

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

September 25, 2015

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

PSF No.:15KD-117

Kauai

Grant of Term, Non-Exclusive Easement to Mitsugi Yokotake and Clara N.L. Yokotake for Access and Utility Purposes, por. of Waimea Valley, Waimea, Kauai, Tax Map Key: (4) 1-5-002:045.

Issuance of Immediate Right-of-Entry Permit to Mitsugi Yokotake and Clara N.L. Yokotake for Access to Property.

APPLICANT:

Mitsugi Yokotake and Clara N.L. Yokotake, Joint Tenants.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Waimea situated at Waimea Valley, Waimea, Kauai, identified by Tax Map Key: (4) 1-5-002:045, as shown on the attached map labeled Exhibit A.

AREA:

3,775 square feet, more or less.

ZONING:

State Land Use District:	Agriculture
County of Kauai CZO:	Agriculture

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:

Vacant and Unencumbered

CHARACTER OF USE:

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

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

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

EASEMENT TERM:

Fifty-five (55) years.

ANNUAL RENT:

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

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit B.

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment; and
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Applicants own two parcels of land identified as Tax Map Keys: (4) 1-5-002:042 and 063.

On Tax Map Key (4) 1-5-002, a driveway designated as Parcel 045 is shown as owned by Yutaka Yokotake and Tamayo Yokotake. This is an error as confirmed by a title search that shows no deeds conveying Parcel 045 from the sovereign (Kingdom, Republic, Territory or State of Hawaii) to the Yokotakes. See Exhibit C. The Yokotakes previously owned a larger lot designated as Tax Map Key: (4) 1-5-002:054, which was a portion of Waimea Valley Government Remnant Lands. They subdivided Parcel 054 into four smaller parcels. However, Parcel 045 was not part of the subdivision, and the Yokotakes never purported to convey Parcel 045 to anyone. In short, despite the tax map designation for Parcel 045, the Board of Land and Natural Resources is the actual owner of the land.

Land Division's Abstract Division did an informal search and came to the same conclusion – no record of a conveyance from the sovereign to a private owner.

Applicants are currently land-locked with no access to their property. They will create an access easement (AU-4) as shown on Exhibit A, for access from Tax Map Key: (4) 1-5-002:045 to Tax Map Keys: (4) 1-5-002:042 and (4) 1-5-002:063.

Applicants have 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.

Comments were solicited from the agencies identified below with the results indicated.

State Agencies:

DOH	No comments
DLNR – Historic Preserv.	No response by suspense date
OHA	No response by suspense date

County Agencies:

County Planning	No comments
Public Works	No response by suspense date
Water Dept.	No response by suspense date

Staff is including a recommendation below for the issuance of an immediate right-of-entry permit (ROE) to Applicants over Parcel 045 for a period of one year, with an additional one-year extension that the Chairperson may approve for good cause. The ROE will require include the standard insurance and indemnity provisions to protect the State's interests.

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 Keys: (4) 1-5-002:042 and (4) 1-5-002:063, 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 Mitsugi Yokotake and Clara N.L. Yokotake, as joint tenants, covering the subject area for access and utility 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 easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Keys: (4) 1-5-002:042 and (4) 1-5-002:063, 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.
3. Authorize the issuance of an immediate right-of-entry permit to Mitsugi Yokotake and Clara N.L. Yokotake covering the subject area under the terms and conditions

cited above, which are by this reference incorporated herein and further subject to the following:

- A. The terms and conditions of the most current right-of-entry permit, as may be amended from time to time;
- B. The duration of the right-of-entry is one year, however, the Chairperson may approve a one-year extension for good cause shown; and
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

