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

July 22, 2009

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

PSF No.:09od-060

OAHU

Grant of Term, Non-Exclusive Easement to George W. Playdon Jr. for Seawall Purposes; Mutual Cancellation of Grant of Non-Exclusive Easement S-5195, Kaluanui, Koolauloa, Oahu, Tax Map Key: (1) 5-3-008:seaward of 008.

APPLICANT:

George W. Playdon Jr., whose mailing address is 682 Kalanipuu Street, Honolulu, Hawaii 96825

LEGAL REFERENCE:

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

LOCATION:

Portion of Government land located seaward of Kaluanui, Koolauloa, Oahu, identified by Tax Map Key: (1) 5-3-08:seaward of 08, as shown on the attached map labeled Exhibit A.

AREA:

487 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 grant of non-exclusive easement S-5195 issued to George W. Playdon, Jr. for seawall purposes.

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:

To be determined by the Chairperson.

CONSIDERATION:

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

EASEMENT TERM:

Fifty-five (55) years

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, 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."

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

None. It is intended to use the same survey map in the current easement.

REMARKS:

Pursuant to the regular rental reopening under the current easement (GL 5195), the annual

rent for the period from June 23, 2009 to June 22, 2019 has been determined at 1,840. The grantee inquired the possibility of replacing the remaining term of GL 5195 by a new 55-year term, non-exclusive easement subject to a lump sum payment.

Office and Conservation and Coastal Lands, Division of Aquatic Resources, Board of Water Supply, Department of Hawaiian Home Lands, State Historic Preservation Division, Department of Parks & Recreation, Department of Facility Maintenance, and Commission on Water Resource Management have no objections/comments on the request.

Department of Health, Department of Planning and Permitting, and Office of Hawaiian Affairs have not responded as of the suspense date. Staff has no objection to the request.

Regarding the consideration, staff believes it is unnecessary to undergo another appraisal as the rent for the period commencing from June 23, 2019 has recently been determined. Instead, staff recommends the Board authorize the staff appraiser to use the annual rent of $1,840 as the base to determine the lump sum payment for the new easement, further subject to review and approval of the Chairperson.

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. 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 Key: (1) 5-3-008:008, 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 easements to the applicant mentioned above covering the respective 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 real property respectively described as Tax Map Key: (1) 5-3-008:008, 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 Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;

C. Review and approval by the Department of the Attorney General;

D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and

E. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.

4. Authorize the mutual cancellation of grant of non-exclusive easement S-5195 upon the issuance of the new easement.

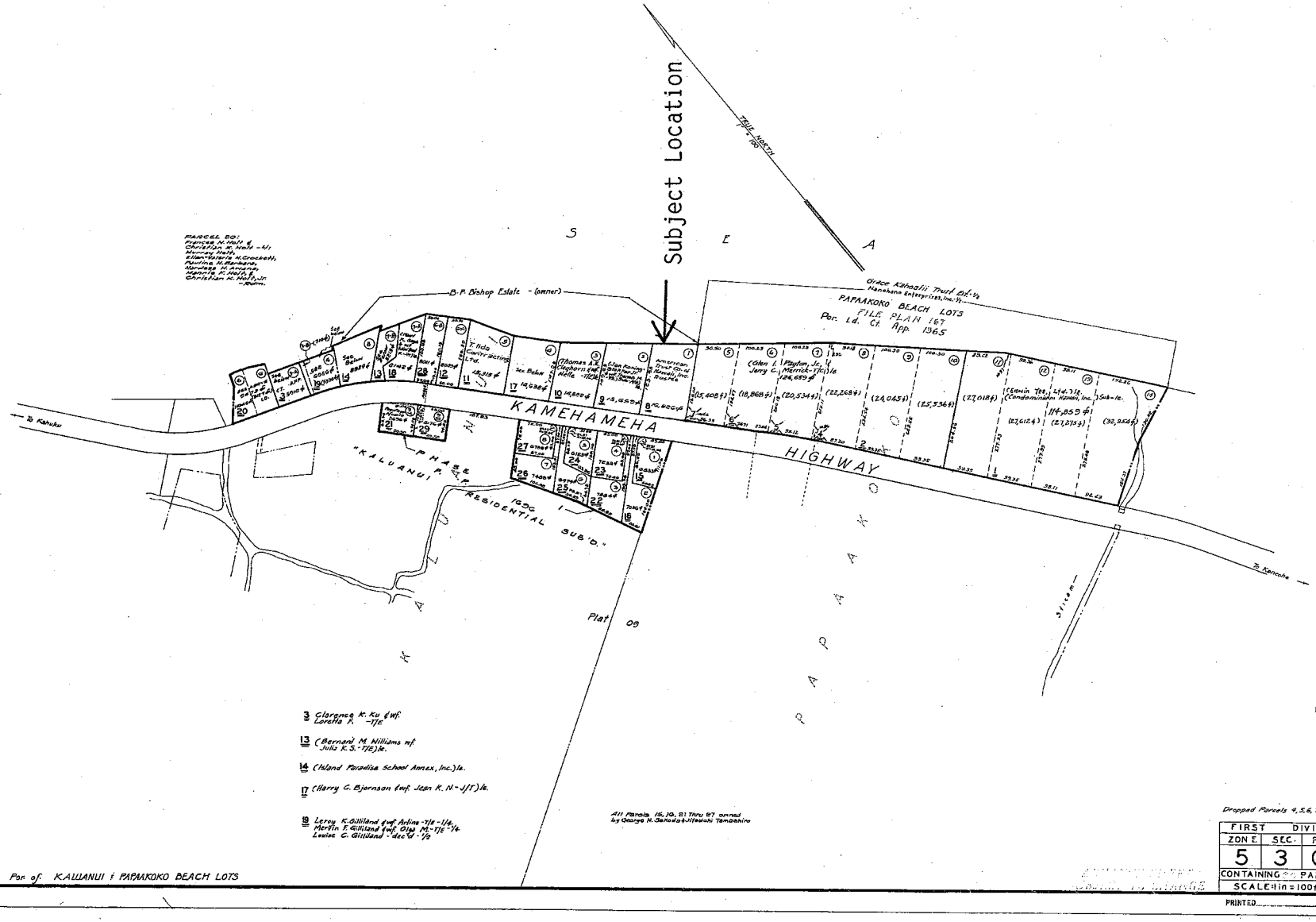
Respectfully Submitted,

Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:

Laura H. Thielen, Chairperson

EXHIBIT "A"

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