

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

March 8, 2024

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

PSF No.: 23OD-130

Oahu

Grant of Term, Non-Exclusive Easement, Immediate Right-of-Entry and Revocable Permit to Western Community Crossroads, LC for Rock Revetment, Laie, Koolauloa, Oahu, Tax Map Key: (1) 5-5-002: seaward of 032.

APPLICANT:

Western Community Crossroads LC, a Utah limited liability company.

LEGAL REFERENCE:

Sections 171-17, 53 and 55, Hawaii Revised Statutes (“HRS”), as amended.

LOCATION:

Portion of State land located in Laie, Oahu, identified by Tax Map Key: (1) 5-5-002: seaward of 032, as shown on **Exhibits A-1** and **A-2**.

AREA:

710 square feet, more or less, to be reviewed and approved by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Conservation
County Zoning District: R-5 Residential (for abutting private property)

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:

Unencumbered with encroachments.

TERM, NON-EXCLUSIVE EASEMENT:

CHARACTER OF USE:

Right, privilege and authority to use, maintain, and repair existing rock revetment and stairs over, under, and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market value, subject to review and approval by the Chairperson.

TERM:

Twenty-five (25) years.

The Land Division has reduced the term for which shoreline easements are granted from 55 to 25 years in response to sea level rise projections disclosed in the Hawaii Sea Level Rise Vulnerability and Adaptation Report adopted by the State Climate Change Mitigation and Adaptation Commission and pursuant to the recommendation of the Office of Conservation and Coastal Lands. Landward migration of the shoreline is currently occurring as a direct result of sea level rise. This will progressively expose immobile shoreline structures to an evolving combination of destructive effects from erosion, chronic flooding, and wave inundation. The intention of the term reduction is two-fold: (1) to reduce the potential for accidents and liabilities resulting from dysfunctional shoreline structures by more frequently reviewing and managing shoreline structures and (2) to facilitate a general process of managed retreat from the shoreline.

MONTHLY RENTAL FOR RIGHT-OF-ENTRY AND REVOCABLE PERMIT:

Monthly rental amount \$66 for right-of-entry and revocable permit has been calculated by staff and has been reviewed and approved by the Chairperson.
(Exhibit B)

REMOVAL BOND:

Applicant shall be required to post a removal bond in an amount determined by Land Division in consultation with Engineering Division, subject to approval by the Chairperson. **(Exhibit C)**

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, which applies to "[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing." Specifically, the subject request is exempt under Part 1, Item 39, which exempts the "[c]reation or termination of easement, covenants, or other rights in structures or land." The subject request is a de minimis action that is expected to have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment.

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards at Applicant's own cost;
2. Pay for an appraisal to determine one-time payment in consideration of the easement; and
3. Obtain the prior concurrence of the Legislature and approval of the Governor through a Concurrent Resolution pursuant to §171-53(c), HRS.

JUSTIFICATION FOR REVOCABLE PERMIT:

The land disposition presented to the Board in this matter is an orderly process that uses a series of permits structured to allow for immediate use and occupancy and proceed on a direct course to a to a medium-term non-exclusive easement, subject to conditions that benefit the State. The land disposition requested in the present submittal is a three-stage process encompassing:

1. Issuance of a right-of-entry permit for a period of up to six months. This allows the Applicant to immediately legitimize occupancy of the public land in question, begin repair and maintenance of the shoreline protection structure without undue delay and without cost to the State, and begin preparations for the Applicant's obligations under future land dispositions.¹ The right-of-entry permit includes requirements for payment of monthly rent, provision to the Department of a removal bond or equivalent securitized funds, indemnification of the State, and provision of liability insurance by the Applicant. The purpose of the removal bond is to ensure that there are funds available to remove the encroachment from State land in the event that the Legislature or Governor does not approve the easement authorized by the Board.
2. Issuance of a revocable permit for no longer than one year. This allows Land Division time to complete the administrative processes that underlie the grant of easement including approval of the easement contract by the Department of the Attorney General, completion of the appraisal (at the Applicant's cost) to determine the lump-sum payment for value of the easement, and approval of the Legislature and Governor of the easement while the Applicant maintains the same obligations for rent payments, removal costs, indemnification, and provision of liability insurance.
3. Issuance of an easement. This final step cannot be executed without prior completion of the prerequisites stated above. Therefore, the interim disposition through revocable permit is necessary.

The interim revocable permit step is limited in its duration and essential in its utility. While the revocable permit is in effect, the Applicant assumes the costs of maintaining the subject parcel of State land and the liability for any damages caused on or by the Applicant's use of the land during the often-lengthy process of consummating the easement.

¹ The Applicant's obligations under a right-of-entry and revocable permit include obtaining a survey to confirm the size of the disposition area, obtaining a cost estimate for removing the shoreline protection structure which determines the amount of the removal bond, and procurement through Land Division of an appraisal to determine the lump-sum value of the easement.

REMARKS:

The Applicant is the owner of the private property identified as Tax Map Key: (1) 5-5-002:032. In mid-2023, the Applicant submitted a Shoreline Encroachment Information Sheet to the Office of Conservation and Coastal Lands (OCCL), seeking an easement for an encroaching revetment and stairs located on State land abutting the Applicant's private property. **(Exhibit D)** The encroachment at issue in the current submittal is identified by OCCL as a portion of a larger revetment that spans the subject property as well as three additional parcels, identified as TMKs (1) 5-5-002:033, 057, and 034, to the south of the subject property.² **(Exhibit E)** The Applicant has submitted a survey map of the property and the requested easement area. **(Exhibit F)**

On September 6, 2023, OCCL responded with a letter stating that it "is unable to confirm legality or non-conforming status" of the revetment and stairs. OCCL stated that historical photos provided by the Applicant were inconclusive because the images were too blurry or taken from too far away to be decipherable. OCCL also stated that it was unable to locate any construction permits or other land use authorizations for the subject encroachment in either State or County records. **(Exhibit G)**

OCCL found that a long-term trend of beach erosion in the area has left a narrow strip of sandy beach resource fronting the encroachment and that this section of coastline has poor access fronting the revetment and other properties, with the closest public access points located approximately one-half mile from the subject encroachment in each direction. OCCL found that removal of the subject encroachment would not improve beach resources and could cause property damage without concurrent removal of the entire revetment fronting the three parcels to the south. "Although the backshore area appears to contain sand resources that might contribute to beach formation in the absence of a shoreline structure, there appears to be minimal benefits to beach formation since abutting private properties are armored. Removing the encroaching portion of the subject revetment (alone) could eventually lead to failure of the remaining portion of the revetment and, in time, cause substantial damage to the residential structure from ongoing erosion." Finally, OCCL stated, "OCCL's evaluation criteria would support a disposition request being processed for the encroachment area. The subject revetment's construction date cannot be determined based on the gathered information. Should the OCCL find that the structure has been significantly altered since it was originally constructed, the OCCL may reconsider this finding. OCCL also recommends that, in accordance with the Hawaii Revised Statutes [chapter]

² OCCL cites a 2007 County shoreline map showing the revetment spanning these four properties (see Exhibit F). GL6067 was approved by the Board based on a 2013 survey map depicting a revetment makai of the seawall located at TMK (1) 5-5-002:034. However, at a January 9, 2024, site visit, no revetment matching the depiction on the survey map was present.

115, a beach transit corridor be maintained along the structures.” **(Exhibit G)**

The only prior certified shoreline map for the subject property dates from 1973 and locates the shoreline at “Bottom of Bank”. The revetment is not depicted on this map, nor are the three dwelling units currently present on the property. **(Exhibit H)**

Additionally, the various certified shoreline maps from 1972 through 1982 for the abutting properties that currently share the same revetment do not specify the presence of a revetment. The 1982 map for TMK (1) 5-5-002:033 locates the shoreline at vegetation line and does not indicate the presence of a revetment. **(Exhibit I-1)** The 1975 map for TMK (1) 5-5-002:057 does not indicate the presence of a revetment and does specify the criteria for identifying the shoreline. **(Exhibit I-2)** The 1972 map for TMK (1) 5-5-002:034 locates the shoreline at the vegetation line and contains a feature that may be a revetment but is not identified as such. **(Exhibit I-3)** The 1975 map for the same property is virtually identical to the 1972 map and locates the shoreline at the same place as the 1972 map, once again specifying that the shoreline is located at the vegetation line without reference to the presence of a revetment. **(Exhibit I-4)**

Nevertheless, at its meeting on May 13, 2013, under agenda item D-11, the Board approved an easement for the portion of the revetment located seaward of the parcel identified as TMK (1) 5-5-002:034. The Board submittal requesting this land disposition stated that “the applicant cannot provide any prior authorization/ permit for the construction of the revetment and the steps.” The submittal further stated that OCCL “could not determine that the encroachments are a conservation district violation . . . In addition, OCCL supports a disposition issued to resolve the encroachment.” The survey map included in the 2013 Board submittal identifies a rock revetment, a CRM seawall, wooden steps, and a “Top of Bank” that is mauka of the revetment and seawall. This survey map locates the shoreline at the face of the seawall, mauka of the revetment. **(Exhibit J)** The easement resulting from this 2013 Board approval is identified as GL6067 and indicated on Land Court maps as C.S.F. 25,312.

