

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

May 26, 2017

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

PSF No.: 14OD-044
Oahu

Issuance of Revocable Permit to John Wisniewski, Waipahu Industrial Park, Hoaeae, Ewa, Oahu, Hawaii Tax Map Key: (1) 9-4-049:062por.

APPLICANT:

John Wisniewski single, Tenant in Severalty.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waipahu Industrial Park, Hoaeae, Ewa, Oahu, identified by Tax Map Key: (1) 9-4-049:062por, as shown on the attached map labeled Exhibit 1-A, 1-B, 1-C & 1-D.

AREA:

728 square feet, more or less and the use of two (2) parking stalls as designated by the Administrator of the DLNR Land Division.

ZONING:

State Land Use District: Urban
City & County of Honolulu CZO: I-2

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

The subject premises are currently vacant and unencumbered.

CHARACTER OF USE:

Industrial and/or commercial uses permitted under the City and County of Honolulu Land Use Ordinance, provided that residential uses shall not be permitted.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

\$706.16 per month, based on the in-house valuation recommendation dated August 4, 2016, attached as Exhibit 3.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 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," item 47 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing." See Exhibit 2.

DCCA VERIFICATION:

Not applicable. Applicant is a natural person and sole proprietorship and, as such, is not required to register with DCCA.

JUSTIFICATION FOR REVOCABLE PERMIT:

At its meeting on June 24, 2016, item D-7, the Board adopted the Revocable Permit Task Force's recommendation, including a standardized checklist to be provided to the Board with reasons justifying the issuance of a revocable permit.

1. Site issues – Land Division's previous long-term leases have been ground leases. The division does not have forms or procedures established for issuing long-term space leases by public auction and would need to create forms and procedures for such dispositions.
2. Truly short term use - The revocable permit is a short-term measure until staff is able to sell a long-term master lease for the property. Staff intends to fully tenant the property, thereby making a sandwich lease more attractive for a potential master lessee.
3. Testing market and operational issues, plan to go to lease later - see comments at 2 above.
4. Government uses - not applicable.
5. Non-profits - not applicable.
6. Staff is unaware of interest in long-term disposition – see comments at 2 above.
7. Other unusual circumstances – not applicable
8. Staff is not aware of any litigation involved in the subject parcel.
9. Applicant is in compliance with the terms and conditions of the current RP.

REMARKS:

The subject parcel is approximately 18,410 square feet with a two-story, nine-unit commercial structure containing approximately 12,800 square feet of gross leasable area. The Department acquired this property by that certain Exchange Deed dated February 21, 2014 between the State of Hawaii and Hawaii Baptist Academy to increase public land trust revenue in order to support the public land trust and the Department's fiduciary duties. The building was 100% occupied when the State acquired it. At its meeting on December 13, 2013, item D-32¹, the Board granted its final approval of the exchange and authorized the issuance of revocable permits for the property's existing tenants. The tenant who formerly occupied unit 105 of the premises declined to sign a revocable permit for the unit and gave staff notice of his decision to vacate.

¹ The entire submittal is 19 pages in length, but only the body of the submittal is included as Exhibit 4 to keep the length of this submittal manageable.

Applicant currently occupies unit 101 of the building under RP No. S-7857, in which he operates his auto glass replacement business. Applicant applied to rent the recently vacated unit 105 where he intends to expand his business. The applicant's proposed use is allowed under City & County of Honolulu zoning.

The applicant has 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 other applicants requested to rent the premises.

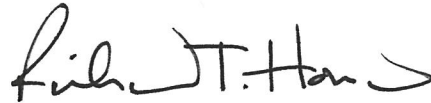
The following State and City & County of Honolulu agencies were consulted on this action with the results indicated:

Agency:	Comment:
Office of Hawaiian Affairs	No response by suspense date
Board of Water Supply	No objections
Department of Planning and Permitting	No response by suspense date
Department of Environmental Services	No response by suspense date

RECOMMENDATION: That the Board:

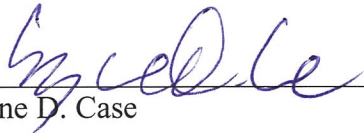
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to John Wisniewski covering the subject area for commercial/industrial purposes 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 revocable permit form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Rich T. Howard", written over a horizontal line.

