

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

December 13, 2019

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

RPS -7789

Hawaii

Cancellation of Revocable Permit No. S-7789, IWF KKH, LLC, Permittee; Issuance of New Revocable Permit to BREIT KONA TRS LLC, Lanihau 1st, North Kona, Hawaii, Tax Map Key: (3) 7-5-006:022.

APPLICANTS:

IWF KKH, LLC, a Hawaii Limited Liability Company
BREIT KONA TRS LLC, a Delaware Limited Liability Company

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Lanihau 1st, North Kona, Hawaii, identified by Tax Map Key: (3) 7-5-006:022, as shown on the attached map labeled Exhibit A.

AREA:

0.310 acre, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Open

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-7789, IWF KKH, LLC, Permittee, for beach concession and landscaping purposes.

CHARACTER OF USE:

Landscaping, canoe storage and beach recreational equipment rental purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$881.04 per month/\$10,572.48 annually. This amount is a 3% increase over the 2019 rent and is consistent with the increases to other similar revocable permits in the area.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on 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," and Item 51 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing." Refer to attached Exhibit B.

DCCA VERIFICATION:

BREIT KONA TRS LLC:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

REMARKS:

The subject parcel, located between the King Kamehameha Kona Beach Hotel and the Kailua Kona Pier, has historically been used by various canoe clubs since the early 1970's, for storing their canoes during paddling season.

Upon completed construction of the hotel in 1975, Revocable Permit No. S-3088 was issued to Amfac for landscaping and beach concession purposes. The beach

concession consisted of a small kiosk renting snorkel gear to guests and the occasional event related activities during Ironman, parades, etc. The hotel continued to permit the canoe clubs to store their canoes during paddling season.

At its meeting of March 22, 1991, agenda item F-1-e, the Board cancelled Amfac's revocable permit and issued a new revocable permit (S-6754) to HKK. Inc, the new owners of the hotel properties, covering the same premises, for the same use.

At its meeting of January 11, 2008, agenda item D-6, the Board cancelled S-6754 and issued a new revocable permit to the current permittee, as the new owner of the hotel properties.

IWF KKH, LLC is now requesting cancellation of Revocable Permit No. S-7789 and issuance of a new revocable permit to, BREIT KONA TRS LLC, which purchased the hotel properties in January 2019. The new permit will be for the same premises and the same use. The current permit allows for use by various canoe clubs at the permittee's discretion. Also, the permittee shall not preclude free public use and enjoyment of the premises.

Various agencies were consulted, and responses are listed in the following table:

Federal Agencies	Response
Corps of Engineers	No Response
State Agencies	Response
Department of Hawaiian Homelands	No Response
State Historic Preservation	No Response
State Parks	No Comments
Hawaii County Agencies	Response
Planning	No Objections/Comments
Parks & Recreation	No Response
Public Works	No Response
Water Supply	No Objections
Other Agencies & Interested Parties	Response
Office of Hawaiian Affairs	No Response

The current and past use is allowable under the county zoning, which is Open. State land use is Urban.

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.

The proposed use has continued since the early 1970's and will continue. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

RECOMMENDATION: That the Board:


1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, 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. Authorize cancellation of Revocable Permit No. S-7789 to IWF KKH, LLC and the issuance of a new revocable permit to BREIT KONA TRS LLC covering the subject area for landscaping, canoe storage and beach recreational equipment rental 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 revocable permit 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.

