

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

February 27, 2015

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

PSF No.: 14OD-189

OAHU

Grant of Term, Non-Exclusive Easement to Wilton Allen Doane, Jr. and Christina Dao Doane for Pier Purposes; Amend Prior Board Action of December 12, 2014, Item D-26 (Issuance of Revocable Permit to Tokyo News Service, Ltd; Termination of Revocable Permit No. S-7589); Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-6-001:seaward of 017.

The Amendment is to Change the Applicant from Tokyo News Service, Ltd. to Wilton Allen Doane, Jr. and Christina Dao Doane.

APPLICANT:

Wilton Allen Doane, Jr. and Christina Dao Doane, husband and wife, tenants by the entirety.

LEGAL REFERENCE:

Sections 171-6, 13, 17, 53(c), and 55 Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located seaward Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 3-6-001:Seaward of 017, as shown on the attached map labeled **Exhibit 1**.

AREA:

199 square feet, more or less, subject to review and approval by the Department of Accounting and General Services, Survey Division

ZONING:

State Land Use District: Conservation
City & County of Honolulu LUO: R-10 [for the abutting private property]

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 by revocable permit authorized by the Board at its meeting of December 12, 2014, Item D-26 to Tokyo News Services, Ltd. for recreational pier purposes. See Remarks Section for the issuance of the revocable permit.

CHARACTER OF USE:

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

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:

A Negative Declaration for the subject boat dock was published on the OEQC Bulletin dated October 8, 1991.

In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation.". See **Exhibit 2**.

DCCA VERIFICATION:

Not applicable. The Applicants as landowners are not required to register with DCCA.

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicants' own cost;
2. Pay for an appraisal to determine one-time payment; and
3. Obtain concurrent resolution from the Legislature pursuant to 171-53 (c), HRS.

REMARKS:

In 1992, the Board approved Conservation District Use Application (OA-2497) for the subject boat dock to be built by Mr. Tadashi Okuyama, which was followed by the issuance of Revocable Permit No. (RP) S-6837. In 2010, RP S-7589 incorporating the latest insurance requirement provision was issued, while other conditions of the permit remained the same.

In August 2014, Mr. Okuyama transferred the ownership of the abutting property to his company, i.e. Tokyo News Service, Ltd, and he requested the Board issue a new RP to the current recorded owner for the same purpose. After staff scheduled the request regarding the change of permittee for the Board meeting on December 12, 2014, staff was told the abutting property has been sold to Mr. & Mrs. Doane Jr. (the "Applicants"). In fact, the sale was scheduled to be closed on the same date as the Board meeting. Due the State Sunshine Law, staff did not have time to revise the applicants' names before the December 12, 2014 meeting. The Board approved the request as submitted on that date.

Applicants plan to undertake renovation of the property. In the meantime, they request the existing pier be converted into a shoreline encroachment easement. Latest draft shoreline survey map attached as **Exhibit 3** shows the subject pier.

Previously, the revocable permit was subject to the conditions of Conservation District Use Application (OA-2497) as noted on **Exhibit 4**.

Upon approval of today's request, Applicant will be 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.

Office of Conservation and Coastal Lands, Department of Facility Maintenance, and Division of Aquatic Resources have no comment/objection to the subject request. Department of Health, State Historic Preservation Division, Department of Planning and Permitting, Department of Parks and Recreation, Board of Water Supply, and Office of Hawaiian Affairs have not responded to the solicitation for comments.

For housekeeping purposes, staff requests the Board amend its prior action of December 12, 2014, item D-26 (**Exhibit 5**) regarding the change in the applicants' names. Staff will

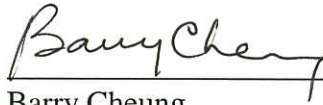
continue to process the approved revocable permit on the terms and conditions approved by the Board, and such revocable permit is expected to be cancelled upon the issuance of the proposed easement.

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. Assess a non-refundable administrative cost of \$500, under Section 171-6, HRS.
3. 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: (1) 3-6-001:017, 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.
4. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to Wilton Allen Doane, Jr. and Christina Dao Doane covering the subject area for pier 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 real property described as Tax Map Key: (1) 3-6-001:017, 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. Conditions of Conservation District Use application OA-9/6/91-2497, [as amended and shown on Exhibit D herein];

- 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.
5. Amend its prior action of December 12, 2014, item D-16 by changing the applicants' name to Wilton Allen Doane, Jr. and Christina Dao Doane.

