

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

March 8, 2019

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

PSF No.: 18OD-153

OAHU

Issuance of Direct Lease to People & Pet Park, Inc. for Community Dog Park Purposes, Cancellation of Revocable Permit No. S-7743 at Diamond Head, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:012.

APPLICANT:

People & Pet Park, Inc., a domestic non-profit corporation and 501(c)(3) eleemosynary organization.

LEGAL REFERENCE:

Sections 171-43.1, -55 Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Portion of Government lands situated at Diamond Head, Honolulu, Oahu, identified by Tax Map Key: (1) 3-1-042:012, as shown on the attached map labeled **Exhibit A**.

AREA:

1.461 acres, more or less.

ZONING:

State Land Use District: Urban
City & County of Honolulu LUO: P-2 General Preservation District

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Encumbered by Revocable Permit No. S-7743 to People and Pet Park, Inc. for passive people and pet theme park purposes.

CHARACTER OF USE:

Community dog park purposes.

LEASE TERM:

Twenty (20) years.

COMMENCEMENT DATE:

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

ANNUAL RENT:

\$480 per annum (Minimum Rent Policy for New Dispositions, May 13, 2005).

METHOD OF PAYMENT:

Annual payment, in advance.

RENTAL REOPENINGS:

At the end of the 10th year of the lease, subject to the Board's then prevailing minimum rent policy for eleemosynary organization.

PERFORMANCE BOND:

Twice the annual rental amount.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule ("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 on 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", and Item 47, which states "leases of state land 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>
Good standing confirmed:	YES <u> x </u>	NO <u> </u>

APPLICANT REQUIREMENTS:

None. According to DAGS Survey Division there are documents on file sufficient to prepare a map and legal description for the subject request.

REMARKS:

The subject parcel was formerly part of the Fort Ruger Military Reservation before being turned over to the State of Hawaii in 1970. The area was open and unencumbered land until October 30, 1997, when the Board of Land and Natural Resources approved under agenda Item D-4 the issuance of Revocable Permit No. (“RP”) 7135 to Clark Hatch Fitness Center for passive people and pet theme park purposes. On November 22, 2010, Item D-1, RP7135 was replaced by RP7743 with updated insurance provisions.

Mr. Clark Hatch, in an effort to develop and manage the newly permitted area, now called “Bark Park”, founded a domestic non-profit corporation and 501(c)(3) organization, People and Pet Park, Inc., in November of 1997. The purpose of the non-profit organization as stated in the Articles of Incorporation is, “the promotion of pet health and fitness, the maintenance and caring of one or more parks for the use of people and pets for the general welfare of the community at large.” The non-profit organization is seeking a direct lease to continue utilizing the area for the enjoyment of pet owners and their dogs. A copy of the lease application and qualification questionnaire completed by People and Pet Park, Inc. is attached as **Exhibit C**, while the Articles of Incorporation and other documentation submitted with the Non-Profit Application and Qualification Questionnaire are kept in the file.

The Bark Park was one of the first off-leash dog parks established on Oahu, installing perimeter fencing, water pipes, irrigation system, and providing benches and tables for park users. The parking area for visitors to the dog park is opposite the subject area across Diamond Head road. The parking area is under the management of the Division of State Parks on the slope of Diamond Head crater and is shared with the American Red Cross. Mr. Clark Hatch has received many accolades from the community as well as Government officials for creating and maintaining the area, among these are former Governor Ben Cayetano’s commendation letter dated March 6, 1999, former Council Member Duke Bainum’s congratulation letter dated September 29, 1998, former Mayor Peter Carlisle’s proclamation dated November 16, 2012, and the Hawaii State Senate’s commendation dated November 3, 2012.¹

¹ Letters, proclamation, and commendation are kept in file.

