

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

August 23, 2013

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

PSF No.:10OD-090

OAHU

Grant of Perpetual, Non-Exclusive Easement to the City and County of Honolulu for Drainage Purposes, Issuance of Management Right-of-Entry; Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-021:Seaward of 038.

APPLICANT:

City and County of Honolulu

LEGAL REFERENCE:

Section 171-53(c), 55, and 95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kaneohe, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-4-021:seaward of 038, as shown on the map attached as Exhibit A.

AREA:

679 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair easement for drainage purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to 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." and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation.", as explained in **Exhibit B**.

DCCA VERIFICATION:

Not applicable. Government agency.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost (Note: City already provided the items); and
- 2) Obtain concurrent resolution from the Legislature pursuant to 171-53 (c), HRS.

REMARKS:

During the shoreline certification process for the private property designated as TMK (1) 4-4-021:038 ("Parcel 38"), staff noted there was a drainage structure located makai of Parcel 38,

and not belonging to any private property. According to the City and County of Honolulu ("City"), the drainage structure was constructed as part of the King Subdivision developed in the neighborhood and subsequently dedicated to the City as part of the subdivision improvements in 1968. While the actual date of construction is unknown to the staff, the dedication completed in 1968 indicates the drainage structure itself probably can be considered as non-conforming use in the context of the permitting requirements regulated by the Office of Conservation and Coastal Lands ("OCCL") and Department of Health ("DOH"). As noted below, DOH has no objection to the request and OCCL has not responded to the request for comments. The City requests the Board authorize the issuance of an easement to document the drainage structure. A copy of survey regarding the requested area is attached as **Exhibit C**.

The 679-square foot drainage structure is located makai of the shoreline, which will be considered as a portion of submerged lands for the purpose of this request. Pursuant to §171-53(c), HRS, a concurrent resolution from the legislature and Governor approval are required prior to the issuance of the easement. Upon approval of today's request, the City will be advised to introduce the resolution at the next available legislative session while staff will seek the approval from the Governor.

Department of Planning and Permitting, Board of Water Supply, Commission on Water Resource Management, Division of Aquatic Resources, and DOH have no objections/comments on the request. State Historic Preservation Division, OCCL, Department of Design and Construction, and Office of Hawaiian Affairs have not responded to the solicitation for comment regarding the subject request.

In view of the time required to obtain the resolution from the Legislature, staff recommends the Board issue an immediate management right-of-entry to the City pending the receipt of the resolution and the consummation of the easement document.

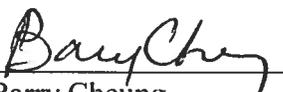
There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to the City and County of Honolulu covering the subject area for drainage 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, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the issuance of an immediate management right-of-entry to the City and County of Honolulu covering the subject area for drainage purposes further subject to the following:
- A. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

