

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

May 8, 2015

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

PSF No.:15OD-066

OAHU

Second Amendment of Grant of Non-Exclusive Easement S-5668 to Evershine II, L.P. for Channel, Concrete Surge Break or Breakwater, Seawall, Step and Fill Purposes; Portlock, Honolulu, Oahu; Tax Map Key: (1) 3-9-026:Seaward of 044, 045, and 048.

APPLICANT:

Evershine II, L.P., a California limited partnership.

LEGAL REFERENCE:

Section 171-13, 53(c)¹, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land situated at Maunalua Bay, Honolulu, Oahu identified by Tax Map Key: (1) 3-9-026:Seaward of 044, 045, and 048, as shown on the map attached as **Exhibit A**.

AREA:

Types of Easement	Current Area (sf)	New Area (sf)	Differences (sf)
Channel	17,807	19,903	2,096
Breakwater	2,859	2,859	0
Seawall and Fill	366	423	57
Surge Break	330	1424	1,094
Step	54	308	254
Total:	21,416	24,917	3,501

Further subject to review and approval by DAGS Survey Division.

¹ HCR 21, SLH 2002 and Governor's concurrence were obtained when the original easement was processed.

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 & CHARACTER OF USE:

Encumbered by Grant of Non-Exclusive Easement S-5668, as amended, Evershine II, L.P., Grantee, for "right, privilege, and authority to construct, use, maintain, and repair the channel, concrete surge break or breakwater, seawall, step and fill easements" purposes.

CONSIDERATION FOR THE ADDITIONAL AREA:

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

EASEMENT TERM:

Subject Easement commenced on October 6, 2003 for 55 years, and there will be no change to the term of easement pursuant to the requested amendment.

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 Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Pay for an appraisal to determine one-time payment; and
2. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

BACKGROUND:

On November 16, 2001, (item D-13), the Board authorized the issuance of a 55-year non-exclusive easement to Evershine VIII, L.P. for channel, concrete surge break or breakwater, and seawall and fill purposes. The easement (“GL5668”) was issued in October 2003 covering the encroachment abutting only Parcel 44, subject to a one-time payment of \$58,000. On January 14, 2005, (item D-8), the Board consented to the assignment of the subject easement from Evershine VIII, L.P. to the Applicant.

On April 25, 2008, (item D-11), the Board authorized the amendment of GL5668 including (1) adding 384 square feet to the easement area; (2) inserting “step” as part of the purposes of the easement; and (3) allowing the easement run with the parcels abutting the easement. The amendment also triggered a one-time payment of \$1,060.

Recently, the Applicant submitted an application for shoreline certification for the subject properties. State’s shoreline team determined that there are portions of the seawall and its footing located outside the current easement boundary, i.e. additional encroachments. In addition, the Applicant intends to keep the navigation markers to enhance safety, which will expand the channel easement area too. Based on the material provided by the Applicant’s representatives, the Department agrees that those additional encroachments mentioned above are not new improvements placed by the Applicant subsequent to the issuance of the original easement and its amendment. Pursuant to discussions between the Applicant’s representatives and Land Division, Office of Conservation and Coastal Lands, and State Survey Division, it was decided that including the additional encroachments in the easement would be prudent.

Staff did not solicit comments from other agencies other than those mentioned above as the subject request is primarily for housekeeping purposes only. 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 second amendment of Grant of Non-Exclusive Easement S-5668 by:
 - A. Adding 3,501 square feet, more or less, to the easement area;
 - B. Review and approval by the Department of the Attorney General;
 - C. Such other terms and conditions as may be prescribed by the Chairperson

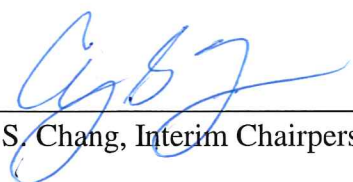
to best serve the interests of the State; and

- D. Any shoreline hardening policy that may be adopted by the Board prior to execution of the amendment of easement.

