

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

LOD S-27608
PSF 22MD-069
Maui

Consent to Assign Grant of Easement for Drainage Purposes, LOD S-27608, from Alexander & Baldwin, LLC to Iwado Realty LLC and Mauoni LLC; Kahului, Maui, Tax Map Key (2) 3-7-011: seaward of 013,

and

Amend LOD S-27608 to 1) allow the easement to "Run with the Land," and be assignable without the written consent of the Board of Land and Natural Resources, and 2) update the minimum liability insurance required under the easement to \$1,000,000.00 for each occurrence and \$2,000,000.00 aggregate.

APPLICANT:

Iwado Realty, LCC; a Hawaii Domestic Limited Liability Company and Mauoni LLC; a Hawaii limited liability company.

LEGAL REFERENCE:

Sections 171-6, -13, -21 and -36 (a) (5); Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Kahului, Maui, identified by Tax Map Key: (2) 3-7-011: Seaward of 013, as shown on the attached map labeled Exhibit A.

SUBMERGED LAND AREA:

11,188 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Encumbered under Land Office Deed S-27608 to A&B-Hawaii, Inc. for drainage purposes.

CHARACTER OF USE:

Drainage purposes.

TERM OF EASEMENT:

Perpetual

DCCA VERIFICATION:

ASSIGNOR:

| | |
|---|-----|
| Place of business registration confirmed: | YES |
| Registered business name confirmed: | YES |
| Good standing confirmed: | YES |

ASSIGNEE:

| | |
|---|-----|
| Place of business registration confirmed: | YES |
| Registered business name confirmed: | YES |
| Good standing confirmed: | YES |

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 and -16 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 General Exemption Type 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," and Part 1, Item 37, "Transfer of title to land." The subject request is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR, as a de minimis action.

REMARKS:

On November 19, 1982, under agenda Item F-3, the Board approved a Grant of Perpetual, Non-Exclusive Easement for drainage purposes to Alexander and Baldwin, Inc.

On May 12, 1989, under agenda Item F-1-b, the Board approved the Consent to assignment of LOD S-27,608 from Alexander and Baldwin, Inc. to A&B-Hawaii, Inc.

On December 5, 2011, the State Department of Commerce and Consumer Affairs (DCCA) issued a Certificate of Merger effective January 3, 2000, recognizing that A&B-Hawaii, Inc. a Hawaii corporation, was merged with and into Alexander & Baldwin, Inc., recorded at the State Bureau of Conveyance (BOC) on December 06, 2011, as Doc No(s) 2011-205352.

On June 7, 2012, the DCCA issued a Certificate of Conversion recognizing that Alexander and Baldwin, Inc., a Hawaii profit corporation, was converted to Alexander and Baldwin, LLC, a Hawaii limited liability company recorded at the BOC on June 19, 2012, as Doc No(s) A-45531116.

On August 4, 2017, the Land Court granted the Petition for Order regarding Conversion of Alexander & Baldwin, LLC, a Hawaii limited liability company, to Alexander & Baldwin, LLC, a Delaware limited liability company and recorded at the BOC on August 7, 2017, Doc No(s) T – 10080233.

By way of application, dated November 4, 2021, the DLNR Maui District Land Office received an application to Consent to the Assignment of LOD S-27,608 from Alexander and Baldwin, LLC, a Delaware limited liability company to Iwado Realty LLC and Mauoni LLC, both Hawaii limited liability companies. Applicants desire to accept and assume all rights, title, interest, and obligations in and to LOD S-27,608.

Staff has no objections to the consent to assign. However, staff suggests that the Board amend LOD S-27608 to 1) allow the easement to “Run with the Land,” and be assignable without the written consent of the Board of Land and Natural Resources, and 2) update the minimum liability insurance required under the easement to \$1,000,000.00 for each occurrence and \$2,000,000.00 aggregate to be consistent with current security requirements.

RECOMMENDATION: That the Board,

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15 and -16, 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 as a de minimis action.

2. Consent to the Assignment of Grant of Easement, LOD S-27608 from Alexander and Baldwin, LLC, a Delaware limited liability company, as Assignor to Iwado Realty LLC, a Hawaii limited liability company and Mauoni LLC, a Hawaii limited liability company, as Assignees, subject to the following conditions:
 - a. The standard terms and conditions of the most current consent to assignment 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.
3. Amend LOD S-27,608 by replacing paragraph 6 of the easement with the following: “The easement shall run with the land shall inure to the benefit of the real property described as Tax Map Key: (2) 3-7-011:013, 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.”.
4. Amend LOD S-27,608 by updating the easement to include the current insurance provision, including the requirement of coverage in an amount of at least \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate, and naming the State of Hawaii as Additional insured. The insurance shall cover the entire easement including all grounds and all roadways or sidewalks on or adjacent to the easement in the use or control of the Grantees.
5. Review and approval by the Department of the Attorney General; and
6. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

