

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

October 27, 2023

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

Ref. No.: RPS-7701
PSF #22KD-062

Kauai

Cancellation of Revocable Permit No. S-7701, Stanley Vasques, Permittee and Waiver of Phase I Environmental Site Assessment Requirement; Issue New Revocable Permit to Cherie Vasques-Sarme, for Pasture Purposes, Kapaa, Kawaihau, Puna, Kauai, Tax Map Key: (4) 4-6-005: 005.

APPLICANTS:

For cancellation of Revocable Permit No. S-7701: Stanley Vasques

For issuance of new revocable permit: Cherie Vasques-Sarme, married, Tenant in Severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government (Crown) Land situated at Kapaa, Kawaihau, Puna, Kauai, identified by Tax Map Key (TMK): (4) 4-6-005:005. See attached map labeled Exhibit A.

AREA:

2.6 acres, more or less.

ZONING:

State Land Use District: Agricultural
County of Hawaii CZO: AG

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 (RP) No. S-7701, Stanley Vasques, Permittee, for pasture purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL FOR NEW REVOCABLE PERMIT:

Monthly installments of \$43.71. Pasture RPs on Kauai generally received a 3% rent increase for 2024. Staff therefore proposes a 3% increase over the 2023 rent for the current RP on this land, RP No. S-7701 to Stanley Vasques.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

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 44 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing." See attached Exhibit B.

DCCA VERIFICATION FOR REVOCABLE PERMIT:

Not applicable. As an individual, applicant Cherie Vasques-Sarme is not required to register with DCCA.

JUSTIFICATION FOR REVOCABLE PERMIT:

At this time, staff believes that a month-to-month RP for pasture purposes is the appropriate disposition given the present situation of this premises having no legal access (the premises are only accessible through the applicant's private property). Due to the landlocked status of the parcel, it is not suitable for disposition by sale of a lease at public

auction.

REMARKS:

The subject State land designated as TMK No. (4) 4-6-005:005 and covering Lots 39-A and 52, was previously encumbered under General Lease (GL) S-4947 issued via public auction to Bernard Carvalho for pasture purposes from November 20, 1984 until April 4, 1988. On November 7, 1986, the Land Board approved a consent to assignment of lease to the applicant, Stanley Vasques. GL S-4947 expired on November 19, 1999, at which time RP S-7202 was issued. On November 22, 2010, the Board approved the reissuance of a large number of RPs statewide to update insurance and other provisions to protect the State's interest. As a part of that process, RP S-7202 to Stanley Vasques was replaced by RP S-7701 also to Stanley Vasques, commencing on June 17, 2011 and the Board has renewed it annually ever since.

Stanley Vasques passed away on June 13, 2022. By letter received on August 15, 2023, Luciana Vasques notified the Department that she wishes to cancel RP S-7701 and requested the issuance of a new RP to daughter Cherie for the continued use of the pasture. See Attached Exhibit C.

Paragraph 14 of RP S-7701 provides as follows:

Prior to the termination or revocation of the subject Permit, Permittee shall conduct Phase I 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.

During staff's site inspection on January 24, 2023, staff observed no evidence of the use of hazardous materials or oil-staining on the premises. The property consists of a pasture and upon inspection, it appeared to adhere to such use, so staff is therefore recommending waiver of the Level One (1) Hazardous Waste Evaluation requirement.

Applicant Cherie Vasquez-Sarme applied for use of the premises for pasture purposes on August 8, 2022. Staff believes the issuance of a new permit to Cherie Vasques-Sarme is appropriate since the State lands are landlocked and she is the abutting landowner. She is the daughter of Stanley Vasques and has been tending to the land with her father since

prior to his passing.

Cherie Vasques-Sarme 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.

The proposed use has continued since November 20, 1984 and is anticipated to continue. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area.

There are no other applicants requesting the same parcel.

The following State and County agencies were consulted on this action with the results indicated:

Agency:	Comment:
Office of Hawaiian Affairs	No response by suspense date
Department of Agriculture	No response by suspense date
County of Kauai (COK) Planning Department	No objections
COK Department of Public Works	No response by suspense date

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. Authorize the cancellation of Revocable Permit No. S-7701 to Stanley Vasques, Permittee, 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. Effective upon a date to be determined by the Chairperson; and
 - b. The Level One (1) Hazardous Waste Evaluation required under section 14 of the permit shall be waived.
3. Based on the testimony and facts presented, find that approving the revocable permit, under the conditions and rent forth herein, would serve the best interest of the State.
4. Authorize the issuance of a revocable permit to Cheri Vasques-Sarme covering the subject area for pasture 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 revocable permit 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,



