

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

May 24, 2019

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

PSF No.: 18OD-151

OAHU

Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc for Utility Purposes, Cancellation of Revocable Permit No. S-7605; Waimanalo, Koolauoko, Oahu; Tax Map Key: (1) 4-1-013: portions of 022.

APPLICANT:

Hawaiian Electric Company, Inc.

LEGAL REFERENCE:

Sections 171-13, 17, 55 and 95, Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolauoko, Oahu; Tax Map Key: (1) 4-1-013: portions of 022, as shown on the attached map labeled as **Exhibit 1A** and **1B**.

AREA:

840 square feet, more or less.

ZONING:

| | |
|--------------------------------|---------------------------|
| State Land Use District: | Agriculture District |
| City & County of Honolulu LUO: | AG-2, General Agriculture |

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Encumbered by Revocable Permit No. S-7605 to Hawaiian Electric Company, Inc. and to Hawaiian Telcom, Inc. for utility purposes.

Encumbered by Revocable Permit No. S-7910 to Richard and Kathleen Teixeira for pasture and horse stabling purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove electrical transmission lines, poles, guy wires and anchors over, under and across State-owned land, including the right to trim and keep trimmed any trees in the way of its appliances and equipment.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by an independent appraisal, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources, concurred and reviewed by the Environmental Council on June 5, 2015, 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 item 46, which states, "Creation or termination of easement, covenants, or other rights in structures or land." See **Exhibit B**.

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 a one-time easement payment; and
- 2) Provide survey maps and descriptions according to State of Hawaii survey mapping standards and at Applicant's own cost;

- 3) Process and obtain designation of easement approval from the Department of Planning and Permitting, City and County of Honolulu, at Applicant's own cost.

REMARKS:

On April 9, 1954, Hawaiian Electric Company, Inc. ("HECO") and the Hawaiian Telephone Company, currently Hawaiian Telcom, Inc. ("HTI") were granted Revocable Permit S-1316 to cross over a portion of the subject Government land to supply utility services to a private residence. The Revocable Permit was then re-issued with updated wording and requirements on October 23, 2009 under agenda item D-12 to Revocable Permit S-7605 ("RP7605").

Following the Board of Land and Natural Resources' ("Board") directive to convert revocable permits into long term dispositions, staff received agreement from the applicant for a long-term disposition. Prior to conversion, both HECO and HTI are requesting the requirement of a Phase 1 environmental site assessment be waived referring to no. 14 of additional conditions in RP7605 stating:

"Prior to termination or revocation of the subject Permit, Permittee shall conduct a Phase I environmental site assessment and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Department of Health, and the DLNR. Failure to comply with the provisions of this paragraph shall not extend the term of this Permit or automatically prevent termination or revocation of the Permit. The Board, at its sole option, may refuse to approve termination or revocation unless this evaluation and abatement provision has been performed. In addition of in the alternative, the Board may, at its sole option if Permittee does not do so, arrange for performance of the provisions of this paragraph, all costs and expenses of such performance to be charged to and paid by Permittee."

On May 31, 2017, HTI made notification through email to terminate their interest in RP7605 and asked that the requirement of a Phase 1 Environmental Site Assessment ("ESA") be waived. HTI is stating that their company does not have any telecommunication lines in the encumbered area, therefore the need for a Phase 1 ESA is moot. Further, HECO plans to continue using the area without change of use beyond that previously existing. Staff does not have any objection for the requested waiver of Phase 1 ESA.

A recent site inspection indicated that the subject State parcel is well-maintained. There are no compliance issues for HTI and staff is not aware of any pending litigation involving HTI for the subject area. Staff recommends the Board authorize waiving the requirement of Additional Condition No. 14 regarding the conducting of a Phase 1 ESA.

The Department of Agriculture, the Department of Facilities Maintenance, and the Board of Water Supply have no objections/comments and concur with the proposed

environmental assessment exemption. The Department of Transportation-Highways Division, the Department of Planning and Permitting, and the Office of Hawaiian Affairs have not responded to the solicitation for comments before the deadline.

Permittee holder of Revocable Permit S-7910, by email dated April 24, 2019, indicated that they have checked the area in question and see no issues to disagree and concurred to the proposed work.

RECOMMENDATION: That the Board:

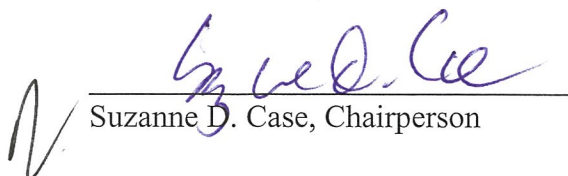
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore, exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Hawaiian Electric Company, Inc. covering the subject area for 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 perpetual easement document 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. Upon issuance of the requested easement, waive the requirement of conducting a Phase 1 environmental site assessment and cancel Revocable Permit No. S-7605.

