

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

July 8, 2010

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

Ref: 99od-258

OAHU

Amend Prior Board Action of November 18, 1994, Item F-9; October 22, 1999, Item D-5; March 10, 2000, Item D-5; Perpetual, Non-Exclusive Easement to GTE Hawaiian Telephone Co. for Utility Purposes; Keawaula, Waianae, Kuaokala, Kaena, Mokuleia, and Waiialua, Oahu, TMK (1) 8-1-1:por.14; 6-9-3:por.2 and 5; 6-9-1:por.4; 6-9-4:por.9, and 6-9-5:por.7

BACKGROUND:

On November 18, 1994, item F-9, the Board approved the issuance of a 65-year easement for utility purposes to Hawaiian Telephone Company. On October 22, 1999, item D-5, the Board amended its prior action in 1994 by changing to a perpetual easement. On March 10, 2000, item D-5, the Board further amended its action by revising tax map keys of the easement area. A copy of the 2000 Board action is attached as Exhibit A.

Subsequently, the request was going through the arbitration process regarding the consideration payable for the easement. Around September 2009, the arbitration panel issued its findings.

In August 2005, the Board changed all pending requests from the domestic telephone company to Hawaiian Telcom, Inc. due to the change in its name.

REMARKS:

Upon receipt of the arbitration panel's finding, staff notices that a portion of the requested easement, identified as Easement 16 on tax map key (1) 6-9-005:001, was removed from the request inadvertently in 2000. At that time, the area was believed the portion of easement is part of a road. Staff has marked Easement 16 on the map attached to the 2000 approval.

(1) 6-9-005:001 is presently encumbered by Governor's Executive Order No. 4141 setting aside the Division of State Parks for park reserve purposes. Subject to approval of today request, concurrence from the Governor and the Division of State Parks will be sought.

For Board's information, the Negative Declaration of the project was published in March 1994, which covered the area of Easement 16.

To finalize this outstanding request, staff recommends the Board amend its prior actions as noted above by including Easement 16 in the request. Further, the consideration payable for Easement 16 shall be determined by the pro-rated value pursuant to the arbitration panel finding, further subject to review and approval by the Chairperson. Applicant has no objection to the request.

RECOMMENDATION: That the Board:

1. Amend Prior Board Action of November 18, 1994, Item F-9; October 22, 1999, Item D-5; March 10, 2000, Item D-5 by including Easement 16, further identified as (1) 6-9-005:portion of 001 into the request, subject to payment of additional consideration.
2. All terms and conditions listed in its approval at the meetings noted above to remain the same.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



State of Hawaii
Department of Land & Natural Resources
Land Division
Honolulu, Hawaii

March 10, 2000

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

OAHU

Amend for Utility Purposes prior Board actions for Perpetual Easement to GTE Hawaiian Telephone Co. at Keawaula, Waianae, Kuaokala, Kaena, Mokuleia, and Waialua, Oahu, Tax Map Keys: (1) 8-1-1-portion 14; 6-9-3-portion 2 and 5; 6-9-1-portion 4; 6-9-4-portion 9 and 6-9-5-portion 7.

The Land Board at its meeting of November 18, 1994, Item F-9, approved staff's recommendation for a 65 year term, non-exclusive easement to GTE Hawaiian Telephone Co. for communication cables, consisting of approximately 195,660 square feet, more or less. An interim construction and management right-of-entry. GTE Hawaiian Telephone Co. communication cables were to connect Keawaula to Mokuleia.

The Land Board at its meeting of October 22, 1999, Item D-5, amended it's prior approval to authorize the direct sale of a perpetual, non-exclusive easement to GTE Hawaiian Telephone Co. with a one-time payment to the State.

By letter dated December 16, 1999, Ms. Leila Sanders, Specialist - Easement on behalf of GTE Hawaiian Telephone Co. found some discrepancies concerning the tax map keys. Briefly:

Tax map key: (1) 8-1-1-portion 14 should be 8-1-1-portion 7.

Tax map key: (1) 6-9-4-9 is owned by James Lyman and should be deleted.

Tax map key: (1) 6-9-5-7 is a road lot and the proposed cable route is to be within private lots not the road lot and should be deleted.

