

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

December 11, 2009

Ref. No.: GLS-5513
PSF No.: 09HD-145

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

HAWAII

After-the-fact, Grant of Perpetual, Non-Exclusive Easement to the Water Board of the County of Hawaii for Water Meter Purposes at Piihonua, South Hilo, Hawaii, Tax Map Key: 3rd/ 2-3-032: portion of 011.

APPLICANT:

Water Board of the County of Hawaii, whose business and mailing address is 345 Kekuaaoa Street, Hilo, HI 96720.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Parcel 3, situated at Piihonua, South Hilo, Hawaii, identified by Tax Map Key: 3rd/ 2-3-032: portion of 011, as shown on the attached map labeled Exhibit A.

AREA:

.0073 acres (320 square feet), more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Residential

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES _____ NO x

CURRENT USE STATUS:

Encumbered by General Lease No. S-5513, Hospice of Hilo (HOH), Lessee, for Hospice and allied purposes. Lease to expire on September 30, 2062.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove water meter, transmission pipelines, and other related facilities over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on September 23, 1995 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Not applicable to a government agency.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

BACKGROUND:

At its meeting of January 26, 1996, Item F-6, the Board of Land and Natural Resources approved the issuance of a direct lease to the Hospice of Hilo, a tax exempt, non-profit organization dedicated to providing care for terminally ill people and their families in East Hawaii. Its basic goal is to assist them in facing impending death in comfort, peace, and dignity. The services are provided at no cost to the patients and their families. Funding support comes from Hawaii Island United Way, the Combined Federal Campaign, the State Office of Aging, memorial gifts and contributions, and its own fundraising activities.

At its meeting of August 28, 2009, Item D-10, the Board of Land and Natural Resources approved the Amendment of General Lease No. S-5513, Condition 20, Relating to Mortgage, and Consent to Mortgage with Estoppel Certificate. In processing the consent to mortgage document, the Office of Attorney General (AG) noted that the information describing the leasehold property within the mortgage document and the Title Company's title report was in error. It indicated that HOH approved a Grant of Easement to the Water Board (previously the Water Commission) of the County of Hawaii, which was recorded with the Bureau of Conveyances on June 25, 1998, under Document No. 98-091678. As such, the Grant of Easement recorded is effectively not valid since only the Board of Land and Natural Resources is authorized to approve such an easement as the fee owner of the subject property. The AG Office has indicated that only upon successfully correcting the errors used in describing the leasehold property will the consent to mortgage document be prepared for execution.

REMARKS:

By letter dated October 2, 2009, Milton D. Pavao, Manager, County of Hawaii, Department of Water Supply, requested an after-the-fact easement for a water meter to service the property under General Lease No. S-5513 to Hospice of Hilo. The situation came to light during the course of HOH's efforts to secure the State's consent to mortgage for its new in-patient facility on Kapiolani Street. For reasons unknown, the easement for water meter purposes was previously issued to the County by HOH, without proper authority. As a result, the County of Hawaii now requests an easement from the Land Board to correct the situation. The water meter was installed in 1997 when the Hospice facility was first constructed.

The Water Board of the County of Hawaii 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.

No agency or community comments were solicited, as this is an after-the-fact request in which comments were solicited during the environmental assessment process prior to construction of the facility.

The Hospice of Hilo, as Lessee, has indicated its concurrence to the request, in hopes that we may then proceed with processing of an earlier request for consent to mortgage.

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to the Water Board of the County of Hawaii, covering the subject area for water meter 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. Applicant and Lessee shall be responsible for extinguishing and/or properly releasing from record, the existing easement recorded with the Bureau of Conveyances on June 25, 1998, as Document No. 98-091678, in a manner satisfactory to the Office of the Attorney General;
 - 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.

