

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

March 24, 2017

PSF No: 14KD-004

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

KAUAI

Amend Prior Board Action of March 28, 2014, Item D-4, *Set Aside to the County of Kauai for Affordable Housing of Various Lots in Wailua Houselots, Kapaa Makai, Hanapepe, and Waimea, Kauai*, as subsequently amended by Board Action of April 24, 2015, Item D-2; Tax Map Keys: (4) 1-6-004:003, (4) 1-9-009:006, 007, 008 & 009, (4) 1-9-010:003 & 033, (4) 4-1-009:054, (4) 4-1-011:016 & 020, (4) 4-5-008:009 & 012, and (4) 4-5-011:007.

The purpose of the amendment is to delete the three Kapaa Makai parcels from the list of parcels approved for set-aside to the County of Kauai for potential affordable housing sites, identified as Tax Map Keys: (4) 4-5-008:009 & 012, and 4-5-011:007

BACKGROUND:

At its meeting of March 28, 2014, Item D-4, the Board of Land and Natural Resources approved the set-side to the County of Kauai for affordable housing purposes various lots in Wailua Houselots, Kapaa Makai, Hanapepe, and Waimea, Kauai, identified as Tax Map Keys: (4) 1-6-004:003, (4) 1-9-009:006, 007, 008 & 009, (4) 1-9-010:003 & 033, (4) 4-1-009:054, (4) 4-1-011:016 & 020, (4) 4-5-008:009 & 012, and (4) 4-5-011:007.

At its meeting of April 24, 2015, Item D-2, the Board approved to amend its prior Board action of March 28, 2014, Item D-4, to include the issuance of an immediate management right-of-entry to the County of Kauai for its affordable housing project. (**Exhibit 1**)

REMARKS:

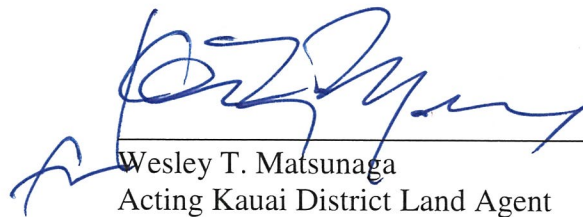
During staff's processing of the above request, the Kauai Island Burial Council (KIBC) notified the Kauai County Housing Agency (KCHA) that in its preliminary investigations, the subject three Kapaa Makai parcels identified as Tax Map Keys: (4) 4-5-008:009 & 012, and 4-5-011:007 contain burial sites. (See **Exhibit 2** for locations.) As a result, KIBC requires KCHA to obtain a more extensive archaeological inventory survey to further locate, identify, and record the burial sites upon the three State parcels. Due to the findings, KCHA is requesting staff to delete the three Kapaa Makai parcels

identified above from its original list of housing sites which were to have been set aside under Governor's executive order as prospective affordable housing sites.

RECOMMENDATION: That the Board:

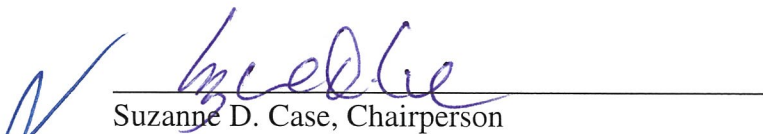
1. Amend its prior Board action of March 28, 2014, Item D-4, as subsequently amended by its action of April 24, 2015, Item D-2, by deleting the three Kapaa Makai parcels from its list of potential affordable housing sites to be set aside to the County of Kauai. The parcels to be deleted are identified as Tax Map Keys: (4) 4-5-008:009 & 012, and 4-5-011:007.
2. Confirm that except as amended hereby, all terms and conditions listed in its approval of March 28, 2014, Item D-4, as subsequently amended by its action of April 24, 2015, Item D-2, shall remain the same.

Respectfully Submitted,



Wesley T. Matsunaga
Acting Kauai District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

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

April 24, 2015

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

PSF No: 14KD-004
Kauai

Amend Prior Board Action of March 28, 2014, Item D-4, "Set Aside to County of Kauai for Affordable Housing, Various lots in Wailua Houselots, Kapaa, Hanapepe, Waimea, Kauai. Tax Map Keys: (4) 4-1-11:016,020, (4) 4-1-9:054, (4) 4-5-008:009,012, (4) 4-5-011:007, (4) 1-9-009:006,007,008,009, (4) 1-9-010:003, (4) 1-9-010:033, (4) 1-6-004:003."

The purpose of the amendment is to issue an immediate management right-of-entry permit.

BACKGROUND:

At its meeting on February 14, 2014, under Item D-4, the Board approved set-aside to County of Kauai for Affordable Housing, various lots in Wailua Houselots, Kapaa, Hanapepe, and Waimea, Kauai. See Exhibit A.

As part of the applicant requirements, applicant shall provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

Due to budget constraints, no funding was provided to the County of Kauai, Kauai County Housing Agency, Housing and Development Division (KCHA-HDH) in the County budget for fiscal year July 1, 2014 thru June 30, 2015 to proceed with surveys and analysis.

Letter dated March 9, 2015, KCHA-HDH have located some funds to proceed with the start of survey and analysis of subject parcels in May 2015. They are requesting a right-of-entry permit for a one year period. See Exhibit B.

Staff recommends an immediate management right-of-entry permit of subject parcels. Permit will expire upon execution of Governors Executive Order setting aside the subject lands.

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

April 24, 2015 Can.

D-2

EXHIBIT 1

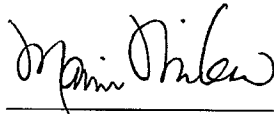
REMARKS:

Previous Board approval did not include a management right-of-entry permit.

RECOMMENDATION: That the Board:

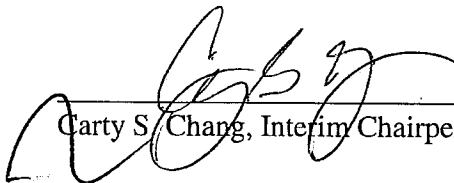
1. Amend its prior Board action of March 28, 2014, under agenda item D-4 by adding to the Recommendations section:
2. Authorize the issuance of an immediate management right-of-entry permit to the County of Kauai, covering the subject lands under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
 - B. Management right-of-entry permit will expire upon execution of Governors Executive Order.
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. All terms and conditions listed in its March 28, 2014 approval to remain the same.

