

JOSH GREEN, M.D.
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

EDWIN H. SNIFFEN
DIRECTOR

Deputy Directors
DREANALEE K. KALILI
TAMMY L. LEE
ROBIN K. SHISHIDO
JAMES KUNANE TOKIOKA

IN REPLY REFER TO:

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

APPROVAL FOR ACQUISITION OF AN AVIGATION EASEMENT OVER
PRIVATE LANDS OF MAUI OCEANVIEW LP AND SET ASIDE TO THE
DEPARTMENT OF TRANSPORTATION, AIRPORTS DIVISION, SITUATE AT
MAHINAHINA AND KAHANA, LAHAINA, ISLAND AND COUNTY OF MAUI,
STATE OF HAWAII, TAX MAP KEY: (2) 4-3-001:082 AND (2) 4-3-001:083
MAUI

APPLICANT:

State of Hawaii, Department of Transportation, Airports Division.

PRIVATE LANDOWNER:

Maui Oceanview LP, a Delaware limited partnership, whose mailing address is 4950
Westgrove Drive, Suite 105, Dallas, Texas 75248.

LEGAL REFERENCE:

Sections 107-10, 171-11, 171-30 and 261-4, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Avigation easement over privately-owned lands situated at Mahinahina and Kahana,
District of Lahaina, Island and County of Maui, State of Hawaii, identified as Tax Map
Keys: (2) 4-3-001:082 and (2) 4-3-001:083, as shown on the attached map labeled
Exhibit A and A-1 (previously (2) 4-3-001:031 and :079).

AREA:

(2) 4-3-001:082: 153.207 acres, more or less.
(2) 4-3-001:083: 151.048 acres, more or less.

ITEM M-7

ZONING:

State Land Use: Urban
County: PD Project District (Maui Island Digital Zoning Map 3, Ordinance
5363, effective 03/22/202).

LAND TITLE STATUS:

Section 5(a), Hawaii Admission Act: Non-Ceded
DHHL, 30% entitlement lands Yes No

CURRENT USE STATUS:

The properties are currently unimproved vacant lands. Maui Oceanview LP is in the process of obtaining necessary approvals to begin construction of their phased development for Pulelehua, a 304-acre residential and retail master-planned community on private lands surrounding Kapalua Airport.

CHARACTER OF USE:

A perpetual avigation easement, appurtenant to Kapalua Airport, for the free and unobstructed aircraft flight and passage, and operations and effects of all types of aircraft.

CONSIDERATION:

Gratis, easement to be conveyed to the State of Hawaii pursuant to the Land Use Commission's Findings of Fact, Conclusions of Law, and Decision and Order dated June 30, 2006 in Docket No. A04-751.

CHAPTER 343, HRS – ENVIRONMENTAL ASSESSMENT:

The State of Hawaii, Department of Transportation, Airports Division, has determined that the impacts of this action are de minimis and exempt, pursuant to the Department of Transportation, Comprehensive Exemption List, Type 8, Part 1, 8(e.), concurred to by the Environmental Advisory Council on February 1, 2022.

Accordingly, Type 8, Part 1, exempts "DOT administrative activities and operations that would not result in direct, indirect or cumulative adverse impacts to the environment. These types of actions include but are not limited to:

8.e. Acquisition and/or exchange of property for public use, including but not limited to: easements, minor subdivision and consolidation of parcels for public use such as rounding corners or minor street widening."

REMARKS:

In June 2006, Maui Land & Pineapple Company, Inc. received approval from the Land Use Commission (LUC) to amend the State Land Use District Boundary designation from the Agricultural District to the Urban District for the development of a master planned residential community identified as Pulelehua on approximately 310 acres of land surrounding Kapalua Airport (LUC Docket No. A04-751), as shown on the attached map labeled Exhibit B.

In June 2016, Maui Land & Pineapple Company, Inc. conveyed the 310 acres of land together with its land entitlements to Maui Oceanview LP. As a condition of the LUC's Decision and Order for Docket No. A04-751, Maui Oceanview LP as the new landowner, is required to convey an aviation (also known as avigation) easement to DOT.

In January 2022, a Memorandum of Agreement (MOA) was executed between DOT and Maui Oceanview LP, which documented the parties' understandings, obligations and agreements regarding the future use, improvements, and maintenance of Akahahele Street in connection with the Pulelehua project. In addition, the MOA documented the understandings regarding Maui Oceanview LP granting DOT an avigation easement over Maui Oceanview LP's lands for their Pulelehua project.

Acquisition of the avigation easement will secure Kapalua Airport's airspace for airport and runway protection and for noise compatibility with the surrounding uses. The avigation easement will run with the land and will apply to any future owners of Maui Oceanview LP's lands.

