

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96819

September 27, 2019

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

Land Board Members:

SUBJECT: GRANT OF UP TO 29 YEARS NON-EXCLUSIVE EASEMENT TO TRILOGY CORPORATION FOR ACCESS, MAINTENANCE PURPOSES, LANDSCAPING AND OPEN SPACE FOR PUBLIC USE AT MANELE SMALL BOAT HARBOR, ISLAND OF LANAI, COUNTY OF MAUI, TAX MAP KEY: (2) 4-9-017:006 (POR).

AND

DECLARE PROJECT EXEMPT FROM REQUIREMENTS OF CHAPTER 343, HRS AND TITLE 11, CHAPTER 200.1, HAWAII ADMINISTRATIVE RULES

APPLICANT:

Trilogy Corporation

LEGAL REFERENCE:

Sections 171-13,-17, - 55 Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Manele Small Boat Harbor, Island of Lanai, County of Maui, hereinafter referred to as the "Premises" as shown on the map labeled (**EXHIBIT A**) and attached hereto.

AREA:

6,100 square feet, more or less

ZONING:

State Land Use District: Conservation, Urban
City & County of Maui: Lanai Project District 1 (Manele) Commercial

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

The proposed easement area is encumbered by Revocable Permit No 30, granted to Trilogy Corporation for landscaping and public open space purposes Trilogy is also the tenant under Lease No. B-93-02 (“Lease”) encumbering the adjacent parcel.

CHARACTER OF USE:

Right, privilege and authority to continue the same use of maintaining landscaping and open public space with Non-Exclusive right-of-way over for access purposes, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by Chairperson, up to and including September 30, 2048, which is coterminous with Trilogy’s Lease.

CONSIDERATION:

Annual payments of \$4,620.00 determined by independent appraisal dated April 17, 2019. The annual payments have been previously agreed to by an authorized representative of Trilogy Corporation.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO
Registered business name confirmed:	YES <u>X</u>	NO
Applicant in good standing confirmed:	YES <u>X</u>	NO

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.”

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Provide at its sole expense, a survey map with metes and bounds description of the proposed easement area according to State Department of Accounting and General Services standards.
2. Pay for the appraisal that determined the annual value for the easement pursuant to HRS 171-17(b), and any subsequent appraisals for said Easement running coterminous with Trilogy Pavilions Lease B-93-02, as stated above in this submittal under consideration.

BACKGROUND:

A Revocable Permit effective February 1, 1998 was issued to Trilogy Corporation for landscaping and open public space purposes, which was replaced by reissued Revocable Permit No 30 (“permit”) dated October 10, 2017.

Among the conditions contained in the permit include the following requirements:

1. That Trilogy landscape the area.
2. That there will be no road/access restriction to the boat storage area.
3. The premises be open to the public. Trilogy Corporation will have no preferential/exclusive use of the premises
4. Trilogy will provide three (3) picnic tables and two (2) barbecues on the premises.

Staff recommend that the Board incorporate conditions 1, 2 and 4 into the non-exclusive term easement; and include signage on the premises which states public recreational use.

COMMENTS:

Trilogy Corporation currently pays \$ 4,327.78 per annum for its revocable permit.

The Board has previously stated its desire to convert revocable permits to long term dispositions where possible. Staff believes that granting this non-exclusive term easement achieves this objective.

In this instance, Trilogy Corporation has requested an easement for the subject premises, which would allow them to continue to beautify the area adjacent to their lease premises for the duration of their lease.

Staff consulted with Maui District Land Office, regarding HRS Chapter 343 exemption. According to the Department's comprehensive exemption list, they concurred the proposed use is exempt from the preparation of an environmental assessment and will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

RECOMMENDATION:

That the Board of Land and Natural Resources:


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. Subject to the Applicant fulfilling all the requirements listed above, authorize the issuance of, and up to 29-year term non-exclusive easement to Trilogy Corporation covering the subject area for landscaping and open space for public use under the terms and conditions cited above, which are by this reference incorporated here in and further subject to the following;
 - a. The standard terms and conditions of the most current Lease form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



EDWARD R. UNDERWOOD, Administrator
Division of Boating & Ocean Recreation

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Attachment:

A. Location Map

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Title 11, Chapter 200.1-15, HAR

Project Title:	Grant of up to 29 Years Non-Exclusive Easement to Trilogy Corporation for access, maintenance purposes, landscaping and open space for public use at Manele Small Boat Harbor, Island of Lanai, County of Maui (2) 4-9-017:006 (Por.)
Project / Reference No.:	
Project Location:	Manele Small Boat Harbor, Island of Lanai, County of Maui (2) 4-9-017:006 (Por.)
Project Description:	Grant of up to 29 Years - Non-Exclusive Easement
Chap. 343 Trigger(s):	Use of State lands
Exemption Class No(s).:	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".
Cumulative Impact of Planned Successive Actions in Same Place Significant?	There are no permanent above ground structures. Activities in the subject area have resulted in no known significant impact to the natural and environmental resources in the area.
Action May have Significant Impact on Particularly Sensitive Environment?	Staff is not aware of any particularly sensitive environmental issues and use for the area would not change negligently from what is existing.
Analysis:	Based on the above mentioned, staff believes there would be no significant impact to the environment.
Consulted Parties:	Maui District Land Office - was consulted and concurred with respect to the Chapter 343 exemption.
Declaration	The Board find that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment.

EXHIBIT A



Lanai Resorts DBA Pulama Lanai RP 37 (Future Direct Lease will encompass both properties)
 7,279 sq ft 28,625 sq ft

Trilogy Corporation RP 30 (Future Non-Exclusive Easement-Coterminous with Lease B-93-02)
 6,100 sq ft

Trilogy Corporation
 18,436 ss ft
 Lease No. B-93-02

Coon Brothers RP 38 (Future Direct Lease Coterminous with Lease B-93-02)
 4,225 sq ft
 1,055 sq ft

Manele Small Boat Harbor

© 2018 Google