

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

October 13, 2017

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

PSF No.: 17OD-109

OAHU

Grant of Term, Non-Exclusive Easement to Peter Cushman Lewis, Trustee of the Peter Cushman Lewis Revocable Trust Agreement dated October 1, 1982, for Seawall, Steps, and Landscaped Area Purposes; Waianae, Oahu, Tax Map Key: (1) 8-7-023:seaward of 044

APPLICANT:

Peter Cushman Lewis, Trustee, tenant in severalty.

LEGAL REFERENCE:

Sections 171-6, 13, 17, 53(c), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of government land located seaward of Waianae, Oahu, identified by Tax Map Key: (1) 8-7-023:seaward of 044, as shown on the map attached as **Exhibit A**.

AREA:

372 square feet, more or less, subject to review and approval by the Department of Accounting and General Services, Survey Division

ZONING:

| | |
|--------------------------------|---|
| State Land Use District: | Conservation |
| City & County of Honolulu LUO: | R-5 [for the abutting private property] |

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Unencumbered with encroachments.

CHARACTER OF USE:

Right, privilege and authority to use, repair, and maintain existing seawall, steps, and landscaped area over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years

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 approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 46 that states "Creation or termination of easement, covenants, or other rights in structures or land." See **Exhibit B**.

DCCA VERIFICATION:

Not applicable.

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicants' own cost;
2. Pay for an appraisal to determine one-time payment; and
3. Obtain concurrent resolution from the Legislature pursuant to 171-53 (c), HRS.

REMARKS:

In June 2016, the applicant suffered an unfortunate incident whereby his home was accidently destroyed by fire. Since the incident, the fire debris has been removed and the

lot currently sits vacant. In order to rebuild his home the applicant is required to obtain a certified shoreline prior to obtaining the necessary City and County building permits. However, during the due diligence shoreline process encroachments consisting of a seawall, steps, and filled land were found on the survey map (see **Exhibit C**). The encroachments were located seaward of the private property boundary.

The applicant worked with the Office of Conservation and Coastal Lands (OCCL) to resolve the encroachments by submitting the Shoreline Encroachment Information questionnaire. In the questionnaire, the applicant provided an aerial photo taken in 1948 showing the presence of the seawall. The applicant also stated that the sandy beach profile Makai of the seawall has been very constant since the applicant's family started visiting the beach in the early 1950's. The applicant also mentioned that removing the seawall would undermine and be destructive to the neighboring seawalls and properties. A copy of the questionnaire is attached as **Exhibit D**.

However, after reviewing the shoreline questionnaire application, the OCCL did not support the issuance of an easement based on the determination that removal of the encroachments could improve beach resources fronting the property by releasing sand that is trapped on the Mauka side of the seawall. Additionally, OCCL determined that the beach transit corridor fronting the property could be increased with the removal of the seawall; and, that since the property is currently vacant the encroachments do not serve as primary erosion control for a threatened structure. A copy of OCCL's letter dated September 13, 2016 is attached as **Exhibit E**.

To resolve an encroachment issue, an owner generally has two options: either to obtain a disposition (normally in the form of an easement) from the Board or remove the encroachment. The applicant has elected to pursue an easement citing the removal of the subject seawall may result in flanking erosion to the next door properties on both sides of the applicant's property.

The applicant has tried in good faith to resolve the encroachment issue through the OCCL, but the applicant feels restricted in its capacity to resolve the encroachment through removal, by the long history of the structure and its impact on neighboring properties. Staff understands the situation faced by the applicant, as well as OCCL's position on the issue. However, staff is inclined to support the issuance of an easement as applicant's house was lost due to an accident. Staff spoke with the applicant, who is in agreement in with bringing the issue before the Board for a decision.

Comments from other agencies

The Division of Aquatic Resources, Board of Water Supply, and the Department of Parks and Recreation have no comments to the request. The Department of Facility Maintenance has no comments or objections to the request. The Department of Hawaiian Home Lands has provided comments (see **Exhibit F**). Upon review of the comments, staff notes that if and when the applicant needs to rebuild or construct a new seawall proper agencies will be contacted to assess environmental issues. The Department of Planning and Permitting (DPP) also has provided comments attached as **Exhibit G**. The

DPP requests that the applicant remove the wooden and chain-linked fences from atop the seawall citing that a 1986 and 1989 photo does not show the structures and they do not have any records that they are authorized as minor shoreline structures. Also, the subject property is located within the Coastal High Hazard District and is subject to the requirements of Chapter 21A (Flood Hazard Areas). The applicant will be reminded to work with the DPP to resolve the unauthorized structures and address the flood hazard requirements.

Office of Hawaiian Affairs has not responded to the solicitation for comment at the time of writing this submittal.

Pursuant to the Board's action of June 28, 2002, under Item D-17, which established criteria for imposing fines for illegal encroachments, a fine of \$500 is to be imposed if the encroachment area is over 100 square feet. Since the encroachment area is 353 square feet (more or less), staff recommends that a fine of \$500 be imposed by the Board.

Upon approval of today's request, Applicant will be reminded of the requirement for concurrent resolution from both houses of the legislature under Sect.171-53(c), HRS prior to the issuance of the requested easement.

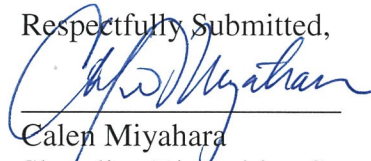
Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Assess a non-refundable administrative cost of \$500, under Section 171-6, HRS.
3. Impose a fine of \$500, for an encroachment as described above.
4. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 8-7-023:044, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
5. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to Peter Cushman Lewis, trustee, covering the subject area for seawall, steps, and landscaped area purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

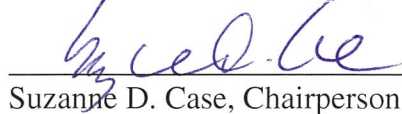
- A. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
- B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 8-7-023:044, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantor of such transaction in writing, and shall notify Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;
- C. Approval by the Governor and concurrence from the Legislature pursuant to 171-53 (c), HRS;
- D. Review and approval by the Department of the Attorney General;
- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
- F. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.

