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

July 28, 2023

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

Oahu

PSF No.: 23OD-022

Mutual Cancellation of General Lease No. S-4218 and Issuance of Direct Lease to Waipahu Soto Zen Temple Taiyoji for Landscaping, Parking and Memorial Purposes, Waikele, Ewa, Oahu, Tax Map Key: (1) 9-4-027:124.

#### **APPLICANT**:

Waipahu Soto Zen Temple Taiyoji, ("Applicant"), a Hawaii nonprofit corporation and 501(c)(3) organization. Copy of IRS Determination Letter attached as **Exhibit A**.

## **LEGAL REFERENCE**:

Sections 171-13 and 43.1, Hawaii Revised Statutes, as amended.

#### **LOCATION**:

Portion of Government lands situated at Waikele, Ewa, Oahu, identified by Tax Map Key: (1) 9-4-027:124, as shown on the maps attached as **Exhibits B1** and **B2**.

#### AREA:

8,346 square feet, acres, more or less, subject to review and approval by the Department of Accounting and General Services, Survey Division.

#### ZONING:

State Land Use District: Urban City and County of Honolulu LUO: R-5

#### 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 General Lease No. S-4218 for (cemetery) landscaping and memorial purposes, commencing December 5, 1968, and expiring on December 4, 2033.

#### **CURRENT ANNUAL RENT:**

\$600 per annum. Recent rental reopening determined the annual rent effective from December 4, 2023 is \$8,400.

#### **NEW LEASE:**

#### CHARACTER OF USE:

Landscaping, parking, and memorial purposes.

#### LEASE TERM:

Thirty (30) years.

#### **COMMENCEMENT DATE:**

To be determined by the Chairperson.

#### ANNUAL RENT:

\$480 per annum (Minimum Rent Policy for New Dispositions, May 13, 2005)

#### **METHOD OF PAYMENT:**

Due annually

#### **RENTAL REOPENINGS**:

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.

#### CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR")§ 11-200.1-15 and -16 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," Part 1, Item 40, that states "Leases of state lands involving negligible or no expansion or change of use beyond that previously existing". The subject request will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of \$11-200.1-17, HAR. (Exhibit C)

#### DCCA VERIFICATION:

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

#### **APPLICANT REQUIREMENTS:**

Applicant is required to obtain a Conditional Use Permit for off-site parking facility from the Department of Planning and Permitting (see remarks section).

#### **REMARKS**:

At its meeting of October 13, 1967, under agenda item F-16, the Board of Land and Natural Resources ("Board") approved the sale of the subject parcel through public auction for cemetery and memorial purposes. The 1967 action was triggered by the request from the Applicant who owned the adjacent private property (Parcel 122).

As noted in the 1967 submittal, the Applicant wanted to use the subject parcel for landscaping and memorial purposes in memory of those pioneers who were buried there. Prior to any construction, the Applicant planned, with the approval of the Department of Health, to disinter the bodies and relocate them to another cemetery. This requirement was documented in the subject lease which was issued in 1969.

Over the years, the annual rent was reopened multiple times, pursuant to the lease conditions. Earlier this year, Land Division retained an independent appraiser to determine the annual rent of the subject lease effective on December 5, 2023, which was subsequently approved by the Chairperson at \$8,400. Upon receipt of the notification for the new rent, the Applicant reached out to the Division for any options.

Research located a letter dated April 18, 2011 sent by the Division to the Applicant in which the Division suggested that the Applicant requested the mutual cancellation of the lease and the issuance of a new lease pursuant to Section 171-43.1 Hawaii Revised Statutes, Lease to eleemosynary organizations. The Division did not receive any response back from the Applicant in 2011. The current leadership for the organization has changed and is willing to pursue a new lease at the Board's prevailing minimum rent for eleemosynary organizations. Staff has confirmed through the Internal Revenue Service's online site that the applicant is currently listed as an eleemosynary organization and their 501(c)(3) status has not been

revoked. The Applicant provided information regarding their programs and other pertinent information in the application and qualification questionnaire for non-profit (**Exhibit D**).