Respectfully Submitted,



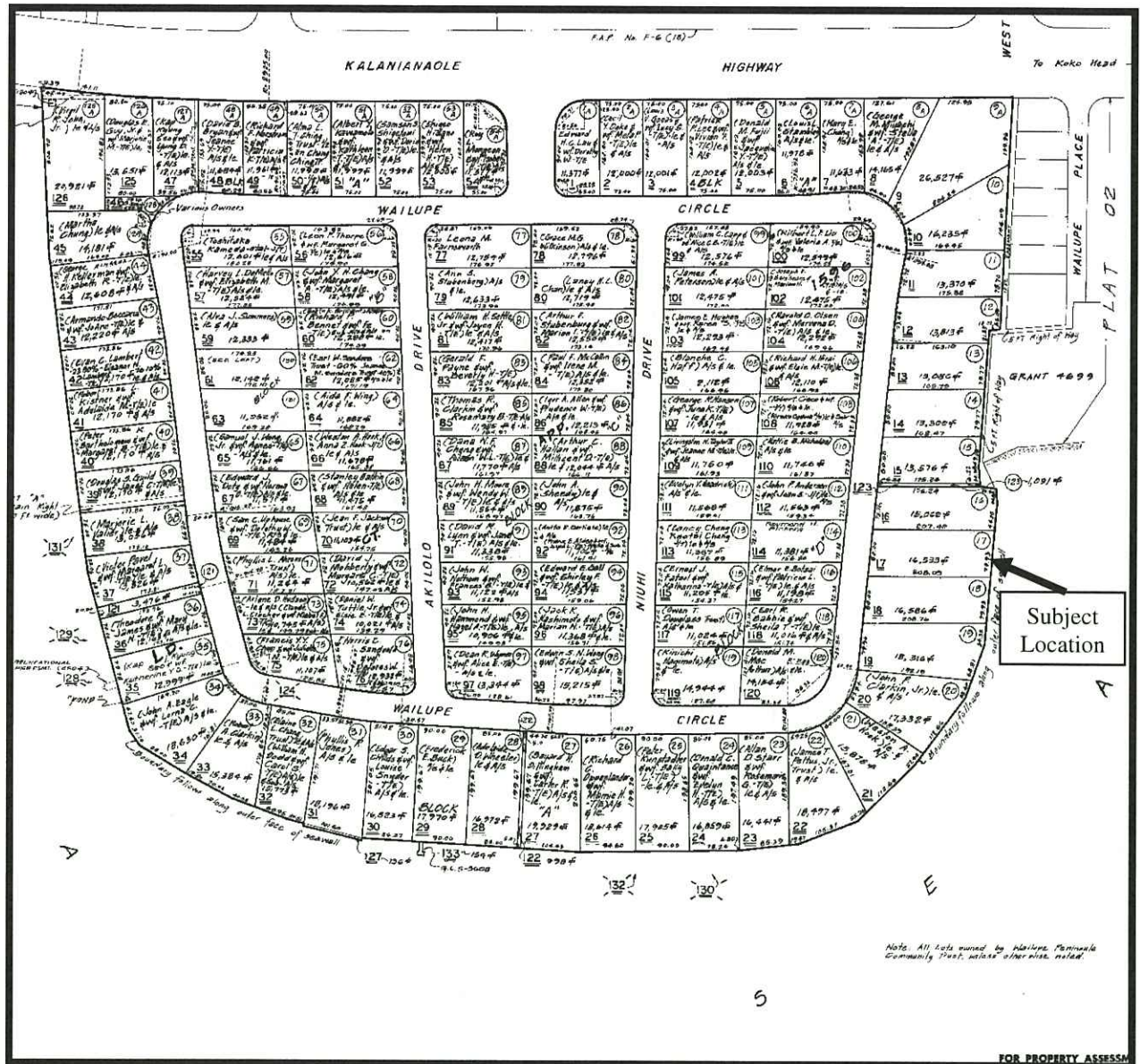
Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Carty S. Chang, Acting Chairperson