Respectfully Submitted,



Marvin Mikasa
District Land Agent

APPROVED FOR SUBMITTAL:



Carty S. Chang, Interim Chairperson

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

March 28, 2014

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

PSF No.: 14KD-004

Kauai

Set Aside to County of Kauai for Affordable Housing, Various lots in Wailua Houselots, Kapaa, Hanapepe, Waimea, Kauai. Tax Map Keys: (4) 4-1-011:016,020, (4) 4-1-009:054, (4) 4-5-008:009,012, (4) 4-5-011:007, (4) 1-9-009:006,007,008,009, (4) 1-9-010:003, and (4) 1-6-004:003

APPLICANT:

County of Kauai

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Kauai situated at Wailua Houselots, Kapaa, Hanapepe, Waimea, Kauai. Tax Map Keys: (4) 4-1-011:016,020, (4) 4-1-009:054, (4) 4-5-008:009,012, (4) 4-5-011:007, (4) 1-9-009:006,007,008,009, (4) 1-9-010:003, (4) 1-6-004:003, as shown on the attached maps labeled **Exhibit I**.

AREA and ZONING:

TMK#	AREA	STATE LUD	COUNTY CZO
(4) 4-1-011: 020	38,500 square feet	Urban	R-6
(4) 4-1-011: 016	22,749 square feet	Urban	R-6
(4) 4-1-009: 054	26,571 square feet	Urban	Open
(4) 4-5-008: 009	7,560 square feet	Urban	Open/SPA-A
(4) 4-5-008: 012	7,175 square feet	Urban	Open/SPA-A
(4) 4-5-011: 007	7,810 square feet	Urban	Open/SPA-A
(4) 1-9-009: 006	7,017 square feet	Urban	Open
(4) 1-9-009: 007	6,451 square feet	Urban	Open

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

March 28, 2014

EXHIBIT "A"

D-4

TMK#	AREA	STATE LUD	COUNTY CZO
(4) 1-9-009: 008	6,172 square feet	Urban	Open
(4) 1-9-009: 009	6,851 square feet	Urban	Open
(4) 1-9-010: 003	16,792 square feet	Urban	Open
(4) 1-6-004: 003	13,539 square feet	Urban	R-4

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

TMK (4) 4-1-009:054, partially encumbered by General Lease No. S-6021 for a non-exclusive access easement over 616 square feet of the 26,571 square foot parcel. **(Exhibit II)**

TMK (4) 4-5-008:012 is encumbered by Revocable Permit No. S-6892 to Frances Madrid and Sam Wunschel for "Home Garden". **(Exhibit III)**

All other lots are vacant and unencumbered.

PURPOSE:

Affordable housing purposes

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. **(Exhibit IV)**. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 2) Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.
- 3) Obtain a title report to ascertain ownership, where necessary, at Applicant's own

cost and subject to review and approval by the Department.

REMARKS:

All of the parcels have been identified under HRS 171-49.7 as public lands suitable and available for residential development.

TMK (4) 4-1-011:020 is 38,500 square feet in the CZO R-6, potentially buildable for 2 homes due to DOH restrictions on septic systems.

TMK (4) 4-1-011:016 is 22,749 square feet in the CZO R-6, potentially dividable into 2 lots with a potential maximum density of 4 units.

TMK (4) 4-1-009:054 is 26,571 square feet in the CZO Open. This lot may not be divided and is subject to an existing easement from the neighboring residential property under GL S-6021. The lot has a potential maximum density of 2 units.

TMK (4) 4-5-008:009 is 7,560 square feet in the CZO Open/SPA-A. This lot may not be divided and is suitable for 1 unit.

TMK (4) 4-5-008:012 is 7,175 square feet in the CZO Open/SPA-A. This lot may not be divided and is suitable for 1 unit. This parcel is encumbered by RP S-6892.

TMK (4) 4-5-011:007 is 7,810 square feet in the CZO Open/SPA-A. This lot may not be divided and is suitable for 1 unit.

TMK (4) 1-9-009:006 is 7,017 square feet in the CZO Open. This lot may not be divided and is suitable for 1 unit.

TMK (4) 1-9-009:007 is 6,451 square feet in the CZO Open. This lot may not be divided and is suitable for 1 unit.

TMK (4) 1-9-009:008 is 6,172 square feet in the CZO Open. This lot may not be divided and is suitable for 1 unit.

TMK (4) 1-9-009:009 is 6,851 square feet in the CZO Open. This lot may not be divided and is suitable for 1 unit.

TMK (4) 1-9-010:003 is 16,792 square feet in the CZO Open. This lot may not be divided and is suitable for 1 unit.

TMK (4) 1-6-004:003 is 13,539 square feet in the CZO R-4. This lot may not be divided and is suitable for 2 units.

On January 23, 2009, TMK (4) 1-9-009: 006, 007, 008, 009 and TMK (4) 1-9-010:003 were set aside under Governor's Executive Order No. 4261 to the Hawaii Housing Finance and Development Corporation for future housing and housing-related development purposes. On March 15, 2011, under Governor's Executive Order No. 4362, Governor's Executive Order No. 4261 was cancelled.

The Kauai County Housing Agency (KCHA) was formed in May 1976 in recognition of the need to provide housing for low-income households and the elderly and to participate in the federal Housing Assistance Payments Program under Section 8 of the Housing and Community Development Act of 1974. Its mission is to provide greater opportunities for Kauai's citizens to choose and secure affordable, safe, decent and sanitary housing and to live and work in neighborhoods and communities that can accommodate the needs and desires of all households and individuals.

The KCHA is composed of two divisions, the Housing & Community Development Division and the Rental Assistance Division. The Development Division develops affordable housing with government resources, plans and monitors affordable housing with private developers, monitors restrictions on affordable projects, provides research and community education regarding housing needs and solutions, administers the Community Development Block Grant Program (CDBG), the Home Investment Partnership Program (HOME), Residential Rehabilitation and Home-buyer Loan Programs, various far housing activities, and other related County, State, and federal housing programs.

