

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

April 13, 2017

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

PSF No.: 17HD-004

Hawaii

**Cancellation of Executive Orders No. 4014 and No. 4108 to the County of Hawaii, for Combined Veterans Center, Veterans Housing and Other Related Purposes; and Reset Aside to the County of Hawaii, for a Combined Veterans Center, and Affordable Senior Housing with Preference to Veterans and Spouses; Waiakea, South Hilo, Hawaii; Tax Map Keys: (3) 2-4-057:029 and 030**

CONTROLLING AGENCY:

County of Hawaii

APPLICANT:

County of Hawaii

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-4-057:029, 030, as shown on the attached map labeled Exhibit A.

AREA:

EO 4014 - 5.615 acres, more or less.

EO 4108 - 0.821 acre, more or less.

ZONING:

State Land Use District: Urban

County of Hawaii CZO: RM-1

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:

Governor's Executive Order No. 4014, setting aside 5.615 acres, and Governor's Executive Order No. 4108 setting aside 0.821 acres to the County of Hawaii for Combined Veterans Center, Veterans Housing and Other Related Purposes.

PURPOSE:

Revised Executive Order:

Combined veterans center, and affordable senior housing with preference to veterans and spouses purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on August 8, 2006 with a finding of no significant impact (FONSI).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Process and obtain subdivision at Applicant's own cost;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;

BACKGROUND:

Executive Order No. 4014:

At its meeting of November 19, 1999, under Agenda Item D-18, the Board of Land and Natural Resources (Board) approved the set-aside of the subject property to the State of Hawaii, Department of Defense for the Combined Veterans Center, Veterans Housing and other related purposes.

At its meeting of August 24, 2001, the Board under Agenda Item D-11, amended the prior Board action of November 19, 1999, by deleting all reference to the Department of Defense and by approving of and recommending to the Governor, issuance of an executive order to the County of Hawaii (County) for the development of a Combined Veterans Center, Veterans Housing and other related purposes. The amended action included the addition of an adjacent two-acre portion of the subject parcel relinquished by the Department of Health to be included as part of the set-aside to the County.

At its meeting of October 25, 2002, the Board, under Agenda Item D-15, approved a second amendment to the prior Board action by the addition of adjacent road rights-of-way subject to the County executing a quitclaim for the same to the State.

In the County's attempt to process the quitclaim for the rights-of-way, there were concerns raised about the inclusion of these rights-of-way. In the interest of expediting the disposition, the County had requested that these rights-of-way, together with the remainder parcel on the east side of Ululani Street extension be excluded from the Executive Order for the Veterans Center. The County would have incorporated the use of these rights-of-way into the design of the veterans center as necessary but would have retained jurisdiction over them. This would have reduced the area of the site from 7.562 acres to 5.615 acres.

To simplify the disposition, at its meeting of August 8, 2003, the Board, under Agenda Item D-9, rescinded all previous Board actions regarding the subject parcel and approved a set-aside of the smaller area for the same purpose to the County. Executive Order No. 4014 was completed for the smaller area of 5.615 acres, excluding the extensions of Ululani Street and Olona Street.

Executive Order No. 4108:

As a result of the County of Hawaii retaining the Ululani Street extension, a small parcel of State land at the south-east corner was carved out of the original set-aside request. At its meeting of November 19, 2004, the Board, under Agenda Item D-13, approved and recommended the issuance of Executive Order No. 4108, containing approximately 0.821 acre of land.

Environmental Assessment:

A Draft Environmental Assessment (DEA) was prepared by Yukie Ohashi, Planning Consultant, on behalf of the Hawaii Island Veterans Memorial, Inc. (HIVM) in conjunction with its request to lease the properties from the County for East Hawaii Veterans Center and housing project. In the DEA report, the residential component was described as "affordable housing independent living community for Hawaii seniors (62+), with preference given to veterans and spouses of deceased veterans."

As part of the DEA review process, a request for comments was sent to various government agencies. Harry Yada, then District Land Agent for the Hawaii District Land Office, recommended the language in section 2.3.3 – "Senior Affordable Housing" as better reflecting the purpose of the Executive Orders (Exhibit B).

Changes were made in the Final Environmental Assessment (FEA) to conform with the purpose of the executive orders by defining the residential component as an "affordable independent living community for Hawaii seniors (62+), for veterans and widowed spouses of deceased veterans" (Exhibit C).

