

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

January 14, 2022

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

KAUAI

Cancellation of Revocable Permit No. S-7641, Bernadine A. Soares and Bernadette Uyesono, Permittees; Request for Waiver of Requirement for Conducting Phase I Environmental Site Assessment upon Cancellation of Revocable Permit No. S-7641; Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-5-015: portion of 037.

APPLICANTS:

Bernadine A. Soares, unmarried, and Bernadette Uyesono, unmarried, joint tenants.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kapaa situated at Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-5-015: portion of 037, as shown on the attached map labeled EXHIBIT A.

AREA:

0.115 acre, more or less.

ZONING:

State Land Use District:	Urban
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:

Encumbered by Revocable Permit No. S-7641 (Permittee) for storage and landscaping purposes.

CHARACTER OF USE:

Storage and landscaping purposes.

MONTHLY RENTAL:

\$48.33 per month, based on the current Board approved rental value for Revocable Permit No. 7641.¹

EFFECTIVE CANCELLATION DATE:

December 31, 2021

DCCA VERIFICATION:

Not applicable. The Applicants as landowners are not required to register with DCCA.

REMARKS:

On October 14, 2010, under Item D-3, the Board of Land and Natural Resources approved the cancellation of Revocable Permit S-7176 to Bernadine A. Soares and issuance of Revocable Permit (Revocable Permit No. S-7641) to Bernadine A. Soares and Bernadette Uyesono for storage and landscaping purposes.

Kauai District Land Office (KDLO) staff received a letter from Bernadine A. Soares and Bernadette Uyesono dated November 23, 2021 requesting to cancel their Revocable Permit No. S-7641 for storage and landscaping purposes. Bernadine Soares's property abutting the subject parcel was sold effective November 23, 2021. They requested that the permit be cancelled effective December 1, 2021.

¹ At its meeting on September 24, 2021, under Item D-1, the Board approved the Annual Renewal of Revocable Permits for 2022. EXHIBIT 2 of the submittal included a Revocable Permit Master Checklist 2021, which recommended that Revocable Permit No. S-7641 rental for 2022 would be \$579.96 annually, a 3% increase over 2021's rental.

Additional Condition 14 of Revocable Permit No. S-7641 provides that:

“Prior to termination or revocation of the subject Permit, Permittee shall conduct a Phase I environmental site assessment and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Department of Health, and the DLNR. Failure to comply with the provisions of this paragraph shall not extend the term of this Permit or automatically prevent termination or revocation of the Permit. The Board, at its sole option, may refuse to approve termination or revocation unless this evaluation and abatement provision has been performed. In addition or in the alternative, the Board may, at its sole option if Permittee does not do so, arrange for performance of the provisions of this paragraph, all costs and expenses of such performance to be charged to and paid by Permittee.”

On November 23, 2021, staff conducted an inspection of the permit parcel. Staff did not find evidence of environmental contamination on the property. Staff recommends the Board authorize waiving the Phase I ESA requirement as required by Additional Condition 14 of the permit. See EXHIBIT B inspection report.

Applicants have 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.

RECOMMENDATION: That the Board:

1. Waive the requirement of Additional Condition No. 14 regarding the conducting of a Phase I Environmental Site Assessment upon cancellation of Revocable Permit No. S-7641.
2. Authorize cancellation of Revocable Permit No. S-7641 to Bernadine A. Soares and Bernadette Uyesono effective December 31, 2021, in the manner specified by law.
3. Authorize the retention of all sums heretofore paid or pledged under Revocable Permit No. S-7641 to be applied to any past due amounts.
4. Terminate the permit and all rights of Permittee and all obligations of the State effective as of December 31, 2021, provided that any and all obligations of the Permittee which have accrued up to said effective date or which are stated in the permit to survive termination shall endure past such termination date until duly fulfilled (except for the Phase I Environmental Site Assessment requirement, which is waived in Recommendation 1 above), and further provided that State reserves all other rights and claims allowed by law.

Respectfully Submitted,

Kurt Yasutake

Kurt Yasutake
Land Agent

for

APPROVED FOR SUBMITTAL:

RT

Suzanne D. Case

Suzanne D. Case, Chairperson



