

D-3

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

September 24, 2021

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

PSF No.: 21KD-064

Kauai

Rescind Prior Board Action of September 11, 2020, Item D-3, *Issuance of Direct Lease to Regenerations International Botanical Garden for Intensive Agricultural Use Purposes and Issuance of Immediate Management Right-of-Entry Permit*; Issuance of Revocable Permit to Kapahi Strain Kalo Co. LLC for Intensive Agricultural Use Purposes; Kapaa, Kawaihau, Kauai, Hawaii; Tax Map Keys: (4) 4-6-005: 007 & 008.

APPLICANT:

Kapahi Strain Kalo Co. LLC (KSK), a Hawaii profit corporation.

LEGAL REFERENCE:

Section 171-55, 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.

CHARACTER OF USE:

Intensive agriculture purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$527.36

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit B.

DCCA VERIFICATION:

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

JUSTIFICATION FOR REVOCABLE PERMIT:

At this time, staff feels that a month-to-month tenancy for intensive agricultural purposes is the appropriate disposition since no other capable parties have expressed interest to utilize/lease the subject area. Once the revocable permit is issued, staff will contact the Department of Agriculture (DOA) to determine whether DOA will accept the transfer of the land and permit pursuant to Act 90 Session Laws of Hawaii 2003.

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.

On September 11, 2020, under agenda item D-3, the Land Board approved a direct lease to Regenerations International Botanical Garden (RIBG), a Hawaii non-profit organization. RIBG was not able to consummate the lease and asked that their application be rescinded. Another non-profit had also expressed interest in a direct lease for the lo'i, but they were unable to provide their 501c3 documentation.

Adam Maglinti and Shawn Kaona, the owners of KSK, submitted their application, and they are both qualified taro farmers. Shawn Kaona is a fourth-generation taro farmer who has been growing taro on Kauai his whole life and has extensive experience operating a lo'i. Adam Maglinti also has extensive farming experience. He grew up not only working on his family's farm, but he also actually lived next door to this lo'i and learned how to maintain it while helping his neighbor, Mr. Contrades. Mr. Maglinti has also supervised and managed associates in engineering and landscaping for the last 15 years.

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

KSK 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.

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

Agency:	Comment:
Division of Aquatic Resources	No response by suspense date
Division of Forestry and Wildlife	No response by suspense date
Historic Preservation	No response by suspense date
Department of Agriculture	No response by suspense date
COK Department of Public Works	No response by suspense date
COK Planning Department	No response by suspense date
Office of Hawaiian Affairs	No response by suspense date

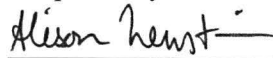
RECOMMENDATION: That the Board:

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. Authorize the issuance of a revocable permit to Kapahi Strain Kalo Co. LLC covering the subject area for intensive agriculture purposes under the terms and conditions cited above, which are by this reference incorporated herein and

further subject to the following:

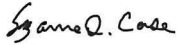
- a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
- b. Review and approval by the Department of the Attorney General; and
- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Alison Neustein
District Land Agent

APPROVED FOR SUBMITTAL:



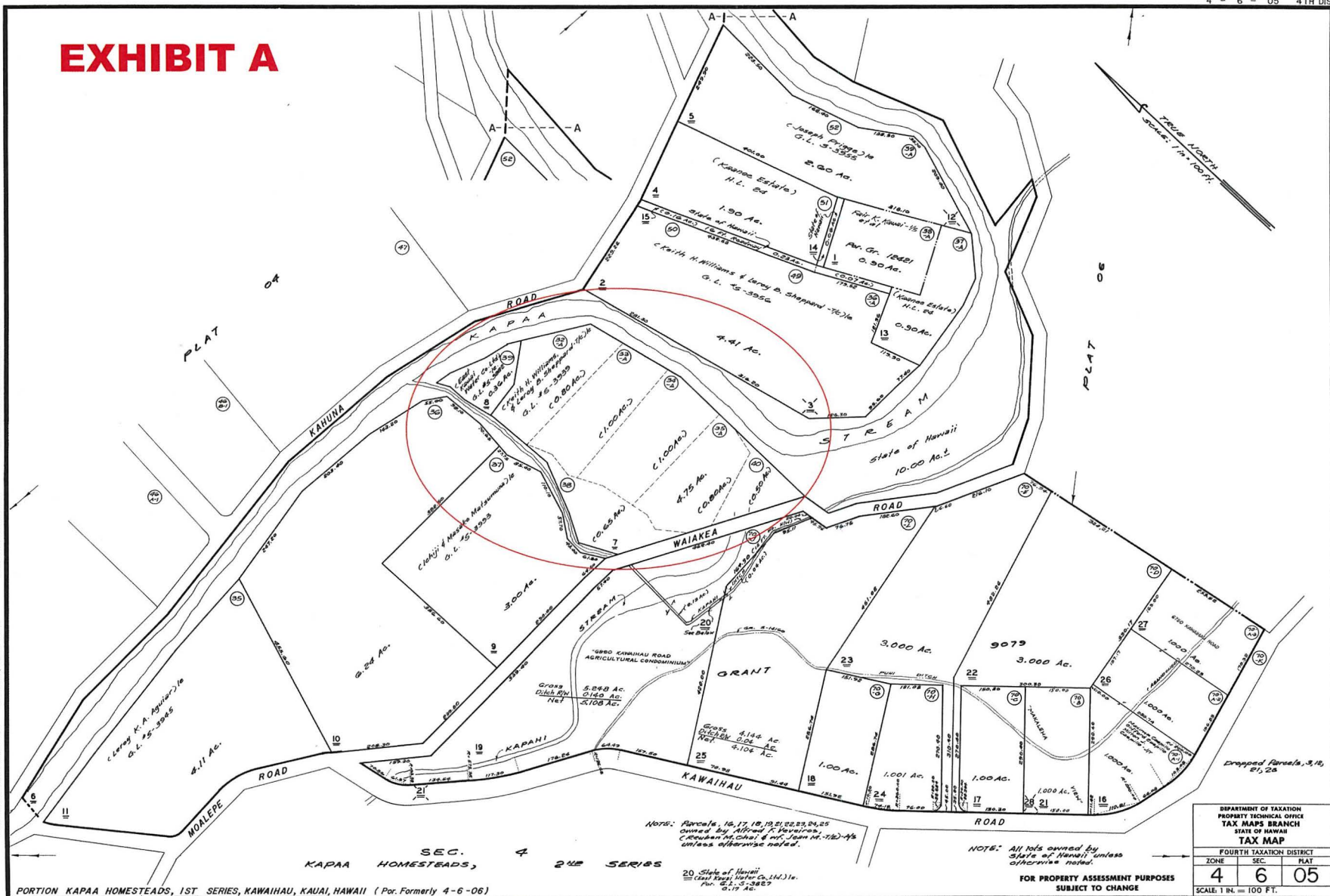
Suzanne D. Case, Chairperson

RT



EXHIBIT A

EXHIBIT A



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

DAVID Y. IGE
GOVERNOR OF HAWAII



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

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

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September 24, 2021

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):

Project Title:	Issuance of Revocable Permit to Kapahi Strain Kalo Co. LLC for Intensive Agricultural Use Purposes
Project / Reference No.:	PSF No. 21KD-064
Project Location:	Portion of Government lands of Kapaa situated at Kapaa, Kawaihau (Puna), Kauai, identified by Tax Map Keys: (4) 4-6-05: 007 & 008.
Project Description:	Issuance of Revocable Permit to Kapahi Strain Kalo Co. LLC for Intensive Agricultural Use Purposes.
Chap. 343 Trigger(s):	Use of State land
Exemption Class No. and Item No.:	In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 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."

EXHIBIT B

and Item 40, 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 Division of Aquatic Resources, Division of Forestry and Wildlife, 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 request to be exempt from the preparation of an environmental assessment.

EXHIBIT B



Exhibit C