The subject area is used for parking for attendees of the Temple and for other activities held in the adjacent property owned by the Applicant. Bon Dance and drive-through car blessing services are planned to be conducted at the subject area. Applicant relies on membership dues, donations, and fundraising activities for daily operation. All activities are open to everyone and there are no eligibility requirements to participate in the activities. Staff also received a letter from Mr. Walter Ozawa¹ offering his support to the subject request. Mr. Ozawa also mentioned that during the early days of the lease, there was an agreement with Mr. Rex Kuwasaki of Mililani Memorial Park to disinter and appropriately relocate the remains from the unmarked graves to Mililani Memorial Park. Other letters of support were received from the State Senator of District 19 Henry Aquino, Councilmember Augie Tulba, and current President and Treasurer of the Association, attached as **Exhibit E**.

Recent site inspection indicated the Applicant is in compliance with the terms and conditions of the subject lease.

Comments from other Agencies follows: Department of Design and Construction has no comment regarding the proposed Chapter 343 environmental exemption, Dept. of Transportation has no comment and concurs with the environmental exemption, Department of Planning and Permitting commented that they have no objection but noted Parcel 124 is zoned R-5, residential district and currently has a special permit authorizing use as an off-site parking facility for the duration of the current lease but the new lease will need a new approved Conditional Use Permit for off-site parking facility.

#### Lease Area

The subject lease initially covered 9,971 square feet, in which portions of the leased premises were within the public highway, as noted from the map in Exhibit A. At its meeting of January 10, 1975, under agenda item F-15, the Board authorized the fee conveyance of 1,626 square feet, which was a portion of the subject lease premises, to the City and County of Honolulu ("County") for road widening. To date, records show that there was no documented withdrawal from the leased premises although the County has completed the road widening project and the area has been used as a road for many years.

Under a separate request on today's agenda, Land Division requests the Board authorize the conveyance of this 1,626-square foot portion by quitclaim deed of a road remnant to the County.

#### RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, Hawaii Revised Statutes, and Chapter 11-200.1-15 and -16,

<sup>1</sup> Mr. Ozawa is the former director of the Department of Parks and Recreation and former Administrative Director of the Judiciary

Waipahu Soto Zen Temple Taiyoji

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 that the public interest demands the issuance of a new direct lease to Waipahu Soto Zen Temple Taiyoji for landscaping, parking, and memorial purposes.
- 3. Authorize the applicant to use the subject State parcel as off-site parking facility.
- 4. Direct lease to commence upon the issuance of a conditional use permit for off-site parking facility for the subject parcel from the Department of Planning and Permitting.
- 5. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a direct lease to the Waipahu Soto Zen Temple Taiyoji, 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 nonprofit lease document form, as may be amended from time to time;
  - B. Annual rent to be set at the prevailing minimum rent policy for eleemosynary organizations;
  - 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.
- Approve the mutual termination of General Lease No. S-4218 upon issuance of the requested lease.

Respectfully Submitted, Dalem Bugan Stelamate

Darlene Bryant-Takamatsu

Land Agent

APPROVED FOR SUBMITTAL:

Dawn N. S. Chang, Chairperson

RT

pour



FRESNO, CA 93888

In reply refer to: 8916608585 Mar. 22, 1995 LTR 858C N 99-0223031 0000 00 000

06441

WAIPAHU SOTO ZEN TEMPLE TAIYOJI PO BOX 65 WAIPAHU HI 96797-0065650

Taxpayer Identification Number: 99-0223031 Tax Period(s): Dec. 31, 1994

Form: 940

#### Dear Taxpayer:

You are not required to file Form 940 because you have been determined to be an exempt organization under section 501(c)(3) of the Internal Revenue Code; therefore, you are exempt from paying Federal unemployment tax. Please destroy any Form 940 returns you may have received. Do not make tax deposits for Federal unemployment tax.