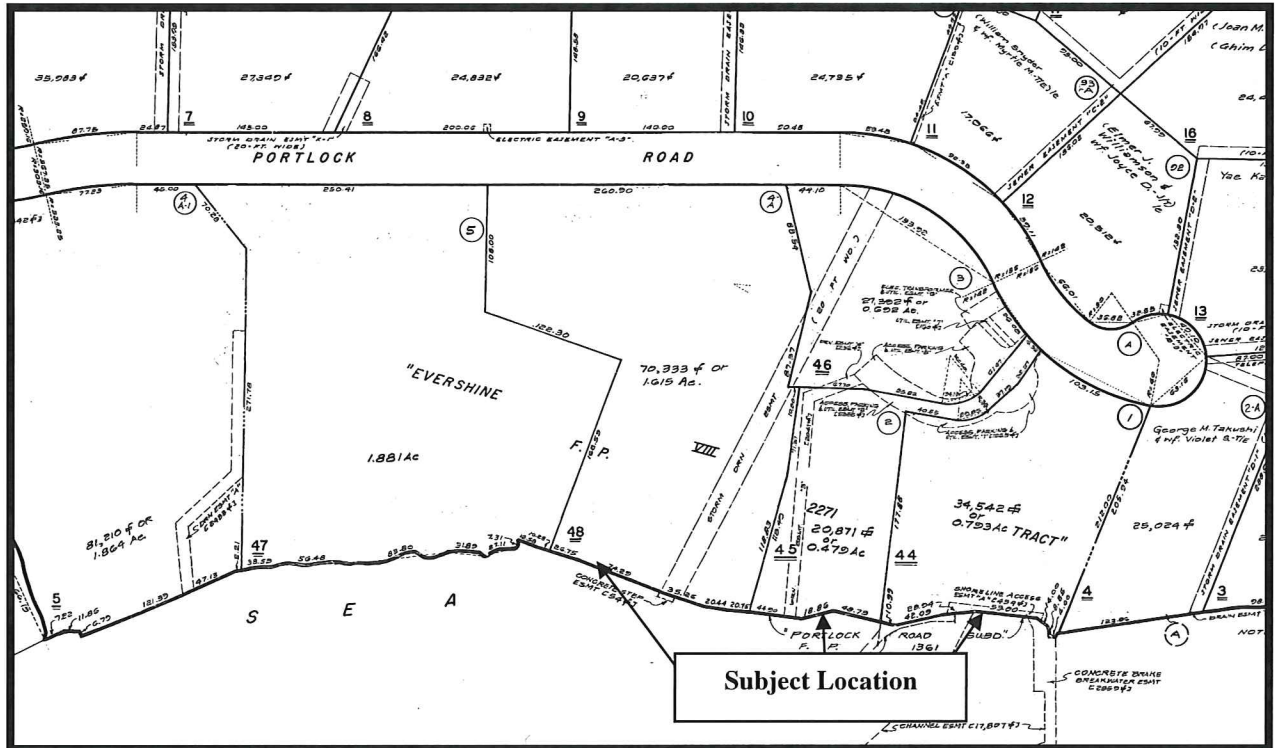
Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


Carty S. Chang, Interim Chairperson





TMK (1) 3-9-026:Seaward of 044, 045, and 048

EXHIBIT A

EXEMPTION NOTIFICATION

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

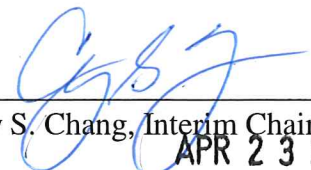
Project Title: Second Amendment of Non-Exclusive Easement for Shoreline Encroachments
Project / Reference No.: PSF 15OD-066
Project Location: Maunaloa, Honolulu, Oahu, TMK (1) 3-9-026:seaward of 044, 045, and 048.
Project Description: Amend the Easement by incorporating additional encroachment areas.
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 request is triggered by the recent shoreline certification process which discovers new encroachments. The encroachments are parts of the existing improvement, which has been covered by the easement. The applicant is not planning to have any new improvement to the subject easement area. 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 notes 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 APR 23 2015

EXHIBIT B