KCHA is proposing to use the parcels to develop an in-fill, single family, affordable housing development. By using United States Department of Agriculture (USDA) Rural Development Direct Loan funds for 80% of the cost of the unit and 20% from KCHA, the County of Kauai will be able to leverage its funds and provide an affordable home for a Kauai family. KCHA has a current list of qualified applicants and approved designs for development. Under proposed timelines, the first home could begin construction within 3 months of the execution of this proposed Executive Order.

All of the parcels are within residentially developed neighborhoods and the highest and best use for the parcels would be for residential use. The Kauai District Land Office (KLDO) receives complaints about overgrown vegetation on these parcels and does regular maintenance to ensure that any potential liability is mitigated. DLNR and the BLNR are not in the business of developing residential units and therefore, staff recommends that the BLNR set aside these parcels to the County of Kauai to develop affordable housing. This would allow for development of the parcels' highest and best use and would remove an expense and liability from BLNR management.

Various government agencies and interest groups were solicited for comments:

AGENCIES	COMMENTS
State of Hawaii	
DOH-EPO	No comments
DHHL	No response by suspense date
DLNR-Aquatic Resources	No response by suspense date
DLNR-Forestry & Wildlife	Has concerns about parcel TMK (4) 1-9-010:003, that contains a burial site.
DLNR-Historic Preservation	See Exhibit V
DLNR-State Parks	No comments
County of Kauai	
Planning Department	No response by suspense date
Public Works	No response by suspense date
Water Department	No response by suspense date
Other Agencies / Interest Groups	
Office of Hawaiian Affairs	No response by suspense date

RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above:

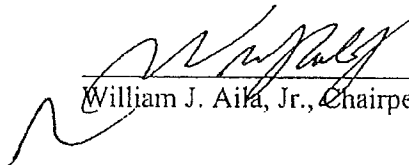
1. Declare that this action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the County of Kauai under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - 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,

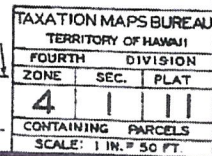


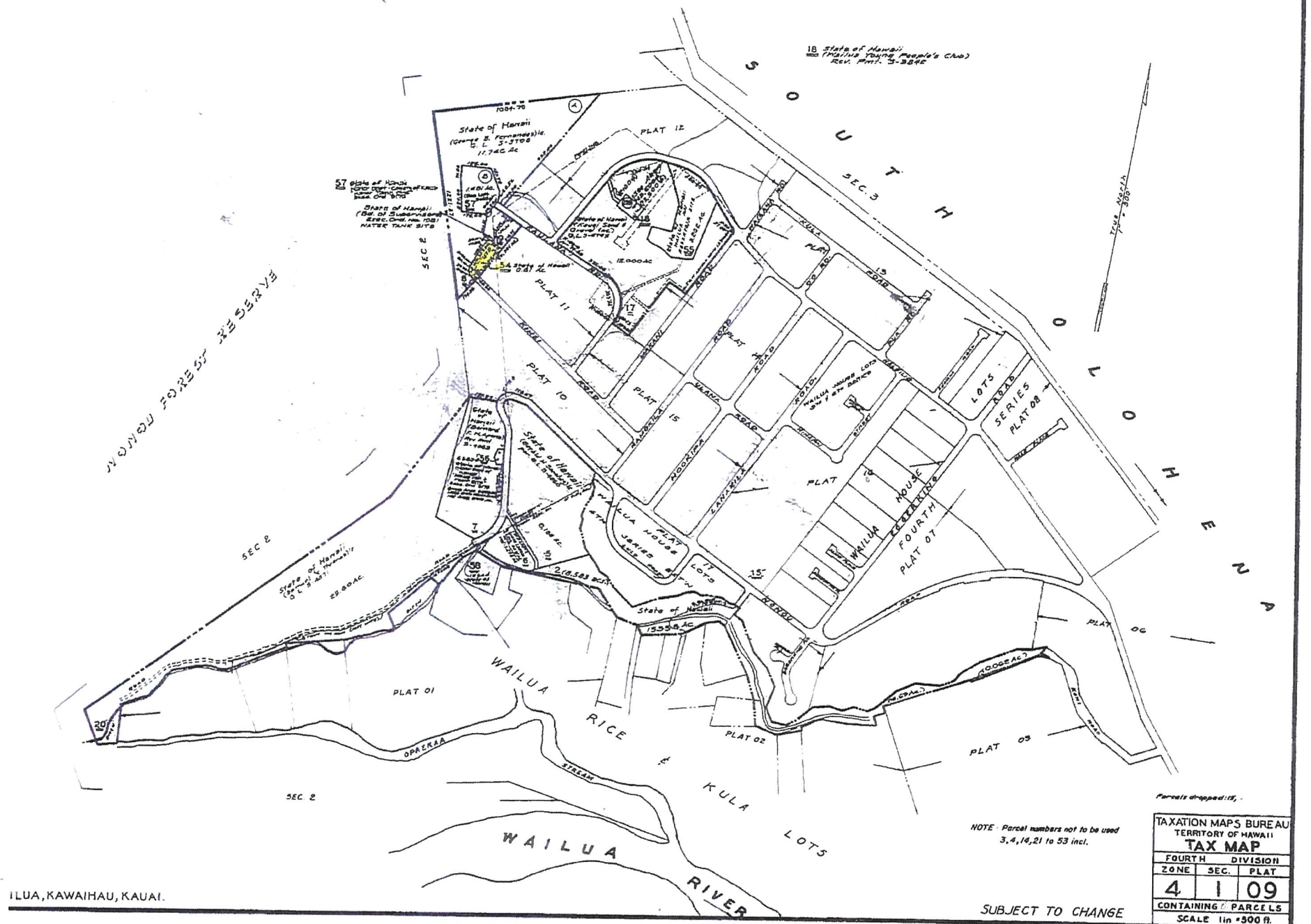
Marvin Mikasa
Acting District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aika, Jr., Chairperson