Respectfully Submitted,

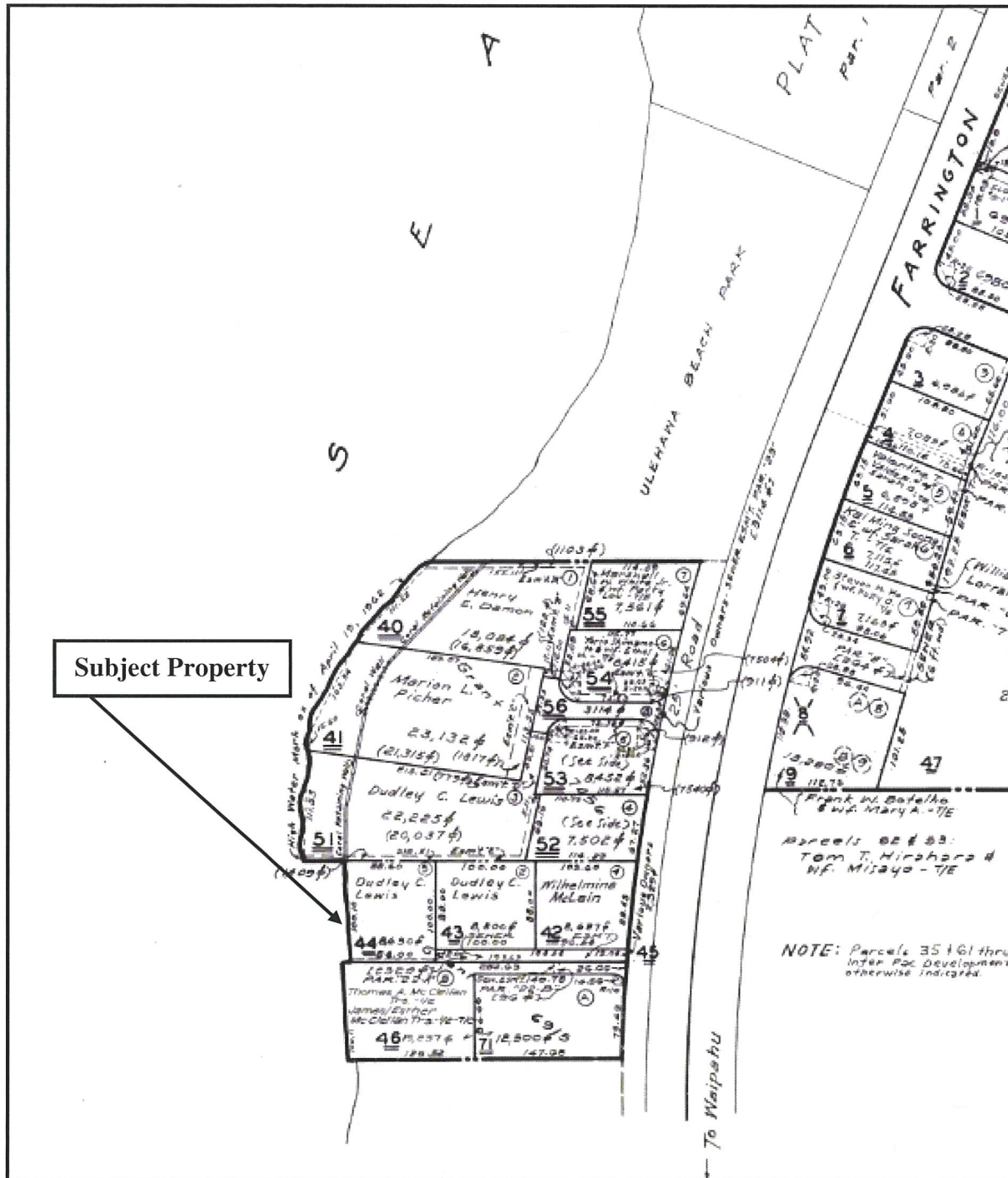


Calen Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

~



TMK (1) 8-7-023:seaward of 044

EXHIBIT A

EXEMPTION NOTIFICATION

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

Project Title: Issuance of Term, Non-Exclusive Easement for Seawall and Steps Purposes

Project / Reference No.: PSF 17OD-109

Project Location: Waianae, Oahu, TMK (1) 8-7-023:seaward of 044.

Project Description: Issuance of term, non-exclusive easement for seawall and steps purposes.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4), 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."

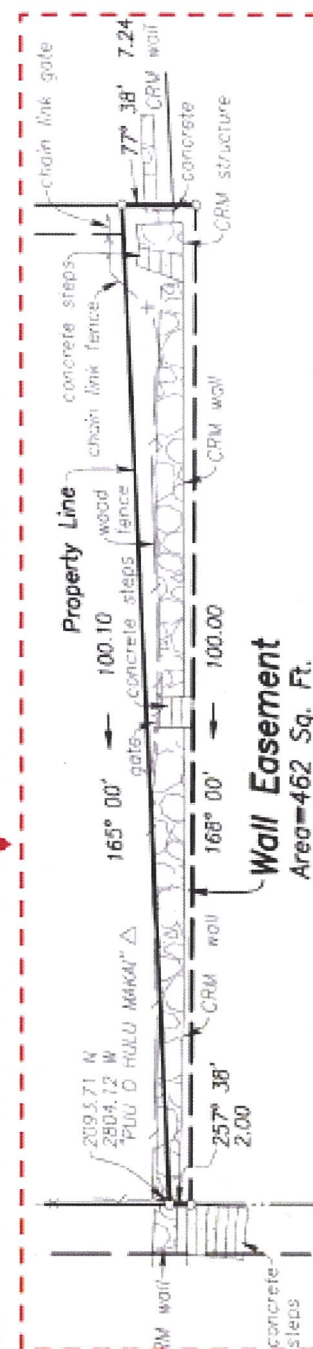
The applicant is not planning on conducting major change to the existing topographical and vegetation condition of the property. As such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Agencies notes in the submittal.