Respectfully Submitted,

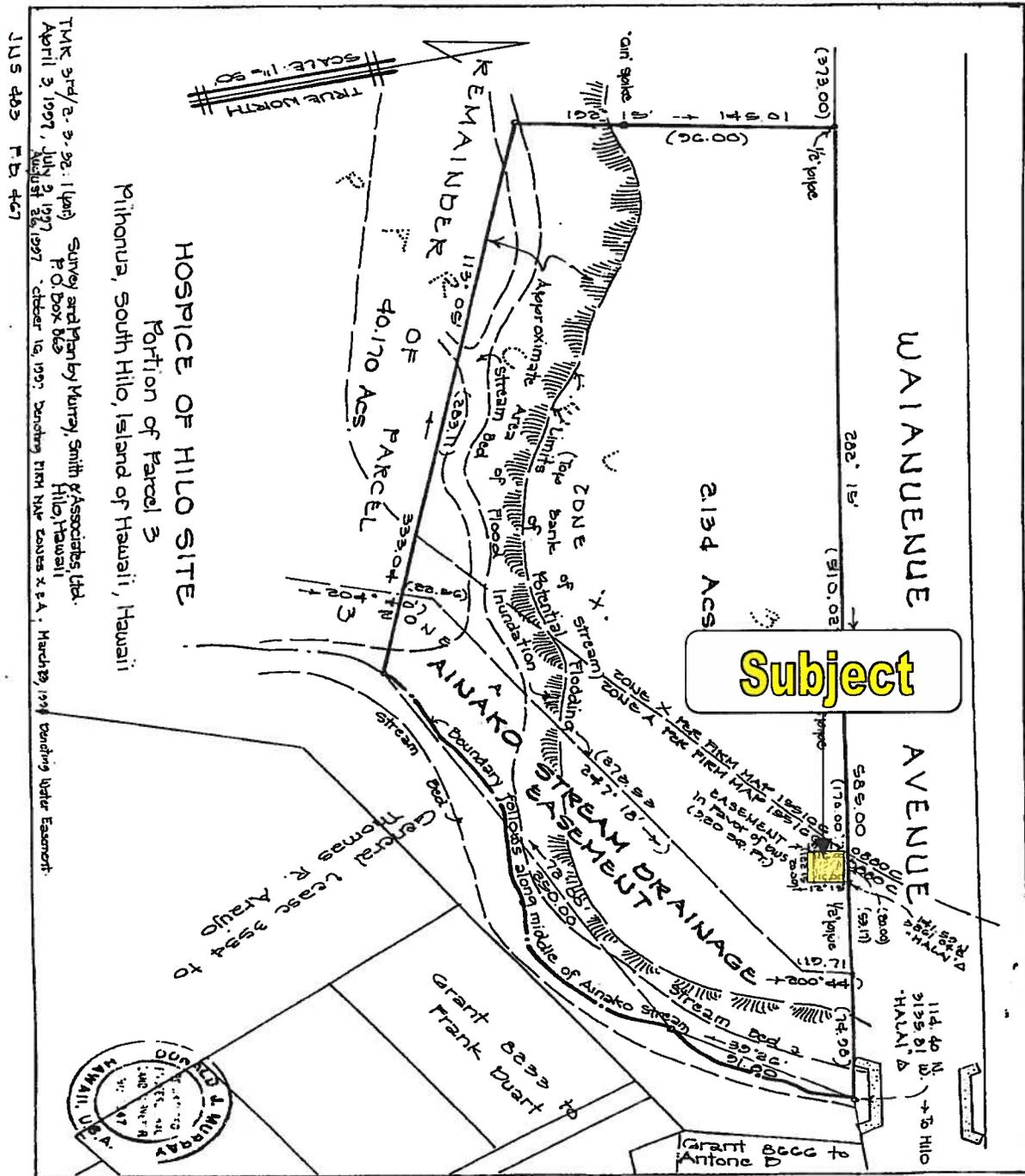


Wesley T. Matsunaga
Land Agent 

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 



TMK 314/2-3-32:1(4a) Survey and Plan by Murray, Smith & Associates Ltd.
April 3, 1997, July 2, 1997 P.O. Box 665 Hilo, Hawaii
August 26, 1997 - Order 16, 1997 - Denying First NAE Easement x & A. - March 29, 1994 Denying Water Easement.
JUS 403 FB 467

EXHIBIT A