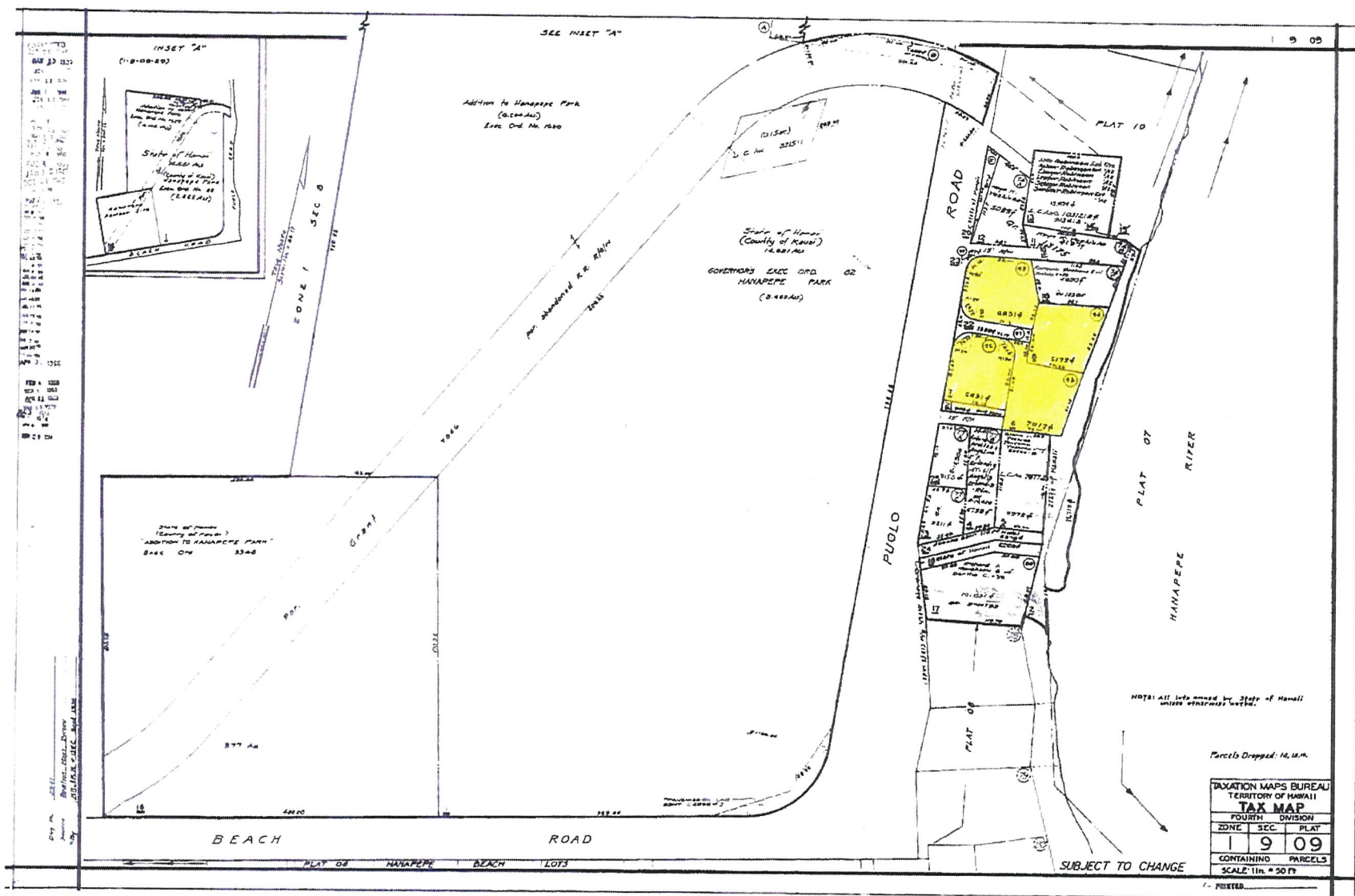


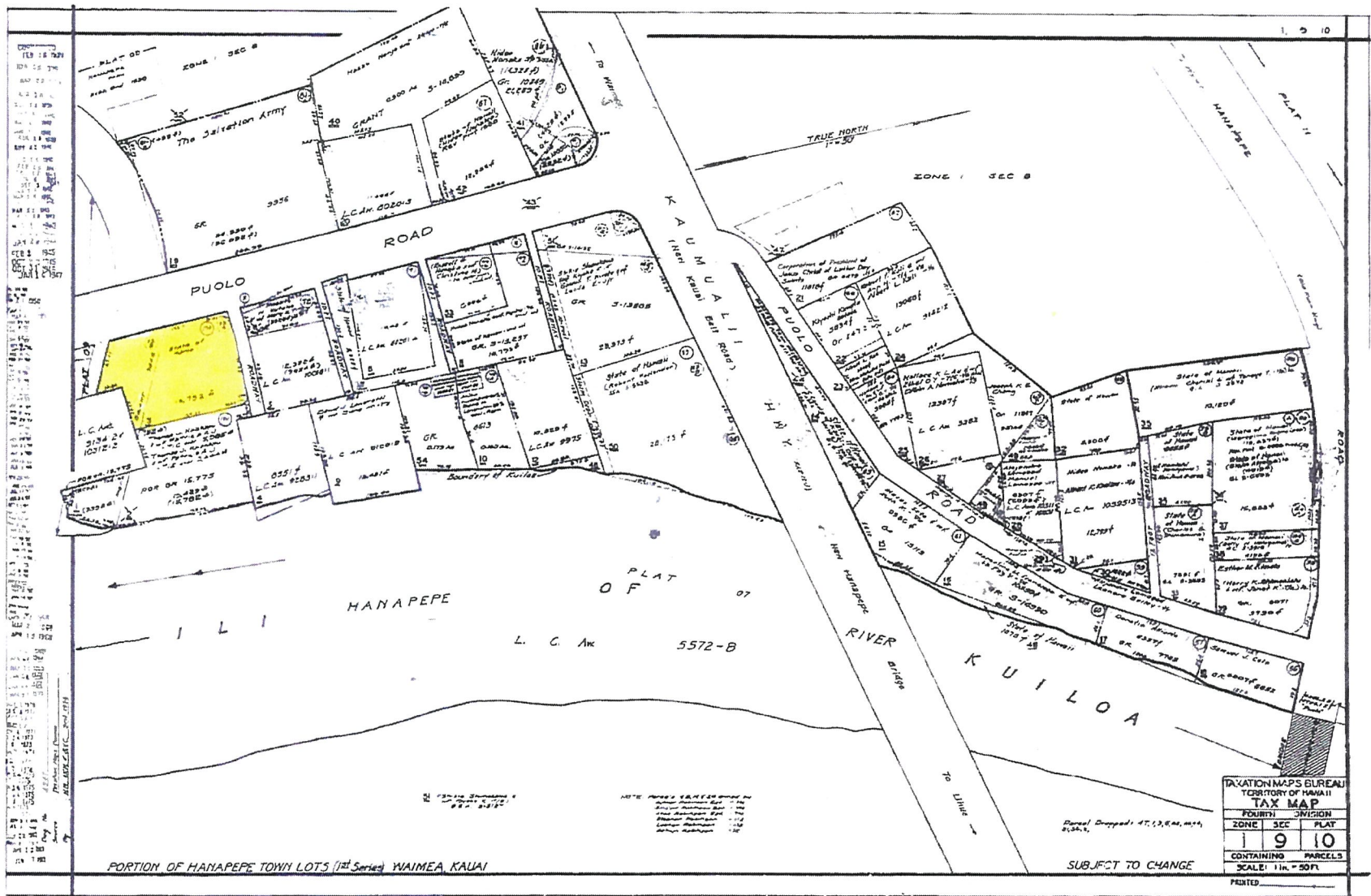


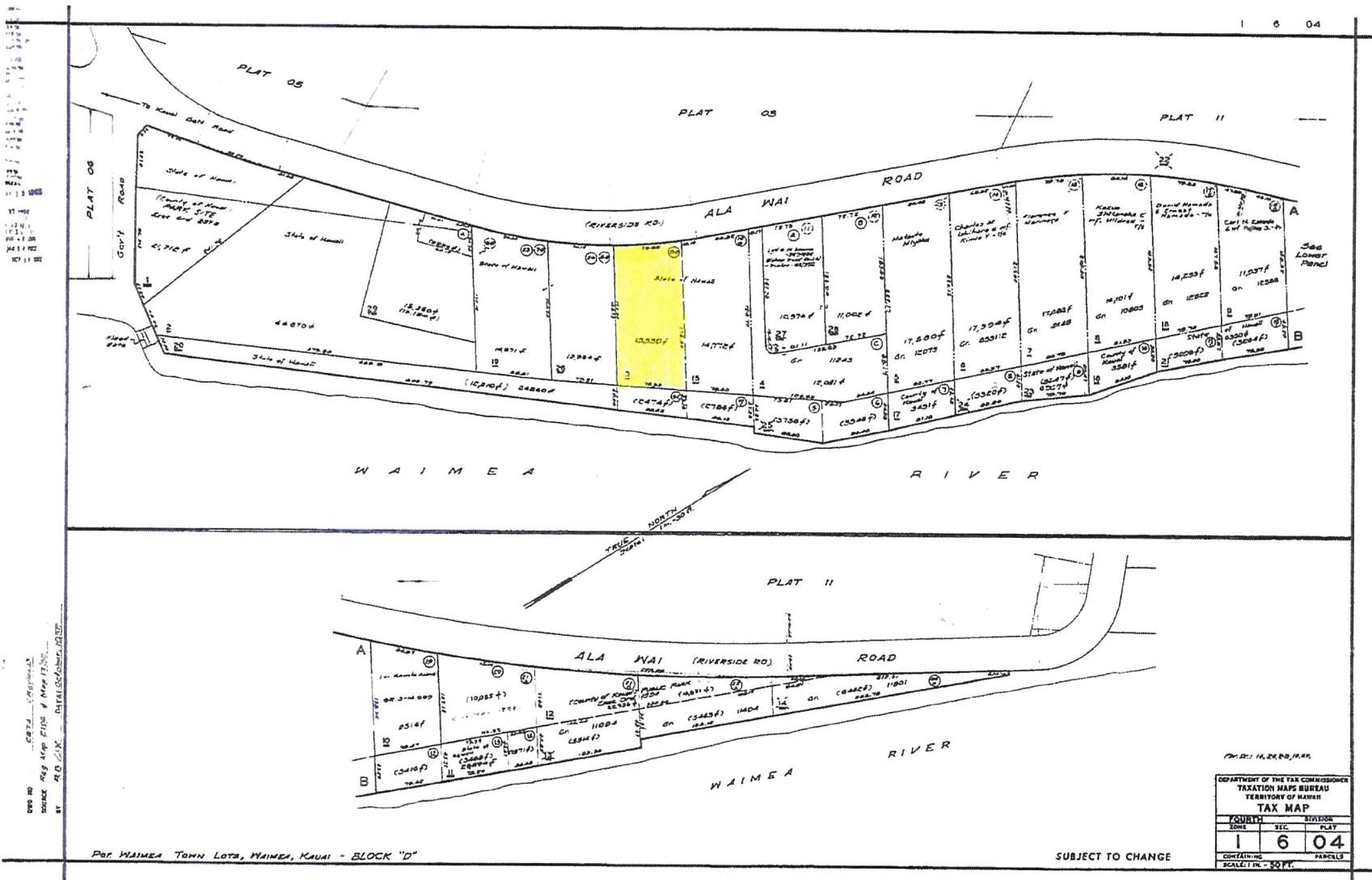
TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH DIVISION		
ZONE	SEC.	PLAT
4	5	0.8
CONTAINING 4 PARCELS		
SCALE: 1 in. = 50 ft.		