Recommendation: It is recommended that the Board find that 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.

EXHIBIT B

ENLARGEMENT



DOI: 10.1002/ajph
www.bloodpressurejournal.com
August 28, 2017

EXHIBIT C



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(808) 595-6046 • p (808) 595-2061 • f
www.glai-architecture.com

CA-17-9

RECEIVED Geoffrey Lewis Architect, Inc.
OFFICE OF CONSERVATION
AND COASTAL LANDS

2016 AUG 22 A 9 32

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

August 18, 2016

Ms. Suzanne Case, Director DLNR
Attn: Sam Lemmo
Department of Land & Natural Resources
Office of Conservation and Coastal Lands
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Lemmo:

On behalf of our clients, Peter Lewis, we are providing the Shoreline Encroachment Information for your review. We look forward to your review and eventual site visit to verify the conditions. Please contact Mr. Lewis to schedule the site visit.

Questionnaire Answers:

1. **Applicant:** Peter Lewis, Honolulu, HI 96817
2. **Location:** Waianae, HI 96792
TMK: 8-7-023:044
3. **Approximate Square Feet of Encroachment:** 600 square feet (see survey dated 7/09/16)
4. **Approximate date of established Encroachment:** Pre - 1948 (see aerial image from RM Towill corporation. - Photo taken in 1948)
5. **Date of previous Shoreline Certification:** None. House burned down in early June, 2016. Owner would like to rebuild and attain a new Shoreline Certification but first must deal with this encroachment which was discovered on the Survey dated 7/09/16.
6. **Identification of Adjacent Development and Surrounding Land Uses Including Encroachments:** The current house on this property burned down in early June. The aerial image shot in 1948 shows this existing house as well as on the current Google Maps. The adjacent properties (north side, south side and mauka) each have dwellings. There are also property fences that separate this property from the adjoining properties.
7. **Identification of surrounding Coastal Structures:** The two adjacent properties also have Coral Stone CRM shoreline property walls. The wall on the north side property is contiguous with this wall in question and is also evident in the 1948 image. There are also some concrete stairs to the beach that are part of an access easement for the rear lots. These stairs also contain a military disc (monument) that must have been pre-1948. This can be seen on the Survey dated 7/09/16.

EXHIBIT D



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8. **Assessment of Beach Resources:** The beach resources are doing excellent. Our family has been going out here since the late 1950's and the beach and shoreline have not changed other than the typical winter surf and high tides which tend to move the sand around a bit but always seems to replenish itself during the summer months. The shoreline rock formations have remained constant with very little if any depletion other than natural erosion.
9. **Assessment of Available Public Access:** On both sides of this 10-11 property subdivision there are two public parks with amenities for the community. These provide excellent access to the beach and ocean. In the past, it had encouraged some homeless structures, but the community seems to have taken charge which has stopped the transient invasion.
10. **Effect of Removing Encroachment on Upland Development and on Surrounding Uses:** The removal of this encroachment would have serious effects on both the neighboring properties. The removal of this wall would undermine the neighboring shoreline CRM walls from a 90 degree angle to this property. The west side experiences very large surf and that coupled with high tides would be very destructive to this property and the neighboring walls. This property is not very deep and with the removal of the shoreline wall, would drastically diminish the development area of the lot and eventually affect the houses mauka of this lot. As mentioned, this shoreline has been very constant in profile and makeup since our family has been using the property which shows that the shoreline walls are not adversely affecting the shoreline resources.
11. **Would Removal of Encroachment Improve Beach Processes and Public Access:** As mentioned above, there are two excellent access points to Mai'li Point on both sides of this subdivision so any additional access is really not necessary. Also mentioned is that the this wall that dates back pre 1948 has had no adverse effects on the beach resources and should not in the future. If removed, the adjacent properties would most likely suffer severe damage from the large surf during the winter months as well as the larger south shore swells.

Attachments:

1. Image 1: Aerial Image – RM Towill – date of image: 1948
2. Image 2: Enlarged Aerial Image – RM Towill – date of image: 1948
3. Image 3: Google Earth Image – 8-15-2016
4. Image 4: North Side of Wall – date of image: 8-17-2016
5. Image 5: South Side of Wall – date of image: 8-17-2016
6. Image 6: Wall – Beach Profile – date of image: 8-17-2016
7. Image 7: View of Wall from Beach – date of image: 8-17-2016
8. Image 8: View Facing Makai from Property – date of image: 7-30-2016
9. Topographic Survey of 87-849 C Farrington Hwy – dated July 9, 2016



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Please do not hesitate to call if you have any questions or would like to discuss further.

Sincerely,

A handwritten signature in blue ink, appearing to read "Geoffrey Lewis", with a large, stylized loop at the end.

