

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

March 10, 2017

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

PSF No.: 16OD-071

OAHU

Amend Prior Board Action of May 27, 2016, (Item D-11), Consent to Assign and Amend Grant of Non-Exclusive Easement No. S-5910, Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as Assignor, to Thomas R. Hammond and Kathy S. Ohara, as Assignee; Makiki, Honolulu, Oahu, Tax Map Key: (1) 2-5-020: portion of 002.

An amendment is required due to the recent change in ownership of the adjacent private property to Janine S. Clifford, Trustee of The Janine S. Clifford Trust dated January 26, 2007, restated October 22, 2010, and amended September 25, 2012 and June 2, 2015, as Assignee.

BACKGROUND:

On May 27, 2016, under agenda item D-11, the Board approved of the consent to assign regarding the Grant of Non-Exclusive Easement No. S-5910 from Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as Assignor, to Thomas R. Hammond and Kathy S. Ohara, as Assignee. The same submittal also authorized the amendment of the subject easement by addition of the condition that allows the easement run with the adjoining private property. A copy of the approved Board submittal is attached as **Exhibit A**.

Pursuant to the warranty deed recorded as document no. A-60190092 on June 24, 2016, the ownership of the adjacent private property was subsequently transferred from Thomas R. Hammond and Kathy S. Ohara to Janine S. Clifford, Trustee of The Janine S. Clifford Trust dated January 26, 2007, restated October 22, 2010, and amended September 25, 2012 and June 2, 2015. In short, the ownership of the private property was changed prior to the consummation of the documents. Currently, the new owner requests the change in grantee for the subject easement.

For housekeeping purposes, staff recommends the Board consent to the assignment from Thomas R. Hammond and Kathy S. Ohara, as Assignor to Janine S. Clifford, Trustee, as Assignee as described above. Upon approval of today's request, staff will finalize the documents accordingly.

RECOMMENDATION: That the Board amend its prior action of May 27, 2016, item D-11, by replacing the entire Recommendation Section with the following:

- “A. Consent to the assignment of Grant of Non-Exclusive Easement No. S-5910 from Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as the Assignor, to Thomas R. Hammond and Kathy S. Ohara, as the Assignee, 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.
- B. Consent to the assignment of Grant of Non-Exclusive Easement No. S-5910 from Thomas R. Hammond and Kathy S. Ohara, as Assignor, to Janine S. Clifford, Trustee of The Janine S. Clifford Trust dated January 26, 2007, restated October 22, 2010, and amended September 25, 2012 and June 2, 2015, as Assignee, 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.
- BC. Amend the Grant of Non-Exclusive Easement No. S-5910 by adding the following condition:
- “Throughout the term (unless sooner abandoned or otherwise terminated herein), this easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 2-5-008:006, provided however, that the Grantee shall carry the required liability insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee’s estate, shall notify the Grantor in writing when this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee’s successors or assigns of the insurance requirement in writing, separate and apart from the easement document”; further subject to the following:
1. Review and approval by the Department of the Attorney General; and

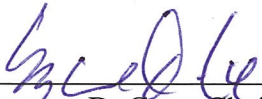
2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.”

Respectfully Submitted,



Timmy Chee
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



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

May 27, 2016

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

Ref No. PSF 16OD-071

Oahu

Consent to Assign, and Amend Grant of Non-Exclusive Easement No. S-5910, Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as Assignor, to Thomas R. Hammond and Kathy S. Ohara, as Assignee; Makiki, Honolulu, Oahu, Tax Map Key: (1) 2-5-020: portion of 002.

APPLICANT:

Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as Assignor, to Thomas R. Hammond and Kathy S. Ohara, as Assignee, as Joint Tenants.

LEGAL REFERENCE:

Section 171-6 and 36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of lands situated at Makiki, Honolulu, Oahu, identified by Tax Map Key: (1) 2-5-020: portion of 002, as shown on the attached map labeled as **Exhibit 1**.

AREA:

39 square feet, 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: No

CHARACTER OF USE:

Lanai Overhang purposes.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
May 27, 2016 *uo.*

Exhibit A

TERM OF EASEMENT:

55 years, commencing on June 8, 2007 and expiring on June 7, 2062.

EASEMENT RENTAL:

\$500.00 one-time payment paid.

CONSIDERATION:

\$10.00.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing", Item 47, "Leases of state land involving negligible or no expansion or change of use beyond that previously existing." See exemption declaration attached as **Exhibit 2**.

DCCA VERIFICATION:

Not applicable, as property owner.

REMARKS:

At its meeting of January 14, 2005, under agenda item D-14, the Board had approved of the issuance of Non-Exclusive Easement S-5910 for encroachment (overhang lanai) to Richard E. Reese, Trustee of the Richard E. Reese Revocable Living Trust, as the Grantee.

By way of a warranty deed document identified as A-52870157, recorded on June 23, 2014 in the Bureau of Conveyances, the Richard E. Reese Revocable Living Trust sold the private property that abuts the subject lanai overhang easement to Thomas R. Hammond and Kathy S. Ohara. This event transferred property ownership rights and triggers the need for the Board to consent to the assignment of the subject easement.

Staff brings this request to the Board to seek its consent for the assignment of the subject lanai overhang easement, as included in the said warranty deed of the abutting privately-owned property.

In the event of changes to the ownership of the abutting privately-owned property, staff recommends that the Board now amend the easement to inure to the benefit of the said abutting property, to eliminate the consent needed from the Board regarding any future assignment(s). The current owners have no objections to the request.

The current owners of the abutting private property have not had any known lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Office of Conservation and Coastal Lands has no objection to the subject request. There are no other pertinent issues or concerns, and staff has no objection to the subject request.

