

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

July 24, 2015

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

PSF No.: 15HD-088

HAWAII

Grant of Perpetual, Non-Exclusive Easement to Benjamin F. Frazier and Edie M. Manzano-Frazier for Access and Utility Purposes, Old Volcano Trail, Oloa, Puna, Hawaii, Tax Map Key: (3) 1-6-033:999.

APPLICANT:

Benjamin F. Frazier and Edie M. Manzano-Frazier, husband and wife, Tenants by the Entirety.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Oloa Reservation Lots, Old Volcano Trail, situated at Oloa, Puna, Hawaii, identified by Tax Map Key: (3) 1-6-033:999, as shown on the attached map labeled Exhibit A.

AREA:

To be determined by independent survey, subject to review and verification by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District:      Agricultural  
County of Hawaii CZO:        Agricultural

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

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

For access and utility:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

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

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification (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. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
2. Pay for an appraisal to determine initial rent or one-time payment;
3. Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

The subject area, a road reserve, is referred to as "Road A" by area residents, and is

commonly/best known as the Old Volcano Trail. The Na Ala Hele Abstractor has determined that the Old Volcano Trail, an ancient route, is a meandering line that also serves as the boundary between the land divisions of Olaa and Keaau. In a 1930 survey, Territorial Land Court decisions relating to Application No. 1053, determined that this traverse would form the boundary between Olaa and Keaau, and that it would serve as a public right-of-way 30 feet wide on the Olaa side of the boundary. Portions of the trail (approximately 4 miles) are currently paved intermittently, serving as legal accesses to private properties, while other portions remain unimproved surrounded in thick forest overgrowth. Many of the abutting landowners using the Old Volcano Trail as their legal accesses to their private property do not have an approved easement from us.

By letter dated, April 18, 2015, Mr. Benjamin Frazier requested an easement (approximately 10 feet width by 250 feet long) over a road reserve known as the Old Volcano Trail, to establish legal accesses to his landlocked private property, identified as Tax Map Key: (3) 1-7-009:024. Staff is of the understanding that although no easements were authorized for the use of the road reserve, many of the abutting landowners currently utilize the Old Volcano Trail as their legal accesses, as many were of the assumption that it was a government road.

Benjamin F. Fraizer and Edie M. Manzano-Frazier have 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.

On May 12, 2015 various government agencies and interest groups were solicited for comments. To date, the only respondent was the County Department of Water Supply, which had no objections to the request.

<b>AGENCIES</b>	<b>COMMENTS</b>
<b>County of Hawaii:</b>	
Planning Department	No response
Public Works	No response
Water Supply	No objections
<b>State of Hawaii:</b>	
DLNR - Historic Preservation	No response
DLNR - Na Ala Hele	No response
DLNR - OCCL	No response
<b>Other Agencies/ Interest Groups:</b>	
Office of Hawaiian Affairs	No response


**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

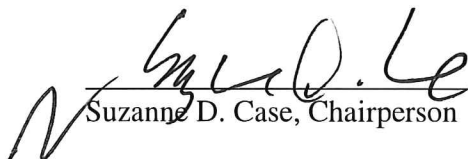
have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Authorize the subject request to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (3 ) 1-7-009:024, 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.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Benjamin F. Frazier and Edie M. Manzano-Frazier covering the subject area for access and utility 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, non-exclusive 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: (3) 1-7-009:024, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the 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. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
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Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:

  
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Suzanne D. Case, Chairperson



