

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

March 9, 2012

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

PSF No.: 11MD-111

MAUI

After-the-Fact Consent to Assign Grant of Perpetual, Non-Exclusive Water Pipeline Easement bearing Land Office Deed No. 27996, The Estate of Walter Victor Weber, Jr. on Behalf of Walter Victor Weber Jr., Assignor, to William James Munger and Michelle Ann Munger, Assignee and for Amendment of Grant of Non-Exclusive Easement bearing Land Office Deed No. S-27996 to Provide for Easement to Run With the Land, Makawao, Maui, Hawaii, Tax Map Key: (2) 2-4-013:Portion of 078.

APPLICANT:

The Estate of Walter Victor Weber, Jr. on Behalf of Walter Victor Weber Jr., as Assignor, to William James Munger and Michelle Ann Munger, husband and wife, Tenants by Entirety, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Makawao, Maui, Hawaii, identified by Tax Map Key: (2) 2-4-013:Portion 078, as shown on the attached map labeled Exhibit A.

AREA:

0.601 acres, 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: YES _____ NO X

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove water transmission pipeline over, under and across State-owned land.

REMARKS:

The Land Board, at its December 20, 1991 meeting under agenda Item F-5, authorized the direct sale of a perpetual, non-exclusive waterline easement five (5) feet wide on, under, over, and across a portion of the subject Government lands of Hamakuapoko, Makawao to Robert L. and Tamara Horcajo. The Horcajo's required the easement in order to provide necessary water service to their property at Tax Map Key: (2) 2-4-014:006. Due to funding constraints for the Olinda area, the County of Maui Department of Water Supply required individual owners to connect their domestic system to adequately sized pipes located at some distance from their property.

Robert and Tamara Horcajo sold their property at parcel 6 to Moira Bond. On February 25, 1994, under item F-1-d, the Land Board approved the consent to assignment of easement. Moira Bond in turn sold her property to Walter Weber, Jr. By Land Board action of August 23, 1996, item D-15, approval was provided for the assignment of LOD S-27996 from Ms. Bond to Mr. Weber.

Walter Weber, Jr. deceased on April 7, 2008. Probate No. 08-1-0106(2) of the Second Circuit Court authorized powers of the Estate of Walter Victor Weber to his personal representative R. Gregory Lagoy. A Personal Representative's Limited Warranty Deed was recorded at the Bureau of Conveyances under document number R2008146955 on September 19, 2008. This deed conveyed Tax Map Key: (2) 2-4-014:006 to William James Munger and Michelle Ann Munger.

The Maui Land Division has advised Mr. and Mrs. Munger that any rights granted by Mr. Weber's LOD S-27996 easement requires prior written consent of the Board of Land and Natural Resources. By means of application, the Mungers are now requesting that consent.

Staff is also recommending the easement document be amended to allow for it to "run with the land". Newer easements now issued by the State have such a provision. All that is required is the grantee to inform his successor of our liability insurance requirement when the easement is sold. This eliminates needless paperwork and time by the Board, staff, Attorney General's office, grantee, private attorneys, escrow companies, etc.

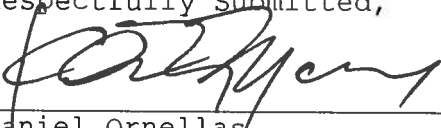
RECOMMENDATION: That the Board

- A. Consent to the assignment of Grant of Non-Exclusive Easement bearing Land Office Deed No. S-27996 from the Estate of Walter Victor, Jr. on behalf of Walter Victor Weber, Jr., Assignor, to William James Munger and Michelle Ann Munger, Assignee, subject to the following:
1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State
- B. Amend Grant of Non-Exclusive Easement Bearing Land Office Deed No. S-27996 to include the following condition:

"The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (2) 2-4-013:Portion of 078, 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."

1. Review and approval by the Department of the Attorney General; and
2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Daniel Ornellas
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



HALEKUALA HOMESTEADS, NAKKAWAO, MAUI

SUBJECT AREA

MAKAWAO

FOREST

RESERVE

DUPLICATE SHEET
 SCALE: 10 CHAINS

Dropped No. 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

SECOND	ZONE	SEC	PLAT
2	4	13	

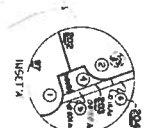


EXHIBIT A

