

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

January 11, 2019

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

PSF No.: 16OD-162

OAHU

Grant of Term, Non-Exclusive Easement to Kaneohe Yacht Club for Piers, Boat Ramp, Floating Dock, and Wooden Catwalk Purposes; Termination of Revocable Permit No. S-5407; Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-022: seaward of 032

APPLICANT:

Kaneohe Yacht Club ("KYC"), a domestic nonprofit corporation.¹

LEGAL REFERENCE:

Sections 171-6, -13, -17, -53(c), -55, Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Portion of submerged land located in Kaneohe, Koolaupoko Oahu, identified by Tax Map Key: (1) 4-4-022: seaward of 032, as shown on the maps attached as **Exhibit A1 to A3**.

AREA:

To be determined, subject to review and approval by the Department of Accounting and General Services, Survey Division. See Remarks Section for discussion of area.

ZONING:

State Land Use District: Conservation
City & County of Honolulu LUO: R-10 [for the abutting private property]

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

¹ Per Applicant, KYC is a nonprofit 501(c)7, organization. Section 171-43.1, HRS requires the non-profit entity to be either 501(c)(1) or 501 (c)(3).

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

CURRENT USE STATUS:

Encumbered by Revocable Permit No. 5407 to the Kaneohe Yacht Club for recreational boat pier purposes since August 1, 1977, at a current monthly rent of \$183.23.

CHARACTER OF USE:

Piers, boat ramp, floating dock, and wooden catwalk purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

TERM:

Fifty-five (55) years

MONTHLY RENTAL:

The rent for RP 5407 was not adjusted between 1999 and 2016. At its meeting on August 26, 2016, under Item D-11, the Board adopted a rental increase of 1.5% per year for all RPs since the last determination of rent. Currently, the monthly rent is \$183.23.

As explained in the Remarks Section below, the actual area utilized by KYC is greater than that allowed in the RP. Until the consummation of the long-term disposition, staff recommends the Board raise the monthly rent to \$1,000 or 10% of the gross revenues over the use of the State lands, whichever is the greater, effective on March 1, 2019.²

For the base rent, staff is amenable to adopt a base rent of \$1,000 per month, in anticipation of the regular percentage rent to be collected. The base rent can be adjusted with a 30-day notice issued by the Board, pursuant to the standard condition in an RP.

To calculate the percentage rent, KYC is required to provide a monthly certified statement, by KYC or its officers, showing in all reasonable detail the amount of gross monthly revenues during the preceding periods.

² Pursuant to condition 6 of RP 5407, the Board may change the rent with a 30-day notice. Retaining first day of the month as the billing date, March 1, 2019 is recommended.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "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 B**.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Pay for an appraisal to determine one-time payment; and
2. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Pier Area - Based on the findings described in the following paragraphs, KYC is utilizing an area much greater than that mentioned in RP 5407.

Pier marked by "Purple" on Exhibit A4

In early 1963, the Applicant constructed the fixed pier (approximately 923 linear feet) in accordance with Shore Waters Construction Permit Number 1235, issued by the Department of Transportation, Harbors Division (DOT) as shown in **Exhibit C**. The pier is noted to be 10 feet wide as marked by purple on Exhibit A4. This equates to approximately 9,230 square feet, not including the area for the catwalks (outcroppings where each boat is docked along the pier). The final pier area is 9,230 square feet which was completed by mid-1963.

Pier marked by "Blue" on Exhibit A4

At its meeting on September 9, 1966, agenda item F-7 (**Exhibit D**), the Board of Land and Natural Resources approved the construction right-of-entry for a floating pier having the dimensions 315 feet long by 8 feet wide, with 21 catwalks (each measuring 20 feet long by 4 feet wide) in accordance with Shore Waters Construction Permit 1356, approved by the DOT (**Exhibit E**). This equated to a total area of 4,200 square feet. However, the final length of the floating pier was 347 feet, 32 feet longer than the permitted 315 feet. This created a final pier area that was much larger than the permitted 4,200 square feet. The final pier square footage area was never reported. Construction was completed in late 1966. The

1966 submittal mentioned an application for tenure of the pier would be made. Apparently, the issue was never followed-up by either the applicant or the staff.

Pier marked by “Red” on Exhibit A4

At its meeting on February 25, 1977, agenda item H-7, the Board approved CDUA 0885 which granted the extension of the floating pier for an additional length of 400 feet beyond the existing 347 feet length. After the construction of the approved extension the total length of the floating pier measured approximately 747 feet. The final pier area (including the catwalk areas) was never reported. There was a reference in the 1977 submittal which required the applicant to obtain authorization for the use of State lands. However, there was no follow-up from either the State or the applicant.

