

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

April 10, 2015

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

PSF No.: 14OD-195

OAHU

Grant of Term, Non-Exclusive Easement to Christopher K. Eldridge and Wana'ao W. Eldridge for Seawall and Steps Purposes; Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-6-001:seaward of 042.

APPLICANT:

Christopher K. Eldridge and Wana'ao W. Eldridge, husband and wife, tenants by the entirety.

LEGAL REFERENCE:

Sections 171-6, 13, 17, and 53(c) 55 Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located seaward of Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 3-6-001:Seaward of 042, as shown on the attached map labeled **Exhibit A**.

AREA:

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

ZONING:

State Land Use District: Conservation  
City & County of Honolulu LUO: R-10 [for the abutting private property]

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Vacant with encroachments.

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair, replace and remove existing seawall and steps over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

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

EASEMENT TERM:

Fifty-five (55) years

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(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.". See **Exhibit B**.

DCCA VERIFICATION:

Not applicable. The Applicants as landowners are not required to register with DCCA.

APPLICANT REQUIREMENTS: Applicants shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicants' own cost;
2. Pay for an appraisal to determine one-time payment; and
3. Obtain concurrent resolution from the Legislature pursuant to 171-53 (c), HRS.

REMARKS:

Applicants are contemplating listing the property for sale. As part of the due diligence, a portion of the existing seawall and steps were found to be outside of the recorded boundary<sup>1</sup>, as noted on the survey map attached as **Exhibit C**. Applicants want to resolve the encroachment issue with the State.

An aerial photo dated September 20, 1952 appears to show that the subject encroachment or portion thereof has been in existence since that time. Accordingly, the Office of Conservation and Coastal Lands will not be asking for an after-the-fact Conservation District Use Permit to cure this matter. Applicants currently have a 55-year lease (GL 5903) for the private noncommercial pier as shown on Exhibit C. In addition, OCCL supports a disposition to resolve the encroachment. A copy of OCCL's comment is attached as **Exhibit D**.

Upon approval of today's request, Applicant will be reminded of the requirement for concurrent resolution from both houses of the legislature under Sect.171-53(c), HRS prior to the issuance of the requested easement.

Department of Planning and Permitting, Division of Aquatic Resources, Department of Facility Maintenance, and Department of Parks and Recreation have no comments/objections to the request. State Historic Preservation Division believes that no historic properties will be affected, but requests the opportunity to review any future permits involving the maintenance, rehabilitation, and repair of the encroaching improvements. Staff understands that the standard conditions of the easement document require the grantee to seek approval from the State before any altering or rebuilding of the improvement.

There are no records of authorization given by any government agency regarding the subject improvements. Nevertheless, staff does not recommend the Board impose a fine of \$500 for unauthorized encroachments pursuant to the Board's action of June 28, 2002, under agenda item D-17, since the encroachment is less than 100 square feet.

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. Assess a non-refundable administrative cost of \$500, under Section 171-6, HRS.
3. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 3-6-001:042,

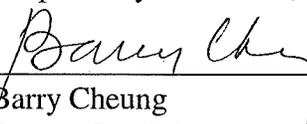
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<sup>1</sup> Depending on the final location of the shoreline, the current encroaching area (37 square feet) might be changed.

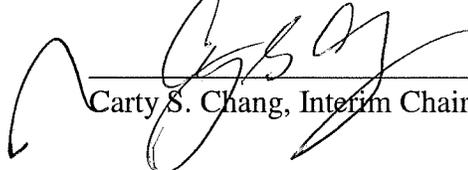
provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.

