

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

February 24, 2023

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

PSF No.: 22HD-101

Hawaii

Sale of Lease at Public Auction for Business and/or Commercial  
Purposes, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-049:022.

REQUEST:

Sale of lease at public auction for business and/or commercial purposes as  
allowed under County zoning.

LEGAL REFERENCE:

Sections 171-6, -13, -14, -14.5, -16, -17 and other applicable sections of Chapter  
171, Hawaii Revised Statutes, as amended.

LOCATION:

Government Lot 7, Block 47 of the Waiakea Business Lots, Waiakea, South Hilo,  
Hawaii, identified by Tax Map Key: (3) 2-2-049:022, as shown on the attached  
map labeled Exhibit A.

AREA:

29,914 square feet, more or less, subject to confirmation by the Department of  
Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Urban  
County of Hawaii CZO: Neighborhood-Commercial (CN-10)

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. Formerly encumbered under GL S-3698, Bank of Hawaii, for commercial purposes.

CHARACTER OF USE:

Business and/or commercial purposes as allowed under County zoning.

LEASE TERM:

Thirty (30) years from the commencement date of the lease.

COMMENCEMENT DATE:

Sixty (60) days after the date of sale; provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by independent appraisal, subject to review and approval by the Chairperson. The appraisal shall determine the upset rent for land and improvements for the first 10 years of the lease, as well as a percentage increase for the second 10-year period of the lease to provide the successful bidder with rent certainty for the first 20 years of the lease. Rent for the third 10-year period of the lease shall be determined by independent appraisal for the land and improvements. The appraiser procured to determine the upset rent shall also separately determine the fair market value of the existing improvements on the land.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

At the end of the 20th year of the lease term, by independent appraisal. The appraisal shall determine the rent for land and improvements.

PERFORMANCE BOND:

Twice the annual rental amount

RENT WAIVER:

The Chairperson, in his/her sole discretion, may waive rent for a maximum period of twelve (12) calendar months upon a completion of Substantial Improvements to the premises. "Substantial improvements" for these purposes shall mean renovations or new construction with a value equal to at least 30% of the appraised value of the existing improvements. A request for a rent waiver greater than twelve (12) calendar months pursuant to Section 171-6(7), HRS, shall be subject to review and approval by the Board in its sole discretion.

IMPROVEMENT BOND:

Amount of improvements.

PROPERTY CHARACTERISTICS:

Utilities – Water, electricity, and telephone.

Existing improvements – A full-service bank building comprising an area of some 5,313 square feet along with a paved parking lot fronting the building.

Legal access to property – Staff has verified that there is legal access to the property off of East Kawili Street.

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

Encumbrances – Staff has verified that the property is currently unencumbered.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 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 General Exemption Type 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 40 that states, "Leases of State land involving negligible or no expansion or change of use beyond that previously existing." (Exhibit B)

### BACKGROUND:

The subject property was previously encumbered under General Lease No. S-3698 and was sold at public auction to Bank of Hawaii with a commencement date of January 26, 1962. The term of lease was for 55 years, expiring on January 25, 2017.

At its meeting of December 9, 2016, agenda item D-5, the Board approved a 3-year extension of GLS-3698 pursuant to Act 207.<sup>1</sup> The annual rent for the extended term was determined by independent appraisal at that time. Hawaii District Land Office staff has had several discussions with the lessee regarding its available options regarding extensions pursuant to Act 207 and Act 149.<sup>2</sup> After lengthy consideration, Bank of Hawaii has decided not to pursue another extension of its lease.

Then, at its meeting of November 8, 2019, under agenda item D-6, the Board approved a one-year holdover for the period January 26, 2020 to January 25, 2021. Upon expiration of the one-year holdover, the lessee requested the issuance of a month-to-month revocable permit while construction of a new centralized branch was completed on Bank of Hawaii's private property. At its meeting of October 23, 2022, under agenda item D-4, the Board approved a month-to-month revocable permit to Bank of Hawaii for business purposes.

### PROPOSED USE:

Staff is recommending that the Board authorize the auction of a new 30-year commercial lease covering the subject parcel and improvements. County zoning for this area is "Neighborhood Commercial" (CN-10) and is consistent with the intended purpose of this lease auction proposal. The subject property consists of a 29,914 square foot lot with a 5,313 square foot commercial structure on it. Current Real Property tax assessment values the building at \$1,123,700.00. The most recent use of this property was for the Bank of Hawaii, Waiakea Branch. There has been significant interest in leasing the subject parcel for the same purpose including inquiries from several businesses looking for long-term leasing.

