

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

October 11, 2013

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

PSF No.: 02OD-321

OAHU

Amend Prior Board Action of December 13, 2002, Item D-9 by Changing the Applicant from Yamashiro Investments & Yoshiko Yamashiro, Trustee of the Yoshiko Yamashiro Trust to Yamashiro Investments, and the Grant of Term, Non-Exclusive Easement of Seawall Purposes, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-018: 069 Seaward.

**BACKGROUND:**

On December 13, 2002, under agenda item D-9, the Board approved the issuance of a fifty-five (55) year seawall easement to Yamashiro Investments & Yoshiko Yamashiro, Trustee of the Yoshioko Yamashiro Trust. A copy of the approved Board submittal is attached as **Exhibit 1**.

During the preparation of the easement document, the Department of the Attorney General noted that Yamashiro Investments, a domestic general partnership, is currently holding 100% interest of the abutting property. In addition, the condition allowing the easement run with the abutting property was not included in the 2002 approval.

Staff recommends the Board amend its prior action of the subject request by noting Yamashiro Investments as the applicant and adding the condition as noted above in the requested easement.

**RECOMMENDATION:** That the Board amend its prior action of December 13, 2002, Item D-9 by:

1. Changing the Applicant to Yamashiro Investments.
2. Adding the following condition:

“The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 4-4-018:069, 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 Grantee's successors or assigns of the insurance requirement in writing,

separate and apart from this easement document.”

3. All other terms and conditions listed in its December 13, 2002 approval shall remain the same.

Respectfully Submitted,



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Timmy Chee  
Land Agent

APPROVED FOR SUBMITTAL:



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William J. Aila, Jr., Chairperson



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

December 13, 2002

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

PSF No.:02od-321

OAHU

Grant of a Term Non-exclusive Easement for Seawall to Yamashiro Investments & Yoshiko Yamashiro Trusts, Kaneohe, Koolaupoko, Oahu, TMK (1) 4-4-18:069, seaward.

APPLICANT:

Yamashiro Investments & Yoshiko Yamashiro, Trustee of the Yoshiko Yamashiro Trust dated 10/21/80 whose mailing address is Kaneohe, Hawaii 96744.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kaneohe located seaward of (1) 4-4-18:069, Kaneohe, Koolaupoko, Oahu, as shown on the attached map labeled Exhibit A.

AREA:

55 square feet, more or less, to be determined by Survey Division, DAGS.

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: YES \_\_\_\_\_ NO   x  

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

December 13, 2002

Item D-9

EXHIBIT 1

BLNR - Issuance of easement for  
seawall-Yamashiro

December 13, 2002

CURRENT USE STATUS:

Unencumbered

CHARACTER OF USE:

Right, privilege and authority to use, repair and maintain seawall purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

LEASE TERM:

Fifty-five (55) years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

During recent inspection, Coastal Land Program (CLP) staff observed the subject seawall appeared long established before 1974 i.e. prior to the enactment of the environmental assessment law.

DCCA VERIFICATION:

Individual, not applicable

APPLICANT REQUIREMENTS:

Applicant shall be required to pay for an appraisal to determine one-time payment.

REMARKS:

The applicant is one of the pier owners participating in the Kaneohe Piers Amnesty Program. During the preparation of the maps required for the issuance of the pier lease, a rock seawall was shown to be encroaching onto the State lands. The encroaching area is about 55 square feet (see Exhibit B).

The Coastal Land Program staff has determined that the issuance of an easement for the encroaching portion of the seawall and reclaimed land would have no adverse impacts on natural resources, including beach resources and therefore has no objections to the issuance of an easement. The Coastal Land Program (CLP) staff reviewed the applicants' encroachment history and visited the area. The CLP staff recommended an easement be issued by the Land Office (see CLP letter, Exhibit C).

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.

Staff does not recommend imposing a fine, pursuant to Section 171-6(12), for the seawall encroachment constructed without prior consent by the State based on the encroachment being less than the 100 square foot threshold. There was no fine for violation of the Conservation District land use, as the CLP staff cannot prove the encroachment was actually built in the Conservation District.

RECOMMENDATION: That the Board

Subject to the applicants fulfilling all of the applicant requirements listed above, authorize the issuance of a 55-year term non-exclusive easement for seawall purposes to Yamashiro Investments & Yoshiko Yamashiro, Trustee of the Yoshiko Yamashiro Trust 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 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.

