

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

July 9, 2021

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

PSF No.: 21HD-002

Hawaii

Grant of Term, Non-Exclusive Easement for Access Purposes to the Peter Joseph Locatelli and Linda Jasmine Locatelli, Pahoehe 2nd, South Kona, Hawaii, Tax Map Key: (3) 8-7-007: portions of 019.

APPLICANT:

Peter Joseph Locatelli and Linda Jasmine Locatelli, Tenants by the Entirety.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Pahoehe 2nd, South Kona, Hawaii identified by Tax Map Key: (3) 8-7-007: portions of 019, as shown on the attached map labeled Exhibit A.

AREA:

600 square feet, more or less.

ZONING:

State Land Use District:	Agriculture
County of Hawaii CZO:	5-acre agriculture

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:

Vacant and 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 access only purposes.

EASEMENT TERM:

Sixty-five (65) years.

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 Hawaii Administrative Rules (HAR)§ 11-200.1-16 (a)(1) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, 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 minor expansion or minor change of use beyond that previously existing," and Item 39 that states, "Creation or termination of easement, covenants, or other rights in structures or land." (Exhibit B)

DCCA VERIFICATION:

Not applicable. The Applicants as individuals, are not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicants shall be required to:

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

REMARKS:

The subject State property identified as Tax Map Key: (3) 8-7-007:019 is a foot trail along the coastline in South Kona identified as the King's Trail. The applicants are the owners of properties adjacent to either side the King's Trail and are requesting access to their properties (Exhibit A). Although the King's Trail appear on the Tax Maps and is identified by a tax map number, it is completely covered by lava from the 1950 Mauna Loa eruption.

The applicants currently own several parcels in South Kona, including parcels (3) 8-7-007:007 (Parcel 7) and 014 (Parcel 14). Parcel 14 is completely landlocked. The only possible vehicular access would be over the trail identified by TMK: (3) 8-7-007:019 (Parcel 19). The applicants are requesting an easement over the State land so they may begin construction of a single-family residential unit on parcel 14.

In discussions with the County of Hawaii Planning Department regarding the proposed improvements to Parcel 14, the applicants were advised to consult with DLNR regarding an access easement over the King's Trail. After an initial consultation with State Historic Preservation Division (SHPD), it was explained that there would be no impact to this portion of the historic trail as it was covered by the lava flow of 1950.

Various governmental agencies were solicited for comments. Staff from the DLNR Division of Forestry and Wildlife (DOFAW), Nā Ala Hele Trail and Access System conducted a site inspection of the proposed easement location and provided the following comments:

- Recommend the applicants mark the boundaries of the easement as surveyed with long-lasting temporary markers i.e., short PVC piping placed in the ground (NOT cement or other permanent markers) so that Nā Ala Hele staff can relocate the boundaries easily when it becomes appropriate to open the trail to the public.
- Recommend the applicants inlay stones of similar type and look to the surrounding area and/or intact section of trail through the easement breach to aid the trail user in determining the trail route through the easement.
- Recommend a 30-foot buffer from either side of the trail with no building, modifications or landscaping within the buffer zone.
- Recommend the applicants follow the guidelines from the Treatment of Historic Hawaiian Trails. The guideline is can be found on the DLNR, DOFAW website. [Historic-Trail-Guidelines-2020-04-01.pdf \(hawaii.gov\)](https://www.dlnr.hawaii.gov/wp-content/uploads/2020/04/01-Historic-Trail-Guidelines-2020-04-01.pdf)

The County of Hawaii (COH), Planning Department acknowledges that Parcel 19 is a historic property and a public right-of-way under the jurisdiction of the State of Hawaii, and as such, defers to and supports the recommendation of the DLNR, Nā Ala Hele Trail and Access System. The COH Planning Department is asking, as a condition to the State granting an access easement, that should the applicants commence with any improvements to her property identified as Parcel 014, applicants contact the Planning Dept. regarding the Special Management Area (SMA) process.

Applicants have 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. In addition, the applicants will be contracting a licensed surveyor to submit final easement plans as required.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, 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. Subject to the Applicants fulfilling all of the Applicant requirements listed above, authorize the issuance of a 65-year term, non-exclusive access easement to Peter Joseph Locatelli and Linda Jasmine Locatelli, as Tenants by the Entirety covering the subject area for access 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 Keys: (3) 8-7-007:007 and 014, 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 easements are sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantor of such transaction in writing, and shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;
 - C. The applicants shall follow the specific recommendations from the Nā Ala Hele Trail and Access System as outlined above. In addition, the applicants shall refer to and follow the recommendations from the Hawaii Island Guidelines for the Treatment of Historic Hawaiian Trails (version 4/01/2020);
 - D. Prior to the commencement of any improvements adjacent to the State land, the applicants shall contact the County of Hawaii, Planning Department regarding Special Management Area procedures;
 - E. Review and approval by the Department of the Attorney General; and
 - F. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

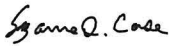
Respectfully Submitted,



KEM

Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:



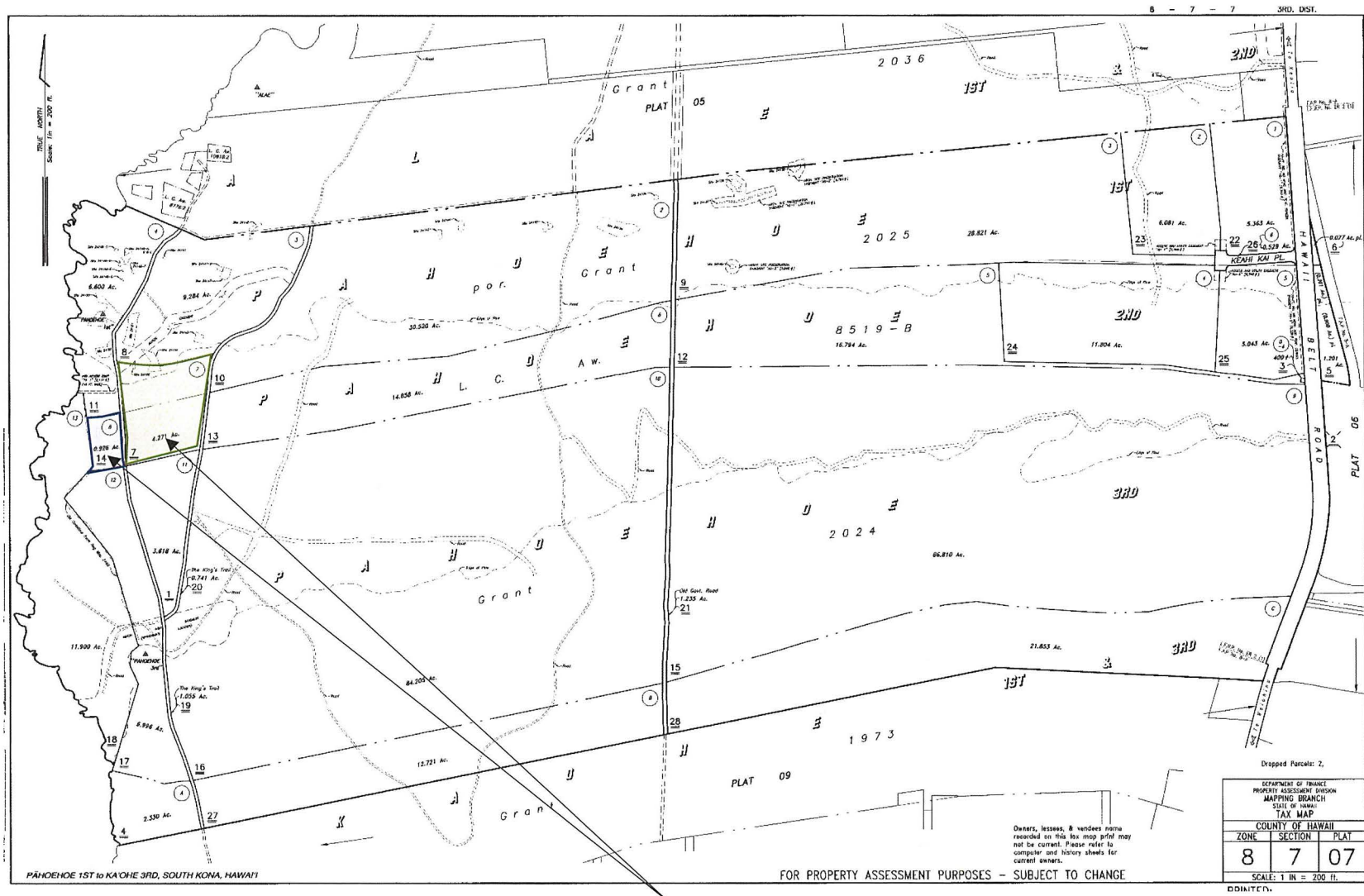
RT

Suzanne D. Case, Chairperson

EXHIBIT A



LOCATELLI Easement,
South Kona, Hawaii



LOCATELLI PROPERTIES

EXHIBIT A

EASEMENT OVER STATE PARCEL - TMK: (3) 8-7-007:019

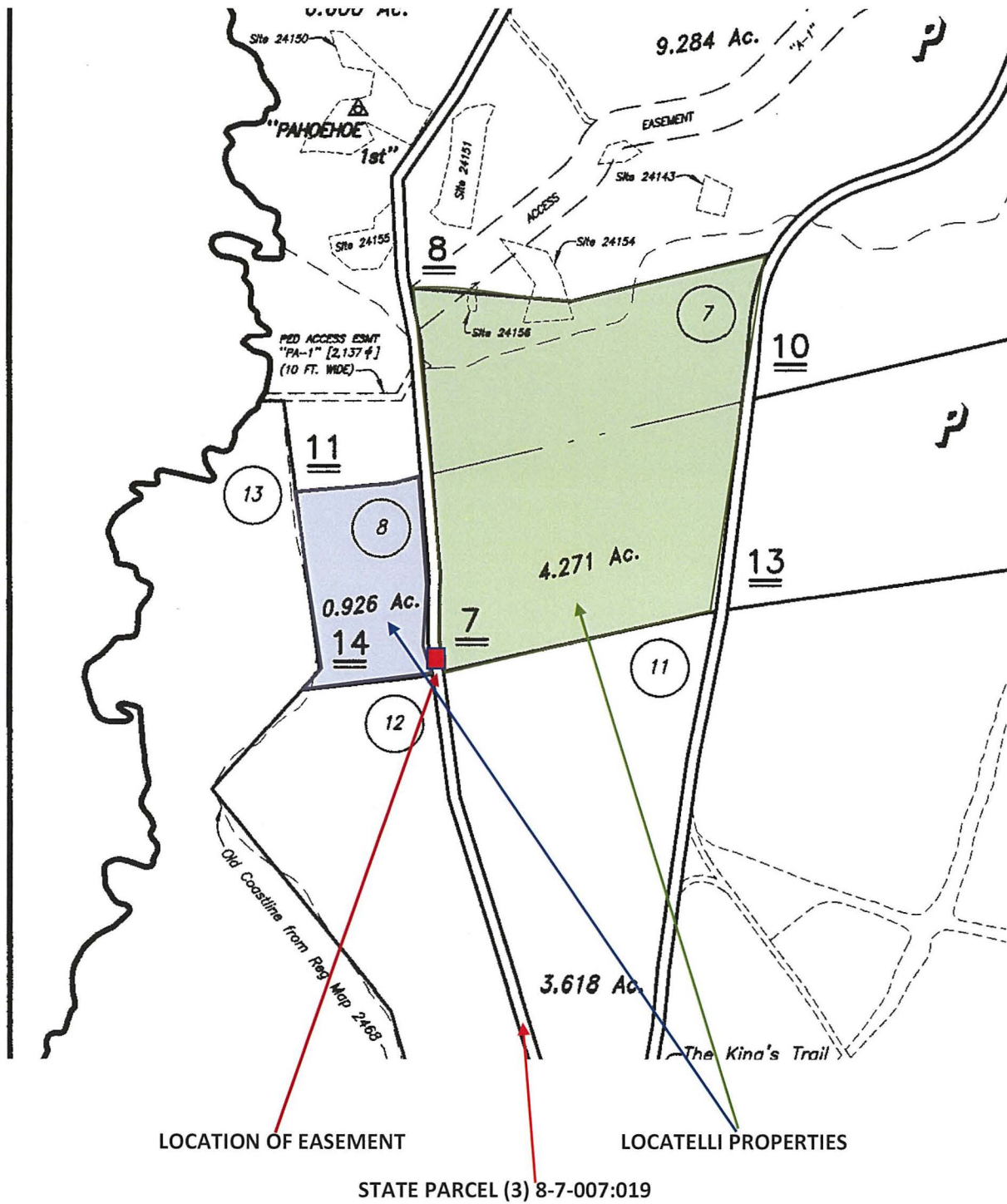


EXHIBIT A2

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 16, 2021

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
ACTING 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, Hawaii Revised Statutes (HRS), and Chapter 11-200.1, Hawaii Administrative Rules (HAR):

Project Title: Grant of Term, Non-Exclusive Easement to Peter Joseph Locatelli and Linda Jasmine Locatelli for Access Purposes.

Project / Reference No.: 21HD-002

Project Location: Government lands of Pahoehe 2nd, South Kona, Hawaii, Tax Map Keys: (3) 8-7-007: portions of 019.

Project Description: The applicants are the owners of properties adjacent to either side the King's Trail and the Old Government Road and are requesting access their respective properties. The applicants currently own four parcels in South Kona, parcels (3) 8-7-007:007 and 014. Parcel 014 is completely landlocked. The only possible vehicular access would be over the trail identified by TMK: (3) 8-7-007:019.

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

Exemption Class No. and Description: In accordance with Hawaii Administrative Rules (HAR)§ 11-200.1-16 (a)(1) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, 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 minor expansion or minor change of use beyond that previously existing," and Item No. 39 that states, "Creation or termination of easement, covenants, or other rights in structures or land."

Cumulative Impact of Planned Successive Actions in Same Place Significant?:

No. Staff believes there are no cumulative impacts involved.

EXHIBIT B

**Action May Have
Significant Impact on
Particularly Sensitive
Environment?:**

No. There are no particular sensitive environmental issues involved with the proposed use of the property.

Analysis:

The applicant is requesting an easement over the State land so that she may begin construction of a single-family residential unit on parcel 14. After an initial consultation with State Historic Preservation Division (SHPD), it was explained that there would be no impact to this portion of the historic trail as it was covered by the lava flow of 1950.

Consulted Parties:

State of Hawaii, OHA, DHHL, DOA, DLNR, Division of Forestry and Wildlife, Nā Ala Hele Trail and Access System, Historic Preservation Division
County of Hawaii, Planning Department, Department of Public Works.
USDA, National Parks System, Ala Kahakai National Historic Trails.

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.