The structure is in good to very good condition. The interior includes an open service counter and several open and enclosed office spaces. The building also includes a secure walk-in vault, a breakroom and utility storage area. The air

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<sup>1</sup> Act 207, Session Laws of Hawaii 2011 amended Section 171-36(b) of the Hawaii Revised Statutes by allowing the Lessee to: Extend or modify the fixed rental period of the lease: provided that the aggregate of the initial term and any extension granted shall not exceed sixty-five years.

<sup>2</sup> Act 149, Session Laws of Hawaii 2018 adds Sections 171-191, -192 and -193 by creating the "Hilo Community Economic district" thus allowing lessees within this area to extend leases up to 40 years beyond the initial term of the lease.

conditioning units were in good working condition at the time the lease was terminated.

A request for comments was distributed to various government agencies and their responses are included below.

<b>County of Hawaii Agencies</b>	<b>Comments</b>
Environmental Management	Comments Below
Fire Department	No Response
Planning	No Comments
Police Department	No Objections
Public Works	No Response
Water Department	No Objections
<b>State of Hawaii Agencies</b>	<b>Comments</b>
DLNR-Historic Preservation	No Response
DHHL	No Response
DOH-Environmental Management	No Response
DOT-Highways Division	No Objections
<b>Other Agencies</b>	<b>Comments</b>
Office of Hawaiian Affairs	No Response

It is currently unknown what type of wastewater disposal system is used for the property. The County of Hawaii, Department of Environmental Management (DEM), noted this parcel is currently not connected to the County sewer system available along East Kawili Street and that a sewer lateral is not at this time provided to the parcel. The new lessee will be required to close the existing wastewater system according to all Federal, State and County guidelines and comply with County DEM prerequisites to connect to the public sewer line in accordance with Section 21-5 of the Hawaii County Code. The connection to the sewer line shall be completed prior to the lessee occupying the property.

As a result of researching the various underwriting policies of local lending institutions, staff has found that the rent structure can significantly impact the terms and conditions of available financing. The most limiting policy is that both the amortization period and term of the loan will be restricted to the fixed rental period of the lease. Accordingly, staff is recommending that the appraisal to determine the upset rent for the first 10 years of the lease also determine the percentage increase in rent for the second 10 years of the lease, thereby giving the successful bidder known rent for the first 20 years of the lease. The banks have indicated that the fixed increase is much more manageable in their lending policies since it is a known number and can be incorporated into the borrower's business plan. This would allow the bank to offer a more typical 20-year amortization loan with a balloon in 10 to 15 years which would result in a realistic financing package.

Staff requests that the Board authorize a rent credit as allowed by Section 171-6(7), HRS, if applicable to the successful bidder's proposed use of the property. This section provides that the Board may:

Reduce or waive the lease rental at the beginning of the lease on any lease of public land to be used for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements to be placed thereon; provided that the reduction or waiver shall not exceed one year for land to be used for resort, commercial, industrial, or other business use. When a lease for resort, commercial, industrial, or other business or residential purposes requires a lessee to demolish existing improvements or provide basic infrastructure, including drainage, sewer, water, electricity, and other utilities, before the lessee can make productive use of the land, the board may approve a reduction or waiver of lease rental for a period of up to twenty years; provided that the aggregate amount of the reduced or waived lease rental shall not exceed the amount of the lessee's total expenditures for demolition or provision of the infrastructure.

Until a lease is sold at auction, the extent to which the successful bidder will invest in modifications of the existing structure is unknown. The possibilities span a range from continuing to use the structure largely "as is" but with a new sewer connection, to renovating and updating it to meet the lessee's operational needs, to demolishing and rebuilding. Accordingly, staff recommends that the public auction bid packet made available to prospective bidders in advance of the auction provide substantially as follows:

The Chairperson, in his/her sole discretion, may waive rent for a maximum period of twelve (12) calendar months upon a completion of Substantial Improvements to the premises. "Substantial improvements" for these purposes shall mean renovations or new construction with a value equal to at least 30% of the appraised value of the existing improvements. A request for a rent waiver greater than twelve (12) calendar months pursuant to Section 171-6(7), HRS, shall be subject to review and approval by the Board in its sole discretion.

