

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

January 24, 2025

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

PSF No.: 19OD-014

Oahu

Grant of Perpetual, Non-Exclusive Easement to the City and County of Honolulu on behalf of the Honolulu Authority for Rapid Transportation for Elevated Guideway and Utilities Purposes; Issuance of Immediate Construction, including Boring Tests, and Management Right-of-Entry Permit; Iwilei, Honolulu, Oahu, TMK: (1) 1-5-007: portion of 001.

APPLICANT:

The City and County of Honolulu (“City”) on behalf of the Honolulu Authority for Rapid Transportation (“HART”)

LEGAL REFERENCE:

Sections 171-55 and -95, Hawaii Revised Statutes (“HRS”), as amended.

LOCATION:

Portions of government land situated at Iwilei, Honolulu, Oahu, identified by tax map key (1) 1-5-007: portion of 001 as shown on the maps attached as **Exhibit A1** to **A2**.

AREAS:

24,511 square feet, more or less, further subject to review and approval by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Urban

City and County of Honolulu LUO: BMX-3

TRUST LAND STATUS:

Section 5 (b) lands of the Hawaiian Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 4131, setting aside to the Department of Accounting and General Services ("DAGS") for Liliha Civic Center purposes; and

Perpetual, non-exclusive easement (LOD 28984) issued to Hawaii Housing Finance and Development Corporation ("HHFDC") for access and utility purposes.

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 elevated guideway purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Impact Statement acceptance notice for the Honolulu High Capacity Transit Corridor subject project was published in the OEQC's Environmental Notice on January 8, 2011.

On August 24, 2012, the Hawaii Supreme Court ruled that the City should have completed archaeological survey work along the entire proposed rail transit route prior to starting construction.

In February 2013 the field work for the Archaeological Inventory Survey ("AIS") for the entire proposed transit route was completed and the AIS reports were then submitted to DLNR's State Historic Preservation Division ("SHPD") for review, which was accepted by SHPD pursuant to its letter dated August 27, 2013.

DCCA VERIFICATION:

Government agency. Not applicable.

APPLICANT REQUIREMENTS:

1. Provide survey maps and legal descriptions according to Department of Accounting and General Services, Survey Division standards and at Applicant's own cost;
2. Obtain Department of Accounting and General Services written concurrence to the issuance of the subject easement; and
3. Process and obtain designation of easement approval from the City and County of Honolulu, Department of Planning and Permitting at Applicant's own cost.

BACKGROUND:

As part of the 20-mile grade separated fixed guideway rail system planned to extend from East Kapolei to Honolulu, HART requests an easement for elevated guideway purposes over a portion of the lands designated as Tax Map Key: (1) 1-5-007:001 set aside to DAGS (DAGS Parcel) as outlined on **Exhibit B1** to **B3**.

The adjacent State parcel designated as Tax Map Key: (1) 1-5-007:002 has been set aside to HHFDC (HHFDC Parcel) for affordable rental housing project pursuant to EO 4130. HHFDC holds an easement over the DAGS Parcel for access and utility purposes designated as Easement U. Senior Residence at Iwilei Limited Partnership (“SRILP”) holds a long-term lease from HHFDC for the development and management of the housing project on the HHFDC Parcel and has rights to use Easement U on the DAGS Parcel pursuant to its lease with HHFDC. SRILP explains that Easement U provides access for firetrucks and other emergency vehicles to the HHFDC Parcel.

Easement U is an approximately 50-foot-wide, non-exclusive easement including standard language reserving to the grantor [the Board] the full use and enjoyment of the easement area and to grant to others rights and privileges for any and all purposes affecting the easement area provided that the rights reserved shall not be exercised in any manner which interferes unreasonably with the grantee [HHFDC] in the use of the easement area for the purposes the easement is granted. The paved driveway SRLIP constructed within Easement U is approximately 20 feet wide. Photos taken during a site visit to the subject Easement U on January 8, 2025 are attached as **Exhibit C**.

HART’s proposed use of the DAGS Parcel will require the construction of guideway columns within the existing paved driveway in Easement U. However, HART has represented that it will relocate the fire lane to another area within Easement U at HART’s cost so that SRLIP can continue to use it for access and utilities, including emergency vehicle access. See latest design of the subject section in Exhibit B3.

Discussions among DAGS, HHFDC, and SRILP started in 2015 for the design of the improvements planned by HART. At the time of writing this submittal, SRILP has not agreed to the subject requests for easement and immediate construction and management right-of-entry permit due to various concerns. Staff attempts to summarize the concerns below based on letters between HART and SRILP.

In early 2024, HART asked DAGS for approval to conduct potholing for column locations over Easement U. The same request was also copied to HHFDC who then forwarded it to SRILP. In its letter dated February 5, 2024 attached as **Exhibit D1**, SRILP sought the following assurances:

- a. That HART's and its contractors' insurance, performance and payment bonds would be adequate and available for any potential claims by SRILP;
- b. That there would be no disruption to utility services including storm drains;
- c. That access to housing project would be maintained in case of emergency and the associated consent from Honolulu Fire Department would be secured;
- d. That health & safety practices and procedures would be implemented;
- e. That the project would not generate excessive noise or vibrations;
- f. That HART would repair and all damage to the housing project property and Easement U or replace damaged elements;
- g. That HART and its contractors would indemnify SRILP;
- h. That HART and its contractors would not be allowed to use any portion of the housing project;
- i. That there would be regular communication between HART and SRILP;
- j. That there would be no expansion of Easement U into the housing project property; and
- k. HART would pay the attorneys' fees to be incurred by SRILP in connection with the requested consent to the easement.

In response, HART addressed the subject issues individually in its response dated March 27, 2024 to SRILP (**Exhibit D2**).

Subsequently, in its letter dated September 18, 2024 (**Exhibit D3**), HART requested assistance from DAGS to obtain an easement from the Board. SRILP reiterated similar comments and proposed certain terms for HART's acceptance in writing in its letter dated September 19, 2024 (**Exhibit D4**). HART did not agree to any obligations imposed by SRILP via HART's letter dated October 10, 2024 (**Exhibit D5**).

On December 18, 2024, HART requested DAGS issue a 14-day right-of-entry permit for boring tests (**Exhibit D6**). SRILP did not consent to the request via its letter dated December 29, 2024 (**Exhibit D7**).

HART's project is a large-scale public works project intended to address public transportation needs and receives public funds. HART has indicated in its letter dated March 27, 2024 that there are multiple existing venues for communication with Honolulu Fire Department ("HFD") regarding access by emergency vehicles, and HART will maintain the emergency access for SRILP in coordination with HFD and SRILP both in the construction and post-construction phases of the project, as necessary.

Staff solicited comments from various State and City agencies regarding the use of the DAGS Parcel for the guideway easement. HHFDC, through its letter dated December 30,

2024 (**Exhibit E**), deferred their comment to its lessee, i.e. SRILP. The City Department of Planning and Permitting requires a designation of easement approval from its Subdivision Branch. Staff notes that it is already one of the Applicant Requirements mentioned above. The Board of Water Supply has no comments on the request.

DAGS, Department of Facility Maintenance, Honolulu Fire Department, and Office of Hawaiian Affairs have not responded to the request for comments on the request before the deadline.

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.

Land Division recommends below that the Board approve the easement and immediate construction right-of-entry permit.

RECOMMENDATION: That the Board:

1. Authorize the issuance of a perpetual non-exclusive easement to the City and County of Honolulu on behalf of the Honolulu Authority for Rapid Transportation covering the subject areas for elevated guideway 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 perpetual easement document form for elevated guideway purposes, 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.
2. Authorize the issuance of construction, including boring tests, and management right-of-entry permit to the City and County of Honolulu, Honolulu Authority for Rapid Transit covering the subject area 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 for the City and County of Honolulu, Honolulu Authority for Rapid Transit regarding the rail project, as may be amended from time to time;
 - B. Delegate to the Chairperson authority to approve any continuation or renewal of the right of entry for additional one-year periods for good cause shown; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson

to best serve the interests of the State.