The Applicant submitted a letter from himself and a letter from the prior owner of the subject private property, along with the aerial images previously submitted to OCCL, to Land Division Staff as evidence of the age of the subject encroachment. The Applicant's proffered information states that the revetment was built “in the 1962 to 1963 timeframe.” **(Exhibit K)** Staff was not able to verify any of the statements in the Applicant's letters and was not able to locate any State or County permits for the encroachments. As with OCCL's analysis, Staff found the submitted images to be inconclusive due to poor image quality.

The Office of Conservation and Coastal Lands supports the requested easement.

(Exhibit L) The City & County of Honolulu Board of Water Supply had no objections to and no comment on the issuance of the requested easement. **(Exhibit M)** The State Historic Preservation Division, City & County of Honolulu Department of Planning and Permitting, and Office of Hawaiian Affairs did not respond to Staff's request for comment.

Staff supports this disposition request based solely on OCCL's determination that it would support processing of a disposition request.

The 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.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and §§11-200.1-15 and -16, HAR, this project is expected to 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. Assess a fine of \$500 for the unauthorized encroachment pursuant to the criteria adopted by the Board at its meeting of June 28, 2002, under agenda item D-17.
3. Authorize the continued applicability of the subject requests in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 5-5-002:032, provided that 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.
4. Authorize the issuance of a right-of-entry permit to Western Community Crossroads, LC covering the subject area for encroachment 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 right-of-entry permit form, as may be amended from time to time;
 - B. Posting of a removal bond during the effective period of the right-of-entry permit;
 - C. Removal of the subject encroachment, if required, within the period determined by the Chairperson;

- D. Commencement of the right-of-entry on the Board date, for a term of one year or until the issuance of the revocable permit described in recommendation 5 below, whichever is sooner; provided that the Chairperson may extend the right-of-entry for additional one-year periods for good cause shown; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
5. Authorize the issuance to Western Community Crossroads, LC of a revocable permit covering the subject area for encroachment 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 revocable permit form, as may be amended from time to time;
 - B. Posting of a removal bond during the effective period of the revocable permit;
 - C. Removal of the subject encroachment, if required, within the period determined by the Chairperson;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
6. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance to Western Community Crossroads, LC of a 25-year term, non-exclusive easement covering the subject area for encroachment 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 shoreline encroachment 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: (1) 5-5-02:032, 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 State, as 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. Prior concurrence of the Legislature and approval of the Governor through a Concurrent Resolution pursuant to §171-53(c), HRS.;
- D. Review and approval by the Department of the Attorney General;
- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
- F. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.

Respectfully Submitted,



Rebecca L. Anderson
Shoreline Specialist

APPROVED FOR SUBMITTAL:

RTM



Dawn S. N. Chang, Chairperson

RT

TMK (1) 5-5-002:seaward of 032





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



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

P.O. BOX 621
HONOLULU, HAWAII 96809


DAWN N.S. CHANG
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ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

To: Dawn N. S. Chang, Chairperson
Through: Russell Y. Tsuji, Administrator
From: Land Division, Appraisal Section
Date: January 9, 2024
Subject: Western Community Crossroads, LC Shoreline Revocable Permit

A shoreline revocable permit valuation was prepared for the property below and is summarized as follows:

Reference: PSF No. 23MD-130
Applicant: Western Community Crossroads, LC
TMKs: (1) 5-5-002: seaward of 032
Area: 710 square feet, more or less
Effective Date: Upon Board Approval
Recommended Value: **\$66 per month**

The undersigned finds that the valuation was completed in accordance with the assignment.



RT Dawn N. S. Chang, Chairperson

Jan 9, 2024

Date

TMK	(1) 5-5-002:032
Assessed Land Value (\$)	1,806,400
Land Area (sf)	32,174
Unit Rate Land Value (\$/sf)	56.14471
50% Off For Submerged Lands	28.07236
Encroachment Area (sf)	710
Encroachment Land Value (\$)	19931.37
Annual Rent @ 4 to 8%	0.04
Recommended Annual Value	797.2549
Monthly Value	66.43791

Anderson, Rebecca L

From: Lee, Dickey H
Sent: Thursday, February 1, 2024 1:24 PM
To: Anderson, Rebecca L
Cc: Lee, Bing Hin
Subject: RE: Removal Bond Amount
Attachments: EST20244.pdf; 01.31.2024 DRAFT Easement Submittal Western Comm Crossroads.docx

Hi Rebecca,
Please see our responses below.

Should you have any questions, please call me at 808-341-5050. Thank you.

Dickey Lee

dickey.h.lee@hawaii.gov
Department of Land & Natural Resources
Engineering Division
Kalanimoku Building
1151 Punchbowl St. Rm 221
Honolulu, Hawaii 96813
Ph: 808-587-0280 Fax: 808-587-0283

Hi Rebecca,
Please see Engineering Division's estimate below:

State land located in Laie, Oahu, TMK: (1) 5-5-002: seaward of 032

	2024	Increase 10% per yr	2025	2026	2027
1. Engineering Plans & Permitting	\$1,500	1.1	\$1,650	\$1,815	\$1,997
2. BMP Plans	\$1,500	1.1	\$1,650	\$1,815	\$1,997
3. LMT Construction Estimate to Demo/Remove Old Stairs down to Beach and Remove/Dispose of all Rocks/Debris	\$22,780	1.1	\$25,058	\$27,564	\$30,320
Total	\$25,780		\$28,358	\$31,194	\$34,314

If you have any questions, please call me (808-587-0273) or Dickey Lee (808-341-5050).

Thank you,
Bing H. Lee
Department of Land & Natural Resources
Engineering Division
Kalanimoku Building
1151 Punchbowl St. Rm 221
Honolulu, Hawaii 96813
Ph: 808-587-0273 Fax: 808-587-0283

From: Lee, Dickey H <dickey.h.lee@hawaii.gov>
Sent: Wednesday, January 31, 2024 3:30 PM
To: Lee, Bing Hin <binghin.lee@hawaii.gov>
Cc: Anderson, Rebecca L <rebecca.l.anderson@hawaii.gov>
Subject: RE: Removal Bond Amount

Bing,
Please see Rebecca's email below and determine a removal bond amount.

Should you have any questions, please call me at 808-341-5050. Thank you.

Dickey Lee

dickey.h.lee@hawaii.gov
Department of Land & Natural Resources
Engineering Division
Kalanimoku Building
1151 Punchbowl St. Rm 221
Honolulu, Hawaii 96813
Ph: 808-587-0280 Fax: 808-587-0283

From: Anderson, Rebecca L <rebecca.l.anderson@hawaii.gov>
Sent: Wednesday, January 31, 2024 3:24 PM
To: Lee, Dickey H <dickey.h.lee@hawaii.gov>
Subject: Removal Bond Amount

Aloha Dickey –

I've got a removal estimate for a property at Laiea that I'd like to bring to the 03/08/24 Board meeting. Can you please determine a removal bond amount?

Estimate and draft Board submittal attached.

Thank you,
RLA

Rebecca L. Anderson
Shoreline Specialist
Land Division
Department of Land and Natural Resources
808-587-0424
rebecca.l.anderson@hawaii.gov



LMT Construction

Lau Tia
Business Number 808-492-7460
North Salt Lake , UT , 84054
56-367 Huehu st Kahuku 96731
(808)492-7460
LMT7CONSTRUCTION@GMAIL.COM