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.



2. Find the area to be an economic unit in terms of the intended use.
3. Find that the subject area is not suitable for hunting, nor will it become so during the term of the lease.
4. Authorize the sale of a lease at public auction covering the subject area for business and/or commercial 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 business, commercial or industrial use general lease form, as may be amended from time to time;
  - b. The rent may be waived for a maximum period of twelve (12) calendar months upon completion of substantial improvements to the subject parcel. "Substantial improvements" for purposes of this lease shall mean renovations or new construction with a value equal to at least 30% of the appraised value of the existing improvements;
  - c. Review and approval by the Department of the Attorney General; and
  - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

*Gordon C. Heit*

*km*

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Gordon C. Heit  
District Land Agent

APPROVED FOR SUBMITTAL:

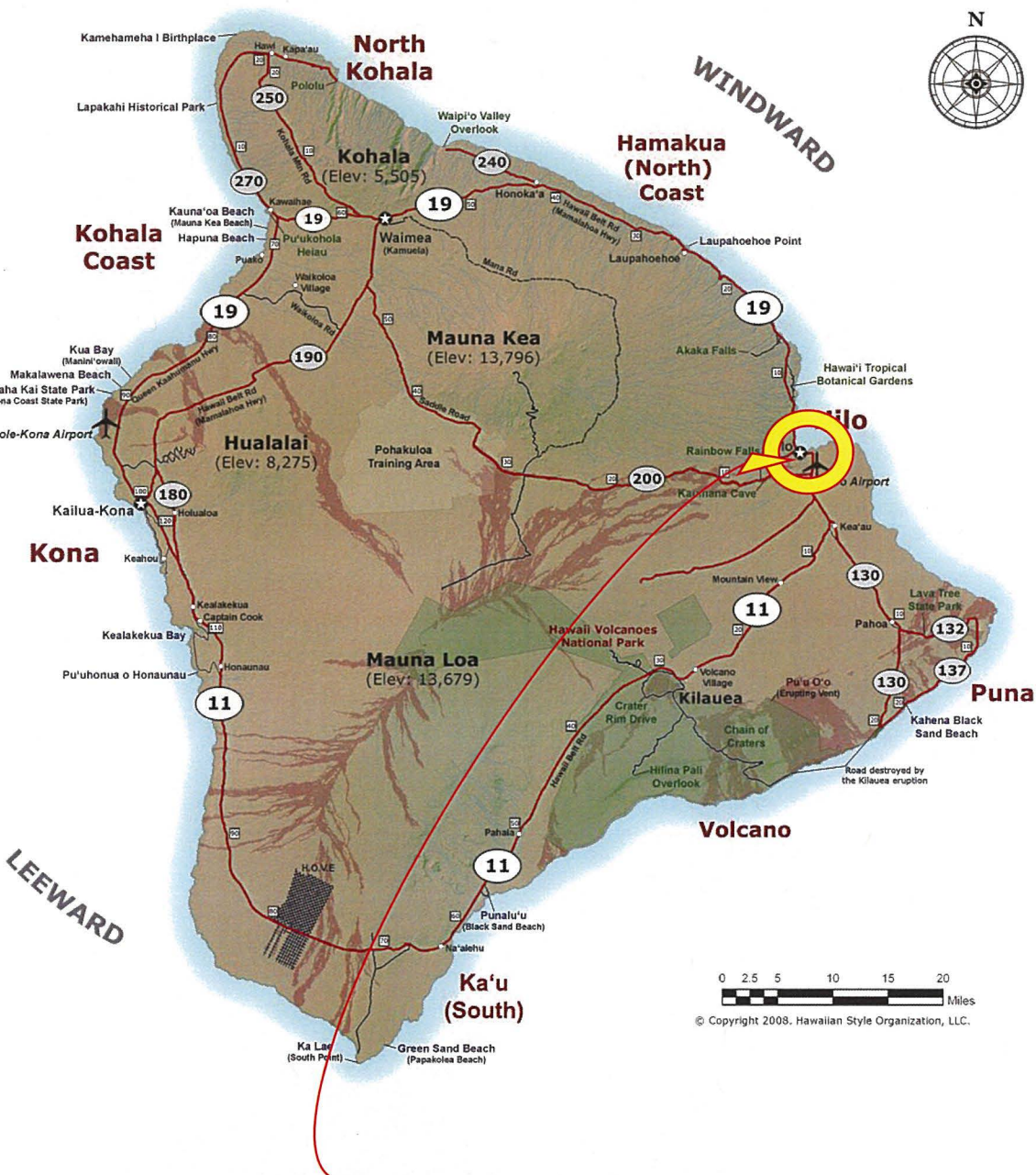


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Dawn N. S. Chang, Chairperson

