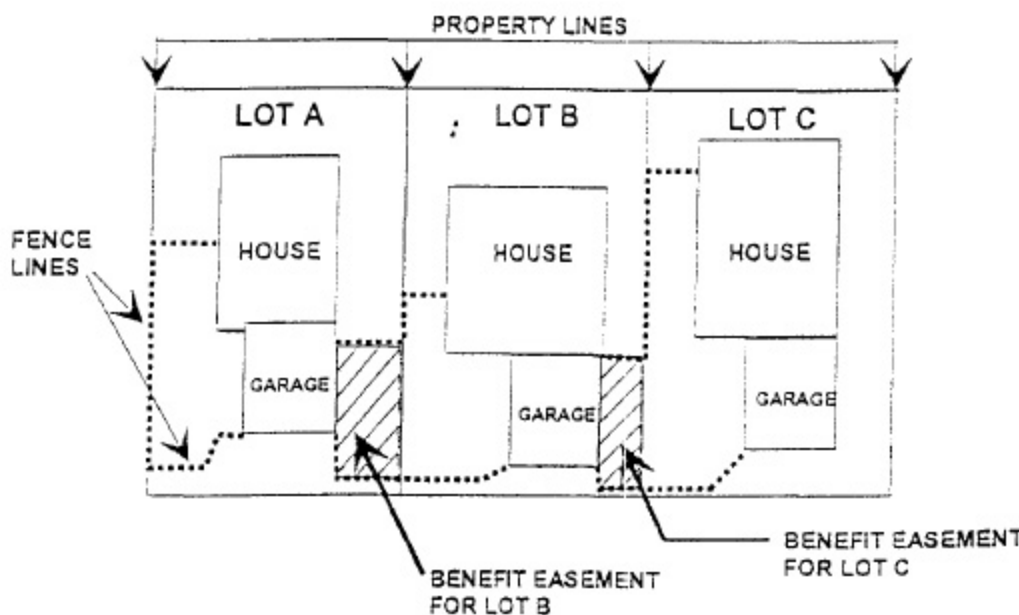


HOW TO CANCEL AN EASEMENT

When the West Loch Fairways development was designed, many of the city sponsored Greenway models included side yard easements that would allow some neighbors to "benefit" from the use of such land. For example, in the diagram below, Lot B "benefits" from an easement granted by the owner of lot A but also "gives up" the use of some property by granting an easement to Lot C. The fences on these Greenway properties were provided by the developer to include easements of record.

Greenway home owners who are granted rear side yard easements are not permitted to alter them and must maintain the area. The adjacent property owner's side garage wall must be maintained but may not be altered. Nothing may be applied to the wall. Only landscaping will be permitted in the easement, no structures or yard equipment.



Many homeowners prefer this arrangement but some do not and may wish to have the easement canceled. Here's how:

- Obtain a petition for Cancellation form from the Site Manager
- Both the owner that benefits from the easement and the owner that is subject to the easement must sign the petition in the presence of a notary.
- Any and all lenders holding a mortgage on either property must sign and notarize a Joinder and Consent form stating that they join in the Petition for Cancellation and consent to the cancellation of the easement.

Once all the necessary paperwork is completed, you may file it with the land court. When approved, the Registrar for the land court judge may order that the petition be granted. Then the certificates of title and maps are changed to eliminate the easement.

INSTRUCTIONS TO FILL IN FORM PETITION TO CANCEL EASEMENT

- (1) Name(s) of owner(s) of lot that benefits from the easement. Include full name(s) including middle name(s); do not put initials of middle name(s).
- (2) Name(s) of owner(s) of lot that is subject to the easement. Include full name(s) including middle name(s); do not put initials of middle name(s). Owner(s) deed is a useful source of information.
- (3) Include lot number of lot owned by First Party as shown on map registered with the Land Court. Lot number is provided in the owner(s) deed.
- (4) Map number is also mentioned in owner(s) deed.
- (5) Transfer Certificate of Title ("TCT") is issued to each owner by the Land Court. The TCT number is usually shown on the top left corner of the first page of the recorded deed which each owner(s) should have. The TCT number must be included in the Petition.
- (6) Include lot number of lot owned by Second Party as shown on map registered with the Land Court. Lot number is provided in the owner(s) deed.
- (7) Map number is also mentioned in owner(s) deed. Map number for First Party's lot and Second Party's lot should be the same.
- (8) Same as comment (5) above. Refer to owner(s) deed for Second Party's TCT number.
- (9) The Land Court Order No. and filing date are one of the following:

<u>Map No.</u>	<u>Land Court Order No. Approving Subdivision</u>	<u>Filing Date of LCO</u>
565	102952	July 11, 1991
566	103232	July 30, 1991
569	103582	August 26, 1991
570	103744	September 9, 1991
574	104054	October 1, 1991
576	104615	November 12, 1991
577	104616	November 12, 1991
578	104859	December 2, 1991
579	105039	December 12, 1991

- (10) Include easement number. Owner(s) deed will have this information.

