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

August 24, 2012

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

PSF No.: 12MD-083

Maui

Grant of Term, Non-Exclusive Easement to Henry Spencer and Tamara C. Bexton for
Access Purposes, Spreckelsville, Wailuku, Maui, Tax Map Key: (2) 3-8-001: 008 por.

APPLICANT:

Henry Spencer and Tamara C. Bexton, Husband and Wife, Tenants by Entirety.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Spreckelsville situated at Wailuku, Maui, identified by
Tax Map Key: (2) 3-8-001: 008 por., as shown on the attached map labeled Exhibit A.

AREA:

2,940 sq. ft., more or less. (245 ft. x 12 ft. = 2,940 sq. ft.)

ZONING:

State Land Use District: Urban
County of Maui CZO: R-3

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Executive Order 2715 to Maui County for Senior Center purposes. Approved 10/17/74

CHARACTER OF USE:

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

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

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

EASEMENT TERM:

Fifty-five (55) years.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 3, Item No. 1 (e) that states "Construction and location of single, new small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and the alteration and modification of same including but not limited to: Accessory or appurtenant structures including water collection, distribution and storage systems, garages, carports, patios, swimming pools, driveways and swales."

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;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;

REMARKS:

In 1974, the subject State lands were set-aside to the County of Maui via Executive Order No. 2715 for the Kaunoa Senior Center.

In 2009, the Maui District Land Office (MDLO) received a letter from the County of Maui, Department of Housing and Human Concerns, requesting assistance with the issuance of an access easement over an existing driveway located along the northern property boundary of the Kaunoa Senior Center in favor of lands owned by Henry Spencer (Lot 2).

Pursuant to review of the request by MDLO staff, it was discovered that Lot 2 was not land locked. Easement A-1 provided access to Lot 2 from the public-right-of-way. Given the fact that Lot 2 was not land locked and that there were no known adverse conditions that would prevent reasonable use of Easement A-1 to access Lot 2; the request for access easement was denied.

By letter dated March 22, 2011, MDLO received a follow up report from Mr. Spencer stipulating the fact that Easement A-1 was voluntarily forfeited which then rendered Lot 2 land locked. The State is not aware of the conditions that lead the applicant, Mr. Spencer, to forfeit Easement A-1. However, because the proposed access route is over an existing driveway and MDLO staff has recently confirmed support for issuance of an access easement over State lands, with Ms. Leola Muromoto, Senior Services Administrator at Kaunoa Senior Center, therefore, staff has no objection to the issuance of a term non-exclusive access easement to Lot 2 (Exhibit B).

Because the access easement is over an existing driveway that services the rear portion of the Kaunoa Senior Center, and because the proposed use of the easement area shall result in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area; staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing and therefore supports the exemption of this request for use of state lands from HRS Chapter 343 requirements (Exhibit C).


Furthermore, please note that the Applicant has 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 and therefore is qualified to request the use of State lands.

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.

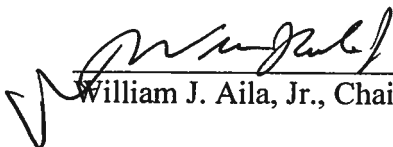
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (2) 3-8-002:124, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years 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 term non-exclusive easement to Henry Spencer and Tamara C. Bexton covering the subject area 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 easement document form, as may be amended from time to time;
 - B. The access easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (2) 3-8-001:024, provided however: (1) it is 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 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,



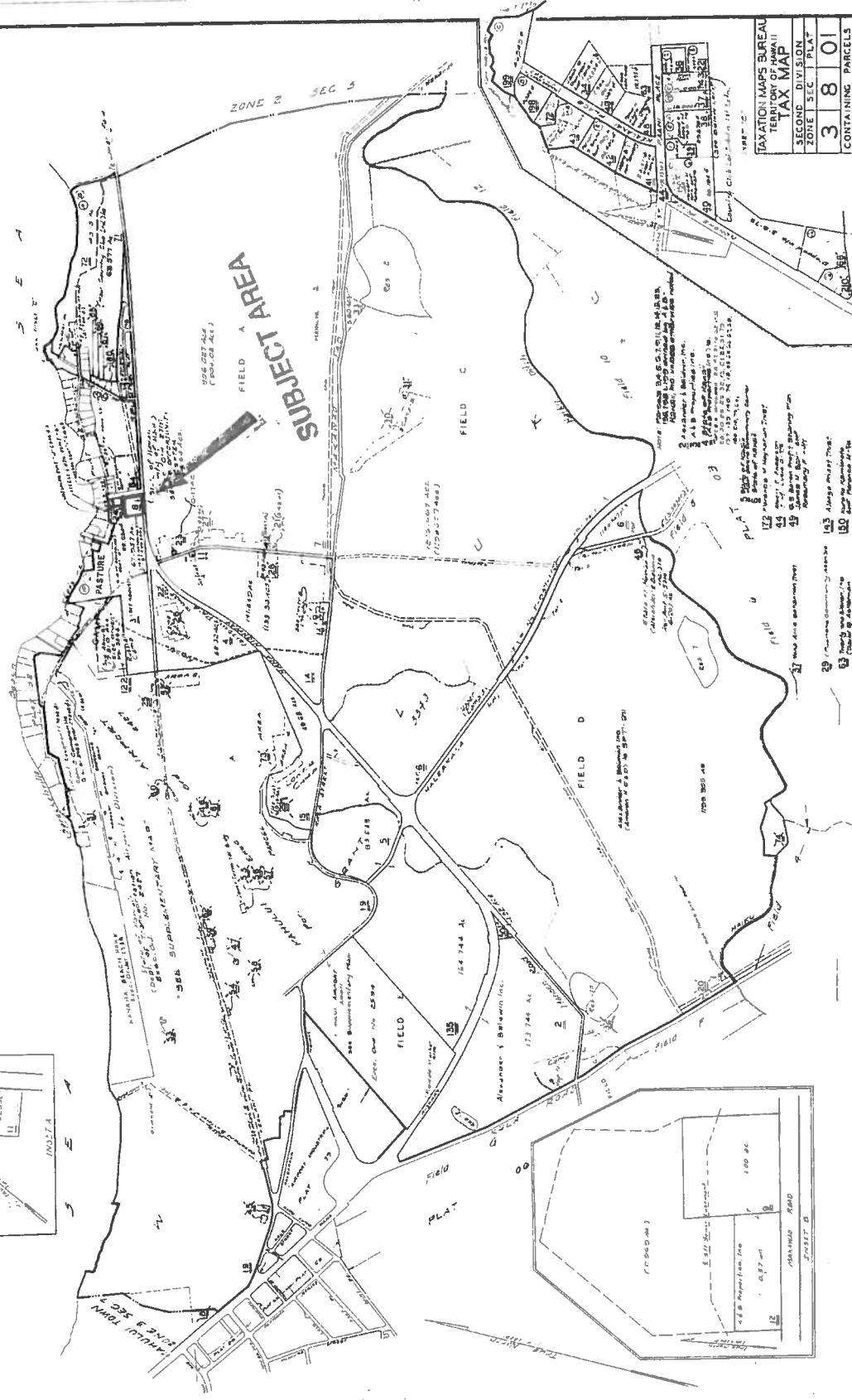
Daniel Ornellas
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

