

D-6

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

November 9, 2017

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

Ref No. 16OD-094

OAHU

Amend Prior Board Action of October 28, 2016, (Item D-6), Issuance of Revocable Permit to Kwock Nam Lau Trust and Eunice Y.M. Lau Trust for Parking Purposes; Termination of Revocable Permit No. 7544 issued to Kwock Nam Lau Trust; Nuuanu, Honolulu, Oahu, Tax Map Key: (1) 2-2-010: portion of 021.

An Amendment to Change the Applicant to Lorraine Lau Young Trust and Liana Lau Benn Trust due to the Recent Change in Ownership of the Private Property, TMK (1) 2-2-010:015.

Background:

On October 28, 2016, under agenda item D-6, the Board approved the issuance of a revocable permit for parking purposes to Kwock Nam Lau Trust and Eunice Y.M. Lau Trust, over portions of the subject State parcel directly behind TMK: (1) 2-2-010:015 ("Parcel 15") and 016 ("Parcel 16"), for a total of 3,600 sq. ft. A copy of the approved Board submittal is attached as **Exhibit 1**.

Change in Ownership:

Pursuant to Quitclaim Deed Doc A-64530645 recorded at the Bureau of Conveyances on September 1, 2017, the new owners of Parcel 15 are Lorraine Lau Young and Eugene K. Young, Co-Trustees of the Lorraine Lau Young Trust, and Liana Lau Benn and Charles David Benn, Co-Trustees of the Liana Lau Benn Trust. Mrs. Lorraine Young and Mrs. Liana Benn are the daughters of the former permittee of RP 7544. Staff recommends the Board amend its prior action by replacing the applicant with the current owners of the Parcel 15.

Further, owner of Parcel 16 has indicated no objection to the issuance of the revocable permit covering the portion of State land immediately behind Parcel 16 to the subject applicants.

Rent for the New Revocable Permit:

The October 28, 2016 action approved the monthly rent for the new revocable permit at \$154.00.

Land Division has procured a contract for appraisal services to assist in valuing the rent to charge for the use of State lands underlying selected revocable permits statewide as of January 1, 2018. RP 7544 is one of the permits being valued in this process. Upon receipt of the portfolio appraisal report(s) for these assets, staff will obtain the Chairperson's approval for the

implementation of new rents. Therefore, staff recommends the Board authorize the Chair to charge new rent for the subject revocable permit pursuant to the appraisal report described above.

RECOMMENDATION: That the Board:

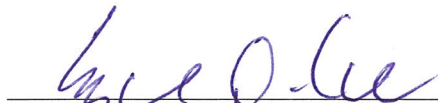
- A. Amend its prior action of October 28, 2016, Item D-6, by replacing the applicant with Lorraine Lau Young and Eugene K. Young, Co-Trustees of the Lorraine Lau Young Trust, and Liana Lau Benn and Charles David Benn, Co-Trustees of the Liana Lau Benn Trust;
- B. Reserve the right for the Chairperson to charge new monthly rent for 2018 based on the portfolio appraisal report described above; and
- C. Except as amended hereby, affirm that all other terms and conditions of the October 28, 2016, Item D-6 approval remain in effect.

Respectfully Submitted,



Darlene Bryant-Takamatsu
Land Agent

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

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

October 28, 2016

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

PSF No.: 15OD-094

OAHU

Issuance of Revocable Permit to Kwock Nam Lau Trust and Eunice Y.M. Lau Trust for Parking Purposes; Termination of Revocable Permit No. 7544 issued to Kwock Nam Lau Trust; Nuuanu, Honolulu, Oahu, Tax Map Key: (1) 2-2-010:portion of 021.

APPLICANT:

Kwock Nam Lau Trust and Eunice Y.M. Lau Trust (Applicant)

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Nuuanu, Honolulu, Oahu, identified by Tax Map Key: (1) 2-2-010:portion of 021, as shown on the maps attached as **Exhibits A1 and A2**.

AREA:

3,600 square feet, more or less.

ZONING:

State Land Use District: Urban

City and County of Honolulu LUO: R-3.5

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
October 28, 2016 CO.

D-6

EXHIBIT " 1 "

CURRENT USE STATUS:

About 1,800 square feet of the requested area is encumbered by Revocable Permit No. 7544 issued to Lau, Kwock Nam Trust for parking purposes; and the additional 1,800 square feet is unencumbered.

