

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

March 22, 2019

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

PSF No. 19OD-009

Oahu

Cancellation of Governor's Executive Order Nos. 4135 and 4290; Issuance of Quitclaim Deed and Issuance of Management Right-of-Entry to Department of Education; Diamond Head and Kaimuki, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:035, 039 and (1) 3-2-037:027

APPLICANT:

Department of Education ("DOE").

LEGAL REFERENCE:

Sections 171-11, -55, and -95 and Sections 302A-1151.1 Hawaii Revised Statutes, as amended; and Act 210, SLH 2018.

LOCATION:

Portion of Government lands situated at Diamond Head and Kaimuki, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:035, 039 and (1) 3-2-037:027 as shown on the attached maps labeled as **Exhibit A-1 to A-3**.

AREA:

Tax Map Key	Area
(1) 3-1-042:035	6.535 acres, more or less
(1) 3-1-042:039	4.616 acres, more or less
(1) 3-2-037:027	2.68 acres, more or less

ZONING:

Tax Map Key: (1) 3-1-042:035

State Land Use District: Urban
City and County of Honolulu Land Use Ordinance: R-10
Special Districts: Diamond Head Special District

Tax Map Key: (1) 3-1-042:039

State Land Use District: Urban
City and County of Honolulu Land Use Ordinance: R-10
Special Districts: Diamond Head Special District

Tax Map Key: (1) 3-2-037:027

State Land Use District: Urban
City and County of Honolulu Land Use Ordinance: R-5

TRUST LAND STATUS:

Tax Map Key: (1) 3-1-042:035

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

Tax Map key: (1) 3-1-042:039

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

Tax Map Key: (1) 3-2-037:027:

Section 5(a) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Tax Map Key: (1) 3-1-042:035:

Governor's Executive Order No. 4290, setting aside 6.535 acres to Department of

Education for Public Education Purposes.

Tax Map Key: (1) 3-1-042:039:

Governor's Executive Order No. 4135, setting aside 4.616 acres to Department of Education for Repair and Maintenance Baseyard Purposes.

Tax Map Key: (1) 3-2-037:027:

Unencumbered. Acquired by Deed 1263 dated May 11, 1911 at a cost of \$8,000 for public use, to-wit, for a site for a public school building.

PERMITTED USES:

Use of public school lands, include but not limited to workforce housing, to generate revenue to build and retrofit 21st Century Schools and create more school-centered communities,

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR") Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and 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 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 44, that states "Transfer of title to land." (**Exhibit B**)

DCCA VERIFICATION:

Not applicable. Government agency.

APPLICANT REQUIREMENTS:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost for Tax Map Key: (1) 3-2-037:027.

REMARKS:

Tax Map Key: (1) 3-1-042:035

On August 27, 2009, Governor's Executive Order No. ("EO") 4290 set aside 6.535 acres, situated at 475 22nd Avenue, for a Public Education Purpose Site to be under the control and management of DOE. Currently the site houses staff from the Office of Curricular Services and includes warehouse and meeting space.

Tax Map Key: (1) 3-1-042:039

On November 10, 2005, EO 4135 set aside 4.616 acres, situated at 4087 Diamond Head Road, for a Repair and Maintenance Baseyard to be under the control and management of the DOE. Currently the site houses staff from the Office of School Facilities and Support Services, Facilities Maintenance Branch and includes storage, warehouse, workshop and staff office space.

Tax Map Key: (1) 3-2-037:027

On May 11, 1911 the property situated as 3633 Waiālae Avenue was purchased by a deed for public use, to-wit, for a site for a public school. In 1912 the Queen Lydia Lili'uokalani Elementary School opened on the site. After the school was closed and renovations, the existing property now houses staff from the Office of School Facilities and Support Services, Assistant Superintendent Office, Facilities Development Branch Project Control, Safety, Security, and Emergency Preparedness Branch and Data Governance Branch.

By her letter dated January 23, 2019 (copy attached as **EXHIBIT C**), Dr. Christina Kishimoto, Superintendent of DOE has requested the fee simple interest in the subject parcels in order to allow for the DOE to redevelop the sites pursuant to Act 155, SLH 2013 which established a Pilot Program to generate revenue by leasing of public school lands to improve public school facilities and infrastructure to meet the challenge of the 21st Century Schools and to improve the overall quality of education in Hawaii. Act 210, SLH 2018 allows the DOE to hold fee simple title to properties it presently occupies.

Staff recommends that a reverter clause be included in the deed that will provide that in the event the land is used for purposes that are inconsistent with generating of revenue for the purposes to build and retrofit 21st Century Schools and create more school-centered communities, then the title to the land shall automatically revert to the Board. Staff believes the reverter will help ensure the corpus of the public trust land inventory will not be depleted in the future.

Any redevelopment involving non-school purposes shall require compliance with all City

and County Plans, Ordinances, zoning and development codes; and Chapter 343, Environmental Assessment.