Land Disposition for the pier

At its meeting on June 24, 1977, agenda item F-12, the Board approved the issuance of Revocable Permits (RP) covering 17 private piers and facilities, including the subject one, that were being formerly managed by the Department of Transportation. The area described in the 1977 submittal for the Applicant's RP was 8,014 square feet. On August 1, 1977, the Applicant was issued an RP for recreational boat pier purposes covering an area of 8,014 square feet. Since then, the Applicant has been the permittee under RP 5407 with a current annual rent of \$2,134.68 (\$177.89 monthly). However, the RP did not specify whether the coverage was for either the fixed pier or the floating pier, or both. In any event, the 8,014 square feet covered by the RP is inadequate for the fixed pier alone (at approximately 9,230 square feet), and marked by purple on Exhibit A4.

Pier marked by “Yellow” on Exhibit A4

At its meeting on November 6, 1987, agenda item H-2, the Board approved the extension of the approximately 747 feet floating pier by an additional 70 feet (CDUA 2041), for a new total length of approximately 817 feet. The Board also approved replacing the deteriorated 400 feet wooden pier, approved at the February 1977 Board meeting, with a state-of-the-art concrete pier. Again, the final pier area was never reported. There was a reference in the 1987 submittal which required the applicant to obtain a non-exclusive easement. Similar to the 1966 Board action, there was no follow-up from either the State or the applicant.

Recent site inspection

Additionally, pursuant to site inspections by the staff, it is noted that the Applicant has other improvements located Makai of the shoreline that are not included in the specified purposes and area of RP 5407. Photos of the recent site inspection are attached as **Exhibit F**. The additional improvements are identified as two narrow wooden piers, a boat ramp, a metal floating pier with rubber-type lining, and a wooden walking plank along the shoreline bulkhead. Staff is not aware of any authorization from any other government agency for the construction of the additional improvements.

Based on the inspection conducted in November 2018, staff estimated the various improvements occupy an approximate area of 21,000 square feet.

Based on this information, it is clear that the State lands area authorized under the RP is substantially smaller than the “actual” State lands area that is benefitting the Applicant. As such, staff recommends the Board authorize the issuance of a 55-year term, non-exclusive easement to replace RP 5407 at a one-time payment amount (based on an appraised fair market value) covering all the improvements on State lands. Staff’s rough estimate of the total area of all the improvement (including the area covered by RP 5407) is approximately 21,000 square feet.

Long term disposition

Pursuant to the directive from the Board, a letter dated August 1, 2016 regarding the conversion of existing RP to a long-term disposition was mailed to KYC. KYC indicated its interest in the conversion and wanted to discuss other options (**Exhibit G**). On October 11, 2016, staff met with a representative of KYC at the site. At the meeting, KYC indicated its concern on a standard condition for typical shoreline encroachment easement for submerged lands which allows the public access to the easement area. Staff was told by the representative that he needed to discuss with KYC’s board about the condition.

Staff had a subsequent meeting with more representatives of KYC on March 15, 2017. The same issue about public access was brought up. As mentioned above, the condition allowing public access is a standard condition for an easement document. In addition, the current RP 5407 does not contain the clause of “quiet enjoyment” as in a lease.

In its letter dated October 29, 2018 (**Exhibit H**), KYC indicated its commitment toward conversion to a long-term disposition.

Staff’s Position

Staff believes the Board’s directive on conversion is straightforward and clear and staff cannot agree the issue raised by KYC is significant enough to warrant the separation of KYC’s RP from the conversion program required by the Board. If KYC chose not to convert the RP into long term disposition, staff would have to recommend the Board terminate RP 5407 and demand KYC remove all improvements on State lands.

KYC is a domestic non-profit 501(c)7 corporation originally registered in 1938 with the purpose of “yachting boating and other recreational activities” which would not qualify them to request a direct lease pursuant to Section 171-43.1, HRS.³ As such, the requested easement has to be appraised at fair market value pursuant to the statutes.

³ **§171-43.1 Lease to eleemosynary organizations.** The board may lease, at a nominal consideration, by direct negotiation and without recourse to public auction, public lands to an eleemosynary organization which has been certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The lands shall be used by such eleemosynary organizations for the purposes for which their charter was issued and for which they were certified by the Internal Revenue Service.

Staff solicited comments from other government agencies during the initial stage of converting the RP into a long-term disposition. The Office of Conservation and Coastal Lands, Division of Aquatic Resources, Department of Planning and Permitting, Department of Facility Maintenance, and the Board of Water Supply had no objections/comments to the disposition through an easement. The Office of Hawaiian Affairs did not respond.

Staff recommends the Board authorize the issuance of a 55-year, non-exclusive easement according to the terms and conditions mentioned above, and increase the monthly rent of the Revocable Permit to \$1,000 or 10% of the gross revenue over the use of the State lands, whichever is the greater.