Reynold Lee
Land Agent

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson *et*



Subject Property



EXHIBIT A

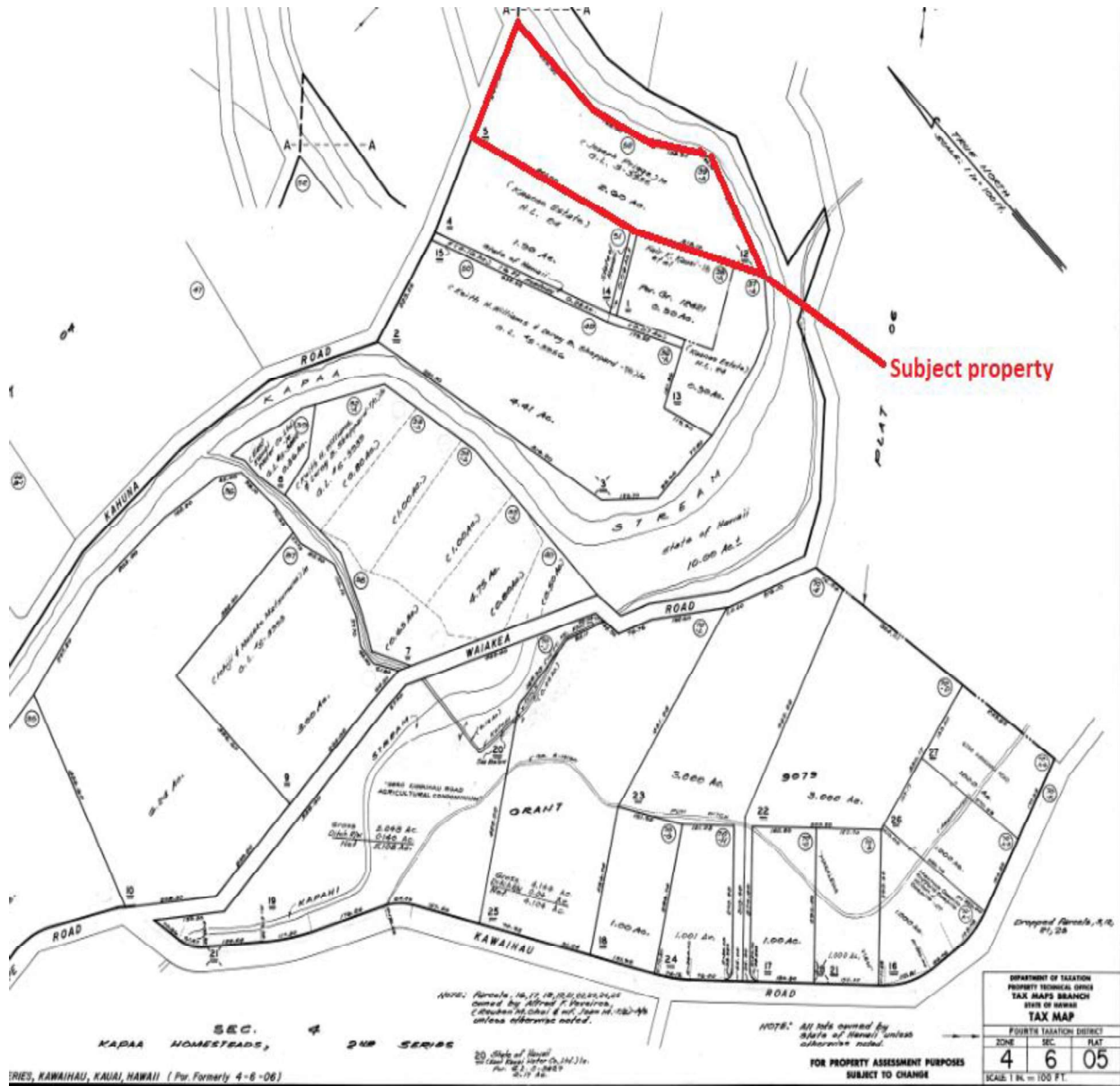


EXHIBIT A



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

STATE OF HAWAII | KA MOKU'ĀINA 'Ō HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'ŌIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

3060 Ewa Street, Room 208
Lihue, Hawaii 96766

October 27, 2023

EXEMPTION NOTIFICATION

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

Project Title:

Cancellation of Revocable Permit No. S-7701, Stanley Vasques, Permittee and Waiver of Phase I Environmental Site Assessment Requirement; Issue New Revocable Permit to Cherie Vasques-Sarme, for Pasture Purposes, Kapaa, Kawaihau, Puna, Kauai, Tax Map Key: (4) 4-6-005:005.

Project / Reference No.:

PSF No. 22KD-062 and RPS-7701

Project Location:

Portion of Government (Crown) Land situated at Kapaa, Kawaihau, Puna, Kauai, identified by Tax Map Key (TMK): (4) 4-6-005:005.

Project Description:

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Chap. 343 Trigger(s):

Use of State land.

Exemption Class No. and Item No.:

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

Exhibit B

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 44, which states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

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, the action proposed will have no significant impact to any particularly sensitive environment.

Consulted Parties:

Comments from The State Department of Agriculture, Office of Hawaiian Affairs, COK Public Works Department, and COK Planning were solicited. No agency had any objection by the suspense date to the proposed exemption.

Recommendation:

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

EXHIBIT B

To: DLNR Kauai Land Division

Stanley Vasques, tenant of RP 7701 passed away in June 2022. I am his wife - Luciana and personal representative of his estate. I kindly ask that you cancel RP 7701 and re-issue a new RP to our daughter Cherie for the continued use of the pasture.

Thank You,

A handwritten signature in black ink, appearing to read "Luciana Vasques". The signature is fluid and cursive, with a long horizontal stroke at the end.

Luciana Vasques

EXHIBIT C