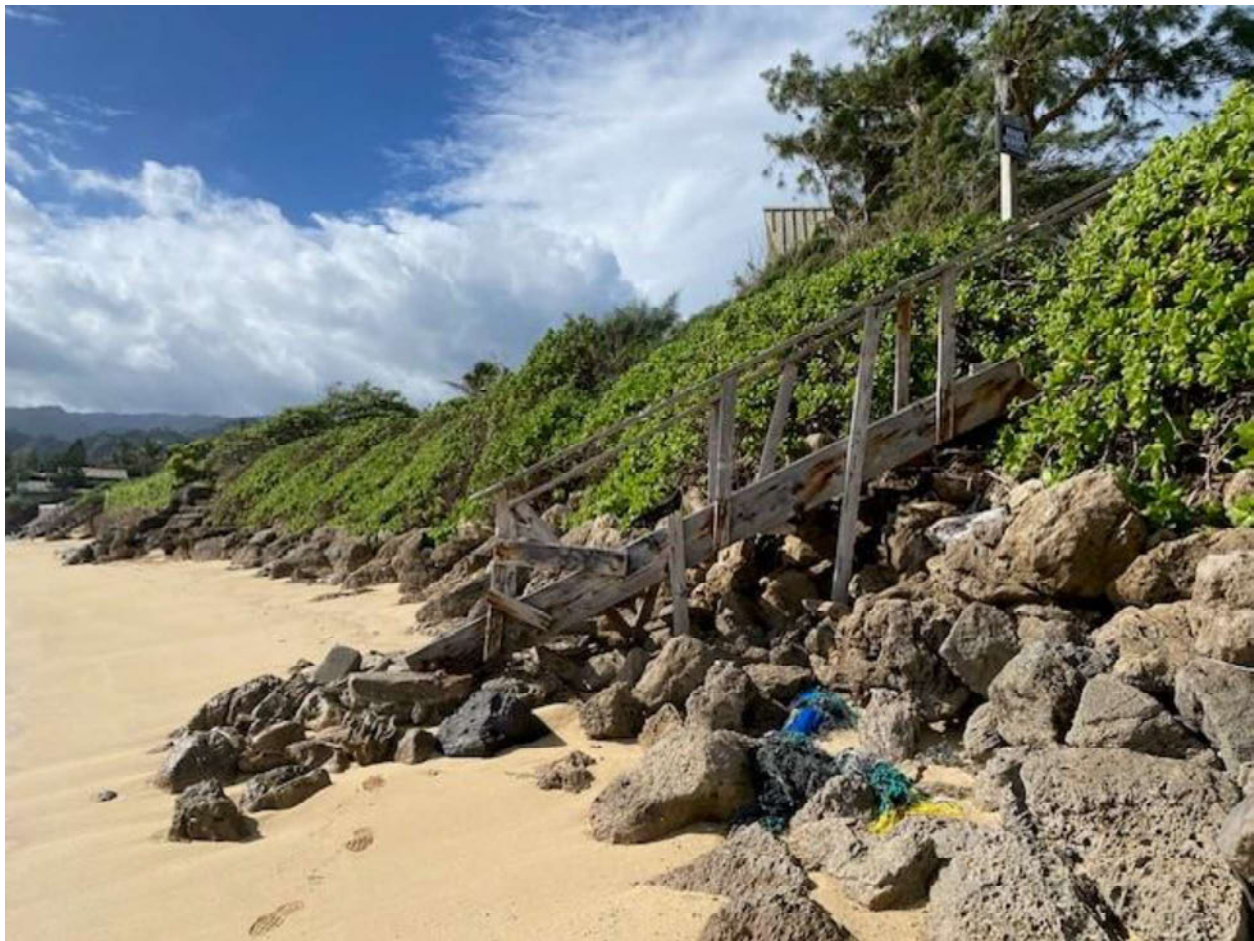
TO
**Western Community
Crossroads**

ESTIMATE	DATE	TOTAL
EST20244	Jan 26, 2024	USD \$22,780.00

DESCRIPTION	RATE	QTY	AMOUNT
Demo: Demo and remove old stairs down to the beach. Removal: remove and dispose of all rocks and clearing any debris from the beach intending to return land to its natural state.	\$22,780.00	1	\$22,780.00

TOTAL USD \$22,780.00

TMK (1) 5-5-002:seaward of 032



Wooden steps at south corner of subject encroachment

Photo taken by Land Division Staff January 9, 2024, 10:30 – 11:00 AM

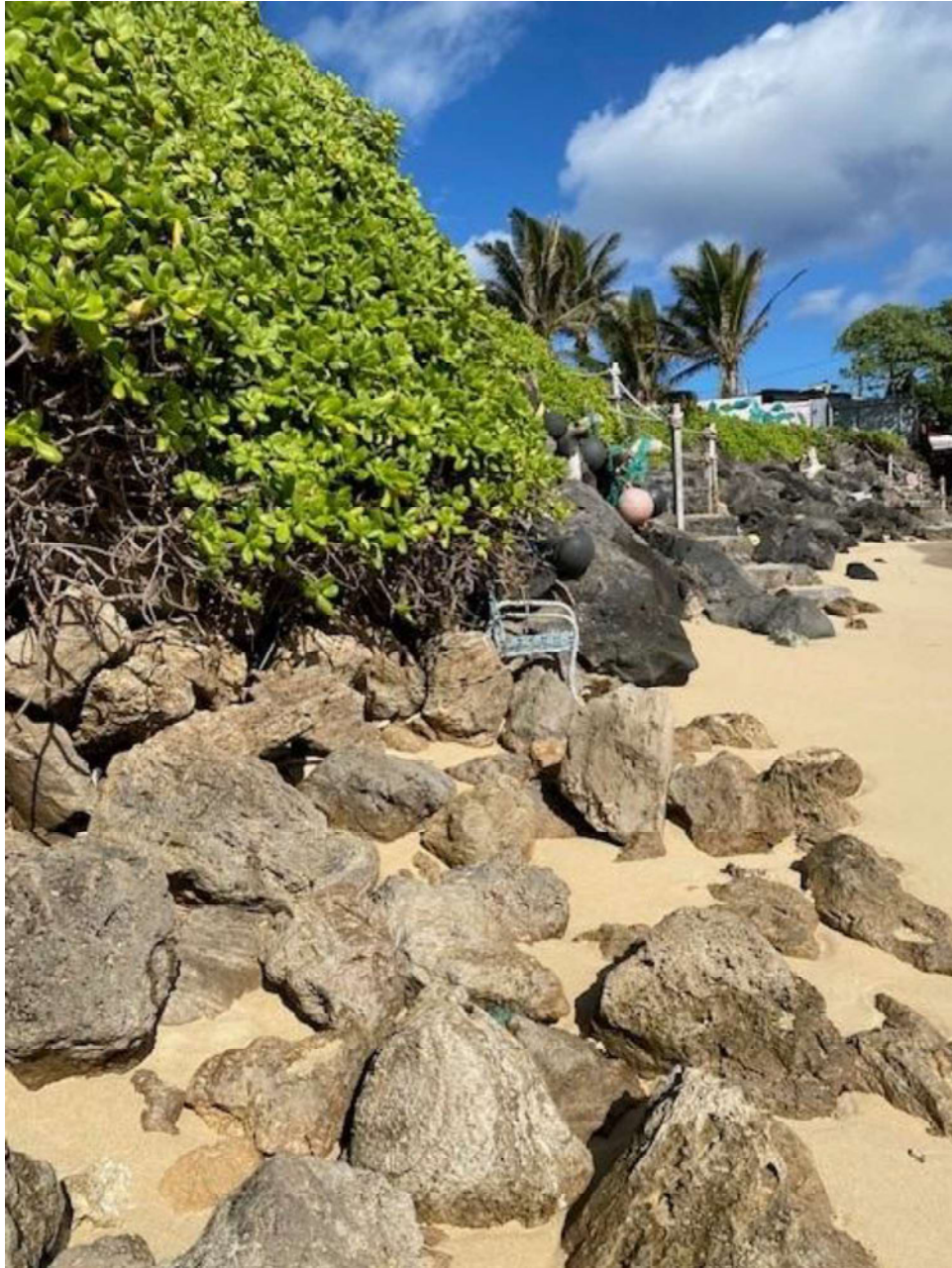
EXHIBIT D

TMK (1) 5-5-002:seaward of 032



Subject encroachment seen from south corner looking north

Photo taken by Land Division Staff January 9, 2024, 10:30 – 11:00 AM



North corner of subject encroachment (property corner located approximately at chair)

Photo taken by Land Division Staff January 9, 2024, 10:30 – 11:00 AM

Revetment spanning
subject property plus TMKs
(1) 5-5-002:033 and 057;
seawall located at TMK (1)
5-5-002:034 (GL6067)

Photo taken by Land
Division Staff January 9,
2024, 10:30 – 11:00 AM



Revetment and concrete
stairs located at TMK (1) 5-
5-002:057; seawall located
at TMK (1) 5-5-002:034
(GL6067)

Photo taken by Land
Division Staff January 9,
2024, 10:30 – 11:00 AM

EXHIBIT E

PRELIMINARY
 MAP SHOWING
 SHORELINE
 AFFECTING LOT 12
 LAND COURT APPLICATION 772
 AND PORTION OLD KAMEHAMEHA HIGHWAY
 BEING PORTION R.P. 7494, L.C. AW. 8559B
 APS. 35 AND 36 TO W.C. LUNALILO
 AT LAIE, KOOLAULOA, OAHU, HAWAII
 SCALE: 1 IN. = 30 FT.
 MAY 2, 2022 WALTER P. THOMPSON, INC.

KAMEHAMEHA
 HIGHWAY

TRUE NORTH
 SCALE : 1 IN. = 30 FT.

PORTION OLD
 KAMEHAMEHA HWY. (154 Sq. Ft.)
 PORTION R.P. 7494, L.C. AW. 8009B
 APS. 35 AND 36 TO W.C. LUNALILO

GROSS AREA
 32,174 SQ. FT.
 FROM PROPOSED
 CERTIFIED SHORELINE
 26,463 SQ. FT.

EASEMENT 110-B
 FOR SEWER PURPOSES

LOT 12
 (32,020 Sq. Ft.)

PROPOSED EASEMENT
 FOR ROCK REVENEMENT
 PURPOSES
 710 Sq. Ft.