Respectfully Submitted,

Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



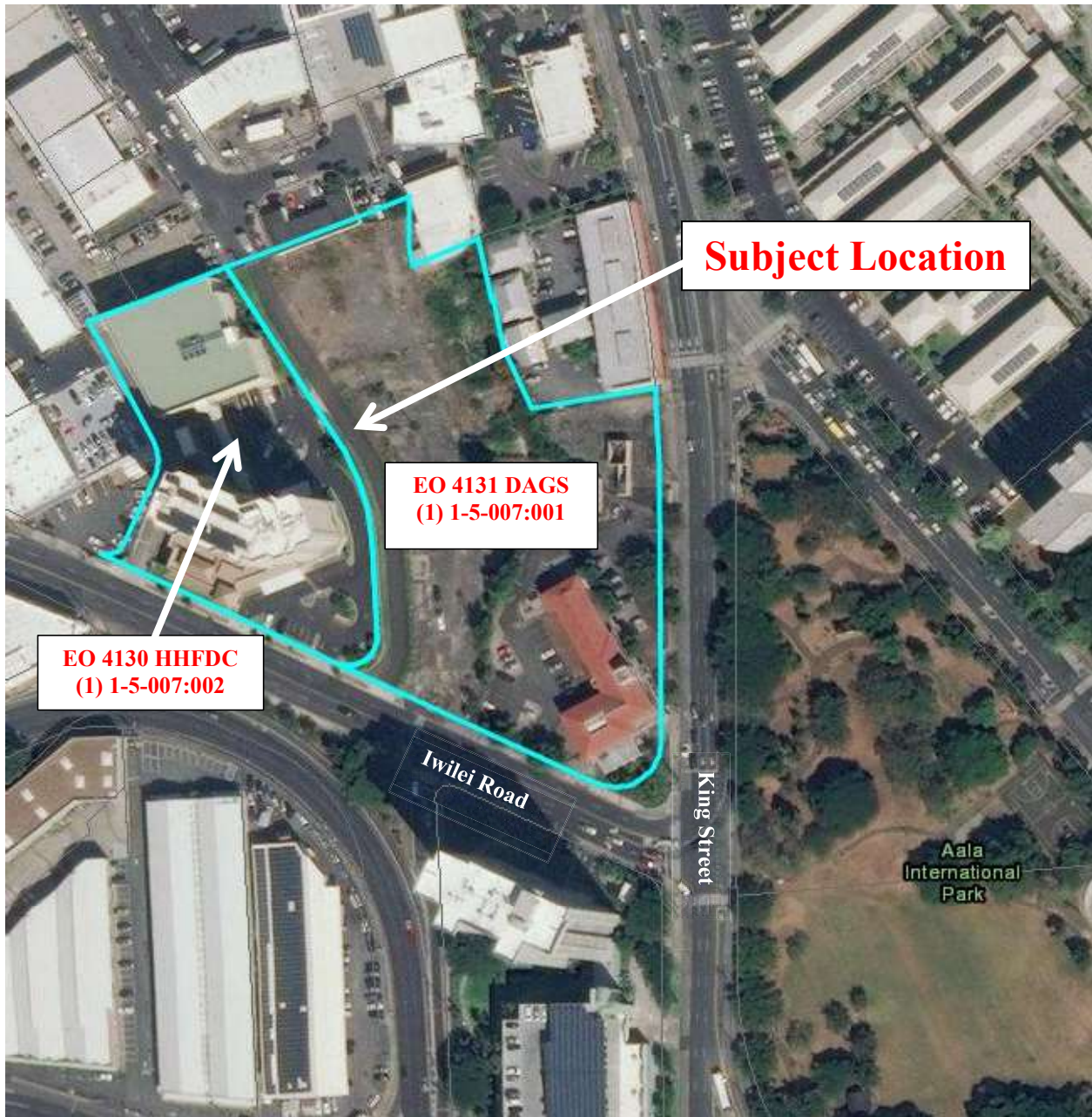
Dawn N. S. Chang, Chairperson

KEM RT



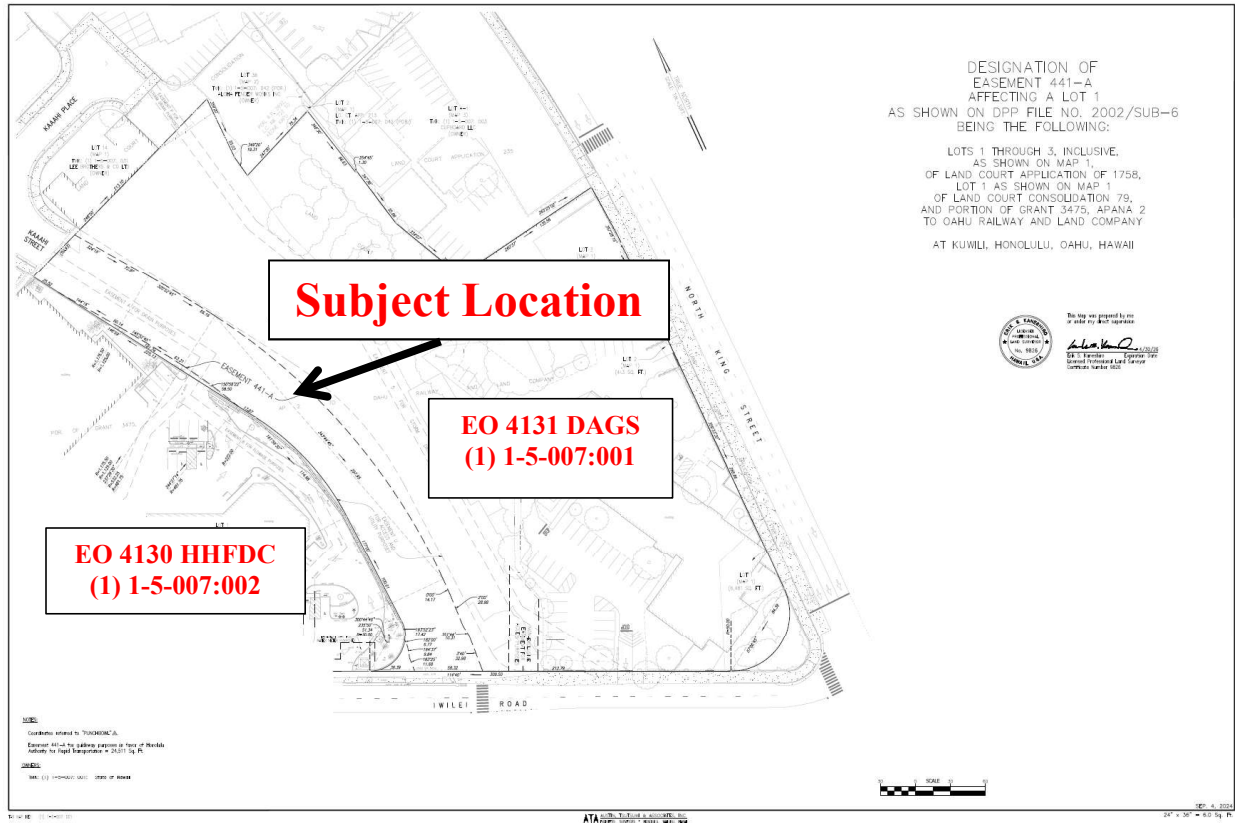
TMK (1) 1-5-007: portion of 001

EXHIBIT A1



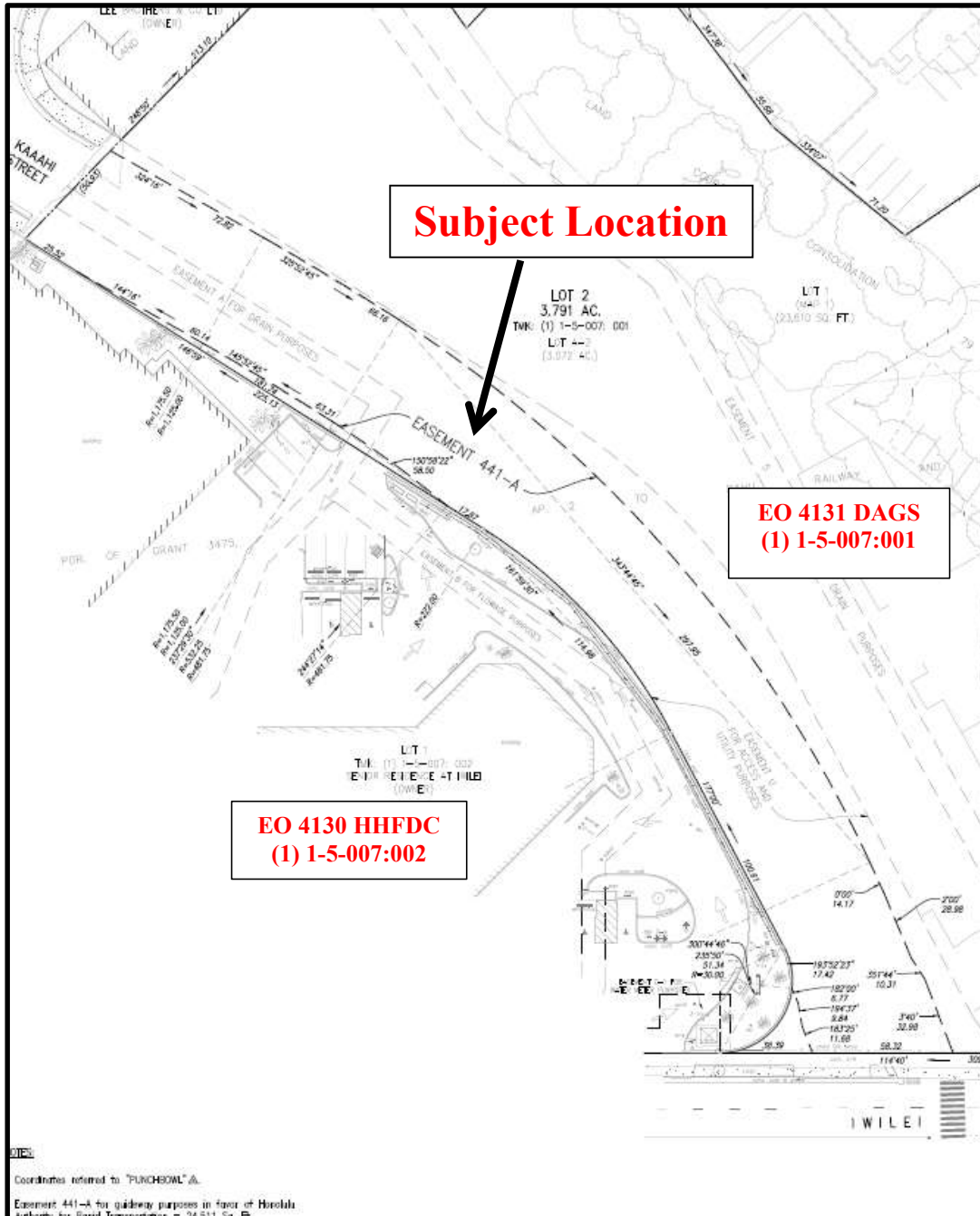
TMK (1) 1-5-007: portion of 001

EXHIBIT A2



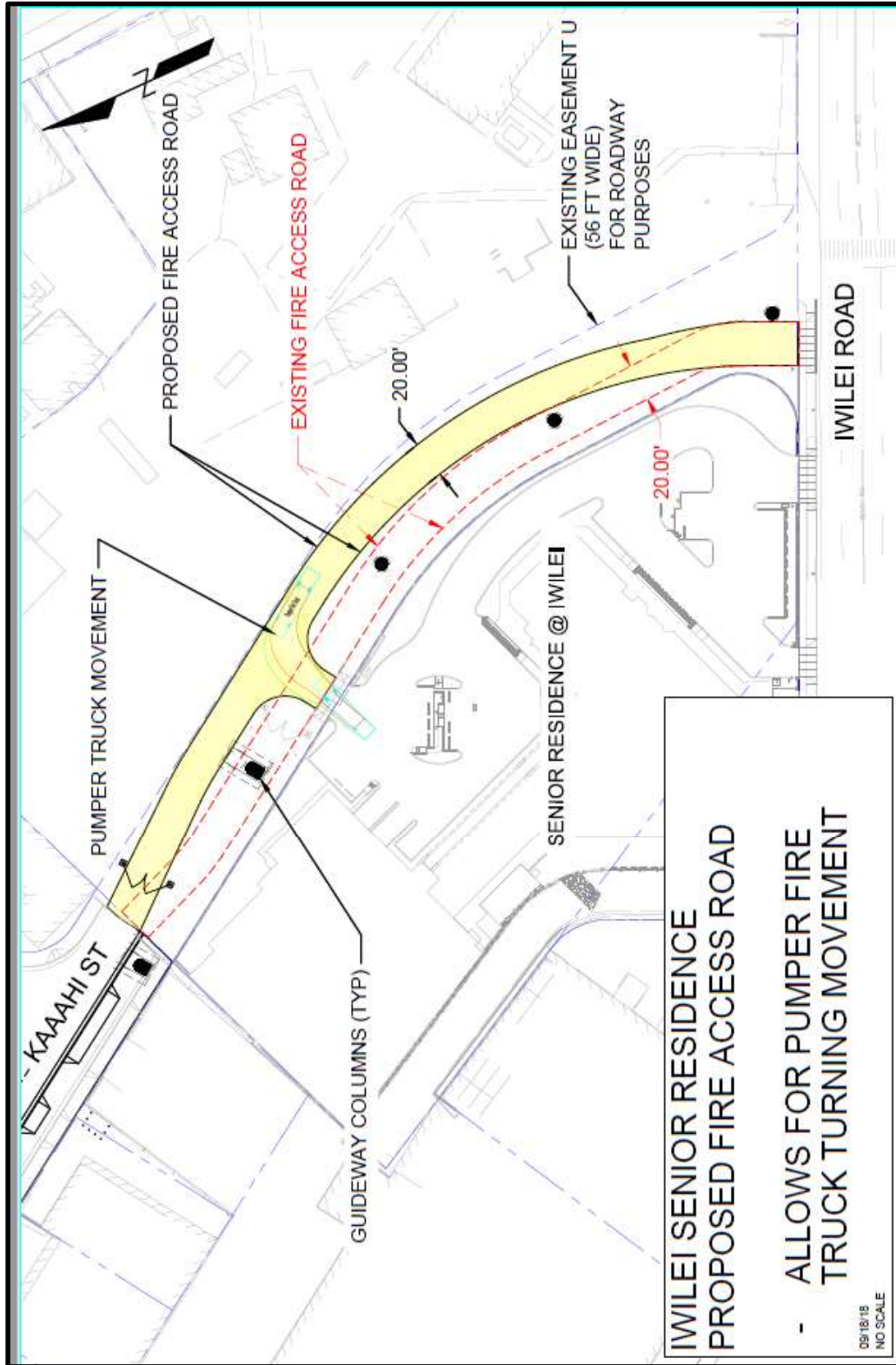
TMK (1) 1-5-007: portion of 001

EXHIBIT B1



TMK (1) 1-5-007: portion of 001

EXHIBIT B2



TMK (1) 1-5-007: portion of 001

EXHIBIT B3

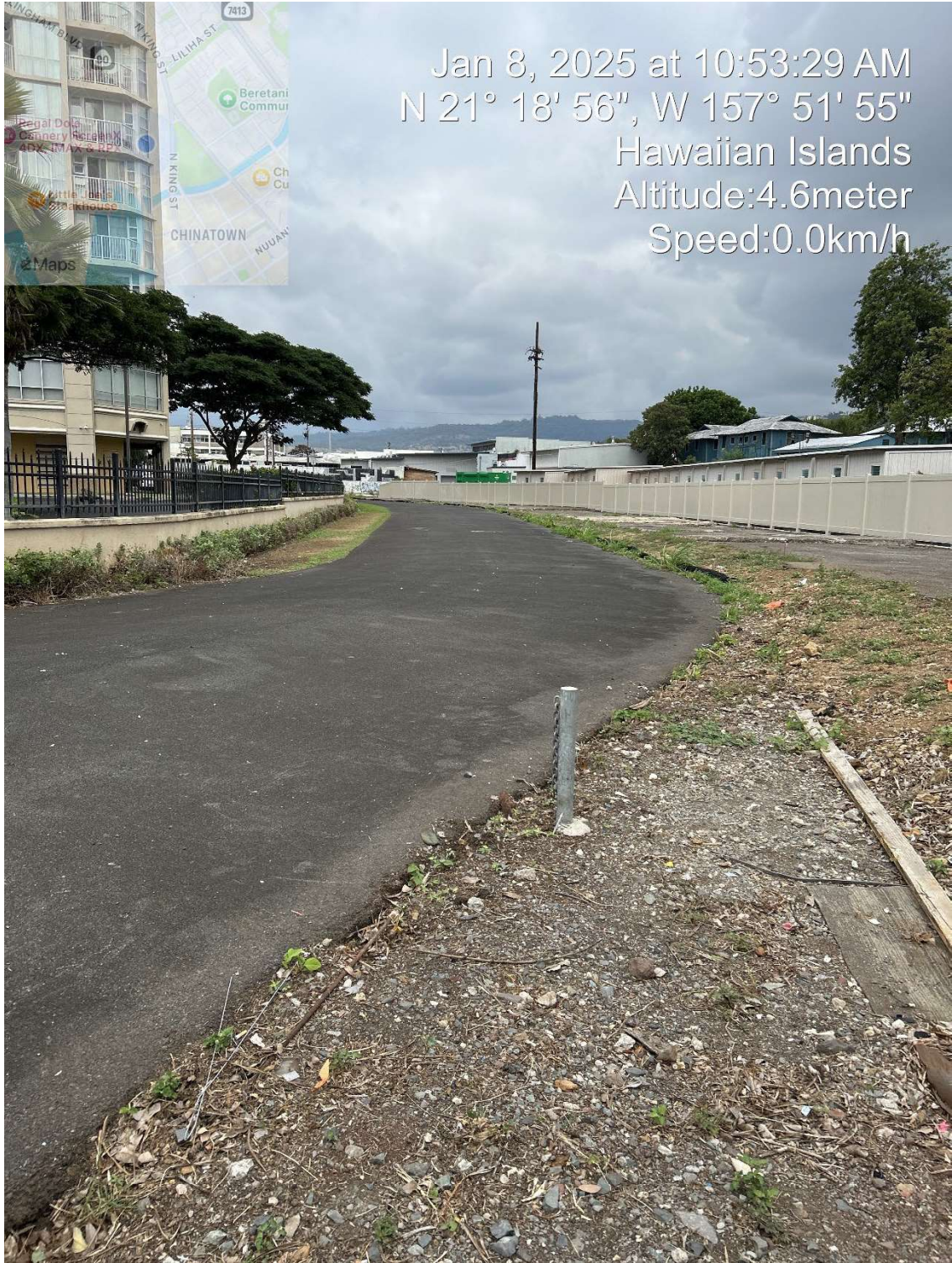
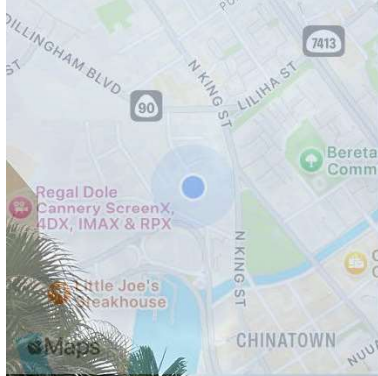


EXHIBIT C





Jan 8, 2025 at 10:56:37 AM
N 21° 18' 59", W 157° 51' 56"
Hawaiian Islands
Altitude: 5.4 meter
Speed: 5.4 km/h





Jan 8, 2025 at 10:56:45 AM
N: 21° 18' 59", W 157° 51' 56"
Hawaiian Islands
Altitude: 5.4 meter
Speed: 5.4 km/h



TAKUSHI WONG LEE  **YEE**
 A LAW CORPORATION

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 ROY E. TAKUSHI
(1927 - 2004)

February 5, 2024

Mr. Robert Stellmacher
 Transit Property Senior Acquisition and
 Relocation Agent
 1099 Alakea Street, Suite 1700
 Honolulu, Hawaii 96813

Mr. David C. DePonte
 Department of Account and General Services
 State of Hawaii
 Kalanimoku Building
 1151 Punchbowl Street
 Honolulu, Hawaii 96813

Mr. Stanley Fujimoto
 Project Manager
 Hawaii Housing Finance and Development
 Corporation
 677 Queen Street, Suite 300
 Honolulu, Hawaii 96813

RE: HART Request for Right of Entry
 PID 441A. Easement U; Potholing for Column Locations
 TMK 1-5-007-001-0000

Gentlemen:

This letter refers to Mr. Stellmacher/HART's request for a right of access over Easement U for the purposes of conducting "potholing" for the proposed locations of columns for HART's rail system, which was presented by e-mail to Mr. DePonte/Department of Account and General Services ("DAGS") with copy to Mr. Fujimoto/Hawaii Housing Finance and Development Corporation ("HHFDC").