v



TMK (1) 3-6-001:seaward of 017

EXHIBIT 1

EXEMPTION NOTIFICATION

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

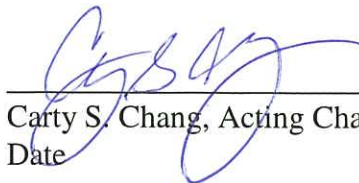
Project Title: Issuance of Term, Non-Exclusive Easement for Pier Purposes
Project / Reference No.: PSF 14OD-189
Project Location: Waikiki, Honolulu, Oahu, TMK (1) 3-6-001:seaward of 017.
Project Description: Issuance of term, non-exclusive easement for pier purposes.
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

The request is triggered by the change in ownership of the abutting private property, and a subsequent request from the new owners asking for long term disposition over the same improvement. The new owners are not planning to have any new improvement to the subject area. As such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

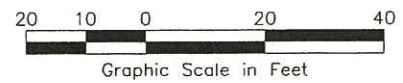
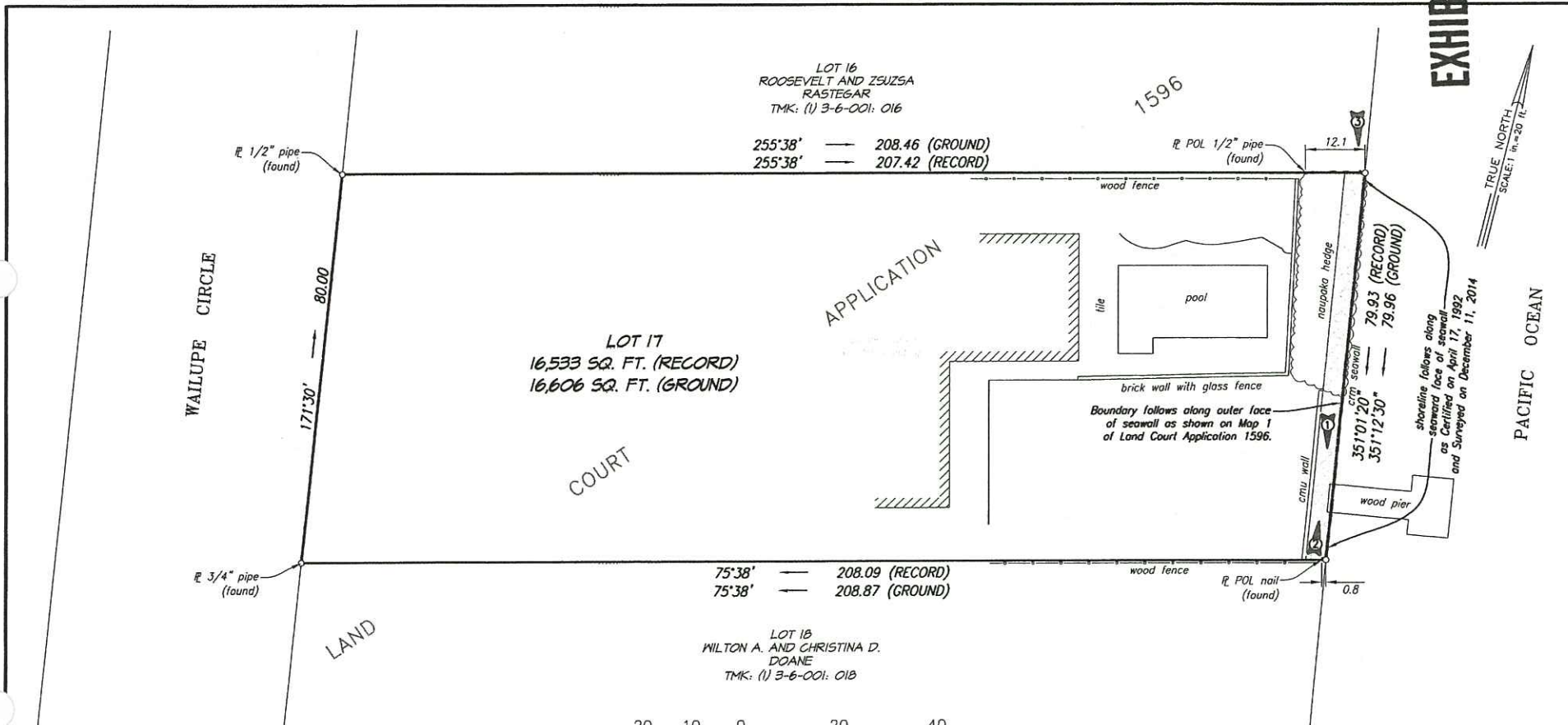
Consulted Parties: Agencies notes in the submittal.

