

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

October 23, 2020

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

Ref: RP 7570

Oahu

Annual Renewal of Revocable Permit 7570 with Amendments to Hawaii Motorsports Association Inc., Permittee; Kahuku, Koolauloa, Oahu, Tax Map
Key: (1) 5-8-002:002

BACKGROUND:

Hawaii Motorsports Association Inc. (HMA) has held a revocable permit (RP) over the State parcel designated as tax map key (1) 5-8-002:002 for motorcycle and trail bike riding purposes since 1972. The parcel covers an area of 449.720 acres, and its location is shown on the map attached as **Exhibit A**. HMA currently holds RP 7570 for the use of the land.

The same parcel is also encumbered by General Lease No. 3850 issued to the federal government as part of an army training ground. A stipulation of the federal lease is that other than overriding military contingencies, the federal government will use the land on the weekdays until dusk at Friday. HMA will then use the same area until midnight Sunday, or from dawn to midnight on national holidays.

RFQ/RFP Status

In recent years when the request to renew RP 7570 came before the Board, the Board members inquired whether it would be more appropriate to issue a long-term disposition for the land through a competitive process. On September 14, 2018, the Division of Forestry and Wildlife (DOFAW) and Land Division (LD) published a Request for Interest to solicit interest among prospective operators of the present park on a long-term basis. Two (2) entities responded before the deadline of October 15, 2018, and indicated they are interested in entering into a long-term disposition for the facility.

At its meeting on January 25, 2019, D-5, the Board authorized the issuance of a Request for Qualification/Request for Proposal. A draft bid packet was sent to the Department of Attorney General (AG) for review and approval.

One of the topics of discussion between AG and LD was focused on Section 171-36(a)(3), Hawaii Revised Statutes which provides “[n]o lease shall be made for any land under a lease that has more than two years to run”. This section appears to prohibit issuance of any new lease over the same parcel as GL 3850 does not expire until 2029,

i.e. more than two years to run. As mentioned at the beginning of this submittal, the respective uses by the federal government and the current permittee on weekdays and weekends were expressly described in the lease and the revocable permit from the beginning of both dispositions, issued years ago. LD will seek the written concurrence from the federal government on the issuance of the proposed new motorsports lease. LD and DOFAW will continue to work with AG on the disposition process.

Renewal of RP 7570

Since the long-term disposition is yet to be finalized, the renewal of RP 7570 appears to be prudent in order to continue the provision of motorized recreational opportunities on this island for public benefit.

For the Board's information, the Department has received emails from the general public and district senator on the management of the permit area by the current permittee. The complaints touch on financial management and the day-to-day management issues, including accessing the park during the COVID-19 pandemic.

In light of the complaints received, and the nature of the activities conducted on the premises, more specific conditions regarding the protection of natural resources, public benefit and adherence to the terms of the RP are deemed necessary. In addition, more financial accountability is also necessary to ensure this unique recreational ground on Oahu is properly utilized and enjoyed by the public at large. These conditions are in alignment with the type of reporting that we anticipated would be required under a long-term lease structure. DOFAW will assist LD in monitoring the RP conditions by conducting quarterly inspections and coordinating communication with the RP holder. Therefore, staff recommends the Board authorize the addition of the following terms and conditions into RP 7570:

- A. The permittee shall provide a breakdown of all fees/charges, as amended from time to time, for using the facility;
- B. The permittee shall provide a monthly financial report within the first 10 calendar days of the following month listing the total revenue and expense for the reporting month. The report shall also contain information on the individual type of revenue, for example, member, non-member, adult, children etc., and the report needs to be approved by an authorized representative;
- C. The permittee shall develop and implement an erosion control plan to mitigate soil erosion and runoff from entering streams and nearshore waters due within the first three months of the new permit period;
- D. The permittee shall develop and implement a dust control plan due within the first three months of the new permit period;

- E. The permittee shall develop and implement an invasive species of concern control plan for the Site due within the first three months of the new permit period; and
- F. The permittee shall design and implement waste management at the Site due within the first three months of the new permit period.
- G. An annual report summarizing the monthly reports and the various plans shall be submitted at the end of the permit period.

Subject to the permittee's acceptance of the additional conditions described above, staff recommends the Board authorize the renewal of RP 7570 commencing January 1, 2021 for a period not exceeding twelve months at the 2020 monthly rent of \$140.83 per month, or \$1,689.96 per year. LD will request AG to prepare a new RP document incorporating the additional conditions.

HRS CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources, reviewed and concurred upon by the Environmental Council on 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 topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Part 1, item 41, which states, "lease of State land involving negligible or no expansion or change of use beyond that previously existing." See **Exhibit B**.

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; and
2. Approve the continuation of Revocable Permit No. 7570 on a month-to-month basis for another one-year period through December 31, 2021 further subject to the following amendments:
 - A. The permittee shall provide a breakdown of all fees/charges, as amended from time to time, for using the facility;
 - B. The permittee shall provide a monthly financial report within the first 10 calendar days of the following month listing the total revenue and expense for the reporting month. The report shall also contain information on the individual type of revenue, for example, member, non-member, adult, children etc., and the report needs to be approved by an authorized representative;

- C. The permittee shall develop and implement an erosion control plan to mitigate soil erosion and runoff from entering streams and nearshore waters due within the first three months of the new permit period;
- D. The permittee shall develop and implement a dust control plan due within the first three months of the new permit period;
- E. The permittee shall develop and implement an invasive species of concern control plan for the Site due within the first three months of the new permit period;
- F. The permittee shall design and implement waste management at the Site due within the first three months of the new permit period;
- G. An annual report summarizing the monthly reports and the various plans shall be submitted at the end of the permit period; and
- H. Review and approval by the Department of the Attorney General.

Respectfully Submitted,

Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case

Suzanne D. Case, Chairperson

RT



TMK (1) 5-8-002:002

EXHIBIT A

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title:	Annual Renewal of Revocable Permits No. 7570 with Amendments.
Project / Reference No.:	RP 7570
Project Location:	Kahuku, Koolauloa, Oahu, TMK (1) 5-8-002:002.
Project Description:	Renew existing revocable permit through December 31, 2021
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, reviewed and concurred upon by the Environmental Council on 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 topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Part 1, item 41, which states, "lease 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?	None, the requested location has been used for same use since the permit was granted.
Action May Have Significant Impact on Particularly Sensitive Environment?	No.
Consulted Parties	Division of Forestry and Wildlife
Analysis:	Staff believes that the request would involve negligible or no expansion or change in use of the subject location beyond that previously existing.
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.