

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

July 12, 2019

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

PSF No.:18HD-032

Hawaii

Grant of Term, Non-Exclusive Easement to Bockrath & Bockrath, LLC for Utility Purposes, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-032:011.

APPLICANT:

Bockrath & Bockrath, LLC, a Hawaii limited liability company.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government land located at Waiakea, South Hilo, Hawaii identified by Tax Map Key: (3) 2-2-032:011, as shown on the attached map labeled Exhibit A.

AREA:

1,750 square feet, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: ML-20, Light Industrial minimum 20,000 sf.

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.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for utility purposes.

TERM:

65 year term.

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.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Exemption List for the Department of Land and Natural Resources, reviewed and concurred upon 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, Item No. 46, which states "Creation or termination of easement, covenants, or other rights in structures or land." Refer to attached Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed: YES
Registered business name confirmed: YES
Applicant in good standing confirmed: YES

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;

REMARKS:

The subject property was previously encumbered by General Lease No. S-3723 (GL3723) which was sold at public auction to S.K. Oda, Limited with a lease term of 55 years commencing November 30, 1962 and expiring on November 29, 2017.

At its meeting of July 27, 1990, agenda item F-1-b, the Board consented to the assignment of GL3723 from S.K. Oda, Limited to Constructors Hawaii, Inc. Concurrent with this action, Constructors Hawaii, Inc. also purchased an adjacent parcel of private land owned by S.K. Oda, Limited (refer to Exhibit A).

For the remainder of the lease term, Constructors Hawaii, Inc. operated its construction business from both parcels of land. Water and electricity were provided to both properties through/across the leased parcel.

Upon expiration of the lease, Constructors Hawaii, Inc. sold the adjacent private parcel to Bockrath & Bockrath, LLC. (Bockrath). Since both water and electric utilities servicing the private parcel are in place across the State land, Bockrath is requesting the Board grant a utility easement for the existing utilities and any installation of future utilities.

The easement request is for a 10 foot wide area along the north boundary line. This area was used as a driveway to the rear of the property by the prior lessee and should not adversely affect the use of the State land.

The submittal was sent out to various agencies for comments with the results as listed in the table below.

Federal Agencies	Response
Corps of Engineers	No Response
State Agencies	Response
DHHL	No Response
DLNR-Historic Preservation	No Response
DOH- Environmental Planning	No Response
Hawaii County Agencies	Response
Planning	No Objections/Comments
Environmental Management	No Response
Public Works	No Response
Water Supply	No Response
Other Agencies & Interested Parties	Response
Office of Hawaiian Affairs	No Response


The 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, Hawaii Administrative Rules, 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. 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: (3) 2-2-032:020, 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.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a 65-year term, non-exclusive easement to Bockrath & Bockrath, LLC covering the subject area for utility 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 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: (3) 2-2-032:020, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration, 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. Review and approval by the Department of the Attorney General; and

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

Respectfully Submitted,



Candace Martin
Land Agent

APPROVED FOR SUBMITTAL:



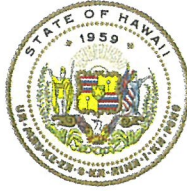
Suzanne D. Case, Chairperson



EXHIBIT A



DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 12, 2019

EXHIBIT B

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

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

Project Title: Grant of Term, Non-Exclusive Easement to Bockrath & Bockrath, LLC for Utility Purposes.

Project / Reference No.: PSF 18HD-032

Project Location: Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-032:011.

Project Description: Easement for utilities.

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

Exemption Class No.: 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 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, "Creation or termination of easement, covenants, or other rights in structures or land."

Cumulative Impact of Planned Successive Actions in Same Place Significant?: No. Utilities are existing and have not had a significant impact.

Action may have Significant Impact on Particularly Sensitive Environment?: No. The parcel is zoned light industrial and the surrounding area is developed in accordance with the zoning. Not a sensitive environment.

Consulted Parties:

State of Hawaii:

DHHL, DLNR-Historic Preservation, DOH-Environmental Planning

County of Hawaii:

Planning Department, Environmental Management, Public Works, Water Supply

Other Agencies:

Army Corp of Engineers
Office of Hawaiian Affairs

These agencies were consulted on the propriety of the HRS Chapter 343 exemption, and expressed no comments in opposition to the exemption.

Recommendation:

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.