Mr. Fujimoto forwarded the request the Senior Residence at Iwilei Limited Partnership ("SRILP"), a Hawaii limited partnership, and Pacific Housing Assistance Corporation ("PHAC"), a Hawaii nonprofit corporation, both of whom have easement rights for access and utility purposes over, under and across Easement U. We are writing this letter on behalf SRILP and PHAC, together with the Association of Unit Owners of Senior Residence at Iwilei ("AUO"), as their respective interests appear with respect to the Senior Residence at Iwilei project ("Project"). As a matter of convenience, SRILP, PHAC and the AUO are collectively referred to as the "AUO."

Executive Summary

The AUO's consent is subject to HART's and HART's contractor(s) unconditional agreement to the conditions set forth below.

Background

- A. The State of Hawaii ("State") is the fee simple owner of the land identified as TMK 1-5-007-001 ("Parcel 1") and over which Easement "U" has been designated.

Parcel 1 has been or will be set aside to be under the control and management of HHFDC. HART's railway will run through Easement "U."

EXHIBIT D1

TAKUSHI WONG LEE 王 耶
A LAW CORPORATION

Mr. Robert Stellmacher/HART
 Mr. David C. DePonte/DAGS
 Mr. Stanley Fujimoto/HHFDC
 RE: HART Request for Right of Entry
 PID 441A, Easement U; Potholing for Column Locations
 TMK 1-5-007-001-0000

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- B. The State is the fee simple owner of the land upon which the Project is situated and which is identified as TMK 1-5-007-002 ("**Parcel 2**").

By Governor's Executive Order No. 4130, Parcel 2 was set aside to be under the control and management of HHFDC. The Project is situated on Parcel 2.

- C. Parcel 1 and Parcel 2 are adjoining properties.

- D. The Project is a 15 story condominium, which is comprised of the following two-units, together with a parking deck:

- (1) **Residential Unit**, which includes 160 dwelling units and provides affordable rental housing opportunities for the elderly of very low and low incomes. HHFDC, as lessor, and SRILP, as lessee, entered into a Condominium Conveyance Document for the Residential Unit, together with easements over Easement U for access and utility purposes, for a term of 55 years; and