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. Commencing from March 1, 2019, the monthly rent of Revocable Permit No. 5407 shall be adjusted to \$1,000 or 10% of the gross revenues over the use of the State land, whichever is the greater.
3. Within 30 days of the expiration of the preceding month, Kaneohe Yacht Club shall provide a statement, certified by KYC or its officer, showing in all reasonable detail the amount of gross monthly revenues during the preceding month, and remit the additional rent payable, without further demand.
4. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to Kaneohe Yacht Club covering the subject area for piers, boat ramp, floating dock, and wooden catwalk 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 term shoreline encroachment easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 4-4-022:032, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantor of such transaction in writing, and shall notify Grantee's successors or assigns of the insurance requirement in

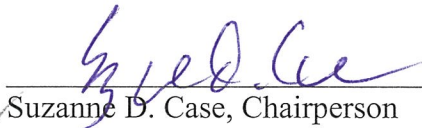
- writing, separate and apart from the easement document;
- C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
5. Termination of Revocable Permit No. 5407 upon the issuance of the subject easement.

Respectfully Submitted,



Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



Note: The property is located in the south southeast corner of Kaneohe Bay.

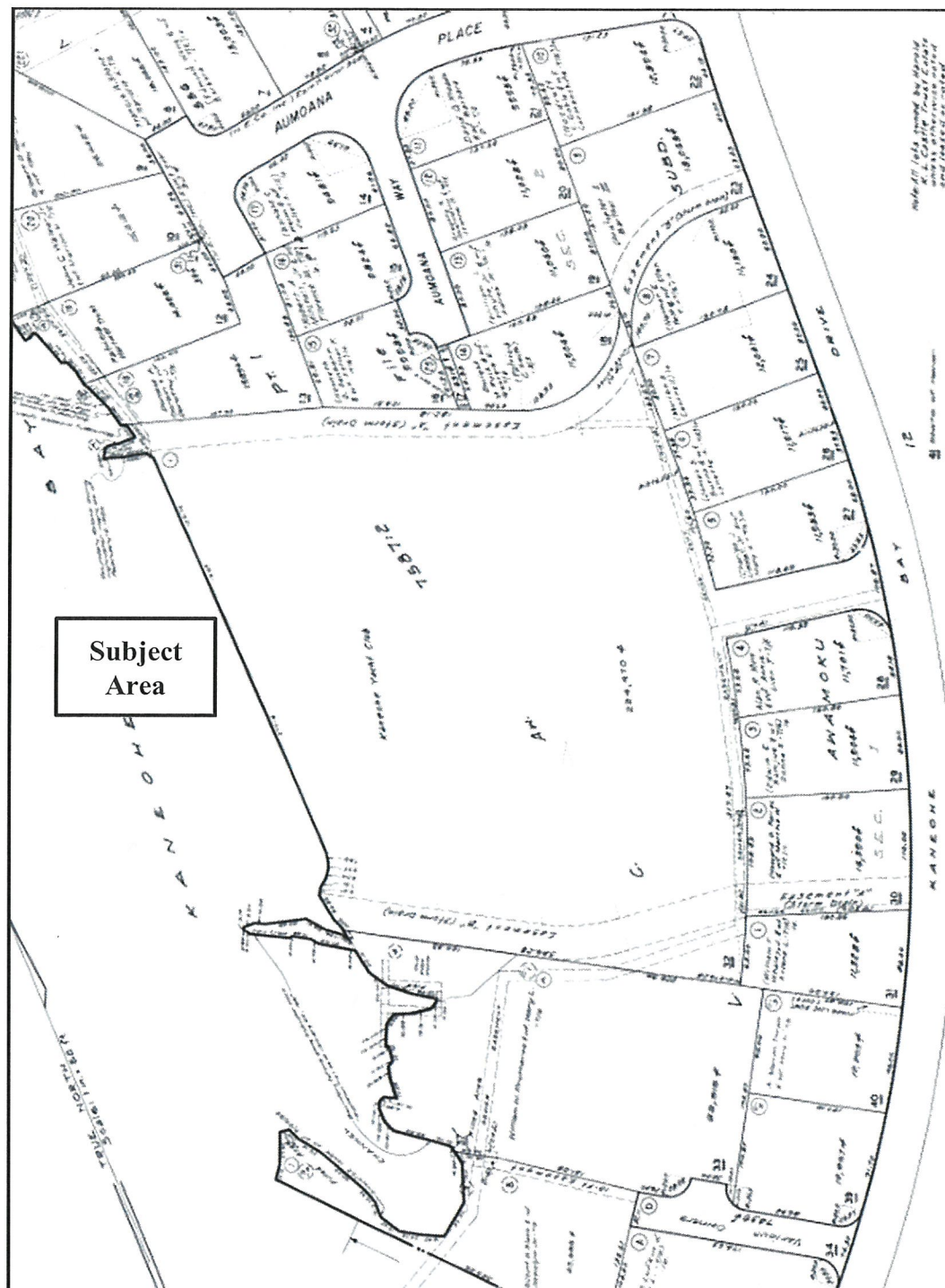
EXHIBIT A1



TMK (1) 4-4-022:seaward of 032

Note: The outlined area is parcel 32, subject area is seaward of the outlined area.

