

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

January 13, 2011

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

HAWAII

Extinguish Two Reservations to the State of Hawaii Covering Easement 1 and 2 for Electric Pole and Wire Line Purposes Within Land Patent Grant No. S-15810 issued to the Department of Hawaiian Home Lands, Puna, Hawaii, Tax Map Key: (3) 1-7-007:42 and 44.

APPLICANT:

Department of Hawaiian Home Lands.

LEGAL REFERENCE:

Section 171-6, 63, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of land situated at Olaa, Puna, Hawaii, identified by Tax Map Key: (3) 1-7-007: 42 and 44, as shown on the attached map labeled Exhibit A.

AREA:

755 square feet, more or less
759 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

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment.

APPLICANT REQUIREMENTS:

None

REMARKS:

At its meeting of October 28, 1994 (H-6), the Land Board approved the conveyance of 16,518 acres to the Department of Hawaiian Home Lands (DHHL). Of the approximately 175 parcels, 2 were located in the Kurtistown Houselots Subdivision, Lots 4 and 6. The 2 lots were conveyed to DHHL on May 12, 1995 via Land Patent Grant No. S-15810.

The conveyance of Lot 4 reserved to the State of Hawaii, its successors, and assigns, Easement 1 for electric pole and wire line purposes (5.00 feet wide) over and across Lot 4, together with rights of ingress and egress for maintenance, inspection, reconstruction and repair purposes. Containing an area of 755 square feet.

The conveyance of Lot 6 reserved to the State of Hawaii, its successors, and assigns, Easement 2 for electric pole and wire line purposes (5.00 feet wide) over and across Lot 6, together with rights of ingress and egress for maintenance, inspection, reconstruction and repair purposes. Containing an area of 759 square feet.

Recently, a DHHL lessee on Lot 4 also known as tax map key: (3) 1-1-7:42 requested our permission to place and install metered poles specifically within the DHHL leased property and only within Easement 1. This would provide electrical service to his residence. Currently, there is no electrical line or pole or anchor located within Easement 1. There was an electrical pole within Easement 1, but it was removed because it was rotten. A new pole was placed within Lot 4, at the end of the DHHL lessee's driveway. According to the DHHL lessee, the current location makes it very difficult for vehicles to make a 90% turn. The DHHL lessee claims it is because the DHHL lessee for Lot 6 illegally placed a fence within Easement 2. Staff notified DHHL in March 2010 of this violation.

Staff prepared a Board submittal and solicited comments from government agencies.

Subsequently, DHHL requested the 2 reservations be extinguished. They will work with both lessee's and determine the appropriate locations for any easements, if required.

Staff believes DHHL, as the landowner should be appropriate agency to determine what is needed by its lessee's not the State or DLNR.

The Applicants 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.

No comments were solicited.

RECOMMENDATION: That the Board:

1. Extinguish Two Reservations to the State of Hawaii Covering Easement 1 and 2 for Electric Pole and Wire Line Purposes Within Land Patent Grant No. S-15810 issued to the Department of Hawaiian Home Lands, subject to the following:
 - A. The standard terms and conditions of the most current document form, as may be amended from time to time;
 - 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,



Charlene Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



 William J. Aila, Jr., Chairperson

STATE OF HAWAII

Land Patent No. S-15,810

(Grant)
Issued On

PURSUANT TO SECTION 171-95(a)
HAWAII REVISED STATUTES

By **THIS PATENT** *The State of Hawaii, in conformity with the laws of the State of Hawaii relating to public lands and pursuant to the approval by the Board of Land and Natural Resources on* October 28, 1994

makes known to all men that it does this day grant and confirm unto

DEPARTMENT OF HAWAIIAN HOME LANDS, by its HAWAIIAN HOMES COMMISSION, STATE OF HAWAII, whose address is 335 Merchant Street, Honolulu, Hawaii 96813

hereinafter referred to as the "Patentee,"

for the consideration of FOR GOOD AND VALUABLE CONSIDERATION, the receipt whereof is hereby acknowledged,

all of the land situate at Olaa, Puna, Island of Hawaii, Hawaii, being a portion of the Government (Crown) Land of Olaa, being also a portion of former Lot 49 of Olaa Homesteads Reservation Lots, being also designated as KURTISTOWN HOUSELOTS SUBDIVISION (REVISED JANUARY 1995):

