

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

July 12, 2013

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

PSF No.: 13KD-071
LOD No. S-28,050
Kauai

RESUBMITTAL: After-the-Fact Consent to Assign Grant of Non-Exclusive Easement, Kenneth M. Rowell, Assignor, to Shirley A. Jensen, Trustee of the Kenneth M. Rowell and Ellen A. Rowell Trust, Assignee, Wailua, Kawaihau, Kauai, Tax Map Keys: (4) 4-1-002:007 and (4) 4-1-009:002.

APPLICANT:

Shirley A. Jensen, Trustee of the Kenneth M. Rowell and Ellen A. Rowell Trust, as Assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Wailua Rice and Kula Lots situated at Wailua, Kawaihau, Kauai, identified by Tax Map Keys: (4) 4-1-002:007 and (4) 4-1-009:002, as shown on the attached map labeled Exhibit A.

AREA:

.488 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: NO

CHARACTER OF USE:

CHARACTER OF USE:

Right, privilege, and authority to construct, improve, maintain use, and repair a right-of-way for access purposes through those State lands identified as Tax Map Keys: (4) 4-1-002:007 as (4) 4-1-009:002 to landlocked parcel identified as Tax Map Key: (4) 4-1-002:011.

TERM OF EASEMENT:

Perpetual.

AMOUNT PAID FOR EASEMENT:

\$4,800.00

CONSIDERATION:

Not Applicable. Applicant is the Trustee for her parents Trust.

RECOMMENDED PREMIUM:

Not applicable. The Grant of Non-Exclusive Easement instrument does not provide for a premium on assignment.

DCCA VERIFICATION:

Not applicable, Assignor/Assignee is a landowner and, as such, is not required to register with DCCA.

REMARKS:

The Land Board meeting on October 11, 1985, under Item F-11, the board issued a perpetual, non-exclusive easement for access purposes to Antone Arruda.

The Land Board meeting on November 8, 1991, under agenda item F-17, the board approved amendment to prior board action of October 11, 1985, agenda item F-11, amending the Grantee's name from Antone Arruda to Kenneth Rowell.

On November 8, 2011 applicant notified KDLO staff that her father, Kenneth Rowell had passed away in July, 2009 and wanted to continue the easement to their property.

On November 9, 2011, staff sent a letter to applicant to complete the application form for consent to assignment and a copy of her father's death certificate.

On April 15, 2013, staff received completed application, affidavit – death of trustee and copy of death certificate. Exhibit B.

On May 22, 2013, staff received a copy of Agreement of Sale – Satisfaction Warranty Deed from Grantor: Antone R. Arruda to Grantee: Kenneth M. Rowell and Ellen A. Rowell. Recorded with the Bureau of Conveyances, Doc. No. 94-163833.

Also received on the same date a Trust Transfer Deed from Grantors: Kenneth M. Rowell and Ellen A. Rowell, husband and wife as joint tenants hereby grant to: Kenneth M. Rowell and Ellen A. Rowell, Trustees of the Kenneth M. Rowell and Ellen A. Rowell Revocable Trust. Recorded with the Bureau of Conveyances, Doc. No. 2006-062780.

Based on staff's present knowledge, Applicant is in compliance with all easement terms and conditions without default.

Staff is recommending the easement document to "run with the land". Newer easements now issued by the State have such a provision. All that is required is the grantee is required to inform his successor of our liability insurance requirement.

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.

RECOMMENDATION:

That the Board;

- A. Consent to the assignment of Land Office Deed No. S-28,050 from Kenneth Rowell, as Assignor, to Shirley A. Jensen, Trustee for the Kenneth M. Rowell and Ellen A. Rowell Trust, 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
 - 2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

- B. Amend Land Office Deed No. S-28,050, 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: (4) 4-1-002:011; 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."

July 12, 2013

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,



Marvin Mikasa
Land Agent *M*

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



RECORDING REQUESTED BY:)
 Curtis W. Morris)
 LAMB. MORRIS & LOBELLO, LLP)
)
 San Dimas, CA 91773-1255)
)
 MAIL TAX STATEMENTS TO:)
 Shirley A. Jensen, Trustee)
)
 Hesperia, CA 92345)

Recording requested by and mailed to

Space above this line for recorder's use

AFFIDAVIT - DEATH OF TRUSTEE

State of California)
) ss.
 County of San Bernardino)

Shirley A. Jensen, of legal age, being first duly sworn, deposes and says:

That Kenneth M. Rowell, the decedent mentioned in the attached certified copy of Certificate of Death, is the same person as Kenneth M. Rowell, named as one of the Trustees in that certain Declaration of Trust dated February 15, 2006, executed by Kenneth M. Rowell and Ellen A. Rowell as Settlers.