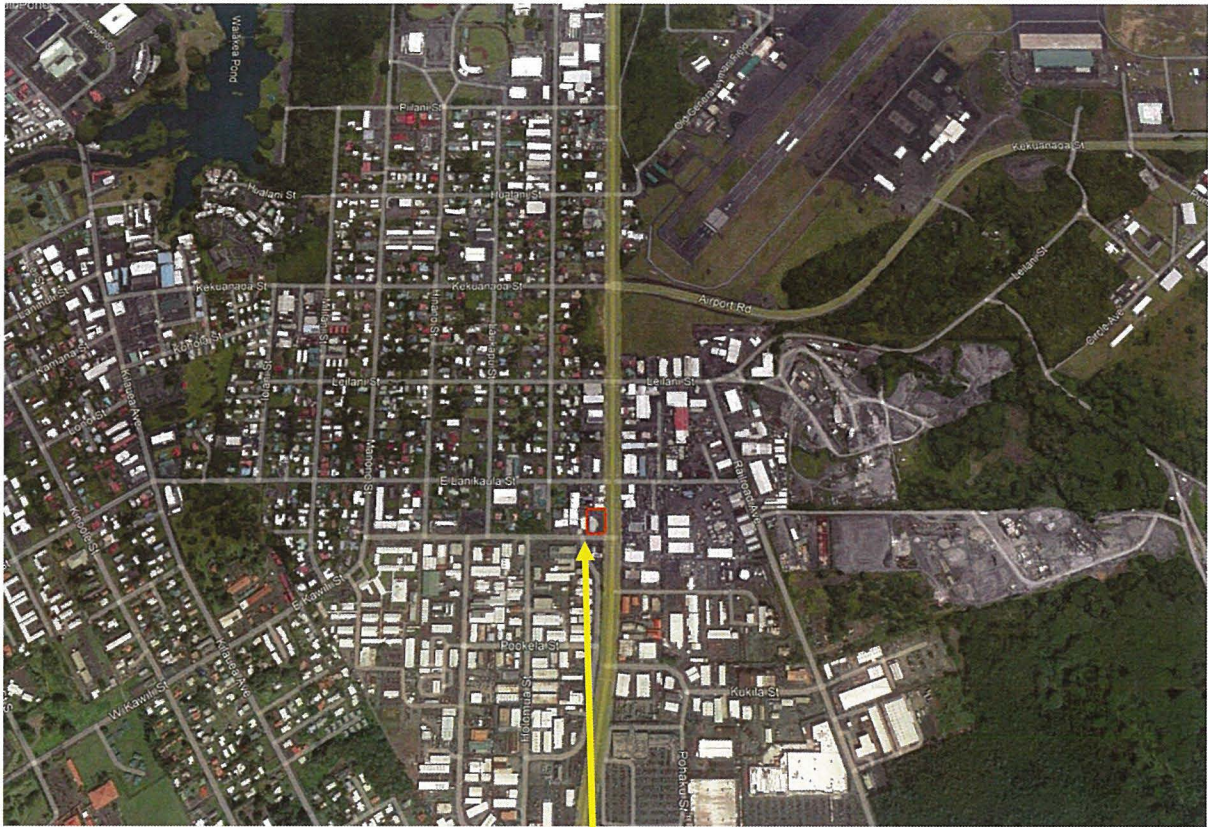
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**EXHIBIT A**