PRINTED

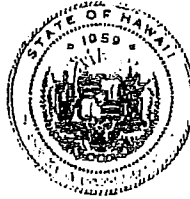
SUBJECT TO CHANGE







NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

March 28, 2014

WILLIAM J. AILA, JR.
CHAIRMAN
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM M. LAM
DEPUTY DIRECTOR, WATER

MARK R. HENRIKSEN
DEPUTY DIRECTOR, LAND AND NATURAL RESOURCES
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
COMMISSION ON LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

JOHN S. ANDERSON
DIRECTOR, PRESERVATION
KAWAHAU ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Set Aside to County of Kauai for Affordable Housing

Project / Reference No.: PSF 14KD-004

Project Location: Various lots in Wailua Houselots, Kapaa, Hanapepe, Waimea, Kauai; Tax Map Keys: (4) 4-1-011:016,020, (4) 4-1-009:054, (4) 4-5-008:009,012, (4) 4-5-011:007, (4) 1-9-009:006,007,008,009, (4) 1-9-010:003, and (4) 1-6-004:003

Project Description: Set Aside to County of Kauai for Affordable Housing

Chap. 343 Trigger(s) Use of State Land

Exemption Class No. and Description: In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "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" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

Consulted Parties: DLNR – Aquatic Resources, Forestry & Wildlife, Historic Preservation; and State Parks, Department of Health; Department of Hawaiian Home Lands, County of Kauai Planning and Public Works, and Office of Hawaiian Affairs

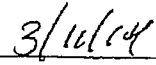
Recommendation: It is anticipated this project will probably have minimal or no significant effect on the environmental and is presumed to be exempt from the preparation of an environmental assessment.

EXHIBIT "IV"



William J. Aila, Jr., Chairperson





Date



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
STATE HISTORIC PRESERVATION DIVISION
601 KAMUKU A BOULEVARD, ROOM 555
KAPOLU, HAWAII 96707

WILLIAM J. ADAMS, JR.
 PRESIDENT
 BOARD OF DIRECTORS AND MANAGING DIRECTOR
 OF THE BOARD OF DIRECTORS AND MANAGING DIRECTOR

CHYKABH POKOY
THINE BUREAU

WILLIAMS LANE
2001 LA JOLLA BLVD. SAN DIEGO

[illegible]

February 21, 2014

Ms. Lydia Morikawa
Department of Land & Natural Resources
Land Division
P.O. Box 621
Honolulu, Hawaii 96809
Lydia.M.Morikawa@hawaii.gov

LOG NO: 2014 00182
DOC NO: 1402GC07
Archaeology

**SUBJECT: Chapter 6E-8 and National Historic Preservation Act (NHPA) Section 106 Review
Set Aside to County of Kaua'i for Affordable Housing
Various Lots in Wailua Houselots, Kapa'a, Hanalepē and Waimea
Waimea, Hanalepe, Wailua and Kapa'a Ahupua'a
Kawaihau and Kona, District, Island of Kaua'i
TMK: (4) 1-6-004:003; 1-9-009:006 thru 009; 1-9-010:003; 4-1-009:054; 4-1-011:016, 020 and
4-5-008:009, 012**

Thank you for the opportunity to review the above referenced request for comments that was received by our office January 27, 2014. According to the information submitted to our office, the applicant Kaua'i County Housing Agency (KCHA) is requesting to have portions of government (State) lands situated at Wailua Houselots, Kapa'a, Hanalei, and Waiman set aside for proposed affordable housing. KCHA is proposing to use the parcels to develop an in-fill, single family affordable housing development. All of the parcels have been identified under HRS §171-49.7 as public lands suitable and available for residential development. Federal funding is provided in part by the United States Department of Agriculture (USDA) Rural Development (RD). The proposed project is established as a federal undertaking pursuant to 36 CFR 800.16 (y), and is therefore subject to National Historic Preservation Act Section 106 review.

TMK: (4) 1-6-004:003, Waimea

This parcel is located within Waimea Town and totals 13, 539 square feet and is suitable for two proposed units. The parcel is bounded by Afa Wai Road (Riverside Road) on the southeast and an earthen berm on the northwest bank of the Waimea River. Our records indicate that an archaeological inventory survey (AIS) was previously conducted of this parcel (Chaffee et al. 1994). No significant surface or sub-surface historic properties were identified during the survey, and SHPD previously concurred with a "no effect" determination for the parcel (Log 12881, Doc 9410NM03). We have received no new information regarding potential historic properties since our previous determination. In addition, current satellite imagery indicates this parcel has been subjected to major grubbing and grading. Therefore, we believe **no historic properties will be affected** by the proposed development of two units on this parcel.

TMK: (4) 1-9-009:006, 007, 008 & 009, Hanapēpē Houselots

These four parcels are located along Puolo Road to the west and the Hanapēpē River to the east, and totals approximately 26,887 square feet; each of the four parcels has been designated as suitable of one unit. Our records indicate no archaeological inventory survey has been conducted, and no historic properties have been identified within the subject parcels. However, the proposed project area is within 70 meters of two Hanapepe burial sites (SIHP 50-30-09-704 and 705). Therefore **SHPD requests more information** in the form of a thorough and good faith effort to identify historic properties within the area of potential effect (APE). The identification effort should include consultation with Native Hawaiian Organizations (NHO) pursuant to 36 CFR Part 800.4(a) (4). For the level of effort identified in 36 CFR 800.4(b)(1), we recommend field survey for areas of proposed ground disturbance, and background research for areas of potential visual impacts in addition to consultation with NHO. We request that a report of survey findings be prepared and submitted to SHPD for review and approval, pursuant to The Secretary

EXHIBIT " V "

of the Interior's Standards for Identification and Hawaii Administrative Rule §13-276. If needed, appropriate mitigation plans will need to be approved and implemented prior to commencement of construction activities.

We look forward to the opportunity to consult on the significance evaluations [36 CFR Part 800.4(c)], assessment of project effects [36 CFR Part 800.5] and if necessary, resolution of adverse effects [36 CFR Part 800.6] for any sites located within the APE. 36 CFR Part 800 also mandates that NHO are provided the opportunity to consult on all of these phases of historic preservation review process.