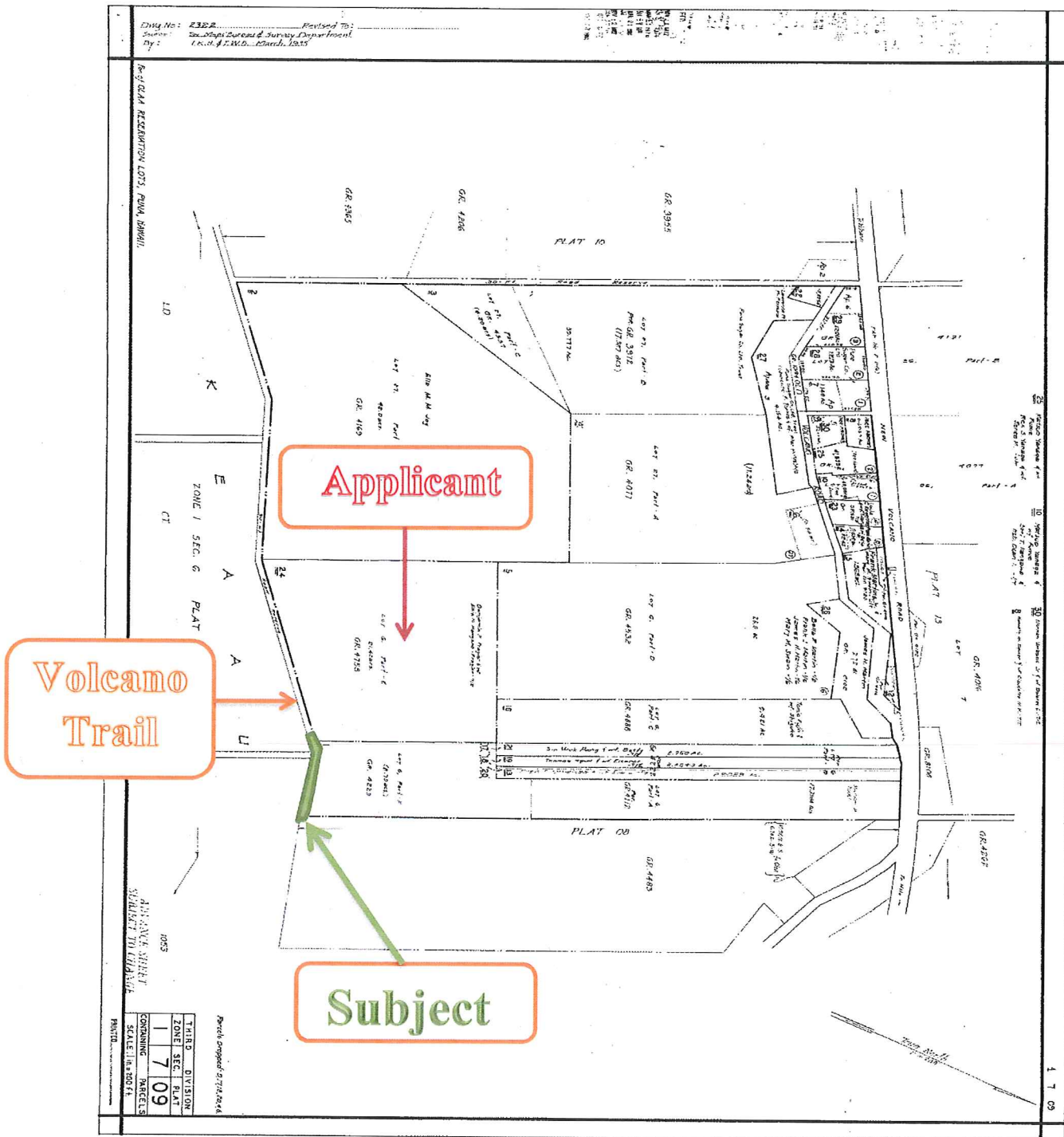
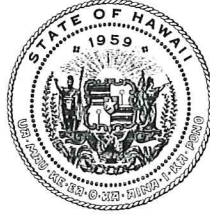


EXHIBIT A

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

W. ROY HARDY  
ACTING 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

**EXEMPTION NOTIFICATION**

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

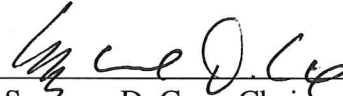
Project Title:	Issuance of a perpetual non-exclusive easement to Benjamin F. Frazier and Edie M. Manzano-Frazier
Project / Reference No.:	PSF No.: 15HD-088
Project Location:	Olaa Reservation Lots, Old Volcano Trail, situated at Olaa, Puna, Hawaii, identified by Tax Map Key: (3) 1-6-033:999
Project Description: Chap. 343 Trigger(s): Exemption Class No. and Description:	Issuance of a perpetual non-exclusive easement. Use of State Lands. In accordance with the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council (Docket 91-EX-2, December 4, 1991), the subject request is exempt from the preparation of an environmental assessment pursuant to <b>Exemption Class No.1</b> , "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 [HAR § 11-200-8(a)(1)]." <b>Exemption Class No. 4</b> , which states, "Minor alterations in the conditions of land, water or vegetation [HAR § 11-200-8(a)(4)]".
Exemption Item Description from Agency Exemption List:	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.

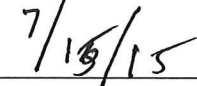
Minor alterations in the conditions of land, water or vegetation.

**EXHIBIT B**

Recommendation:

It is recommended that the Land Board find that issuance of a perpetual non-exclusive easement is exempt from Chapter 343, HRS, as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

  
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Suzanne D. Case, Chairperson

*N*   
\_\_\_\_\_  
Date