

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

March 11, 2010

PSF No.:07OD-158

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

OAHU

Amend Prior Board Action of October 26, 2007, (Agenda Item D-7), Cancellation of Easement "A" of Land Office Deed No. 28135 to Hawaiian Electric Company, Inc. and Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. for Access and Utility Purposes, Waimanalo, Koolauapoko, Oahu, Tax Map Key:(1) 4-1-035:013 (Portion).

Background:

At its meeting of October 26,2007, under agenda item D-7, the Board approved the cancellation of easement "A" of Land Office Deed No. (LOD) 28135 to Hawaiian Electric Company, Inc.(HECO) and authorized the issuance of a perpetual non-exclusive easement to HECO and Hawaiian Telcom, Inc (HTI) for access and utility purposes at the subject location. A copy of the submittal is attached as Exhibit A.

HECO and HTI are in the process of relocating the power poles located within Easement "A" to a new location in order to provide electrical and telephone service to the privately-owned property identified by Tax Map Key: (1) 4-1-035:042, which is owned by Mr. and Mrs. Kendrick Lee.

The consideration amount was established at a one-time payment to be determined by independent or staff appraisal establishing the fair market rent.

By way of letter dated August 5, 2008 (Exhibit B), HECO and HTI are requesting that the consideration for the easement be waived on the basis that this request is merely a relocation of the easement for future development use of the area by the Department of Agriculture.

The easement area is under the jurisdiction of the Department of Agriculture (DOA) by way of Governor Executive Order 3464. DOA is agreeable to HECO request and has stated that the relocation of HECO's power poles will, in fact, facilitate appropriate development to their land (Exhibit C).

In accordance with No. 9, page 4, of the Non-Exclusive Grant of Easement (LOD 28135) which states:

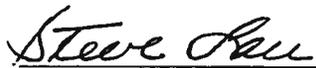
" Should future development necessitates relocation of the easements granted herein, or any portion thereof, the relocation shall be accomplished at the Grantee's own cost and expense: provided, however, that if other lands of the Grantor are available, the Grantor will grant to the Grantee without payment of any money consideration, substitute easements of similar, width within the reasonable vicinity of the original alignments, which substitute easements shall be subject to the same terms and conditions as that herein granted and as required by law".

Based on the above, staff is requesting that the Board amend its prior Board action of October 26, 2007, item D-7 by waiving the consideration amount for the easement area to Hawaiian Electric Company, Inc. (HECO) and Hawaiian Telcom Inc. (HTI).

RECOMMENDATION:

That the Board amend its prior action of October 26, 2007, item D-7, by waiving the consideration amount for the easement area to Hawaiian Electric Company, Inc. (HECO) and Hawaiian Telcom Inc. with all the other terms and conditions of October 26, 2007, Board action under agenda item D-7 to remain the same.

Respectfully Submitted,



Steve Lau
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 

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

October 26, 2007

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

PSF No.: 0700-158

Oahu

Cancellation of Easement "A" of Land Office Deed No. 28135 to Hawaiian Electric Company, Inc. and Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. for Access and Utility Purposes, Waimanalo, Koolaupoko, Oahu, TMK:(1) 4-1-035:013 (Portion).

APPLICANT:

Hawaiian Electric Company, Inc. (HECO), a Hawaii corporation, whose business and mailing address is P.O. Box 2750, Honolulu, Hawaii 96840-0001 and Hawaiian Telcom, Inc. (HawTel), whose business and mailing address is P.O. Box 2200, Honolulu, Hawaii 96841.

LEGAL REFERENCE:

Section 171-6 and 95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waimanalo situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key:(1)4-1-035:013 (por.) as shown on the attached map labeled Exhibit A.

AREA:

.026 acres, more or less.

ZONING:

State Land Use District: Agricultural
County of Honolulu CZO: Ag-1

TRUST LAND STATUS:

Section 5(X) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

October 26, 2007

EXHIBIT "A"

CURRENT USE STATUS

Encumbered by a non-exclusive easement bearing Land Office Deed No. S-28135 to Hawaiian Electric Company, Inc.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove telecommunication and electrical transmission lines, poles, guy wires and anchors over, under 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.

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:

HECO and HawTel:

Place of business registration confirmed:	YES	<u>X</u>	NO	_____
Registered business name confirmed:	YES	<u>X</u>	NO	_____
Applicant in good standing confirmed:	YES	<u>X</u>	NO	_____

APPLICANT REQUIREMENTS:

Applicant shall be required to:

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

October 26, 2007

REMARKS:

At its meeting of January 9, 1987, under agenda item F-7, the Board authorized the direct sale of a perpetual, non-exclusive easement to Hawaiian Electric Company, Inc. for access and utility purposes. The above easement was recorded with the Bureau of Conveyances under Land Office Deed No. S-28135 on February 14, 1996.

LOD No. S-28135 consisted of Easement "A", and contained an area of 3,642 square feet, more or less, and Easement "B" contained an area of 427 square feet, as shown on attached maps labeled Exhibit "B" and Exhibit "C" respectively.

