

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

January 12, 2024

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

Ref No. 23OD-087

OAHU

Amend Prior Board Action of September 22, 2023, agenda item D-13, (1) *Consent to Assign General Lease of Easement No. S-5175, (a) Shoji Kitami, Assignor to Masahiro Kitami, Assignee; (b) Masahiro Kitami, Assignor, to Lukasz John Maj and Mary Liu Lan, Assignees; (2) Amend the Easement Conditions regarding Consent to Assignment and Insurance Provision; Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-6-001:011seaward.*

The purpose of the amendment is to authorize the issuance of an immediate management right-of-entry permit to Lukasz John Maj and Mary Liu Lan pending the finalization of the probate of the estate of the former lessee.

BACKGROUND:

At its meeting of September 22, 2023, under agenda item D-13, the Board: (1) consented to the assignment of General Lease of Easement No. S-5175 from Masahiro Kitami, Assignor, to Lukasz John Maj and Mary Liu Lan, Assignees; and (2) approved the amendment of the easement conditions as described in the above subject line.¹

During the review process by the Department of the Attorney General, it was noted that the former lessee, Shoji Kitami, did not convey his interest in the subject easement to his son, Masahiro Kitami, before his death, notwithstanding that the conveyance of the abutting private residence was completed prior to his death. Therefore, there is a break in the chain of title in the assignment of the subject easement from the son to the current owners of the house, Lukasz John Maj and Mary Liu Lan. Staff understands that the attorney representing the seller has started the probate process. However, the probate process could take a long time, while the current owners already moved into the residence. In short, Lukasz John Maj and Mary Liu Lan currently have no authority to manage the subject pier until the probate is complete and break in the chain of title to the easement is resolved.

¹ Board submittal can be downloaded from <https://dlnr.hawaii.gov/wp-content/uploads/2023/09/D-13.pdf>

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 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 minor expansion or minor change of use beyond that previously existing,” and Part 1, Item 44 that states, “Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing”. The proposed action 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.

REMARKS:

Staff recommends the Board authorize the issuance of an immediate management right-of-entry to the current owners, Lukasz John Maj and Mary Liu Lan, of the abutting private residence, subject to typical right-of-entry conditions, including indemnify the State, provision of liability insurance, and payment of same annual rent (\$2,390) under the subject easement. The right-of-entry will expire upon the conclusion of the assignment process and the rent collected during the right-of-entry period will be transferred to the easement account.

Staff did not solicit comments from other agencies on the proposed disposition as this is only a housekeeping matter which involves no change to the existing use. In addition, staff recommends the Board declare this project exempt from preparation of an environmental assessment as a de minimis activity.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, Hawaii Revised Statutes and Chapter 11-200.1-15, 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 as a de minimis activity.
2. Amend its prior Board action of September 22, 2023, under agenda item D-13 by adding Recommendation D:
 - “D Authorize the issuance of an immediate management right-of-entry to Lukasz John Maj and Mary Liu Lan for managing and maintaining the improvement under General Lease of Easement No. S-5175, pursuant to the terms and conditions described above, and further subject to the following:

1. The standard terms and conditions of the most current right-of-entry, as may be amended from time to time;
 2. Annual Rent of \$2,390 payable from November 7, 2023; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.”
3. Affirm that, except as amended hereby, all terms and conditions listed in its September 22, 2023 approval shall remain the same.

Respectfully Submitted,

Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson *KOM*

RT