

State of Hawai'i  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Forestry and Wildlife  
Honolulu, Hawai'i 96813

January 25, 2019

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawai'i  
Honolulu, Hawai'i

Board Members:

**SUBJECT: ANNUAL REVIEW OF GRANTS FROM THE LAND CONSERVATION FUND FOR EACH PROJECT THAT HAS BEEN PENDING FOR OVER FIVE YEARS – FOR DISCUSSION AND POSSIBLE ACTION:**

- (a) LLCP 13-02, DLNR DIVISION OF STATE PARKS, ULUPŌ HEIAU BUFFER, KO'OLAUPOKO, OAH'U, TAX MAP KEY NUMBER (1) 4-2-103:032 (portion).
- (b) LLCP 09-03, DLNR DIVISION OF STATE PARKS, KUKUIPAHU HEIAU BUFFER, KOHALA, HAWAI'I, TAX MAP KEY NUMBERS (3) 5-6-001:051 AND (3) 5-6-001:075.

**SUMMARY**

The Division requests that the Board review two grants from the Land Conservation Fund for projects that have been pending for over five years, and take action, if deemed appropriate, to (1) defer action on one or both of the pending projects until the next annual review of grants for projects that have been pending for over five years, (2) impose new conditions for grant completion on one or both of the pending projects, or (3) terminate one or both of the pending grants.

**BACKGROUND**

A recent performance audit of the Department's Legacy Land Conservation Program (LLCP), *available at* <http://files.hawaii.gov/auditor/Reports/2019/19-01.pdf>, includes a recommendation that LLCP "[I]mplement a policy that places a reasonable limit on the time a project, whether proposed by a state, county, or nonprofit organization, can remain pending." The Department's response to this recommendation indicates that "[t]he Department will conduct an annual review of each LLCP project that has been pending for over five years, and will present that review to the Board for discussion and possible action. This review will help determine the extent to which the various agencies and non-profits who are responsible for completing these transactions are still working diligently to complete them, and the likelihood of completion within a reasonable time frame."

**ITEM C- 1**

The Department completed its first annual review and now presents it to the Board for discussion and possible action. We also note that two additional grants are eligible, at present, for the next annual review, in 2020 – LLCP 14-02 to Ka Huli o Hāloa (replaced by Ho‘āla ‘Āina Kūpono) for Hakipu‘u Lo‘i Kalo at Ko‘olaupoko O‘ahu, and LLCP 14-03 to Kōkua Kalihi Valley for Ho‘oulu Ola at Kona, O‘ahu.

- (a) LLCP 13-02, DLNR DIVISION OF STATE PARKS, ULUPŌ HEIAU BUFFER, KO‘OLAUPOKO, OAH‘U, TAX MAP KEY NUMBER (1) 4-2-103:032 (portion).

On March 8, 2013, under agenda item C-1, the Board approved a \$1 million grant from the Land Conservation Fund for the State’s acquisition of 3.44 acres in Ko‘olaupoko, O‘ahu. The Board submittal from the Division explains that:

The buffer abuts the north and east sides of Ulupo Heiau, the largest platform heiau structure on Oahu. Ulupo Heiau is listed on the National and Hawaii Registers of Historic Places. Culturally significant springs are located around the heiau and nearby springs were used to irrigate the lo‘i kalo between the heiau and the Kawainui fishpond. Acquisition of the land for inclusion into Ulupo Heiau State Park preserves the cultural landscape and historical setting of the heiau, and also allows State Parks to provide better management of visitation and cultural education programs and better coordination with neighboring land uses. Plans for the park include walking paths to assist understanding and visitation of the restored site.

The Division notes that, according to a letter from the Chairperson to the landowner (see Attachment 2), federal grant funds for this acquisition are scheduled to expire on December 31, 2019.

- (b) LLCP 09-03, DLNR DIVISION OF STATE PARKS, KUKUIPAHU HEIAU BUFFER, KOHALA, HAWAI‘I, TAX MAP KEY NUMBERS (3) 5-6-001:051 and (3) 5-6-001:075.

On February 13, 2009, under agenda item C-2, the Board approved a \$7,000 grant from the Land Conservation fund for the State’s acquisition of seven acres in North Kohala, Hawai‘i. The Board submittal from the Division explains that “[t]he parcel is being acquired from Chalon International of Hawaii, Inc. by the State of Hawaii with the aid of a \$960,000 land value donation from the owner. The State of Hawaii, DLNR Division of State Parks, will manage the land as a protective and scenic buffer for the neighboring Kukuipahu Heiau as part of the North Kohala Historic Sites State Monument.”