- (2) **Commercial Unit**, which includes administrative office spaces for two nonprofit housing corporations and ground floor space for an adult day care facility. HHFDC, as lessor, and PHAC, as lessee, entered into a Condominium Conveyance Document for the Commercial Unit, together with easements over Easement U for access and utility purposes, for a term of 55 years.

The development and construction of the Project included installation of utilities within and serving the Project and paving of Easement U. Easement U is expressly designated to provide fire engines and other emergency vehicles with primary access to/from the Project.

- E. Residents of the Residential Unit are elderly. Recipients of services at the adult day care facility are elderly and some have mobility or cognitive disabilities.

Conditions for the AUO's Consent

The AUO's consent to the right-of-entry is subject to HART's and HART's contractor(s) unconditional agreement to the following.

1. **HART's and HART's Contractor(s) Insurance; Performance and Payment Bonds.** HART and HART's contractor(s) must maintain liability and other insurance which cover **all** liability for personal injury, including death, and **all** liability for loss or damage to property, including to the Project and AUO's interests, caused by or arising out of or in connection the exercise of the right of entry and all work conducted by HART and HART's contractor(s), whether over, under or

TAKUSHI WONG LEE 律師 YEEA LAW CORPORATION

Mr. Robert Stellmacher/HART
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 PID 441A. Easement U; Potholing for Column Locations
 TMK 1-5-007-001-0000

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across Easement U, or any part of the Project. HART's and HART's contractor(s) insurance must provide certificates of insurance naming the State, HHFDC and AUO, as additional insureds.