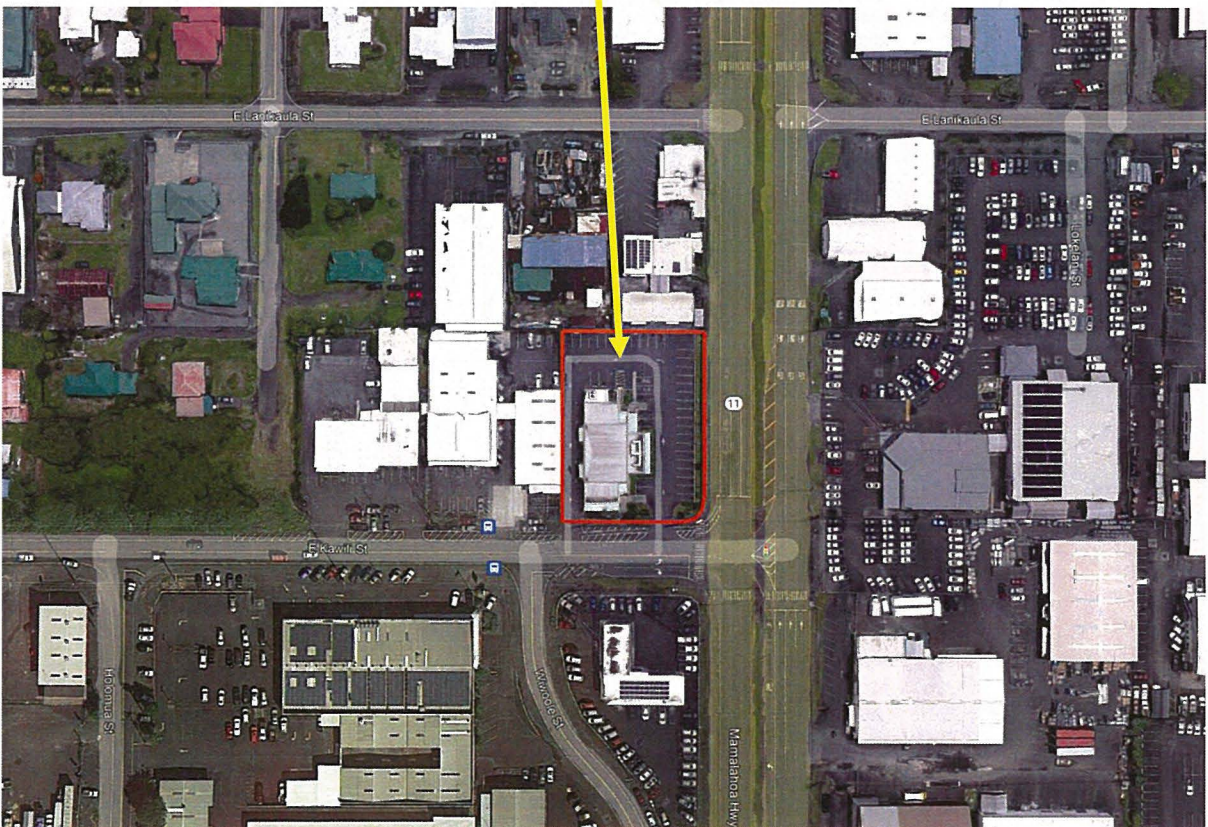


Former Bank of Hawaii Property  
Lease Request,





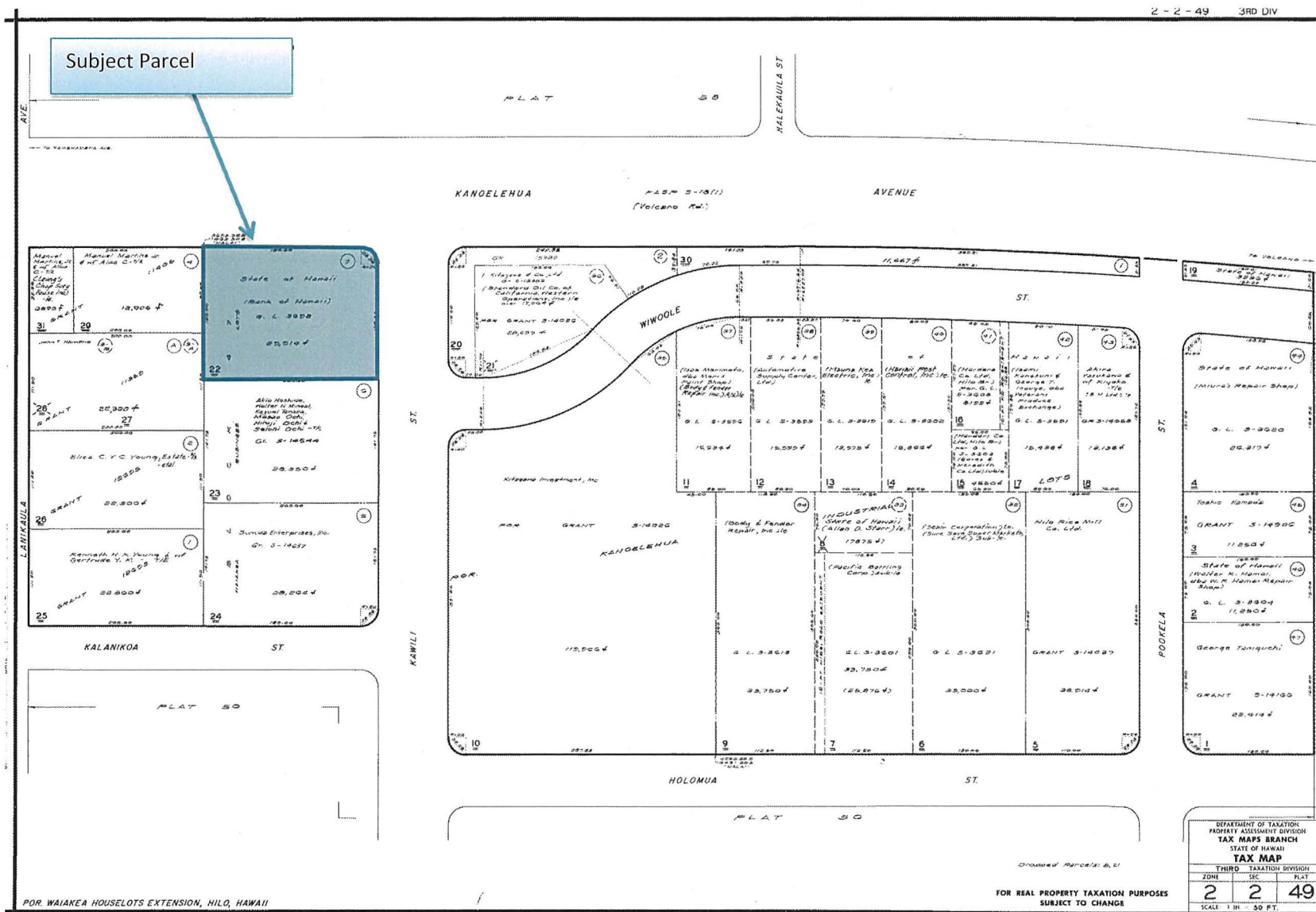
**SUBJECT PROPERTY**



**EXHIBIT A**



## 2 - 2 - 49 3RD DIV



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

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621  
HONOLULU, HAWAII 96809

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

LAURA H.E. KAAKUA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

February 6, 2023

## EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

**Project Title:** Sale of Lease at Public Auction for Business and/or Commercial Purposes.

**Project / Reference No.:** PSF No. 22HD-101

**Project Location:** Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-049:022.

**Project Description:** The subject property was previously encumbered under General Lease No. S-3698 and was sold at public auction to Bank of Hawaii with a commencement date of January 26, 1962. The term of lease was for 55 years, expiring on January 25, 2017. After a one-year holdover, the bank entered into a month-to-month revocable permit while construction for the relocated banking facility was completed.

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

**Exemption Class No. and Description:** In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 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 General Exemption Type 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 40 that states, "Leases of State land involving negligible or no expansion of change of use beyond that previously existing."

# Exhibit B

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

No. The sale of State land at public auction for commercial/business purposes is a continuation of the previous use of the property and is compliant with county zoning requirements. Staff believes there are no cumulative impacts involved.

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

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

**Analysis:**

The subject property consists of a 29,914 square foot lot with a 5,313 square foot commercial structure on it. Current Real Property tax assessment values the building at \$1,123,700.00. The most recent use of this property was for the Bank of Hawaii, Waiakea Branch. There has been significant interest in leasing the subject parcel for the same purpose including inquiries from several businesses looking for long-term leasing.

**Consulted Parties:**

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Public Works	No Response
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**Recommendation:**

That the Board find this project will have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



TMK: (3) 2-2-049:022





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