

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

July 18-19, 2022

To: Chairman and Members, Hawaiian Homes Commission

Through:  Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division

Kalei Young, Supervising Land Agent
Land Management Division

From: Shelly Carreira, Land Agent
Land Management Division

Subject: Approval to Issue a Right of Entry to Hawaiian Telcom, Inc., Portions of Various Tax
Map Keys, Islands of Lanai, Molokai, Oahu, Hawaii, Maui, State of Hawaii

APPLICANT:

Hawaiian Telcom, Inc., "PERMITTEE"

RECOMMENDED MOTION/ACTION:

1. That the Hawaiian Homes Commission (HHC) grant its approval to issue a Right of Entry (ROE) permit to Hawaiian Telcom, Inc. for non-exclusive roadway easement access for the purpose of fiber installation situated on portions of Hawaiian home lands.
2. Authorize the issuance of a Right of Entry permit to PERMITTEE covering the subject area under the terms and conditions cited below, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current ROE permit form, as may be amended from time to time;
 - B. The term of the ROE shall be month to month for up to twelve (12) months, commencing upon execution of the ROE document and terminating at the end of the twelve (12) month period or upon execution of a license disposition, whichever date occurs sooner;
 - C. Delegate to the Chairman the authority to finalize negotiations on the fee set for this ROE, as described in greater detail below under Background/Discussion;
 - D. Delegate to the Chairman the authority to finalize the exhibits within the ROE that identify the specific properties and to amend the ROE exhibit to add subdivisions as installation opportunities become available statewide;
 - E. The processing and documentation fee is set at \$175.00;

- F. Such other terms and conditions as may be prescribed by the Hawaiian Homes Commission to best serve the interest of the Hawaiian Home Lands trusts; and
 - G. The ROE document shall be subject to other standard terms and conditions of similar ROE issued by DHHL and will be subject to the review and approval of the Department of the Attorney General.
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR this project will probably have minimal or no significant effect on the environment.

LOCATION:

Portions of Hawaiian home lands situated on the islands of Lanai, Molokai, Oahu, Hawaii, Maui, State of Hawaii where existing DHHL leases are located.

BACKGROUND/DISCUSSION:

Hawaiian Telcom’s (HT) is developing its Fioptic Fiber-To-The-Premises (FTTP) build out plan with projects occurring on Hawaii, Oahu, Maui, Molokai, Lanai, and Lanai. HT is seeking access various rights of ways on Hawaiian home lands for the purpose of expanding its Fioptics FTTP 2022 build into Hawaiian home land developments that are adjacent to their ongoing projects. This expansion would provide broadband options to the homestead.

DHHL staff are recommending the HHC delegate authority to the Chairman to finalize negotiations on the fee set for this ROE. The fee will utilize the current methodology used to establish the fee for other Department issued ROEs. However, given the unique nature of the properties included in this ROE and the Department’s intent and current effort to work collaboratively towards issuance of a new license, adjustments may be made to the methodology to capture a comparable fee that is less complicated to implement. This allows for limited staff and consultant resources to focus on the longer-term license document instead of the shorter-term ROE.

In addition, staff are recommending the HHC delegate authority to the Chairman to finalize the list of properties to be included as an exhibit to this ROE and to amend the ROE exhibits from time to time to include other DHHL subdivisions that may be added as Fioptic expansion opportunities become available statewide.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

Based upon HAR Section 11-200.1 exemption criteria and DHHL’s approved exemption list, the DHHL Planning Office concluded that Hawaiian Telcom, Inc, due diligence investigation and maintenance activities on portions of various tax map keys, island of Kauai, Oahu, Molokai, Maui, and Hawaii, meets the criteria for the following de minimis activities: 1) Type 1-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, Items #2 (v) electrical systems and (vi) communication systems.

AUTHORITY

Hawaii Revised Statues, Section 171-55 Permits.

RECOMMENDATION

Land Management Division recommends approval of the requested motion/action as stated.