LOT 4: designated as Tax Map Key (3) 1-7-07:42, containing an area of 24,912 square feet; RESERVING to the State of Hawaii EASEMENT 1 for electric pole and wire line purposes, TOGETHER WITH the rights of ingress and egress; and

LOT 6: designated as Tax Map Key (3) 1-7-07:44, containing an area of 25,617 square feet; RESERVING to the State of Hawaii EASEMENT 2 for electric pole and wire line purposes, TOGETHER WITH the rights of ingress and egress; and

all more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, survey descriptions and a survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. HAWAII FILE FOLDER 15 and dated January 24 1995

EXHIBIT "B"

AND THE PATENTEE, for itself, its successors and assigns, covenants with the State of Hawaii, and its successors as follows:

1) The Patentee acknowledges and is fully aware that a comprehensive search of title covering the lands conveyed herein has not been completed by Patentor and agrees that the lands conveyed herein may be subject to additional encumbrances, known and/or unknown, recorded and/or unrecorded.

2) Non-warranty. The Patentor does not warrant the conditions of the lands conveyed herein, and the Patentee accepts said lands "as is."

3) Hold-harmless. In case the Patentor shall, without any fault on its part, be made a party to any litigation commenced by or against the Patentee as a result of (a) the issuance of this quitclaim deed or a challenge to the validity thereof, or (b) the conveyance of the lands herein (other than eminent domain and/or quiet title proceedings), the Patentee shall defend and hold the Patentor harmless from and against any claim for loss, liability, or damage.

TO HAVE AND TO HOLD said granted land unto the said

DEPARTMENT OF HAWAIIAN HOME LANDS, by its
HAWAIIAN HOMES COMMISSION, STATE OF HAWAII,

its successors and assigns forever, subject, however, to the reservations, conditions and covenants herein set forth.

IN WITNESS WHEREOF, the State of Hawaii, by its Board of Land and Natural Resources, has caused the Seal of the Department of Land and Natural Resources to be hereunto affixed and this Patent to be duly executed this 12th day of May, 1995.

Approved by the Board
of Land and Natural
Resources at its
meeting held on
October 28, 1994.

STATE OF HAWAII
Board of Land and Natural Resources

APPROVED AS TO FORM:

By 
Chairperson and Member
Board of Land and
Natural Resources


Deputy Attorney General

Patentor

Dated: April 25, 1995

DEPARTMENT OF HAWAIIAN HOME
LANDS, STATE OF HAWAII

APPROVED AS TO FORM:





STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU)

On this 2nd day of May, 1995,
before me appeared KALI K. WATSON to me personally known, who,
being by me duly sworn, did say that he is the CHAIRPERSON,
HAWAIIAN HOMES COMMISSION, DEPARTMENT OF HAWAIIAN HOME LANDS,
STATE OF HAWAII, and the person described in and who executed
the foregoing instrument and acknowledged to me that he
executed the same freely and voluntarily for the use and
purposes therein set forth.

Theresa M. Loo
Notary Public, State of Hawaii L.S.
My Commission expires: 7-9-96

January 24, 1995

5. 191° 50' 30" 111.42 feet along Grant S-15,474 to Roland A. Amaral and Sharon E. Amaral to a pipe in concrete;
6. Thence along Grant S-15,474 to Robert A. Amaral and Sharon E. Amaral on a curve to the left with a radius of 10.00 feet, the chord azimuth and distance being: 143° 05' 15" 15.04 feet to a pipe in concrete;
7. 274° 20' 23.51 feet along the south side of Hale Kula Road to the point of beginning and containing an AREA OF 24,912 SQUARE FEET.

