

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-077

OAHU

Grant of Term, Non-Exclusive Easement to Marilyn CupChoy Trust for Boat
Dock Purposes, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-6-003:seaward
of 077

APPLICANT:

Marilyn CupChoy, Trustee of Marilyn CupChoy Trust, whose mailing address is 46-194
Na Kao Place, Kaneohe, Hawaii 96744.

LEGAL REFERENCE:

Section 171-13 Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located seaward of Kaneohe, Koolaupoko, Oahu, identified
by Tax Map Key: (1) 4-6-003:077, as shown on the attached map labeled Exhibit A.

AREA:

176 square feet, more or less, to be determined by the Department of Accounting and
General Services, Survey Division.

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:

Unencumbered with encroachments.

CHARACTER OF USE:

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

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

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

On July 13, 2001, agenda item D-32, the Board approved the master Conservation District Use Permit (CDUP) covering the existing piers in the Kaneohe Bay Area. This CDUP is part of the Kaneohe Bay Piers Amnesty Program in which the abutting owners could apply for a direct lease for private noncommercial pier purposes. The subject location is included in the said CDUP.

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is 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:

As mentioned above, the subject location is originally included in the Kaneohe Bay Piers Amnesty Program. The property was owned by Margaret Ciupak, who did not provide the required survey map of the pier to the Department to complete the process for a lease.

Mrs. CupChoy, daughter of Mrs. Ciupak, is the current owner who intends to sell the property and she wants to repair the boat dock. Recently, Mrs. CupChoy approached the Office of Conservation and Coastal Lands (OCCL) regarding any necessary permits for the repair project. OCCL, citing another CDUP approved in 1979 for the same location which requires the then owner obtain a proper authorization for the occupancy of the land from the Board, rejected the proposed repair project. Mrs. CupChoy decides to request a disposition from the Board.

Staff did not solicit any comments from other governmental agencies because such review process has undergone twice during the CDUP process.

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.

There are no other pertinent issues or concerns and staff has no objection to the request.

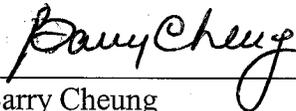
RECOMMENDATION: That the Board:

1. 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) 4-6-003:077, 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 Marilyn CupChoy Trust covering the subject area for boat dock 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) 4-6-003:077, 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 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

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:




Laura H. Thielen, Chairperson