REQUEST:

By letter dated December 19, 2016 (Exhibit D), the Mayor of Hawaii County, the Honorable Harry Kim, requested an amendment to Executive Order No. 4014 and Executive Order No. 4108. The request is to amend the residential component back to the proposed use in the DEA, “affordable housing independent living community for Hawaii seniors (62+), with preference given to veterans and spouses of deceased veterans.” The reason for the requested amendment is that IRS regulations bar projects such as this from using low-income housing tax credits to fund projects that solely benefit veterans.

In his letter, the Mayor is also asking that a portion of the abandoned railroad right-of-way identified by Tax Map Key; (3) 2-4-057:001 (Parcel 001) be included in EO 4108 for use as additional off-street parking for the veterans center. Parcel 001 was identified in the FEA although it was not included in the original design. There currently is an easement for utility purposes to the Hilo Meishoin over Parcel 001,<sup>1</sup> however, this easement will not impact the proposed use.

Staff takes note of the comments and recommendations by the previous District Land Agent that, should the County or the HIVM wish to expand the use to possibly allow for seniors that are non-veterans, this issue should be brought back to the Board and the Governor for cancellation of the existing EO’s and the issuance of new EO’s allowing for the expanded use.

Staff is therefore recommending the cancellation of Executive Order No. 4014 and Executive Order No. 4108 and the reissuance of a single Executive Order for a Combined Veterans Center, and Affordable Senior Housing with Preference to Veterans and Spouses. Also, included within this set-aside would be the addition of a portion of the abandoned railroad right-of-way.

RECOMMENDATION:      That the Board:

1. Approve of and recommend to the Governor issuance of an executive order canceling Governor’s Executive Order Nos. 4014 and 4108 subject 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

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<sup>1</sup> LOD 28,949, perpetual non-exclusive utility easement for waste disposal transmission pipeline purposes.

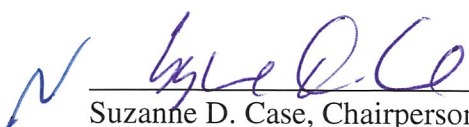
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve the addition of the thirty-foot wide abandoned railroad right-of-way identified by Tax Map Key: (3) 2-4-057:001 and abutting parcel 029 to the area to be set-aside to the County, subject to the following:
- A. Land Office Deed No. 28, 949, perpetual non-exclusive utility easement to Hilo Meishoin.
  - B. Subdivision and consolidation of the subject remnant railroad right-of-way into parcel 029.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to County of Hawaii 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,