SHORELINE FOLLOWS
 ALONG BOTTOM OF BANK
 APPROVED BY THE
 STATE LAND SURVEYOR
 AS OF 5/4/1973

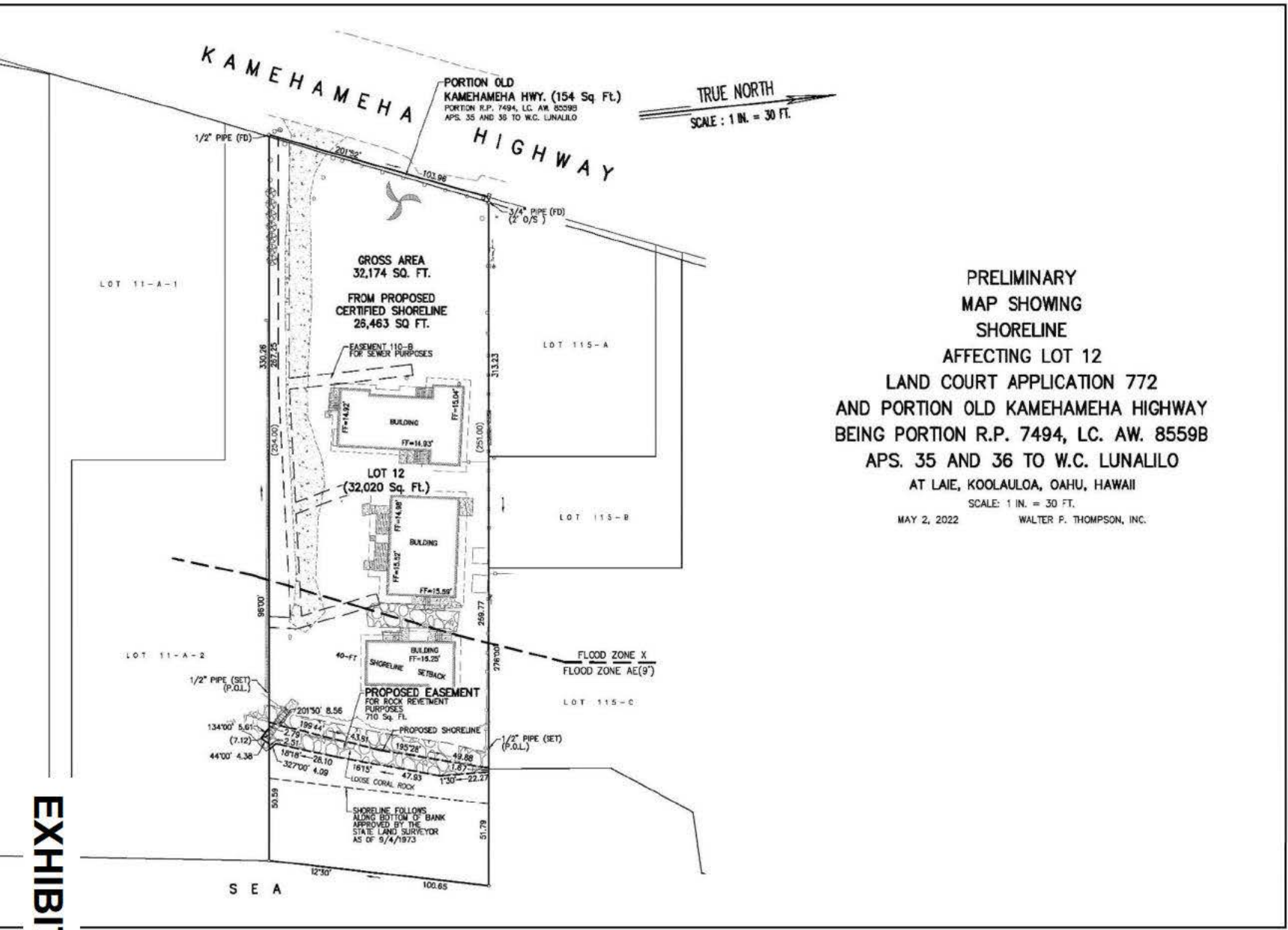


EXHIBIT F

JOSH GREEN, M.D.
GOVERNOR | KE KAHĀINA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KAHĀINA



KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
OFFICE OF CONSERVATION AND COASTAL LANDS
P.O. BOX 621
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
MAHULAWA ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:CM

Shoreline Encroachment OA 23-12

Sep 6, 2023

Steve Turley
Western Community Crossroads LC
[REDACTED]
Provo, Ut 84606
[REDACTED]

SUBJECT: Request to Resolve State Land Encroachment at [REDACTED]
[REDACTED], Laie, Koolauloa, Oahu; Tax Map Key (1) 5-5-002:seaward of 032

Dear Mr. Turley,

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) is in receipt of your Shoreline Encroachment Information Sheet package seeking to resolve an encroachment on State land seaward of the subject property. Your package included a Shoreline Encroachment Information Sheet, a 1973 certified shoreline map, an easement map showing the proposed shoreline, aerial photos ranging from 1949 to 1972, and current photos of the encroachment (see **Exhibit 1**).

According to the information you provided, there is a portion of a rock revetment and stairs that is located makai of the proposed shoreline within the State Land Use Conservation District Resource subzone (see **Exhibit 2**). Also noted from the easement map is that portions of the rock revetment and stairs are located mauka of the Conservation District within the private property. The portion of rock revetment and stairs that are within the private property would be under the jurisdiction of the City and County. Encroachments makai of the shoreline are under the jurisdiction of the DLNR. The OCCL regulates land use within the Conservation District pursuant to Hawaii Administrative Rules, Chapter 13-5.

Your easement map identifies approximately 710 square feet of the rock revetment and stairs being makai of the proposed shoreline on State submerged land.

From the information submitted, it is unclear when the encroachments were established. The approximate date of establishment of encroachment in the Shoreline Questionnaire is listed as pre-1964. However, a review the submitted aerial photographs could not

Western Community Crossroads LC
Revetment and stairs encroachment

Shoreline Encroachment OA 23-12

definitively confirm a pre-1964 construction date as the photos were either too blurry or taken from a too high altitude.

OCCL was unable to locate any construction permits or other land use authorizations at the State or County offices related to the construction of the revetment. A November 2007 shoreline survey map obtained from the County Permitting Office showed the entire revetment being located mauka of the shoreline (see **Exhibit 3**). This is also confirmed by your easement map which shows the revetment being mauka of the 1973 certified shoreline.

Based on the information provided, OCCL is unable to confirm legality or non-conforming status of the structure at this time. Consequently, DLNR cannot prove the encroaching rock revetment and stairs are Conservation District violations. Should the OCCL find that the encroaching structures were built without permits, within the Conservation District after 1964, the OCCL may reconsider this finding.

The Board of Land and Natural Resources has established a policy to allow the disposition of shoreline encroachments by either removal or issuance of an easement. In carrying-out this policy, OCCL has established criteria to guide decision-making over specific cases. The criteria are as follows:

1. Protect/preserve/enhance public shoreline access;
2. Protect/preserve/enhance public beach areas;
3. Protect adjacent properties;
4. Protect property and important facilities/structures from erosion damages; and
5. Apply "no tolerance" policy for recent or new unauthorized shoreline structures

In addition, OCCL developed a "Shoreline Encroachment Information Sheet" that is intended to provide the State with additional information to guide OCCL's recommendations on the disposition of shoreline encroachments.

Surrounding Land Uses: The subject property is flanked by residential homes along the adjacent shoreline to the north and south. Kamehameha Highway is directly mauka of the subject property and across the street is the Polynesian Cultural Center. Makai of the subject property is the Pacific Ocean. Shoreline armoring structures (rockwalls and revetments) fronts adjacent properties.

Beach Resources and Environment: Due to long-term trend of beach erosion, there is a narrow stretch of sandy beach resource fronting the revetment. An exposed limestone beachrock shelf protects a tide pool fronting the subject and adjacent properties.

Public Access: This section of coast has poor access fronting the revetment and other properties. The closest public access appears to be approximately 0.5 mile to both the north and south.

Western Community Crossroads LC
Revetment and stairs encroachment

Shoreline Encroachment OA 23-12

Effect of Removing the Encroachment on:

Beach Resources: Removal of the encroaching portion of the revetment would not improve beach resources, without removing the entire revetment and armoring structures on adjoining properties. Although the backshore area appears to contain sand resources that might contribute to beach formation in the absence of a shoreline structure, there appears to be minimal potential benefits to beach formation since abutting private properties are armored. Removing the encroaching portion of the subject revetment (alone) could eventually lead to failure of the remaining portion of the revetment and, in time, cause substantial damage to the residential structure from ongoing erosion.

Public Access: Removal of the encroaching portion of the revetment would not improve public beach access in the area without removing the entire structure and structures on adjoining properties.

Adjacent Properties: Removing the encroaching revetment would likely impact adjacent properties because of increased flanking erosion on the exposed sided of the adjacent properties. The erosion would likely destabilize the vegetative slope landward of the revetment and may threaten residential structures.

It has been the general policy and practice of the OCCL to support easement requests that have no discernible effect on beach and recreational resources, and do not act as a detriment to public access. In cases where the encroachment serves as a primary erosion control for potentially threatened structures, impacts to the adjacent and upland developments must also be considered.

Summary

The subject encroachment consists of a portion of a rock revetment and stairs approximately 710 square feet and located makai of the shoreline at the subject property. The subject revetment does not seem to have detrimental effects on public access as there is a narrow strip of sandy beach resource in the area, and the revetment seems to serve, in part, as an erosion control for the subject property by potentially alleviating loss of private land.

Upon review and careful consideration of the information gathered on this case, OCCL's evaluation criteria would support a disposition request being processed for the encroachment area. The subject revetment's construction date cannot be determined based on the gathered information. Should the OCCL find that the structure has been significantly altered since it was originally constructed, the OCCL may reconsider this finding. OCCL also recommends that, in accordance with the Hawaii Revised Statutes §115, a beach transit corridor be maintained along the structures.