The Hawaiian Humane Society website lists four (4) other off-leash dog parks on Oahu, all under the City and County of Honolulu (“City”). The two closest dog parks from the Diamond Head Bark Park are the Ala Wai Dog Park, approx. 2.5 miles away near Iolani School, and the Hawaii Kai Dog Park, approx. 6.5 miles away on Keahole Street, and the other two dog parks are Moanalua Dog Park approx. 9.7 miles away, and Mililani Dog park 22.8 miles away. All four of the facilities are similar with fenced areas, drinking water for pets, trash receptacles, and benches. Bark Park and Hawaii Kai Dog Park both supply plastic bags for waste disposal and are similar in usable area, about 1.4 acres and Ala Wai Dog Park is only about 0.25 acres. The City’s dog parks have segregated fenced areas for small and large dogs and Bark Park is not segregated.

The applicant is seeking the minimum rent in line with the non-profit’s goals and objectives of only obtaining a sufficient amount of donations to match the minimal expenses for maintaining the park in good condition, also the Board of Directors and Executive positions are voluntary and without monetary compensation. The applicant has submitted income and expense statements for the last three years along with a letter explaining why the organization does not have annual audited financial statements, attached as **Exhibit D**.

The Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. All the terms and conditions of RP7743 are in compliance. Staff inspected the subject area prior to this submittal and found the subject area to be kept satisfactorily, fence in good condition, double gate system entry/exit for safety so pets do not slip out without owner, water available for animals, trees are trimmed, and sanitation addressed with lidded trash receptacles.

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

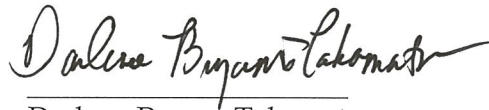
Staff recommends the Board authorize the issuance of a direct lease to the applicant at a rent of \$480 per annum due to service provided to the community at large described in the submittal. In addition, the requested lease follows the Board’s directive of converting revocable permits into long term dispositions, if appropriate.

RECOMMENDATION: That the Board authorize the issuance of a direct lease People & Pet Park, Inc. covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

1. Declare that, after considering the potential effects of the requested direct lease 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.

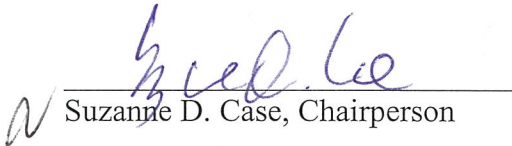
2. Find that the public interest merits the issuance of a new direct lease to the People & Pet Park, Inc. for community dog park purposes.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a direct lease to the People & Pet Park, Inc., covering 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 nonprofit lease document 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.
4. Cancellation of Revocable Permit No. S-7743 upon issuance of the requested lease.

