

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

October 10, 2025

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

Ref No. 16OD-071

OAHU

Amend Prior Board Action of May 27, 2016, (Item D-11), Consent to Assign, and Amend Grant of Non-Exclusive Easement No. S-5910, Richard E. Reese, Trustee of the unrecorded Richard E. Reese Living Trust dated July 14, 1993, as Assignor, to Thomas R. Hammond and Kathy S. Ohara, as Assignee; as amended by Board action of March 10, 2017, (Item D-5), Amend change in ownership of the adjacent private property to Janine S. Clifford, Trustee of the Janine S. Clifford Trust dated January 26, 2007, restated October 22, 2010, and amended September 25, 2012 and June 2, 2015, as Assignee; Makiki, Honolulu, Oahu, Tax Map Key: (1) 2-5-020: portion of 002.

This amendment is to seek authorization to remove the signature block for the assignors in the standard consent to assignment document regarding the assignments of Grant of Non-Exclusive Easement No. S-5910; and update the insurance provision to the current standards.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT

The request before the Board is simply to amend a prior Board Action that is meant to resolve the issue of pending previous consent to assignment documents as related to Non-Exclusive Easement No. S-5910 that was granted by the Board on January 14, 2005, as Item D-14. The proposed action does not constitute a trigger under Hawaii Revised Statutes (“HRS”) Chapter 343 and therefore compliance under HRS Chapter 343 and Hawaii Administrative Rules (“HAR”) Chapter 11-200.1 is not applicable at this time.

Nevertheless, Staff notes that the subject non-exclusive easement has previously gone through environmental review analyses as outlined in the 2005 staff submittal and the subsequent May 27, 2016 staff submittal.

For background purposes, the granting of the Non-Exclusive Easement was triggered by a site survey (**Exhibit 1**) that revealed that a portion of an existing home, specifically a corner of an elevated lanai, located on Tax Map Key (“TMK”): (1) 2-5-008:006 had encroached on to an approximately 12 square foot area of adjacent State land located within the State Land Use Conservation District, further identified as TMK: (1) 2-5-020: portion of 002. The 2005 staff submittal noted that the Office of Conservation and Coastal Lands

(“OCCL”) determined that the lanai pre-dated the advent of the Conservation District in 1964 which also meant that the lanai pre-dated the enactment of the environmental assessment law in 1974.

Subsequently, an Exemption Notification was prepared for Item D-11 which was heard before the Board on May 27, 2016 for the consent to assign and to amend the grant of the non-exclusive easement (**Exhibit 2**). In accordance with HAR, Section 11-200-8¹ and the 2015 Exemption List for the Department, the action was found to be exempt pursuant to Exemption Class No. 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing", Item 47, "Leases of state land involving negligible or no expansion or change of use beyond that previously existing." The Exemption Notification was approved by the Chairperson at the time.

Staff further notes that since the granting of the non-exclusive easement in 2005, the original property owner of parcel 6, nor any of the subsequent owners, have requested to extend or develop below the portion of the elevated lanai structure within the easement area. As the structure has been in place for over 50 years, and no additional work is being proposed or granted by the current amendment request, no significant impacts to the environment are anticipated as a result of the proposed amendments.

BACKGROUND:

At its meeting of January 14, 2005, under agenda item D-14, the Board approved the issuance of a non-exclusive easement for a 39-square foot lanai overhang encroachment on State land to Richard E. Reese, Trustee of the Richard E. Reese Revocable Living Trust (“Reese”), who was the owner of the abutting private property further identified as TMK (1) 2-5-008:006 (“Parcel 6”). The Grant of Non-Exclusive Easement No. S-5910 (“GL5910”) was consummated and commenced on June 8, 2007 for a term of 55 years, subject to a lump sum payment of \$500.²

By way of a warranty deed recorded as document no. A-52870157, on June 23, 2014, in the Bureau of Conveyances, Reese sold Parcel 6 to Thomas R. Hammond and Kathy S. Ohara (“Hammond/Ohara”). GL5910 was cited in the legal description of the property conveyed, resulting in the deeds serving as an assignment of the easement and triggering the need for the Board to consent to the assignment of GL5910.

