

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

November 9, 2018

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

Ref: RP 7849

OAHU

Amend Prior Action of September 14, 2018, Item D-17 - Annual Renewal of Revocable Permits on the Island of Oahu. See Exhibit 2 for list of Revocable Permits.

The amendment is to authorize the renewal of Revocable Permit No. 7849

BACKGROUND:

On September 14, 2018, under agenda Item D-17 the Board approved as amended the subject request by removing RP 7849 from the renewal list due to the oral request for contested case hearing. A copy of the prior submittal is attached as **Exhibit A**.¹

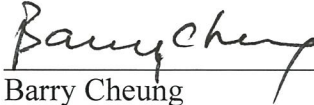
Under a separate item on today's agenda, staff is recommending the Board deny the request for contested case hearing. Upon approval of the staff recommendation, i.e. denial of the petition for a contested case hearing, staff recommends the Board amend its prior action of September 14, 2018, Item D-17 by approving the continuation of RP 7849 for one year through December 31, 2019.

This will allow staff to start the appraisal procurement process to determine the rent for the requested new revocable permit under a separate item on today's agenda.

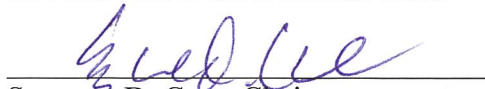
RECOMMENDATION: That the Board

1. Amend its prior action of September 14, 2018, Item D-17 to approve the continuation of Revocable Permit No. 7489 on a month-to-month basis for another one-year period through December 31, 2019; and
2. All other terms and conditions in the September 14, 2018 approved submittal to remain the same.

Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

¹ Exhibits A herein is only the report section of the prior submittal, excluding the exhibits attached therein. For full set of Exhibit A, please download from <https://dlnr.hawaii.gov/wp-content/uploads/2018/09/D-17.pdf>

AMENDED

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

September 14, 2018

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

Oahu

Annual Renewal of Revocable Permits on the Island of Oahu. See Exhibit 2 for list of Revocable Permits.

HRS CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on June 5, 2015, the subject action is exempt from the preparation of an environmental assessment pursuant to Exemption Class 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." See Exhibit 1 attached.

BACKGROUND:

At the end of each calendar year, Land Division reviews its list of current revocable permits issued statewide and determines which ones to recommend to the Board of Land and Natural Resources for renewal for the upcoming year. Generally, those revocable permits in good standing will be recommended for renewal, unless the Board has approved a different disposition for the land covered by a particular permit.

In the past, staff has brought all revocable permits to the Board for renewal in one submittal. At its meeting on December 11, 2015, Item D-14, as amended, the Board directed staff to submit revocable permit renewals by county over four meetings, with an explanation of why a revocable permit is the appropriate disposition and how the rent was set. At its meeting on June 24, 2016, Item D-7, the Board further approved the recommendations of the Department of Land and Natural Resources Revocable Permit Task Force, as amended, requesting all divisions notate any non-compliance issues and pending litigation in the renewal template. In accordance with these directives, staff is submitting the Oahu revocable permits, including the additional information the Board requested.

as amended
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
September 14, 2018 Go

EXHIBIT "A"

D-17

REMARKS:

The list of revocable permits for Oahu that staff recommends be renewed for 2019 is attached as Exhibit 2. Included in the exhibit are the revocable permit number, permittee names, tax map keys, original commencement date of the permit, character of use, land area, annual rent, method by which staff set the rent and the rationale behind the issuance of a revocable permit. General location maps of the revocable permits to be renewed are attached as Exhibit 3.

At its meeting on August 26, 2016, agenda item D-11, the Board approved interim rents for the annual renewal of the revocable permits on Oahu for calendar year 2017. Through this submittal, staff recommends making the interim rents permanent.

Staff procured a contract with James Hallstrom of The Hallstrom Group/CBRE, Inc. (Appraiser) for appraisal services to assist in valuing the rent to charge for the use of State lands underlying revocable permits statewide as of January 1, 2018, and ground rent discounts for tenancy and use restriction, if any, for 34 of the 63 Oahu revocable permits. The Portfolio Appraisal Report (PAR) was completed on May 9, 2018.

The Appraiser recommends increasing 2019's rents by 2-3%, depending upon demand for the properties, over those indicated in the PAR. Staff recommends setting the 2019 Oahu revocable permit annual rents by the following categories (see Exhibit 2 for further details):

- Category A: Revocable permits (RPs) valued by the PAR indicating an increase in the annual rent. Staff recommends increasing the 2018 Indicated Annual Market Rent by 10% for 2019.
- Category B: RPs valued by the PAR indicating a decrease in the annual rent. Staff recommends increasing the annual rent by 3% over the PAR's Indicated Annual Market Rent.
- Category C: RPs not valued by the PAR: Staff recommends increasing the 2019 annual rent by 3% over 2018's annual rent.
- Category D: RPs where the PAR's Indicated Annual Market Rent increased by less than 10% over 2018's annual rent. Staff recommends a 3% increase.
- Category E: For special cases, regardless of whether included in the PAR or otherwise. Staff's recommendations for this category are discussed further in Exhibit 2.