RECOMMENDATION: That the Board:

1. Authorize the acquisition of the subject avigation easement under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
 - a. The terms and conditions of the draft avigation easement document, as may be amended;
 - b. Review and approval by the Department of the Attorney General;
 - c. Such other terms and conditions as may be prescribed by the Director of Transportation or the Chairperson of the Board of Land and Natural Resources to best serve the interests of the State.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject avigation easement to the Department of Transportation, Airports Division under the terms and conditions cited above, which are by reference incorporated herein and subject further to the following:

- a. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
- b. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
- c. Review and approval by the Department of the Attorney General; and
- d. Such other terms and conditions as may be prescribed by the Director of Transportation or the Chairperson of the Board of Land and Natural Resources to best serve the interests of the State.

Respectfully submitted,



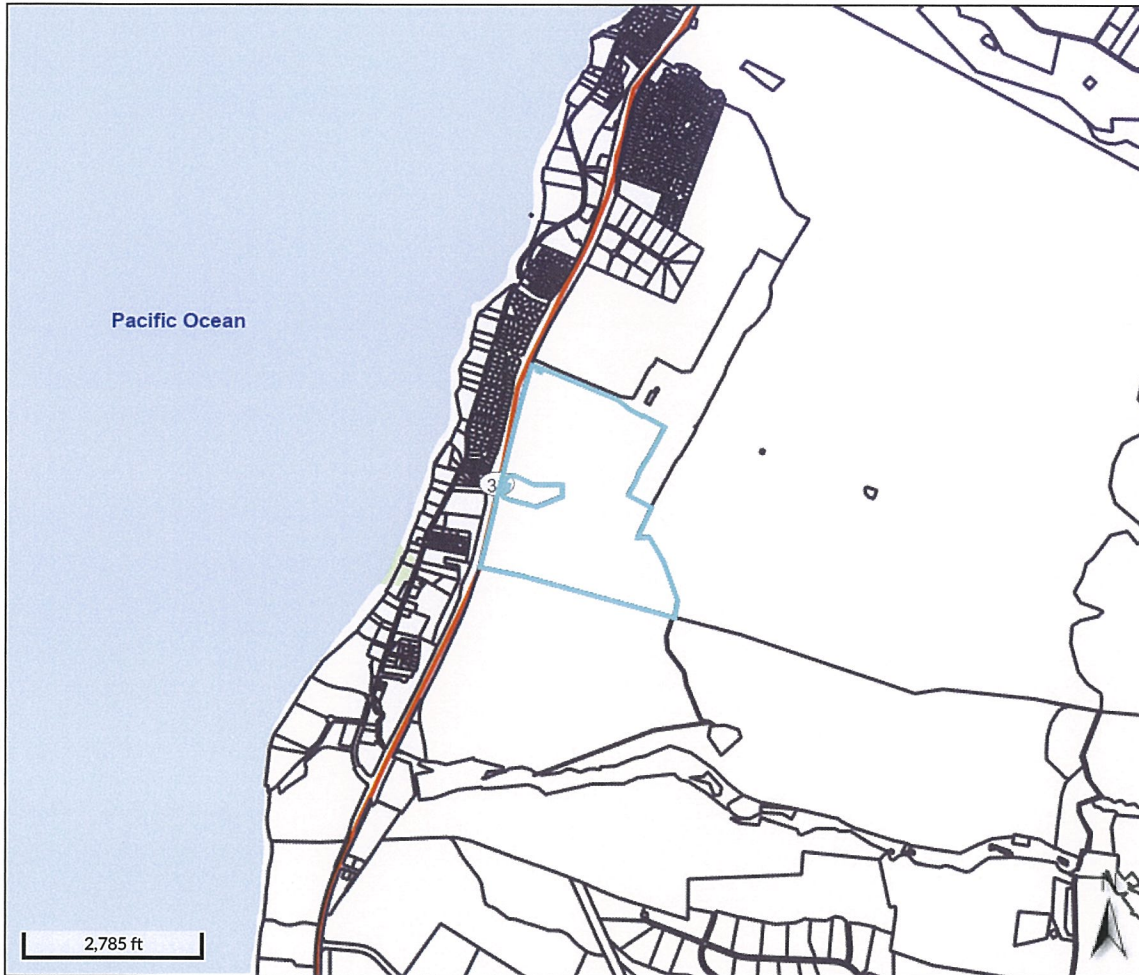
EDWIN H. SNIFFEN
Director of Transportation

APPROVED FOR SUBMITTAL:

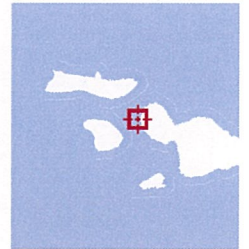


DAWN N. S. CHANG
Chairperson
Board of Land and Natural Resources

EXHIBIT A



Overview



Legend

□ Parcels

Parcel ID	430010820000	Situs/Physical Address	HONOAPIILANI HWY	Assd Land Value	\$6,894,300	Last 2 Sales Date		Price		Reason	Qual
Acreage	153.207	Mailing Address	MAUI OCEANVIEW LP 4950 WESTGROVE DR STE 105 DALLAS TX 75248	Assd Building Value	\$0	3/25/2022	0	n/a			U
Class	NON-OWNER- OCCUPIED/RESIDENTIAL			Total Assd Value	\$6,894,300	12/23/2020	0	Other			U
				Exempt Value	\$0						
				Taxable Value	\$6,894,300						

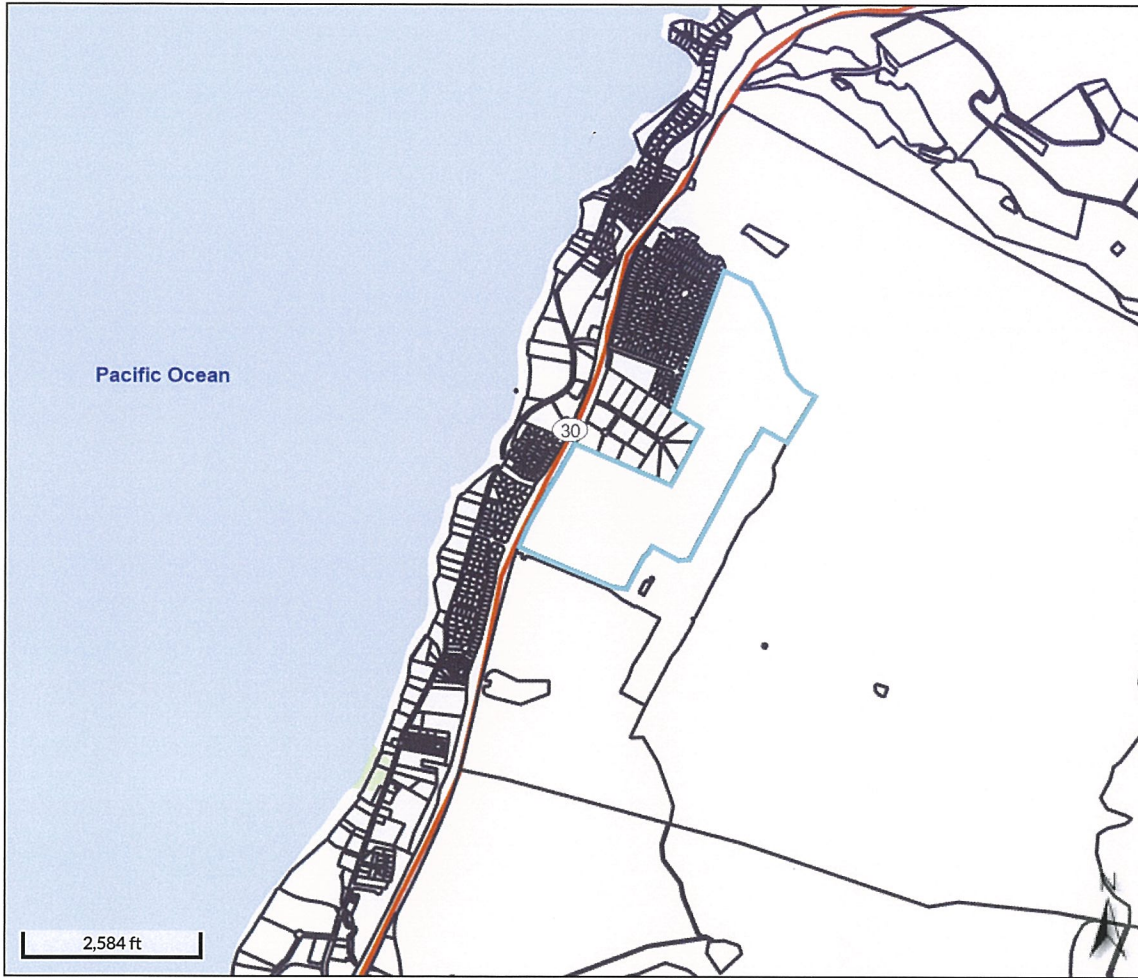
Brief Tax Description n/a

(Note: Not to be used on legal documents)

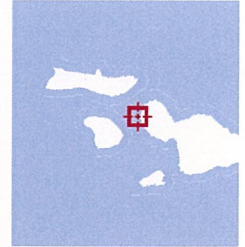
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EXHIBIT A-1