Geoffrey Lewis, AIA
Principal



IMAGE 1 - AERIAL IMAGE - R.M. TOWILL, 1948

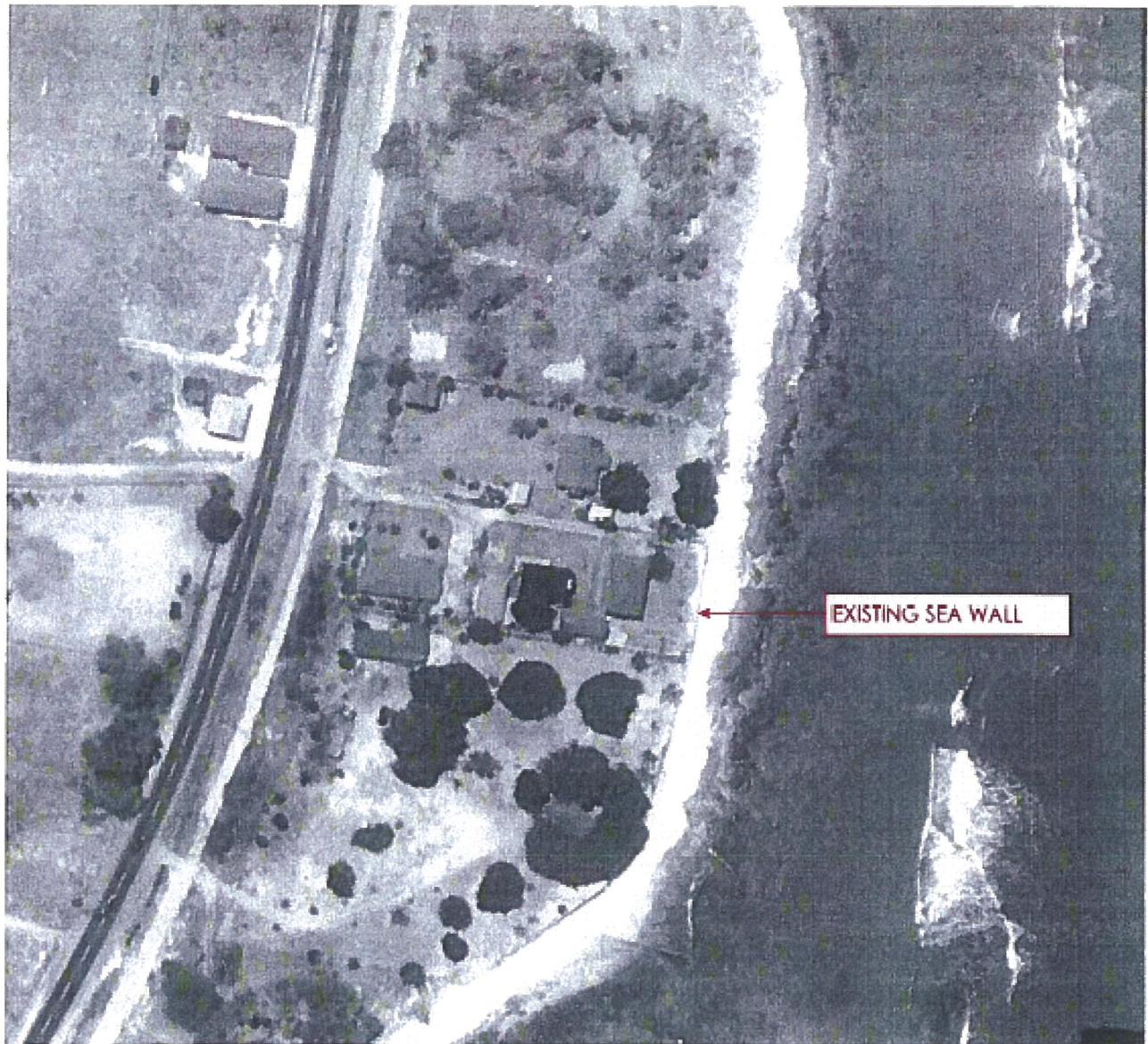


IMAGE 2 - ENLARGED AERIAL IMAGE - R.M. TOWILL, 1948



IMAGE 3 - GOOGLE EARTH IMAGE - 8.15.2016



IMAGE 4 - NORTH SIDE OF WALL



IMAGE 5 - SOUTH SIDE OF WALL

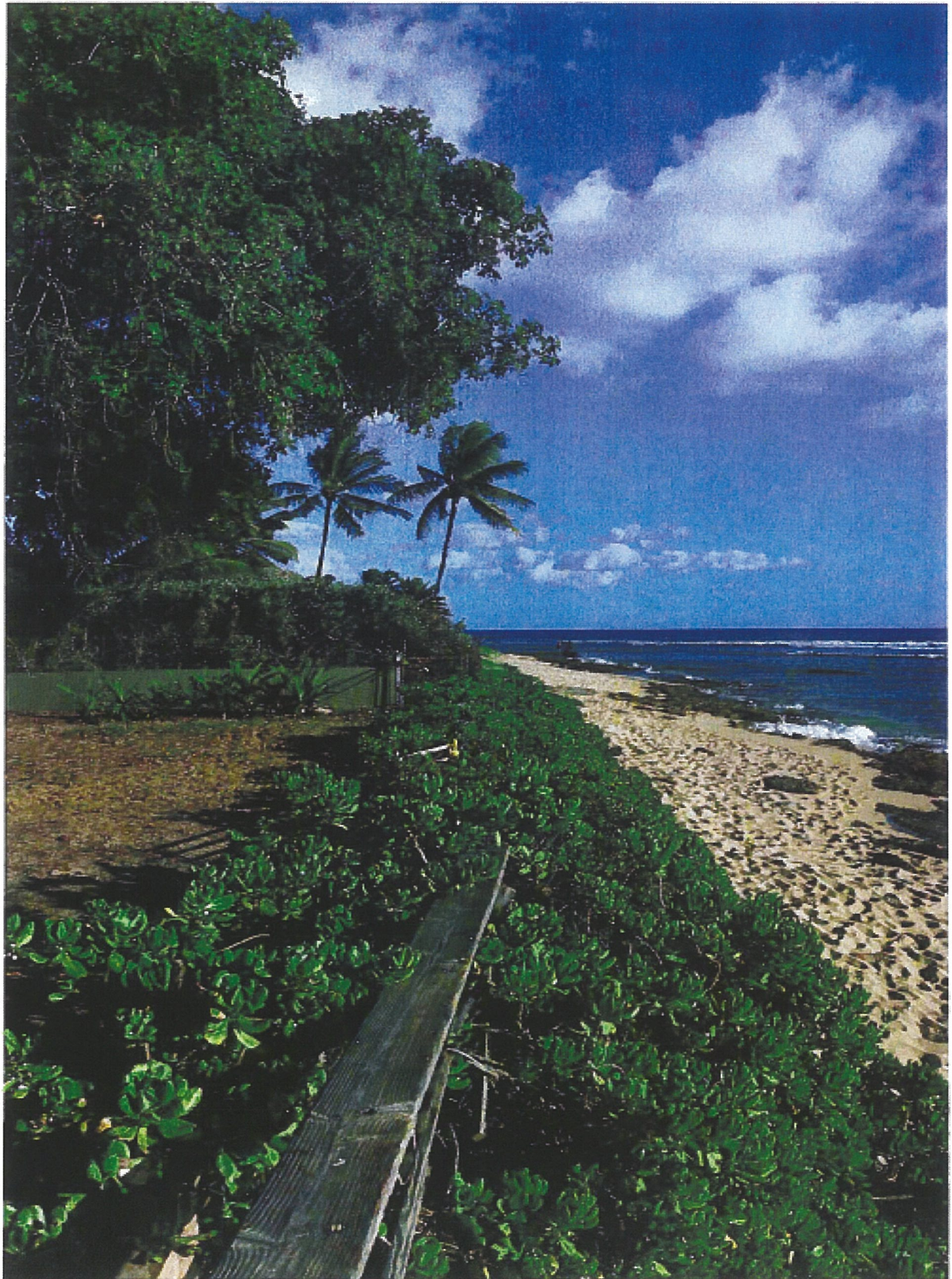


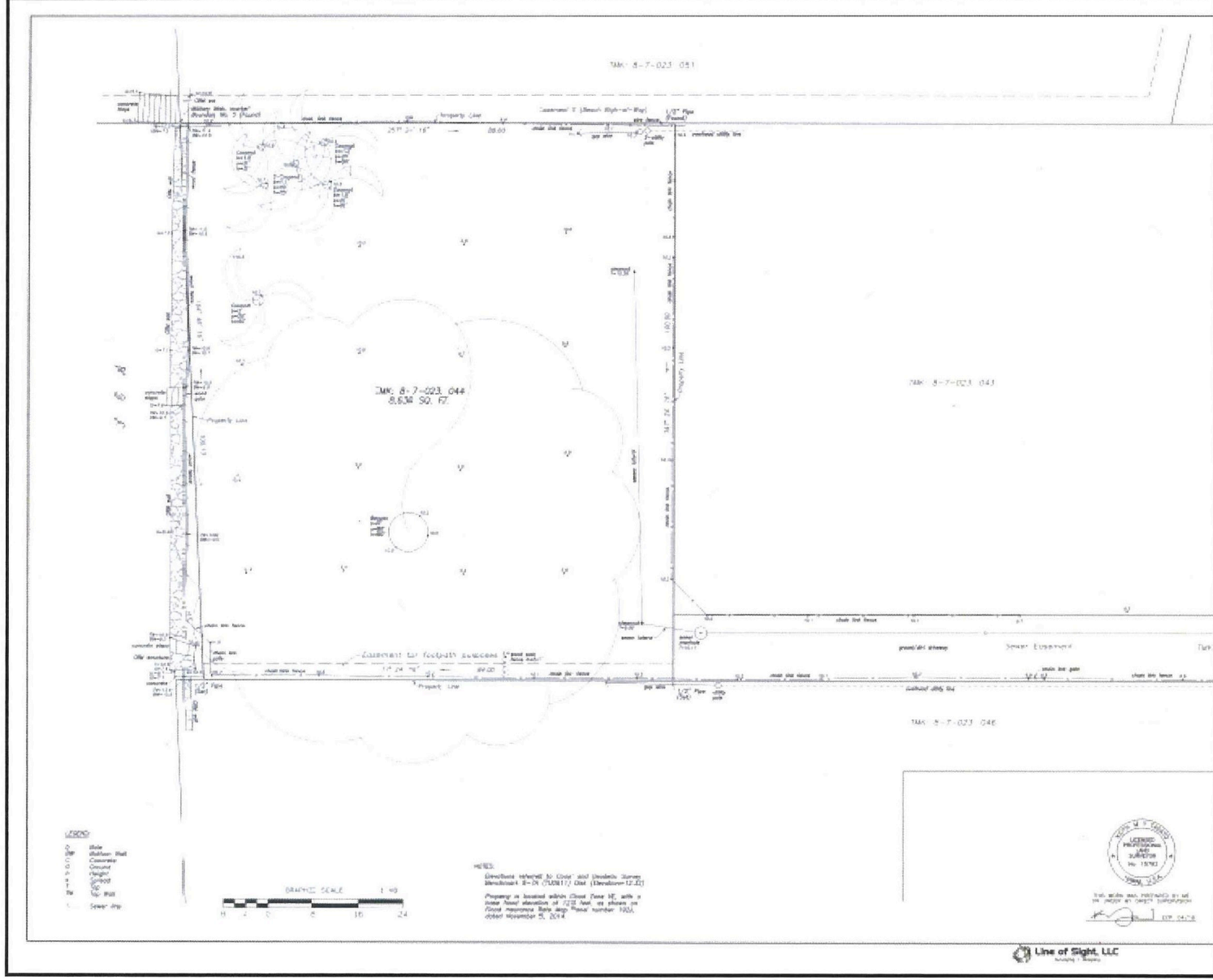
IMAGE 6 - WALL BEACH PROFILE



IMAGE 7 - VIEW OF WALL FROM BEACH



IMAGE 8 - VIEW FACING MAKAI FROM PROPERTY



Note: Image 9 - expanded view.



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

RECEIVED
LAND DIVISION
2016 SEP 13 AM 11:09
SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSIONER OF WATER RESOURCE MANAGEMENT
KEKOA KALUJHIWA
FIRST DEPUTY
JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSIONER OF WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
ENFORCEMENT AND RESOURCES ENFORCEMENT
ENGINEERING
FOREST AND WILDLIFE
SILVICULTURE PRESERVATION
LAND DIVISION
LAND PRESERVATION

DLNR:OCCL:NF

Encroachment OA-17-9

Geoffrey Lewis, AIA
Geoffrey Lewis Architect, Inc.
3927 Old Pali Road
Honolulu, HI 96817

SEP 13 2016

SUBJECT: Request to Resolve State Land Encroachment Located Seaward of
Maili, Oahu: Tax Map Key: (1) 8-7-023:044

Dear Mr. Lewis,

The Department of Land and Natural Resources, Office of Conservation and Coastal Lands (OCCL) is responding to your August 18, 2016 request to resolve the State land encroachment located seaward of Tax Map Key (1) 8-7-023:044. According to the Shoreline Encroachment Questionnaire, photos, and maps included with the memorandum, there is approximately 600 square feet of encroachment (CRM wall, concrete steps, wood fence, wood gate, chain link fence, and Naupaka) seaward of the subject property boundary onto State lands. You are working on behalf of the landowner, Peter Lewis.