Respectfully Submitted,

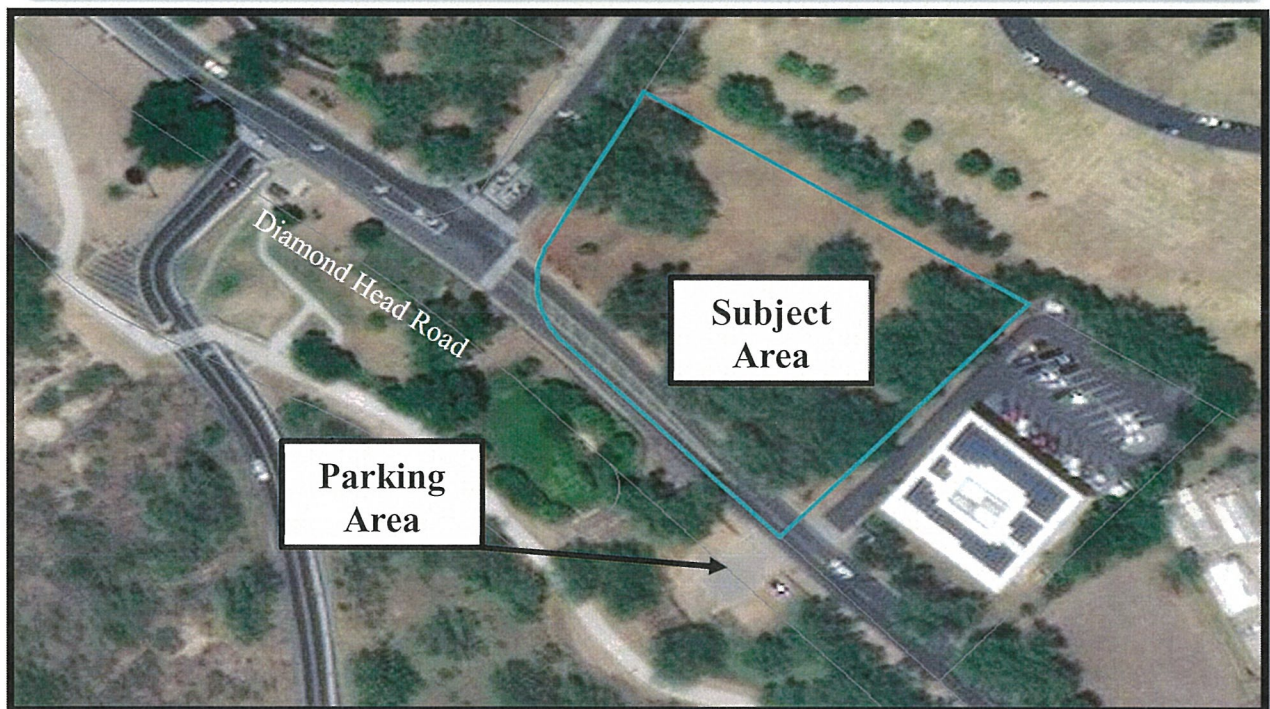


Darlene Bryant-Takamatsu
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



TMK: (1) 3-1-042:012

Exhibit A

EXEMPTION NOTIFICATION

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

Project Title:	Issuance of Direct Lease to People & Pet Park, Inc. for Community Dog Park Purposes, Cancellation of Revocable Permit No. S-7743.
Project / Reference No.:	PSF 18OD-153
Project Location:	Diamond Head, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:012.
Project Description:	Issuance of Direct Lease for Community Dog Park Purposes
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on 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" and Item 47, which states that "leases of state land involving negligible or no expansion or change of use beyond that previously existing."
Cumulative Impact of Planned Successive Actions in Same Place Significant:	No. There are no permanent above ground structures. Activities in the subject area have resulted in no known significant impact to the natural and environmental resources in the area.
Action May Have Significant Impact on Particularly Sensitive Environment:	Staff is not aware of any particularly sensitive environmental issues and use of the area would change negligibly from what is existing.
Consulted Parties	Agencies as noted in the submittal.
Analysis:	Based on the above mentioned, staff believes there would be no significant impact to the environment.
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 B

APPLICATION AND QUALIFICATION QUESTIONNAIRE
(Non-Profit)

Write answers in the spaces provided. Attach additional sheets as necessary, clearly indicating the applicable section number.

Part I: General Information

1. Applicant's legal name: PEOPLE & PET PARK, INC.
2. Applicant's full mailing address:
[REDACTED]
3. Name of contact person: CLARK G. HATCH
Contact person Phone No.: [REDACTED] Fax No.: [REDACTED]
4. Applicant is interested in the following parcel:
Tax Map Key No.: (1) 3-1-042:012 Location: DIAMOND HEAD ROAD & 18TH AVENUE

If Applicant is current lessee: General Lease No.: REVOCABLE PERMIT NO. 5-7743

5. When was Applicant incorporated? NOVEMBER 18, 1997
6. Attach the following:
 - A. Articles of Incorporation
 - B. Bylaws
 - C. List of the non-profit agency's Board of Directors
 - D. IRS 501(c)(3) or (c)(1) status determination
 - E. Tax clearances from State of Hawaii and respective county Real Property Tax Office.
 - F. Audited financial statements for the last three years. If not audited, explain why.
If Applicant is a new start-up, attach projected capital and operating budgets.
 - G. Any program material which describes eligibility requirements or other requirements to receive services