Overview



Legend

□ Parcels

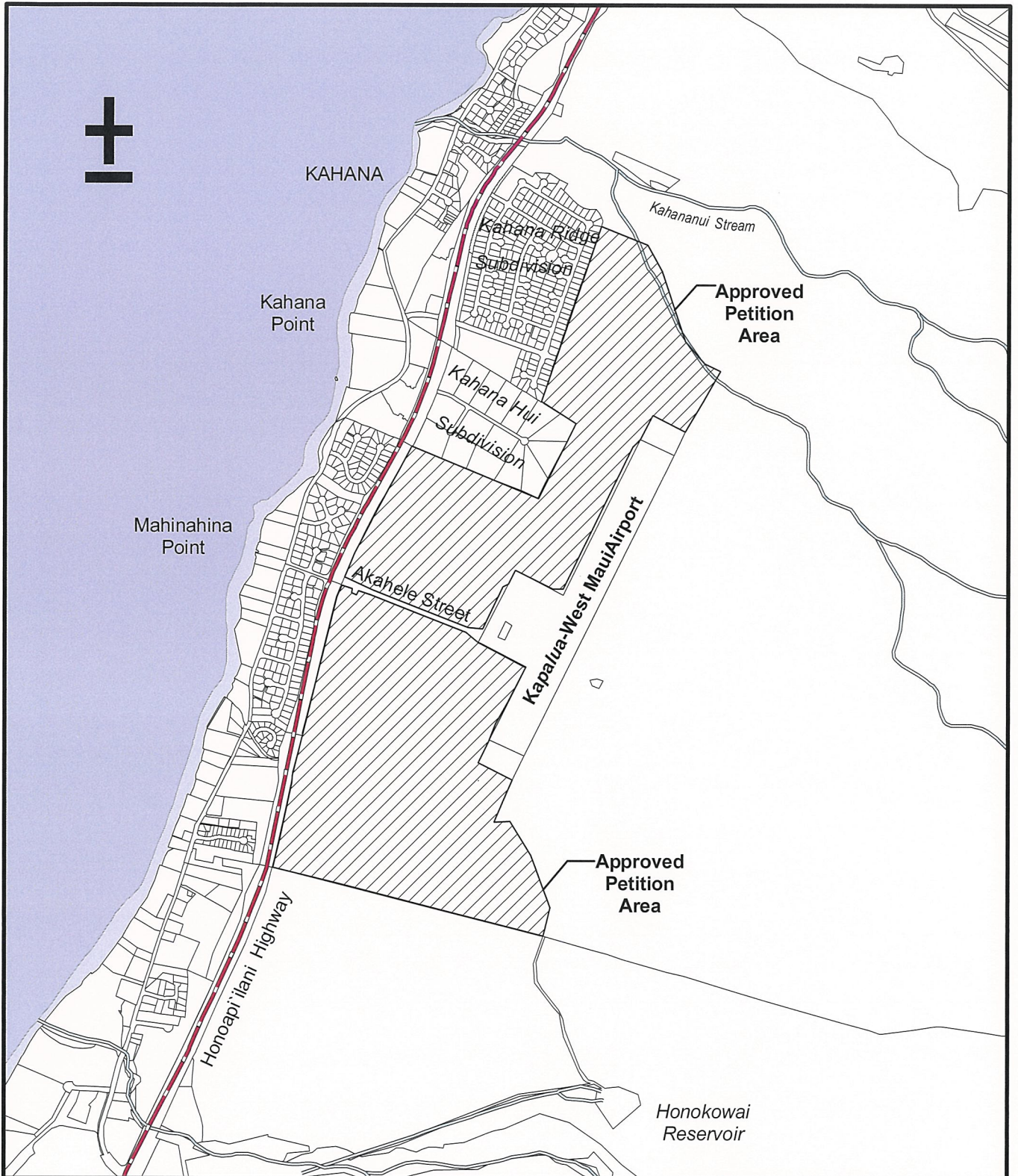
Parcel ID	430010830000	Situs/Physical Address	HONOAPIILANI HWY	Assd Land Value	\$7,552,400	Last 2 Sales			
Acreage	151.048	Mailing Address	MAUI OCEANVIEW LP	Assd Building Value	\$0	Date	Price	Reason	Qual
Class	NON-OWNER-OCCUPIED/RESIDENTIAL		4950 WESTGROVE DR STE 105 DALLAS TX 75248	Total Assd Value	\$7,552,400	3/25/2022	0	n/a	U
				Exempt Value	\$0	1/14/2020	0	n/a	U
				Taxable Value	\$7,552,400				

Brief Tax Description n/a
 (Note: Not to be used on legal documents)

Date created: 12/27/2022
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EXHIBIT B



A04-751 MAUI LAND & PINEAPPLE COMPANY, INC.,
a Hawai'i corporation

LOCATION MAP
TAX MAP KEY: 4-3-01: por. 31 and 79
Mahinahina and Kahana, Lahaina, Maui, Hawai'i
Scale: 1: 18,000