We will send you a refund for your payments for the current year. You may request refunds for payments made in previous years by filing a Form 843 claim. You must file a claim for refund within three years from the return due date, or within two years from the date you paid the tax, whichever is later.

Even though you are not liable for the Federal tax, you could be liable for the state tax. States establish and operate their own systems. Therefore, you should contact your state to find out whether you are required to make contributions under the state unemployment compensation law.

If you have questions about this letter, please write us at the address shown above. If you prefer, you may call the IRS telephone number listed in your local directory. An employee there may be able to help you, but this office is most familiar with your case.

Whenever you write, please include your telephone number in the spaces below, and the hours you can be reached. Also include a copy of this letter. Keep a copy of this letter for your records.

Telephone Number ( ) H	Hours
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8916608585

Mar. 22, 1995 LTR 858C 99-0223031 0000 00 000

06442

WAIPAHU SOTO ZEN TEMPLE TAIYOJI PO BOX 65 WAIPAHU HI 96797-0065650

We apologize for any inconvenience, and thank you for your cooperation.

Sincerely yours,

G. L. July

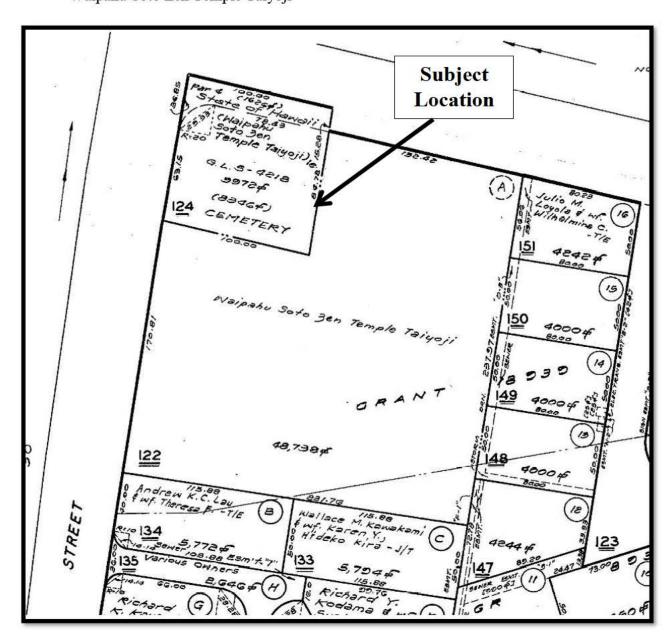
G. L. Joly Chief, Inquiry and Support Section

Enclosure(s): Copy of this letter



TMK (1) 9-4-027: portion of 124

## **EXHIBIT B1**



TMK (1) 9-4-027: portion of 124

## **EXHIBIT B2**

## **EXEMPTION NOTIFICATION**

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

Project Title: Direct lease for landscaping, parking, and memorial purposes.

Project / Reference No.: 23OD-022

Project Location: Waikele, Ewa, Oahu, Tax Map Key: (1) 9-4-027: portion of 124.

Project Description: Mutual Cancellation of General Lease No. S-4218 and Issuance of

Direct Lease to Waipahu Soto Zen Temple Taiyoji for Landscaping,

Parking, and Memorial Purposes

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

Exemption Class No.: In accordance with Hawaii Administrative Rules ("HAR")§ 11-200.1-

15 and -16 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," Part 1, Item 40, that states "Leases of state lands involving negligible or no expansion or change of use beyond that

previously existing".

Cumulative Impact of Planned Successive Actions in Same Place Significant: No, the request would involve negligible or no expansion or change

in use of the subject area beyond that previously existing.

Action May Have Significant Impact on Particularly Sensitive Environment: Staff is not aware of any particularly sensitive environmental issues and use of the area would involve negligible change from what is

existing.

Consulted Parties: Agencies described in the submittal.

Analysis: Staff believes the request would involve negligible or no expansion or

change in use of the subject location beyond that previously existing.

**EXHIBIT C** 

Waipahu Soto Zen Temple Taiyoji

Recommendation:

That the Board finds 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.