The previous house on the subject property burned down in June 2016 and the property is currently vacant. According to your letter, the landowner would like to rebuild the house and attain a certified shoreline. You are seeking to resolve the encroachments fronting the subject property prior to applying for the shoreline certification. The topographical survey map and photos included with your letter show a CRM wall, wood fence, two sets of concrete steps, wood gate, wood fence, chain link fence, and Naupaka seaward of the subject property boundary on State lands. A small portion of the CRM wall at the northern end of the property was built within the original metes and bounds of the subject property. You note in your letter that the CRM wall was built prior to 1948. You included with your letter an aerial image from R.M. Towill dated 1948 of the subject property which shows a house and what appears to be the existing CRM wall. Thus, the CRM wall appears to be a Non-Conforming land use pursuant to Hawaii Revised Statutes (HRS), Chapter 183C. It is unclear from the 1948 aerial image if the other encroachments were present at that time.

The Board of Land and Natural Resources established a policy to allow the disposition of shoreline encroachments by either removal or issuance of an easement. In carrying-out this policy, OCCL established criteria to guide decision-making over specific cases. The criteria are as follows:

1. Protect/preserve/enhance public shoreline access;

EXHIBIT E

Geoffrey Lewis, AIA

Encroachment: OA-17-9

2. Protect/preserve/enhance public beach areas;
3. Protect adjacent properties;
4. Protect property and important facilities/structures from erosion damages; and
5. Apply "no tolerance" policy for recent or new unauthorized shoreline structures

In addition, OCCL developed a "Shoreline Encroachment Information Sheet" that is intended to provide the State with additional information to guide OCCL's recommendations on the disposition of shoreline encroachments.

Surrounding Land Uses:

The previous house on the subject property burned down in June 2016 and the property is currently vacant. The subject property is located within an eleven property subdivision bordered by two City and County of Honolulu parks on either side. Farrington Highway borders the subdivision to the east. The adjacent properties to the north, south, and east each have dwellings. The two adjacent properties to the north and south have CRM walls fronting the properties. Between the subject property and the adjacent property to the north, there are a set of concrete stairs to the beach that are part of an access easement for the rear lots.

Beach Resources:

The subject encroachments are fronted by a narrow, carbonate sand perched beach with limestone outcrops along the shoreline. A shallow reef extends offshore. According to the Oahu Shoreline Study Erosion Maps developed by University of Hawaii's Coastal Geology Group, the shoreline fronting the subject property has remained approximately stable since 1928¹.

Public Access:

The two City and County of Honolulu parks on either side of the subdivision provide public access to the shoreline. Alongshore access is available along the shoreline fronting the subject property.

Effect of Removing the Encroachment on:

Beach Resources: The encroachments fronting the subject property were built on State land on the public beach. The shoreline fronting the subject property has experienced little to no erosion since 1928¹. A geological map from the U.S. Geological Survey indicates that the backshore area behind the encroachments likely contains substantial deposits of beach sand². Therefore, removal of the encroachment could improve the beach resources fronting the property by releasing sand that is presently impounded behind the wall to the beach environment.

HRS §205A Section 2.c.9 provides for policies and objectives for beach protection. The DLNR draws its specific practices from these and other laws and policies. Based on these policies and practices, the OCCL believes that it would be unwise to allow the impoundment of sediment or armoring of sandy shorelines on State lands and these resources should be returned to the State where feasible and reasonable. According to HRS §205A, no structures should be placed in locations that interfere with shoreline processes and/or shoreline recreational activities.

¹ Maili Beach, Oahu Shoreline Study Erosion Maps. University of Hawaii Coastal Geology Group. Hawaii Coastal Erosion Website: <http://www.soest.hawaii.edu/coasts/erosion/oahu/>.

² Geologic Map of the State of Hawaii, Sheet 3 – Island of Oahu, U.S. Geological Survey, Open-File Report 2007-1089: <http://pubs.usgs.gov/of/2007/1089/>

Geoffrey Lewis, AIA

Encroachment: OA-17-9

Public Access: The size of the sandy beach fronting the subject property could be increased by removing the subject encroachments, potentially increasing the width of the beach transit corridor along the narrow beach.

Effect on Adjacent Properties: It is not clear what effect, if any, removal of the encroaching structures would have on the adjacent properties. Though, removal of the subject encroachments could destabilize the CRM walls on the two adjacent properties. Removal of the encroachments would not affect a dwelling on the subject property because it is currently vacant.

It has been a general policy and practice of the OCCL to support disposition requests that have no discernable effect on beach and recreational resources, and do not act as a detriment to public access. However, in line with the BLNR policy, we have opposed the issuance of easements that might be detrimental to beach and recreational resources. In addition, the subject property is currently vacant, thus, the encroachments do not serve as primary erosion control for a potentially threatened structure. The OCCL finds that the shoreline fronting the subject property has remained relatively stable, the subject encroachments were built seaward of the metes and bounds of the subject property, and removal of the encroachments would likely release trapped sediment to the beach resource.

Upon review and careful consideration of the information gathered on this case, OCCL has determined that OCCL's evaluation criteria would not support a disposition request being processed for the subject shoreline encroachments.

If you have any questions, please feel free to contact Natalie Farinholt in the Office of Conservation and Coastal Lands at (808) 587-0399 or Natalie.A.Farinholt@Hawaii.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel J. Lemmo", is written over a horizontal line.