Reserving to the State of Hawaii, its successors and assigns, Easement 1 for electric pole and wire line purposes (5.00 feet wide) over and across the above-described Lot 4, together with rights of ingress and egress for maintenance, inspection, reconstruction and repair purposes, as shown on plan attached hereto and made a part hereof and more particularly described as follows:

Beginning at a pipe in concrete at the northeast corner of this easement, being the initial point of the above-described Lot 4, thence running by azimuths measured clockwise from True South:-

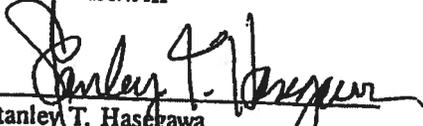
1. 11° 50' 30" 151.40 feet along Lot 6 of Kurtistown Houselots Subdivision;
2. 101° 50' 30" 5.00 feet;
3. 191° 50' 30" 150.74 feet;
4. 274° 20' 5.04 feet along the south side of Hale Kula Road to the point of beginning and containing an AREA OF 755 SQUARE FEET.

C.S.F. No. **HAWAII FILE**
FOLDER 15

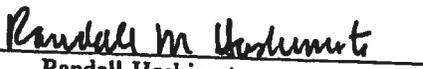
January 24, 1995

**SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII**

By:


Stanley T. Hasegawa
Licensed Land Surveyor No. 3632 gm

Reviewed and Approved by:


Randall Hashimoto
Acting State Land Surveyor

Compiled from Gov't. Survey
Records.



STATE OF HAWAII

SURVEY DIVISION

**DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU**

**C.S.P. No. HAWAII FILE
FOLDER 15**

January 24, 1995

**(REVISED JANUARY 1995)
KURTISTOWN HOUSELOTS SUBDIVISION**

LOT 6

Olaa, Puna, Island of Hawaii, Hawaii

Being portion of the Government (Crown) Land of Olaa.

**Being also portion of former Lot 49, Olaa Homesteads Reservation
Lots.**

**Beginning at a pipe in concrete at the northwest corner of this parcel of
land, at the northeast corner of Lot 4 of Kurtistown Houselots Subdivision, and on the
south side of Hale Kula Road, the coordinates of said point of beginning referred to
Government Survey Triangulation Station "OLAA" being 5385.72 feet South and
1173.50 feet West, thence running by azimuths measured clockwise from True
South:-**

- 1. 274° 20' 20.87 feet along the south side of Hale Kula Road to
a pipe in concrete;**
- 2. Thence along Grant S-15,579 to Kenneth Y. Shimazu and Lory M. Shimazu on a
curve to the left with a radius of 10.00
feet, the chord azimuth and distance being:
53° 05' 15" 13.19 feet
to a pipe in concrete;**
- 3. 11° 50' 30" 106.23 feet along Grant S-15,579 to Kenneth Y.
Shimazu and Lory M. Shimazu to a pipe
in concrete;**

January 24, 1995

4. 281° 50' 30" 173.00 feet along Grant S-15,579 to Kenneth Y. Shimazu and Lory M. Shimazu to a pipe in concrete;
5. 11° 50' 30" 130.98 feet along Grant S-15,541 to Deborah P. Warren to a pipe in concrete;
6. 101° 50' 30" 185.00 feet along Grant 7448 to Board of Hawaiian Evangelical Association to a pipe in concrete;
7. 191° 50' 30" 244.40 feet along Lot 4 of Kurtistown Houselots Subdivision to the point of beginning and containing an AREA OF 25,617 SQUARE FEET.

