

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

October 11, 2013

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

PSF No.:13OD-139

OAHU

Grant of Term, Non-Exclusive Easement to Kahaluu Pond, Inc. for Seawall
Purposes, Kahaluu, Koolaupoko, Oahu, TMK: (1) 4-7-011:seaward of 001.

APPLICANT:

Kahaluu Pond, Inc., a domestic profit corporation.

LEGAL REFERENCE:

Section 171-6, 13, and 53, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government submerged lands located in Kahaluu, Koolaupoko, Oahu,
identified by Tax Map Key: (1) 4-7-011: seaward of 001 as shown on the attached map
labeled **Exhibit A**.

AREA:

31,266 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Encumbered under Grant of Easement No. S-4914, Kahaluu Pond, Inc. , Grantee, for
seawall purposes, expiring on February 28, 2014.

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair, replace and remove existing
seawall over, under and across State-owned land.

COMMENCEMENT DATE:

March 1, 2014 (Upon expiration of GL-4914 on February 28, 2014).

CONSIDERATION:

Subject to one-time payment of consideration determined by an independent appraiser subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

During the approval process for CDUA 1292 and 1331(as mentioned below), the Board agreed that a negative declaration in accordance with Section 1:30 of the EIS Regulations has been determined for the use. Since the subject request is pertaining to the existing seawall, staff does not believe an exemption notification is necessary. For the Board's information, a certified shoreline dated June 1, 2009 shows the encroaching area remaining the same.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u> x </u>	NO <u> </u>
Registered business name confirmed:	YES <u> x </u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u> x </u>	NO <u> </u>

APPLICANT REQUIREMENTS: Applicant shall be required to:

- 1) Pay for an appraisal to determine the one-time payment of consideration;
- 2) Obtain concurrent resolution from the Legislature pursuant to 171-53 (c), HRS.
- 3) Process and obtain subdivision at Applicant's own cost.

BACKGROUND:

Grant of Easement No.S-4914 was issued to Kahaluu Pond, Inc. commencing from March 1, 1984 and expiring on February 28, 2014. The Applicant, in view of the forthcoming expiration date, requests the issuance of a new easement.

CDUA (OA-4/8/81-1292) for the land fill and seawall use and CDUA (OA-4/28/81-1331) for seawall use and accessory improvements to existing aquacultural use were approved by the Board in 1981. The above permits gave the Grantee the right, privilege and authority to plan, design and construct a graduated rip-rap on the seaward side of fish pond wall to reinforce the existing seawall. Relevant conditions under the CDUPs were incorporated in the easement(GL-4914).

Comments were received from the following agencies: The Department of Land and Natural Resources, Aquatic Resources, Engineering Division, Water Resource Management and Office of Conservation and Coastal Land, City and County of Honolulu, Department of Facility Maintenance and Department of Design and Construction all have stated they had no objections.

The City and County of Honolulu, Department of Planning and Permitting had no objections but recommended that the applicant submit an subdivision application to designate the easement.

As of the date of this submittal, no comments were received from the Department of Hawaiian Home Lands, DLNR- Division of Forestry and Wildlife, DLNR-Historic Preservation and the Office of Hawaiian Affairs.

Upon approval of today's request, Applicant is reminded of the requirement for concurrent resolution from both houses of the legislature under Sect.171-53(c), HRS prior to the issuance of the requested easement.

Governor's approval pursuant to Section 171-53 (c), HRS will be pursued by the staff upon approval of today's request.

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:

1. Authorize the subject request to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key (1) 4-7-011:001 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.
2. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance of a term, non-exclusive easement to Kahaluu Pond, Inc., covering the subject area for seawall 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 shoreline encroachment easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the property described as Tax Map Key (1) 4-7-011:001, 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;

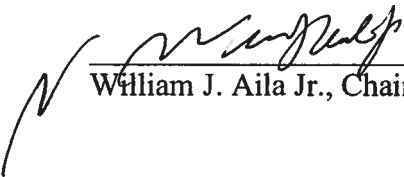
- C. Approval by the Governor and concurrence from the Legislature pursuant to 171-53 (c), HRS;
- D. Comply with the applicable terms and conditions imposed under CDUA OA-1292 and OA-1331 approved June 12, 1981 and July 24, 1981.
- E. Review and approval by the Department of the Attorney General;
- F. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
- G. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.