HART's contractor(s) shall provide performance and payment bonds naming the State, HHFDC and AUO, as their interests appear, as additional obligees.

HART shall be responsible for indemnifying and holding harmless from all claims, demands, damages, liens, judgements, or other legal or equitable relief the State, HHFDC and AUO, as their respective interests appear with respect to the Project, and all claims, demands, damages, liens, judgements, or other legal or equitable relief which the State and/or HHFDC may make against the AUO, and which:

- (a) HART's contractor(s), including subcontractors and material suppliers at any tier may make and/or be awarded, for labor and material; and
- (b) Anyone may make and/or be awarded for personal injury, including death, or loss or damage to property,

caused in whole or in part in connection with HART's Rail Transit Project.

2. **No Disruption of Utility Services, Including to Storm Drains.** HART and its contractor(s) shall ensure that there is no disruption of utility services, including to storm drains, to the Project. If there is any damage to the utility lines, including to storm drains, HART and HART's contractor(s) must immediately repair the damages so that there is no disruption/break in utility services, including to storm drains. They must also repair and restore and damage to the Project.
3. **Health and Safety; Access to the Project in the Event of an Emergency; HFD's Consent.** Easement U is expressly designated to provide fire engines and emergency vehicles with primary access to/from the Project. For health and safety, the work shall not at any time impede fire engines and other emergency vehicles from immediate access to/from the Project.

HART and its contractor(s) shall inform the Honolulu Fire Department ("HFD"), must obtain HFD's consent to conduct any work which might impede fire engines and emergency vehicles from access to/from the Project through Easement U and provide the AUO evidence of HFD's consent.

HART and its contractor(s), together with HFD's approval, must have in place procedures for HFD fire engines and emergency vehicles to have immediate access at all times to/from the Project, including not as a limitation in the event of a high rise fire, without any impediment.

TAKUSHI WONG LEE 律師 YEE**A LAW CORPORATION**

Mr. Robert Stellmacher/HART

Mr. David C. DePonte/DAGS

Mr. Stanley Fujimoto/HHFDC

RE: HART Request for Right of Entry
 PID 441A. Easement U; Potholing for Column Locations
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4. **Health and Safety Practices and Procedure.** At all times, HART and HART's contractor(s) will have health and safety practices and procedures in place and shall take all steps to protect the health and safety of persons at the Project, including with respect to persons with mobility or cognitive disabilities and persons with, among other considerations, respiratory illnesses. HART and HART's contractor(s) will comply with environmental protection requirements (dust control, dust screens, safety barriers etc.).
5. **Noise and Vibrations.** The HART's and HART's contractor(s) work will not disturb rights of quiet enjoyment of residents and others at the Project and no work will take place during nighttime.
6. **Repair and Replace all Damage to the Project Property and Easement U.** HART and HART's contractor(s) shall be responsible for immediately repairing and replacing any loss or damage to the Project, including common elements, damages to the Easement U pavement, any fence/gate or landscaping, or cleaning of the Project, to the AUO's satisfaction. HART and HART's contractor(s) will repave Easement U.

If HART and/or HART's contractor(s) fail, refuse or neglect to do so within 7 calendar days after notice and demand to HART, the AUO may, in the AUO's sole discretion and without any obligation to do so, undertake such repairs and restoration provided that HART and/or HART's contractors shall not be released from any liability for damages or other relief with respect to all costs and expenses which the AUO shall incur, plus interest which shall accrue at the rate of 18% until fully paid.

7. **HART and HART's Contractor(s) Indemnification.** HART and HART's contractor(s) must indemnify and hold the State of Hawaii and HHFDC and AUO, as their interests appear, harmless from claims, demands, damages, liens, judgements, or other legal or equitable relief for personal injury, including death, to any person(s), and any loss or damage to property, including to the Project, or any part thereof, caused by and arising out of exercise of the right of entry and work, together with all attorneys' fees and costs (without the necessity of filing any lawsuit or claim).

Such indemnification hold harmless agreement shall also indemnify the AUO with respect to any claims, demands, damages, liens, judgements, or other legal or equitable relief to which the State and/or HHFDC may make or be entitled against the AUO arising out of HART's and HART's contractor(s) exercise of the right of entry and work.

8. **HART's and HART's Contractor(s) Use of the Project Driveway for Access to/from Easement U and Parking in the Project Are Not Authorized and are Prohibited at All Times.** HART and HART's contractor(s) have been using the Project driveway for access to/from Easement U and parking at the Project without the AUO's permission.

TAKUSHI WONG LEE & YEE
A LAW CORPORATION

Mr. Robert Stellmacher/HART
Mr. David C. DePonte/DAGS
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PID 441A. Easement U; Potholing for Column Locations
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HART and HART’s contractor(s) are not authorized and are prohibited from using the Project driveway for access to/from Easement U and parking at the Project. They must cease doing so immediately

If HART and/or HART’s contractor(s) continue to park any motor vehicles at the Project, their motor vehicles will be towed from the Project at HART’s and HART’s contractor(s) expense.

- 9. **Communications.** HART will regularly communicate with the AUO regarding the status of construction activities and have a process in place, including contact information, for timely responding to and addressing complaints.
- 10. **AUO Does Not Consent to any Extension of Easement U into or Taking of Any Portion of the Project Land.** Based on the AECOM Right of Way Plan (showing the “potholing strips”) dated 07-08-22, it appears that Easement U will be enlarged into the Project land. **The AUO does not agree to any extension of Easement U into or “taking” of any part of the Project land.**
- 11. **Attorney’s Fees and Costs.** HART agrees to pay the AUO’s attorneys’ fees and costs which the AUO shall incur in connection with obtaining the AUO’s consent or in connection with enforcement of the foregoing conditions.

If HART and HART’s contractor(s), as their interests and responsibilities appear, are unwilling to unconditionally agree to all of the foregoing conditions, the AUO does not consent to granting HART, including HART’s contractor(s), a right of entry into Easement U to conduct the work.

Very truly yours,

TAKUSHI WONG LEE & YEE
A Law Corporation

By: 
DICKSON C.H. LEE

cc: Association of Unit Owners of Senior Residence at Iwilei



March 27, 2024

Dickson C.H. Lee, Esq.
Takushi Wong Lee & Yee
Davies Pacific Center
841 Bishop Street, Suite 925
Honolulu, Hawaii 96813

Dear Mr. Lee:

Subject: HART Request for Right of Entry
Response to Letter from Senior Residence at Iwilei
PID 441A Easement U; Potholing for Column Locations
TMK (1) 1-5-007-001; DAGS Liliha Civic Center

This letter responds to the concerns raised in your letter dated February 5, 2024, on behalf of the Senior Residence at Iwilei Limited Partnership, Pacific Housing Assistance Corporation, and the Association of Unit Owners of Senior Residence at Iwilei (collectively "AUO") regarding HART's request for an access easement over Easement U.

You have recently identified additional conditions for the AUO's consent to the easement in favor of HART. HART has reviewed your requests and is willing to comply with reasonable requirements, keeping in mind that HART has previously taken significant steps to address the AUO's concerns. Specifically, HART reconfigured the proposed guideway to avoid the AUO property and modified plans to increase the storm sewer pipe.

The following sections are in the order identified in your letter.

1. **Additional Insured.** Naming the AUO as an additional insured on HART's insurance and performance and payment bonds is very unusual. This would be difficult to achieve since the AUO and HART have no privity of contract. HART will not add the AUO as an additional insured or provide an indemnity in favor of the AUO.
2. **Disruption of Service.** The concerns about disruption of service were previously addressed when HART advised you that property maps do not show any electrical, sanitary sewer or water lines within Easement U. Since there are no utility lines, there is no reason to anticipate interruption of service. In the event utilities are affected, HART will coordinate necessary planned utility outages with the AUO to minimize any impact.

