

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

May 27, 2016

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

Ref no.: 16OD-052

OAHU

Amend Grant of Non-Exclusive Easement No. S-5857 for Seawall and Boat Ramp Purposes; Elizabeth Rice Grossman, Trustee of the Elizabeth Rice Grossman Family Trust dated April 12, 2001; Kailua, Koolaupoko, Oahu; TMK (1) 4-3-005:seaward of 094.

BACKGROUND:

On June 4, 2004, under agenda item D-6, the Board authorized the issuance of a 55-year term non-exclusive easement (GL 5857) for seawall and boat ramp purposes to Elizabeth Rice Grossman Family Trust for an original area of 113 square feet, at a one-time payment of \$11,570. In 2004, the policy for shoreline encroachment used the recorded boundary to determine the area of encroachment onto State lands. A copy of the original easement map is attached as **Exhibit A**.

REMARKS:

In January 2016, the grantee submitted an application to obtain a new certified shoreline pertaining to a proposed shoreline protection improvement. The 2016 application determined the shoreline is now located further landward and shows an additional encroachment area of approximately 328 square feet (Additional Area). See latest survey map at **Exhibit B**. This is chiefly a result of the shoreline moving landward in the boat ramp area. Staff notes that it is necessary to revise the easement area from the original 113 square feet to the new area of 441 square feet, more or less, in GL 5857. As a result of the expanded area, additional consideration is also required from the grantee.

The Office of Conservation and Coastal Lands (OCCL) has no objection to the proposed amendment of GL 5857 due to the Additional Area. However, OCCL indicated that any new improvement to for shoreline protection purposes will have to go through a totally separate review/permit process undertaken by OCCL.

Staff recommends the Board authorize the amendment of GL 5857 by: (1) replacing the original easement area of 113 square feet with the new area of 441 square feet, subject to the confirmation of the Department of Accounting and General Services, Survey Division regarding the final area; and, (2) authorizing the Chairperson approves the one-time payment for the Additional Area based on the unit rate paid by the grantee under GL 5857¹. The additional consideration payable is presented below:

¹ Staff believes using the 2006 rate is prudent since the same Additional Area existed back then.

$$(\$11,570 \div 113 \text{ sq. ft.}) \times 328 \text{ sq. ft.} = \$33,584$$

Staff did not solicit comments from other agencies, other than OCCL. There are no other pertinent issues or concerns. Staff does not have any objections to the request.

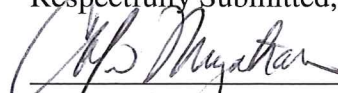
CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 46. See **Exhibit C**.

RECOMMENDATION: That the Board:

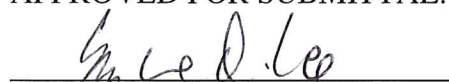
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the amendment of Grant of Non-Exclusive Easement No. 5857 under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following, by:
 - A. The standard terms and conditions of the amendment of easement form, as may be amended from time to time;
 - B. Replacing the original easement area of 113 square feet with the new area of 441 square feet, more or less;
 - C. Payment of \$33,584 for the Additional Area;
 - 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