## APPLICATION AND QUALIFICATION QUESTIONNAIRE

(Non-Profit)

Write answers in the spaces provided. Attach additional sheets as necessary, clearly indicating the applicable section number.

Part I:	Gen	eral Information		
1.	Applicant's legal name: Waipahu Soto Zen Temple Taiyoji			
2.	Appl	licant's full mailing address:		
	94-4	13 Waipahu St.		
	Waip	pahu, HI, 96797		
3.	Nam	ne of contact person: Lynn Okamura, President, Board of Directors		
	Conf	tact person Phone No.: NA Fax No.: NA		
4.	Appl	licant is interested in the following parcel:		
	Tax	Map Key No.: 9-4-27 Location: Waipahu, Hawaii		
	If Ap	oplicant is current lessee: General Lease No.: S-4218		
5.	Whe	en was Applicant incorporated? October 14, 1964		
6.	Attac	ch the following:		
	A.	Articles of Incorporation		
	B.	Bylaws		
	C.	List of the non-profit agency's Board of Directors		
	D.	IRS 501(c)(3) or (c)(1) status determination		
	E.	Tax clearances from State of Hawaii and respective county Real Property Tax Off	fice.	
	F.	Audited financial statements for the last three years. If not audited, explain why.		
		If Applicant is a new start-up, attach projected capital and operating budgets.		
	G.	Any program material which describes eligibility requirements or other requirements receive services	nents to	
Part II:	Qual	lification		
7.	Is Ap	pplicant registered to do business in Hawaii:	es/No	
8.	Has	Applicant received tax exempt status from the Internal Revenue Service?	es/No	
9.	Is Ap	oplicant licensed or accredited in accordance with federal, State or county utes, rules, ordinances, to conduct the proposed activities?	es/No	
	List	all such licenses and accreditations required: Soto Shu Ministry Headquarters	(Tokyo,	
		an); Hawaii Department of Commerce and Consumer Affairs		
10.	ls Ap	opplicant in default or otherwise not in good standing with any State artment (e.g. POS agency, DCCA, DLNR, etc.)?	es/No	

Rev. 08/30/05

Non-Profit Application Form, page 1

BLNR - Issuance of Direct Lease to	Page 13
Waipahu Soto Zen Temple Taiyoji	

Doc No		years? If yes, list:	ent or Yes/ <mark>No</mark>
Doc. No.	Type of Agreement	Term of Agreement	
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## Part III: Program Activities and Persons to be Served

Waipahu town was established as a plantation camp for migrant workers. As such, it has customary to share our unique cultures and practices with all members of the communities and practices with all members of the communities and practices with all members of the communities are provided by many members of the community, regardless of race or religion.  Describe the targeted population for these activities by: 1) age group, 2) gender, 3) background, 4) income level, 5) geographic location of residence, 6) special needs/disability other applicable characteristic(s).  All of our activities (services, classes, fund-raising events, etc.) are open to all. While far memorial services are primarily attended by members and their family and friends, all are open to everyone without exception to age, gender, ethnicity, income level, geoglocation of residence, and special needs/disabilities.  Describe all eligibility requirements of clients to participate in the activities, e.g. age, income ethnic background, income level, disability, etc.  There are no eligibility requirements to participate in our activities.	S. Car
Describe the community need for and the public benefit derived from these activities. Waipahu town was established as a plantation camp for migrant workers. As such, it has customary to share our unique cultures and practices with all members of the community example, our Bon Dance, that celebrates the Obon season, has been an annual event at by many members of the community, regardless of race or religion.  Describe the targeted population for these activities by: 1) age group, 2) gender, 3) background, 4) income level, 5) geographic location of residence, 6) special needs/disability of our activities (services, classes, fund-raising events, etc.) are open to all. While farm memorial services are primarily attended by members and their family and friends, all are open to everyone without exception to age, gender, ethnicity, income level, geoglocation of residence, and special needs/disabilities.  Describe all eligibility requirements of clients to participate in the activities, e.g. age, income think background, income level, disability, etc.  There are no eligibility requirements to participate in our activities.	
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Do you require membership to participate in these activities?	1-21-
Do you require membership to participate in these activities?	0.0
Do you require membership to participate in these activities?  Yes, list the requirements of becoming and remaining a member:	
	Yes/No