EXHIBIT D2

Dickson C.H. Lee, Esq.
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3. **Health and Safety; Access; HFD Consent.** The continuing concern regarding access by emergency vehicles has also been addressed previously. HART will comply with all governmental requirements for health and safety practices. HART will maintain emergency access for the AUO in coordination with the Honolulu Fire Department (HFD).

There are a number of existing venues for communication with HFD. HART participates in monthly Fire Life Safety & Security meetings with HFD, Honolulu Police Department, and other emergency responders to review construction status and coordinate construction impacts. There is also coordination with HFD through the City's Department of Transportation Services and the Joint Traffic Management Center to inform emergency response routes.

4. **Health and Safety Practices and Procedures.** The concern related to health and safety practices (in particular, environmental protection requirements) is already addressed by legal requirements. HART is required to comply with City and State requirements, and will comply with Department of Health requirements as it relates to environmental protection requirements. HART and its contractors employ "best practices" in all of its construction activities. To address dust, HART typically uses water for dust control and may choose to install dust screens.
5. **Noise and Vibrations.** To address the concern relating to quiet enjoyment and nighttime work, HART will limit its contractor to prohibit work within Easement U area from 8 p.m to 5 a.m.
6. **Damage to Property.** The request for repairs to the Senior Residence at Iwilei project ("Senior Project") is not applicable since HART is not entering the Senior Project. HART's request for the grant of easement is limited to Easement U, and HART will restore Easement U in accordance with easement requirements prescribed by the State.
7. **Indemnification.** As noted in item 1, the request for holders of easements to indemnify each other is not standard practice and will not be provided by HART.
8. **Senior Project Driveway.** Your notice that HART's contractor has been using the Senior Project driveway and parking areas is being acted upon. HART is taking steps to correct this and has advised its construction team that use of the Senior Project driveway is not allowed.
9. **Communication.** You have requested communication about the construction. HART is willing to meet with the AUO as needed to provide updates about the construction activities and will provide contact information for concerns once construction work is scheduled to begin in the area.
10. **Extension of Easement U.** You raise a concern that Easement U will be enlarged to include the Senior Project property. HART is only asking for an easement for Easement U and is not asking for an easement over the Senior Project. As we mentioned above, HART previously redesigned the

Dickson C.H. Lee, Esq.
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guideway to avoid the Senior Project property. HART has not requested any amendment to the footprint of Easement U.

11. Attorneys' Fees. HART is not able to pay attorneys' fees and costs for the AUO.

HART believes that the concerns of the AUO have been addressed in a thorough and satisfactory manner and will continue to cooperate with the AUO during the construction process. HART has used good faith efforts to respond to the numerous requests from the AUO and we are advising you that HART will be requesting that the DLNR move forward with HART's request for a right of entry and easement over Easement U.

Very truly yours,



Lori M.K. Kahikina, P.E.
Executive Director and CEO

cc: Mr. David C. DePonte, Department of Accounting and General Services
Mr. Stanley Fujimoto, Hawaii Housing Finance and Development Corporation



September 18, 2024

Mr. Keith A. Regan, Comptroller
 Department of Accounting and General Services
 State of Hawaii
 1151 Punchbowl Street
 Honolulu, Hawaii 96813

Dear Mr. Regan:

Subject: Honolulu Rail Transit Project (H RTP)
 Easement U, Liliha Civic Center, 377 North King Street, Honolulu, Hawaii 96817
 Parcel 441A; Tax Map Key (TMKs): (1)-1-5-007:001
Request for Guideway and Column Easement Over State-Owned Land

In connection with the construction of the H RTP, the Honolulu Authority for Rapid Transportation (HART) plans to construct an aerial guideway and support columns over and on portions of the State-owned land situated at 377 North King Street, in an area designated as Easement U.

HART understands that Easement U is currently used as the access route/fire lane used by emergency vehicles serving the Senior Residences at Iwilei (SRILP). HART is committed to preserving an emergency access/fire lane and will provide for such during and after construction of the project improvements. In the event that access is interrupted within Easement U during construction, HART will coordinate an alternate access route with SRILP. Additionally, at the request of SRILP, HART agrees to limit its construction in the area to work hours between 6:00 a.m. and 8:00 p.m.

HART respectfully seeks the Department of Accounting and General Services' assistance to request that the Board of Land and Natural Resources grant HART a Right of Entry to construct the guideway and column improvements and ultimately, enter into a non-exclusive, perpetual easement to operate and maintain the same over and on Easement U.

A survey map of the easement area over Easement U and an overlay of the proposed guideway and column improvements are attached to this transmittal for your review and reference.

EXHIBIT D3

Mr. Keith A. Regan, Comptroller
Page 2
September 18, 2024

Should you have any questions or concerns related to this matter, please contact Mr. Robert Stellmacher, Senior Transit Property Acquisition and Relocation Agent, by phone at (808) 282-9049 or by email at rstellmacher@wdschockco.com. HART appreciates your cooperation in this matter.

Very truly yours,



Lori M.K. Kahikina, P.E.
Executive Director and CEO

Enclosures

cc: Mr. Barry Cheung, Department of Land and Natural Resources
Mr. David DePonte, Department of Accounting and General Services
Mr. Stanley Fujimoto, Hawaii Housing Finance and Development Corporation



TAKUSHI WONG LEE  **YEE**
A LAW CORPORATION

DAVIES PACIFIC CENTER
841 BISHOP STREET, SUITE 925
HONOLULU, HAWAII 96813
PHONE: (808) 543-9808
FAX: (808) 791-0063

DICKSON C. H. LEE
email: lee@twly.org
ALFRED M. K. WONG
(retired)

JAMES N. H. YEE
email: yee@twly.org
ROY E. TAKUSHI
(1927 - 2004)

September 19, 2024

Ms. Lori Kahikina, P.E.
Executive Director and CEO
Honolulu Area for Rapid Transportation
1099 Alakea Street, Suite 1700
Honolulu, Hawaii 96813

Mr. David C. DePonte
Department of Account and General Services
State of Hawaii
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

HART

Mr. Robert Stellmacher
Transit Property Senior Acquisition and
Relocation Agent
1099 Alakea Street, Suite 1700
Honolulu, Hawaii 96813

Mr. Barry Cheung
Department of Land and Natural Resources
State of Hawaii
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

24 SEP 23 17:54

Mr. Keith A. Regan, Comptroller
Department of Accounting and General Services
State of Hawaii
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

Mr. Stanley Fujimoto
Project Manager
Hawaii Housing Finance and Development
Corporation
677 Queen Street, Suite 300
Honolulu, Hawaii 96813

RE: Honolulu Rail Transit Project (H RTP)
Easement U, Liliha Civic Center, 377 North King Street, Honolulu, Hawaii 96817
Parcel 441A, Tax Map Key (TMKs) (1) 1-5-007-001
Request for Guideway and Column Easement Over State Owned Land

Ladies and Gentlemen:

This letter refers to the letter dated September 18, 2024 from Ms. Lori M.K. Kahikina, P.E., HART Executive Director and CEO, to the Department of Accounting and General Services requesting its assistance to request that the Board of Land and Natural Resources grant HART a Right of Entry to construct the guideway and column improvements and ultimately, enter into a non-exclusive, perpetual easement to operate and maintain the same over and on Easement U.¹

We represent the Senior Residence at Iwilei project ("Project") at 888 Iwilei Road, Honolulu, Hawaii 96817 TMK (1) 1-5-007-002, which is a 15-story high rise building comprised of the following:

160 dwellings solely for the elderly, many of whom have physical/mobility limitations. Senior Residence at Iwilei Limited Partnership, a Hawaii limited partnership, is the owner of the housing component; and

Offices for nonprofit organizations, which sponsor the development of affordable housing opportunities for persons and families of very low and low incomes, including the elderly and persons with disabilities. Pacific Housing Assistance Corporation, a Hawaii nonprofit corporation, is the owner of the office component.

¹ Although Senior Residence at Iwilei has a vested, existing property interest in Easement U, it appears that HART is intentionally disregarding such interest where HART did not copy Senior Residence at Iwilei.