CHARACTER OF USE

Parking Purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

Current monthly rent is \$94 [for 1,800 square feet]. Staff recommends the rent for the requested revocable permit be set at \$154, as explained in Remarks section.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 47, that states "lease of State land involving negligible or no expansion or change of use beyond that previously existing." See **Exhibit B**.

DCCA VERIFICATION:

Not applicable.

REMARKS:

The subject location is a portion of State land at the back of private properties identified as tax map key (1) 2-2-010:015 and 016 (Parcels 15 and 16). Under the current RP 7544, the Applicant pays \$94 for about 1,800 square feet of State lands immediately behind their private property (Parcel 15), for parking purposes by their tenants.

For the background, Revocable Permit (RP) 3824 was issued to the Mr. Lau, as trustee in 1966 for parking purposes over the subject location, i.e. 3,600 square feet, which include the portion behind Parcel 16. In 1970, Mr. Lau asked the permit area be reduced to 1,800

square feet and RP 4456 was issued. Subsequently, RP 4456 was replaced by RP 7722 in 2010 which incorporated some updated permit condition regarding insurance.

During the recent review on Oahu revocable permits, children of Mr. Lau, who are now the current trustees, request the use of additional 1,800 square feet of State land [behind Parcel 16] to accommodate the parking need of their tenants. Owner of Parcel 16 indicates no objection to the subject request.

Department of Parks and Recreation, Department of Facility Maintenance, and Board of Water Supply have no objections/comments to the subject request. Department of Planning and Permitting, Department of Health, Division of Aquatic Resources, State Historic Preservation Division, Commission on Water Resource Management, and Office of Hawaiian Affairs have not responded to solicitation for comments before the deadline.

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 – the subject area is actually a portion bank of Nuuanu Stream, with no access other than through the abutting private property. Photos taken at recent inspection are attached as **Exhibit C**.
2. Truly short term use – See comments at 7 below.
3. Testing market and operational issues, plan to go to lease later – see comments at 7 below.
4. Government uses – not applicable.
5. Non-profits – not applicable.
6. Staff is unaware of interest in long-term disposition – not applicable, as the Subject Location is not a legally subdivided lot.
7. Other unusual circumstances – The State parcel identified in this submittal comprises mainly the portion of Nuuanu Stream. In the past, Land Division received multiple referrals or complaints of homeless population, tent site, rubbish over the State parcel, which caused major concern about public health and safety. The subject location is one of the few spots along the stream which is relatively level and vulnerable to be used as homeless tent site. Staff believes the presence of the permittee on the subject premises will help to discourage possible setting up of homeless tent sites.
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.

Determination of rent for the revocable permit

On today's agenda, there is a separate item [Ref: 16OD-093] relating to issuance of a revocable permit to AOA 1942-1946 Pauoa Rd Inc. (AOA) for parking purposes. AOA's requested area is over another portion of the same State parcel adjacent to the subject requested area. The rent proposed the AOA's request is \$99 for 2,312 square feet, which has taken into account the 1.5% annual increase since the last revocable

permit for AOA was approved, as adopted by the Board at its meeting on August 26, 2016, item D-11.

Staff recommends using the pro-rated rental figure for the AOA's permit on the subject request and the new rent is represented as follow:

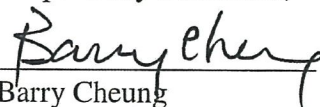
$$(\$99 \div 2,312 \text{ square feet}) \times 3,600 \text{ square feet} = \$154.15, \text{ say } \$154.$$

Land Division is in the procurement process of retaining the service of an independent appraiser to determine the rent for the Statewide revocable permits. The recommended rent mentioned above will be re-visited during the appraisal period.

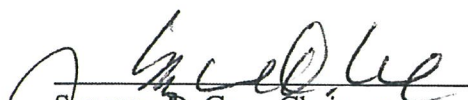
RECOMMENDATION: That the Board:

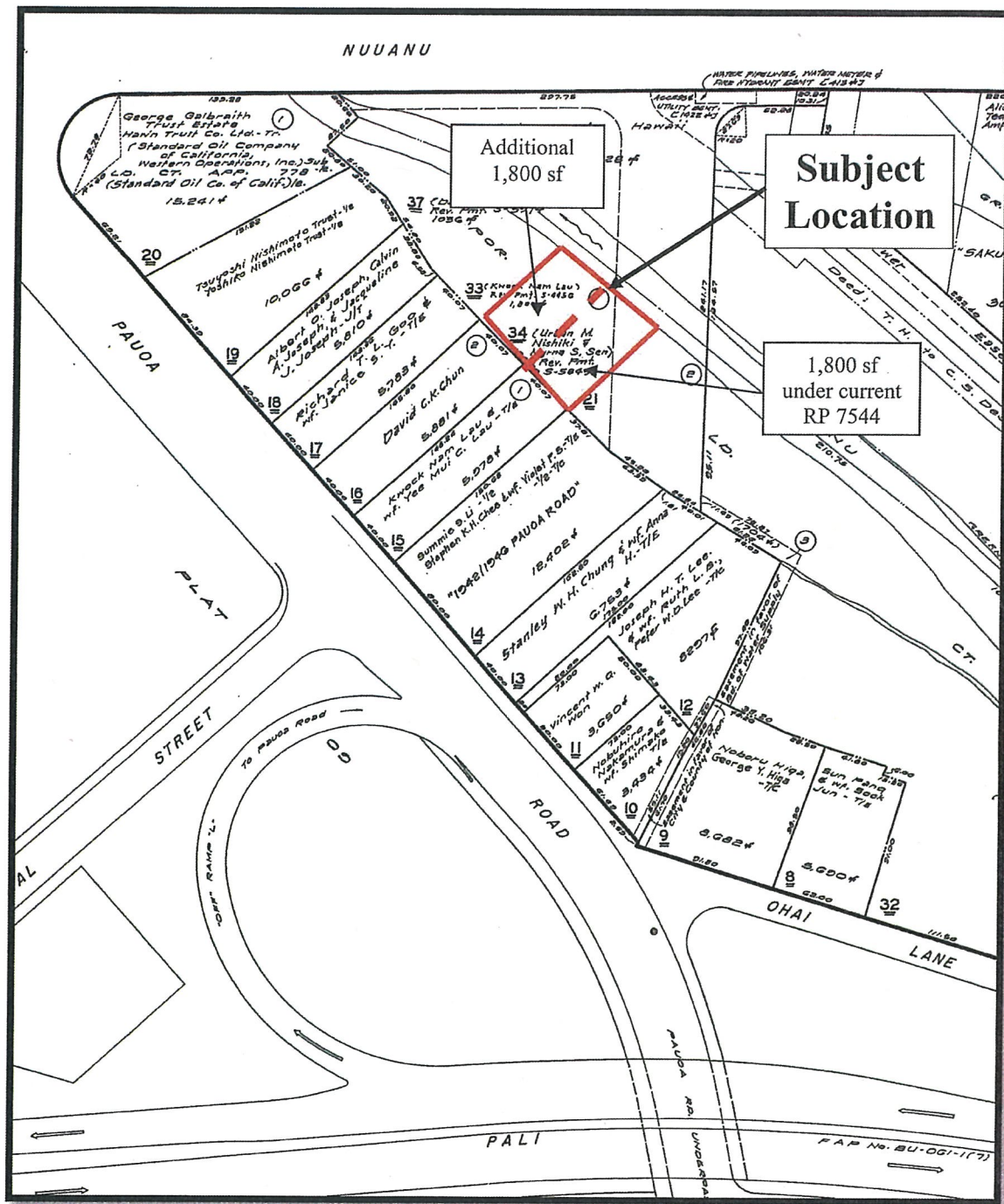
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to Kwock Nam Lau Trust and Eunice Y.M. Lau Trust covering the subject area for parking 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.
3. Termination of RP 7544 upon issuance of the subject revocable permit.