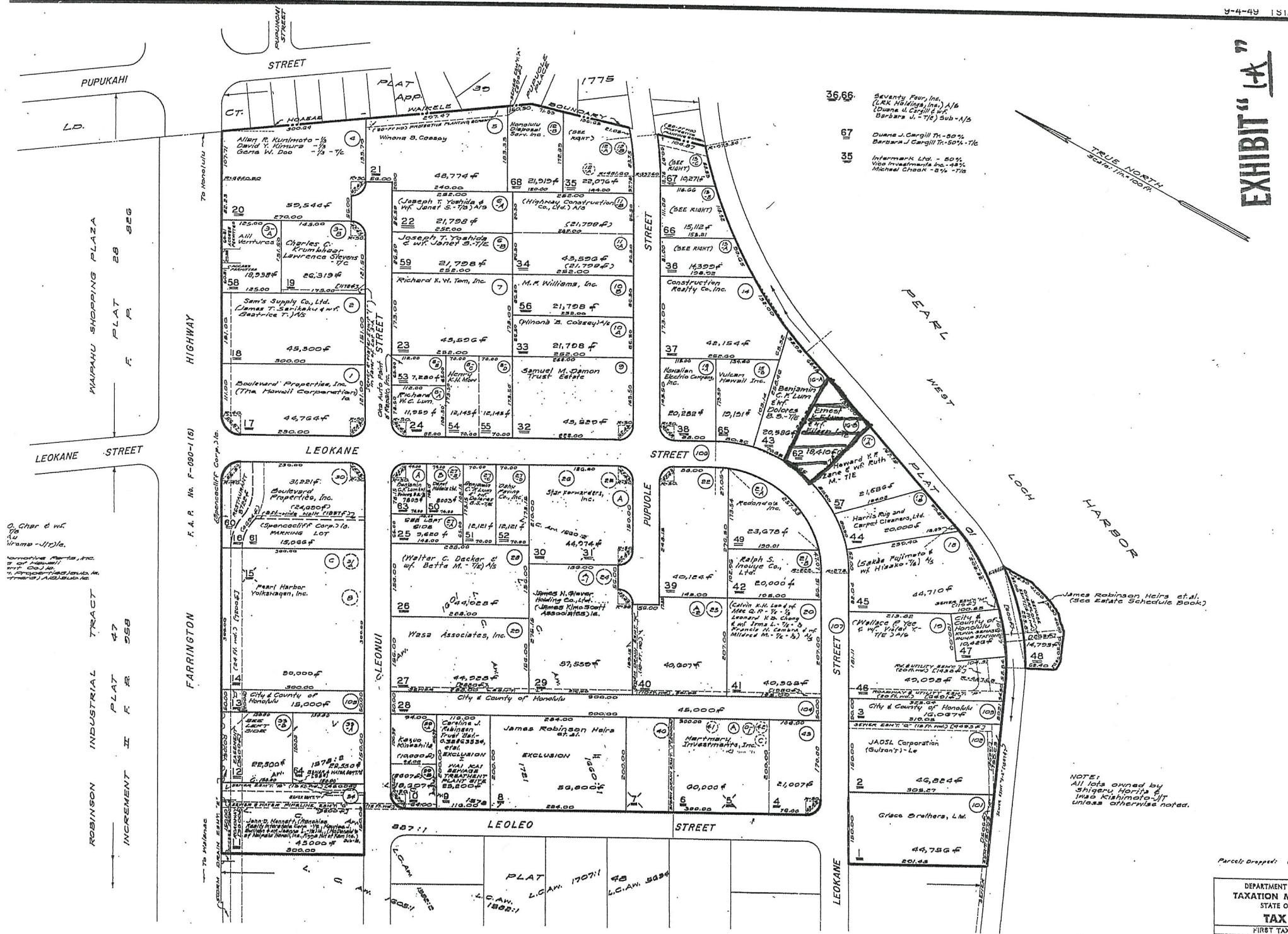
Richard T. Howard
Land Agent

APPROVED FOR SUBMITTAL:

A handwritten signature in blue ink, appearing to read "Suzanne D. Case", written over a horizontal line.

N/ Suzanne D. Case

EXHIBIT "A"



HU INDUSTRIAL PARK, FILE PLAN 973, L. C. AW. 1047419, HOAEAE, EWA, OAHU. (Formerly por. 9-4-01.)

FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE

DEPARTMENT	
TAXATION M	
STATE OF	
TAX	
FIRST TAX	
ZONE	SEC
9	4
SCALE: 1 IN. = 100'	

