

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

January 22, 2016

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

Ref: 15OD-191

OAHU

Issuance of a 55-year Term, Non-Exclusive Easement for Access Purpose to Brian Lester Sakamaki, Donna J. Walden, as Trustee under that unrecorded Donna J. Walden Revocable Living Trust dated September 14, 1988, and Giampaolo Paul Boschetti; Mutual Termination of General Lease No. S-3980, Makiki, Honolulu, Oahu, Tax Map Key: (1) 2-4-029:066.

APPLICANTS:

Brian Lester Sakamaki, as tenant in severalty, as to an undivided twenty five percent (25%), Donna J. Walden, as Trustee under that unrecorded Donna J. Walden Revocable Living Trust dated September 14, 1988, as tenant in severalty, as to an undivided twenty five percent (25%), and Giampaolo Paul Boschetti, as tenant in severalty as to an undivided fifty percent (50%) (“Applicants”).

LEGAL REFERENCE:

Section 171-6, 13, and 17, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands over and across Makiki Ditch situated at Makiki, Honolulu, Oahu, identified by tax map key: (1) 2-4-029:066, as shown on the map attached as **Exhibit A**.

AREA:

914 square feet, more or less.

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:

Encumbered by General Lease No. 3980 for access purposes commenced on June 27, 1966 and expire on June 26, 2031.

CHARACTER OF USE:

Right, privilege, and authority to use, maintain, repair, replace and remove a bridge for non-exclusive access easement purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

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

EASEMENT TERM:

Fifty-five (55) years.

RENT REOPENING STATUS:

Reopenings in the original term were at the end of the 15<sup>th</sup>, 30<sup>th</sup>, 45<sup>th</sup>, and 55<sup>th</sup> years of the term. The last rental reopening occurred on June 27, 2011.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on June 5, 2015, the subject request for issuance for an easement is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, item 46 (See **Exhibit B**).

DCCA VERIFICATION:

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

APPLICANTS REQUIREMENTS:

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

REMARKS:

The subject lease was sold at an auction in 1966 to Mrs. Esther K. Arinaga. Over the years, there were multiple changes to the ownership of the adjacent apartment building, which also triggered assignments of the subject lease. The Applicants are the current owners of the apartment building and the lessees of GL 3980 with an annual rental payment of \$720. The lease provides for periodic rent reopenings at 15-year intervals.

The Applicants, through their counsel, request the Board authorize the issuance of a 55-year non-exclusive easement for the same purpose subject to a one-time payment as consideration. The arrangement will relieve the Applicants of administrative costs under the regular reopening scenario and also provide a longer tenure. Due to the site conditions, the existing traffic pattern with the aid of the subject bridge easement will continue to provide a safe access to and egress from the apartment building.

Current policy for issuing a term easement is to demand for a lump sum payment, if consideration is required. Staff has no objection to the request and recommends the Board approve the subject request and mutual termination of GL 3980 upon issuance of the easement.

Board of Water Supply has no objection/comment to the request. Department of Health, State Historic Preservation Division, Department of Planning and Permitting, Department of Facility Maintenance, and Office of Hawaiian Affairs have not responded before the deadline.

The Applicants are in compliance with terms and condition of the existing GL 3980. There are no other pertinent issues and concerns, and staff does not have any objection to the request.

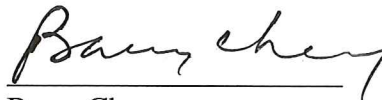
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 110-200, 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 parcels described as Tax Map Key (1) 2-4-029:004 and 008, 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 Applicants fulfilling all of the Applicants Requirements listed above, authorize the issuance of a term, non-exclusive easement to Brian Lester Sakamaki, Donna J. Walden, as Trustees under that unrecorded Donna J. Walden

Revocable Living Trust dated September 14, 1988, and Giampaolo Paul Boschetti for access purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

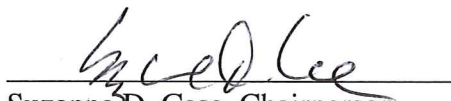
- A. The standard terms and conditions of the most current term non-exclusive easement document form, as may be amended from time to time;
  - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key (1) 2-4-029:004 and 008, provided however (1) it 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 or 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.
4. Mutual termination of General Lease No. 3980 upon issuance of the requested easement.
- A. The standard terms and conditions of the most current mutual termination document form, as may be amended from time to time;
  - B. 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.