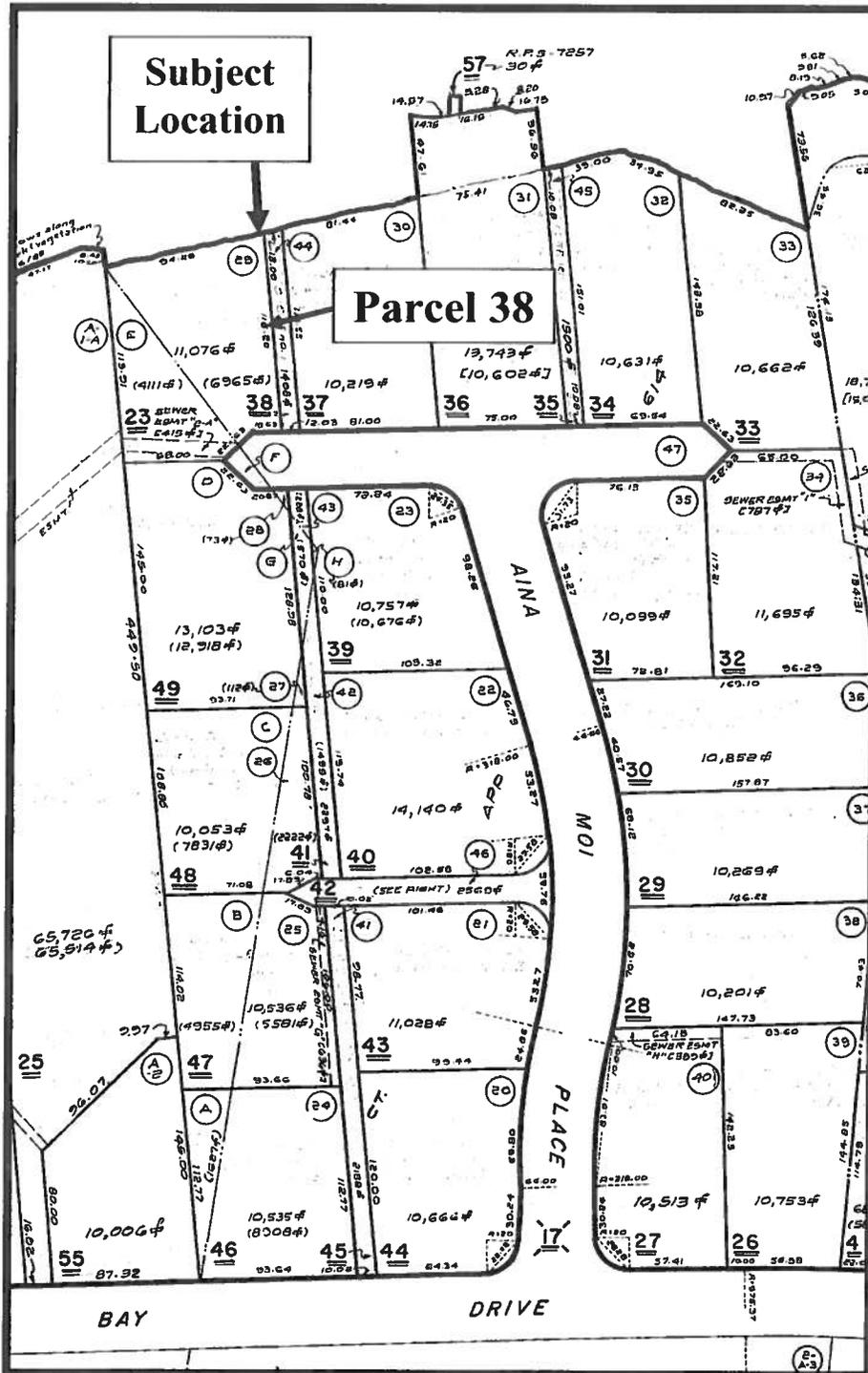
Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson





TMK (1) 4-4-021:seaward of 038

EXHIBIT A

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Term Easement for Drainage Purposes
Project / Reference No.: PSF 100D-090
Project Location: Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-21:38 seaward.
Project Description: Easement to document the drainage structure on State lands.
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4), the subject request is exempt from the preparation of an environmental assessment pursuant to 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" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

The subject drainage structure was dedicated the City in 1968 while the actual date of construction is known to the staff. the dedication date indicates the structure itself probably can be considered as non-conforming use in the context of the permitting requirements regulated by the Office of Conservation and Coastal Lands and Department of Health. The City is not planning on conducting major change to the existing topographical and vegetation condition of the property. As such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Department of Health and Office of Conservation and Coastal Lands.

Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



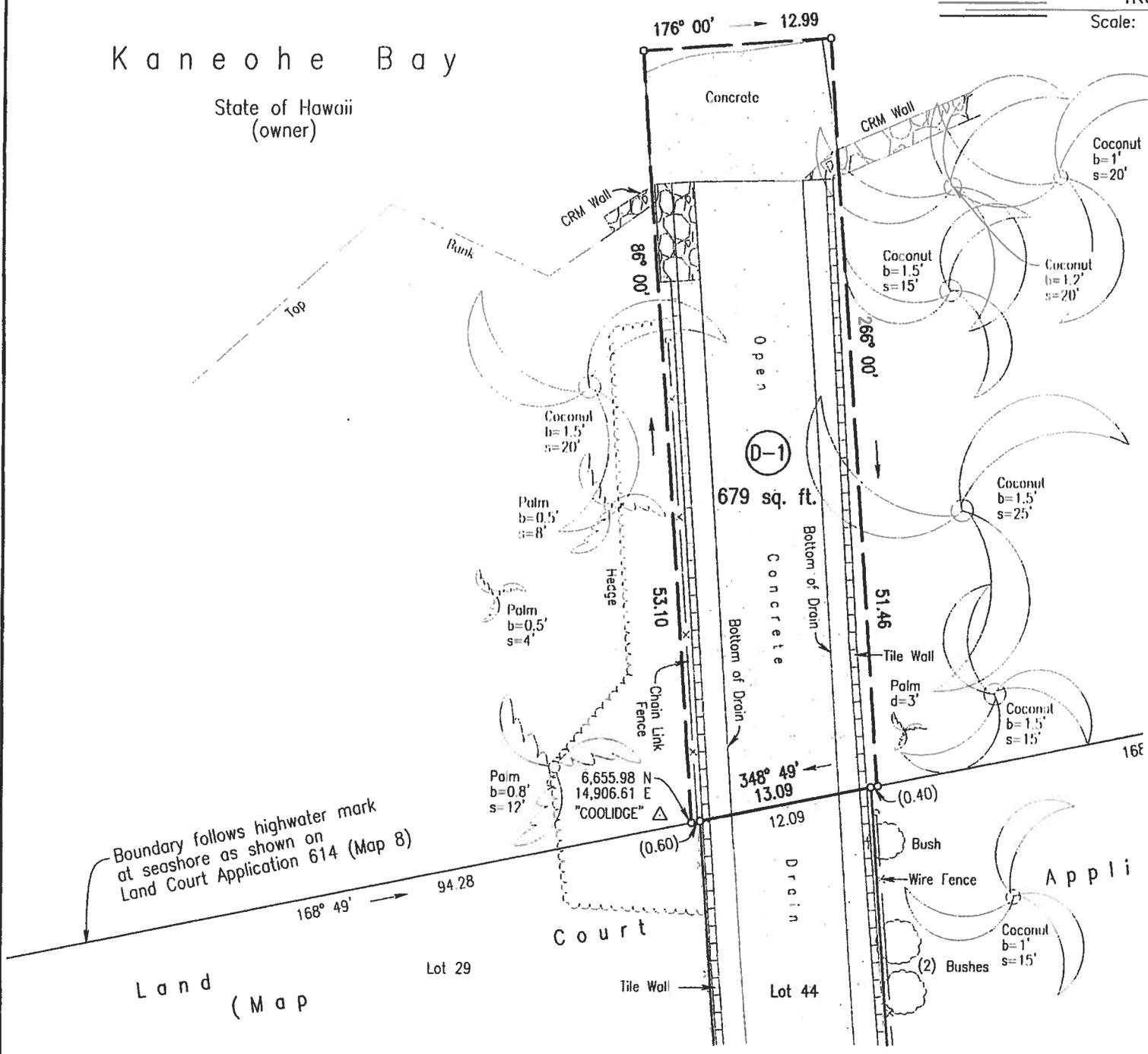
William J. Aila Jr., Chairperson

Date 7/31/13

EXHIBIT B

Kaneohe Bay

State of Hawaii
(owner)



ENLARGEMENT

Scale: 1 in. = 10 ft.

Legend

- (D-1) Denotes Drain Easement
- b bole
- CRM Concrete Rubble Masonry

EXHIBIT "C"