Reserving to the State of Hawaii, its successors and assigns, Easement 2 for electric pole and wire line purposes (5.00 feet wide) over and across the above-described Lot 6, together with rights of ingress and egress for maintenance, inspection, reconstruction and repair purposes, as shown on plan attached hereto and made a part hereof and more particularly described as follows:

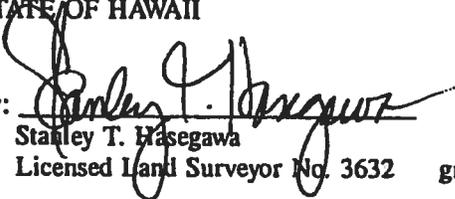
Beginning at a pipe in concrete at the northwest corner of this easement, being the initial point of the above-described Lot 6, thence running by azimuths measured clockwise from True South:-

1. 274° 20' 5.04 feet along the south side of Hale Kula Road;
2. 11° 50' 30" 152.06 feet;
3. 101° 50' 30" 5.00 feet;
4. 191° 50' 30" 151.40 feet along Lot 4, Kurtistown Houselots Subdivision to the point of beginning and containing an AREA OF 759 SQUARE FEET.

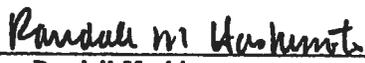
C.S.F. No. HAWAII FILE
FOLDER 15

January 24, 1995

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: 
Stanley T. Hasegawa
Licensed Land Surveyor No. 3632 gm

Reviewed and Approved by:


Randall Hashimoto
Acting State Land Surveyor

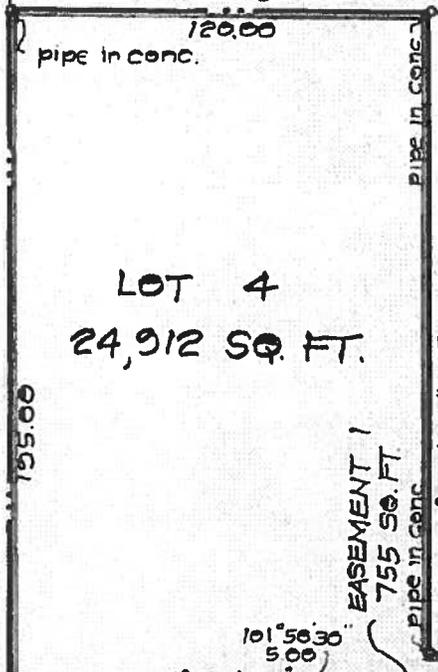
Compiled from Gov't. Survey
Records.

Grant 7448 to Board of Hawaiian Evangelical Association

Grant S-15,475 to Jerry I. Okada and Betty A. Okada

TRUE NORTH
Scale: 1 in. = 50 ft.

5370.85 S
1369.63 W
"OLAA" Δ



LOT 4
24,912 SQ. FT.

Grant S-15,474 to Roland A. Amaral and Sharon E. Amaral

RESERVATION AS
143° 05' 15"
15.04
R=10.00
pipe in conc
111.42

Electric Pole and Wire Line Easements

LOT 6
25,617 SQ. FT.

Grant S-15,579 to Kenneth Y. Shimazu and Lory M. Shimazu

Grant S-15,541 to Deborah P. Warren

HALE

KULA

ROAD

(REVISED JANUARY 1995)

KURTISTOWN HOUSELOTS SUBDIVISION

LOTS 4 AND 6

Olaa Puna Island of Hawaii Hawaii

LINDA LINGLE
GOVERNOR
STATE OF HAWAII



KAULANA H. R. PARK
CHAIRMAN
HAWAIIAN HOMES COMMISSION

ANITA S. WONG
DEPUTY TO THE CHAIRMAN

ROBERT J. HALL
EXECUTIVE ASSISTANT

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879
HONOLULU, HAWAII 96805

December 7, 2010

To: Charlene Unoki, District Land Agent
Land Division
Department of Land & Natural Resources

From: Bob Hall, Administrator
Homestead Services Division

Linda Chinn, Administrator
Land Management Division

Subject: Grant of Perpetual, Non-Exclusive Utility Easement,
and Immediate Construction Right-of-Entry

After careful review of DLNR's proposed project, DHHL offers the following comment:

DHHL requests that DLNR consider taking action to extinguish the existing easement as described in the draft submittal which you anticipate presenting to the Board. If authorized, the action would allow for DHHL to create separate easements, on the outer portions of each driveway (not the middle) to be used strictly for utility access purposes only.

EXHIBIT "C"