Respectfully Submitted,



Al Jojar  
Land Agent

APPROVED FOR SUBMITTAL:

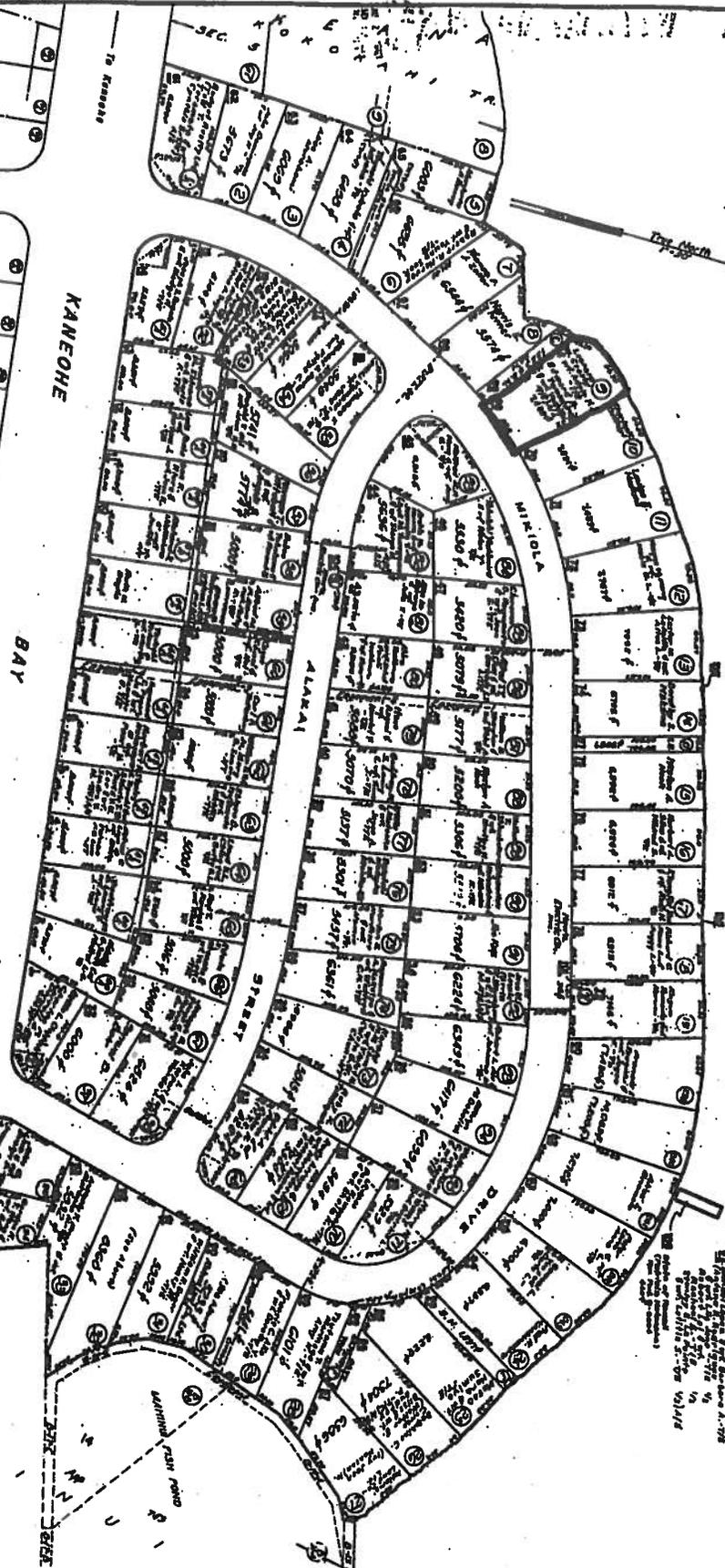
  
GILBERT S. COLOMA-AGARAN, Chairperson

Orig. Map  
Source: 1730  
By: J. L. C. Co. & M. M. M. Co.  
Date: Jan 1914

FOR MATRONS, KANEHOE, MOOLUPOLO, OAHU, HAWAII

(See L. C. Co. & M. M. Co.)