TMK: (1) 9-4-049:062

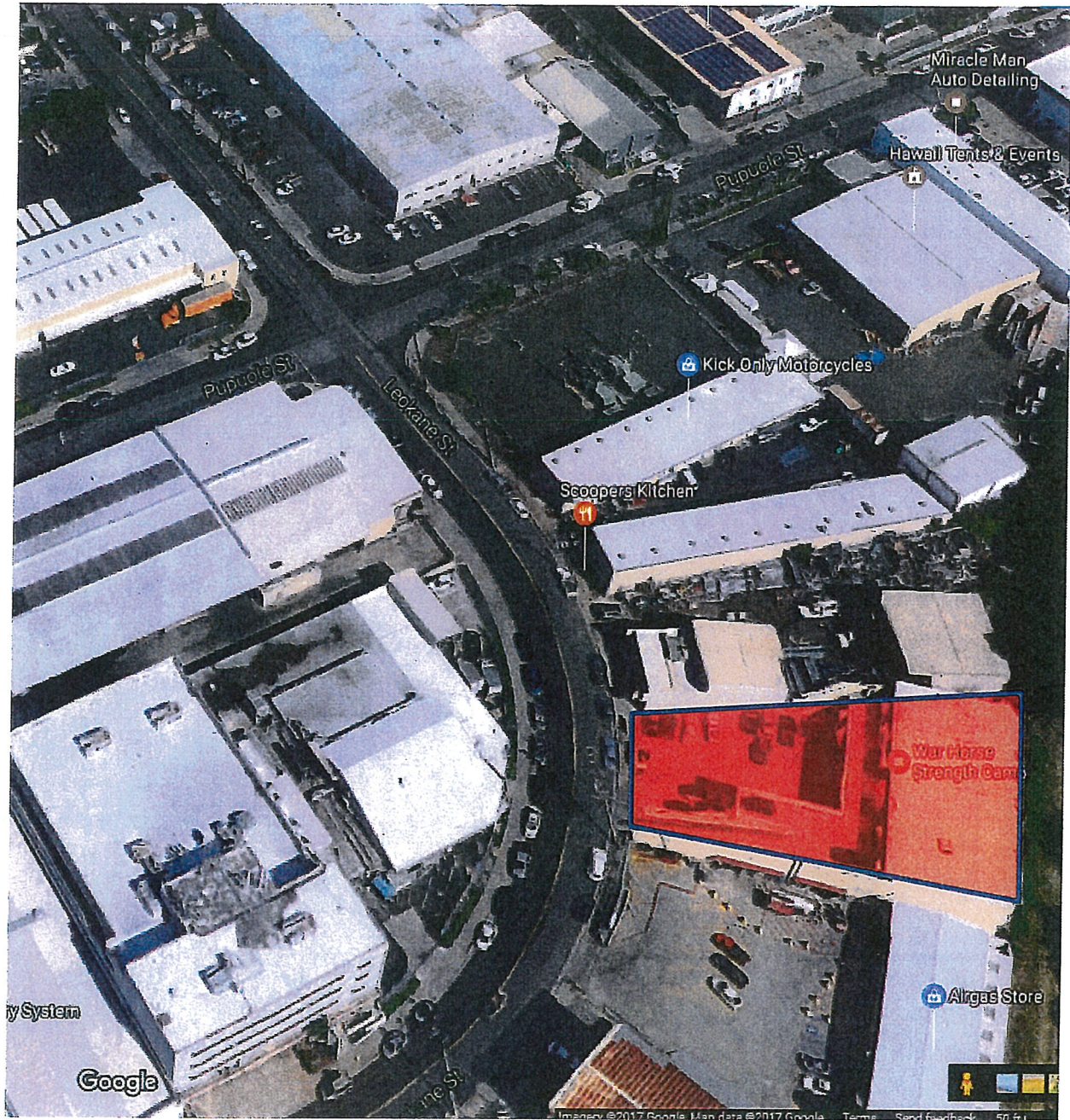
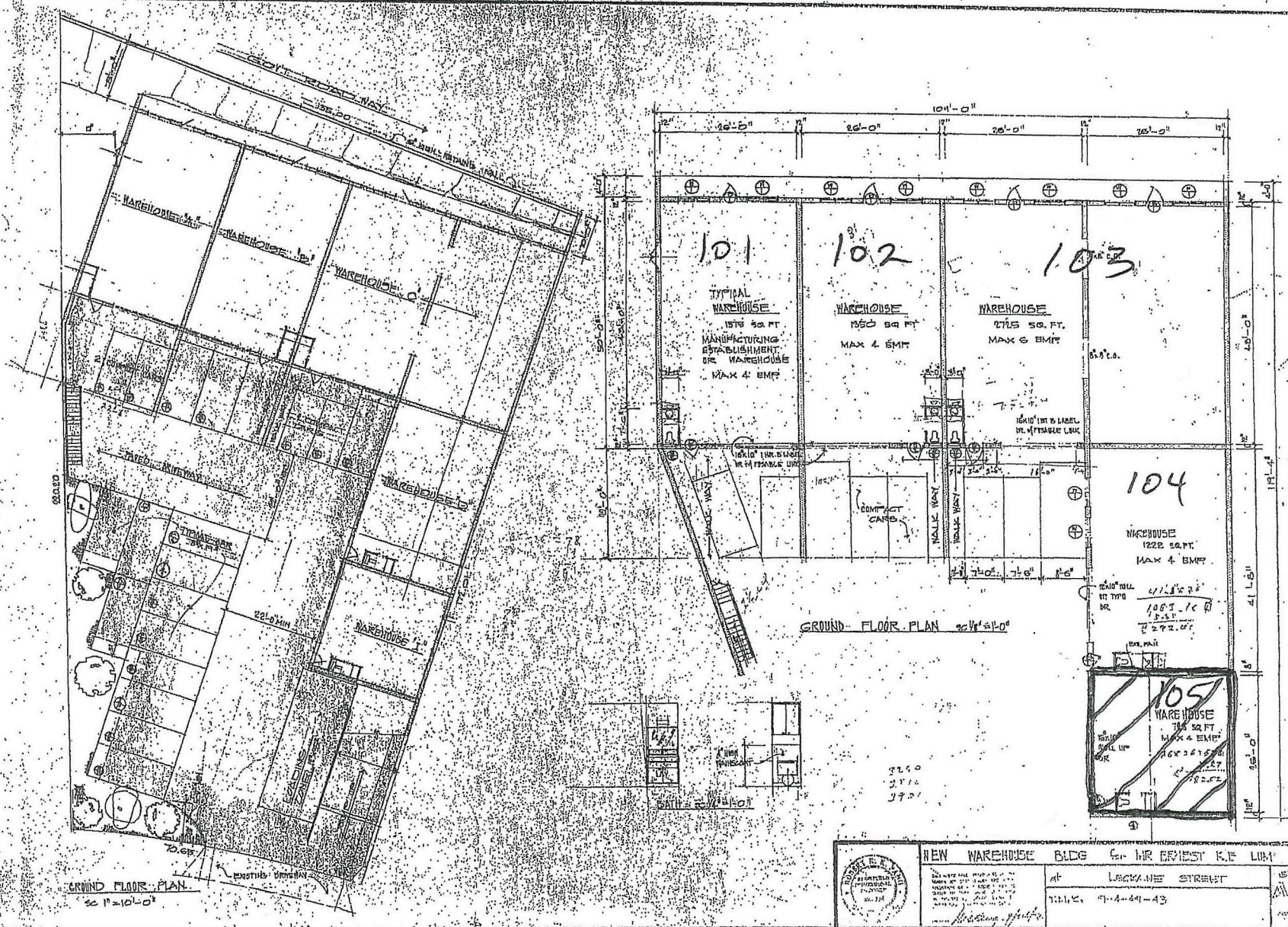