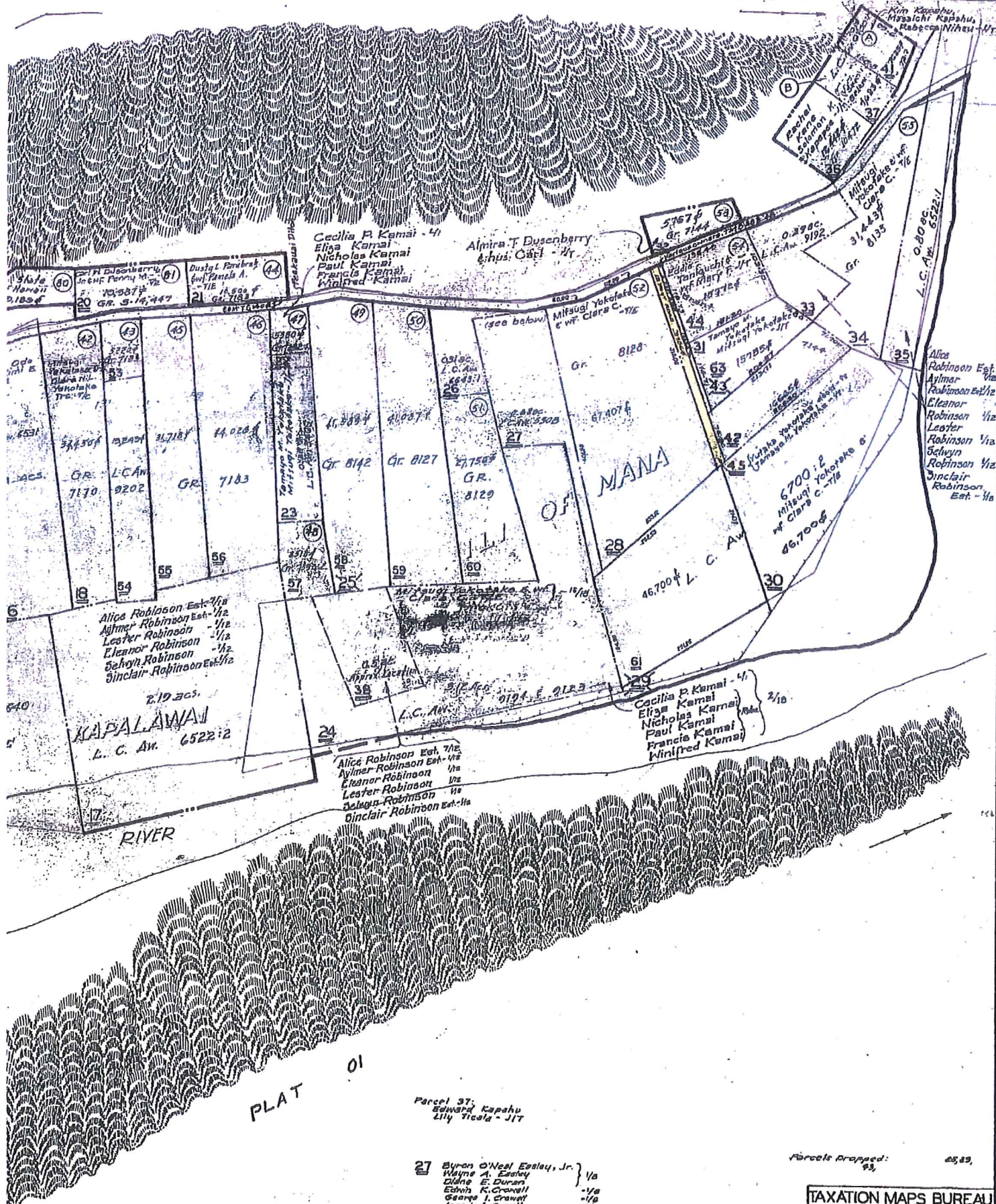


Marvin Mikasa
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



PLAT 01

Parcel 37:
Edmund Kapahu
Lily Tieda - 1/10

27 Byron O'Neal Esley, Jr. } 1/8
Wayne A. Esley }
Clara E. Duran } 1/8
Edna R. Crowell } 1/8
George I. Crowell } 1/8
Joseph A. Crowell } 1/8
Elaine K. Crowell } 1/8
Ruth M. Crowell } 1/8
Paul Kamai est. } 1/8

Parcels Drapped: 63, 65, 69,

EXHIBIT "A"

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH	DIVISION	
ZONE	SEC.	PLAT
1	5	02

**Easement AU-3
Roadway Lot
TMK: (4) 1-5-02:45**

All of that certain parcel of land being a roadway Easement AU-3, at Waimea Valley, Government Remnants, Ili of Nania, Waimea, Kauai, Hawaii and more particularly described as follows:

Beginning at the Southwest corner of this parcel of land, on the East side of Waimea Valley Road, the coordinates of which referred to Government Survey Triangulation Station, "TRANSIT OF VENUS" being 7,704.66 feet North and 3,380.90 feet East and running by azimuths measured clockwise From True South:

- | | | |
|----|--------------|---|
| 1. | 167° 00' | 12.05 feet along Menehune Road (Waimea Valley Road); |
| 2. | 262° 24' | 234.62 feet along an 8 foot wide roadway; |
| 3. | 151° 03' 16" | 0.21 feet along TMK 1-5-02:63 remainder of Lot 54; |
| 4. | 262° 22' 45" | 76.80 feet along TMK 1-5-02:42 remainder of Lot 54; |
| 5. | 330° 39' | 13.16 feet along L.C. Aw. 6028 and 6700, Ap.2; |
| 6. | 82° 24' | 315.13 feet along Lot 52 to the point of beginning and containing an AREA of 3,775 square feet. |



May 5, 2015
P.O. Box 851
Hanalei, Hawai'i 96714

HONUA ENGINEERING INC.

A handwritten signature in cursive script that reads "B Hennessey".

