

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

June 14, 2013

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

Hawai'i

Consent to Assign Land Office Deed No. S-28,325, Stanley Marple Randolph, Trustee of that certain unrecorded Revocable Trust Agreement dated May 6, 1985, Assignor, to Fernando Carino Afable and Mary Kathryn Afable, Assignee; Amendment of Land Office Deed No. S-28,325 to Allow it to Run with the Land; Waiakea, South Hilo, Hawai'i, Tax Map Key: (3) 2-4-01: portion of 24.

APPLICANT:

Stanley Marple Randolph, Trustee of that certain unrecorded Revocable Trust Agreement dated May 6, 1985, as Assignor, to Fernando Carino Afable and Mary Kathryn Afable, husband and wife, Tenants by the Entirety, as Assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Waiakea, South Hilo, Hawai'i, identified by Tax Map Key: (3) 2-4-01: portion of 24, as shown on the attached map labeled Exhibit A.

AREA:

2,634 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

CHARACTER OF USE:

Easement for access and utility purposes.

REMARKS:

The University Heights Residential Subdivision was developed in increments by the State in the mid 1960's. Stanley Marple Randolph purchased lot 12 of the second increment. Lot 12 was located at the intersection of a government road, now known as Kumukoa Street and a proposed road planned for development of the third increment of the subdivision. Because of the difference in elevation between lot 12 and Kumukoa Street, the only means of access into lot 12 was via the proposed right-of-way. Mr. Randolph constructed a driveway to access his property in anticipation of the road being developed at a future date.

Sometime after, the State abandoned plans to construct the proposed road as part of the third increment. The existing driveway remained and in 1997, Mr. Randolph approached Land Division requesting a grant of easement for the driveway over State land.

At its meeting of November 20, 1997 under agenda item D-38, the Board consented to the direct sale of a perpetual, non-exclusive easement for access and utility purposes to Stanley Marple Randolph, Trustee of that certain unrecorded Revocable Trust Agreement dated May 6, 1985.

The requested assignment of LOD S-28,325 is a result of the sale of parcel (3) 2-4-24:72 from Stanley Marple Randolph, Trustee, to Fernando Carino Afable and Mary Kathryn Afable (Assignee). Staff is recommending the Board amend the perpetual easement to allow it to run with the land it services thus avoiding any further need to obtain the Board's consent to assign the easement should the Assignee or subsequent owners sell their property in the future.

The Assignee 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.

RECOMMENDATION: That the Board:

- A. Consent to the assignment of Land Office Deed No. S-28,325 from Stanley Marple Randolph, Trustee of that certain unrecorded Revocable Trust Agreement dated May 6, 1985, as Assignor, to Fernando Carino Afable and Mary Kathryn Afable, as 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. Authorize the amendment of Land Office Deed No. S-28,325, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
1. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (3) 2-4-24:72, 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 the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
 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.

