to William H.K. Judd and Raymond M. Judd, as Assignees, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Richard T. Howard
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

EXHIBIT "1"