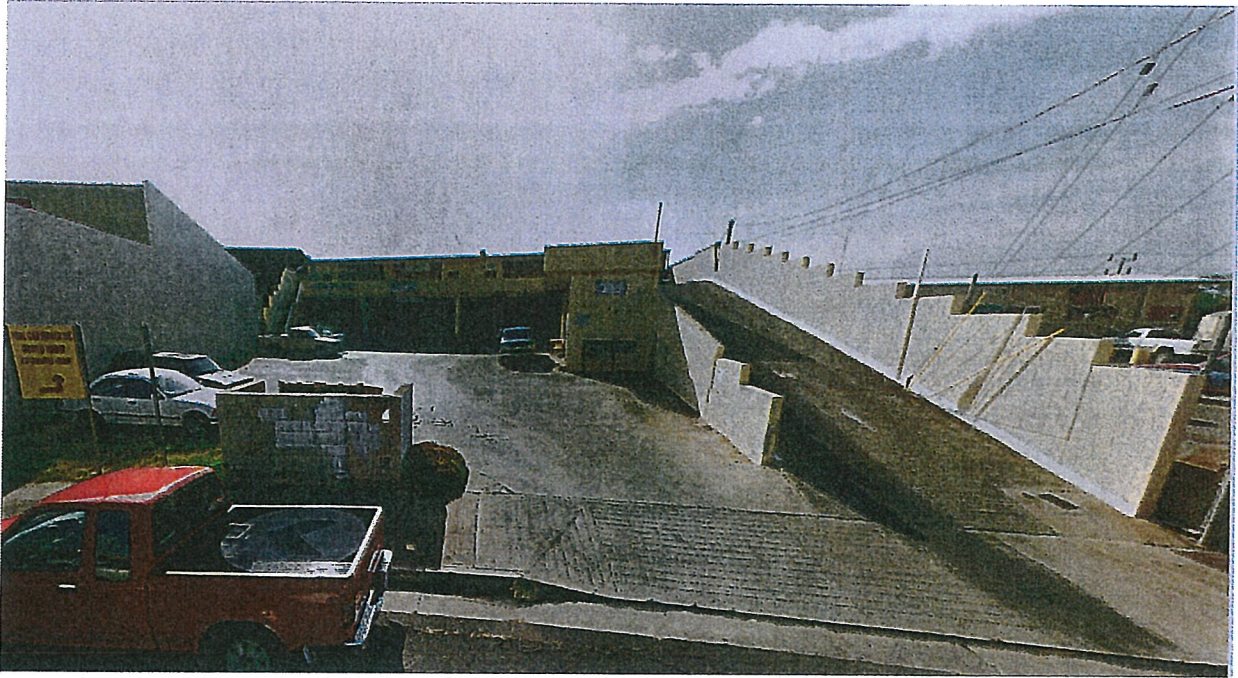
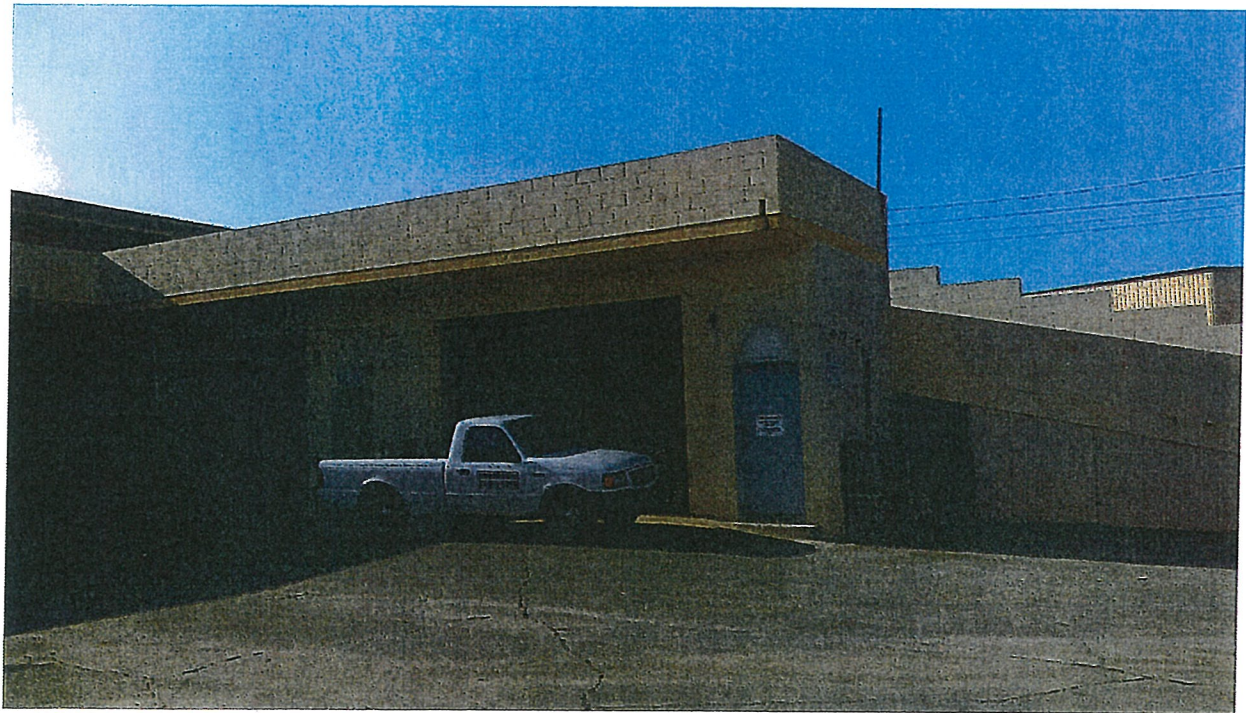


