

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

August 12, 2010

Ref. No.:10KD-080

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

Kauai

Amend Prior Board Action of February 8, 2008, Item D-1, Consent to Assign Grant of Non-Exclusive Easement S-5725; Consent to Assign General Lease No. S-5725, Carrie Riley and Shawn Riley, Assignor, to Molly V. Hall and CD Skiven I/S, Assignee, Kapaa Homesteads, 1st Series, Kapaa, Kawaihau, Kauai; Tax Map Key: (4) 4-6-07:por. 12.

BACKGROUND:

On February 8, 2008, under agenda item D-1, the Board authorized the consent to assign grant of non-exclusive easement from Carrie Riley and Shawn Riley to Riley Condominium Homeowners Association. A copy of the approved submittal is attached as Exhibit A.

During the preparation of the document, the Riley's received an offer and sold their property to CD Skiven I/S.

Staff has received approval from Carrie Riley and Shawn Riley to consent to assign their general lease. This easement will serve two (2) properties, the new owner and existing owner, Molly V. Hall.

Staff recommends the following:

- 1) Board amend its prior action by changing the name of the applicant to Molly V. Hall and CD Skiven I/S.
- 2) Board authorize an additional condition in the easement which allows the benefit of the easement run with the abutting private properties. Such provision would eliminate the need for consent to assignment of the easement should the ownership of the abutting properties change.

- 3) Board require each applicant to procure and maintain at its own cost and expense a commercial liability insurance and naming the State as additionally insured.

Since the request is for housekeeping purposes only and no other changes to the proposed use is anticipated, staff did not solicit comments from the other agencies. Staff has no objection to the request.

RECOMMENDATION:

That the Board amend its prior action of February 8, 2008, under agenda item D-1 by:

1. Changing the name of the applicant to Molly V. Hall and CD Skiven I/S.
2. Adding the following conditions:
  - A. "The easement shall run with the land and shall inure to the benefit of the real property respectively described as Tax Map Key: (4) 4-6-07:012, 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."
  - B. The Grantees shall procure and maintain, at its own cost and expense, in full force and effect throughout the term of this easement, commercial general liability insurance, or its equivalent, in an amount of at least \$1,000,000.00 for each occurrence and \$2,000,000.00 aggregate, with an insurance company or companies licensed to do business in the State of Hawaii. The policy or policies or insurance shall name the State of Hawaii as additionally insured. The insurance shall cover the entire easement area, including all grounds and all roadways or sidewalks on or adjacent to the easement in the use or control of the Grantees.
3. Review and approval by the Department of the Attorney General; and
4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



---

Marvin Mikasa  
Land Agent

APPROVED FOR SUBMITTAL:



---

Laura H. Thielen, Chairperson 

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

February 8, 2008

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

KAUAI

Consent to Assign Grant of Non-Exclusive Easement S-5725, to Carrie Riley and Shawn Riley, Assignor, to Riley Condominium Homeowners Association, Assignee, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-6-7: por. 12.

APPLICANT:

Carrie Riley and Shawn Riley, as tenants by the entirety, as Assignor, to Riley Condominium Homeowners Association, whose business and mailing address is 1403 S. Jameson Lane, Santa Barbara, California, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kapaa Homesteads, 1st Series, situated at Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-7: por. 12, as shown on the attached map labeled Exhibit A & Exhibit B.

AREA:

.005 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON MB  
February 08, 2008

**EXHIBIT "A"**

D-1

BLNR - Consent to Assignment  
of GL No. S-5725

Page 2

February 8, 2008

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

TERM OF LEASE:

55 years, commencing on 1st day of March, 2005 and expiring on 28th day of February, 2060. There are no rental reopenings.

ANNUAL RENTAL:

Not applicable. \$550.00 one-time payment received on July 26, 2004.

CONSIDERATION:

Gratis

RECOMMENDED PREMIUM:

Not applicable as the easement does not allow for a premium.

DCCA VERIFICATION:

ASSIGNOR:

Place of business registration confirmed: n/a

Registered business name confirmed: n/a

Good standing confirmed: n/a

Not Applicable, Assignors are individuals.

ASSIGNEE:

Place of business registration confirmed: Yes

Registered business name confirmed: Yes

Good standing confirmed: Yes

REMARKS:

The Board on January 23, 2004, under Item D-5, approved the issuance of a term, non-exclusive easement to Carrie and Shawn Riley over the State-owned 141 square feet Kainahola Ditch right-of-way for access and utility purposes, to service their property identified by TMK: (4) 4-6-7: 25 as shown on attached labeled Exhibit C.

Carrie and Shawn Riley recently did a condo conversion of their lot and subsequently formed

BLNR - Consent to Assignment Page 3  
of GL No. S-5725

February 8, 2008

the Riley Condominium Homeowners Association.

Grantee's are in compliance with all lease terms and conditions including updated insurance policy. Riley Condominium Homeowners Association 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.