Activity	Persons Per Year
Services (Family, Memorial, Special)	1200
Bon Dance	500
Car Blessing	100
Other Special Events (Rummage Sale, etc)	200
promise and a majority of M. Grands The self-per	Since I would need the Like I
Is State funding made available for the activities to be on the leased premises?	onducted Yes/
If yes, by which State agency:	
List all activities to be conducted on the leased premise e.g. subleasing, sale of products or services. Include ar each activity.  None	estimate of annual gross revenues
Committee of the control of the cont	
Development of the Land  Describe the proposed site development plan for the pr	operty, indicating the location and si
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27.	Describe all environmental, land use and other permitting requirements which mus develop the land as proposed.  NA	
		277
28.	Will you be subleasing any portion of the property? If yes, describe the sublease use	es:
	No plans to sublease any portion of the property.	
		74.
Part \	V: Notarized Certification	and the
By: L Its: Date:	Dahu Soto Zen Temple Taiyoji Applicant Name  Lym Okamura By: Board President Its:	
Notar Coun	waly Public  Ty Public  Ty of: Hawaii  Ty of: Hawaii	
My co	ommission expires: 06/25/2025  Ic. Date: 24 March 2023 # Pages: -5- RMALYN BANATAO First Circuit.  C Description: Application and Qualification  Outside State of Sta	

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cp

Non-Profit Application Form, page 5

July 28, 2023

May 1, 2023

Board of Land and Natural Resources,

I am writing in support of Waipahu Soto Zen Temple's request for a long-term lease of land that was allowed by the State of Hawaii and City and County of Honolulu in 1973 for development of the temple at 94-413 Waipahu Street, situated at the corner of Waipahu Street and Waikele Road. The original temple, founded in 1908 is the oldest Soto Zen Temple in Hawaii, and originally sited above Q'ahu Sugar mill. The original site was returned to landowner Q'ahu Sugar. The current site was purchased via public auction and the new temple was constructed and dedicated in 1973. A small abandoned plantation cemetery was originally located at the corner of Waikele Road and Waipahu Street. An agreement was reached with Mr. Rex Kuwasaki, Mililani Memorial Park to disinter and appropriately reinter the remains from the unmarked graves to Mililani Memorial Park. The temple also agreed to erect a small jizo statue and shelter in the corner of the property to honor the memory of those who had been buried there.

Waipahu Soto Zen Temple continues to be a vital and vibrant part of Waipahu town. The temple continues to provide active traditional and cultural activities and programs to young and old. Bon Dances bring hundreds, if not thousands, to enjoy and participate in August of each year.

I recall that sugar cane fields covered the entire area. As a young student at Waipahu Elementary School I recall when there were no homes adjacent to the school and there was a stable of mules, some cattle located across from the school.

While Waipahu town has been transformed from a plantation town to a significantly larger suburban town, Waipahu Soto Zen Temple has also grown and developed into a valued part of Waipahu and a good neighbor to Waipahu Elementary School and surrounding community.

Thank you for your support.

Sincerely, Walter M. Ozawa,

Former Director, Department of Parks and Recreation Former Administrative Director of the Courts

**EXHIBIT E** 



## The Senate Ka 'Aha Kenekoa

STATE CAPITOL HONOLULU, HAWAI'I 96813

May 20, 2023

Department of Land and Natural Resources Attn: Board of Land and Natural Resources Kalanimoku Building 1151 Punchbowl Street Honolulu, HI 96813

Subject: Waipahu Soto Zen Temple Taiyoji

Dear Board of Land and Natural Resources:

I am writing this letter of support for the Waipahu Soto Zen Temple Taiyoji (WSZTT) and the intended process to reopen their lease agreement with the Department of Land and Natural Resources (DLNR).