EXHIBIT "B"





TMK: (1) 9-4-049:062 street view.



View of unit 105.

EXHIBIT "I-D"

EXEMPTION NOTIFICATION

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

Project Title: Issuance of Revocable Permit to John Wisniewski for commercial/industrial purposes.

Project / Reference No.: PSF 14OD-044

Project Location: Waipahu Industrial Park, Hoaeae, Ewa, Oahu, TMK (1) 9-4-049:062por

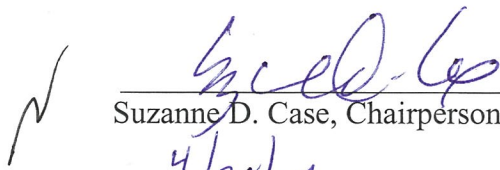
Project Description: John Wisniewski requests the issuance of a revocable permit.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 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," item 47 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

Consulted Parties: Agencies listed in submittal.

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


Suzanne D. Case, Chairperson

4/28/17
Date

EXHIBIT 2

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY



JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER


AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

August 4, 2016

MEMORANDUM

TO: Suzanne D. Case, Chairperson

THROUGH:  Russell Y. Tsuji, Division Administrator 

FROM: Richard T. Howard, Land Agent 

SUBJECT: In-House Valuation Recommendation – Revocable Permits for Various Commercial Enterprises

PSF No.: 14OD-039, 40, 41, 42, 43, 44, 45 & 46

Applicant: Ernest Lum dba Ernest Lum Construction, Gary Lucero dba Gary Lucero Painting, Jonathan Kaholokai Kamaka, Sr., Kai Construction Hawaii, Inc., John A. Wisniewski dba Leeward Auto Glass, Timothy Johnson dba TLT Designs, Tachibana Painting LLC, Vidal Alfonso dba Vidal's Car Service and Warhorse Strength Camp LLC

Location: Waipahu Industrial Park, Hoaeae, Ewa, Oahu

Area: 12,800 sq. ft.

Tax Map Key: (1) 9-4-049:062

Char. Of Use: Commercial purposes

Date of Value: Current

We are attempting to determine the monthly rental amounts for the issuance of revocable permits for applicants at the above-referenced property.

The subject parcel is approximately 18,410 square feet with a two story, nine-unit commercial structure containing approximately 12,800 square feet of gross leasable area. The Department acquired this property by that certain Exchange Deed dated February 21, 2014 between the State of Hawaii and Hawaii Baptist Academy to increase public land trust revenue in order to support

EXHIBIT "3"

In-House Valuation Recommendation
Revocable Permits for TMK: (1) 9-4-049:062
August 4, 2016

the public land trust and the Department's fiduciary duties. The applicants, with one exception, currently occupy the premises on month-to-month hold-over tenancies, and wish to continue their occupancies under revocable permits.¹ An annual gross lease rent of \$126,653.76 carried over from the acquisition to the present.

Current annual gross rent: \$126,653.76

UNIT	APPLICANT	AREA	GROSS RENT/SQ. FT./MO.	GROSS MONTHLY RENT	GROSS RENT/SQ. FT./YR.	GROSS ANNUAL RENT
101	WISNIEWSKI, JOHN	1,375	\$0.80	\$1,093.50	\$9.54	\$13,122.00
102	ALFONSO, VIDAL	1,350	\$0.81	\$1,093.50	\$9.72	\$13,122.00
103	LUM, ERNEST	2,725	\$0.81	\$2,207.25	\$9.72	\$26,487.00
104	LUCERO, GARY	1,222	\$0.76	\$929.07	\$9.12	\$11,148.84
105	JOHNSON, TIMOTHY	728	\$0.90	\$654.66	\$10.79	\$7,855.92
201	TACHIBANA PAINTING LLC	1,350	\$0.96	\$1,296.00	\$11.52	\$15,552.00
202	WARHORSE STRENGTH CAMP LLC	1,350	\$0.81	\$1,093.50	\$9.72	\$13,122.00
203	KAI CONSTRUCTION HAWAII, INC	1,350	\$0.81	\$1,093.50	\$9.72	\$13,122.00
204	KAMAKA, SR., JONATHAN KAHOLOKAI	1,350	\$0.81	\$1,093.50	\$9.72	\$13,122.00
				\$10,554.48		\$126,653.76

Annual gross rent requested: \$136,356.72


UNIT	APPLICANT	AREA	GROSS RENT/SQ. FT./MO.	GROSS MONTHLY RENT	GROSS RENT/SQ. FT./YR.	GROSS ANNUAL RENT
101	WISNIEWSKI, JOHN	1,375	\$0.88	\$1,206.00	\$10.53	\$14,472.00
102	ALFONSO, VIDAL	1,350	\$0.88	\$1,188.00	\$10.56	\$14,256.00
103	LUM, ERNEST	2,725	\$0.88	\$2,398.00	\$10.56	\$28,776.00
104	LUCERO, GARY	1,222	\$0.87	\$1,063.14	\$10.44	\$12,757.68
105	JOHNSON, TIMOTHY	728	\$0.97	\$706.16	\$11.64	\$8,473.92
201	TACHIBANA PAINTING LLC	1,350	\$0.96	\$1,296.00	\$11.52	\$15,552.00
202	WARHORSE STRENGTH CAMP LLC	1,350	\$0.88	\$1,188.00	\$10.56	\$14,256.00
203	KAI CONSTRUCTION HAWAII, INC	1,350	\$0.88	\$1,188.00	\$10.56	\$14,256.00
204	KAMAKA, SR., JONATHAN KAHOLOKAI	1,350	\$0.88	\$1,188.00	\$10.56	\$14,256.00
				\$11,421.30		\$136,356.72

¹ The building's occupancy was 100% when the State acquired it. At its meeting on December 13, 2013, item D-32, the Board authorized the issuance of revocable permits for the property's existing tenants. However, to date the tenants have remained on holdovers of their prior agreements with the former private owner because Land Division did not have an appropriate revocable permit template for space leases in a multi-unit building. Land Division has now developed a template and the lease rents requested below will be incorporated into the revocable permits. Land Division is also evaluating the possibility of a lease of the entire improved property by auction, with the lessee then assuming responsibility for managing rentals of the various spaces.