EXHIBIT A2



TMK (1) 4-4-022:seaward of 032

EXHIBIT A3

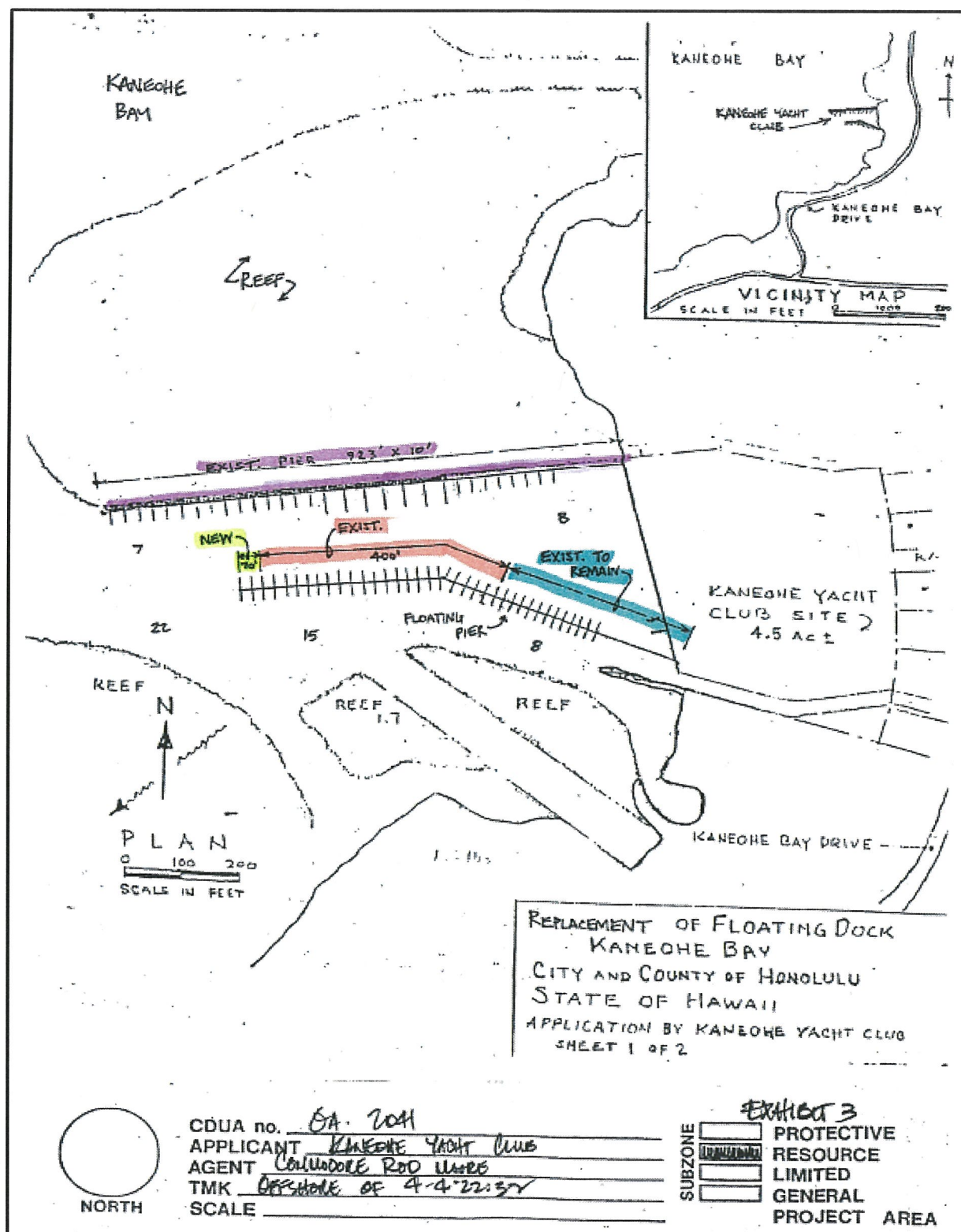


EXHIBIT A4

EXEMPTION NOTIFICATION

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

Project Title:	Grant of Term, Non-Exclusive Easement or Direct Lease to Kaneohe Yacht Club for Piers, Boat Ramp, Floating Dock, and Wooden Catwalk Purposes; Termination of Revocable Permit No. S-5407; Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-022: seaward of 032
Reference No.:	RP 5407
Project Location:	Kaneohe, Koolaupoko, Oahu, TMK (1) 4-4-022:seaward of 032.
Project Description:	Grant of Term, Non-Exclusive Easement to Kaneohe Yacht Club for Piers, Boat Ramp, Floating Dock, and Wooden Catwalk Purposes; Termination of Revocable Permit No. S-5407. And, amend the annual rent until the easement is issued.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	<p>In accordance with Hawaii Administrative Rule Sections 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 51 that states "Permits, licenses, registrations, and right-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing".</p> <p>The Applicants has existing improvements not covered by the current revocable permit; however, the Applicant is not planning on conducting major change to the existing topographical and vegetation condition of the property. As such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond which is existing currently.</p>
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No, all currently existing improvements are permanently constructed so there would be no successive or repetitive action in the same place. As such, staff believes that there would be no significant cumulative impact.