Western Community Crossroads LC
Revetment and stairs encroachment

Shoreline Encroachment OA 23-12

Should you have any questions regarding this correspondence, contact Cal Miyahara of our Office at (808) 798-6147 or calen.miyahara@hawaii.gov.

Sincerely,

S Michael Cain

Michael Cain, Administrator
Office of Conservation and Coastal Lands

CC: Chairperson
ODLO
City & County of Honolulu-DPP
OHA

Western Community Crossroads LC
Revetment and stairs encroachment

Shoreline Encroachment OA 23-12

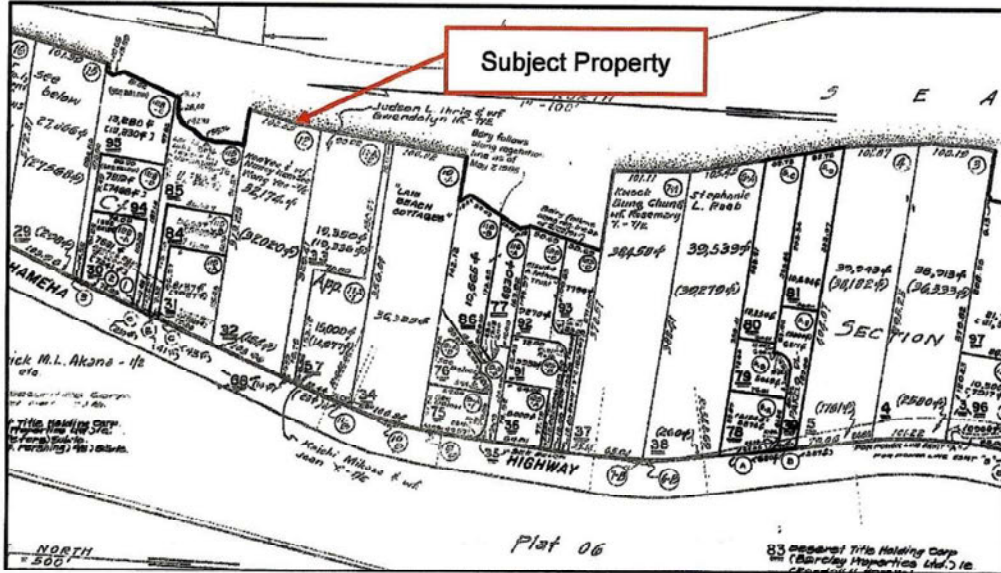


Note: 55-337 Kamehameha Highway revetment and stairs. TMK: (1) 5-5-002:032

Exhibit 1

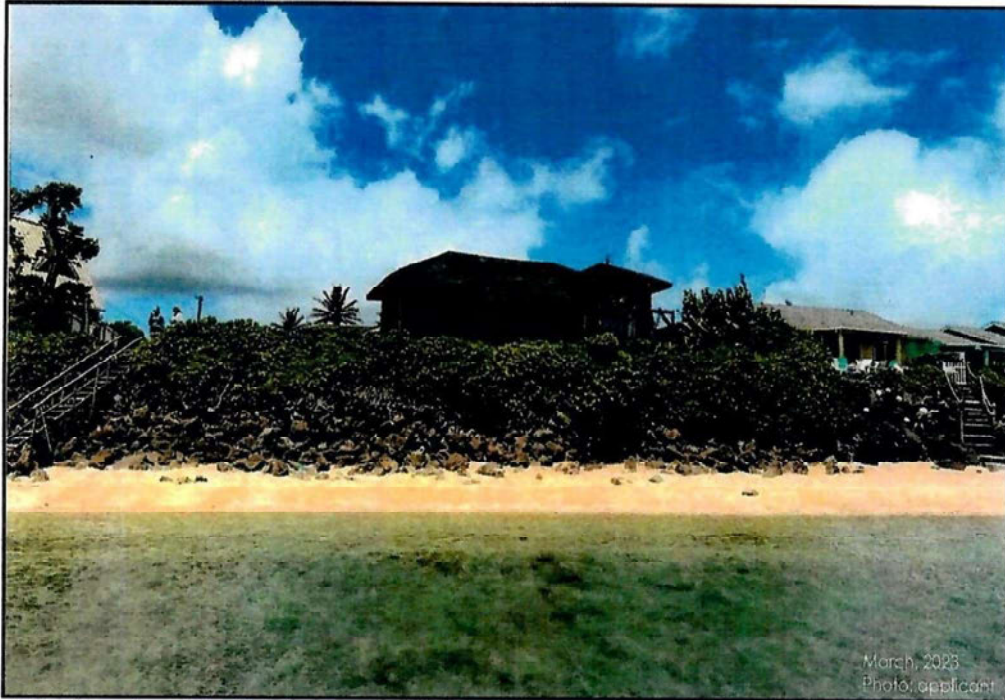
Western Community Crossroads LC
Revetment and stairs encroachment

