

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

February 10, 2023

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

PSF No.:22KD-091

Kauai

Issuance of Direct Lease to Kaiola Canoe Club for Canoe and Equipment Storage
Purposes, Kekaha, Waimea (Kona), Kauai, Tax Map Key: (4) 1-3-008:005.

APPLICANT:

Kaiola Canoe Club, a Hawaii non-profit organization and an Internal Revenue Code
Section 501(c)(3) qualified nonprofit entity.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kekaha Beach Homes situated at Kekaha, Waimea
(Kona), Kauai, identified by Tax Map Key: (4) 1-3-008:005, as shown on the attached
map labeled **Exhibit A**.

AREA:

0.3146 acre, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: C-N, Neighborhood Commercial

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES ____ NO x

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Canoe & equipment storage purposes.

LEASE TERM:

Fifteen (15) Years.

COMMENCEMENT DATE:

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

ANNUAL RENT:

\$480 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:

Legal access to property – Staff has verified that there is legal access to the property off Kekaha Rd.

Subdivision – Staff has verified that the subject property is a legally subdivided lot.

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

Improvements – Shade structure. (See attached photo in **Exhibit C**)

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See **Exhibit B**.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO <u> </u>
Registered business name confirmed:	YES <u>x</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>x</u>	NO <u> </u>

REMARKS:

This parcel was previously encumbered under RP S-4037, 4038, 4245 for residential and business use; and 4400 to Aurellano Agbulos for residential and business purposes between 1967-1969. It was last encumbered by Revocable Permit No. S-6769 to Marine Consulting and Engineering from March 1, 1994 to October 1, 1995 for temporary parking and storage of boats on trailers. It has been unencumbered since.

Applicant Kaiola Canoe Club (KCC) was established in 1985 and reports it has over 200 active members and thousands of alumni and friends. KCC further relates that it currently has nine paddling programs and twenty-two canoes including “Haupu”, their precious Koa wood canoe. KCC explains this is the largest collection of canoes on Kauai. KCC provides free paddling lessons to both residents and visitors and sponsors local high school paddling programs. Additionally, KCC is a leader in the community efforts to manage and repair native wetland ecosystems along the Hule’ia River.

A revocable permit to KCC was approved by the Land Board at their meeting on January 24, 2014 under agenda item D-1, but KCC withdrew its request for use of the land in order to pursue alternative locations, and the request was rescinded at the Land Board meeting June 13, 2014, under agenda item D-1.

KCC has stated that it will clean up any overgrown weeds and remove any litter from the lot to use it as a storage area for its club canoes. No grading or grubbing will take place as this lot is flat and the weeds will only require mowing. If the applicant wishes to undertake any construction or other improvements, it will require Chairperson approval and comply with Hawaii Revised Statutes Chapter 343 on environmental assessments prior to applying with the County of Kauai for the necessary permits.

KCC has applied for a 15 year direct lease at nominal rent for canoe and equipment storage. KCC is an Internal Revenue Code Section 501(c)(3) non-profit, tax exempt organization. See **Exhibit D**.

The Land Board is authorized to lease State lands to qualifying eleemosynary (charitable) organizations at nominal rent. The statutory authority is as follows:

§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. [L 1970, c 83, §5; am L 1971, c 100, §1; am L 1982, c 202, §1; am L 1991, c 212, §3]

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

When considering lease dispositions to, or rental reopenings for, eleemosynary organizations, the Land Board may therefore set the rent by direct negotiation at an amount below fair market rental (i.e., nominal rent).

On May 13, 2005, the Land Board established a Minimum Rent Policy that stated, among other things, that the minimum rent for a lease to a charitable organization be no less than \$480 per year. Staff believes "nominal rent" under Section 171-43.1, Hawaii Revised Statutes ought to be anywhere between fair market rent and the minimum rent of \$480 per year. In order to have a standard nominal rent for qualifying non-profit tenants, staff generally recommends rent be set at \$480 per year.

Applicant has 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.

Various government agencies were solicited for comments.

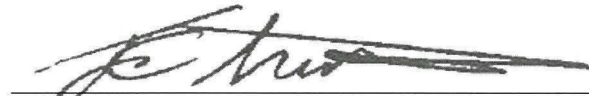
AGENCIES	COMMENTS
County of Kauai:	
Public Works Department	No response by suspense date
Planning Department	No response by suspense date
State of Hawaii:	
Historic Preservation	No response by suspense date
Office of Hawaiian Affairs	No response by suspense date

Staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

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 as a de minimis action.
2. Subject to the Applicant fulfilling all the Applicant requirements listed above, authorize the issuance of a direct lease to KCC 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.