## DISCUSSION

- (a) LLCP 13-02, DLNR DIVISION OF STATE PARKS, ULUPŌ HEIAU BUFFER, KO‘OLAUPOKO, OAH‘U, TAX MAP KEY NUMBER (1) 4-2-103:032 (portion).

In its response to a recent draft performance audit report, the Department noted that LLCP 13-02, Ulupō Heiau Buffer, is in active negotiation with the landowner, and the project purpose is to maintain the undeveloped land adjacent to the heiau in open space to promote the historical setting; interpret and share the site with residents and visitors; and provide an outdoor classroom

for educational programs and perpetuating Hawaiian cultural traditions in direct association with a significant cultural site and wahi pana. As shown in the attached correspondence from August and November, 2018 (Attachments 1 and 2), the State and the landowner are making significant progress towards reaching agreement upon the terms of a sale to the State. The Division believes that the Division of State Parks—with support from Land Division and the Department of Accounting and General Services (Land Survey Division)—is still working diligently to complete this transaction, and is likely to complete it within a reasonable time frame.

(b) LLCP 09-03, DLNR DIVISION OF STATE PARKS, KUKUIPAHU HEIAU BUFFER, KOHALA, HAWAI'I, TAX MAP KEY NUMBERS (3) 5-6-001:051 AND (3) 5-6-001:075.

The funding encumbered for this grant (\$7,000) is only for conducting due diligence that is required by the State to accept the donation of a seven-acre buffer from the landowner. As stated in the grant application from State Parks, completing this transaction “is critical for the long-term preservation of this significant cultural site” because “[b]oth Surety Kohala Corporation and Parker Ranch Inc./Samuel Parker Trust are consolidating, subdividing, and selling their lands in North Kohala, including Kukuipahu *ahupua`a*, for residential purposes. In the future, it is expected that Kukuipahu will be surrounded by modern development.”

According to the grant application from State Parks:

Through a quitclaim action, Kukuipahu Heiau and a 100-foot buffer around the site were transferred from Kohala Corporation (now Surety Kohala Corporation) to the State of Hawaii in 1982 for preservation . . . In compliance with Act 166, SLH 1992 [Chapter 6E-38.5, Hawai'i Revised Statutes], Surety Kohala Corporation subdivided the larger parcel around the *heiau* parcel to create the additional 7.003-acre buffer for Kukuipahu Heiau. This buffer will be consolidated with the State's 3.056-acre parcel to create the 10.059-acre site.

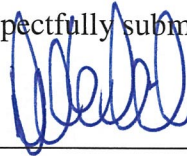
A number of land conveyances, subdivision/reconsolidation actions, and other entitlements that transpired before and after the grant award have led to some confusion about the planned location of the additional buffer and the ownership of related properties. At this point, the Division of State Parks intends to use the available funding to conduct additional due diligence to obtain information that will more clearly show a way forward to completing this important land acquisition. The Division believes that the State Parks, with support from Land Division, intends to work diligently to complete this transaction, and is capable of completing it within a reasonable time frame.

RECOMMENDATIONS

That the Board:

- 1) Defer action, until the 2020 annual review, on a grant from the Land Conservation Fund for LLCP 13-02 to DLNR Division of State Parks for Ulupō Heiau Buffer at Ko‘olaupoko, O‘ahu, Tax Map Key Number (1) 4-2-103:032 (portion).
- 2) Defer action, until the 2020 annual review, on a grant from the Land Conservation Fund for LLCP 09-03 to DLNR Division of State Parks for Kukuipahu Heiau Buffer at Kohala, Hawai‘i, Tax Map Key Numbers (3) 5-6-001:051 and (3) 5-6-001:075.

Respectfully submitted,



\_\_\_\_\_  
DAVID G. SMITH, Administrator

APPROVED FOR SUBMITTAL:



\_\_\_\_\_  
SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

ATTACHMENTS:

- Attachment 1: Letter from President and CEO, YMCA of Honolulu, to Chairperson, Board of Land and Natural Resources (August 21, 2018)
- Attachment 2: Letter from Chairperson, Board of Land and Natural Resources to President and CEO, YMCA of Honolulu (November 7, 2018)



ATTACHMENT 1  
January 25, 2019

FOR YOUTH DEVELOPMENT®  
FOR HEALTHY LIVING  
FOR SOCIAL RESPONSIBILITY

August 21, 2018

Suzanne Case  
Chairperson, Board of Land and Natural Resources  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawaii 98609

Re: State's Proposed Acquisition of a Portion of the Windward YMCA Property  
1200 Kailua Road, Kailua, O'ahu  
TMK: (1) 4-2-103-032 (portion)

Dear Suzanne:

Thank you for your letter dated April 18, 2018 responding to the YMCA's November 29, 2017 letter. The YMCA remains excited to be working with the State to consummate this property sale.