TMK: (4) 1-9-010:003, Hanalei Town Lots

The proposed project parcel is located within the Hanalei Town Lots, First Series, with Puolo Road being at the western end of the property and the Hanalei River on the East. The property consists of approximately 16,792 square feet and is suitable for one unit. Our records indicate that an archaeological inventory survey has been conducted of this parcel (Creed et al. 1994) and accepted by SHPD (Log 10923, Doc No. 9402NM43). The survey identified three significant historic properties, two burials (SIHP 50-30-09-704 and 705) and a discontinuous cultural layer (Site 706). The burials were identified within one meter of the surface, and the cultural layer was identified at approximately 70 cm (35 inches) below the surface. Site 706 is considered no longer significant as appropriate information has been collected. The two burials are preserved in place within the existing parcel. We have not received any new information regarding this parcel; therefore we believe the proposed construction of a residential unit on this parcel will have an **adverse effect** on the identified historic properties. SHPD requests that a project specific **burial treatment plan** be completed and submitted to SHPD for approval and to the Kauai-Niihau Islands Burial Council for determination and recommendations, to insure the protection of the known burial sites in the project area. In addition, a project specific **archaeological monitoring plan** should be implemented to identify the measures that will be employed to minimize the damage of this project on historic properties. Specifically this plan should address how the known burials sites will be avoided and how machinery will safely access the construction site without disturbing the two identified burial sites. The monitoring plan should be approved by our office pursuant to HAR §13-279 and the Secretary of the Interior's standards prior to implementation. We also recommend that Native Hawaiian Organizations and other interested parties be part of the consultation process.

TMK: (4) 4-1-009:054 and 4-1-011:016 & 020, Wailua

The proposed project parcels are located within the Wailua House lots. The property located within TMK: (4) 4-1-009:054 consists of 26,571 square feet and is subject to an existing non exclusive access easement of 616 square feet from the neighboring residential property under GL S-6021. The property is bounded by Nounou Forest reserve to the east and Haleiio Road to the west. The subject parcels located within TMK: (4) 4-1-011:016 and 020 consist of 38,500 square feet and 22,749 square feet respectively, and are potentially dividable into two lots with a potential maximum density of four units.

Our records indicate no historic properties have been identified within the above parcels. Our records also indicate that SHPD made a previous determination of "no effect" to significant historic properties for the property located within TMK: (4) 4-1-009:054 (Log. 2006.0854, Doc 0603NM39); and "no effect" for the property located within TMK: (4) 4-1-011: 016 & 020 (Log 19576, Doc 9705NM19, Log 19575, Doc 9705NM18). We have no new information for these parcels; therefore, we believe **no historic properties will be affected** by the proposed development at these three locations.

TMK: (4) 4-5-008: 009 & 012 and 4-5-011:007, Kapa'a makai

The proposed project parcels are located within Kapa'a Town Lots on Inia Street. The parcels located at TMK: (4) 4-5-008:009 and 012 consist of 7,560 square feet each; both are suitable for one unit per parcel. The parcel located within TMK: (4) 4-5-011:007 is 7,810 square feet and is suitable for one unit. Of these three parcels, TMK (4) 4-5-008:012 is encumbered by revocable permit No. S-6892 to Frances C. Madrid and Sammie L. Wunschel for "Home Garden."

Our records indicate that numerous known historic properties are present in Kapa'a Town. Several archaeological reports have been conducted within Kapa'a Town in close proximity of the proposed project parcels, specifically along Inia Street and Kapa'a State Beach Park. These include two burial reports (Kawachi 1994 and Jourdan 1995); four archaeological monitoring reports (Creed et al. 1995, Callis 2000, Dega and Powell 2003, and Terry et al. 2004); and two archaeological inventory survey reports (Bushnell et al. 2002, Dagher and Dega 2010). The results of the above reports indicate that a total of eleven burials (SIHP 50-30-08-626, 867, 871) and a cultural layer with sub-surface features (Site 1849) have all been identified along Inia and Kauwila Streets. The cultural layer (Site 1849) has been expanded to include Ulu Street located *maka* of Kuhio Highway, to the north along Lehua Street

and Kukui Street, and down to Kapa'a Beach Park. The recorded area of Site 1849 extends into all three of the project area parcels in Kapa'a Town. The disposition of the identified burial sites is uncertain at this time; it is possible that at least two of the burials may be preserved in place within or adjacent to the boundaries of two project area parcels. The above surveys and monitoring projects were located adjacent to the subject parcels, within public road right-of-ways; the findings indicate a high probability that undocumented burials and subsurface cultural deposits are present within the proposed construction areas.

We believe the proposed construction of residential units on the above parcels has the potential to **adversely affect** identified and unknown historic properties. Therefore **SHPD requests more information** in the form of a thorough and good faith effort to identify historic properties within the area of potential effect (APE). The identification effort should include consultation with Native Hawaiian Organizations (NHO) pursuant to 36 CFR Part 800.4(a) (4). For the level of effort identified in 36 CFR 800.4(b)(1), we recommend field survey with subsurface testing for areas of proposed ground disturbance, and background research for areas of potential visual impacts in addition to consultation with NHO. We request that a report of survey findings be prepared and submitted to SHPD for review and approval, pursuant to The Secretary of the Interior's Standards for Identification and Hawaii Administrative Rule §13-276. If needed, appropriate mitigation plans will need to be approved and implemented prior to commencement of construction activities. We look forward to the opportunity to consult on the significance evaluations [36 CFR Part 800.4(c)], assessment of project effects [36 CFR Part 800.5] and if necessary, resolution of adverse effects [36 CFR Part 800.6] for any sites located within the APE. 36 CFR Part 800 also mandates that NHO are provided the opportunity to consult on all of these phases of historic preservation review process.

Summary of Recommendations

In summary, significant historic properties are present within Hanapēpē, Wailua and Kapa'a Town and there is a potential for historic properties to be adversely affected by the proposed projects at these locations. We recommend that the permits for the development of the following affordable housing units be deferred until the applicant has submitted the information as requested above and listed here for the following project locations:

1. **TMK: (4) 1-9-009:006, 007, 008 & 009** - an archaeological inventory survey (AIS) report, prepared in accordance with The Secretary of the Interior's Standards and Hawaii Administrative Rule (HAR) §13-276;
2. **TMK: (4) 1-9-010:003** - a burial treatment plan prepared pursuant to HAR §13-300 and an archaeological monitoring plan prepared pursuant to HAR §13-279 and The Secretary of the Interior's Standards; and
3. **TMK (4) 4-5-008: 009 & 012 and 4-5-011:007** an archaeological inventory survey (AIS) report, prepared in accordance with The Secretary of the Interior's Standards and HAR §13-276.