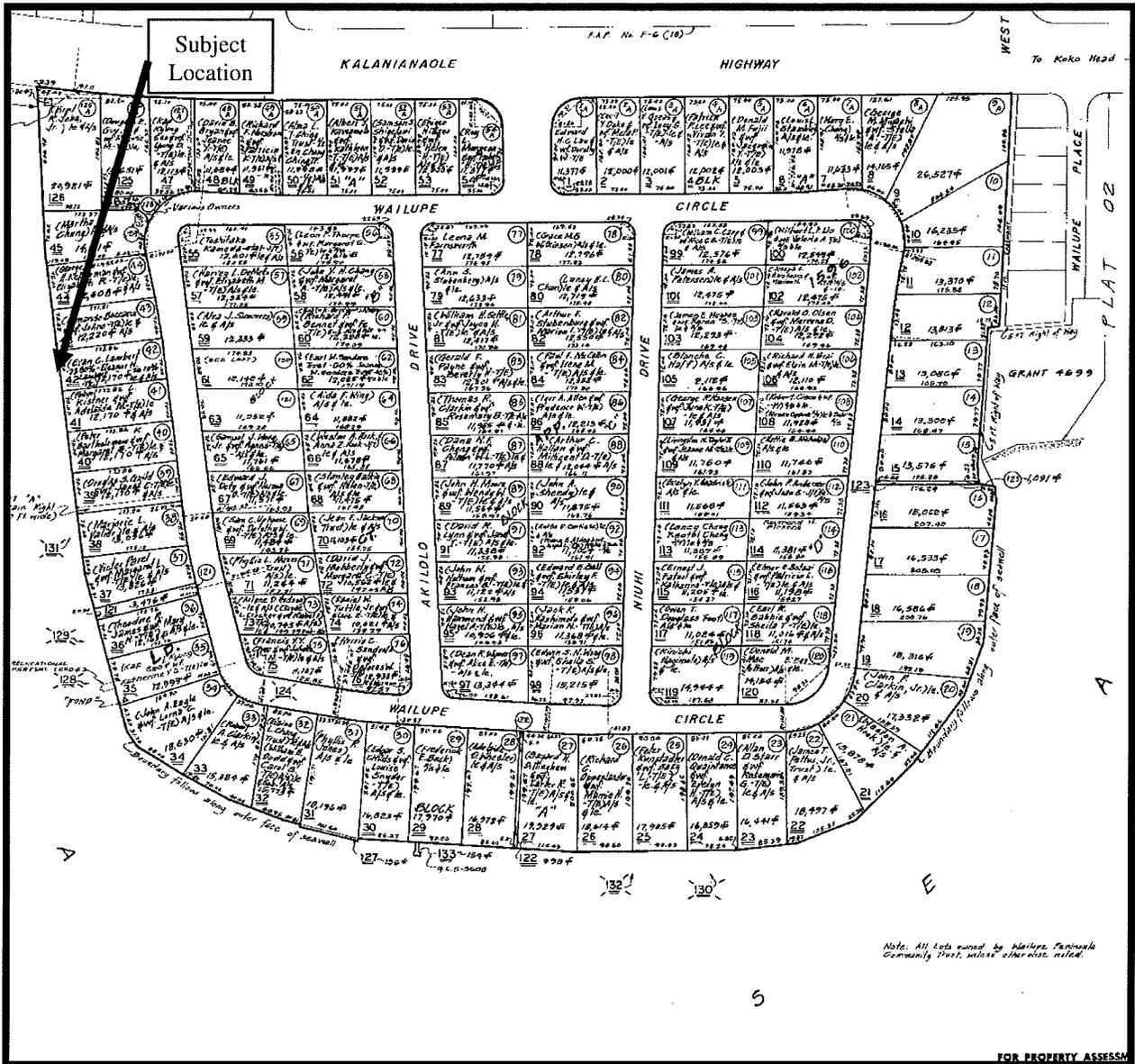
4. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to Christopher K. Eldridge and Wana'ao W. Eldridge covering the subject area for pier purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
  - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 3-6-001:042, 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 Grantor of such transaction in writing, and shall notify Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;
  - C. Approval by the Governor and concurrence from the Legislature pursuant to 171-53 (c), HRS;
  - D. Review and approval by the Department of the Attorney General;
  - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
  - F. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.

Respectfully Submitted,

  
Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

  
Carty S. Chang, Interim Chairperson



TMK (1) 3-6-001:seaward of 042

EXHIBIT A

**EXEMPTION NOTIFICATION**

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

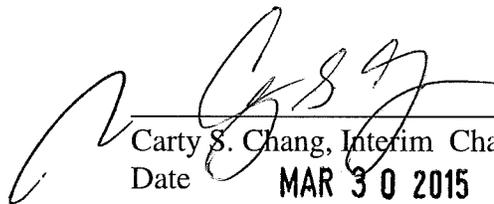
Project Title: Issuance of Term, Non-Exclusive Easement for Pier Purposes  
Project / Reference No.: PSF 14OD-195  
Project Location: Waikiki, Honolulu, Oahu, TMK (1) 3-6-001:seaward of 042.  
Project Description: Issuance of term, non-exclusive easement for seawall and steps purposes.  
Chap. 343 Trigger(s): 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."

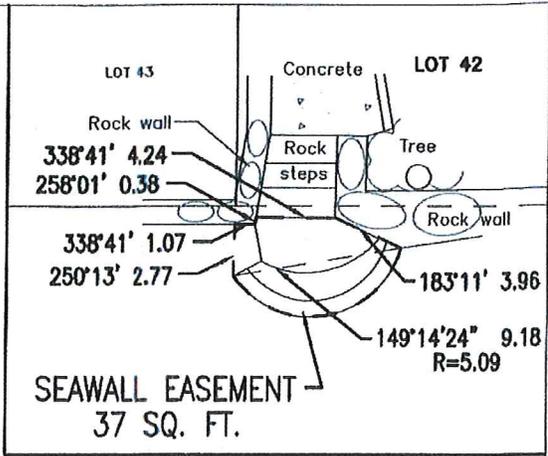
The applicants are not planning to alter the encroachment, which has existed since 1952. As such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Agencies as noted in the submittal.

Recommendation: It is recommended that the Board find that 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.