Respectfully Submitted,



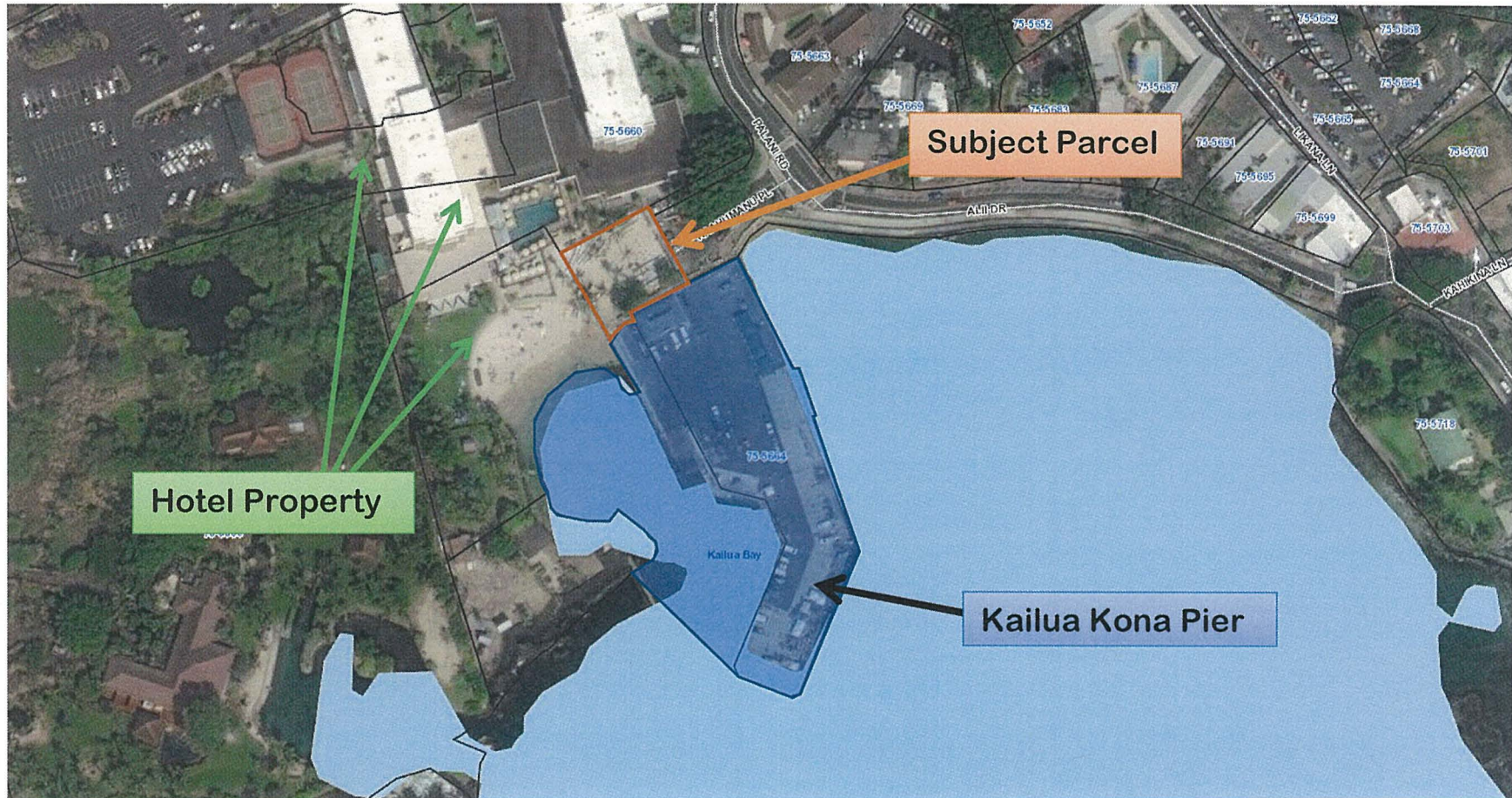
Candace Martin
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

EXHIBIT A



DAVID Y. IGE
GOVERNOR OF HAWAII

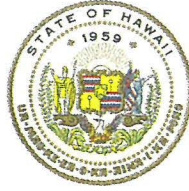


EXHIBIT B

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

December 13, 2019

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1, Hawaii Administrative Rules (HAR):

Project Title:	Cancellation of Revocable Permit No. S-7789, IWF KKH, LLC, Permittee; Issuance of New Revocable Permit to BREIT KONA TRS LLC.
Project / Reference No.:	RP S-7789
Project Location:	Lanihau, North Kona, Hawaii, Tax Map Key: (3) 7-5-006:022.
Project Description:	Cancellation and reissuance of a revocable permit for beach concession and landscaping purposes.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No. and Description:	In accordance with HAR § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on 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," and Item 51 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."
Cumulative Impact of Planned Successive Actions in Same Place Significant?:	No. There is no planned expansion of use beyond the current use.
Action May Have Significant Impact on Particularly Sensitive Environment?:	
Analysis:	No. There are no particularly sensitive environmental issues involved with the proposed use of the property. The subject actions do not

involve an expansion or change of use beyond that previously existing.

Consulted Parties:

State Agencies: Department of Hawaiian Homelands, Division of Boating & Ocean Recreation, Historic Preservation and Parks.

County of Hawaii Agencies: Planning, Parks & Recreation, Public Works and Water Supply.

Other Agencies : US Army Corp of Engineers and Office of Hawaiian Affairs.

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.