Staff brought the request for consent to assign between Reese and Hammond/Ohara and amendment of GL5910 to the Board on May 27, 2016, agenda item D-11. The request was approved and the consent to assignment document was sent to Reese, but we never received a signed consent document, nor any communication on the matter.

¹ The current Environmental Impact Statement Rules (HAR Chapter 11-200.1) went into effect August 9, 2019. The 2016 exemption was done under what is referred to as the “old rules.”

² Staff appraiser determined the lump sum payment at \$500 on February 13, 2007.

In 2016, Hammond/Ohara sold Parcel 6, including GL5910 to Janine S. Clifford, Trustee of the Janine S. Clifford Trust dated January 26, 2007, restated October 22, 2010, and amended September 25, 2012 and June 2, 2015, who has since married and changed her name to Janine Toshie Shinoki-Evans (“Shinoki-Evans”), and whose trust instrument is now known as the Janine T. Shinoki-Evans Trust dated January 26, 2007, as amended, as recorded at the Bureau of Conveyances of the State of Hawaii as Document No. 87330634. Again, GL5910 was cited in the legal description of the property conveyed, resulting in the deeds serving as an assignment of the easement and triggering the need for the Board to consent to the assignment of GL5910. In a letter dated January 30, 2017, the current owner requested that she be recognized as the grantee of GL5910.

On March 10, 2017, under agenda item D-5 (**Exhibit 3**), the Board amended the prior Board action of May 27, 2016 by changing the consent to assign applicant to Shinoki-Evans. Unfortunately, Hammond/Ohara did not return a signed consent to assign document. In short, the assignment process was stalled due to a lack of proper signatures during the assignment process.

The standard consent to assignment used by the Department of the Attorney General includes a signature block for the Assignor/Grantor, who makes the following acknowledgment in the consent:

FURTHERMORE, Assignor hereby acknowledges that the Grantor’s consent to the assignment of this grant of non-exclusive easement, does not release the Assignor of any and all responsibilities, obligations, liabilities, and all claims respecting or arising under or out of said grant of non-exclusive easement.

Contact information for previous owners/parties of Reese and Hammond/Ohara is unknown. Staff recommends that the consent to assignment instrument be prepared without requiring the signatures of any of the Applicants’ predecessors-in-interest and without the standard assignor acknowledgment provision quoted above. Instead, staff recommends including the following acknowledgment in the consent:

FURTHERMORE, Assignee hereby acknowledges that the Grantor’s consent to assignment of this grant of non-exclusive easement No. S-5910, does not release the Assignee of any and all responsibilities, obligations, liabilities, and claims respecting or arising under or out of said grant of non-exclusive easement.

Staff believes the recommendation is judicious and appropriate in which Shinoki-Evans will provide the required liability insurance and assume the obligation under GL5910 to maintain the easement area.

Staff recommends that the Board amend the easement to inure to the benefit of the said abutting property to decrease the need to come before the Board regarding any future

consent to assignment(s).

Shinoki-Evans has not had any known lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The Office of Conservation and Coastal Lands was consulted in 2016 and had no objection to the subject request. There are no other pertinent issues or concerns, and Staff has no objection to the subject request.

Staff recommends the Board consent to the assignment from Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as Assignor, through mesne assignments, to Janine Toshie Shinoki-Evans, as Trustee of the Janine T. Shinoki-Evans Trust dated January 26, 2007, as amended; and authorize the amendment of GL5910 pursuant to the terms and conditions described above.