Respectfully Submitted,



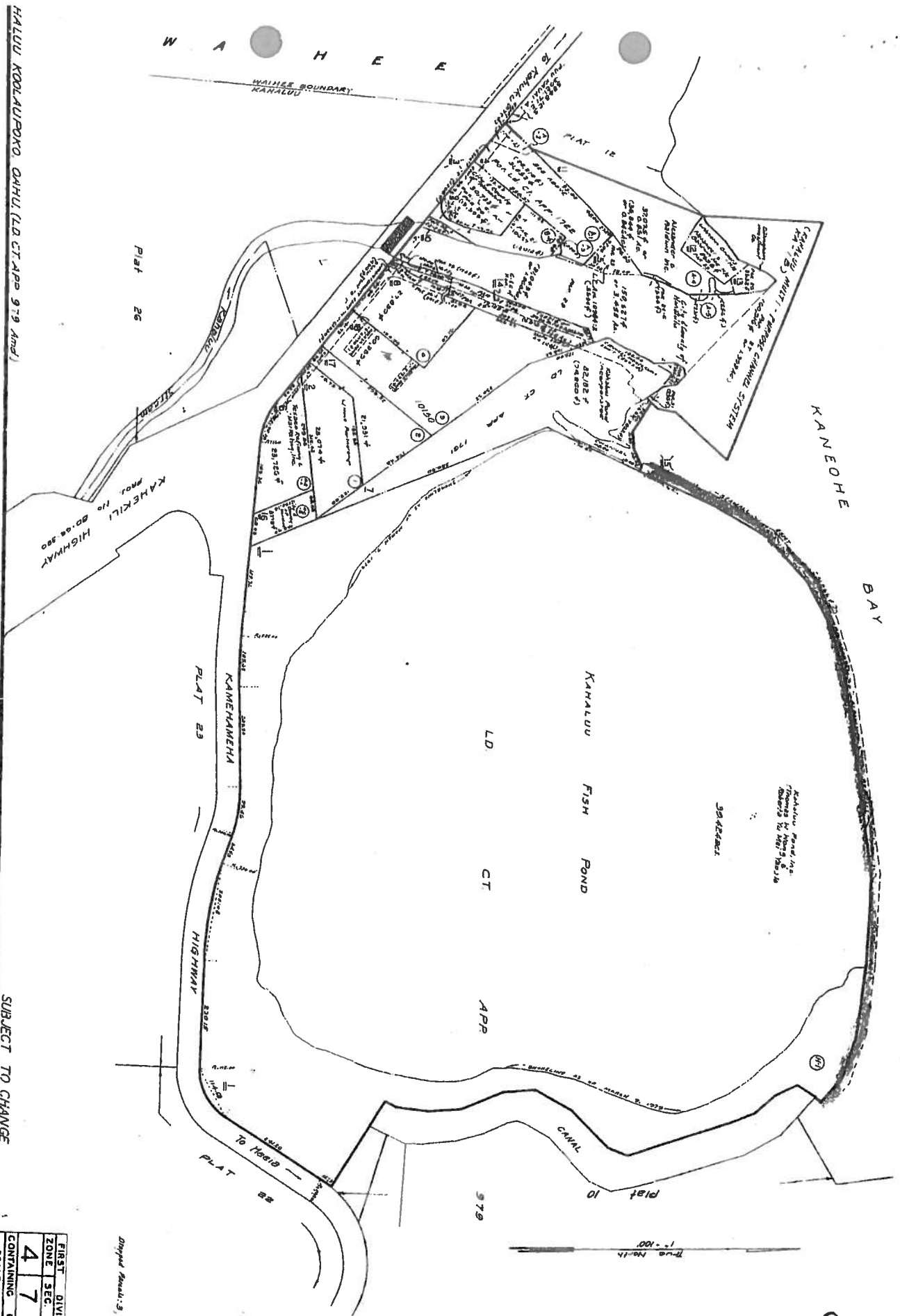
Steve Lau
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila Jr., Chairperson

As by plat of Prof. Maria G. 7/6
 (C. P. of the 1st of the 1st)



SUBJECT TO CHANGE

FIRST	DIVISION
ZONE	SEC.
4	7
CONTAINING PARCELS	
SCALE: 1 in. = 100 ft.	

EXHIBIT "A"