Recommendation: It is recommended that the Board find that 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.



Carty S. Chang, Acting Chairperson
Date

EXHIBIT 2



- NOTES**
1. Azimuths and shown on this map are referred to Government Survey Triangulation Station "KOKO HEAD" Δ.
 2. Names of adjoining property owners were taken from Real Property Tax Records.
 3. Shoreline certification is for setback purposes.
 Denotes photo number and direction.
 4. Map is based on a field survey on December 11, 2014.

SHORELINE CERTIFICATION MAP
OF LOT 17
OF LAND COURT APPLICATION 1596
AT WAILUPE, WAIKIKI, HONOLULU, OAHU, HAWAII
TAX MAP KEY: (1) 3-6-001: 017

SITE ADDRESS: 328 WAILUPE CIRCLE
HONOLULU, HAWAII 96821

OWNER: WILTON A. DOANE
CHRISTINA D. DOANE

AUSTIN, TSUTSUMI, & ASSOCIATES INC.
501 SUMNER STREET, SUITE 521
HONOLULU, HI 96817, (808) 533-3646

THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION.

ERIK S. KANESHIRO
LICENSED PROFESSIONAL LAND SURVEYOR
CERTIFICATE No. 9826



DEPUTIES

MANABU TAGOMORI
Dan T. Kochi

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
PROGRAM
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 821
HONOLULU, HAWAII 96809

FILE NO.: OA-9/6/91-2497
180-Day Exp. Date: 3/4/92
DOC. ID.: 74

FEB 6 1992

Mr. Tadashi Okuyama

Honolulu, Hawaii 96821

Dear Mr. Okuyama:

We are pleased to inform you that your Conservation District Use Application for a boat dock on submerged land off Wailupe Peninsula, Aina Haina, Oahu at TMK: 3-6-01: 17 (offshore) was approved on January 24, 1992, subject to the following:

1. Pursuant to Chapter 171-36(9), HRS, if the pier is used for sunbathing or swimming, the general public be allowed to use the pier and a clearly visible sign indicating the public's right to the use of the pier be posted;
2. That no treated lumber be placed in the water; and that no lumber treated with creosote be used in construction of the proposed dock;
3. The applicant shall be responsible for the maintenance of the dock and the immediate submerged lands, and should the dock, in the future, be no longer needed, it shall be removed at the applicant's or his successors' expense and the area restored to conditions acceptable to the Department of Land and Natural Resources;
4. The applicant shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21, Administrative Rules, as amended;
5. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;

EXHIBIT "4"

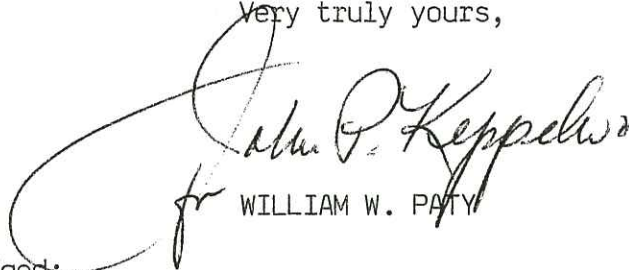
6. Since this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for occupancy of State lands, and for the appropriate size of the boat dock;
7. The applicant shall comply with all applicable Department of Health Administrative Rules;
8. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not infer approval required of other agencies. Compliance with Condition 4 remains the responsibility of the applicant;
9. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use;
10. No dredging of waters shall occur in conjunction with this CDUA approval;
11. Should the adjoining property, TMK 3-6-01: 17, be sold, the Department may require the dock to be removed at no expense to the Department;
12. That prior to approval of any dock construction plans the adjacent landowner record this approval in the Bureau of Conveyances and incorporate it into the adjoining property deed instrument;
13. That in issuing this permit, the Department and Board has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
14. That all representation relative to mitigation set forth in the accepted Environmental Assessment/Environmental Impact Statement for this proposed use are hereby incorporated as conditions of this approval;

- 15. That failure to comply with any of these conditions shall render this Conservation District Land Use application null and void; and
- 16. Other terms and conditions as prescribed by the Chairperson.