EXHIBIT D4

TAKUSHI WONG LEE & YEE

A LAW CORPORATION

Ms. Lori Kahikina, P.E.
Mr. Robert Stellmacher
Mr. Keith A. Regan
Mr. David C. DePonte
Mr. Barry Cheung
Mr. Stanley Fujimoto

RE: Honolulu Rail Transit Project (HRTP)
Easement U, Liliha Civic Center, 377 North King Street, Honolulu, Hawaii 96817
Parcel 441A, Tax Map Key (TMKs) (1) 1-5-007-001
Request for Guideway and Column Easement Over State Owned Land

September 19, 2024

Page 2

Adult day care facility, which is operated by a nonprofit organization and which provides day care for adults, many of whom have physical/mobility limitations and various stages of cognitive disabilities.

The Project has prior, existing easement rights for access and utility purposes over Easement U. (emphasis supplied) Specifically, Easement U is designated to provide fire trucks and emergency vehicles access to/from the Project. There are utility lines within Easement U, which serve the Project. A grant of easement to HART to use Easement U will unreasonably interfere with the Project's easements rights over Easement U without safeguards in place.

The Project objects to a grant to HART a Right of Entry to construct the guideway and column improvements and ultimately, to enter into a non-exclusive, perpetual easement to operate and maintain the same over and on Easement U unless HART unconditionally, minimally agrees as follows:

1. HART's work and improvements – whether during construction or following completion of construction - will not prevent or impede, including limit the size of fire trucks and emergency vehicles, from accessing and exiting the Project through Easement U. Any obstruction will present a significant health and safety hazard. The plans, as they involve Easement U, must be coordinated with and unconditionally approved in writing by the Honolulu Fire Department ("HFD"). HART will provide the Project with a copy of HFD's written approval.
2. It is foreseeable that access to and exiting from the Project by fire trucks and emergency vehicles will be prevented or impeded during construction, any alternate route to enable fire trucks and emergency vehicles to access and exit the Project must be unconditionally approved by HFD in writing. HART will provide the Project with a copy of HFD's written approval.
3. HART, including contractors/their workmen, shall not use the Project for access to/from Easement U. HART, including contractors/their workmen, shall not park any vehicles or equipment or store materials at the Project.
4. If HART's construction activities shall result in any disruption in utility services to the Project, including electricity, water or telecommunications, HART will immediately provide backup utility services to the Project. Further, if HART'S construction activities within Easement U shall damage any utility lines serving the Project, HART will not only immediately repair and replace the utility lines but also be responsible to immediately address any disruption in utility services.

TAKUSHI WONG LEE & YEE

A LAW CORPORATION

Ms. Lori Kahikina, P.E.
Mr. Robert Stellmacher
Mr. Keith A. Regan
Mr. David C. DePonte
Mr. Barry Cheung
Mr. Stanley Fujimoto

RE: Honolulu Rail Transit Project (H RTP)
Easement U, Liliha Civic Center, 377 North King Street, Honolulu, Hawaii 96817
Parcel 441A, Tax Map Key (TMKs) (1) 1-5-007-001
Request for Guideway and Column Easement Over State Owned Land

September 19, 2024
Page 3

5. HART will be responsible for all damages to the Project and for paying or reimbursing the Project for any increased repairs and maintenance, including removal of dust and debris, to the Project arising out of or in connection with the construction of HART's improvements.

6. HART agrees to indemnify, hold harmless and defend with attorneys approved by the Project, including SRILP and PHAC, as their interests appear, from all losses and damages arising out of or in connection with personal injury, including death, and loss and damage to property if

(a) fire trucks and emergency vehicles are impeded or prevented from accessing and exiting the Project during construction and after completion of construction of HART's improvements over Easement U; and

(b) there is any disruption of utility services to the Project,

and to enforce HART obligation to pay and perform its responsibilities and liabilities.

The Project is a 15-story, high rise tower, which serves the elderly and persons with disabilities, including persons with physical/mobility limitations and cognitive disabilities. Some may be susceptible to health issues arising out of dust and noise. (emphasis supplied)

HART agrees - or will be deemed to have agreed if it refuses to agree to or chooses to ignore the above - that HART is solely responsible for ensuring at all times the health, safety, and well-being of all persons at the Project arising out of or in connection with the construction and use of HART's improvements over and within Easement U, including in the event of a high rise fire, interruption of utility services, or other nuisance or event which adversely affect their health, safety, and well-being.

Very truly yours,

TAKUSHI WONG LEE & YEE
A Law Corporation

By: 
DICKSON C.H. LEE

cc: Senior Residence at Iwilei

TAKUSHI WONG LEE & YEE

A LAW CORPORATION

Ms. Lori Kahikina, P.E.
Mr. Robert Stellmacher
Mr. Keith A. Regan
Mr. David C. DePonte
Mr. Barry Cheung
Mr. Stanley Fujimoto

RE: Honolulu Rail Transit Project (HRTTP)
Easement U, Liliha Civic Center, 377 North King Street, Honolulu, Hawaii 96817
Parcel 441A, Tax Map Key (TMKs) (1) 1-5-007-001
Request for Guideway and Column Easement Over State Owned Land

September 19, 2024
Page 4

AGREED:

HONOLULU AUTHORITY for RAPID TRANSPORTATION
a public transit authority of the City and County of Honolulu
as established by the Revised Charter of Honolulu

By: _____ Date _____
Lori M.K. Kahikina, P.E.
Its: Executive Director and CEO



October 10, 2024

Dickson C.H. Lee, Esquire
 Takushi Wong Lee & Yee, A Law Corporation
 Davies Pacific Center
 841 Bishop Street, Suite 925
 Honolulu, Hawaii 96813

Dear Mr. Lee:

Subject: Honolulu Rail Transit Project (HRTTP)
 Easement U, Liliha Civic Center, 377 North King Street, Honolulu, Hawaii 96817
 Parcel 441A; Tax Map Key (TMK): (1) 1-5-007-001
Response to Letter dated September 19, 2024

Thank you for your letter dated September 19, 2024. Please be aware that HART has addressed the items multiple times over the years. Considering the accommodations HART has made, we believe the conditions outlined in the letter are not appropriate. Furthermore, in the last paragraph, it is implied that HART would be bound by a unilateral statement, suggesting that HART will be deemed to agree. Please be advised that HART does not agree to any obligations imposed by this unilateral statement.

Very truly yours,

Lori M.K. Kahikina, P.E.
 Executive Director and CEO

cc: Mr. Keith A. Regan, Department of Accounting and General Services
 Mr. David C. DePonte, Department of Accounting and General Services
 Mr. Barry Cheung, Department of Land and Natural Resources
 Mr. Stanley Fujimoto, Project Manager, Hawaii Housing Finance and Development Corporation
 Mr. Robert Stellmacher, Transit Property Senior Acquisition and Relocation Agent

EXHIBIT D5



December 18, 2024

Mr. Keith A. Regan, Comptroller
 Department of Accounting and General Services
 State of Hawaii
 1151 Punchbowl Street
 Honolulu, Hawaii 96813

Dear Mr. Regan:

Subject: Honolulu Rail Transit Project (H RTP)
 Easement U, Liliha Civic Center, 377 North King Street, Honolulu, Hawaii 96817
 Parcel 441A; Tax Map Key (TMKs): (1)-1-5-007:001
Request for Two-Week Right of Entry Over State-Owned Land

In connection with the construction of the H RTP, the Honolulu Authority for Rapid Transportation (HART) previously requested a Construction Right of Entry (CROE) and Grant of Easement (GOE) for the construction, maintenance, and operation of a portion of the Honolulu Rail Transit Project over, under, through, and across portions of State-owned land situated at 377 North King Street, in an area designated as Easement U. It is understood that HART's request is under review and requires approval from the Department of Land and Natural Resources Land Board. In the meantime, HART is submitting this request for a two-week limited right of entry (ROE) for Easement U for the purpose of performing exploratory geotechnical borings as part of necessary preconstruction work. As discussed, the requested date of access for this ROE is January 13, 2025.

The scope of work for the geotechnical borings includes drilling holes at locations of proposed guideway columns that will be constructed under the subsequent CROE for the purpose of conducting soil testing. The general locations of the soil borings are identified on the attached map. The testing will be done offsite, and the removed soil will be properly disposed of. Surface disruptions will be backfilled and patched to match the preexisting condition of the area.