At the time of the demise of the decedent, the decedent was the record owner, as Trustee, of real property identified as Apana 2 of Land Commission Award 3346, Royal Patent 7474 to Nawai, situated on the Northerly side of Opaekaa Stream at Wailua, Kawaihau, Puna, Island and County of Kauai, State of Hawaii and identified by TAX MAP KEY 4-1-2-11 (4), which property is described in a deed which was signed by Kenneth M. Rowell and Ellen A. Rowell as Grantors on March 30, 2006, and recorded as Document No. 2006-062480 on April 4, 2006, in Official Records of the State of Hawaii, Bureau of Conveyances, and is described on legal description attached hereto and made a part hereof.

I, Shirley A. Jensen, am the successor Trustee of the same trust under which said decedent held title as trustee pursuant to the deed described above, and am designated and empowered pursuant to the terms of said trust to serve as Trustee thereof.

There is no federal estate tax due as the result of the death of the decedent mentioned in Paragraph 1 above.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed Aug 20, 09, 2009, at Hesperia, California.

Shirley A. Jensen
 Shirley A. Jensen

MAIL TAX STATEMENTS AS DIRECTED ABOVE

EXHIBIT " B "

CERTIFICATION OF VITAL RECORD

COUNTY of SAN BERNARDINO
DEPARTMENT OF PUBLIC HEALTH
351 N. MT. VIEW AVENUE, SAN BERNARDINO, CALIFORNIA 92415-0010

CERTIFICATE OF DEATH 3200936006115

USE BLANK FOR ONE - DO NOT CHECK IN TWO COLUMNS - INDICATE BY ALTERNATIONS

STATE FILE NUMBER		LOCAL REGISTRATION NUMBER	
1 NAME OF DECEDENT - FIRST (last)		3 LAST Family	
KENNETH		ROWELL	
2 MIDDLE		4 SEX	
M.		M	
6 AREA ALSO KNOWN AS (Use in place of area of birth - WIDE, LAB.)			
7 NORTH STATE (ENGLISH) COUNTRY			
UTAH			
8 SOCIAL SECURITY NUMBER		9 DEED # (if B. MARIED FOREIGN)	
		X YES <input type="checkbox"/> NO <input type="checkbox"/> UNK <input type="checkbox"/>	
10 MARITAL STATUS (at date of death)			
WIDOWED			
11 DECEASED'S RACE - List to 3 places only - Do not check more than one box			
BACHELOR <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> WHITE			
12 USUAL OCCUPATION - List to 3 places only - Do not use initials			
CHEMIST			
13 RACE OF BUSINESS OR INDUSTRY (e.g. grossly over 1000 sq. ft. or more)			
F. 1100			
14 YEARS OF SCHOOLING			
57			
21 CITY		22 ZIP CODE	
HESPERIA		92345	
23 COUNTY PROVINCE		24 YEARS IN COUNTRY	
SAN BERNARDINO		2	
25 STATE/PROVINCE/COUNTRY		26 STATE/PROVINCE/COUNTRY	
CALIFORNIA		CALIFORNIA	
27 INFORMANT'S BASIC RELATIONSHIP			
SHIRLEY JENSEN, DAUGHTER			
28 ADDRESS OF HOME (Include city or town, street ZIP)			
HESPERIA, CA 92345			
29 NAME OF SURVIVING SPOUSE - FIRST		30 MIDDLE	
31 NAME OF FATHER - FIRST		32 MIDDLE	
STRATTON		ROWELL	
33 NAME OF MOTHER - FIRST		34 MIDDLE	
HATTIE		COX	
35 BIRTH STATE		36 BIRTH STATE	
NY		NB	
37 DATE OF DEATH		38 PLACE OF DEATH	
07/11/2009		CENTRAL AVENUE, BREA 92821	
39 TYPE OF DISPOSITION		40 SIGNATURE OF REGISTRAR	
BU		ELEANOR RICHARDSON	
41 NAME OF FUNERAL ESTABLISHMENT		42 LICENSE NUMBER	
TODD MEMORIAL CHAPEL		FD110	
43 SIGNATURE OF LOCAL REGISTRAR		44 DATE (month/day)	
MAXWELL OHIKHUARE, MD		07/10/2009	
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