Gordon C. Heit  
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

TMK: (3) 2-4-057:001, 029 & 030

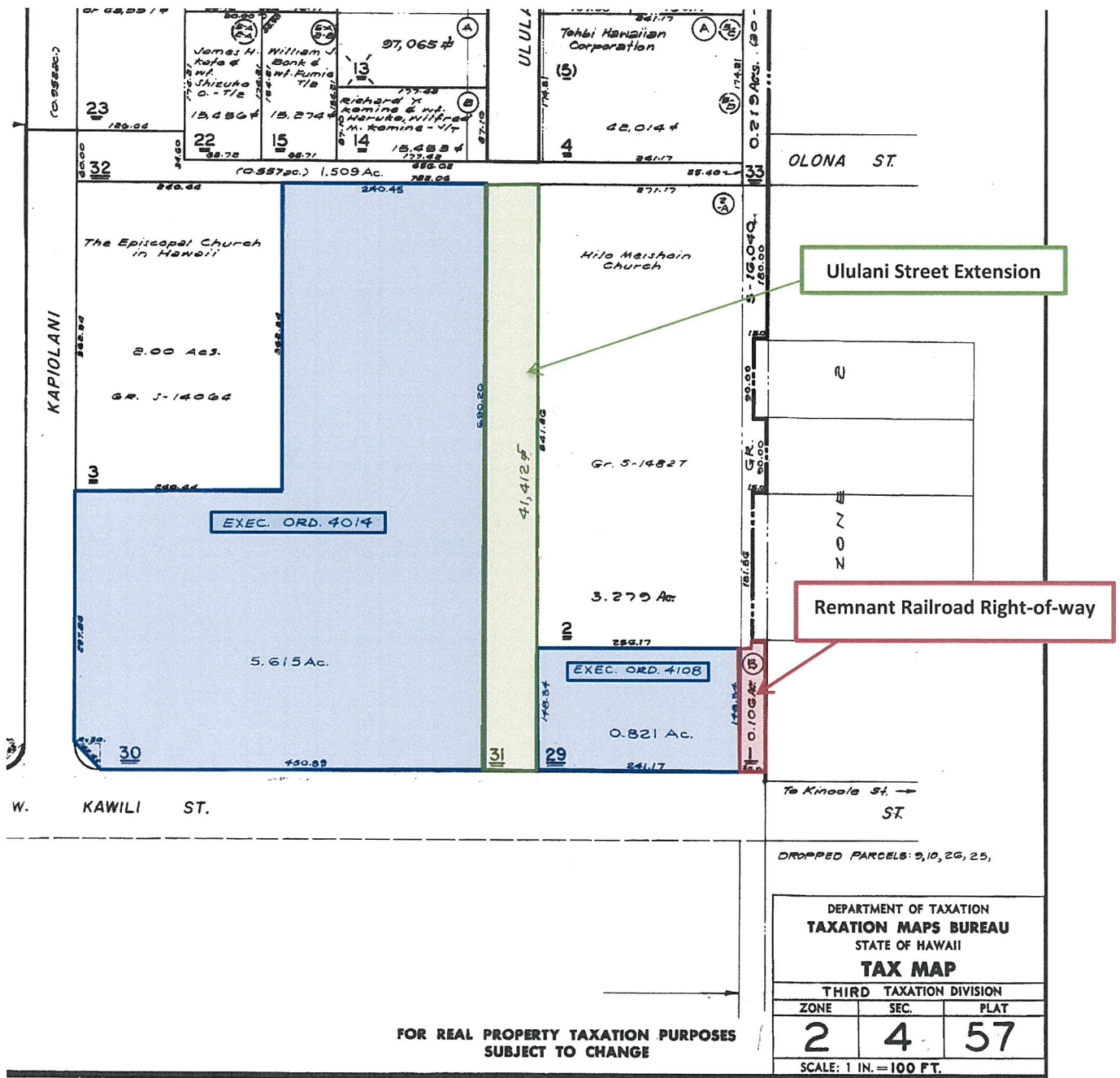


EXHIBIT A

## **YUKIE OHASHI**

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**From:** <Harry.M.Yada@hawaii.gov>  
**Sent:** Tuesday, June 06, 2006 4:55 PM  
**Subject:** Draft EA for Ka Hui Na Koa O Kawili

Yukie:

I received the subject Draft EA and have the following comments:

- Section 2.3.3 indicates that the residential component will be an affordable housing independent living community for Hawaii seniors (62+), with preference given to veterans and spouses of deceased veterans. Based on this description, I have some reservations as to whether this use is within the parameters of County's Executive Order that is described as, "Combined Veteran's Center, Veteran's Housing and Other Related Purposes". Although the last section "Other Related Purposes" would seem to open a door to a broader interpretation, I would say that the more obvious interpretation would be that it would have to be "Other (Veteran) Related Purposes" which would be the clear intent of the language. If there is a desire to pursue the ability to expand the use to possible seniors that are non-veterans, we would need to take the issue back to the Board of Land and Natural Resources and the Governor for a cancellation of the existing EOs and the reissuance of new EOs allowing for the expanded use.
- I noticed a signed copy of the lease between the County of Hawaii and HIVM attached as Appendix A-3. Pursuant to Chapter 171-11, HRS, the County is authorized to issue leases consistent with the purposes of the EO, however, the lease requires a consent of the Board of Land and Natural Resources. The lease should be submitted to this office for submission to the Board of Land and Natural Resources for their consent.
- I am unclear as to how this concept of a life estate is to work within an EO and a lease. What happens if the purchaser of the life estate outlives the term of the lease? That may not be probable for the first buyer but may be a definite possibility for subsequent purchasers.

Thanks.

**EXHIBIT B**

6/28/2006

**KA HUI NA KOA O KAWILI**  
**A HAWAII ISLAND VETERANS' MEMORIAL, INC. PROJECT**

- To provide administrative space to the management entity for purposes of security, maintenance, repair, general administration, and service delivery to the residents (eg. dining, transportation, housekeeping, care-giving arrangements, etc.).
- To provide military and veterans' groups, and the community in general, an appropriate and convenient facility in which to stage meetings and events of varying sizes. The largest portion of this building will consist of a banquet facility available on a rental basis to residents and the community at large. Fees collected will be used by the management firm to sustain the facility without surcharging residents; and to maintain a capital reserve specifically for this facility for repair, maintenance, upgrades, improvements, etc.