Action May Have
Significant Impact on
Particularly Sensitive
Environment?

The requested area is a portion of shoreline State lands that contains improvements, some of which have been in place for 50+ years. Based on the analysis below, staff believes there would be no significant impact to sensitive environmental or ecological receptors.

Consulted Parties:

Agencies as noted in the submittal.

Analysis:

The Board has authorized revocable permits for existing shoreline structures in the past. The proposed request is of a similar type and scope as other shoreline revocable permits requested across the State. Staff also believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

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.

APR 24 1963

HAR 1630

April 22, 1963

KANEOHE YACHT CLUB
44-503 Kaneohe Bay Drive
Kaneohe, Hawaii

Attention: Mr. Charles H. Dole, Commodore

Subject: Shore Waters Construction Permit No. 1235

Gentlemen:

Your application for permit to widen channel and extend existing pier over shore reef at Kaneohe Bay, Oahu, has been approved for the grant of Shore Waters Construction Permit No. 1235. This grant of permit has been approved by the Director of Transportation pursuant to the authority conferred by section 112-17, Revised Laws of Hawaii 1955, as amended, and every other power thereunto enabling, subject to the following conditions:

(1) Permittee shall indemnify and hold the State of Hawaii, its boards, commissions, agencies, officers, servants, employees, and agents free and harmless from any and all lawsuits or actions of every nature and kind which may be brought for or on account of any personal injury or death, or property damage, direct or indirect, arising or growing out of Permittee's exercise of the rights granted under this Permit.

(2) Permittee shall obey and comply with all applicable ordinances, laws, rules and regulations of the City & County of Honolulu, the State, and of the United States of America, and of any political subdivision or agency, authority, or commission with respect to all phases of the construction, operation, and maintenance of any and all improvements authorized under this Permit.

(3) Permittee shall take out and keep current all licenses and permits (whether county, state, or federal) required for the conduct of its operations and/or construction, maintenance, and repair of any and all improvements authorized under this Permit, and shall pay promptly when due all fees therefor.

(4) This Permit is not transferable except with the prior written consent of Permittee.

EXHIBIT C

Shore Waters Construction Permit No. 1285 (cont'd)

(5) Permittee shall keep the pier in good condition and repair and will promptly rectify all defects of which notice may be given. Permitter may inspect the pier at all reasonable times and, if Permittee neglects or fails to keep the same in proper condition, Permitter may either demolish and remove the same or effect such repairs as may be necessary, all at the expense and for the account of Permittee.

(6) Permittee may surrender this Permit upon thirty days written notice to Permitter and shall, upon such surrender, leave the pier in good condition and repair, or demolish and remove the same if directed so to do by Permitter.

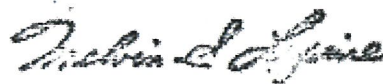
(7) This Permit may be cancelled upon ninety days written notice by the Permitter whereupon the Permittee may at its option demolish and remove the pier, or accept just compensation therefor.

(8) Permitter may by written notice to Permittee revoke this Permit at any time for failure of Permittee to pay any sums required to be paid to Permitter or to fully comply with the terms and conditions of this Permit.

(9) Permittee shall pay \$40.07 per month, effective May 1, 1963 (1/2¢ per sq. ft. per mo.) for private usage of the pier, as required by Section 2504 of the Department's regulations, based on a total State area involved of 8,014 square feet, or such amount as may be applicable upon revision of the Department's regulations.

Enclosed is approved Permit No. 1285 for your files. Please notify us promptly, in writing, the date of completion or suspension of work under this Permit.

Very truly yours,



MELVIN E. LEPINE
Manager & Chief Engr., Harbors Division
Department of Transportation

Encl
Permit 1285

cc: U.S. Corps of Engrs w/cy of Permit
Har Div Engrs
Fiscal Office
→ Property Mgmt Ofc

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
HONOLULU, HAWAII
Division of Land Management

September 9, 1966

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

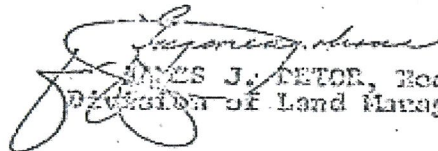
Gentlemen: APPROVAL FOR CONSTRUCTION RIGHT-OF-ENTRY, OAHU
KANEOHE BAY, KANEOHE, OAHU

The Kaneohe Yacht Club has applied to the Division of Harbors of the Department of Transportation for a Shore Water Construction Permit (Application No. 1356). The Yacht Club intends to construct a floating pier, 315 feet long and 8 feet wide, with 21 catwalks, 20 feet long and 4 feet wide. Concrete pilings will be used for holding the pier in place. The area of submerged land covered by the pier will be 4,200 square feet, more or less. We have been requested to allow an immediate right-of-entry to begin construction. At a later date, application will be made for tenure for the proposed pier.

