

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

January 13, 2023

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

PSF No.: 21KD-004

**KAUAI**

Grant of Term, Non-Exclusive Easement to Rhoda L. Libre for Access and Utility Purposes, Waimea Valley, Waimea, Kauai, Tax Map Key: (4) 1-5-002:045 por.

APPLICANT:

Rhoda L. Libre, married, tenant in severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government land located seaward of Waimea Valley, Waimea, Kauai, identified by Tax Map Key: (4) 1-5-002:045 por., as shown on the attached map labeled EXHIBIT A.

AREA:

Parcel Area: 3,775 square feet, more or less.

Easement Area: 3,775 square feet, more or less.

ZONING:

State Land Use District:	Agriculture
County of Kauai CZO:	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 and utility purposes.

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) Section 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources concurred on by the Environmental Council and dated November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 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 Part 1, Item No. 39 that states, "Creation or termination of easement, covenants, or other rights in structures or land." See EXHIBIT B.

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment;
- 2) The water pipeline to be installed in the easement corridor must comply with the County's Floodplain Management Ordinance No. 831; and
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The applicant is requesting a term non-exclusive easement on the unencumbered State parcel identified by Tax Map Key: (4) 1-5-002:045 (Parcel 045), which is a long, narrow road-shaped parcel that Land Division has confirmed is not a county road. As confirmed through the County of Kauai Real Property Assessment Office, the applicant owns the parcel identified by Tax Map Key: (4) 1-5-002:061 (Parcel 061), which abuts the subject State Parcel 045.

Parcel 061 is currently land-locked with no legal access to the property. The applicant intends to utilize Parcel 045 to access her Parcel 061. The applicant also proposes to install a water pipeline running through Parcel 045 and connecting to the County of Kauai Water Department's main water pipeline off Menehune Road. The applicant has discussed the proposed water pipeline with the County of Kauai Water Department.

Neighboring private landowners have made similar requests for an easement for access and utility purposes on Parcel 045.

At its meeting of September 25, 2015, Item D-2, the Board of Land and Natural Resources approved the grant of term, non-exclusive easement to Mitsugi Yokotake and Clara N.L. Yokotake (landowners of Tax Map Key: (4) 1-5-002:042 and 1-5-002:063) for access and utility purposes on Parcel 045.<sup>1</sup>

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.

Staff solicited comments from various agencies with the following results:

AGENCIES	COMMENTS
<b>County of Kauai:</b>	
Planning Department	No response by suspense date
Public Works Department	"The County of Kauai does not object to the grant of easement to Rhoda Libre, we would

<sup>1</sup> The easement was never finalized, however, because Mr. and Mrs. Yokotake declined to pay the fair market value of the easement as determined by appraisal.

	like to offer the following comment: 1. Based on Panel 1500020256G and Panel 150002025F dated February 26, 2021, the property is located within Special Flood Hazard Area (SFHA) Zone A. The proposed improvements will need to comply with the County's Floodplain Management Ordinance No. 831."
Water Department	No response by suspense date
<b>State of Hawaii:</b>	
Historic Preservation	No objection
Office of Hawaiian Affairs	No response by suspense date
DLNR Engineering Division	No response by suspense date

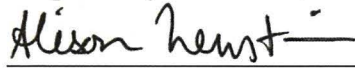
RECOMMENDATION: That the Board:

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. Authorize the subject request to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4) 1-5-002:061, 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 term non-exclusive easement to covering the subject area for access and 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: (4) 1-5-002:061, 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;



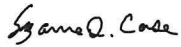
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Alison Neustein  
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

RT







**EXHIBIT A**

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA  
SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



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

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

P.O. BOX 621  
HONOLULU, HAWAII 96809

**EXHIBIT B**

**EXEMPTION NOTIFICATION**

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

**Project Title:** Grant of Term, Non-Exclusive Easement to Rhoda L. Libre for Access and Utility Purposes.

**Project / Reference No.:** 21KD-004

**Project Location:** Waimea Valley, Waimea, Kauai, Tax Map Key: (4) 1-5-002:045 por.

**Project Description:** The subject location is currently unencumbered State land located in Waimea Valley. The applicant intends to utilize the subject unencumbered State parcel for legal access to her abutting property. The applicant is also proposing to install a water pipeline through the subject State parcel.

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

**Exemption Class No. and Description:** In accordance with HAR Section 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, which 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 Part 1, 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. The water pipeline is required to be compliant with county zoning requirements. Staff believes there are no cumulative impacts involved.

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

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

**Analysis:**

In the past, easements were issued for similar access and utility purposes, which have resulted in no known significant impacts to the natural and environmental resources in the area. As such, staff believes that the proposed event would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

**Consulted Parties:**

County of Kauai Planning Department, County of Kauai Public Works Department, County of Kauai Water Department, Department of Land and Natural Resources Historic Preservation Division, Office of Hawaiian Affairs.

**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.