With respect to the revocable permits in Category A, the Indicated Annual Market Rents from the PAR increased from a low of 7% to a high of 1,000%. Staff feels that immediately implementing these rents would cause some permittees to cancel their permits, resulting not only in the loss of revenue, but also forcing the Division to expend resources to maintain these lands. Staff views the 10% annual increases for these permits as a means for the Division to achieve rents closer to market over a short period of time, without causing a major disruption to the occupancy of and revenue generated from these

lands.

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

Agency:	Comment:
Division of Forestry and Wildlife	No response by suspense date
Office of Conservation and Coastal Lands	See Exhibit 4 (staffs responses appear in Exhibit 2)
State Parks	No response by suspense date
Historic Preservation	No response by suspense date
Engineering	No comments
Oahu District Land Office	Comments incorporated into Exhibit 2
Commission on Water Resource Management	No response by suspense date
Division of Conservation and Resources Enforcement	No response by suspense date
Department of Hawaiian Home Lands	No response by suspense date
Department of Agriculture	No comments
Agribusiness Development Corporation	No response by suspense date
Office of Hawaiian Affairs	See Exhibit 5
C&C Department of Planning and Permitting	No comments
C&C Department of Facility Maintenance	No comments
C&C Department of Parks and Recreation	No comments
Board of Water Supply	No comments


Since the last renewal of the Oahu revocable permits on August 25, 2017, the following permits have been cancelled:

RP#	Permittee	Area	TMK	Monthly Rent	Cancelled on	Uses	Remarks
rp7056	Kapolei People's Inc. dba, Kapolei Golf Course	0.826	(1) 9-1-016:120-0000	728.31	2/8/2018	Parking	Land owned by UH
rp7082	Honolulu Community Action Program, Inc.	2	(1) 4-1-013:031-0000	20.62	2/28/2018	Community Use	Voluntarily cancelled
rp7402	Larry Jeffs dba Sugarland Farms, Inc.	142.149	(1) 9-1-16:8, 9-1-18:5,8	1,752.30	6/30/2017	Agriculture	Replaced by new RP
rp7469	Cheryl McConnell and Wesley Furtado	6.86	(1) 4-1-013:022-0000	160.29	11/30/2017	Pasture	Replaced by new permittee
rp7544	Kwock Nam Lau	0	(1) 2-2-010:033-0000	121.17	12/31/2017	Parking	Replaced by new RP
rp7610	Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc.	0	(1) 4-1-010:088-0000	16.76	6/5/2018	Utility	Changed into perpetual easement
rp7713	Dale Hardinger and Carla Hardinger	0.8	(1) 4-1-018:049-0000	16.96	8/29/2017	Pasture	Transferred to DOA
rp7825	Anitilose Unga and Meliame Unga	2.164	(1) 5-8-001:038-0000	43.65	8/29/2017	Agriculture	Transferred to DOA
rp7843	Tactical Airgun Games Hawaii LLP	13.09	(1) 1-1-3:3,204 - 207,212	1,122.19	11/30/2017	Recreational	Voluntarily cancelled
rp7889	Kazuto Yamada	14.387	(1) 4-1-8:71, 72 por.	139.22	8/29/2017	Agriculture	Transferred to DOA

RECOMMENDATION: That the Board:

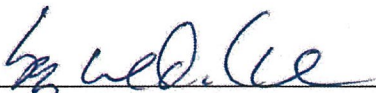
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Approve the continuation of the revocable permits listed in Exhibit 2 on a month-to-month basis for another one-year period through December 31, 2019, except for permits that are in arrears of rental payment for more than 60 days and/or have been approved for forfeiture by a separate Board action. Permits in arrears of rental for 60 days or more and/or approved by the Board for forfeiture shall not be renewed; and
3. Approve no immediate change in current monthly rent for revocable permits as listed in Exhibit 2, provided however, that the Land Board reserves and Delegates to the Chairperson the right authority at any time to review and implement new rental charges for the revocable permits listed in Exhibit 2, effective any time from and after January 1, 2019.

Respectfully Submitted,



Richard T. Howard
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

Land Board Meeting: September 14, 2018; D-17: Approved as amended.

Approved as amended. See attached page.

Land Board Meeting: September 14, 2018; D-17: Approved as amended.

Approved as amended. Approved the renewal of the Oahu group of revocable permits through December 31, 2019, except for Revocable Permit 7849 to ResortTrust Hawaii LLC. See decision on D-13.

EXEMPTION NOTIFICATION

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

Project Title: Annual Renewal of Revocable Permits on the Island of Oahu.

Project / Reference No.: Not applicable

Project Location: Various locations on the Island of Oahu

Project Description: Renew existing revocable permits for a term of one year.

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

Exemption Class No.: In accordance with the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on June 5, 2015, the subject request for issuance for right-of-entry is exempt from the preparation of an environmental assessment pursuant to Exemption Class 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."

The annual renewal of existing revocable permits on State lands involves the continuation of existing uses on the lands. No change in use is authorized by the renewal.

Cumulative Impact of
Planned Successive
Actions in Same Place
Significant?

No, the requested locations have been used for same uses since the permits were granted.

Action May Have
Significant Impact on
Particularly Sensitive
Environment?

No.

Analysis:

The request pertains to renewing the revocable permits for Oahu. Staff believes that the request would involve negligible or no expansion or change in use of the subject location beyond that previously existing.

Consulted Parties

Agencies listed in submittal.

Recommendation:

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.

EXHIBIT 1