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Cc: LAND
C&C, DPP

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

SHAN S. TSUTSUMI
LT. GOVERNOR
STATE OF HAWAII



JOEIE M. K. MAAKATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

September 11, 2017

State of Hawaii, Department
Of Land and Natural Resources
Attn: Cal Miyahara
P. O. Box 621
Honolulu, Hawaii'i 96809

Dear Mr. Miyahara:

Subject: Grant of Term, Non-Exclusive Easement for Seawall,
Steps, and Landscaped Area Purposes; Wai'anae,
O'ahu, Hawaii'i TMK (1)8-7-023:Seaward of 044

Mahalo for allowing the Department of Hawaiian Home Lands (DHHL) the opportunity to comment on the draft Land Board submittal for the above-referenced application. DHHL owns over 4,780 acres within the surrounding ahupua'a of Wai'anae, Lualualei and Nānākuli, with the nearest parcel located a little less than a half-mile from the subject parcel. See Exhibit 'A' and Exhibit 'B'

After reviewing the application, we do not anticipate significant impacts to our lands or beneficiaries from the project. However, we offer the following comments:

Comment #1: *This section of shoreline, which lies between two public beach parks, should be monitored for potential loss of alongshore access due to seasonal conditions, extremely high tides, sea level rise and encroachment by vegetation such as naupaka, to protect access for traditional and customary purposes and subsistence.*

DHHL upholds the rights of its beneficiaries to access shoreline resources for subsistence and cultural purposes. Changing conditions may cause gradual loss of access due to erosion and impounding of sand resources by legacy seawalls. Close inspection of the TMK map shows that the shoreline fronting the three adjacent parcels to the north, as of 1962 ("High Water

EXHIBIT F

Cal Miyahara
September 11, 2017
Page 2

Mark as of April 19, 1962") is now partially under water in that area. The existence of the coral retaining wall is also noted. See Exhibit 'C'

Should the seawall suffer catastrophic damage and a request to rebuild it be submitted, it is hoped that the matter would be reevaluated by the Department of Land and Natural Resources (DLNR) and revisited by the Land Board.

Comment #2: Consult with N(n)ative Hawaiian organizations when assessing potential impacts to cultural and natural resources, access and other Native Hawaiian rights.

We highly encourage all agencies to consult with Hawaiian Homestead community associations and other (N)ative Hawaiian organizations when assessing environmental impacts in order to better assess potential impacts to cultural and natural resources, access and other rights of Native Hawaiians as well as to better design suitable mitigation measures to minimize those impacts. The DHHL Planning Office can assist with current contact information for Homestead community associations if needed.

Conclusion:

Mahalo nui for requesting DHHL comments on this draft BLNR submittal for seawall easement. DHHL requests that the submittal expressly address potential impacts to cultural and natural resources, access and other rights of Native Hawaiians.

Please direct any questions to me at (808) 620-9501, or your staff may contact Kaleo Manuel in our Planning Office at (808) 620-9481 or at Kaleo.L.Manuel@hawaii.gov.

Aloha,



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Enc.

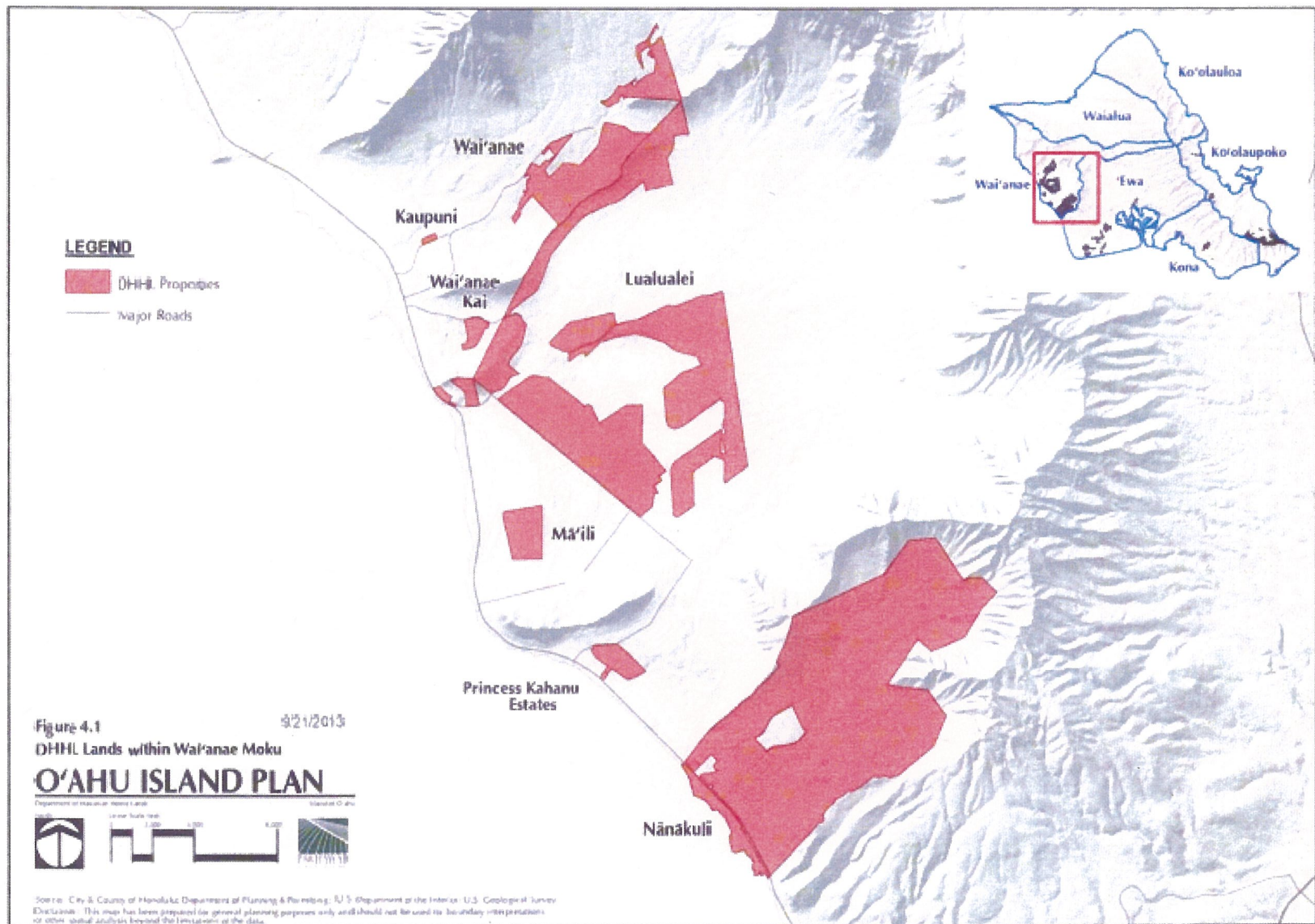


Figure 4-1 DHHL landholdings within the Wai'anae Moku

EXHIBIT 'A'