Shoreline Encroachment OA 23-12

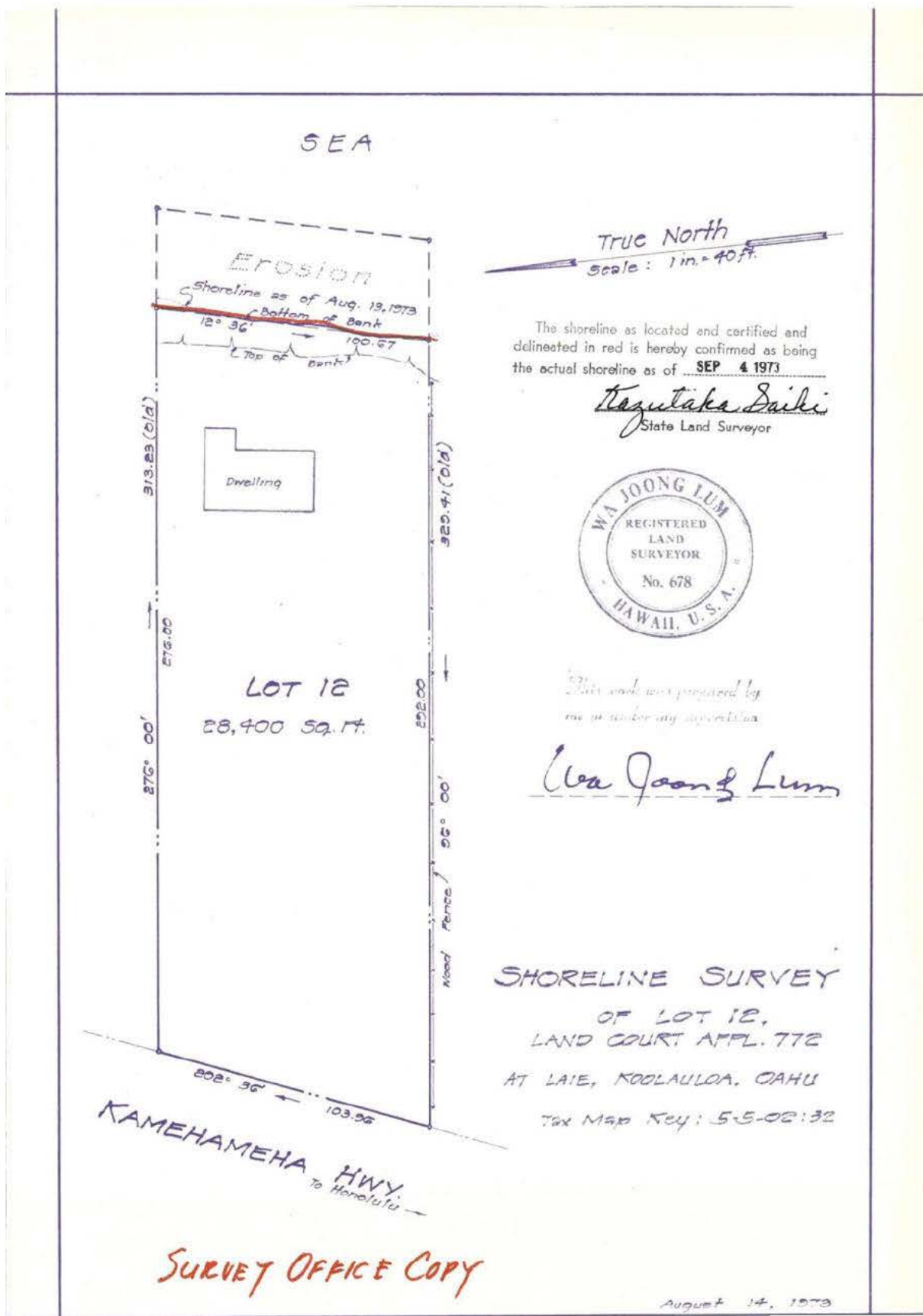


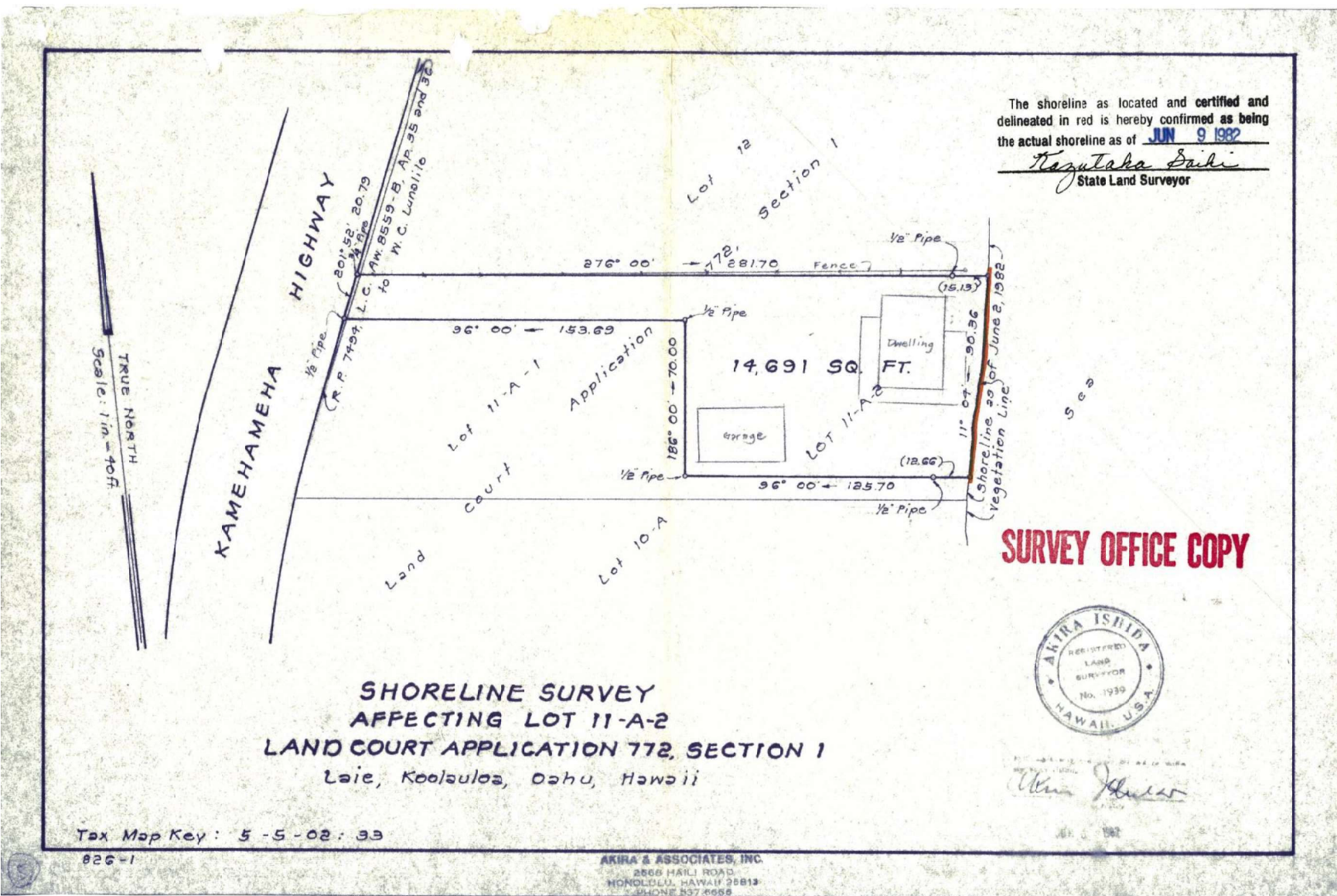
Western Community Crossroads LC
Revetment and stairs encroachment

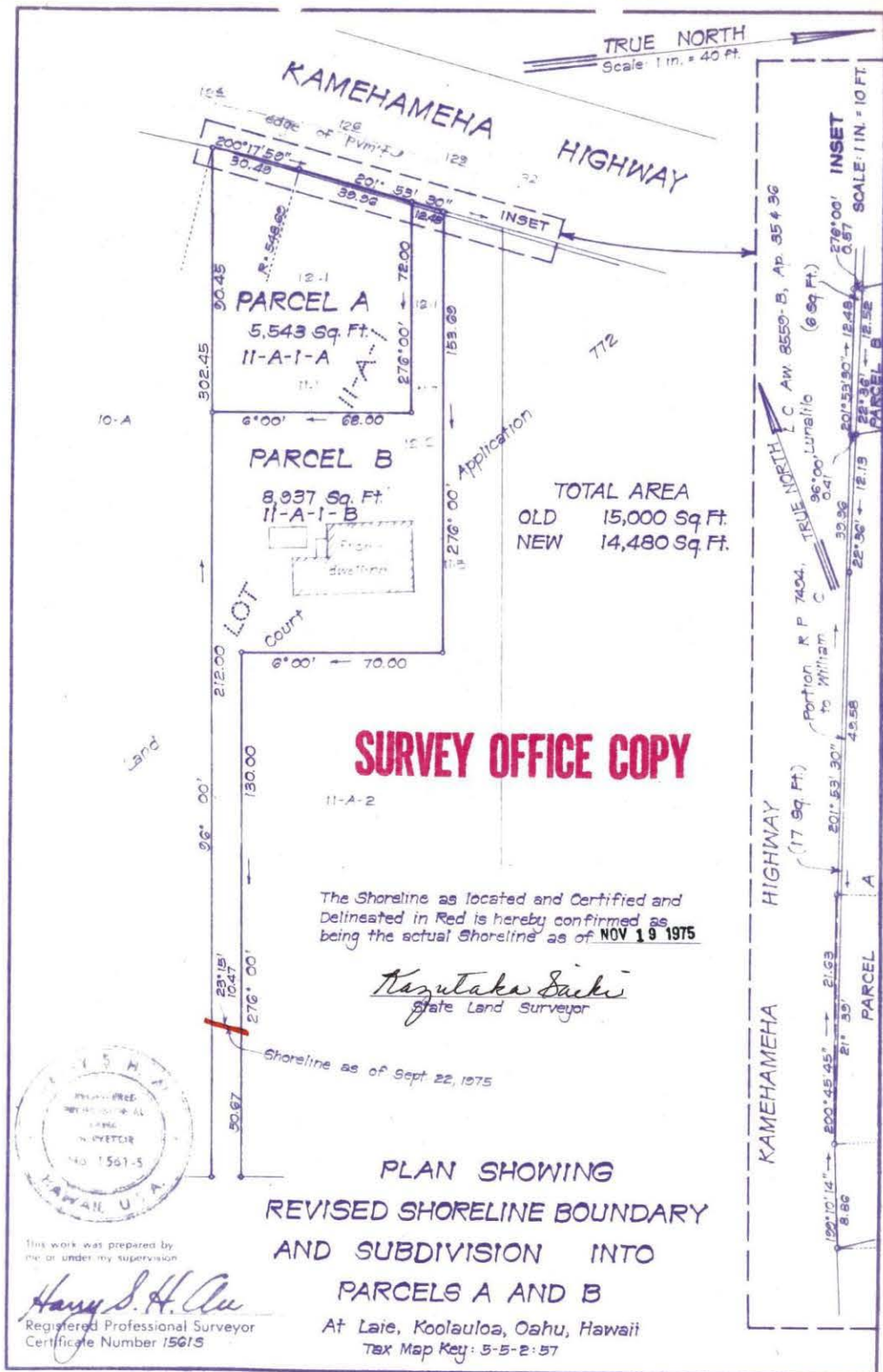
Shoreline Encroachment OA 23-12



Note: Revetment and stairs encroaching on State lands.