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Part II: Qualification

7. Is Applicant registered to do business in Hawaii: Yes
8. Has Applicant received tax exempt status from the Internal Revenue Service? Yes
9. Is Applicant licensed or accredited in accordance with federal, State or county statutes, rules, ordinances, to conduct the proposed activities? Yes

List all such licenses and accreditations required: FEDERAL IRS, STATE TAX EXEMPT, STATE BUSINESS REGISTRATION

10. Is Applicant in default or otherwise not in good standing with any State department (e.g. POS agency, DCCA, DLNR, etc.)? No

If yes, explain:

11. Has Applicant had a State of Hawaii lease, permit, license, easement or sale in fee cancelled within the last five years? If yes, list: No

<u>Doc. No.</u>	<u>Type of Agreement</u>	<u>Term of Agreement</u>

12. Does Applicant have any policies which discriminate against anyone on the basis of race, creed, color, national origin, sex or physical handicap? No

If yes, explain:

13. Has Applicant received funding from a federal, State, or county government agency, the Aloha United Way, and/or a major private foundation within the last three years? Please list all such contracts below: No

<u>Agency</u>	<u>Contract Term</u>	<u>Contract Amount</u>
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$

14. If Applicant has not received funding from a federal, State or county government agency, the Aloha United Way and/or a major private foundation during the past three years, describe Applicant's qualifications to effectively perform the proposed services, including but not limited to, grants or subsidies received from non-major, private funders and/or staff or Board members who possess significant experience in Applicant's service field.

See Governor Gayetano commendation, March 6, 1999, Councilmember Duke Bainum's

congratulations, September 29, 1998, Mayor Peter B. Carlisle proclamation, November 16, 2012,
The Hawaii State Senate commendation, November 3, 2012

Part III: Program Activities and Persons to be Served

15. What activities will be conducted on the premises to be leased?
A community park for residents and their dogs to exercise and socialize.
-
-
-
16. What are the specific objectives of these activities?
For health and welfare of people and dogs.
-
-
-
17. Describe the community need for and the public benefit derived from these activities.
Approximately 50% of residents in Hawaii have dogs as part of their family. This park enables
them to play, exercise and socialize in a safe setting.
-
-
-
18. Describe the targeted population for these activities by: 1) age group, 2) gender, 3) ethnic
background, 4) income level, 5) geographic location of residence, 6) special needs/disability, and
7) other applicable characteristic(s).
All ages are welcome but children under age 12 must be accompanied by an adult. All dogs of
every breed and size are welcome but must have a C&C license and be up to date on their
vacinatons and health requirements.
-
-
-
19. Describe all eligibility requirements of clients to participate in the activities, e.g. age, income level,
ethnic background, income level, disability, etc.
All adults, income levels and ethnic backgrounds are welcome.
-
-
-
-

20. Do you require membership to participate in these activities? No
If yes, list the requirements of becoming and remaining a member:

21. How many unduplicated persons will engage in the activities annually?

<u>Activity</u>	<u>Persons Per Year</u>
<u>exercising and socializing.</u>	<u>4,000</u>
<hr/>	<hr/>
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22. Is State funding made available for the activities to be conducted on the leased premises? No

If yes, by which State agency:

23. List all activities to be conducted on the leased premises which require payment of excise taxes, e.g. subleasing, sale of products or services. Include an estimate of annual gross revenues from each activity.

None

Development of the Land

24. Describe the proposed site development plan for the property, indicating the location and size of buildings, parking areas, landscaped areas and related uses. Attach sketch of plan if available.
Established a 4' parameter fence

Installed city water

Planted grass and pruned trees

Installed benches and tables

Installed an irrigation system

25. What improvements to the land do you intend to make and at what cost?

We've removed invasive plants.

Removed asphalt left over from road repairs.

Cut over-hanging branches from trees

26. How will the improvements be funded?

User donations

27. Describe all environmental, land use and other permitting requirements which must be met to develop the land as proposed.

