

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

September 11, 2020

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

PSF No.: 20KD-070

Kauai

Issuance of Direct Lease to Regenerations International Botanical Garden for Intensive Agricultural Use Purposes; Issuance of Immediate Management Right-of-Entry Permit; Kapaa, Kawaihau, Kauai, Hawaii; Tax Map Keys: (4) 4-6-005: 007 & 008.

APPLICANT:

Regenerations International Botanical Garden (RIBG), a Hawaii non-profit organization.

LEGAL REFERENCE:

Section 171-43.1, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Kapaa Homesteads, First Series situated at Kapaa, Kawaihau, Kauai, identified by Tax Map Keys: (4) 4-6-005: 007 & 008, as shown on the attached map labeled Exhibit A.

AREA:

5.11 acres, more or less.

ZONING:

State Land Use District:	Agriculture
County of Kauai 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:

Vacant and unencumbered.

LEASE TERM:

Thirty (30) years.

COMMENCEMENT DATE:

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

ANNUAL RENT:

\$480.00 per annum (Minimum Rent Policy for New Dispositions, May 13, 2005).

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

The annual rent shall be reopened and redetermined at the 10th and 20th years of the lease term based on the Board's then-prevailing Minimum Rent Policy for eleemosynary organizations.

PERFORMANCE BOND:

Twice the annual rental amount.

PROPERTY CHARACTERISTICS:

Utilities – There are no utilities on the property.

Legal access to property – Staff has verified that there is legal access to the property off of Waiakea Road.

Subdivision – Staff has verified that the subject properties are legally subdivided lots.

Encumbrances – Staff has verified that no encumbrances exist on the property.

Improvements – There are no improvements to the property.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached below as Exhibit B.

DCCA VERIFICATION:

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

REMARKS:

The subject property was originally leased to John Contrades, III, under General Lease No. S-5579. The 30-year lease commenced on May 27, 1999, for intensive agricultural use purposes. On December 21, 2018, Mr. Contrades informed the Kauai District Land Office that he wanted to cancel his lease as he could no longer maintain the lease due to his age and increase in the rent. A final inspection was completed on June 19, 2019 and the property was found to be in acceptable condition, although it is becoming overgrown with guinea grass and albizia trees. See Exhibit C. RIBG is requesting the issuance of an immediate management right-of-entry permit in order to cut and maintain the albizia trees before they get too large and become a safety hazard.

The applicant's proposed intensive agricultural use of the property is similar to the intensive agricultural use that had previously existed.

RIBG is 501 (c)(3) community benefiting organization based in Kauai working to conserve plant diversity through community stewardship. Their mission is to support the conservation, cultivation and distribution of threatened plant diversity for the benefit of all life by designing, building, and implementing inclusive and sustainable community-based stewardship activities. It is RIBG's intent to return the overgrown parcels to an active functioning taro lo'i. The lo'i is intended to serve as an educational demonstration site. It will be a place where community members from Kaua'i and beyond can learn taro growing techniques and management through practical hands-on experience. There will be free taro propagation classes including how to identify the many different types of taro varieties and what different growing conditions they require. There will also be Hawaiian medicine (la'au lapa au) education including how to identify the different plants and herbs and how to prepare them. RIBG will also provide information on some of the history of the area and explain the importance of keeping ancient traditions alive in order to more efficiently use the land. They hope to positively impact the community by inspiring and training homeowners, farmers, and organizations to establish and maintain agricultural systems around Kaua'i and throughout Hawai'i. RIBG plans on offering all of their community classes for free or with nominal fees.

RIBG has applied for a 30-year direct lease at nominal rent for the continued use of the premises for intensive agricultural purposes.



The Board of Land and Natural Resources (Board) has authority to issue the leases at a nominal consideration and by direct negotiation to eleemosynary (charitable) organizations pursuant to the following authority:

**§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. [L1970, c 83, §5; am L 1971, c 100, §1; am L 1982, c202, §1; am L 1991, c 212, §3]

It is noted that the 501(c)(1) organization must be both organized by an Act of Congress and be an instrumentality of the United States, while the 501(c)(3) organization is a privately organized charitable organization.

On May 13, 2005, the land Board established a Minimum Rent Policy that stated, among other things, that the minimum rent for leases to charitable organizations be no less than \$480 per year.

RIBG is a domestic 501(c)(3) nonprofit corporation. See Exhibit D.

RIBG has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions.

To date, no other parties have expressed interest to utilize/lease the subject area.