In-House Valuation Recommendation
Revocable Permits for TMK: (1) 9-4-049:062
August 4, 2016

According to CBRE's *Marketview* for the first quarter of 2016, average asking net rents for the Waipahu industrial market were \$.80/sq. ft./mo., with a 6.2% vacancy rate. Therefore, staff is recommending the gross rent for the 12,800 square feet requested by the Applicants be set at \$11,421.30 per month, or \$.88/sq. ft./mo. (which equates to a net rent of \$.72/sq. ft./mo.), with the exception of Timothy Johnson, whose gross rent is \$.97/sq. ft./mo. (which equates to a net rent of \$.80/sq. ft./mo.). Pursuant to City and County of Honolulu ordinances and Executive Memorandum No. 12-06, the individual permittees will pay real property taxes directly to the City & County of Honolulu. Tachibana Painting LLC's lease expires September 30, 2016, at which time a revocable permit will be issued. An outside appraiser will evaluate the property and recommend adjustments to the rents, if warranted, in 2017.

Approved/Disapproved

N 
Suzanne D. Case, Chairperson


Date

Cc: District File
Central File

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

December 13, 2013

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

PSF No.: 040D-155

Oahu

1. Final approval of an exchange between the State of Hawaii and Hawaii Baptist Academy involving state land in Nuuanu, Honolulu, Oahu, Tax Map Key: (1) 2-2-22:19; and privately-owned property located in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu, Tax Map Key: (1) 9-4-49:62;
2. Approve the mutual cancelation of GL 5687 issued to Hawaii Baptist Academy, a Hawaii non-profit corporation, over state land in Nuuanu, Honolulu, Oahu, Tax Map Key: (1) 2-2-22:19;
3. Designation of the Waipahu industrial property as an income-generating asset and authorize the issuance of revocable permits for spaces in the industrial property located in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu, Tax Map Key: (1) 9-4-49:62;
4. Authorization for the Chairperson to enter into a contract for property management and related services, as may be needed; and delegate authority to the Chairperson, as may be necessary, to determine and approve the process, terms and conditions, for the disposition of a long-term master lease for the property as improved, and to ultimately issue a master lease for the property located in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu, Tax Map Key: (1) 9-4-49:62

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
December 13, 2013

APPLICANT:

Hawaii Baptist Academy, a Hawaii nonprofit corporation whose business and mailing address is 420 Wyllie Street, Honolulu, Hawaii 96817 ("HBA");

PRIVATE OWNER:

Elum Two, LLC, a Hawaii Limited Liability Company whose business and mailing address is 750 Amana Street, Room 212, Honolulu, Hawaii 96814.

Prior to the exchange, HBA shall acquire the private property from Elum Two, LLC

LEGAL REFERENCE:

Sections 171-50, -55, and other applicable sections of Chapter 171 and 103D, Hawaii Revised Statutes, as amended ("HRS")

D-32

EXHIBIT "4"

Senate Concurrent Resolution 20, 2013 (Adopted)

House Concurrent Resolution 25, 2013 (Adopted)

PROPERTIES TO BE EXCHANGED:

State-Owned Property:

Location: Government land in Nuuanu, Honolulu, Oahu, identified by Tax Map Keys: (1)2-2-22:19 as shown on **Exhibit A**

Land Area: 4.971 acres, more or less

State Land Use: Urban

County Zoning: R-10, Residential

Trust Status: Whereas the subject state land was acquired by the Territory of Hawaii by Final Order of Condemnation dated September 24, 1958, the state land is non-ceded, Section 5(a) lands of the Hawaii Admission Act, including "Real properties acquired by purchase or by condemnation by the Territory of Hawaii after August 12, 1898 and prior to August 21, 1959."

Moreover, the State's interest is not subject to the 30% DHHL entitlement pursuant to the Hawaii State Constitution.

Current Use: Currently leased to HBA for a 55-year term ending October 31, 2058 (GL 5687).

Private Property:

Location: Private lands and improvements thereon located in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu, identified by Tax Map Key: (1) 9-4-49:62 as shown on **Exhibit B**.

Land Area: 0.410 acres, more or less

Zoning: State Land Use: Urban

County: I-2, Intensive Industrial

Improvements: 2-story, 12,850 square foot, concrete block structure, built in 1975. Interior areas are partitioned into nine units, five ground floor units and four second floor spaces. Floor plans and photos of the building improvements are attached as **Exhibits C-1 and C-2**, respectively.

Current Use: Industrial

PUBLIC PURPOSE OF EXCHANGE:

Increase public land trust revenues to support the public land trust and the Department's fiduciary duties.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is for the final approval of an exchange of public lands for private property. At its meeting on August 10, 2012, under agenda item D-9, after considering the potential effects of the proposed exchange as provided by Chapter 343, HRS, and Chapter 11-200, HAR, the Board affirmed that the proposed exchange will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment at this time. However, any future changes in the use of the then State-owned lands, if any, shall remain subject to the compliance with the provisions of Chapter 343, HRS, as amended.

BACKGROUND:

At its meeting on October 20, 2008, under agenda item D-13, the Board of Land and Natural Resources ("BLNR") approved in principle an exchange involving two State-owned parcels of land located along the Pali Highway corridor in Honolulu, Oahu, being further identified as TMK (1) 2-2-22:02 & 19 (respectively "Parcel 02" and "Parcel 19"). The public purpose for the exchange was to increase revenues to help support DLNR programs critical to the protection, management and preservation of Hawaii's natural, cultural and historic resources. Although private property for the exchange was not identified at the time, BLNR approved preliminary criteria meant to identify private lands that BLNR considered appropriate for the proposed exchange.¹

At its meeting of August 10, 2012, under agenda item D-9, the BLNR amended its prior action by approving in principle the selection of the privately-owned property identified above for conveyance to DLNR as part of the exchange, hereinafter the "Waipahu Property". BLNR also amended its prior action by eliminating Parcel 02 from the proposed exchange, thus limiting the State land involved in the exchange to Parcel 19.²

BLNR's approval in principle required certain requirements to be

¹ BLNR approved criteria included (i) only fee simple or leased fee interests in properties; (ii) locations in State Land Use Urban districts with County zoning for commercial or industrial uses; (iii) priority given to locations in built-up urban areas, or areas in which large development projects are underway or being planned; (iv) preferences given to sites with land areas of a half-acre or more; (v) preferences given to improved properties, however, no residential improvements would be permitted.