Please acknowledge receipt of this permit with the above noted conditions in the space provided below. Please sign two copies. Retain one and return the other.

Should you have any questions on any of these conditions, please feel free to contact our Office of Conservation and Environmental Affairs staff at 587-0377.

Very truly yours,



for WILLIAM W. PATY

Receipt acknowledged:


 Applicant's Signature

Date: 2/27/92

- cc: Oahu Board Member
- Oahu District Land Agent
- C&C Dept. of Land Utilization
- C&C Dept. of General Planning
- DOH/OSP/OHA
- Mr. Tyrone Kusao

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

December 12, 2014

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

PSF No.: 14OD-189

OAHU

Issuance of Revocable Permit to Tokyo News Service, Ltd; Termination of Revocable Permit No. S-7589; Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-6-001:seaward of 017.

APPLICANT:

Tokyo News Service, Ltd, a foreign corporation.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 3-6-001:seaward of 017, as shown on the attached map labeled Exhibit A.

AREA:

288 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 by Revocable Permit No. 7589, Tadashi Okuyama, Permittee, for boat dock pier for recreational use purposes.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
December 12, 2014 *uo.*

EXHIBIT "5"
D-26

CHARACTER OF USE:

Boat dock pier for recreational use purposes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

\$40.00 per month.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

A Negative Declaration for the subject boat dock was published on the OEQC Bulletin dated October 8, 1991.

In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation.". See **Exhibit B**.

DCCA VERIFICATION:

Not applicable. Applicant is not conducting any business in the State, other than being the owner of the abutting private property.

REMARKS:

In 1992, the Board approved Conservation District Use Application (OA-2497) for the subject boat dock to be built by Mr. Tadashi Okuyama, which was followed by the issuance of Revocable Permit No. (RP) S-6837. In 2010, RP S-7589 incorporating the latest insurance requirement provision was issued, while other conditions of the permit remained the same.

In August 2014, Mr. Okuyama transferred the ownership of the abutting property to his company, i.e. Tokyo News Service, Ltd, and he requests the Board issue a new RP to the current recorded owner for the same purpose.

Staff reviewed the application and agrees that a new RP to the current recorded owner would be in order. Nevertheless, staff recommends the Board increase the monthly rent from \$25 to \$40, which is consistent with the Board policy adopted at its meeting of May 13, 2005 (item D-19). The policy stated all new dispositions by Land Division shall be subject to a minimum rent of \$40 per month. Applicant did not object to the proposed increase in the monthly rent.

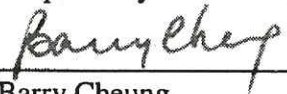
Staff understands that the property is currently listed in the market and the Applicant does not intend to convert the disposition into an easement.

There are no compliance issues regarding the current RP. Staff did not solicit comments from other agencies as the request is for housekeeping purposes only. There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:

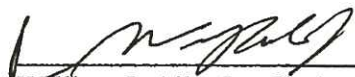
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to Tokyo News Service, Ltd covering the subject area for boat dock pier for recreational use 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 revocable permit form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Termination of Revocable Permit No. S-7589 upon execution of the new revocable permit described above.