Staff notes that any executive order signed by the Governor is subject to disapproval by the Legislature in the next following session. Therefore, staff recommends the Board authorize the issuance of a management right-of-entry while the cancellation EO is subject to legislative review and pending the issuance of the quitclaim deed.

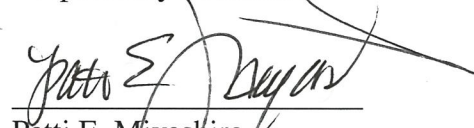
The Division of State Parks and the City and County of Honolulu, Department of Planning and Permitting have no objections/comments and concur to the proposed EA exemption. Division of Historic Preservation; Office of Hawaiian Affairs; Department of Education; City and County Parks and Recreation, Transportation Services, Board of Water Supply and Facility Maintenance have not responded to solicitation for comments before the deadline.

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 of and recommend to the Governor issuance of an executive order canceling Governor's Executive Order Nos. 4135 and 4290 and further subject to the following:
 - A. The standard terms and conditions of the most current executive order document form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - 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.
3. Issuance of a management right-of-entry to the Department of Education covering the subject areas under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

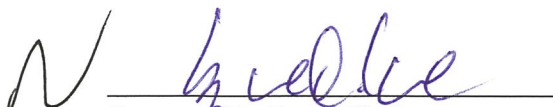
- A. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time;
 - B. The right-of-entry permit shall expire upon issuance of the requested quitclaim deed; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize issuance of a quitclaim deed to the Department of Education covering the subject area 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 quitclaim deed form, as may be amended from time to time;
 - B. In the event the Department of Education uses the land for purposes that are inconsistent with generating of revenue for the purposes to build and retrofit 21st Century Schools and create more school-centered communities, then the title to the land shall automatically revert to the Board of Land and Natural Resources;
 - 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,



Patti E. Miyashiro
Land Agent

APPROVED FOR SUBMITTAL:

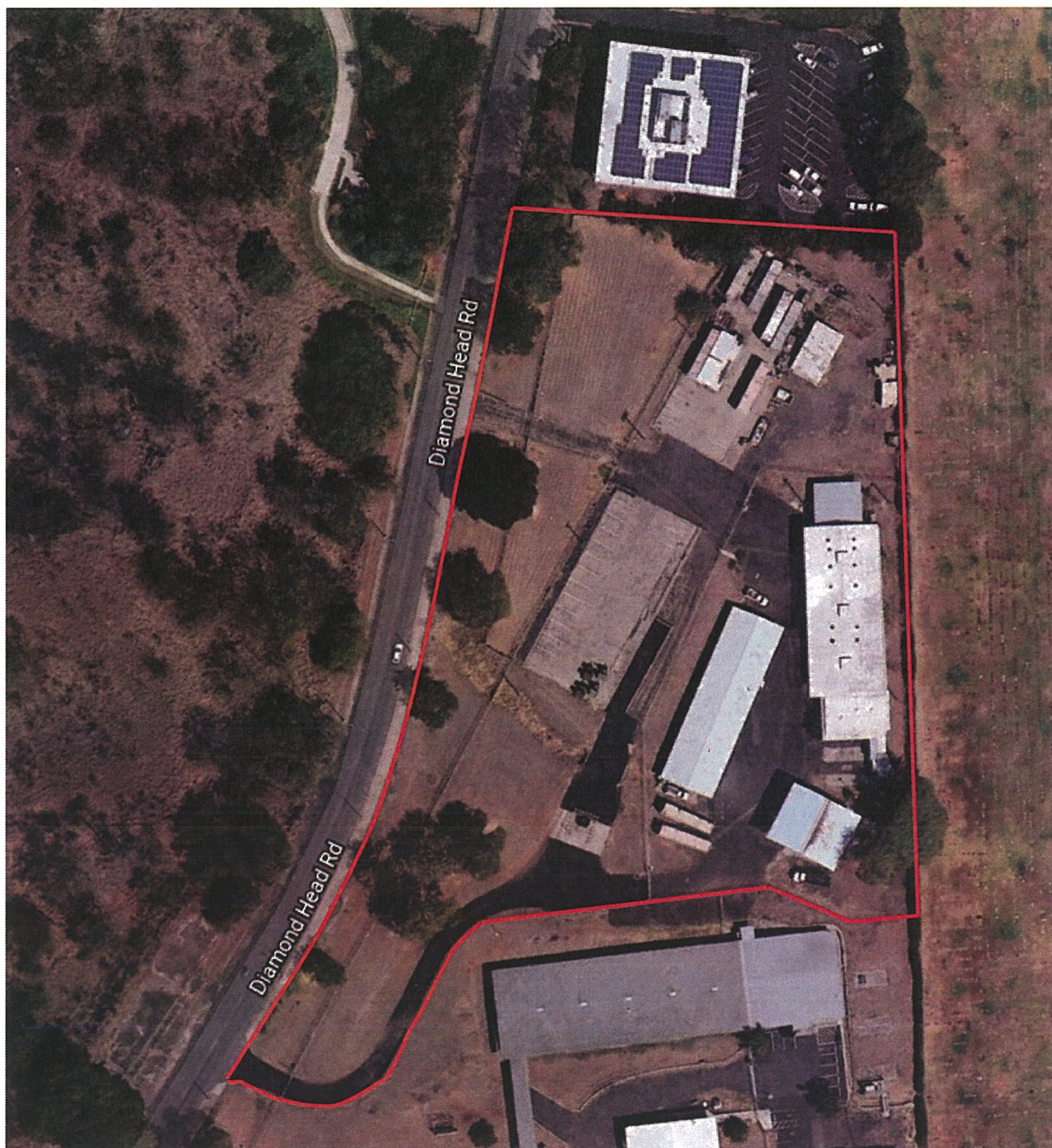


Suzanne D. Case, Chairperson



TMK (1) 3-1-042:035

EXHIBIT A-1



TMK (1) 3-1-042:039

EXHIBIT A-2



TMK (1) 3-2-037:027

EXHIBIT A-3

EXEMPTION NOTIFICATION

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

Project Title:	Cancellation of Governor's Executive Order Nos. 4135 and 4290; Issuance of Quitclaim Deed and Issuance of Management Right-of-Entry to Department of Education.
Project / Reference No.:	PSF 19OD-009
Project Location:	Fort Ruger, Diamond Head and Kaimuki, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:035, 039 and (1) 3-2-037:027.
Project Description:	Cancellation of Governor's Executive Order Nos. 4135 and 4290; Transfer title to the Department of Education.
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 and dated 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 44, that states "Transfer of title to land."
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No. Staff anticipate there are no planned successive actions in the same place.
Action May Have Significant Impact on Particularly Sensitive Environment?	No. Staff anticipate there are no planned activities at the subject location.
Consulted Parties:	Agencies as noted in the submittal.

EXHIBIT B

Analysis:

The request is pursuant to Act 210, SLH 2018 which allows the Department of Education to hold fee simple title and Act 155, SLH 2013 which established a pilot project to optimize use of public school lands to generate revenue for public purposes to build and retrofit 21st Century Schools and create more school-centered communities.

Recommendation:

It is recommended that the Board find that 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.

DAVID Y. IGE
GOVERNOR




DR. CHRISTINA M. KISHIMOTO
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

January 23, 2019

TO: The Honorable Suzanne Case
Chairperson, Department of Land and Natural Resources

FROM: Dr. Christina M. Kishimoto
Superintendent 

SUBJECT: Request the Conveyance of State Owned Lands Located Along
Diamond Head Road to the Department of Education (TMK 3-1-042:035
& TMK 3-1-042:039)

The Department of Education (DOE) currently uses the properties at 475 22nd Avenue (TMK 3-1-042:035), 3633 Waiālae Avenue (TMK 3-2-037:027), and 4087 Diamond Head Road (TMK 3-1-042:039). The subject properties house the Office of Curriculum and Instructional Design, the Office of School Facilities and Support Services, and Facilities Maintenance Branch equipment and personnel. These sites have recently been identified as possible "Pilot Program Sites" for redevelopment of the DOE controlled lands (pursuant to Act 155, 2013 SLH).

The purpose of Act 155 is to optimize the use of public school lands to generate opportunities to improve public school facilities and infrastructure to meet the challenges of the 21st Century Schools and to improve the overall quality of education in Hawaii. In particular, this Act establishes a pilot program to generate revenue from uses for public purposes, such as workforce housing, to build and retrofit 21st Century Schools and create more school-centered communities. The pilot program will lay important groundwork for a statewide approach and plan to optimize public school lands and modernize public school facilities.

At the direction of the Board of Education - Finance and Infrastructure Committee, the DOE conducted a "Request for Information" (RFI) process in the fall of 2018. The purpose of the RFI process was to determine the level of interest in some of the DOE controlled sites. The subject sites were sites that developers expressed interest in redeveloping. With the assistance of the Hawaii Housing Finance Development Corporation, the DOE is pursuing redevelopment of the subject sites.

AN AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY EMPLOYER

EXHIBIT C

The Honorable Suzanne Case
January 23, 2019
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Act 210, 2018 SLH was signed into law by the Governor on July 10, 2018. Act 210 allowed the DOE to hold fee simple title to properties it presently occupies. Act 210 conveyed the fee simple interest in several DOE controlled sites from the City and County of Honolulu to the DOE.

Insofar as the DOE is able to hold title to real estate it occupies, we respectfully request that the fee simple interest in these subject properties be conveyed from the Department of Land and Natural Resources to the DOE in order to allow for the DOE to redevelop the site pursuant to Act 155.

Should you have any questions or require any additional information, please feel free to contact Dann Carlson, Assistant Superintendent of the Office of School Facilities and Support Services, at 784-5000.

CMK:kgm

c: Office of School Facilities and Support Services
Facilities Development Branch