² At its meeting on May 10, 2013, under agenda item D-12, BLNR approved the sale of Parcel 02 as a remnant.

satisfied and due diligence results on the Waipahu Property be presented to BLNR for review and consideration of a final approval prior to finalizing the proposed exchange.

STATUS REPORT AND DUE DILIGENCE:

The results of due diligence conducted on the Waipahu Property that will be conveyed to the State at the time of exchange is summarized herein for BLNR's consideration.

1. **Independent Appraisals/Consideration:** As previously reported to BLNR, independent appraisal reports were contracted for by the DLNR. The State-owned Parcel 19 had an appraised value, fee simple as though vacant and unencumbered by the existing lease, of \$2,080,000 effective February 28, 2012. The Waipahu Property, including all improvements thereon, had an appraised value of \$1,825,000, effective February 10, 2012.³

Accordingly, the fair market value of the Waipahu Property as compared with the fair market value of the state owned land complies with §170-50, HRS. Moreover, at the time of exchange, pursuant to §171-50(b), HRS, HBA shall pay to DLNR Two Hundred Fifty Five Dollars (\$255,000), the difference that the appraised value of the public property exceeds the appraised value in the Waipahu Property.

2. **Public Notice:** Pursuant to §171-50 and §171-16(d), a public notice was published in the Honolulu Star Advertiser on June 20, 2013. An affidavit confirming the publication is retained in the project file. An electronic copy of the public notice was also posted on Land Division's web page.
3. **Title Report:** Title Guaranty of Hawaii, Incorporated prepared a preliminary title report dated May 1, 2013. The title report identified ELUM TWO, LLC as the owner of the undivided interest in the Waipahu Property, identified therein as TMK (1) 9-4-49:62. Prior to the proposed exchange, HBA shall acquire the Waipahu Property from ELUM TWO, LLC.

At the time of conveyance, the only encumbrance of record shall be the existing grant of a perpetual easement to Hawaiian Electric Company, Inc. for easement and utility purposes.

4. **Survey:** HBA provided an updated Alta Survey dated January 18, 2013, which showed a CMU wall encroaching into the Leokane

³ The independent appraisal for the Waipahu property confirmed that based on correspondence from the State Department of Health ("DOH") and DLNR's continued use of the property as improved; the results of the environmental studies would not have a material impact on the estimated fair market value for the Waipahu Property. Results of the environmental studies and DOH's correspondence are discussed in a subsequent section.

Street right-of-way by 2 to 3 inches. The City confirmed by letter dated October 16, 2012 that a variance from the City Department of Planning and Permitting is not required; and the encroachment is covered by the De Minimus Structure Position Discrepancies established under State of Hawaii Act 131 to amend Hawaii Revised Statutes Chapter 669, Quieting Title.

The Alta survey also confirmed the location of a perpetual easement to Hawaiian Electric Company, Inc. cited in the title report, which does not appear to significantly impact building functionality. No other encroachments were identified by the Alta Survey.⁴

5. **Environmental Studies:** Based on the findings of a 2012 Phase I covering the Waipahu Property, HBA had limited site screening and soil testing completed in October 2013. Results of soil testing detected a concentration of heptachlor epoxide exceeding DOH unrestricted and commercial/industrial environmental action levels ("EALs") in depths up to six inches.⁵ Soil samples taken from depths below six inches did not detect concentrations of heptachlor epoxide exceeding DOH unrestricted EALs. No other tested contaminants were found above DOH EALs for unrestricted use. Based on the foregoing, an Environmental Hazard Management Plan ("EHMP") recommended regular monitoring and proper maintenance of the existing concrete cover to be required.

Based on the soil testing results, together with the EHMP and the current industrial site use, DOH issued a No Further Action ("NFA") letter dated October 9, 2013. The NFA letter concurs with the EHMP that only monitoring and maintenance of the existing concrete cover is required at this time; and requires DOH notification if there is a change in land use in the future. With the exception of these two requirements, the DOH indicated no further action is required at this time. A copy of DOH's NFA Letter is attached as **Exhibit D**.

After considering all environmental studies conducted and DOH's subsequent NFA determination, a Phase I dated October 2013 reported that no evidence of recognized environmental conditions was revealed in connection with the Waipahu Property.

⁴ The Alta Survey dated February 15, 2012, identified a portion of a chain-link fence encroaching up to 18-inches onto the adjacent private property. However, the January 18, 2013 updated Alta Survey confirmed that the fence has been relocated and no longer encroaches onto the adjacent private property.

⁵ Environmental studies indicate that heptachlor epoxide results from the breakdown of chlordane, a termiticide that was commonly used in the past; and heptachlor epoxide is commonly present in the top 1 to 2 feet of soil. Environmental reports also indicate that prior to the construction of the existing improvements a commercial company was hired by the property owner to apply termiticides to the site.