Respectfully Submitted,


Barry Cheung
District Land Agent

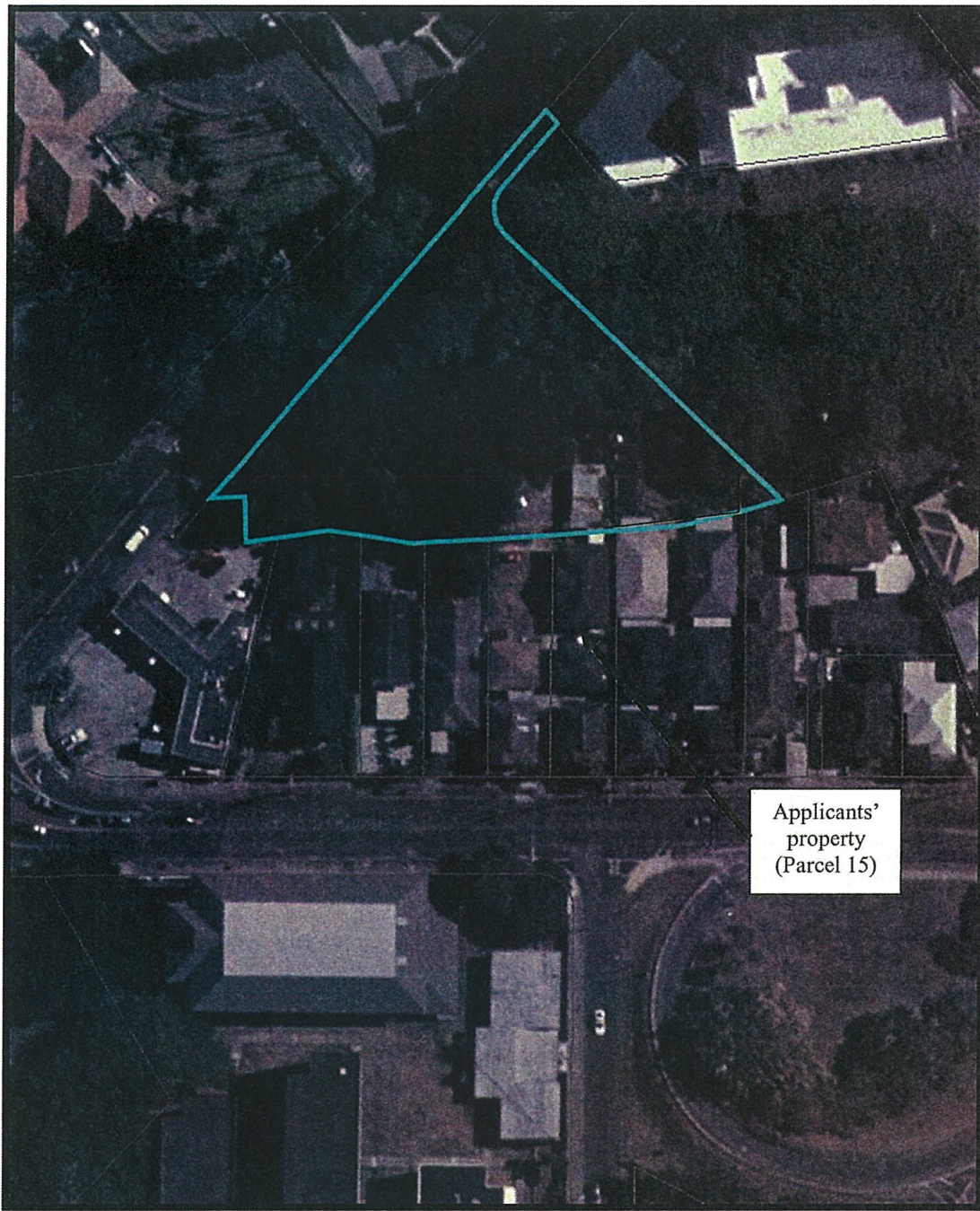
APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



TMK (1) 2-2-010:021 portion

EXHIBIT A1



TMK (1) 2-2-010:021 portion

EXHIBIT A2

EXEMPTION NOTIFICATION

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

Project Title: Revocable Permit for Parking Purposes.

Project / Reference No.: 16OD-094

Project Location: Nuuanu, Honolulu, Oahu, Tax Map Key: (1) 2-2-010:021 portion.

Project Description: For parking by the residents of the adjacent private properties.

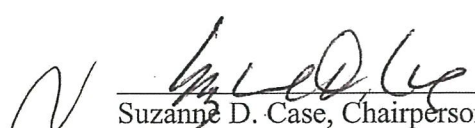
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rules Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 47, that states "lease of State land involving negligible or no expansion or change of use beyond that previously existing."

The requested location has been using for parking purposes since 1966 under various revocable permits. Therefore, staff believes the issuance of a new revocable permit has no significant effect on the environment.

Consulted Parties: Agencies as noted in the submittal.