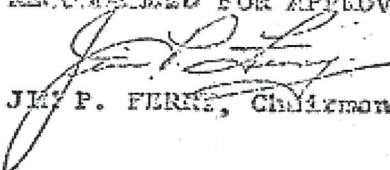
RECOMMENDATION: That the Board grant Kaneohe Yacht Club an immediate right-of-entry to construct the floating pier, subject to the following terms and conditions:

1. That the pier be constructed in conformance with the plans and specifications as approved by the Division of Harbors of the Department of Transportation.
2. Standard indemnity and hold harmless clause;
3. Standard relocation clause;
4. Other terms and conditions recommended by the Chairman.

Respectfully submitted,


JAMES J. PETOR, Head
Division of Land Management

RECOMMENDED FOR APPROVAL:


JIM P. FERRIS, Chairman

Approved by the Board
at its meeting held on

ITEM F-7

EXHIBIT D


State of Hawaii Department of Transportation HARBORS DIVISION		Application No. <u>1356</u>
Application for Permit for Work in the Shore Waters of the State of Hawaii		
		Date <u>July 11, 1966</u>
<p>1. Name of Applicant <u>Kaneohe Yacht Club</u></p> <p>2. Address <u>44-503 Kaneohe Bay Drive</u> Phone _____</p> <p>3. Nature of work <u>Construction of floating pier anchored by concrete piling within existing harbor</u></p> <p>4. Purpose of work <u>To provide mooring stalls for 44 boats up to 28' approximate length</u></p> <p>5. Location of work <u>Kaneohe Bay</u> Tax Map Number Zone <u>4</u> Section <u>4</u> Plat <u>22</u> Parcel <u>32</u> Lot _____</p> <p>6. Property ownership at shore <u>Harold K. L. Castle leased to Kaneohe Ranch Company</u> Fee simple _____ Leased <u>to Kaneohe Yacht Club</u></p> <p>7. It title to high water mark? <u>X</u> Low water mark? _____</p> <p>8. Property ownership offshore <u>State of Hawaii</u></p> <p>9. Is a fishery involved? <u>No</u> Owner of same _____</p> <p>10. What is nature of shoreline? (Lava rock, soil, coral, sand, mud) Onshore <u>Soil & coral</u> Offshore <u>Coral</u></p> <p>11. Do adjacent property owners object to this work? <u>No</u></p> <p>12. Is work liable to be detrimental to adjacent property owners? <u>No</u></p> <p>13. Are you prepared to remove or remedy conditions if adjacent owners are affected? <u>Yes</u></p> <p>14. The Public is entitled to foot passage alongshore. Will same be precluded by this work? <u>No</u></p> <p>15. If so, how will this matter be taken care of? _____</p> <p>16. State cubic yards of dredging and proposed disposition of dredged material if same is involved. <u>None</u></p> <p>17. Will the completed facility be open to public use? <u>No</u> or does applicant wish to pay a fee for private use? <u>Yes</u></p> <p>18. Has application been made to the U. S. Engineers? <u>Yes</u> (This is required by law)</p> <p>19. Is a copy of print of U. S. Engineers application attached herewith? <u>Yes</u> (This is required by the Department's rules and regulations)</p> <p>20. Is a print of the tax map showing ownership of land by applicant as well as ownership of adjacent property attached herewith? <u>Yes</u> (This is required by the Department's rules and regulations)</p> <p>21. The undersigned applicant understands that any accretion of land, beyond present high water mark or present property boundary, caused by the work contemplated will become property of the government.</p> <p>22. The undersigned applicant agrees to notify the Department of Transportation, Harbors Division promptly in writing, the date of completion or suspension of work under this permit.</p>		
 Applicant Commodore, Kaneohe Yacht Club		
<p>NOTE: Application to be submitted in triplicate to Department of Transportation, Harbors Division, P. O. Box 397 Honolulu 9, Hawaii. An approved copy of application shall constitute applicant's authority to proceed with work. To cover the cost of engineering investigation a FEE OF \$25.00 MUST ACCOMPANY THIS APPLICATION.</p> <p style="text-align: center;">JUL 14 1966</p>		

EXHIBIT E

PERMIT NO. 1356

DEPARTMENT OF TRANSPORTATION
HARBORS DIVISION
State of Hawaii

APPROVED BY DEPARTMENT OF TRANSPORTATION, HARBORS DIVISION

Work under this permit is approved as described in the foregoing application subject to the following CONDITIONS and must be completed prior to August 29, 1967, or permit will be considered null and void:

- (1) Permittee shall indemnify and hold the State of Hawaii, its boards, commissions, agencies, officers, servants, employees, and agents free and harmless from any and all lawsuits or actions of every nature and kind which may be brought for or on account of any personal injury or death, or property damage, direct or indirect, arising or growing out of Permittee's exercise of the rights granted under this permit.
- (2) Permittee shall obey and comply with all applicable ordinances, laws, rules and regulations of the City & County of Honolulu, the State, and of the United States of America, and of any political subdivision or agency, authority, or commission with respect to all phases of the construction, operation, and maintenance of any and all improvements authorized under this permit.
- (3) Permittee shall take out and keep current all licenses and permits (whether county, state, or federal) required for the conduct of its operations and/or construction, maintenance, and repair of any and all improvements authorized under this permit, and shall pay promptly when due all fees therefor.
- (4) The Department of Transportation hereby reserves the right to cancel this permit at any time and for any reason or to require the Permittee to suspend operations without being liable to the Permittee in any way whatsoever for damages.