RECOMMENDATION: That the Board

A. Consent to the assignment of Grant of Non-Exclusive Easement No. S-5910 from Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as the Assignor, to Thomas R. Hammond and Kathy S. Ohara, as the Assignee, 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.

B. Amend the Grant of Non-Exclusive Easement No. S-5910 by adding the following condition:

“Throughout the term (unless sooner abandoned or otherwise terminated herein), this easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 2-5-008:006, provided however, that the Grantee shall carry the required liability insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee’s estate, shall notify the Grantor in writing when this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee’s successors or assigns of the insurance requirement in writing, separate and apart from the easement document”; further subject to the following:

1. Review and approval by the Department of the Attorney General; and
2. Such other terms and conditions as may be prescribed by the Chairperson

to best serve the interests of the State.

Respectfully Submitted,



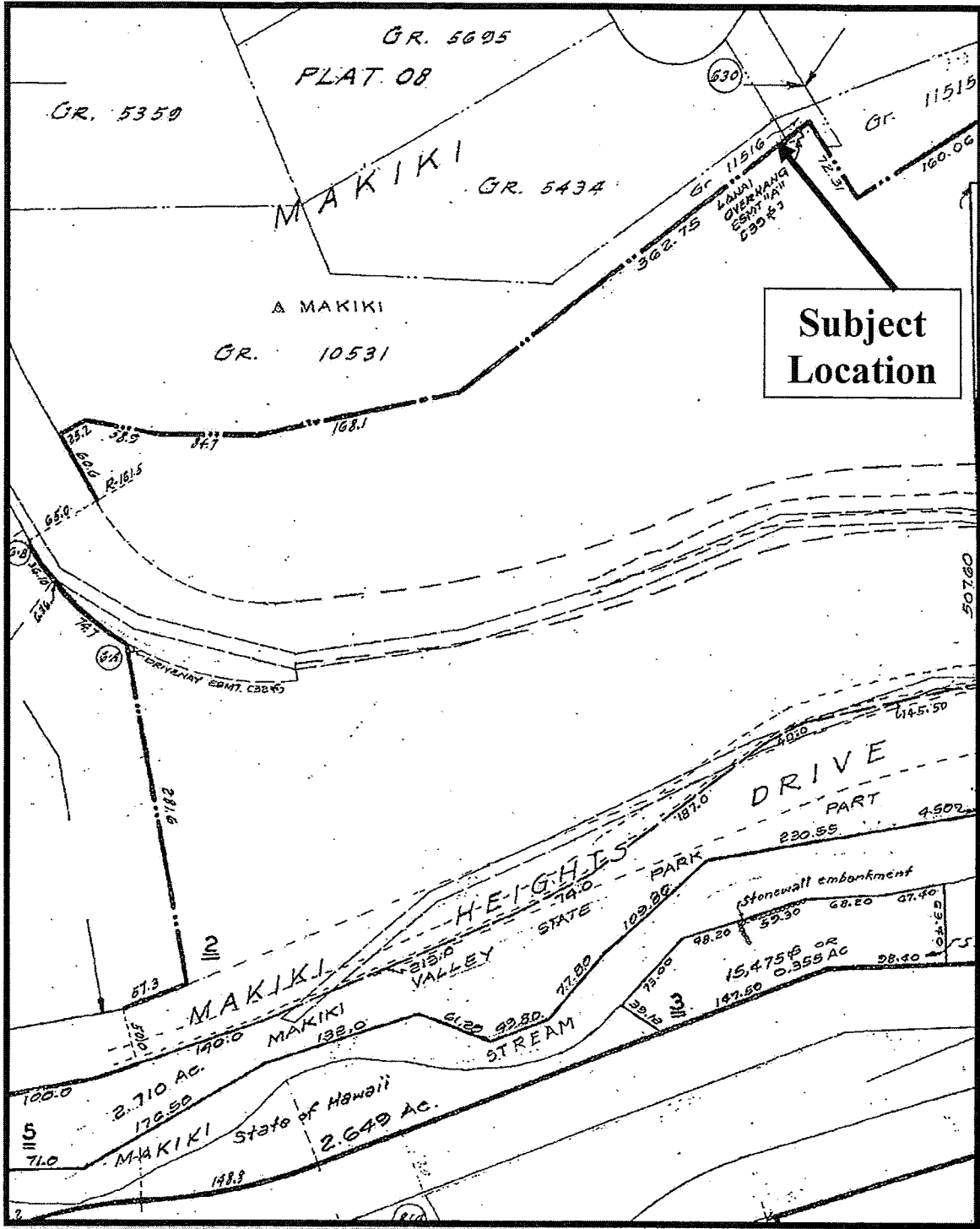
Timmy Chee
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson





TAX MAP KEY: (1) 2-5-020:002 portion

EXHIBIT 1

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Consent to Assign, and Amend Grant of Non-Exclusive Easement

Project / Reference No.: PSF 16OD-071

Project Location: Makiki, Honolulu, Oahu, Tax Map Key: (1) 2-5-020: portion of 002

Project Description: Consent to Assign, and Amend Grant of Non-Exclusive Easement No. S-5910 due to the change of ownership of the abutting property.

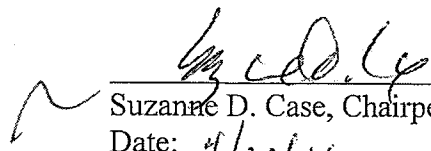
Chapter 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(4) and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing". Item 47, "Leases of state land involving negligible or no expansion or change of use beyond that previously existing."

The subject request is for housekeeping purposes in view of the change of the grantee, and no change of existing use is involved.

Consulted Parties: Office of Conservation and Coastal Lands

Recommendation: It is recommended that the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



Suzanne D. Case, Chairperson
Date: 4/28/16

EXHIBIT 2