HART understands that a portion of Easement U is used as an access route/fire lane for emergency vehicles serving the Senior Residences at Iwilei (SRILP). HART will preserve emergency access to Iwilei Road during the duration of this short-term ROE. In the event that use of the fire lane is interrupted within Easement U during the work, HART will provide an alternate access route and coordinate this with the Honolulu Fire Department. Additionally, HART will limit its preconstruction activities in the area to work hours between 6:00 a.m. and 8:00 p.m. to minimize disruption to SRILP residents.

EXHIBIT D6

Mr. Keith A. Regan, Comptroller
Page 2
December 18, 2024

Should you have any questions or concerns related to this matter, please contact Mr. Robert Stellmacher, Senior Transit Property Acquisition and Relocation Agent, by phone at (808) 282-9049 or by email at rstellmacher@wdschockco.com. HART appreciates your cooperation in this matter.

Very truly yours,



Lori M.K. Kahikina, P.E.
Executive Director and CEO

Attachment

cc: Mr. Barry Cheung, Department of Land and Natural Resources
Mr. David DePonte, Department of Accounting and General Services
Mr. Stanley Fujimoto, Hawaii Housing Finance and Development Corporation



TAKUSHI WONG LEE & YEE
A LAW CORPORATION

P.O. BOX 25215
HONOLULU, HAWAII 96825
PHONE: (808) 543-9800

DICKSON C. H. LEE
email: lee@twly.org
ALFRED M. K. WONG
(retired)

JAMES N. H. YEE
email: yee@twly.org
ROY E. TAKUSHI
(1927 - 2004)

December 29, 2024

Ms. Lori M.K. Kahikina, P.E.
HART Executive Director and CEO
1099 Alakea Street, Ste. 1700
Honolulu, Hawaii 96813

Dear Ms. Kahikina:

Subject: HART Request for Right of Entry
- PID 441A Easement U; Potholing for Column Locations
TMK (1) 1-5-007-001; DAGS Liliha Civic Center

This letter refers to your letter dated December 18, 2024 to Comptroller Keith A. Regan/Department of Accounting and General Services requesting a two-week limited right of entry for Easement U in order to perform exploratory geotechnical borings beginning January 13, 2025, a copy of which was forwarded to the Association of Unit Owners of Senior Residence at Iwilei ("AUO").

Easement U is specifically designated to provide access for fire trucks and emergency vehicles to/from the Project.

HART continues to ignore the AUO's, including its members', easement rights over, under and across Easement U where HART does not directly inform the AUO of HART's entry into Easement U.

The AUO responds as follows:

1. Easement U provides access to/from the Senior Residence at Iwilei ("Project"), which provides affordable housing opportunities for the elderly, some of whom have mobility issues. The Project also includes an adult day care facility which serves the elderly and others who are incapacitated, including with cognitive disabilities, and mobility issues.

Although HART represented that HART will preserve or provide an alternate access route for emergency vehicles to access and exit from the Project, HART has not provided any confirmation that it has informed and coordinated with Honolulu Fire Department and approved procedure/access in the event of an emergency. Hart is requested to provide written confirmation from HFD that HFD has approved a procedure for access/exiting the Project in the event use of Easement U is obstructed due to HART's activities.

2. HART is and continues to be informed – but has repeatedly ignored – that there are utility lines under Easement U which serve the Project. What is HART's response for addressing any damage to the utility lines within Easement U which serve the Project?
3. The AUO does not authorize HART or its contractors/subcontractors to use the Project for access to/from Easement U or to park motor vehicles at the Project.

HART must be mindful of and accept full responsibility for the health and safety of the persons whom the Project serves and any loss or damage to the Project.


EXHIBIT D7

Ms. Lori M.K. Kahikina, P.E.
HART Executive Director and CEO
Subject: HART Request for Right of Entry
PID 441A Easement U; Potholing for Column Locations
TMK (1) 1-5-007-001; DAGS Liliha Civic Center
December 29, 2024
Page 2

The AUO's, including its members, does not consent to HART's entering Easement U unless HART addresses the above matters. All rights and remedies are reserved.

Very truly yours,

TAKUSHI WONG LEE & YEE
A Law Corporation

By: 
DICKSON C.H. LEE

cc: Association of Unit Owners of Senior Residence at Iwilei
Comptroller Keith A. Regan/Department of Accounting and General Services
Mr. Barry Cheung/Department of Land and Natural Resources
Mr. Stanley Fujimoto/Hawaii Housing Finance and Development Corporation

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



DEAN MINAKAMI
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 557-0600

IN REPLY REFER TO:
24:DEV/0143

December 30, 2024

Ms. Lori M.K. Kahikina, P.E.
Executive Director and CEO
Honolulu Authority for Rapid Transportation
1099 Alakea Street, Suite 1700
Honolulu, Hawaii 96813

RECEIVED
LAND DIVISION
2025 JAN -2 PM 2:33
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Dear Ms. Kahikina:

Subject: HART Request for Right-of-Entry
Easement U, Liliha Civic Center
377 North King Street, Honolulu, Hawaii
Tax Map Key No. (1) 1-5-007: 001

The Hawaii Housing Finance and Development Corporation (HHFDC) acknowledges receipt of your request dated December 18, 2024 for a two-week right-of-entry (ROE) over the Easement U at the Liliha Civic Center, 377 North King Street, Honolulu, Hawaii, Tax Map Key No. (1) 1-5-007: 001 (Easement U) commencing on January 13, 2025 for geotechnical borings for the Honolulu Rail Transit Project.

Easement U is subject to a Grant of Non-Exclusive Easement to HHFDC dated March 13, 2013 for access and utility purposes.¹ The parcel adjacent to Easement U on the western side, 888 Iwilei Road, Tax Map Key No. (1) 1-5-007: 002 (Property), was set aside to the Housing and Community Development Corporation, HHFDC's predecessor agency, by Governor's Executive Order No. 4130 dated October 24, 2005 for an affordable rental housing project.²

On August 1, 2016, HHFDC executed the Second Amended and Restated Ground Lease and Condominium Conveyance Document with the Senior Residence at Iwilei Limited Partnership (SRILP) conveying the Property, with Easement U, to the SRILP for 55 years for the Residential Unit of the Senior Residence at Iwilei project (Project), a 160-unit affordable senior rental

¹ Recorded at the State of Hawaii Bureau of Conveyances (BOC) as Document No. A-48340637.
² Recorded at the BOC as Document No. 2007-071971 and the State of Hawaii Office of Assistant Registrar (OAR) as Document No. 3591387 on Certificate of Title (CT) No. 85,214.

EXHIBIT E

Ms. Lori M.K. Kahikina, P.E.
Executive Director and CEO

Re: HART Request for Right-of-Entry, Easement U, Liliha Civic Center,
377 North King Street, Honolulu, Hawaii, Tax Map Key No. (1) 1-5-007: 001
December 30, 2024

Page 2

housing project.³ The Commercial Unit was similarly conveyed to Pacific Housing Assistance Corporation (PHAC) for 55 years by Condominium Conveyance Document dated August 1, 2016.⁴ The Project was completed in February 2014 at a cost of approximately \$67 million. The Condominium Conveyance Documents to SRILP and PHAC are herein referred to collectively as Ground Leases, and SRILP and PHAC are herein referred to collectively as the Lessees of the Property.

During the terms of the Ground Leases at the Property, HHFDC considers the Lessees as the owners, in substance, of the Property and Easement U. Therefore, HHFDC defers HART's request for an ROE at Easement U to its Lessees of the Property. Please communicate your request directly with HHFDC's Lessees regarding the Property, Easement U, and their Project, with a copy to HHFDC.

Should there be any questions or comments regarding this matter, please contact Stan S. Fujimoto, Project Manager, at (808) 587-0541.

Sincerely,


Dean C. Minakami
Executive Director

c: Senior Residence at Iwilei Limited Partnership
Pacific Housing Assistance Corporation
Barry Cheung, Department of Land and Natural Resources
David DePonte, Department of Accounting and General Services

³ Recorded at the BOC as Document No. A-60600150 and at the OAR as Document No. T-9712089 on CT No. 85214.

⁴ Recorded at the BOC as Document No. A-60600152 and at the OAR as Document No. T-9712091 on CT No. 85214.