By way of letter dated May 3, 2007, Hawaiian Electric Company, Inc. informed the Land Division that Hawaiian Electric Company, Inc. (HECO) and Hawaiian Telcom, Inc. (HawTel), are in the process of relocating the poles located within Easement "A" to a new location in order to provide electrical and telephone service to the privately-owned property identified by Tax Map Key: (1) 4-1-025:042, which is owned by Mr. and Mrs. Kendrick Lee.

In order to accomplish the relocation, HECO and HawTel are requesting the cancellation of Easement "A" contained within LOD No. S-28135 and are requesting a grant of easement from the State for the proposed easement area, consisting of .026 acres, as shown on the attached map labeled Exhibit "A", which affects the State's property. There are no changes to Easement "B" contained within Land Office Deed No. S-28135.

HECO and HawTel 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 not solicited from any other government agency as this is a continuation of the existing use of the property. However, staff did check with the Department of Agriculture, who had no objections to this request. The Office of Hawaiian Affairs had no objections provided that the consideration amount for the easement would be valued at fair market rent.

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

RECOMMENDATION: That the Board:

- A. 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.

October 26, 2007

- B. Cancel Easement "A" of Land Office Deed No. S-28135 to Hawaiian Electric Company, Inc. effective upon execution of the new easement document; subject to
1. The standard terms and conditions of the most current cancellation form;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State of Hawaii.
- C. 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. and Hawaiian Telcom, Inc. 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 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.

Respectfully Submitted,



Steve Lau
Land Agent

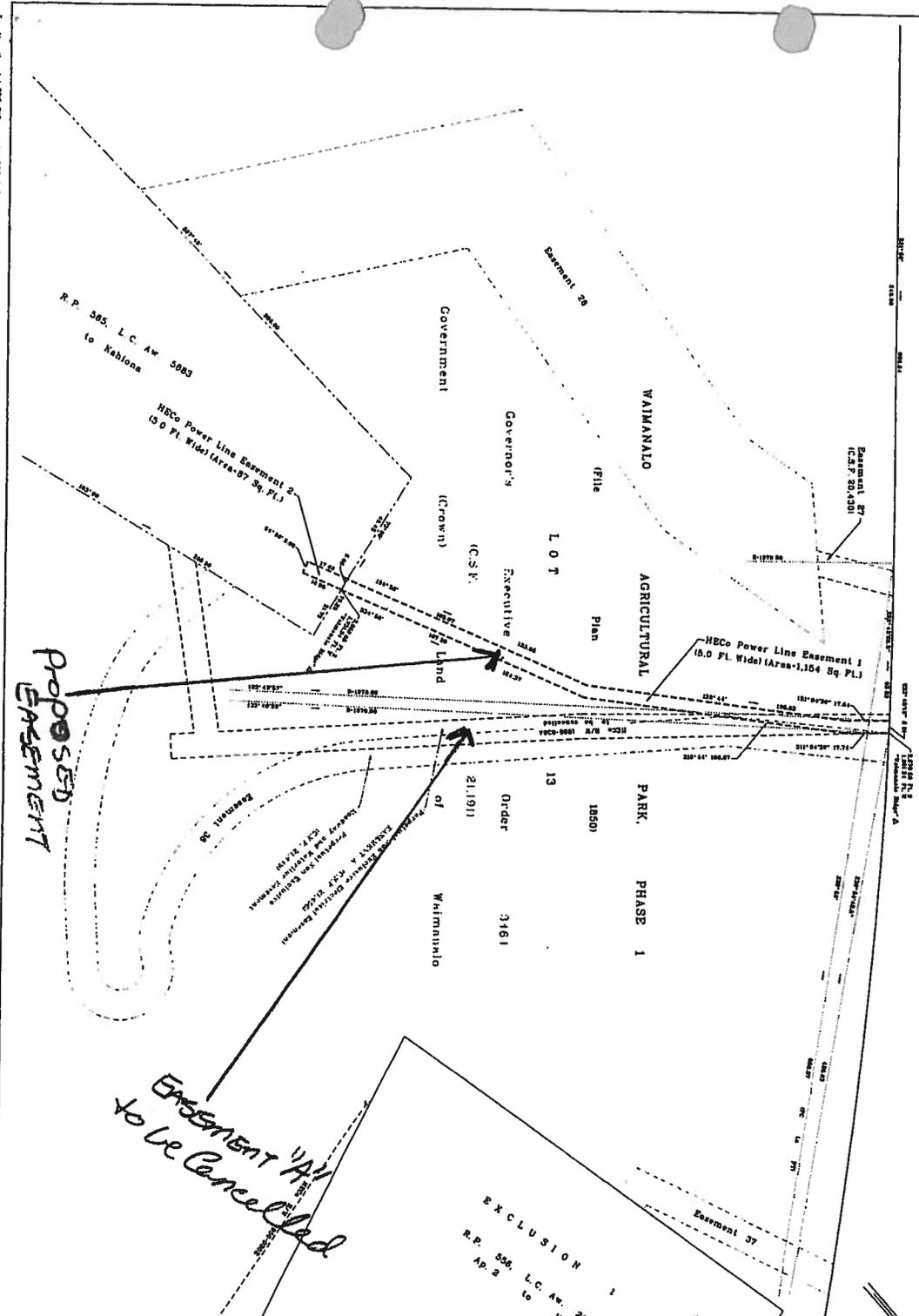
APPROVED FOR SUBMITTAL:


for Laura H. Thielen, Chairperson

M A H I K U

P L A C E

TRUE NORTH
Scale 1" = 100'