15 ABB - Hawaii, Inc.
15 B - Hawaii, Inc.
15 C - Hawaii, Inc.
15 D - Hawaii, Inc.
15 E - Hawaii, Inc.
15 F - Hawaii, Inc.
15 G - Hawaii, Inc.
15 H - Hawaii, Inc.
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15 U - Hawaii, Inc.
15 V - Hawaii, Inc.
15 W - Hawaii, Inc.
15 X - Hawaii, Inc.
15 Y - Hawaii, Inc.
15 Z - Hawaii, Inc.



TAXATION MAPS BUREAU
TERRITORY OF HAWAII
TAX MAP
SECOND DIVISION
ZONE SEC PLAT
3 8 01
CONTAINING PARCELS
SCALE 1" = 1000 FT.

SUBJECT TO CHANGE

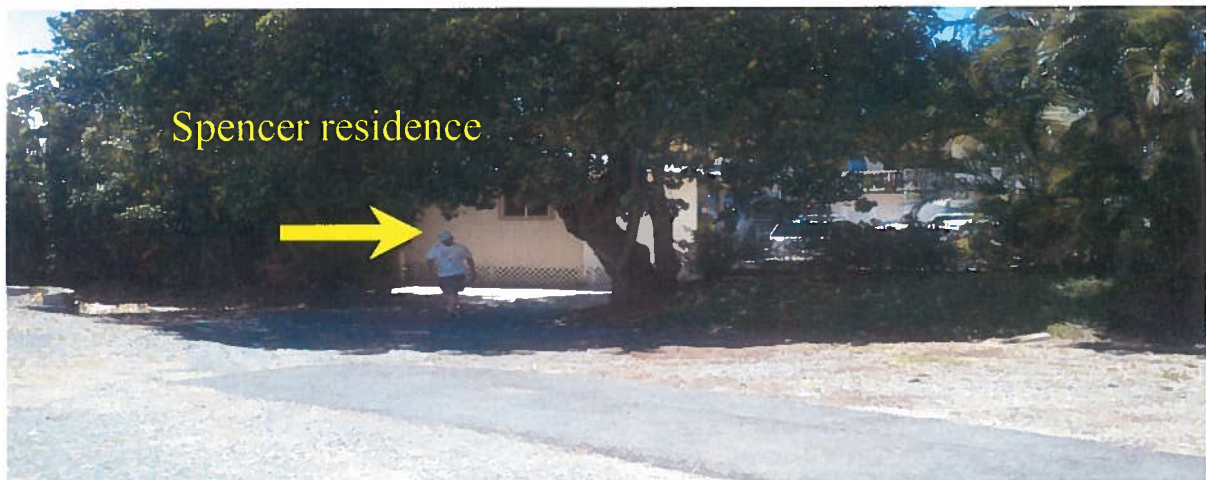
By DALLAN, H.C. (aka H.H. H.H.)



Existing Driveway off of Alakapa Place



Existing Driveway facing west



Ingress / Egress to Spencer Residence



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 27, 2012

EXEMPTION NOTIFICATION

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

Project Title: Issuance of a, Term, Non-Exclusive Easement to Henry Spencer and Tamara C. Bexton for Access Purposes, Spreckelsville, Wailuku, Maui, TMK: (2) 3-8-001: 008 por.

Project / Reference No.: PSF No. 12MD-083 and cross-reference 04MD-224.

Project Location: Spreckelsville, Wailuku, Maui, Hawaii

Project Description: Issuance of a Term, Non-Exclusive Access Easement for ingress and egress purposes over State land to service a land locked privately owned property at TMK: (2) 3-8-001:024. Driveway will encumber 2,940 sq. ft. more or less.

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

Exemption Class No. and Description: In accordance with the Division of Land Management's Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 3, Item No. 1 (e) that states: "Construction and location of single, new small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and the alteration and modification of same including but not limited to: Accessory or appurtenant structures including water collection, distribution and storage systems, garages, carports, patios, swimming pools, driveways and swales."

Recommendation: It is anticipated 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.


William J. Aila Jr., Chairperson



8/5/12
Date

EXHIBIT "C"