SUBJECT TO OWNERS



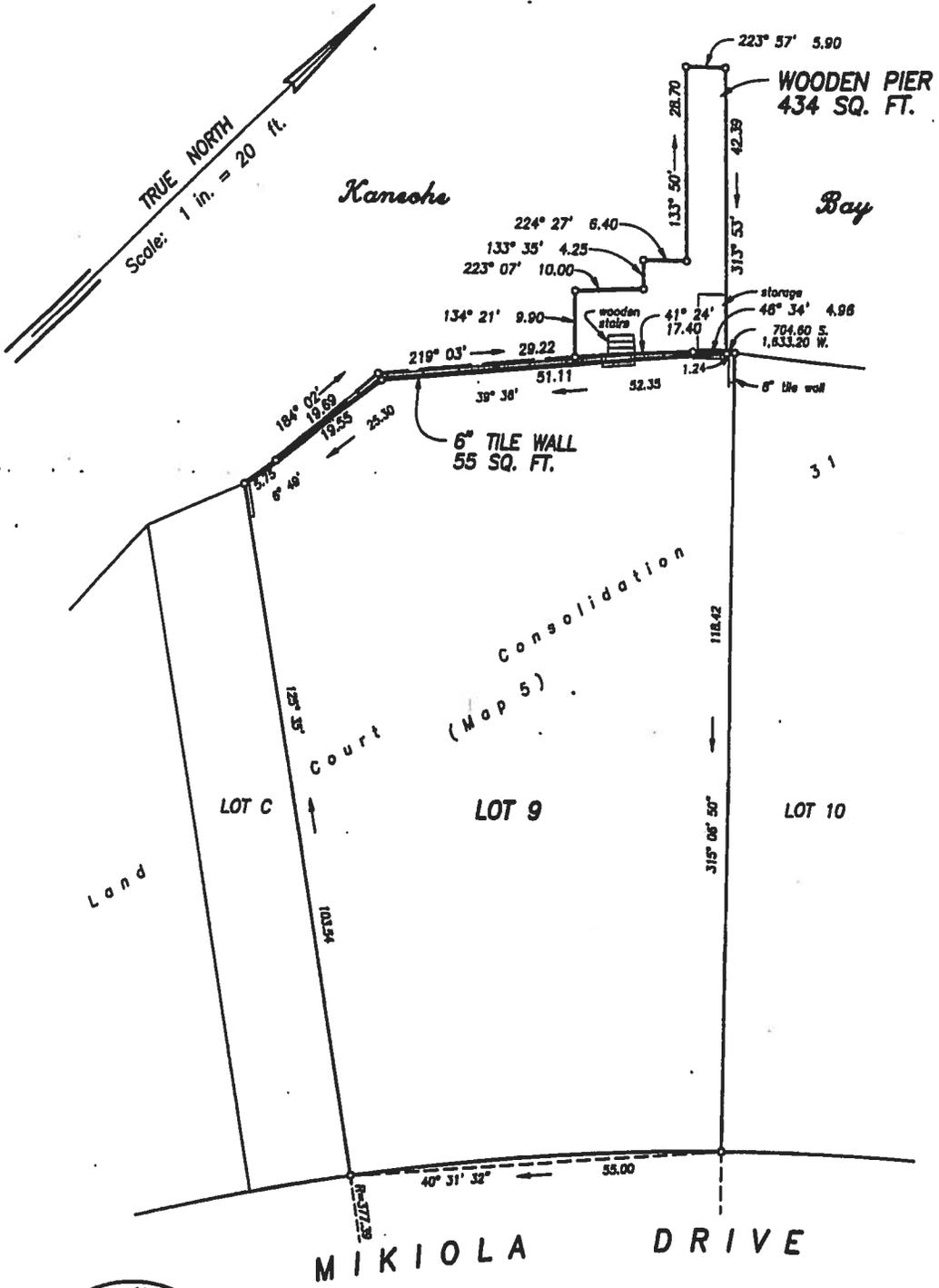
1. (See map of 1914)  
2. (See map of 1914)  
3. (See map of 1914)  
4. (See map of 1914)  
5. (See map of 1914)  
6. (See map of 1914)  
7. (See map of 1914)  
8. (See map of 1914)  
9. (See map of 1914)  
10. (See map of 1914)  
11. (See map of 1914)  
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14. (See map of 1914)  
15. (See map of 1914)  
16. (See map of 1914)  
17. (See map of 1914)  
18. (See map of 1914)  
19. (See map of 1914)  
20. (See map of 1914)

Approved & signed by  
J. L. C. Co. & M. M. Co.

