

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

October 28, 2022

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

Hawaii

Cancellation of Revocable Permit No. S-7700, Frank De Luz III, Permittee;  
Request for Waiver of Requirement for Conducting Phase 1 Environmental Site  
Assessment upon Cancellation, Kapualei Government Reserve and Paauiilo  
Homesteads, Hamakua, Hawaii, Tax Map Keys: (3) 4-3-006:005 and 4-3-  
014:001.

APPLICANT:

Brenda L. De Luz-Campbell, daughter of permittee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of situated at Kapualei Government Reserve and  
Paauiilo Homesteads, Hamakua, Hawaii, identified by Tax Map Keys: (3) 4-3-  
006:005 and 4-3-014:001, as shown on the attached map labeled Exhibit A.

AREA:

33.62 acres, more or less.

ZONING:

State Land Use District:	Agriculture
County of Hawaii CZO:	A5a – Agriculture minimum 5 acre

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-7700.

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE OF PERMIT:

Commenced on June 1, 2005.

MONTHLY RENTAL:

\$42.44 per month.

EFFECTIVE CANCELLATION DATE:

February 28, 2021

REMARKS:

At its meeting of April 1, 2005, agenda item D-5, the Board of Land and Natural Resources (Board) approved the issuance of Revocable Permit No. S-7406 (RPS7406) to Frank De Luz III for pasture purposes.

At its meeting of November 22, 2010, agenda item D-1, the Board approved re-issuance of new revocable permit documents to update the insurance provisions. RPS7406 was replaced with Revocable Permit S-7700 (RPS7700)

On January 21, 2021, Hawaii District Land Office received a letter from Brenda L. De Luz-Campbell requesting cancellation of RPS7700 due to the death of her father, Frank De Luz III, the permittee. A death certificate was provided showing the date of death as July 26, 2020. RPS7700 allows the permittee to terminate the permit at any time on 25 calendar days' notice. Ms. De Luz-Campbell has paid rent through December 31, 2020 and asks that the State apply the two-month security deposit to January and February 2021 rents.

Additional Condition 14 of RPS7700 provides that:

*“Prior to termination or revocation of the subject Permit, Permittee shall conduct a Phase 1 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 October 27, 2021, staff conducted an inspection of the properties. The parcels are bifurcated lengthwise by a gulch which encompasses a majority of the land. The remaining portions are forested with Robusta trees. See attached Exhibit B photos and Google images which are representative of the properties.

The permittee’s daughter stated that the properties were not continually grazed but were used for temporary overstock areas. There were no indications of environmental contamination on the properties. Staff recommends the Board authorize waiving the Phase I environmental site assessment requirement as required by Additional Condition 14 of the permit.

RECOMMENDATION: That the Board:

1. Waive the requirement of Additional Condition No. 14 regarding the conducting of a Phase 1 Environmental Site Assessment upon cancellation of Revocable Permit No. S-7700.
2. Authorize cancellation of Revocable Permit No. S-7700 to Frank De Luz III effective February 28, 2021, in the manner specified by law.
3. Authorize the retention of all sums heretofore paid or pledged under Revocable Permit No. S-7700 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 February 28, 2021, provided that any and all obligations of the Permittee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled (except for the Phase 1 Environmental Site Assessment requirement,

which is waived in recommendation 1 above), and further provided that the State reserves all other rights and claims allowed by law; and

Respectfully Submitted,

*Candace Martin*

*KM*

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Candace Martin  
Land Agent

*JCH*

APPROVED FOR SUBMITTAL:

*Suzanne D. Case*

*RT*

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Suzanne D. Case, Chairperson



# EXHIBIT A





## EXHIBIT B

Image from the upper property line showing the gulch down the middle of property



Midway down the parcel. Image is representative of the fence line on the south side.





Photo taken from the bottom of the properties on the north boundary looking toward gulch.