Based on available information as noted above, we believe that **no historic properties will be affected** by the proposed construction in the following project locations

1. **TMK: (4) 1-6-004:003** and
2. **TMK: (4) 4-1-009:054 and 4-1-011:016 & 020**

Please contact Susan Lebo at (808) 692-8019 or Susan.Lebo@doh.hawaii.gov if you have any questions or concerns regarding this letter

Aloha

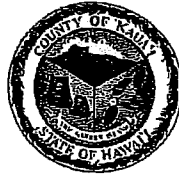


Theresa K. Donham
Archaeology Branch Chief

cc: Dale Cua (dcua@hawaii.gov)
Marvin Mikasa (mmikasa@hawaii.gov)

Bernard P. Carvalho, Jr.
Mayor

Nadine K. Nakamura
Managing Director



Kamuela Cobb-Adams
Housing Director

KAUAI COUNTY HOUSING AGENCY

County of Kauai, State of Hawaii
Pi'ikoi Building 4444 Rice Street Suite 330 Lihu'e Hawaii 96766
TEL (808) 241-4444 FAX (808) 241-5118

March 9, 2015

Ref. No.: 14KD-004

Marvin Mikasa, Kauai District Land Agent
State of Hawaii Department of Land and Natural Resources
Land Division
3060 'Eiwa Street, Room 208
Lihu'e, Hawaii 96766

Subject: Request for a Right of Entry to be Issued to the County of Kauai and its
Contractor(s) to Conduct Predevelopment Site Work for TMK: (4) 1-6-004:003;
1-9-009:006,007,008,009; 1-9-010:003; 4-1-009:054; 4-1-011:016, 020;
4-5-008:009, 012; 4-5-011:007

Dear Mr. Mikasa,

The Kauai County Housing Agency's is requesting the approval for a Right of Entry (ROE) to be issued to the County and our Contractor(s). The ROE will provide access to the subject parcels to conduct surveys and analysis to meet the requirements of our Executive Order request. We intend to commence work on these parcels in May 2015 and ask that we be granted a minimum one-year period.

These parcels will be used to build affordable housing for the people of Kauai. If you have any questions, please feel free to contact Kanani Fu at 241-4436.

Very truly yours,

A handwritten signature in black ink, appearing to read "KCa", is written over a horizontal line.

KAMUELA COBB-ADAMS
Kauai County Housing Agency



An Equal Opportunity Employer

EXHIBIT "B"

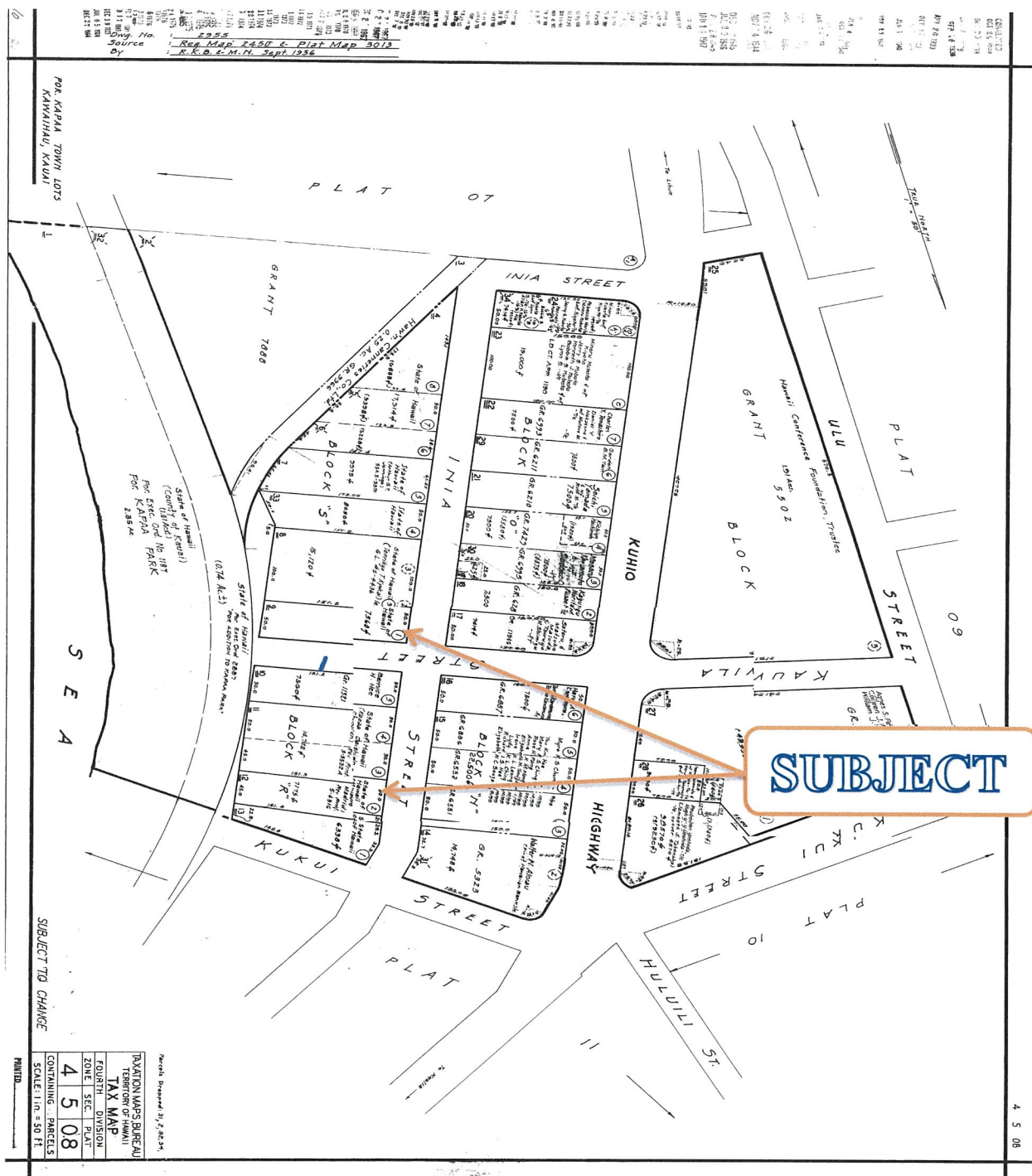


EXHIBIT 2