Respectfully Submitted,

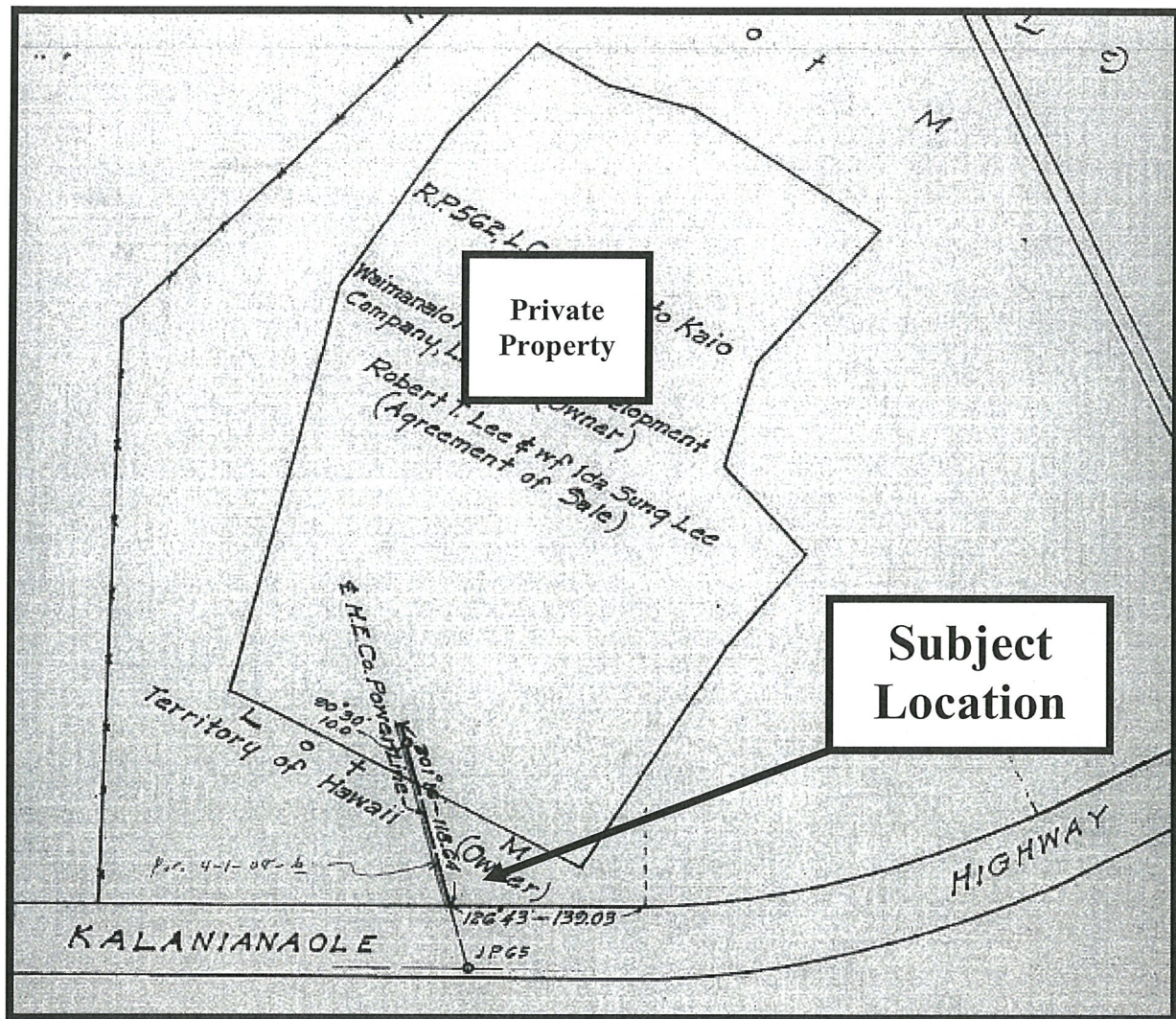


Darlene Bryant-Takamatsu
Land Agent

APPROVED FOR SUBMITTAL:

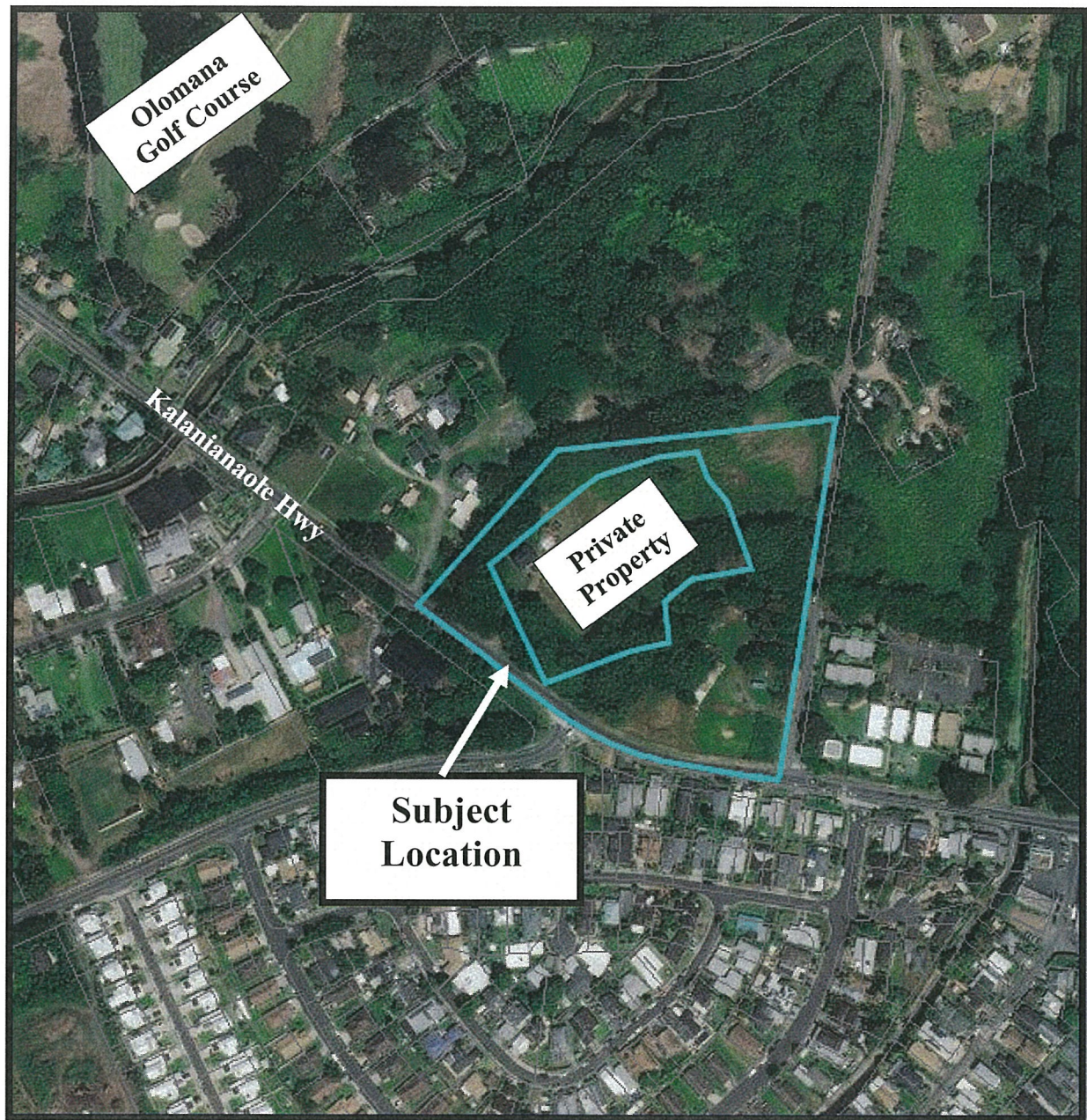


Suzanne D. Case, Chairperson



TMK (1) 4-1-013: portions of 022

EXHIBIT A1



TMK (1) 4-1-013: portions of 022

EXHIBIT A2

EXEMPTION NOTIFICATION

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

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| Project Title: | Grant of Perpetual Non-Exclusive Easement to Hawaiian Electric Company Inc. for Utility Purposes |
| Project / Reference No.: | PSF 18OD-151 |
| Project Location: | Waimanalo, Koolaupoko, Oahu; TMK: (1) 4-1-013: portions of 022 |
| Project Description: | Cancellation of a Revocable Permit and the Issuance of a Perpetual Non-Exclusive Easement for Utility Purposes |
| Chapter 343 Trigger(s): | Use of State Land |
| Exemption Class No.: | In accordance with the Exemption List for the Department of Land and Natural Resources, concurred with by the Environmental Council on June 5, 2015, 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 item 46, which states, "Creation or termination of easement, covenants, or other rights in structures or land." |
| Cumulative Impact of Planned Successive Actions in Same Place Significant: | No, being that this request is pertaining to an issuance of a perpetual non-exclusive easement to replace the current revocable permit serving utility purposes, staff believes that the request would involve negligible expansion or change in use of the subject area beyond previously existing. |
| Action May Have Significant Impact on Particularly Sensitive Environment: | Staff is not aware of any particularly sensitive environmental issues and use of the area would involve negligible change from what is existing. |
| Consulted Parties | Agencies as noted in the submittal. |
| Recommendation: | It is anticipated that the change in disposition will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment. |

EXHIBIT B