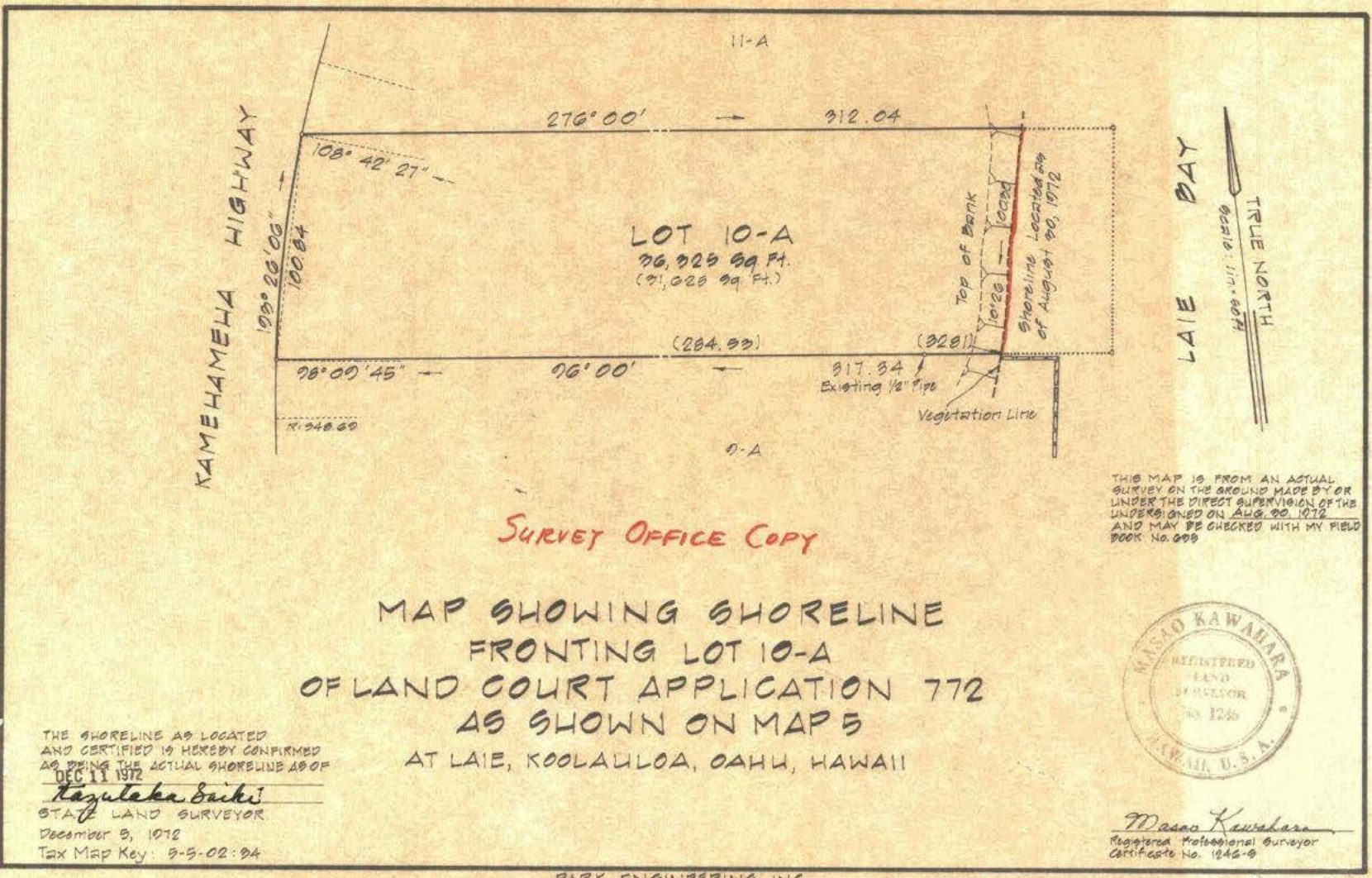
This work was prepared by me or under my supervision

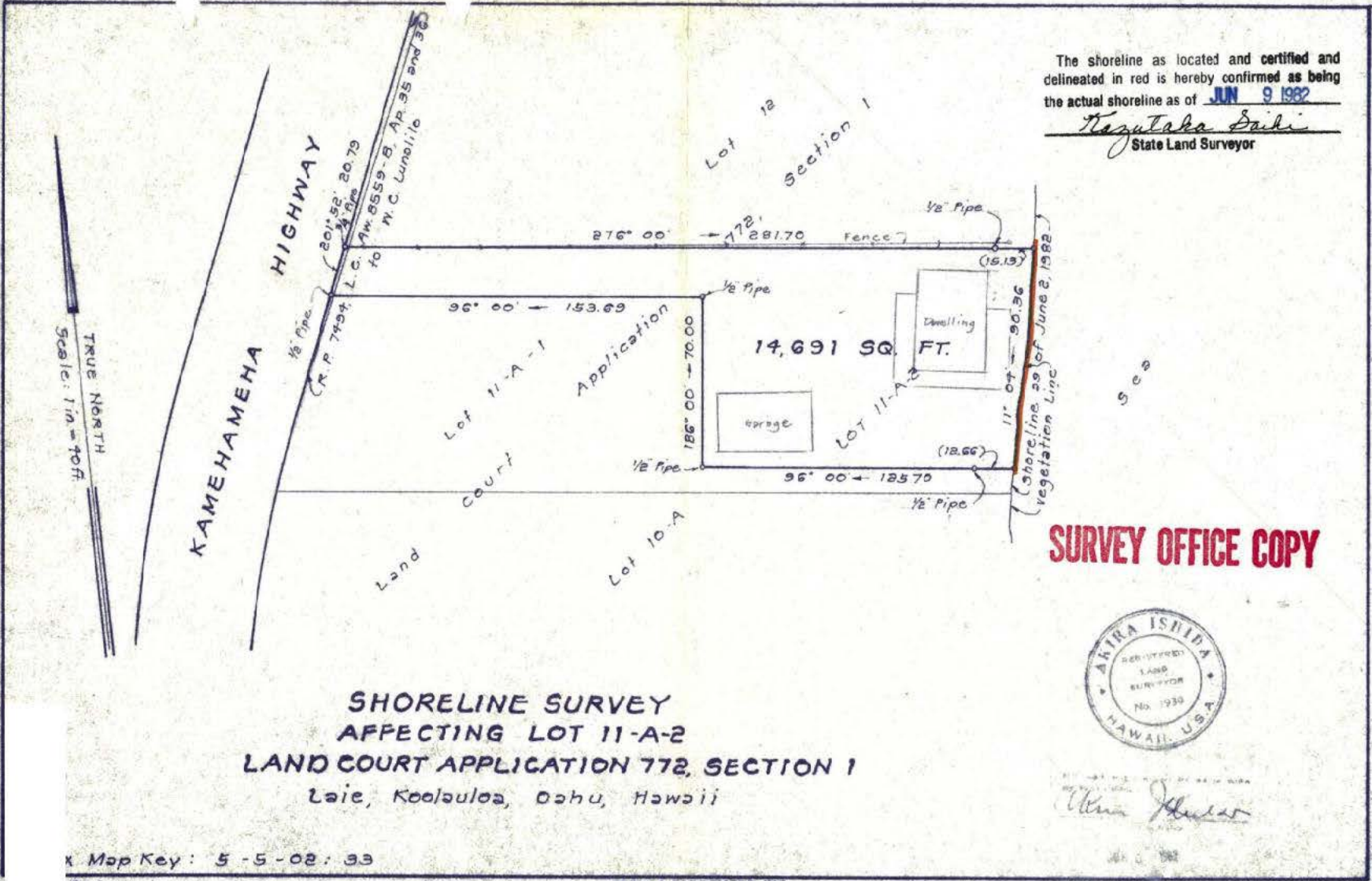
Harry S. H. Au
Registered Professional Surveyor
Certificate Number 15615

JOB NO. 22685
FB 267

AUSTIN, TSUTSUMI & ASSOCIATES, INC.
ENGINEERS, SURVEYORS
HAWAII, GUAM

October 15, 1975
745 FORT STREET
SUITE 900





The shoreline as located and certified and delineated in red is hereby confirmed as being the actual shoreline as of JUN 9 1982
Tazutaka Saki
 State Land Surveyor

SURVEY OFFICE COPY



Akira Ishida

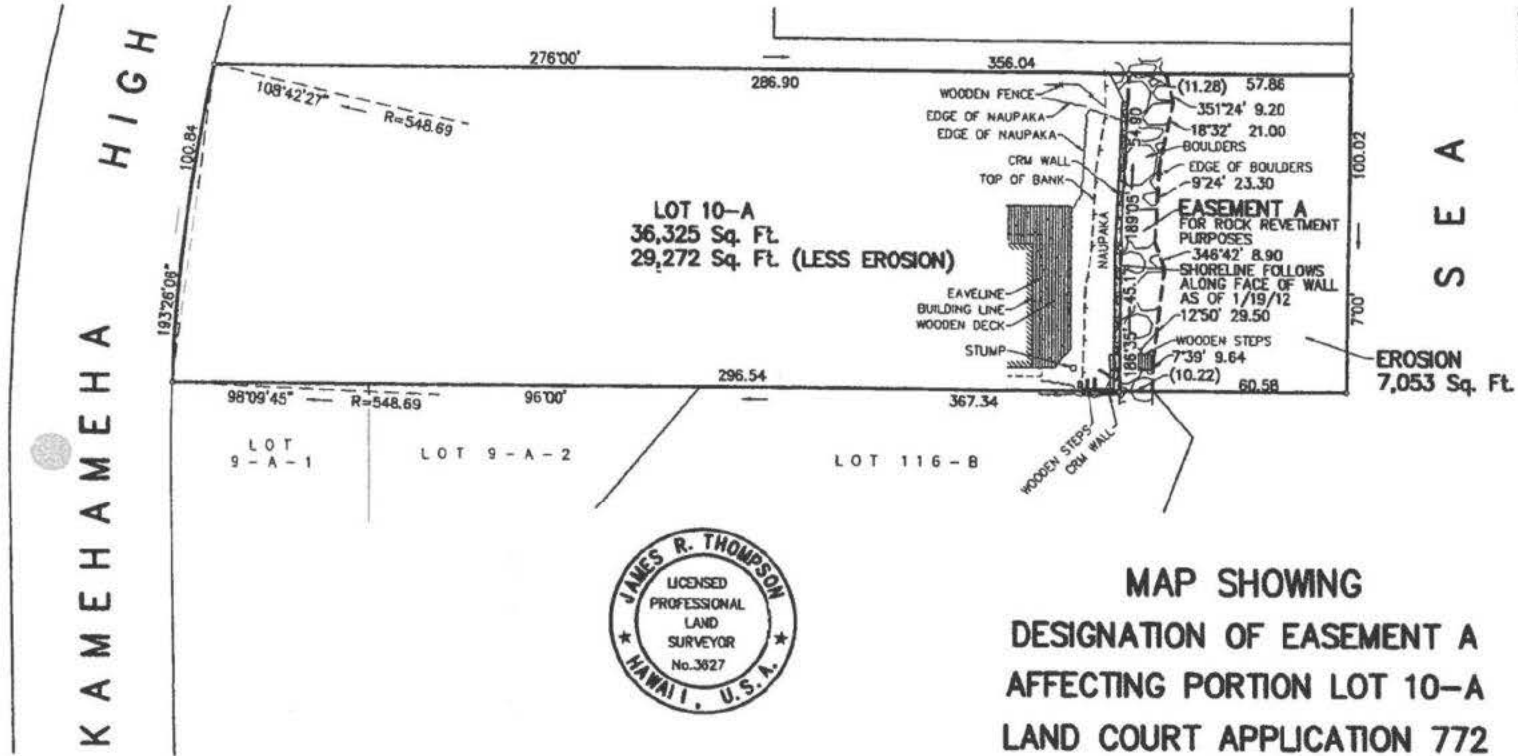
**SHORELINE SURVEY
 AFFECTING LOT 11-A-2
 LAND COURT APPLICATION 772, SECTION 1
 Laie, Koolauloa, Oahu, Hawaii**

x Map Key: 5-5-02:33

6-1

AKIRA & ASSOCIATES, INC.
 2860 HAILI ROAD
 HONOLULU, HAWAII 96812
 PHONE 937-8559

KAMEHAMEHA HIGH



TRUE NORTH
SCALE: 1 IN. = 40 FT.