RECOMMENDATION: That the Board amend its prior action of May 27, 2016, Item D-11, as amended by Board action of March 10, 2017, Item D-5, by replacing the entire Recommendation section of the March 10, 2017, D-5 submittal as follows (2025 languages are underscored):

“A. Consent to the following assignments of Grant of Non-Exclusive Easement No. S-5910:

1. From Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as the Assignor, to Thomas R. Hammond and Kathy S. Ohara, as the Assignee.
2. From Thomas R. Hammond and Kathy S. Ohara, as Assignor, to Janine Toshie Shinoki-Evans, Trustee of The Janine T. Shinoki-Evans Trust dated January 26, 2007, as amended, as Assignee.

The consent to assignment shall further be subject to the following:

- A. The standard terms and conditions of the most current consent form, as may be amended from time to time; provided, however that the consent instrument shall not require the signature of any of Applicants’ predecessors-in-interest, and the standard assignor acknowledgment provision identified above shall not be included in the consent;
- 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.”

B. Amend the Grant of Non-Exclusive Easement No. S-5910 by adding the following

conditions:

1. Throughout the term (unless sooner abandoned or otherwise terminated herein), this easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 2-5-008:006, provided however, that the Grantee shall carry the required liability insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee's estate, shall notify the Grantor in writing when this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;
2. Replacing paragraph 11 of the subject easement with the current insurance provision.
3. Review and approval by the Department of the Attorney General; and
4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State."

Respectfully Submitted,



Darlene Bryant-Takamatsu
Land Agent

APPROVED FOR SUBMITTAL:



Dawn N.S. Chang, Chairperson

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

May 27, 2016

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

Ref No. PSF 16OD-071

Oahu

Consent to Assign, and Amend Grant of Non-Exclusive Easement No. S-5910, Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as Assignor, to Thomas R. Hammond and Kathy S. Ohara, as Assignee; Makiki, Honolulu, Oahu, Tax Map Key: (1) 2-5-020: portion of 002.

APPLICANT:

Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as Assignor, to Thomas R. Hammond and Kathy S. Ohara, as Assignee, as Joint Tenants.

LEGAL REFERENCE:

Section 171-6 and 36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of lands situated at Makiki, Honolulu, Oahu, identified by Tax Map Key: (1) 2-5-020: portion of 002, as shown on the attached map labeled as **Exhibit 1**.

AREA:

39 square feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CHARACTER OF USE:

Lanai Overhang purposes.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

May 27, 2016 uo.

D-11

Exhibit 2

TERM OF EASEMENT:

55 years, commencing on June 8, 2007 and expiring on June 7, 2062.

EASEMENT RENTAL:

\$500.00 one-time payment paid.

CONSIDERATION:

\$10.00.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing", Item 47, "Leases of state land involving negligible or no expansion or change of use beyond that previously existing." See exemption declaration attached as **Exhibit 2**.

DCCA VERIFICATION:

Not applicable, as property owner.

REMARKS:

At its meeting of January 14, 2005, under agenda item D-14, the Board had approved of the issuance of Non-Exclusive Easement S-5910 for encroachment (overhang lanai) to Richard E. Reese, Trustee of the Richard E. Reese Revocable Living Trust, as the Grantee.

By way of a warranty deed document identified as A-52870157, recorded on June 23, 2014 in the Bureau of Conveyances, the Richard E. Reese Revocable Living Trust sold the private property that abuts the subject lanai overhang easement to Thomas R. Hammond and Kathy S. Ohara. This event transferred property ownership rights and triggers the need for the Board to consent to the assignment of the subject easement.

Staff brings this request to the Board to seek its consent for the assignment of the subject lanai overhang easement, as included in the said warranty deed of the abutting privately-owned property.

In the event of changes to the ownership of the abutting privately-owned property, staff recommends that the Board now amend the easement to inure to the benefit of the said abutting property, to eliminate the consent needed from the Board regarding any future assignment(s). The current owners have no objections to the request.

The current owners of the abutting private property have not had any known lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Office of Conservation and Coastal Lands has no objection to the subject request. There are no other pertinent issues or concerns, and staff has no objection to the subject request.