None

28. Will you be subleasing any portion of the property? If yes, describe the sublease uses:

No

Part V: Notarized Certification

I/We hereby certify that the statements and information contained in this Application and Questionnaire, including all attachments, are true and accurate to the best of my/our knowledge and understand that if any statements are shown to be false or misrepresented, I/we may be disqualified from receiving a lease or my/our lease may be canceled.

CLARK G. HATCH

Applicant Name

Clark G Hatch

Applicant Name

By: Clark G Hatch

By: _____

Its: People & Pet Park Inc

Its: _____

Date: 26 Dec 2018

Subscribed and sworn to before me this

____ day of _____, 20____.

Notary Public

See Attached For Notarial
Acknowledgement or Jurat Certificate

County of: _____

State of: _____

My commission expires: _____

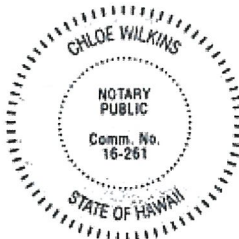
STATE OF HAWAII

CITY AND COUNTY OF HONOLULU } SS.

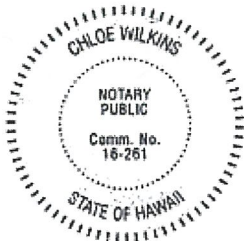
Acknowledgement Certificate for a Corporation Or Partnership

On this 26th day of December, 20 18, A.D.,
before me personally appeared Clark Bail Hatch,
who proved to me on the basis of satisfactory evidence to be the person
who appeared before me this day, being duly sworn (or affirmed), did
say that the person is the President of
People and Pet Park INC, and that the instrument was
signed in behalf of the corporation (or partnership), by authority of its
board of directors, partners or trustees, and he acknowledged the
instrument to be the free act and deed of the corporation (or partner-
ship).

Chloe Wilkins
Notary Public, State of Hawaii
My Commission Expires:
July 10, 2020



Chloe Wilkins 12-26-18
CHLOE WILKINS, Notary Public, State of Hawai'i Date
My commission expires: **July 10th, 2020**



Document Description: Application and Qualification Questionnaire

Date of Document: 12-26-18 No. of Pages: 4

Chloe Wilkins 12-26-18
CHLOE WILKINS, Notary Public, State of Hawai'i Date
First Circuit Court

December 6, 2018

People & Pet Park Inc.
aka Bark Park

Gentlemen:

This is in response and explanation to your request as to why People & Pet Park Inc. does not need or not have annual audited financial statements.

Simply, it is cost prohibitive for this small tax-exempt organization to have audits done as its gross receipts from public donations average less than \$12,000 per year, which is planned to be just sufficient to maintain the Diamond Head Bark Park grounds.

The organization has a volunteer board of directors and volunteer executives who manage the organization's finances, and whose goals and objectives are to obtain only sufficient amount of donations to match the minimal expenses for maintaining the park in good condition; not to obtain funds to pay overhead, labor and other expenses.

The organization has no physical office and its expenses, outside of park maintenance, are minimal.

Such that its expenses are minimal, there is no need to obtain excessive public support beyond the maintenance needs of the park, much less to afford annual audits.

The records are so minimal that any board member, who so chooses, may review and understand the finances without much time and effort.

The organization files annually with the IRS "e-Postcard Form 990-N" for organizations whose annual gross income is \$50,000 or less.

<https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>

We trust this explains to your satisfaction why People & Pet Park Inc. aka Bark Park does not need nor have annual audits.

Very truly yours,


Clark G. Hatch
President & Treasurer

Exhibit D

PEOPLE & PET PARK INC.**2017 INCOME/EXPENSE**

Donations received -	\$9,886.00
Expenses -	\$8,419.06
	<hr/>
	\$1,466.94

PEOPLE & PET PARK INC.**2016 INCOME/EXPENSE**

Donations received -	\$9,059.60
Expenses -	\$7,185.62
	<hr/>
	\$1,873.98

PEOPLE & PET PARK INC.**2015 INCOME/EXPENSES**

Donations	\$ 14,432.00
Operating expenses	\$ 11,363.61
	<hr/>
	+ \$ 3,068.39