EXHIBIT "D"



**MAP SHOWING
DESIGNATION OF EASEMENT A
AFFECTING PORTION LOT 10-A
LAND COURT APPLICATION 772
AT LAIE, KOOLAULOA, OAHU, HAWAII**

SCALE: 1 IN. = 40 FT.

OCTOBER 18, 2012 WALTER P. THOMPSON, INC.

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION

James R. Thompson
EXP. 4/30/14

* A = 1,164 SQ. FT. IN FAVOR OF LOT 10-A.

STEVE TURLEY
WESTERN COMMUNITY CROSSROADS
[REDACTED]
PROVO, UTAH 84606
[REDACTED]

December 19, 2023

VIA EMAIL AND US MAIL

Division of Land and Natural Resources
Rebecca Anderson – Land Division
1151 Punchbowl Street, Room 220
Honolulu, HI 96813

RE: [REDACTED], Laie, Koolauloa, Oahu
Tax Map Key (1) 5-5-002:032

Ms. Anderson:

In light of new information, I request reconsideration of the indeterminate construction date of the revetment at 55-337 Kamehameha Highway, Laie, Koolauloa, Oahu [Tax Map Key (1) 5-5-002:032] as per OCCL's September 6, 2023, letter.

When we spoke on December 11, 2023, I shared with you the information that the prior landowner, Roy Yee, had shared with me regarding the revetment construction date. I did not know that a written statement from the prior landowner could be considered by DLNR to establish the revetment construction date. Accordingly, I reached out to Mr. Yee and requested he compose a statement concerning the history of the property and its improvements including the revetment. Mr. Yee's first-hand knowledge is unique. He was an adult when the events surrounding the revetment construction transpired sixty years ago. This recollection is tied to independently verifiable points of reference that collaborate with his signed statement. He also has personal knowledge spanning the ensuing sixty years that his family owned the property.

Mr. Yee's statement [attached] provides key details regarding the history of the property and especially the revetment construction. He details that the property was cleared of vegetation soon after the Yee family purchased the property in 1958. The family transported three homes to the property and these homes were reassembled and refurbished "in the 1960 to 1961 timeframe." When Mr. Yee left for college in 1961, the revetment was not in place, but he recalls that "the revetment would likely have been constructed shortly thereafter in [the] 1962 to 1963 timeframe."

Mr. Yee's recollection is independently verified with the 1963 aerial photo [also attached and previously provided] definitively detailing that the homes were in place by at least 1963. The photo appears to show maturing vegetation along the shoreline which suggests that the revetment was already in place.

Mr. Yee also confirms that the homes are situated in the same position as they were when they were originally rebuilt on the property "in the 1960 to 1961 timeframe" and that the revetment

remained in the same location as when it was originally constructed and that there has been no modification to it since.

In light of this new information, please reconsider the indeterminate finding of the revetment construction date and recommend that the BLNR find that the rock revetment was constructed prior to October 1, 1964, and qualifies as a lawful non-conforming use.

Best regards,



Steve Turley
Western Community Crossroads, LLC

cc: Cal Miyahara – OCCL

Roy J. Yee

[REDACTED]
Kaneohe, HI 96744
[REDACTED]

December 16, 2023

Attn: Board of Land and Natural Resources
1151 Punchbowl Street
Honolulu, HI 96813

RE: [REDACTED], Laie, Koolauloa, Oahu;
Tax Map Key (1) 5-5-002:032

1. I am a resident of Honolulu County, State of Hawaii.
2. My father, Ken Yee, now deceased, purchased the property at [REDACTED], Laie, Koolauloa, Oahu, in 1958.
3. The property was completely covered with trees and vegetation when the property was purchased, and my family cleared the property soon after the purchase.
4. The three homes that are now on the property were originally part of the Kaiser Hawaiian Village Hotel facility in Waikiki. They were split apart and transported to the Laie property where they were reassembled and refurbished in the 1960 to 1961 timeframe.
5. When I left for college in 1961, the revetment was not in place. However, the revetment would likely have been constructed shortly thereafter in 1962 to 1963 timeframe.
6. My father did say that he had some communications with the Army Corps of Engineers locally before constructing the revetment.
7. The property has been owned by the Yee family from 1958 until 2022.
8. When the Yee family sold the property in 2022, the homes were situated in the same position as they were when they were transported to and rebuilt on the property.
9. Also, the revetment remained in the same location as when it was originally constructed and there had been no modifications to it since it was originally created and now completely covered by native vegetation.

The foregoing is my best recollection.
DATED this 16th day of December 2023.



Roy J. Yee



Stamped
original
photo



Enlarged
Photo from
1963

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



RECEIVED
LAND DIVISION

2024 FEB -5 PM 2:00



STATE OF HAWAII | KA MOKU'AINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'AINA
LAND DIVISION

P.O. BOX 621
HONOLULU, HAWAII 96809
February 1, 2024

DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RECEIVED
STATE OF HAWAII
LAND DIVISION

FEB -2 P 2:34

STATE OF HAWAII
LAND DIVISION

Ref. No.: 23OD-130
Author: LD-RLA

MEMORANDUM

TO:

State Agencies:

- DOH
- DHHL
- DLNR-Aquatic Resources
- DLNR-Forestry & Wildlife
- DLNR-Historic Preservation
- DLNR-State Parks
- DLNR-Conservation and Coastal Lands
- DLNR-Water Resource Management*
- DOT

County Agencies:


- Planning
- Parks & Recreation
- Public Works
- Water Department

Federal Agencies:

- Corps of Engineers
- NRCS

Other Agencies:

- Office of Hawaiian Affairs


FROM: Rebecca L. Anderson, Shoreline Specialist 
SUBJECT: Request for Comment on Shoreline Easement Request
LOCATION: Laie, Koolaupoko, Oahu TMK (1) 5-5-002: seaward of 032
APPLICANT: Western Community Crossroads

Transmitted for your review and comment is a copy of the above referenced request involving State lands. We would appreciate your comments on this application. Please submit any comments by March 1, 2024. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 808-587-0424. Thank you.

Attachments

oacc supports the easement - see Exhibit C.

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: 
Date: *2-01-24*

cc: Central Files

EXHIBIT L

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

FEB 20 PM 2:11




DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

240099

Mgk
Dep
Land


STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES **RECEIVED**
KA 'OIHANA KUMUWAIWAI 'ĀINA **BOARD OF WATER SUPPLY**
LAND DIVISION
FEB 06 2024

P.O. BOX 621
HONOLULU, HAWAII 96809
February 1, 2024

Ref. No.: 23OD-130
Author: LD-RLA

MEMORANDUM

- TO:
- | | | |
|---|--|---|
| <p>State Agencies:</p> <p><input type="checkbox"/> DOH</p> <p><input type="checkbox"/> DHHL</p> <p><input type="checkbox"/> DLNR-Aquatic Resources</p> <p><input type="checkbox"/> DLNR-Forestry & Wildlife</p> <p><input checked="" type="checkbox"/> DLNR-Historic Preservation</p> <p><input type="checkbox"/> DLNR-State Parks</p> <p><input checked="" type="checkbox"/> DLNR-Conservation and Coastal Lands</p> <p><input type="checkbox"/> DLNR-Water Resource Management</p> <p><input type="checkbox"/> DOT</p> | <p>County Agencies:</p> <p><input checked="" type="checkbox"/> Planning</p> <p><input type="checkbox"/> Parks & Recreation</p> <p><input type="checkbox"/> Public Works</p> <p><input checked="" type="checkbox"/> Water Department</p> | <p>Other Agencies:</p> <p><input checked="" type="checkbox"/> Office of Hawaiian Affairs</p> |
| <p>Federal Agencies:</p> <p><input type="checkbox"/> Corps of Engineers</p> <p><input type="checkbox"/> NRCS</p> | | |

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Attachments

- (X) We have no objections.
- (X) We have no comments.
- () Comments are attached.

Signed: 
Date: 2/24/24

cc: Central Files

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer
Board of Water Supply