We agree upon the terms outlined in our November letter, without (a) requiring delivery of the State's appraisal, or (b) requiring the State to bear the cost of subdivision and designation of easements as explained in your April letter. The final agreement to purchase and sell would, of course, be subject to the negotiation and agreement on appropriate documentation, including a purchase and sale agreement that is acceptable to both the State and the YMCA and other closing documents. We anticipate that such documentation would include the various terms, conditions and provisions outlined in the State and YMCA's correspondence to date.

Robert Masuda, DLNR's First Deputy and the one time President & CEO of the YMCA of Honolulu, recently requested an update on the progress that has been made on the State's acquisition. Roy Catalani, YMCA Board Member, and Michael Chinaka, Senior Vice President & CFO, met with Bob on Tuesday, August 14<sup>th</sup>, and provided an update. Bob encouraged us, as you suggested, to set up a meeting with DLNR and YMCA staff to continue our discussions and begin to finalize various terms, conditions and provisions required in the purchase and sale agreement.

We look forward to continuing our discussions over this important initiative.

Sincerely,

Michael Broderick  
President and CEO  
YMCA of Honolulu

cc: Robert Masuda, First Deputy, DLNR  
Malama Minn, Land Division, DLNR  
Curt Cottrell, Division of State Parks, DLNR  
Martha Yent, Division of State Parks, DLNR

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

ROBERT K. MASUDA  
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

November 7, 2018

Mr. Michael Broderick  
President & CEO  
YMCA of Honolulu  
1441 Pali Highway  
Honolulu, HI 96813

Subject: Proposed Acquisition of a Portion of the Windward YMCA Property, Situated at 1200 Kailua Road, Kailua, Island of O'ahu, Hawai'i; TMK: (1) 4-2-103:032 por.

Dear Mr. Broderick:

Thank you for your letter dated August 21, 2018. We are very pleased with the YMCA's positive response to the State's acquisition of approximately 3.2 acres of the Windward YMCA property. We want to acknowledge the YMCA's willingness to undertake the subdivision of the larger 5.2-acre parcel and proceed with a sales agreement.

Land Agent Malama Minn and State Parks representative Martha Yent met with Michael Chinaka, Senior Vice-President and CEO of the YMCA, and Leigh Ann Landreth, Director of the Windward YMCA, on October 2 to understand the next steps in moving the acquisition forward. The key topics discussed were:

- The subdivision of the parcel is a priority and must be initiated quickly. The YMCA will seek a consultant able to process the subdivision within a year to avoid any loss of grant funds by the expiration date of 12/31/19.
- A property survey may be conducted in conjunction with the subdivision. The DAGS Survey Office will certify the survey after approval by the Board of Land and Natural Resources.
- DLNR will conduct a Phase 1 Environmental Assessment within the 180 days before closing.
- DLNR will contract a Title Report after the subdivision is executed and the TMK is created.

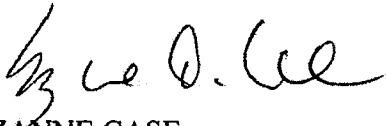
In the meantime, DLNR and the Deputy Attorney General assigned to this acquisition will work on a Draft Sale Agreement and Draft Deed. These draft documents will be sent to the YMCA for review and comment within the next several weeks.

Mr. Michael Broderick  
November 7, 2018  
Page 2

In addition, the need for other agreements was discussed. We understand the YMCA's desire to use the property for educational purposes and DLNR will continue to provide opportunities for community groups to carry out stewardship programs and practice their cultural traditions. We also recognize the need to coordinate our efforts to manage the property, especially in regards to commercial tours and criminal activities.

The acquisition of a buffer for Ulupō Heiau has been in discussion since 1990 and we are excited that additional open space for this significant cultural site may soon be a reality. The support of the YMCA in this effort is truly appreciated by State Parks and the community.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne Case". The signature is fluid and cursive, with the first name "Suzanne" written in a larger, more prominent script than the last name "Case".

SUZANNE CASE  
Chairperson

Cc: Malama Minn, Land Division  
Curt Cottrell, Division of State Parks