Respectfully Submitted,



Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

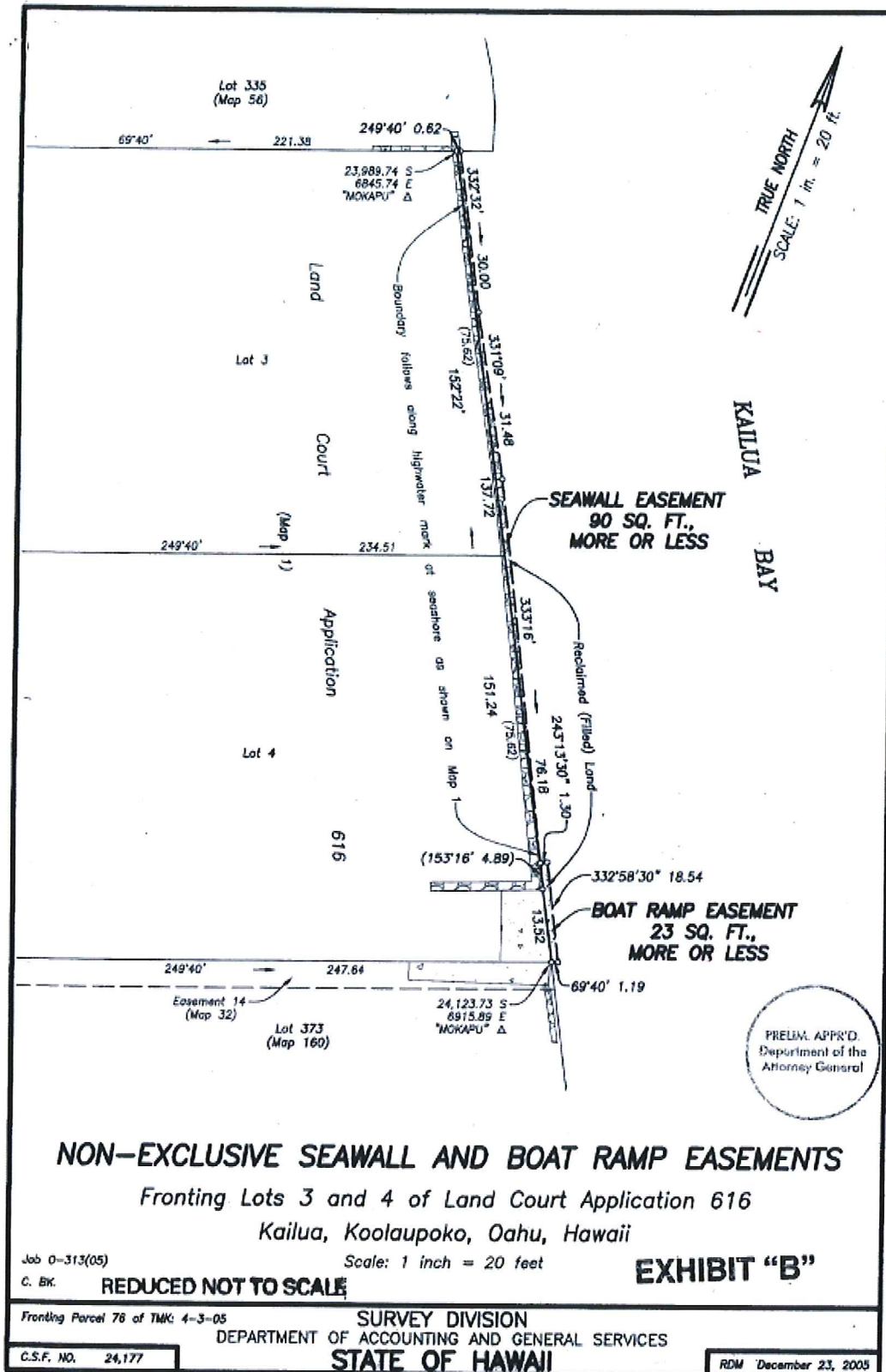


EXHIBIT A

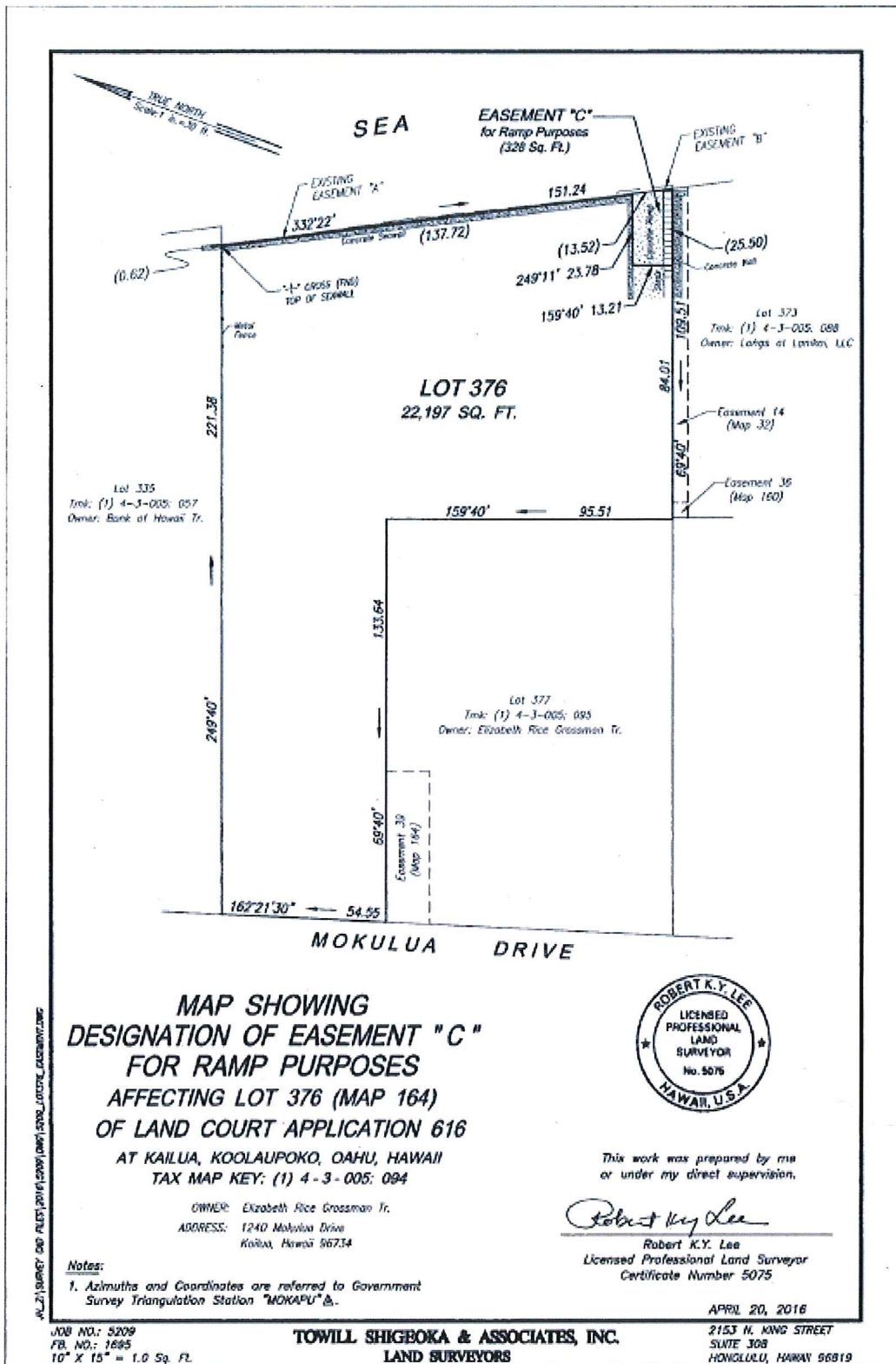


EXHIBIT B

EXEMPTION NOTIFICATION

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

Project Title: Amendment of Easement S-5857.

Project / Reference No.: PSF 16OD-052

Project Location: Kailua, Koolaupoko, Oahu, TMK:(1) 4-3-005:seaward of 094.

Project Description: Amendment of Easement for Additional Area of Encroachment on State Lands

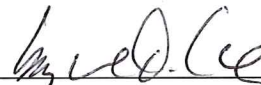
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 46, which states the “Creation or termination of easement, covenants, or other rights in structures or land”.

In the past, amended easements were issued for similar situations where additional areas of encroachments have been identified during the process of obtaining a new shoreline survey. Since no new structures have been constructed in the added encroachment areas, staff anticipates that this should result in no significant impacts to the natural and environmental resources in the area. As such, staff believes that the proposed request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Office of Conservation and Coastal Lands.

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.



Suzanne D. Case, Chairperson

 Date: 5/19/16

Exhibit C