6. **Building Improvements/Condition:** As previously reported to BLNR, HBA provided a Facility Assessment Report, prepared by Group 70 International and dated February 6, 2012 ("Assessment Report") to DLNR. In sum, the Assessment Report concluded the existing subject building is generally in good structural condition. Notwithstanding the above, the Assessment report recommended repairs to address certain architectural (e.g. ADA accessibility, painting, reroofing, etc.), mechanical (e.g. plumbing and ventilation), and other deficiencies and deferred maintenance (e.g. repairs to parking area and exterior light fixtures) identified therein. The owner has maintained the property in a similar condition and has not completed any major repairs since the completion of the Assessment Report.
7. **Legislation:** Pursuant to §171-50(c), HRS, DLNR submitted for introduction resolutions to the legislature for review of the proposed exchange, with copies of all draft resolutions being submitted to the Office of Hawaiian Affairs on August 31, 2012. As a result House Concurrent Resolution 25, and Senate Concurrent Resolution 20, both titled "Concurrent Resolution Submitting to the Legislature of the State of Hawaii for Review of Action taken by the Board of Land and Natural Resources on a Land Exchange" were adopted by the Twenty-Seventh State Legislature of the State of Hawaii, Regular Session of 2013.
8. **Current Tenancy:** Of the nine spaces in the privately-owned property seven tenants are on a month-to-month tenancy; one space is currently under a 3-year lease that began on October 1, 2013 and ends on September 30, 2016; and one space is occupied by the current property owner. The current rent roll for the privately-owned property is summarized in the table attached as **Exhibit E**.

REMARKS:

The public purpose for the proposed exchange is to increase revenues to support the Department's public land trust and fiduciary duties. The State land considered in this proposed exchange is currently leased and generated \$23,400 per year for the 10-year period that ended October 31, 2013. Rent for the 10-year period beginning November 1, 2013 has not been resolved.

Based on the tenant rent roll, the Waipahu Property currently generates revenues totaling \$80,907 year while operating with an effective vacancy rate of about 21% due to the owner-occupied space. Other than a recently executed 3-year lease, tenant rents have remained unchanged since 2012, which the independent appraisal report indicated was below then market rents.⁶ The appraisal report

⁶ It is noted that the 3-year lease that began in October 2013 is based on a monthly rent \$0.80 per square foot, while all other rents are based on a monthly

also indicated that leasing activities of building space presents a potential annual net operating income exceeding \$100,000.

Subject to BLNR approval of the recommendations herein, and concurrent with the execution of the exchange, the existing lease to HBA (GL 5687) shall be mutually canceled pursuant to paragraph 41, therein.⁷ Moreover, the Waipahu Property will be designated as a DLNR income-generating asset, revenues from which will be reserved to help support programs essential to the protection, preservation and management of the State's cultural, historic, and natural resources. This designation is consistent with the public purpose for the proposed exchange.

Accordingly, as provided for by Section 171-55, HRS, Land Division will make available Revocable Permits ("RPs") to all month-to-month tenants currently renting space in the Waipahu Property. RPs will also be offered and directly negotiated for vacant spaces, including the space currently occupied by the landowner or any other space that may be subsequently vacated. Permitted uses shall be limited to uses that may be allowed under the Waipahu Property's industrial zoning land classification.

The issuance of directly negotiated RPs for individual units gives Land Division the opportunity to address future vacancies in the Waipahu Property in manner reflective and competitive with other industrial properties in Waipahu. Whereas the Waipahu Property's nine units are each separately metered for electricity, the issuance of RPs for individual units is not expected to be overly burdensome to daily asset management operations.

Considering the nature of the existing improvements, however, management and emergency maintenance issues are likely to arise from time to time. To effectively address these issues, Land Division may need to procure property management and other related services pursuant to Chapter 103D, HRS.

Land Division's alternative long-term management plan for the Waipahu Property, if needed, involves the issuance of a long-term master lease for the entire property as currently improved. Any such disposition shall be by a public auction, request for proposals, or any other process authorized under Chapter 171, HRS.

Accordingly, Land Division is also requesting BLNR authorize the Chairperson to enter into a contract for property management and related services, as may be needed; and delegate authority to the Chairperson, as may be necessary, to determine and approve the

unit rent of \$0.65 to \$0.70 per square foot.

⁷ On February 4, 2004, DLNR issued a 65-year ground lease (GL 5687) covering Parcel 19 to Hawaii Baptist Academy for school and related purposes. HBA is not in breach of any condition of GL 5687.

process, terms and conditions, for the disposition of a long-term master lease, and ultimately issue a master lease provided, however, that the process, terms and conditions determined and approved by the Chairperson shall comply with the provisions of HRS, such as Chapter 171 or 103D, HRS.

The requested authorization and delegation of authority to Chairperson will allow DLNR to respond to dynamic market conditions in the industrial rental market more effectively and in the best interest of the Department and the public land trust. The requested delegation of authority, however, shall be limited to the issuance of a master-lease for continued operations of the existing industrial building. Any future disposition that considers any redevelopment of the Waipahu Property shall remain subject to prior BLNR approval at an open public meeting and all statutory requirements, including but not limited to compliance with Chapter 343, HRS.

RECOMMENDATION: That the Board:

1. Grant its final approval to the above-described exchange between the State of Hawaii and Hawaii Baptist Academy, 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 exchange deed form and land patent grant or deed form, as may be applicable and as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve the mutual cancelation of GL 5687 issued to Hawaii Baptist Academy, a Hawaii non-profit corporation, 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 condition of the most current Cancellation of General Lease form, as may be applicable and as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

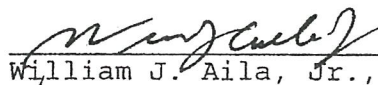
3. Designate the Waipahu Property as income-generating asset for the Department and authorize the issuance of revocable permits for individual spaces in the Waipahu Property under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the Chairperson to enter into a contract for property management and related services; and delegate authority to the Chairperson, as may be necessary, to determine and approve the process, terms and conditions, for the disposition of a long-term master lease, and ultimately issue a master lease under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The process, terms and conditions determined and approved by the Chairperson shall comply with the provisions of HRS, such as Chapter 171 or 103D, HRS, and;
 - B. The standard terms and conditions of the most current lease 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,



Gavin Chun
Project Development Specialist

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson

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