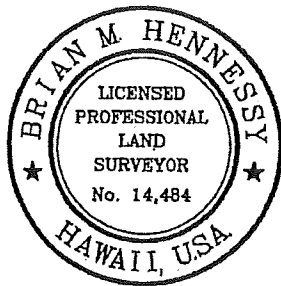
Brian M. Hennessey
Licensed Professional Land Surveyor Certificate
No. 14,484

**Easement AU-4
20.00 feet wide**

All of that certain parcel of land being an Easement AU-4 (20.00 feet wide) for access and utility purposes affecting Tax Map Key (4) 1-5-02:42, being a portion of Lot 54, at Waimea Valley, Government Remnants, Ili of Nania, Waimea, Kauai, Hawaii and more particularly described as follows:

Beginning at the Southwest corner of this parcel of land, at the Southeast corner of TMK (4) 1-5-02:63 on the North side of a Roadway Lot TMK (4) 1-5-02:45, the coordinates of which referred to Government Survey Triangulation Station, "TRANSIT OF VENUS" being 7,747.62 feet North and 3,610.65 feet East and running by azimuths measured clockwise From True South:

1. 151° 03' 16" 34.14 feet along an 8 foot roadway and TMK (4) 2-5-02:63;
2. 241° 03' 16" 20.00 feet over and across TMK (4) 1-5-02:42;
3. 331° 03' 16" 41.95 feet over and across TMK (4) 1-5-02:42;
4. 82° 24' 45" 21.47 feet along a Roadway Lot, TMK (4) 1-5-02:45 to the point of beginning and containing an AREA of 761 square feet.



May 5, 2015
P.O. Box 851
Hanalei, Hawai'i 96714

HONUA ENGINEERING INC.

A handwritten signature in cursive script that reads "B. Hennessy".

Brian M. Hennessy
Licensed Professional Land Surveyor Certificate
No. 14,484

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEEOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES DEVELOPMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAPU, AWAHI, AND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Grant of Term, Non-Exclusive Easement and Immediate Right-of-Entry to Mitsugi Yokotake and Clara N.L. Yokotake for Access Purposes

Project Number: PSF No. 15KD-117

Project Location: por. of Waimea Valley, Waimea, Kauai


Project Description: Access Purposes

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

Exemption Class No. In accordance with the Exemption List for the Department of Land and Natural Resources, as Reviewed approved by the Environmental Council on June 5, 2015, **Exemption Class No.1**, "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 [HAR § 11-200-8(a) (46)]"

Consulted Parties None

Recommendation: It is recommended that the Board declare 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.


Suzanne D. Case, Chairperson

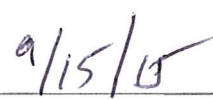

Date

EXHIBIT "B"

PRELIMINARY REPORT
(No Liability Hereunder)

This report (and any revisions thereto) is issued solely for the convenience of the titleholder, the titleholder's agent, counsel, purchaser or mortgagee, or the person ordering it for the purpose of facilitating the issuance of a policy of title insurance by Title Guaranty of Hawaii and no liability will arise under this report.

SCHEDULE A

Title Guaranty of Hawaii, Incorporated, hereby reports that, subject to those matters set forth in Schedule "B" hereof, the title to the estate or interest to the land described in Schedule "C" hereof is vested in:

STATE OF HAWAII,
as Fee Owner

This report is dated as of June 23, 2014 at 8:00 a.m.

Inquiries concerning this report
should be directed to
KYLE AJIFU.
Email kajifu@tghawaii.com
Fax (808) 533-5870
Telephone (808) 533-5873.
Refer to Order No. 201421403B.

EXHIBIT C

**SCHEDULE B
EXCEPTIONS**

1. Real Property Taxes, if any, that may be due and owing.

Tax Key: (4) 1-5-002-045 Area Assessed: 3,746 sq. ft.

Tax Classification: AGRICULTURAL

2. Rights of others who may have easement or access rights in the land described in Schedule C.
3. The records at the County of Kauai Real Property Assessment Division for the parcel of land described in Schedule C (subject land), shows the ownership of this parcel in TAMAYO YOKOTAKE, as to a 1/2 interest, and YUTAKA YOKOTAKE, deceased, as to a 1/2 interest. However, we find no deeds conveying the parcel of land described in Schedule C from the STATE OF HAWAII.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.

-Note:- A current survey, with metes and bounds description, should be made of said premises.

END OF SCHEDULE B

SCHEDULE C

All of that certain parcel of land (being portion of the land(s) described in and covered by Government (Crown) Land of Waimea) situate, lying and being at Ili of Nania, Waimea Valley, District of Waimea, Island and County of Kauai, State of Hawaii, bearing Tax Key designation (4) 1-5-002-045, and containing an area of 3,746 sq. ft., more or less.

END OF SCHEDULE C