The following comments were received for this application:

**State Agencies:**

Department of Health: No Comments  
DLNR - Historic Preservation: No Comments  
DLNR - CWRM: No Comments  
OHA: Ceded Lands - 20% Revenue Share

**County Agencies:**

Planning Dept.: No Comments  
Public Works: No Objections  
Water Dept.: If applying for future water meter, request information on water system status.

**Other Agency:**

East Kauai Water Users Coop.: No Objections

**RECOMMENDATION:**

That the Board consent to the assignment of Grant of Non-Exclusive Easement S-5725 from Carrie Riley and Shawn Riley, as Assignor, to Riley Condominium Homeowners Association, as Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and

BLNR - Consent to Assignment  
of GL No. S-5725

Page 4

February 8, 2008

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

Respectfully Submitted,



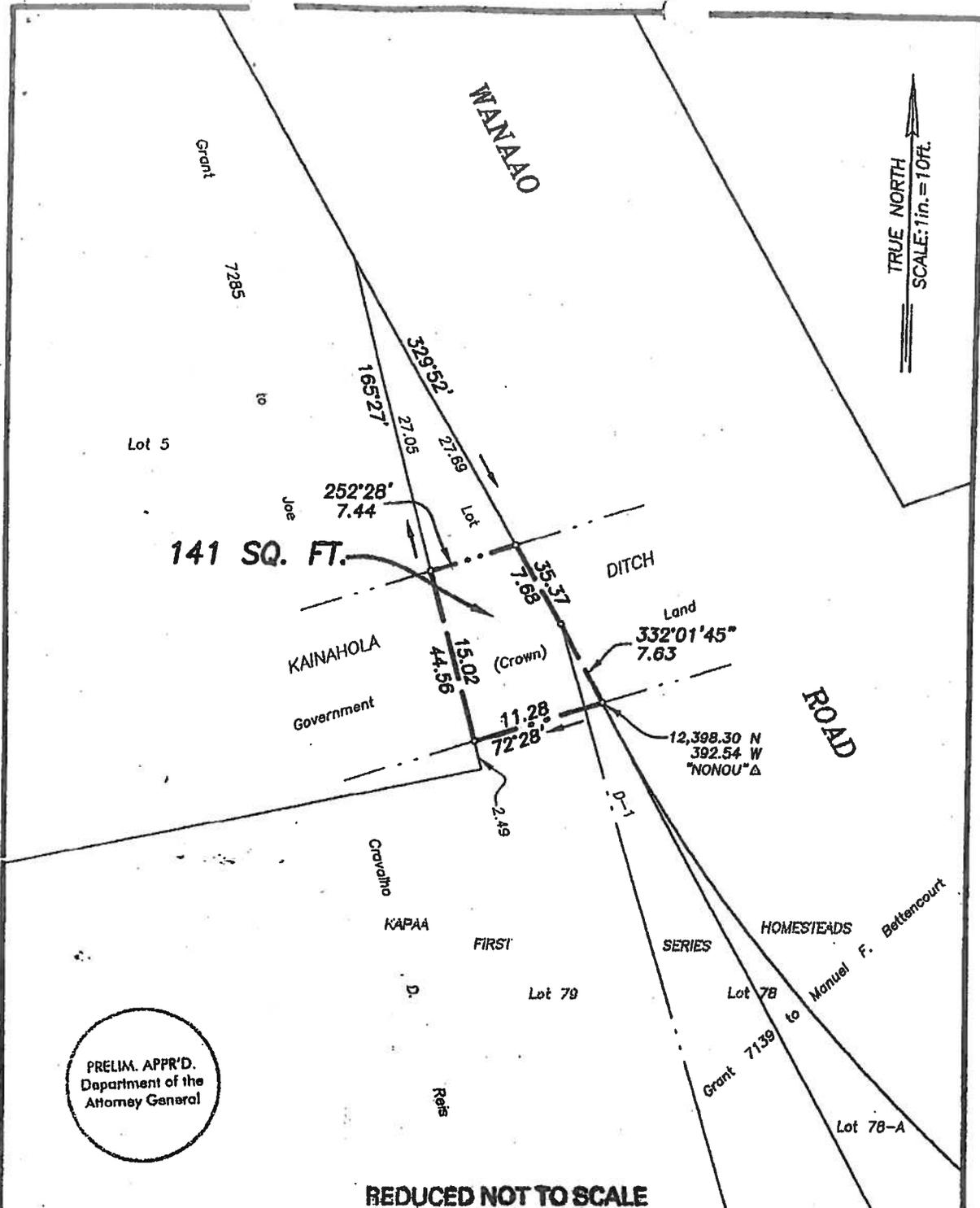
for Marvyn Mikasa  
Acting Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





TRUE NORTH  
SCALE: 1 in. = 10 ft.

REDUCED NOT TO SCALE

**NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT  
EASEMENT A-1**

Kapaa, Kawaihau, Kauai, Hawaii

Scale: 1 inch = 10 feet

JOB K-65(04)

C. BK.

**EXHIBIT "B"**

TAX MAP 4-6-07

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

C.S.F. NO. 23,875

G.T. October 27, 2004