Date

8-29-66

Chief, Harbors Division

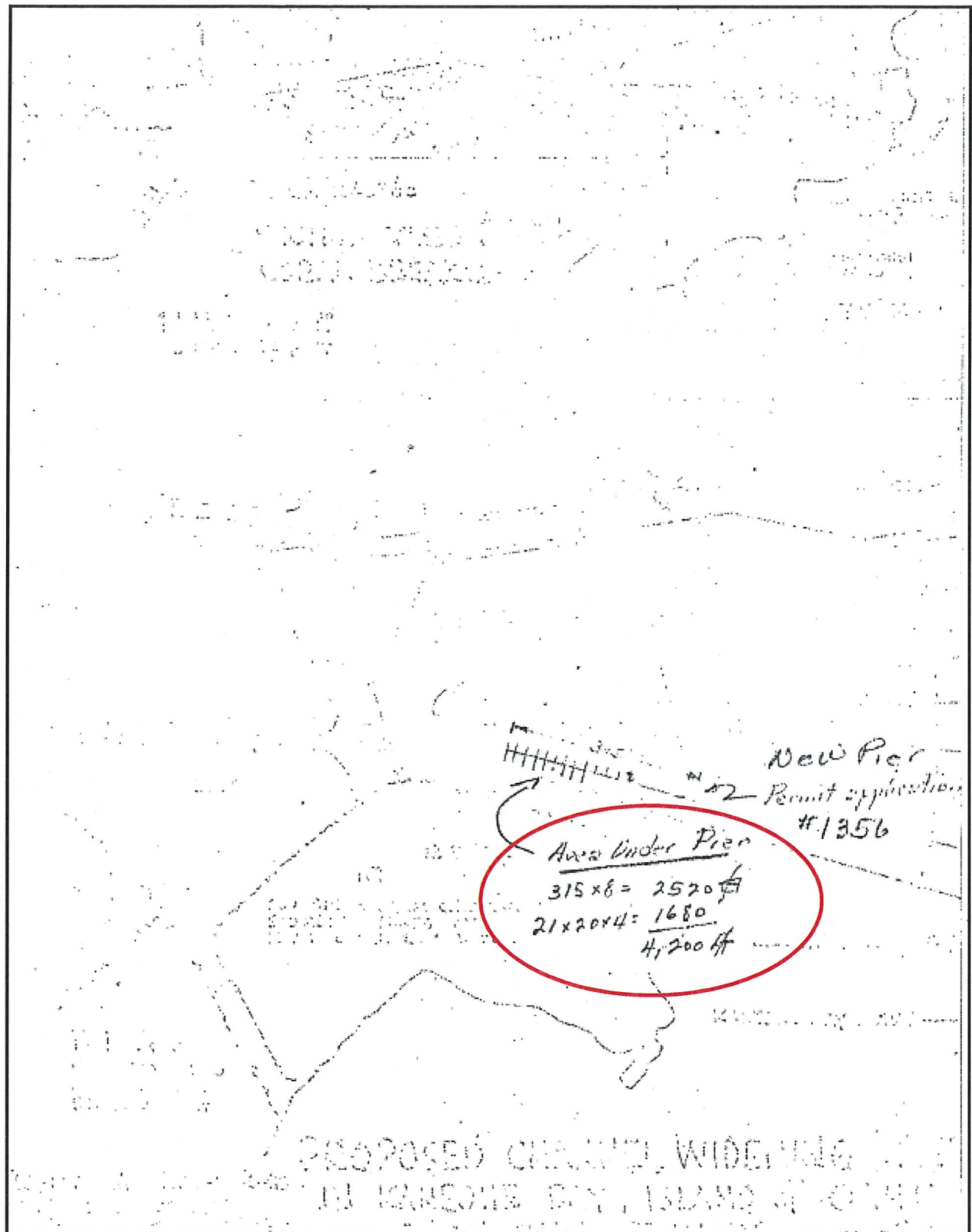




Photo: Floating Metal Pier with Rubber-type Lining



Photo: 2 Wooden Piers

EXHIBIT F





Photo: Wooden Walking Plank



Photo: Wooden Walking Plank



Photo: Boat Ramp

<p>DAVID Y. IGE GOVERNOR OF HAWAII</p>	<p>RECEIVED LAND DIVISION</p>		<p>SUZANNE B. CASE CHAIRPERSON BOARD OF LAND AND NATURAL RESOURCES COMMISSION ON WATER RESOURCE MANAGEMENT</p>
	<p>16 SEP -1 AM 10:49</p>	<p>STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES</p>	<p>KEKOA KALUHIWA FIRST DEPUTY</p>
		<p>POST OFFICE BOX 621 HONOLULU, HAWAII 96809</p>	<p>JEFFREY T. PEARSON, P.E. DEPUTY DIRECTOR - WATER</p>
			<p>AQUATIC RESOURCES BOATING AND OCEAN RECREATION BUREAU OF COAST GUARDS COMMISSION ON WATER RESOURCE MANAGEMENT CONSERVATION AND COASTAL LANDS CORRELATION AND RESOURCES ENFORCEMENT ENGINEERING FORESTRY AND WILDLIFE HISTORIC PRESERVATION KAHOOLAWE ISLAND RESERVE COMMISSION LAND STATE PARKS</p>

August 1, 2016

Ref. No.: RP 5407

Kaneohe Yacht Club
44-503 Kaneohe Bay Drive
Kaneohe, Hawaii 96744

Dear Permittee:

Subject: Revocable Permit No. 5407 for Recreational Pier Purposes, Kaneohe, Koolau-poko, Oahu; TMK (1) 4-4-022:seaward of 032

The intent of this letter is to inform you of a decision made by a recently organized task force that is responsible for management of State revocable permits.

The task force is comprised of Board members, the private sector, and staff. Their objective is to address the management of the statewide revocable permits authorized by the Board of Land and Natural Resources (Board). It is the task force's consensus that the revocable permits should be replaced with long term dispositions.

For the subject pier, the Board can authorize the issuance of a 55-year term, non-exclusive easement subject to a lump-sum payment as determined by an appraisal. The grantee is required to provide the State with the liability insurance policy naming the State as additional insured. The easement runs with the abutting private property, which means no new easement or payment is required during the 55-year term notwithstanding any change in property ownership. Other added costs for the easement process include appraisal fee and provision for map and description of the pier to be provided by a licensed land surveyor.

We believe a long term easement disposition is beneficial to both the owner and the State, as the subject revocable permit is revocable upon a 30-day notice authorized by the Board. Upon termination of the permit, the permittee is required to remove the pier at its own expense. Therefore, we strongly encourage you to consider obtaining a long-term disposition as described above.