PLAT	4
DISTRICT	4
ZONE	18
SECTION	18

CONTAINING PARCELS  
SCALE - 1" = 50'

1730



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION

*Kenn Nishihira*  
LICENSED PROFESSIONAL LAND SURVEYOR No. 9043

**LOCATION OF PIERS  
IN KANEOHE BAY**

FRONTING LOT 9 OF LAND COURT CONSOLIDATION 31

MIKIOLA, KANEOHE, KOOLAUPOKO, OAHU, HAWAII

TAX MAP KEY: 4-4-018: 069

ADDRESS:

REDUCED  
NOT TO SCALE

OWNERS: YAMASHIRO INVESTMENTS  
YOSHIKO YAMASHIRO TRUST

NOTE: Coordinates referred to "MAHINUP" Δ

SCALE: 1 IN. = 20 FT.  
MAY 13, 2002

KN SURVEYING  
540 KULIOUOU ROAD  
HONOLULU, HAWAII 96821

8.5" X 14" = 0.83 SQ. FT.

**EXHIBIT B**



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
 LAND DIVISION  
 P.O. BOX 821  
 HONOLULU, HAWAII 96809

AQUATIC RESOURCES  
 BOATING AND OCEAN RECREATION  
 CONSERVATION AND  
 RESOURCES ENFORCEMENT  
 CONVEYANCES  
 FORESTRY AND WILDLIFE  
 HISTORIC PRESERVATION  
 LAND DIVISION  
 STATE PARKS  
 WATER RESOURCE MANAGEMENT

File Number Encroachment: OA-03-06

Byron Yamashiro

SEP 20 2002

Kaneohe, HI 96744

Dear Mr. Yamashiro:

**Subject: Shoreline Encroachment (Seawall) at  
 Oahu [TMK: (1) 4-4-18:069]**

**Kaneohe,**

Coastal Lands Program (CLP) staff has reviewed the available information regarding this case. The seawall in question is located Makai of the homeowner's property line. Because this seawall structure is Makai of the parcel's metes and bounds it constitutes an encroachment onto State of Hawaii land. The area of the alleged encroachment is approximately 55 square feet.

The Board of Land and Natural Resource (BLNR) recently established a policy to allow the disposition of shoreline encroachments by either removal or issuance of an easement. In carrying-out this policy, the Department 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, the Department developed a "Shoreline Encroachment Information Sheet" that is intended to provide the State with additional information to guide the Department's decisions on the disposition of shoreline encroachments. This form has been completed and submitted. On August 30, 2002 staff visited the site to investigate the encroachments and to gather reconnaissance information to support a recommendation for either removal of the encroachments or issuance of an easement. Of primary importance are the Department's objectives to protect and preserve shoreline resources and shoreline access.

**Surrounding Land Uses:**

It was observed during the site visit that surrounding uses are residential. The Mikiola Drive subdivision in question was built on a fishpond. Thus all adjacent residences share this contiguous seawall.

**EXHIBIT C**

Beach Resources:

CLP staff inspected the area. The tidal area is a shallow mud flat.

Public Access:

There is a public access right of ways bordering the property to the west.

Effect of Removing the Encroachment on:

*Beach Resources:* The removal of the encroachment would have no impact on public access. Public recreation such as fishing, diving and boating takes place offshore of the parcel.

*Public Access:* CLP staff has determined that public access would not be enhanced by removal of the encroachment.

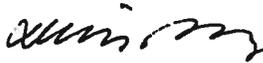
*Affect on Adjacent Properties:* Removal of this portion of the wall would affect the abutting landowner as the wall in question also fronts that parcel.

During the August 30, 2002 site visit staff observations confirm that the encroachment in question appear to be long established. The lower rock portion of the seawall appears to be of similar composition and construction as the seawall fronting all the shoreline parcels on this section of Mikiola Drive. The upper portion of the subject wall appears to be an addition composed of concrete blocks. The upper portion of the wall does not extend any further into State submerged lands. The subject seawall appears in certified shorelines for the property dated September 10, 1975 and May 7, 1985. The encroachment is 55 square feet in total area and appears to extend less than a foot Makai of the property boundary.

Upon review and careful consideration of the information gathered on this case, staff has determined that the issuance of an easement for the seawall would have no adverse impacts on natural resources, including beach resources. Coastal Lands Program Staff has concluded that no conservation district violation under Chapter 183C, HRS will be pursued in this matter. Therefore, the Coastal Lands Program has no objections to an easement request being processed. The Oahu District Land Office calculates the monetary amount required to dispose this use of 55 square feet of State land through an easement.

We hope this letter helps resolve some of the outstanding issues regarding your property. Please feel free to contact the Coastal Lands Program at 587-0377. Please contact the Oahu District Land Agent at 587-0433 regarding the processing of an easement.

Aloha,

  
Dierdre S. Mamiya  
Administrator

Cc: Oahu Board Member  
Oahu District Land Office  
Chairperson's Office