Proposed Easement

Easement "A" to be cancelled

EXCLUSION
R.P. 565, L.C. No. 2692
AP. 2

Easements 1 and 2 (500 ft. wide) for
Power Line, Guy Wire and Anchor Purposes affecting
Lot 13 of the WAIMANALO AGRICULTURAL PARK, PHASE I
(File Plan 1850), Governor's Executive Order 3464
and R.P. 565, L.C. No. 5883 to Kaula,
At Waimanalo, Koolaulo, Oahu, Hawaii

HAWAIIAN ELECTRIC COMPANY
1000 Kalia Road, Honolulu, Hawaii
R. P. 565, L.C. No. 5883
Kaula, Koolaulo, Oahu, Hawaii

EXHIBIT "A"

TRUE NORTH
Scale: 1 inch = 20 feet

MAHIKU PLACE

2663.83 S
1628.94 W
"WAIMANALO RIDGE" Δ
234° 47' 53.8"

PHASE 1
3464 Land

PARK, 1850
13 Order (Crown)

Easement 36
(CSF 21,195)

WAIMANALO File
Governor's Executive
AGRICULTURAL Plan
Lot

EASEMENT B
427 SQ. FT.

EXCLUSION

R. P. 356, L.C. Aw. 2648, Ap. 2 to 1L1

PERPETUAL NON-EXCLUSIVE ELECTRICAL EASEMENT
EASEMENT B

Waimanalo, Koolaupoko, Oahu, Hawaii
Scale: 1 inch = 20 feet

JOB 0-493 (90)
C. BK.

REDUCED
NOT TO SCALE



RECEIVED
LAND DIVISION

2008 AUG -6 A 11: 06

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

August 5, 2008

Mr. Stephen Lau
Land Agent
Department of Land & Natural Resources
P. O. Box 621
Honolulu, HI 96809

Kendrick Lee Utility Line Relocation,
Waimanalo, Oahu, TMK 4-1-035:013 por., PSF No. 07od-158

Steve
Dear ~~Mr. Lau~~:

Pursuant to our recent conversation regarding this matter, Hawaiian Electric Company (HECO) and Hawaiian Telcom (HTI) are respectfully requesting an amendment to the Land Board approval of October 26, 2007 (Item D-7) to waive the compensation that would be charged for the grant of easement covering the new alignment of the utility line crossing State land to serve Mr. Kendrick Lee's property in Waimanalo.

As stated in previous correspondence, HECO and HTI are of the opinion that the proposed relocation of the utility line can be interpreted as a relocation under paragraph 9 of the existing grant of easement dated January 16, 1996. Such a relocation would entail the granting of a substitute easement without the payment of any further easement compensation.

If you have any questions, or require additional information, you can reach me at 543-4735, or at phil.hauret@heco.com. We appreciate your attention to this matter.

Sincerely yours,

Philip Hauret
Senior Land Agent
Land & Rights of Way

Cc: Ms. Karen Sunahara-Teruya, Hawaiian Telcom

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 Fax: (808) 973-9613

RECEIVED
LAND DIVISION
2010 FEB 10 A 8:53
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

February 8, 2010

Mr. Stephen T. Lau, Land Agent
Oahu – Land Division
Department of Land and Natural Resources
1151 Punchbowl Street
Honolulu, Hawaii 96813

Dear Mr. Lau:

This letter is written to acknowledge and confirm that the two (2) power poles owned by the Hawaiian Electric Company (HECO) are located within the boundaries of TMK (1) 4-1-035:042, owned by the State of Hawaii and leased to Mr. and Mrs. Lloyd Ching. The poles provide electricity to TMK (1) 4-1-025:042 owned and occupied by Dr. and Mrs. Kendrick Lee. The Department of Agriculture does not object to the relocation of the subject poles and its relocation will, in fact, facilitate appropriate development of the Ching's parcel.

Since the issuance of the new driveway easement, it would be more appropriate for the power poles to be relocated from its present location to the new driveway easement.

Should you have any questions regarding this matter, please do not hesitate to call me at (808) 973-9478.

Sincerely,

A handwritten signature in black ink that reads "Randolph Y. Teruya".

Randolph Y. Teruya
Agricultural Asset Manager
Agricultural Asset Management Branch



EXHIBIT "C"