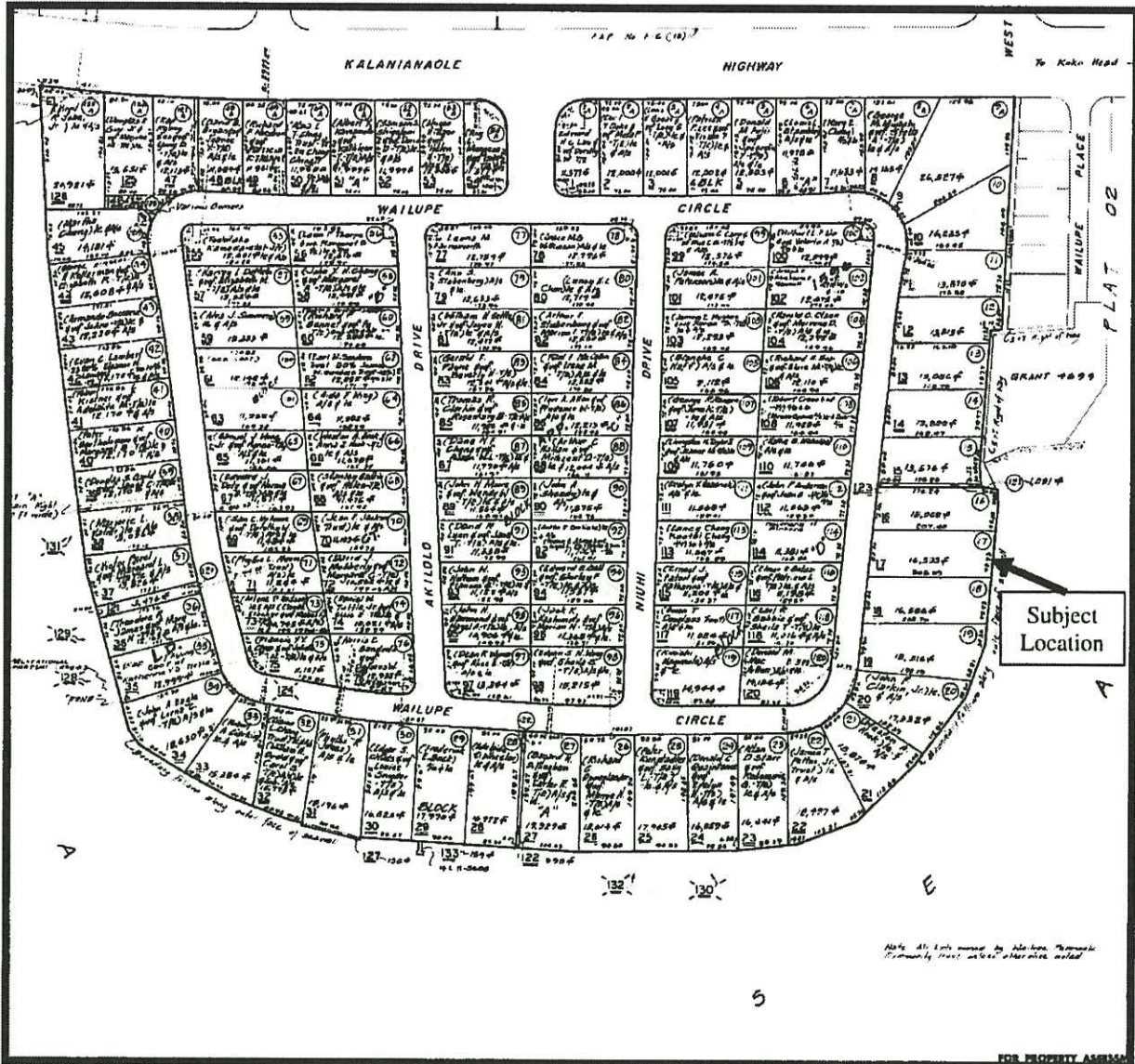
Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson



TMK (1) 3-6-001:seaward of 017

EXHIBIT A

EXEMPTION NOTIFICATION

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

Project Title: Issuance of Revocable Permit for Boat Dock Pier for Recreational Use Purposes
 Project / Reference No.: PSF 14OD-189
 Project Location: Waikiki, Honolulu, Oahu, TMK (1) 3-6-001:seaward of 017.
 Project Description: Issuance of revocable permit for boat dock purposes pursuant to change in ownership of the abutting property.
 Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

The request is triggered by the change in ownership of the abutting private property from the original permittee to a company owned by the same permittee. The permittee is not planning to have any new improvement to the permit area. As such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Not applicable

Recommendation: It is recommended that the Board find that 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

Date 11/20/14


EXHIBIT B