RECOMMENDATION: That the Board:

A. Amend Land Board approvals of November 18, 1994, Item F-9, and October 22, 1999, Item D-5, by:

- 1. Replace tax map key: (1) 8-1-1-portion 14 with (1) 8-1-1-portion 7.

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

March 10, 2000. [Signature]

ITEM D-5

EXHIBIT "A"

2. Delete tax map keys: (1) 6-9-4-9 and 6-9-5-7.
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



Charlene E. Unoki
Land agent

APPROVED FOR SUBMITTAL:



TIMOTHY E. JOHNS, Chairperson

Beyond the call

December 16, 1999

Ms. Charlene E. Unoki
Department of Land & Natural Resources
Land Division
P.O. Box 621
Honolulu, Hawaii 96809

DEC 20 9 11 AM '99

Dear Charlene:

Subject: EASEMENT FOR FIBER CABLE INSTALLATION
KEAWAULA, WAIANA, KUAOKALA, KAENA, MOKULEIA, AND
WAIALAU, OAHU
TMK'S 8-1-001-014, 6-9-003-002 & 005, 6-9-001-004, 6-9-004-009, AND
6-9-005-007

I need your assistance on this...while researching some information on the subject project, I ran into some confusion as to the Tax Map Keys that are to be included in the Grant of Easement. Because various people have handled this project and our consultant R. M. Towill handled the request for the easement, I have no copy of the easement drawings or the request itself. However, from looking at the other items in the file, it appears that the following items need correcting:

- 1) TMK 8-1-001-014 – should be corrected to 8-1-001-007.
- 2) TMK 6-9-004-009 – lot is owned by James Lyman et al; does this need to be deleted from the easement request, or could the TMK be wrong?
- 3) TMK 6-9-005-007 – this is a road lot, but I understand that the fiber cable is located in individual private lots, not the road lot; does this also need to be deleted from the easement request?

I apologize that I didn't catch this previously when you contacted me in October. From what I can see, the State parcels that are definitely affected are TMK's 8-1-001-007, 6-9-003-002 & 005, and 6-9-001-004.

Ms. Charlene Unoki
December 16, 1999
Page 2

In a related matter, back in August 1995, a request was made for a perpetual easement to install a portion of the Mokuleia fiber on an existing HECO poleline within TMK's 6-9-001-002 and 003. HECO's easement was granted to them by the previous property owner, Mokuleia Ranch and Land Company, Limited. I would appreciate your checking on the status of this. A copy of my letter and HECO's grant of easement are enclosed for reference.

Hope all of this makes sense...if you have any questions or would like to meet to discuss this, please call me at 840-5850. Thanks for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Leila Sanders".

Leila Sanders
Specialist – Easement/Right of Way

Enclosures

Kaena Point

EXHIBIT A

PACIFIC OCEAN

EASEMENT 16 (noted in 2010)

PROPOSED CABLE ROUTE

6-9-05-07 (road)

PRESERVATION

cable located in individual lots in this area, not road.

6-9-04-09 (owned by Lynn et al)

Camp Erdman

PARK

P.F.

HIGHWAY

PRES.

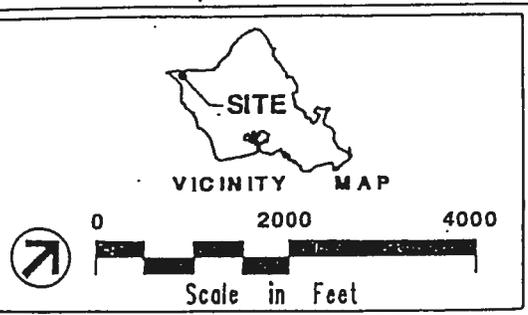
8-1-01-07

8-1-01-14

6-9-03-02

6-9-01-04

6-9-03-05



PORTION OF DEVELOPMENT PLAN LAND USE MAP NORTH SHORE & WAIANAE

TAX MAP KEY: 8-1-01: POR. 7
 6-9-01, 6-9-03, 6-9-04 & 6-9-05
 FOLDER NO: 93/SMA-72