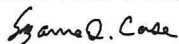


Ebony V. Butihi
Documentation Specialist



RT

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

TMK (2) 3-7-011: seaward of 013



Overview

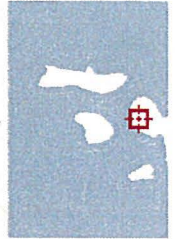
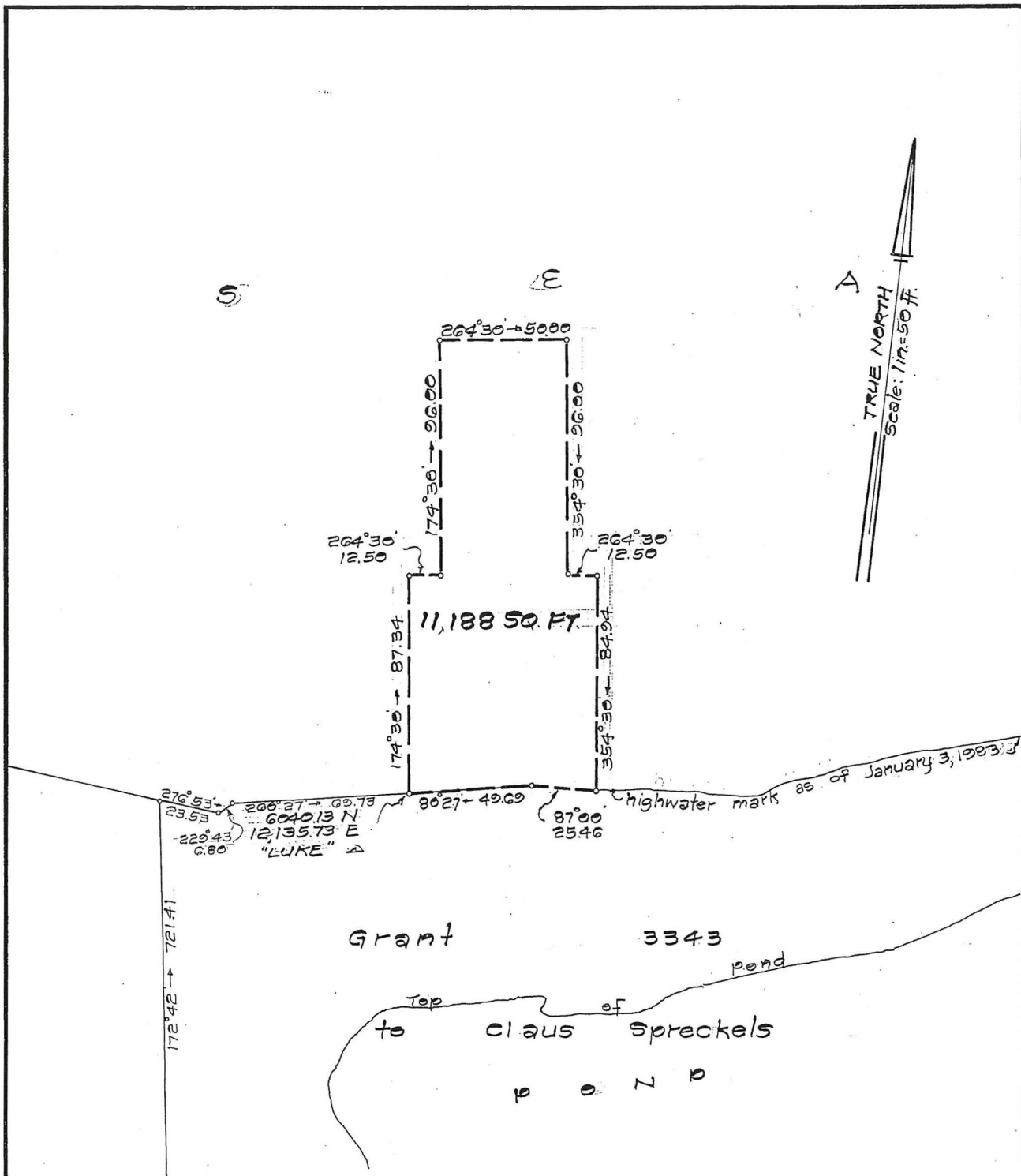


EXHIBIT A



PERPETUAL NON-EXCLUSIVE EASEMENT
FOR DRAINAGE PURPOSES
situate in the offshore waters of Kahului
Kahului, Maui, Hawaii
Scale: 1 inch = 50 feet

JOB Ma-27(83)
C. BK Hasegawa 7 Pg. 140

TAX MAP 3-7-11

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

C. S. F. No. 19,663

STATE OF HAWAII

S.T.H. Feb. 6, 1983