The facility will have a commercial kitchen, a lounge area, a large banquet room with stage, designed to seat 355 people inside with additional spill-over seating for an additional 130 in the two adjoining dividable rooms and outside seating on covered lanais. It will have separate access for events from the Kawili Street side where parking to accommodate 480 people has been designed without conflicting with residential parking.

The north end of the building consists of a library and dining rooms, a spacious recreation area and a small exercise wellness center for residents use and for small group gatherings. The mail room, administrative office, and a conference room make up the remainder of this building.

This facility is specifically designed to be revenue-producing to offset costs for its operation. Further discussion follows in Section 2.4.

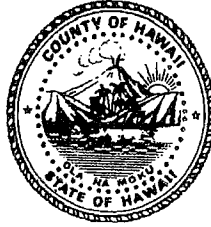
### **2.3.3 Senior Affordable Housing**

The residential component of the project (Figures 7A, 7B, 7C) is proposed as an affordable independent living community for Hawaii seniors (62+), for veterans and widowed spouses of deceased veterans. Together with the Multi-Purpose Facility, this component will be managed and operated by a certified, licensed and bonded non-profit senior housing entity in accordance with HUD provisions.

The preliminary design envisions three (3) 4-story buildings, comprising a total of 96 to 110 units with a mix of one- and two-bedroom units ranging from 800 sq. ft. to 1,000 sq. ft. (with lanai, 950 sq. ft. to 1,225 sq. ft., respectively). Individual residential units will be ADA accessible and will have a living/dining room, kitchen, one or two bathrooms, laundry area, and balcony. Wide central hallways, elevator service, and stairs provide access to all units and all units are designed for assisted-living, thus, as residents' age, assisted care level can be provided on an ala carte basis. Individual residential units and common areas in all components of the overall project will be designed for ADA-accessibility to facilitate care-giving on an individualized basis initially, with the possibility of transitioning into a formal assisted-care facility in the future.



Harry Kim  
Mayor



WIL OKABE  
Managing Director  
LAND DIVISION

Barbara J. Kossow  
Deputy Managing Director  
2016 DEC 28 AM 11:03

County of Hawai'i  
Office of the Mayor

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DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

December 19, 2016

Suzanne Case, Chairperson  
Department of Land & Natural Resources  
Kalanimoku Building  
1151 Punchbowl Street  
Honolulu, Hawai'i 96813

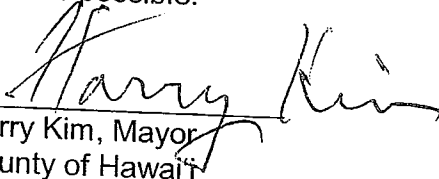
**SUBJECT: Amendment to Executive Order No. 4014: 5.615 acre parcel,  
TMK (3) 2-4-057:030  
Amendment to Executive Order No. 4108: 0.821 acre parcel,  
TMK (3) 2-4-057:029**

Hawaii Island Veterans Memorial, Inc., (HIVM) is the lessee of lands covered by the above Executives Orders No. 4014 and 4108, both "For combined veterans center, veterans housing and other related purposes."

HIVM has an agreement with EAH Housing, a leader in developing and managing affordable senior living communities in Hawaii, to develop and operate the housing project on parcel 030 as low-income apartments for seniors with a preference for veterans and their spouses. Unfortunately IRS regulations bar projects from using low-income housing tax credits to fund projects that solely benefit veterans. Towards this objective, HIVM asks that the public purposes be amended to state: **"For a combined veterans center and affordable senior housing community with preference to veterans and spouses"**.

Secondly, HIVM is now developing a combined veteran's center on parcel 029 and requires added space for off street parking. Accordingly, we respectfully request an amendment to Executive Order No. 4108 to include that portion of the abandoned railroad right of way that adjoins the eastern boundary of the land covered by Executive Order No. 4108. HIVM understands that a survey map is required to move forward with this second request. Please see the attached parcel map.

On behalf of HIVM, the County respectfully request these amendments be considered as soon as possible.

  
Harry Kim, Mayor  
County of Hawai'i

County of

**EXHIBIT D**

Mayor and Employer.

RECEIVED  
LAND DIVISION  
HILLO, HAWAII  
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