

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-025

Oahu

Cancellation of Governor's Executive Order No. 2596 and Reset Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation for Haleiwa Small Boat Harbor, Paalaa and Kawailoa, Waialua, Oahu, Tax Map Key: (1) 6-2-003:011; 6-6-001:025, 052 and 053; and 6-6-002:003 to 006.

APPLICANT:

Department of Land and Natural Resources, Division of Boating and Ocean Recreation
("DOBOR")

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands and submerged lands of Waialua Bay situated at Paalaa and Kawailoa, Waialua, Oahu, identified by Tax Map Key: (1) 6-2-003:011; 6-6-001:025, 052 and 053; and 6-6-002:003 to 006, as shown outlined in red on the attached **Exhibit A**.

AREA:

31.024 acres, more or less.

ZONING:

State Land Use District: Urban/Conservation

City and County of Honolulu LUO: I-3 (Waterfront Industrial District)

TRUST LAND STATUS:

Acquired after Statehood, i.e. non-ceded.

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

CURRENT USE STATUS:

Executive Order No. (“EO”) 2596 setting aside 31.024 acres to Department of Transportation (Harbors Division) for Haleiwa Beach Restoration and Small Boat Harbor purposes.

PURPOSE OF SET ASIDE:

Haleiwa Small Boat Harbor purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

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, 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." Item No. 43 that states "transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order". See **Exhibit B**.

APPLICANT REQUIREMENTS:

None

REMARKS:

Act 272, Session Laws of Hawaii 1991, transferred jurisdictional control and management responsibilities of 54 small boat harbors, launching ramps, jetties, wharves and landings in the State from the Department of Transportation (Harbors Division) to DOBOR. Since the passage of Act 272, various Board actions and executive orders subsequently issued had transferred various boating facilities to DOBOR. Under separate items on today's agenda, staff requests Board authorization for the transfer of the remaining facilities on Oahu, which are Haleiwa and Ala Wai Small Boat Harbors.

The Haleiwa Small Boat Harbors is located on the north coast of Oahu at the head of Waialua Bay with 64 berths, 26 moorings, two (2) loading docks, and three ramps. Recreational and commercial fishing and tour boats regularly use the facilities of the

harbor, which include a harbor agent office, comfort station, dryland storage and vessel washdown area.

Portion of the harbor has already been set aside to DOBOR pursuant to EO 3964 issued in 2003 as shown on Exhibit A. Today's request pertains to the portions encumbered by EO 2596.

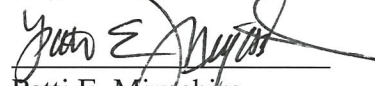
DOBOR does not have any objections to the request and concurs to the proposed environmental assessment exemption declaration attached as Exhibit B. Staff did not solicit comments from other agencies as this action was legislatively mandated.

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 No. 2596 and subject to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote 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. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote 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;

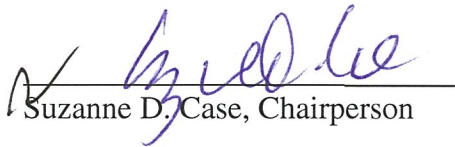
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Patti E. Miyashiro
Land Agent

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



TMK: (1) 6-2-003:011; 6-6-001:025, 052 and 053; and 6-6-002:003 to 006.

EXHIBIT A

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 No. 2596 and Reset Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation for Haleiwa Small Boat Harbor.

Project / Reference No.: PSF 19OD-025

Project Location: Paalaa and Kawailoa, Waialua, Oahu, Tax Map Key: (1) 6-2-003:011; 6-6-001:025, 052 and 053; and 6-6-002:003 to 006.

Project Description: Transfer of management jurisdiction to the Division of Boating and Ocean Recreation, pursuant to Act 272, SLH 1991.

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, 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." Item No. 43 that states "transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order".

The request is pursuant to Act 272, SLH 1991, which transferred jurisdictional control and management responsibilities of fifty-four (54) small boat harbors, launching ramps jetties, wharves and landings in the State of Hawaii from Department of Transportation, Harbors Division to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation.

Cumulative Impact of
Planned Successive
Actions in Same Place
Significant: No. This request is pertaining to a transfer of controlling and management authority. The request involves negligible expansion or change in use of the subject area beyond previously existing.

EXHIBIT B

Action May Have
Significant Impact on
Particularly Sensitive
Environment:

No. This request is pertaining to a transfer of controlling and management authority. The request involves negligible expansion or change in use of the subject area beyond previously existing.

Consulted Parties

Division of Boating and Ocean Recreation.

Analysis:

Based on the above analysis, staff recommends the Board declare this request be exempted from the preparation of an environmental assessment.

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.