The following State and County of Kauai (COK) agencies were consulted on this action with the results indicated:

Agency:	Comment:
Historic Preservation	No response by suspense date
Office of Hawaiian Affairs	No response by suspense date
COK Department of Public Works	No objections
COK Planning Department	No response by suspense date

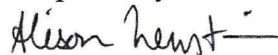
**RECOMMENDATION:** That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15, 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. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a direct lease to Regenerations International Botanical Garden 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 non-profit 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.
3. Grant an immediate management right-of-entry to Regenerations International Botanical Garden, its consultants, contractors, and/or persons acting for or on its behalf, onto the subject property to secure, maintain and manage the property, 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 management right-of-entry form, as may be amended from time to time;
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State;
  - C. This management and maintenance right-of-entry is authorized to continue until the direct lease is issued; and
  - D. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

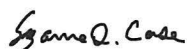
Respectfully Submitted,



Alison Neustein  
Land Agent

W/M KEM

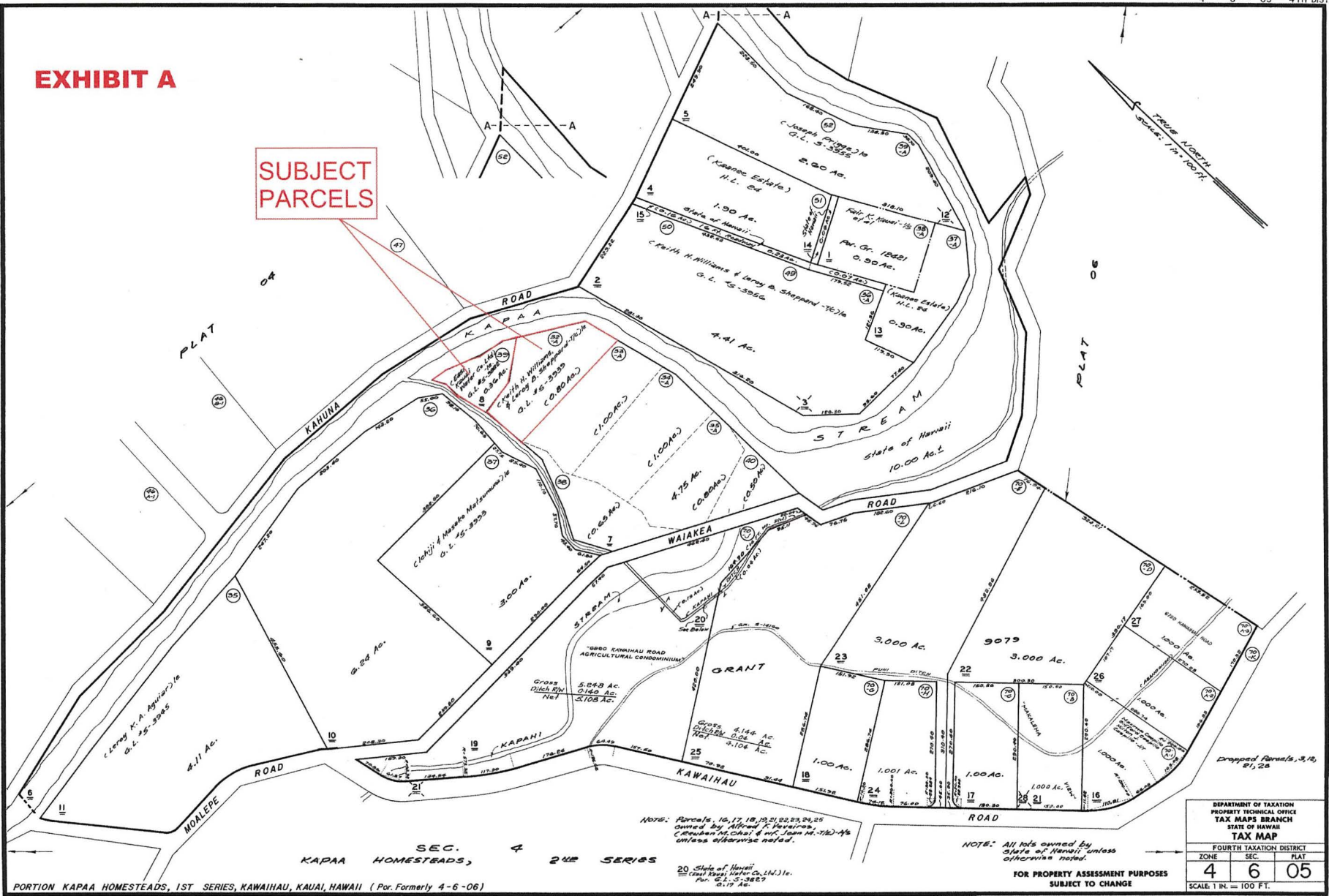
APPROVED FOR SUBMITTAL:



  
Suzanne D. Case, Chairperson

# EXHIBIT A

SUBJECT PARCELS



DATE: 10/10/05 (Revised)  
BY: [illegible]  
SOURCE: [illegible]

NOTE: Parcels 16, 17, 18, 19, 21, 22, 23, 24, 25 owned by Alfred C. Harrison (Kawaihau Mt. Club & Mt. Jann Mt. Club) unless otherwise noted.

NOTE: All lots owned by State of Hawaii unless otherwise noted.

FOR PROPERTY ASSESSMENT PURPOSES  
SUBJECT TO CHANGE

DEPARTMENT OF TAXATION PROPERTY TECHNICAL OFFICE TAX MAPS BRANCH STATE OF HAWAII TAX MAP		
FOURTH TAXATION DISTRICT	ZONE	SEC. PLAT
	4	6 05
SCALE: 1 IN. = 100 FT.		

PORTION KAPAA HOMESTEADS, 1ST SERIES, KAWAIHAU, KAUAI, HAWAII (Por. Formerly 4-6-06)





**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**LAND DIVISION**

3060 Eiwa Street, Room 208  
Lihue, Hawaii 96766  
PHONE: (808) 274-3491  
FAX: (808) 241-3535

September 11, 2020

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1-15, Hawaii Administrative Rules (HAR):

<b>Project Title:</b>	Issuance of Direct Lease to Regenerations International Botanical Garden for Intensive Agricultural Use Purposes; Issuance of Immediate Management Right-of-Entry Permit.
<b>Project / Reference No.:</b>	PSF No. 20KD-070
<b>Project Location:</b>	Portion of Government lands of Kapaa situated at Kapaa, Kawaihau (Puna), Kauai, identified by Tax Map Keys: (4) 4-6-05: 007 & 008.
<b>Project Description:</b>	Issuance of Direct Lease for Intensive Agricultural Purposes and Immediate Management Right-of-Entry to Regenerations International Botanical Garden.
<b>Chap. 343 Trigger(s):</b>	Use of State land.
<b>Exemption Class No. and Item No.:</b>	In accordance with Section 11-200.1-15 of the Hawaii Administrative Rules and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated March 3, 2020, 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

**EXHIBIT B**

topographical features, involving negligible or no expansion or change of use beyond that previously existing, and Item 41, which states, "Leases of state land involving negligible or no expansion or change of use beyond that previously existed."

**Cumulative Impact of  
Planned Successive  
Actions in Same Place  
Significant?**

No, the request is a single occurrence in the area.

**Action May Have  
Significant Impact on  
Particularly Sensitive  
Environment?**

No, the action proposed will have no significant impact to any particularly sensitive environment.

**Analysis:**

Since 1999, the subject property has been used for intensive agricultural purposes. As such, staff believes that the requests would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

**Consulted Parties:**

Comments from The State Historic Preservation Division, Office of Hawaiian Affairs, COK Public Works and COK Planning were solicited.

**Recommendation:**

It is anticipated this activity will probably have minimal or no significant effect on the environment. As a result, it will involve minimal or no significant effect on the environment and staff recommends the Board find the requests to be exempt from the preparation of an environmental assessment.











INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **AUG 06 2009**

REGENERATIONS INTERNATIONAL  
BOTANICAL GARDEN  
C/O JESSICA TORRES  
16830 VENTURA BLVD, SUITE 360  
ENCINO, CA 91436-0000

Employer Identification Number:

[REDACTED]

DLN:

[REDACTED]

Contact Person:

JOHN M WHITE

ID# [REDACTED]

Contact Telephone Number:

[REDACTED]

Accounting Period Ending:

December 31

Public Charity Status:

170(b)(1)(A)(vi)

Form 990 Required:

Yes

Effective Date of Exemption:

December 22, 2006

Contribution Deductibility:

Yes

Addendum Applies:

No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

Letter 947 (DO/CG)

**EXHIBIT D**



REGENERATIONS INTERNATIONAL

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Choi". The signature is fluid and cursive, with the first name "Robert" and last name "Choi" clearly distinguishable.

Robert Choi  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures: Publication 4221-PC

Letter 947 (DO/CG)

**EXHIBIT D**