Respectfully Submitted,

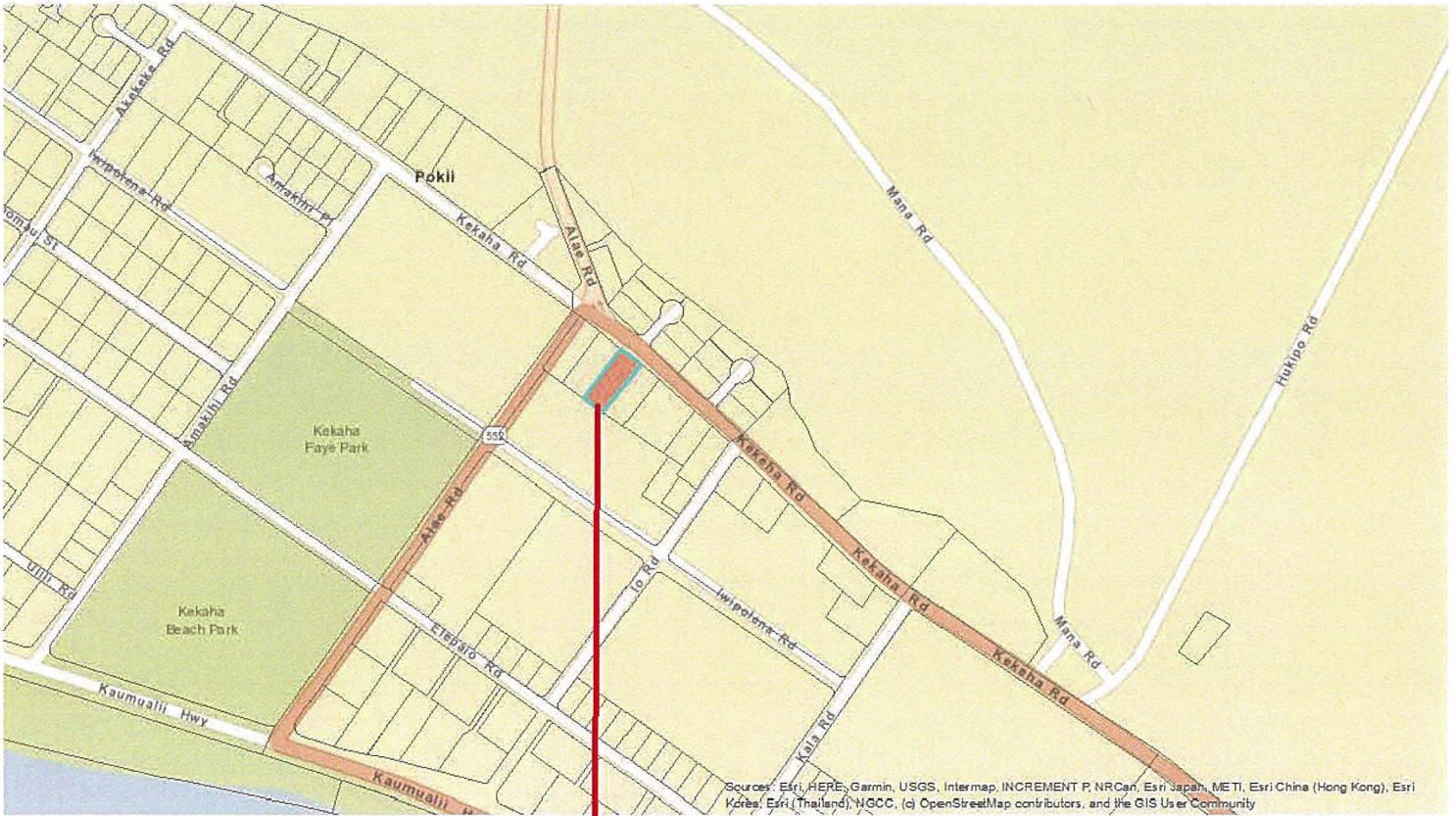


James C. Turner
Land Agent

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson



SUBJECT



EXHIBIT A

DWG. NO: 6651

EXHIBIT
A

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

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

February 10, 2023

EXEMPTION NOTIFICATION

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

Project Title: Direct lease to Kaiola Canoe Club for Canoe Storage and Maintenance purposes, Lot 6, Kekaha Town Lots, Waimea, Kauai, Tax Map Key: (4) 1-3-008:005.

Project / Reference No.: 22KD-092

Project Location: Portion of Government lands situated at Kekaha Town Lots, Waimea, Kauai, identified by Tax Map Key: (4) 1-3-008:005, as shown on the attached map labeled Exhibit A.

Project Description: Direct Lease to Kaiola Canoe Club for canoe storage and maintenance purposes.

Chap. 343 Trigger(s): Use of State Land.

Exemption Class No. and Description: In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR), and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, which states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing,"

EXHIBIT B

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

No. There will be no successive actions in same place or no significant cumulative impact.

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

No. There are no sensitive environmental issues involved with the proposed use of the property.

Analysis:

Property was last encumbered by Revocable Permit No. S-6769 for parking and storage 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 County of Kauai Planning Department, Division of Public Works, as well as the State of Hawaii Historic Preservation Division and the Office of Hawaiian Affairs were solicited.

Recommendation:

That the Board find that 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.

Exhibit C



Internal Revenue Service

Date: May 23, 2007

KAIOLA CANOE CLUB
PO BOX 3502
LIHUE HI 96766-6502

Department of the Treasury
P. O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Customer Service Representative
Toll Free Telephone Number:
877-829-5500
Federal Identification Number:
99-0236180

Dear Sir or Madam:

This is in response to your request of May 23, 2007, regarding your organization's tax-exempt status.

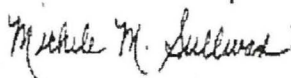
In July 1992 we issued a determination letter that recognized your organization as exempt from federal income tax. Our records indicate that your organization is currently exempt under section 501(c)(3) of the Internal Revenue Code.

Our records indicate that your organization is also classified as a public charity under section 509(a)(2) of the Internal Revenue Code.

Our records indicate that contributions to your organization are deductible under section 170 of the Code, and that you are qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Internal Revenue Code.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,



Michele M. Sullivan, Oper. Mgr.
Accounts Management Operations 1

EXHIBIT "D"