RECOMMENDATION: That the Board

A. Consent to the assignment of Grant of Non-Exclusive Easement No. S-5910 from Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as the Assignor, to Thomas R. Hammond and Kathy S. Ohara, as the Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

B. Amend the Grant of Non-Exclusive Easement No. S-5910 by adding the following condition:

“Throughout the term (unless sooner abandoned or otherwise terminated herein), this easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 2-5-008:006, provided however, that the Grantee shall carry the required liability insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee’s estate, shall notify the Grantor in writing when this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee’s successors or assigns of the insurance requirement in writing, separate and apart from the easement document”; further subject to the following:

1. Review and approval by the Department of the Attorney General; and
2. Such other terms and conditions as may be prescribed by the Chairperson

BLNR- Consent to Assignment
of Easement No. S-5910

Page 4

May 27, 2016

to best serve the interests of the State.

Respectfully Submitted,



Timmy Chee
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



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

March 10, 2017

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

PSF No.: 16OD-071

OAHU

Amend Prior Board Action of May 27, 2016, (Item D-11), *Consent to Assign and Amend Grant of Non-Exclusive Easement No. S-5910, Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as Assignor, to Thomas R. Hammond and Kathy S. Ohara, as Assignee; Makiki, Honolulu, Oahu, Tax Map Key: (1) 2-5-020: portion of 002.*

An amendment is required due to the recent change in ownership of the adjacent private property to Janine S. Clifford, Trustee of The Janine S. Clifford Trust dated January 26, 2007, restated October 22, 2010, and amended September 25, 2012 and June 2, 2015, as Assignee.

BACKGROUND:

On May 27, 2016, under agenda item D-11, the Board approved of the consent to assign regarding the Grant of Non-Exclusive Easement No. S-5910 from Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as Assignor, to Thomas R. Hammond and Kathy S. Ohara, as Assignee. The same submittal also authorized the amendment of the subject easement by addition of the condition that allows the easement run with the adjoining private property. A copy of the approved Board submittal is attached as **Exhibit A**.

Pursuant to the warranty deed recorded as document no. A-60190092 on June 24, 2016, the ownership of the adjacent private property was subsequently transferred from Thomas R. Hammond and Kathy S. Ohara to Janine S. Clifford, Trustee of The Janine S. Clifford Trust dated January 26, 2007, restated October 22, 2010, and amended September 25, 2012 and June 2, 2015. In short, the ownership of the private property was changed prior to the consummation of the documents. Currently, the new owner requests the change in grantee for the subject easement.

For housekeeping purposes, staff recommends the Board consent to the assignment from Thomas R. Hammond and Kathy S. Ohara, as Assignor to Janine S. Clifford, Trustee, as Assignee as described above. Upon approval of today's request, staff will finalize the documents accordingly.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
March 10, 2017 ue

D-5

Exhibit 3

RECOMMENDATION: That the Board amend its prior action of May 27, 2016, item D-11, by replacing the entire Recommendation Section with the following:

- “A. Consent to the assignment of Grant of Non-Exclusive Easement No. S-5910 from Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as the Assignor, to Thomas R. Hammond and Kathy S. Ohara, as the Assignee, subject to the following:
1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Consent to the assignment of Grant of Non-Exclusive Easement No. S-5910 from Thomas R. Hammond and Kathy S. Ohara, as Assignor, to Janine S. Clifford, Trustee of The Janine S. Clifford Trust dated January 26, 2007, restated October 22, 2010, and amended September 25, 2012 and June 2, 2015, as Assignee, subject to the following:
1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- BC. Amend the Grant of Non-Exclusive Easement No. S-5910 by adding the following condition:
- “Throughout the term (unless sooner abandoned or otherwise terminated herein), this easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 2-5-008:006, provided however, that the Grantee shall carry the required liability insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee’s estate, shall notify the Grantor in writing when this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee’s successors or assigns of the insurance requirement in writing, separate and apart from the easement document”; further subject to the following:
1. Review and approval by the Department of the Attorney General; and

2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.”

Respectfully Submitted,



Timmy Chee
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