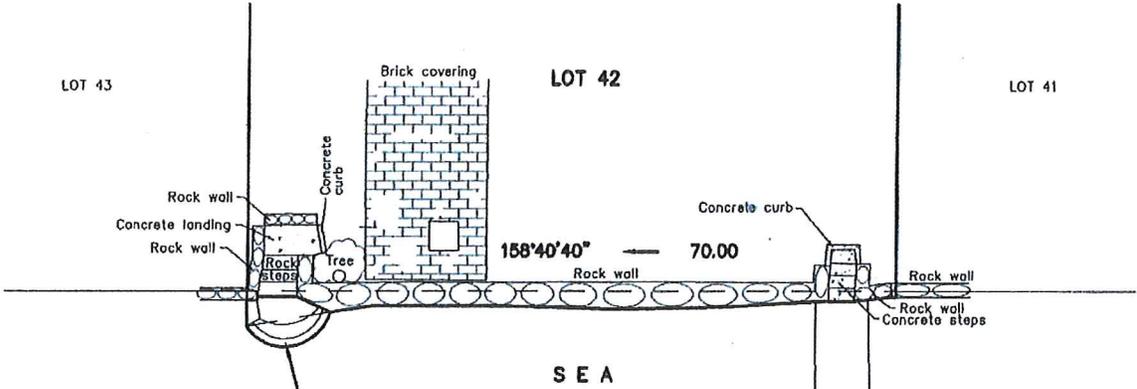
  
\_\_\_\_\_  
Carty S. Chang, Interim Chairperson  
Date MAR 30 2015

**EXHIBIT B**



TRUE NORTH  
Scale: 1 in. = 20 ft.

ENLARGEMENT  
SCALE: 1 IN. = 10 FT.



SEAWALL EASEMENT  
SEE ENLARGEMENT



This work was prepared by me  
or under my supervision

*Wesley T. Tengan* EXP. 4/16  
WESLEY T. TENGAN  
LICENSED PROFESSIONAL LAND SURVEYOR  
Certificate Number 6958

**SEAWALL EASEMENT**

Fronting Lot 42 of Land Court Application 1596  
Shown in Map 1  
Wailupe, Honolulu, Oahu, Hawaii  
Date: September 30, 2014  
Scale: 1 inch = 20 feet

**EXHIBIT "C"**

Owner: Eldrige  
118 Wailupe Circle

DAVID Y. IGE  
GOVERNOR OF HAWAII

RECEIVED  
LAND DIVISION

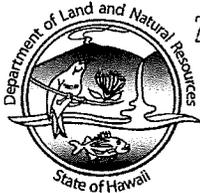


CARTY S. CHANG  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



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DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Encroachment OA-15-06

DLNR:OCCL:SL

JAN - 7 2015

**MEMORANDUM:**

TO: Barry Cheung  
Land Division

FROM: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

SUBJECT: Shoreline Encroachment Questionnaire, Chris & Wana'ao Eldridge, Owners;  
Wailupe, Honolulu, Oahu; TMK (1) 3-6-001:042

This is in response to your November 18, 2014 request to review and comment on a Shoreline Encroachment Questionnaire for Honolulu; Tax Map Key (1) 3-6-001:042. The applicant has identified approximately 37 square feet of encroachment (seawall and steps) seaward of the subject property into State waters based on information and maps contained with the Questionnaire.

An aerial photograph provided by the applicant from R.M. Towill Corporation from September 20, 1952 appears to show that a portion or all of the subject encroachment has been in existence since that time. It also appears that an easement for a private noncommercial pier seaward of the subject property was "preliminarily approved" in October, 2006 by Survey Division. As a consequence, the DLNR-OCCL will not be asking for an after-the-fact Conservation District Use Application to cure this matter. OCCL may reconsider this finding should we find that the subject encroachments were built without permits, within the Conservation District after 1964.

The Board of Land and Natural Resource (BLNR) established a policy to allow the disposition of shoreline encroachments by either removal or issuance of an easement. In carrying-out this policy, OCCL 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

**EXHIBIT "D"**

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

Surrounding Land Uses:

*The surrounding land uses on Waiupe Peninsula are residential. Adjacent properties have similar seawalls and encroaching structures. Waiupe Circle runs along the landward side of the property.*

Beach Resources:

*The coastline along the Waiupe Peninsula in the vicinity of the subject property is characterized by seawalls and other hardened structures with no beach resources.*

Public Access:

*There is no public access to the shoreline area fronting the subject property.*

Effect of Removing the Encroachment on:

*Beach Resources: There are no beach resources on Waiupe Peninsula, so removal of the encroachment from the shoreline will provide no benefit to beach resources.*

*Public Access: OCCL staff has determined that no substantial improvement to public beach access would be gained by removing the subject encroachment because adjacent properties are fronted by similar seawalls and encroachments and there is no public shoreline access in the immediate area.*

*Effect on Adjacent Properties: Removal of the encroachment may destabilize seawalls and other structures on adjacent properties.*

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

Upon review and careful consideration of the information gathered on this case, OCCL has determined that the requirements stated in HRS § 205A, HRS § 183C, and in OCCL's evaluation criteria would support a disposition request being processed for the subject shoreline encroachment. We recommend that Land Division review and confirm the calculated area of the encroachment. OCCL staff was unable to locate a previous shoreline survey for the subject property.

Please feel free to contact Sea Grant Extension Agent Brad Romine at OCCL at (808) 587-0049 or [Bradley.M.Romine@hawaii.gov](mailto:Bradley.M.Romine@hawaii.gov) should you have any questions pertaining to this memo.