IN THE LAND COURT OF THE STATE OF HAWAII

In the Matter of the Application of) Application No. 1069
)
 TRUSTEES UNDER THE WILL AND OF THE)
 ESTATE OF JAMES CAMPBELL, DECEASED)
)
 to register title to land situate)
 at Honouliuli, Ewa, Oahu, Hawaii)
 _____)

PETITION FOR CANCELLATION OF EASEMENT
AND ORDER

TO THE HONORABLE PRESIDING JUDGE OF THE LAND COURT OF THE STATE OF HAWAII:

Come now, _____, hereinafter called "First Party", and _____, hereinafter called "Second Party", and respectfully petition this Court as follows:

1. First Party is the owner of Lot _____ of the WEST LOCH FAIRWAYS SUBDIVISION, as shown on Map _____, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1069 of the Trustees under the Will and of the Estate of James Campbell, Deceased, being the same premises described in Transfer Certificate of Title No. _____ issued to First Party; and

2. Second Party is the owner of Lot _____ of the WEST LOCH FAIRWAYS SUBDIVISION, as shown on said Map _____, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with said Land Court Application No. 1069, being the same premises described in Transfer Certificate of Title No. _____ issued to Second Party; and

3. Pursuant to Land Court Order No. _____ filed on _____, said Lot _____ ("Benefit Lot") (now owned by First Party) was granted the use and benefit over Easement _____ ("Benefit Easement") affecting said Lot _____ ("Affected Lot") (now owned by Second Party) as shown on Map _____.

4. First Party surrenders and quitclaims unto Second Party all of First Party's right, title and interest in and to

said Benefit Easement and agrees that the Benefit Easement is hereby cancelled and terminated.

5. Second Party accepts said surrender and quitclaim and does hereby agree with the First Party that said Benefit Easement is cancelled and terminated.

6. It is further understood and agreed that the First Party and the Second Party be and are hereby released and discharged from their respective benefits and obligations regarding the Benefit Easement as may have been established or created under any instrument whatsoever.

WHEREFORE, First Party and Second Party petition this Court that an order issue approving and authorizing said cancellation and directing the Assistant Registrar of this Court to endorse on said certificates of title a reference to said cancellation, and to erase all reference to said Easement from said Map _____.

DATED: Honolulu, Hawaii, _____.

First Party

Second Party

STATE OF HAWAII)
) : SS.
CITY AND COUNTY OF HONOLULU)

_____, being first duly sworn on oath, depose and say:

That they are the Petitioners herein, and that they have read the foregoing Petition for Cancellation of Easement, know the contents thereof and that the same are true to the best of their knowledge, information and belief.

Subscribed and sworn to before me
this ____ day of _____, 1995.

NOTARY PUBLIC, State of Hawaii.

My commission expires: _____

JOINDER AND CONSENT

herein called "Mortgagee," the holder of that certain Mortgage dated _____, 19____, made by _____, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. _____ and noted on Transfer Certificate of Title No. _____, does hereby join in the above Petition and consent to the cancellation of Easement _____.

IN WITNESS WHEREOF, Mortgagee has caused this instrument to be duly executed this _____ day of _____, 1995.

By _____
Its

By _____
Its

STATE OF HAWAII)
): SS.
CITY AND COUNTY OF HONOLULU)

On this _____ day of _____, 19____, before me appeared _____ and _____, to me personally known, who, being by me duly sworn, did say that they are the _____ and _____, respectively, of _____, a _____ corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said Officers acknowledged said instrument to be the free act and deed of said corporation.

NOTARY PUBLIC, State of Hawaii.

My commission expires: _____

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

_____, being first duly
sworn on oath, depose and say:

That they are the Petitioners herein, and that they have read the foregoing Petition for Cancellation of Easement, know the contents thereof and that the same are true to the best of their knowledge, information and belief.

Subscribed and sworn to before me
this ____ day of _____, 1995.

NOTARY PUBLIC, State of Hawaii.

My commission expires: _____