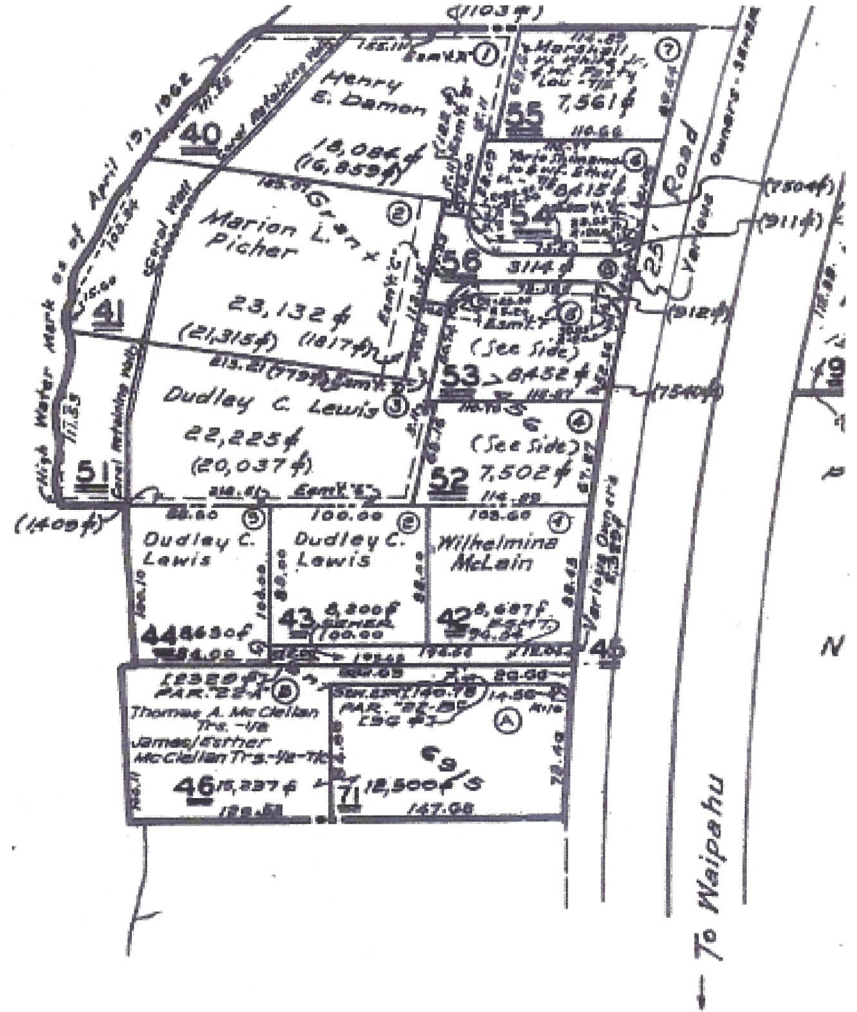
FEB 2 1964
 SEP 4 1968

MAR 9 1973
 JUN 10 1974
 MAR 20 1975
 OCT 24 1975

DWG. NO: 4091

SOURCE: Survey of Plans by Ernest K. H. Park

BY: L.M. July 1952



POR. LUALUALEI HOMES

EXHIBIT 'C'

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU
650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-8041
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KIRK CALOWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
DEPUTY DIRECTOR

September 19, 2017

2017/ELOG-1789(EK)

Ms. Suzanne D. Case, Chairperson
State of Hawaii
Board of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Attention: Cal Miyahara, Shoreline Disposition Specialist

Dear Ms. Case:

Subject: Grant of Term, Non-Exclusive Easement for Seawall
Steps and Landscaped Area Purposes
Seaward of Tax Map Key (TMK) 8-7-023: 044

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This is in response to your request, received September 1, 2017, for comments on the subject Project. We understand the Applicant seeks a grant of term, non-exclusive easement for a seawall that is approximately 353 square feet. The seawall is makai of the property line and is therefore in the State Land Use (SLU) Conservation District. The site mauka of the property line is within the SLU Urban District and the County's R-5 Residential District. We have the following comments:

The seawall fronting the subject site is listed as nonconforming in our seawall inventory. However, portions of the wood and chain-link fences shown in the photos appear to be within the SLU Urban District. Photographs of the shoreline from 1986 and 1989 do not show these structures and we do not have any record that they were authorized as minor shoreline structures. Therefore, we recommend that the Applicant be required to remove the fences and any other unauthorized structures from the shoreline setback. Once a certified shoreline survey is issued, the Applicant may seek a Minor Shoreline Structure Permit to allow a 50-percent open work fence within the shoreline setback.

According to the application documents, the dwelling unit on the site was destroyed by fire and has been completely removed. The Applicant should be aware that any work that meets the definition of "development" for purposes of the Special Management Area (SMA) Ordinance (Chapter 25, Revised Ordinances of Honolulu (ROH)) (i.e., work that is not part of the development of a new single-family dwelling that is less than 7,500 square feet of floor area) will require an SMA Permit. At this time, it appears no work is proposed on the seawall structure. Therefore, no SMA permit is required at this time.

Exhibit G

Ms. Suzanne D. Case
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Finally, the Applicant should be aware that the entire site, identified as
TMK 8-7-023: 044, is within the Coastal High Hazard District (VE Zone) with 12-foot elevations.
Therefore, the requirements of Chapter 21A, ROH (Flood Hazard Areas) apply to the site.

Should you have any questions, please contact Elizabeth Krueger of our Zoning
Regulations and Permits Branch at 768-8021.

Very truly yours,


cc: Kathy K. Sokugawa
Acting Director