As you know, approximately one-third of the facility's parking is leased from DLNR. My support stems from WSZTT's historical and cultural contributions to the community of Waipahu. From hosting bon dances annually to providing opportunities for spiritual and educational growth for all individuals and residents, WSZTT has been a pillar for many generations in West and Central Oahu. In recent years, they have generously provided support to other area schools and community organizations that foster a stronger sense of community pride and cohesion. The WSZTT is without a doubt an amazing group of civic-minded individuals bound by faith and works to benefit our community at-large.

It is for these reasons and others that I unequivocally support WSZTT's efforts to further their service and love for our community. Should you have any questions or concerns, please don't hesitate to reach me at senaguino@capitol.hawaii.gov or (808) 586-6970.

Sincerely,

Henry Aquino, State Senator

District 19



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 202
HONOLULU. HAWAII 96813-3065
TELEPHONE: (808) 768-5010 • FAX: (808) 768-5011

AUGIE TULBA
Councilmember District 9
Waipahu, Iroquais Point, West Loch, 'Ewa Villages & Portions of 'Ewa Beach

Telephone: (808) 768-5009 Email: atulba@honolulu.gov

May 26, 2023

Board of Land and Natural Resources P.O. Box 261 Honolulu, HI 96809

Re: Waipahu Soto Zen Temple Taiyoji Lease

Dear Chairperson Chang, and esteemed members of the Board of Land and Natural Resources:

I am writing to express my support for the Waipahu Soto Zen Temple Taiyoji organization and hope that you will consider issuing a new direct lease with this wonderful non-profit. For many residents in Waipahu and throughout our state, the Waipahu Soto Zen group does so much to keep the Japanese and Okinawan culture alive, by providing a place for many to learn and participate in cultural traditions and events.

In addition to their organizational work, they host taiko drumming, shanshin (Japanese musical instrument), and Okinawan and Japanese dance classes for our youth, quilting workshops, and put on an annual bon dance event, which many in our community and beyond look forward to each year. These services and events provide our community with a richer

This entity has been an integral part of the Waipahu community and continues to be a shining example of service and devotion to our residents. I fully support the issuance of a new direct lease, and know that this will allow this group to continue to serve our community well.

Sincerely,

Councilmember Augie Tulba, District 9



Board of Land and Natural Resources

May 14, 2023

Aloha, Friends at the Board of Land and Natural Resources,

I am writing this letter in support of the issuance of a new direct lease to Waipahu Soto Zen Temple Taiyoji as a non-profit organization. When established over fifty years ago in the plantation town of Waipahu, the temple played a major role in the lives of the workers and their families. In addition to Sunday School and other services, Waipahu Soto Zen Temple Taiyoji also invited the entire community to participate in cultural activities such as our Bazaars, Bon Dances, etc.

The same is true today. Although most members no longer live within walking distance of the temple, members still participate in family services, memorial services, blessings, and meditation sessions. We rely almost entirely on members' and friends' donations.

As a third-generation member and current President of the Board of Directors of Waipahu Soto Zen Temple Taiyoji, I am immensely proud of the temple's contributions to our members and the community of Waipahu. I humbly ask for your support of our non-profit status.

In Gassho,

/s/ Lynn Okamura

President

Waipahu Soto Zen Temple Board of Directors

April 28, 2023

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

To Whom It May Concern,

I am writing in support of the issuance of a new direct lease to Waipahu Soto Zen Temple Taiyoji as a non-profit organization. Beginning with my grandparents, the temple played an integral role in the day-to-day struggles of the immigrant plantation worker. I continue the tradition of my family by being an active member of the congregation and a leader in the women's group, the Fujinkai.

As I am retired now, I am able to spend more time at the temple with fellow members and participate in the workshops and activities that it offers. Of course, the Waipahu community always enjoys our annual Bon Dance, which attracts all ages and nationalities of the Waipahu family!

Thank you,

Board Member

Fujinkai Treasurer

Waipahu Soto Zen Temple Taiyoji