If you have further questions, please feel free to contact my staff Barry Cheung at (808) 587-0430 or email barry.w.cheung@hawaii.gov or Cal Miyahara at (808) 587-0424 or email

EXHIBIT G

RP 5407

Page 2

calen.m.miyahara@hawaii.gov. We will appreciate if you would indicate your preference at the space provided below and return a copy of this letter to Oahu District Land Office by mail or fax (808) 312-6357.

We will greatly appreciate if you could respond to this letter within four (4) weeks from the date of this letter. We look forward to receiving your favorable response. Thank you.

Sincerely,



Suzanne D. Case
Chairperson

X Yes, we are interested in converting Revocable Permit No. 5407 to a 55-year, non-exclusive easement, subject to the approval by the Board of Land and Natural Resources described above. - WE WOULD LIKE TO DISCUSS OPTIONS, IF ANY

_____ No, we are not interested in converting Revocable Permit No. 5407 to a 55-year, non-exclusive easement described above.

Kaneohe Yacht Club



By: THOMAS L. WOOD
Its: VICE COMMODORE
Date: 29 AUG 2016



Kaneohe Yacht Club
44-503 Kaneohe Bay Drive
Kaneohe, Hawaii 96744

October 29, 2018

Mr. Cal Miyahara
State of Hawaii
Department of Land and Natural Resources
Land Division
P. O. Box 621
Honolulu, HI 96809


Re: Revocable Permit No. 5407

Dear Mr. Miyahara,

Kaneohe Yacht Club is in receipt of your letter dated October 10, 2018 regarding the State of Hawaii revocable permit 5407. We acknowledge there are inconsistencies between the area covered in the permit and the area of the current configuration of the piers. We have always diligently sought appropriate permits for construction but realize some areas do not have permits such as the bulkhead, boat ramp, two finger piers and a floating pier makai of the shoreline as indicated in your letter, however this may be due to less rigorous permitting procedures in previous times.

Regarding the longterm disposition of the RP, we remain committed to a conversion. During our last meeting on March 15, 2017 we agreed that there would be more research in to relaxing the non-exclusive easement clause in most easements of this type. One opportunity may be to agree that the easement is the projection of the pier area on the submerged land to which the public could access, however keeping privately constructed improvements non accessible to the public. If there are other options available to the Club, please let us know.

In any case we remain committed to the conversion process and look forward to the next step.

Aloha,

Frederic Berg
Commodore

Telephone (808) 247-4121 ☎ Fax (808) 235-8180 ☎ Email: kyc@kaneoheyachtclub.com
☎ Website: www.kaneoheyachtclub.com

2018 OCT 30 10:30 AM
LAND DIVISION
STATE OF HAWAII

EXHIBIT H