Recommendation: That the Board finds 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

Date

9/30/16

EXHIBIT B

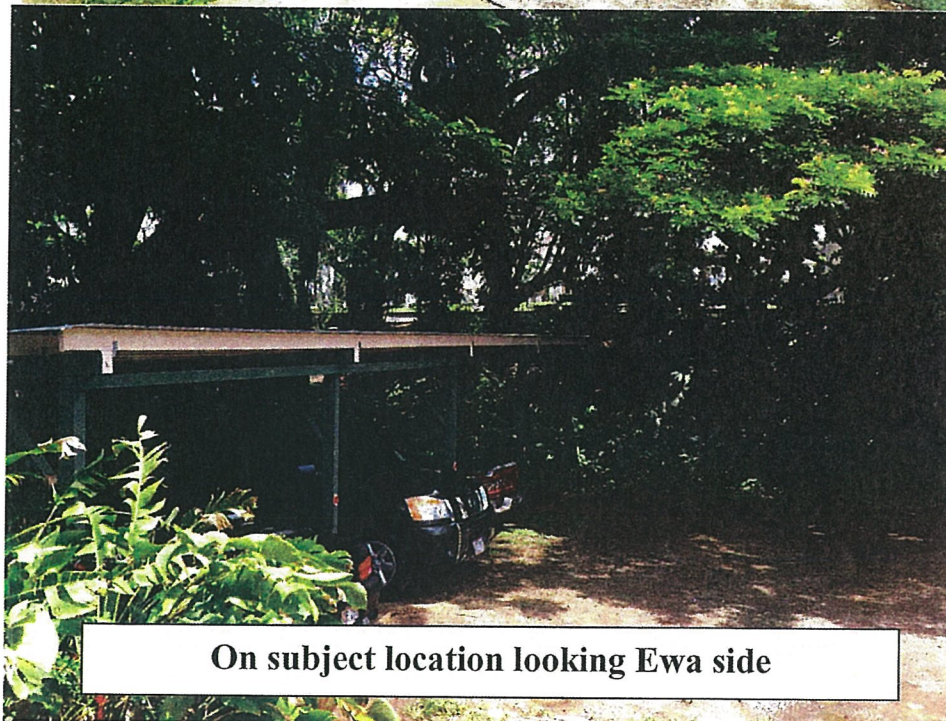
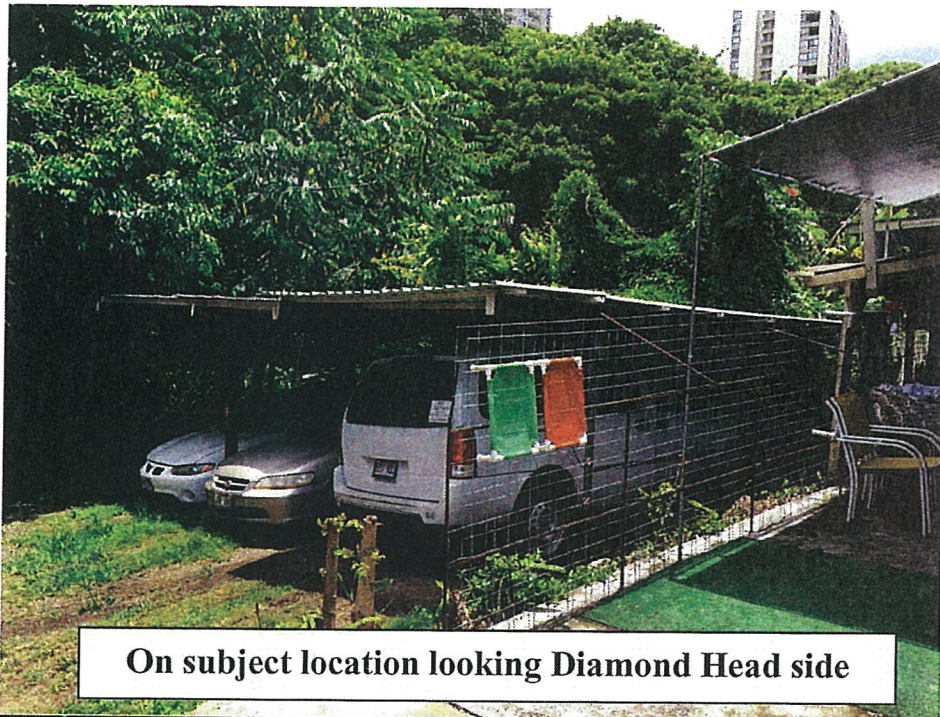


EXHIBIT C