Respectfully Submitted,



Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

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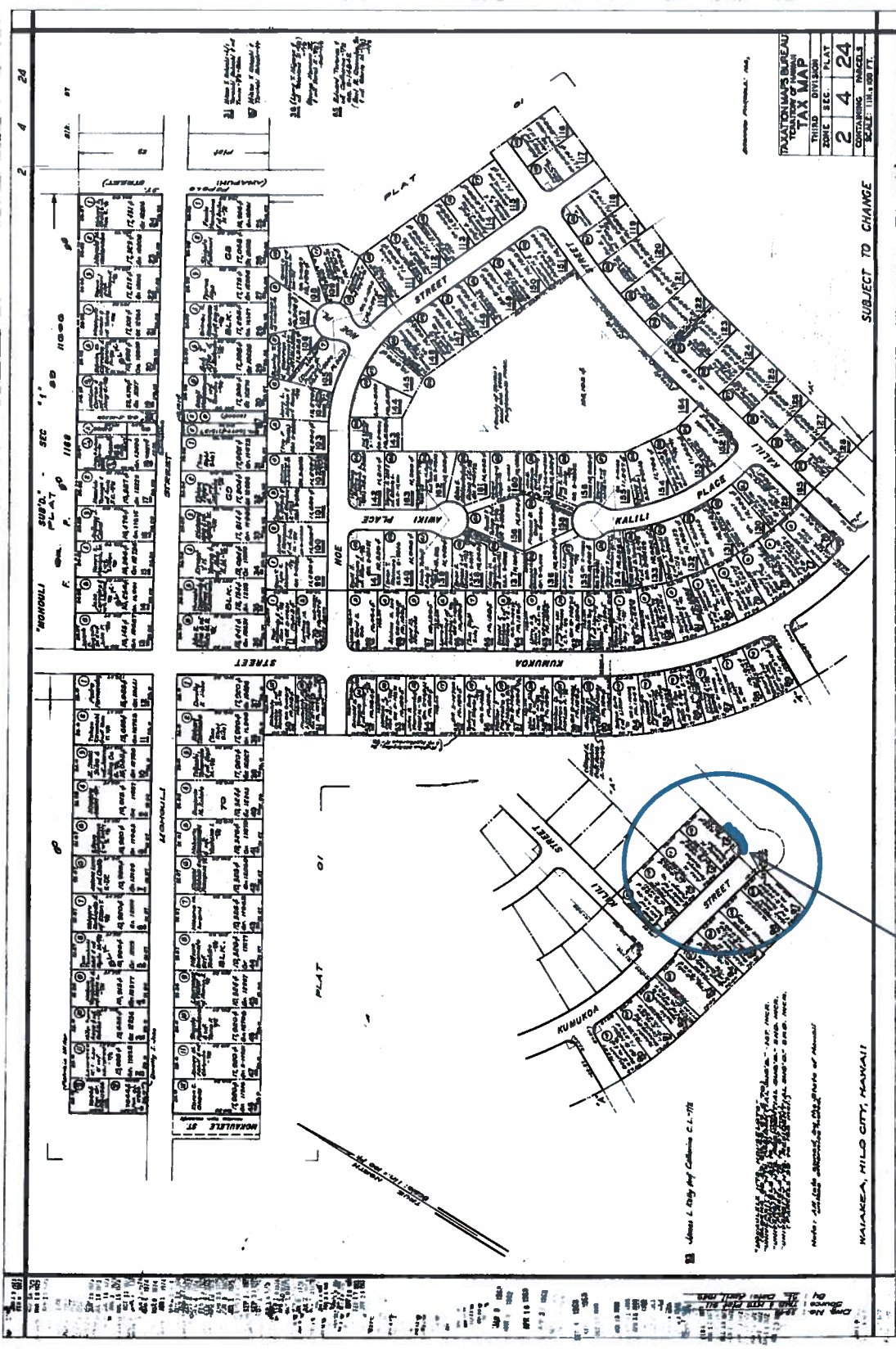
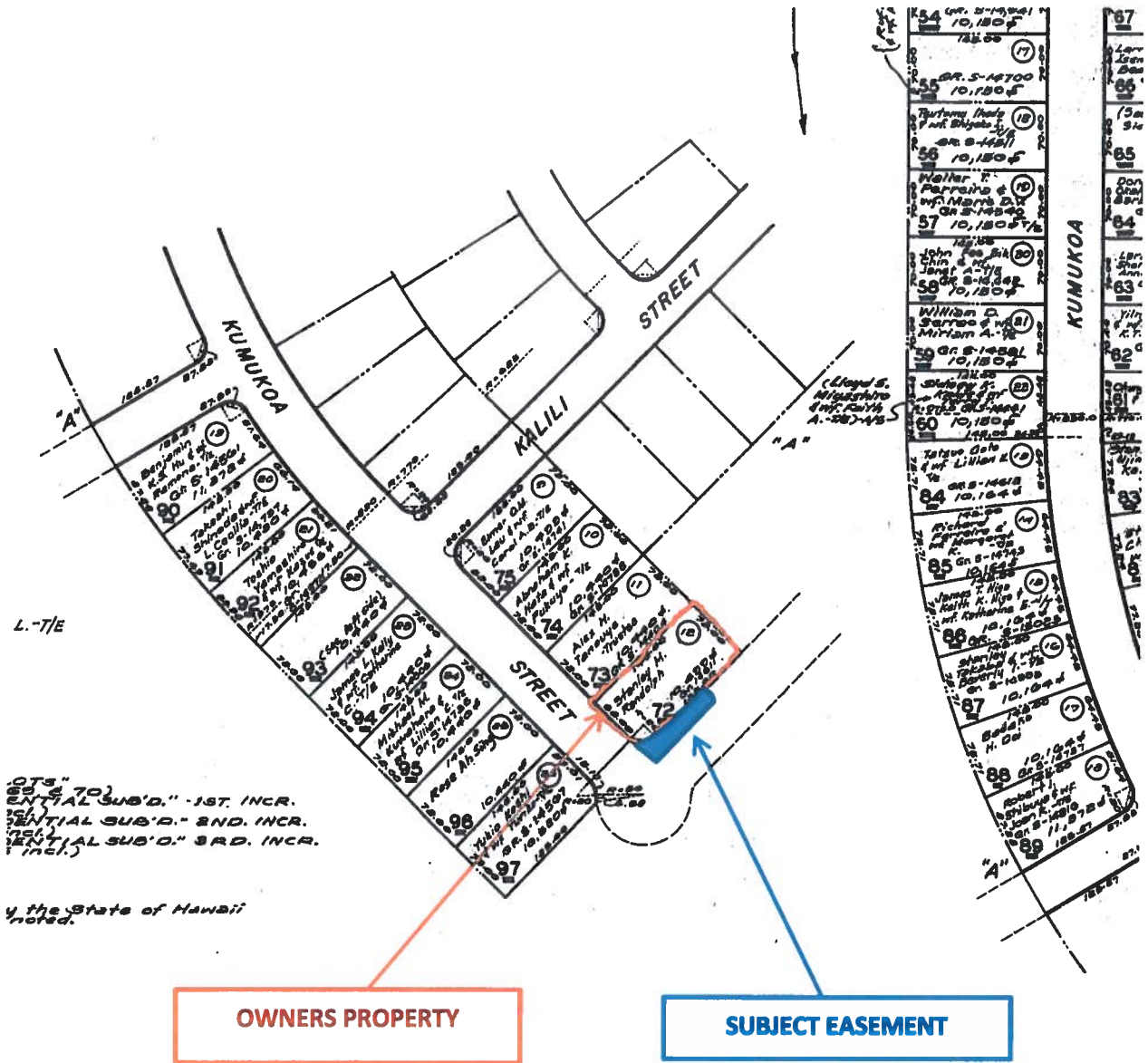


EXHIBIT A

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TMK: 3RD/2-4-01: PORTION OF 24



OTS"
 (EB & 70)
 "ENTIAL SUB'D." - 1ST. INCR.
 "ENTIAL SUB'D." - 2ND. INCR.
 "ENTIAL SUB'D." - 3RD. INCR.
 (INCR.)

By the State of Hawaii
 noted.

OWNERS PROPERTY

SUBJECT EASEMENT