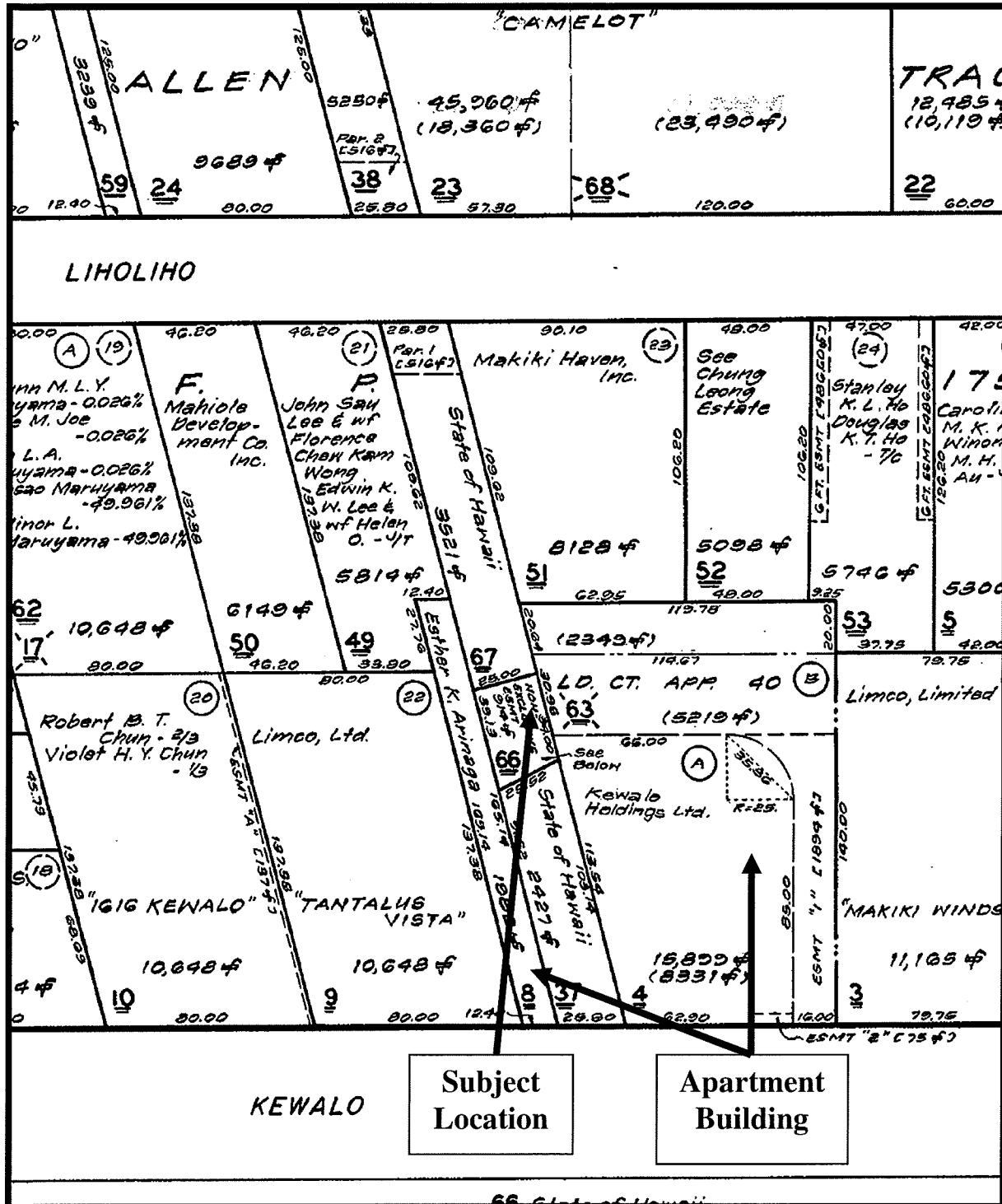
Respectfully Submitted,



Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL

  
Suzanne D. Case, Chairperson



TMK (1) 2-4-029:066

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 and Mutual Termination of Existing Lease

Project / Reference No.: 15OD-191

Project Location: Makiki, Honolulu, Oahu Tax Map Key: (1) 2-4-029:066.

Project Description: Current lessees request a longer term easement to replace the lease.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on June 5, 2015, the subject request for issuance for an easement is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, "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," item 46 that states, "creation or termination of easement, covenants, or other rights in structures or land."

The request is related to mutual termination of an existing easement and replace with a longer term easement over the same area.

Consulted Parties Agencies as noted in the submittal

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.

  
Suzanne D. Case, Chairperson

Date 12/23/15

**EXHIBIT B**