

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

February 24, 2012

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

PSF No.: 11HD-212
Ref. No.: EO 1623

HAWAII

Cancellation of Governor's Executive Order No. 1623 that was issued to the County of Hawaii for Library Purposes; Reset Aside to the Department of Education, for Addition to Holualoa Elementary School and Community Related Purposes, Holualoa, North Kona, Hawaii, Tax Map Key: (3) 7-6-004: 005.

CONTROLLING AGENCY:

County of Hawaii

APPLICANT:

Department of Education

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of former Holualoa Public Library situated at Holualoa, North Kona, Hawaii, identified by Tax Map Key: (3) 7-6-004:005, as shown on the attached map labeled **Exhibit A**.

AREA:

.1334 acres or 5,810.00 square feet, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Commercial C-1

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

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

YES _____ NO x

CURRENT USE STATUS:

Governor's Executive Order No. 1623, set aside of .1334 acres to County of Hawaii for Holualoa Public Library purposes.

PURPOSE OF SET ASIDE:

Addition to Holualoa Elementary School for education and community related purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached below as **Exhibit E**

APPLICANT REQUIREMENTS:

None.

REMARKS:

The subject property was set-aside to the County of Hawaii in 1954 for the Holualoa Public Library site. At that time, the Managing Board of the Hawaii County Library operated the island's libraries. The library system was assumed by the Hawaii Department of Education when the Hawaii State Constitution was ratified in 1959. For reasons unknown, Executive Order No. 1623 was never cancelled despite the State assuming all responsibilities for the building and grounds.

The Holualoa Public Library has been closed since July 1, 2009. The permanent Library Technician position assigned to this library has been vacant since December 28, 2007. The Hawaii State Public Library System (HSPLS) was forced to close this library as a result of the budget cuts and restrictions dating back to Fiscal Year 2009. Due to the Governor's mandates at the time, the vacant position could not be filled and employees from neighboring library could not be transferred to cover the hours of service of the Holualoa Library. The HSPLS is unable to financially support the Holualoa Public Library with staff and operating costs. As a result, HSPLS is now requesting that Governor's Executive Order No. 1623 be cancelled. (Exhibit B)

By memorandum dated April 27, 2011, Ms. Kathryn Matayoshi, Superintendent, Department of Education, requested that the former Holualoa Public Library site be set aside to the Department of Education for addition to its Holualoa Elementary School with possible joint use of the building with the County of Hawaii for community purposes. At its meeting of April 7, 2011, the Board of Education approved a recommendation to request cancellation of the existing Executive Order for re-set aside to the Department of Education. (Exhibit C)

By letter dated November 11, 2011, Mayor William Kenoi, County of Hawaii requested that the Board of Land and Natural Resources cancel Executive Order No. 1623. Mayor Kenoi respectfully asked for a waiver from the requirement of a Phase I Environmental Site Assessment (ESA), and if necessary, a Phase II ESA, prior to the State accepting the land back into DLNR's inventory. (Exhibit D)

Normally when an agency surrenders land that it has under an executive order, staff recommends that an ESA be conducted on the property prior to surrender so that DLNR does not receive contaminated property in its inventory. In this case, the executive order was to the county, but the land and improvements have been managed by DOE/HSPLS since approximately 1959. DOE is willing to accept a set-aside of the property without an ESA. Accordingly, staff is recommending that an ESA not be required, provided that DOE take full responsibility for the condition of the property and improvements.

To date there are no alternative highest and best uses of the subject site. The Department of Education is the appropriate agency to manage and utilize the subject library site due to its close proximity to the Holualoa Elementary School. The lands requested will be fully utilized for the proposed use.

On January 4, 2012, various governmental agencies and interest groups were solicited for comments. The only respondents were the County Planning Department, County Police Department, and County Fire Department.

The County Planning Department offered the following comment:

The subject 5,810 square foot parcel is zoned CV-10 (Village Commercial). It is located in the State Land Use Urban district. In addition, the parcel is designated Low Density Urban and Medium Density Urban by the Hawaii county General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The subject parcel is not located within the Special Management Area (SMA) or a shoreline area.

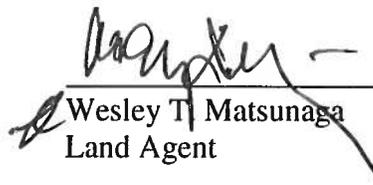
The Kona Community Development Plan (KCDP) was adopted by Ordinance No. 08-131 and was effective as of September 25, 2008. Action PUB-6.3a of the KCDP states that one of the actions is *to establish, in cooperation with the State Department of Education, joint use of school facilities for recreational and community use*. The cancellation and re-set aside of the library site to the DOE for school and community purposes is consistent with this action.

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, 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. Approve of and recommend to the Governor issuance of an executive order canceling Governor's Executive Order No. 1623 and subject 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 Chairperson to best serve the interests of the State.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Education under the terms and conditions cited above, which are by this 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. The Department of Education accepts the subject land and improvements in "as is" condition with all faults and defects, whether latent or patent;
 - C. 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;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

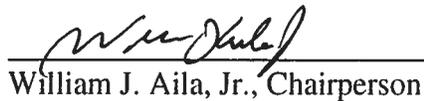
4. Authorize the issuance of an immediate management right-of-entry to the Department of Education, for maintaining, operating and use of the subject property, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current management right-of-entry form, as may be amended from time to time;
 - B. The term of this management right-of-entry shall commence upon date of this Land Board action and shall expire upon the issuance of the subject set aside document; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



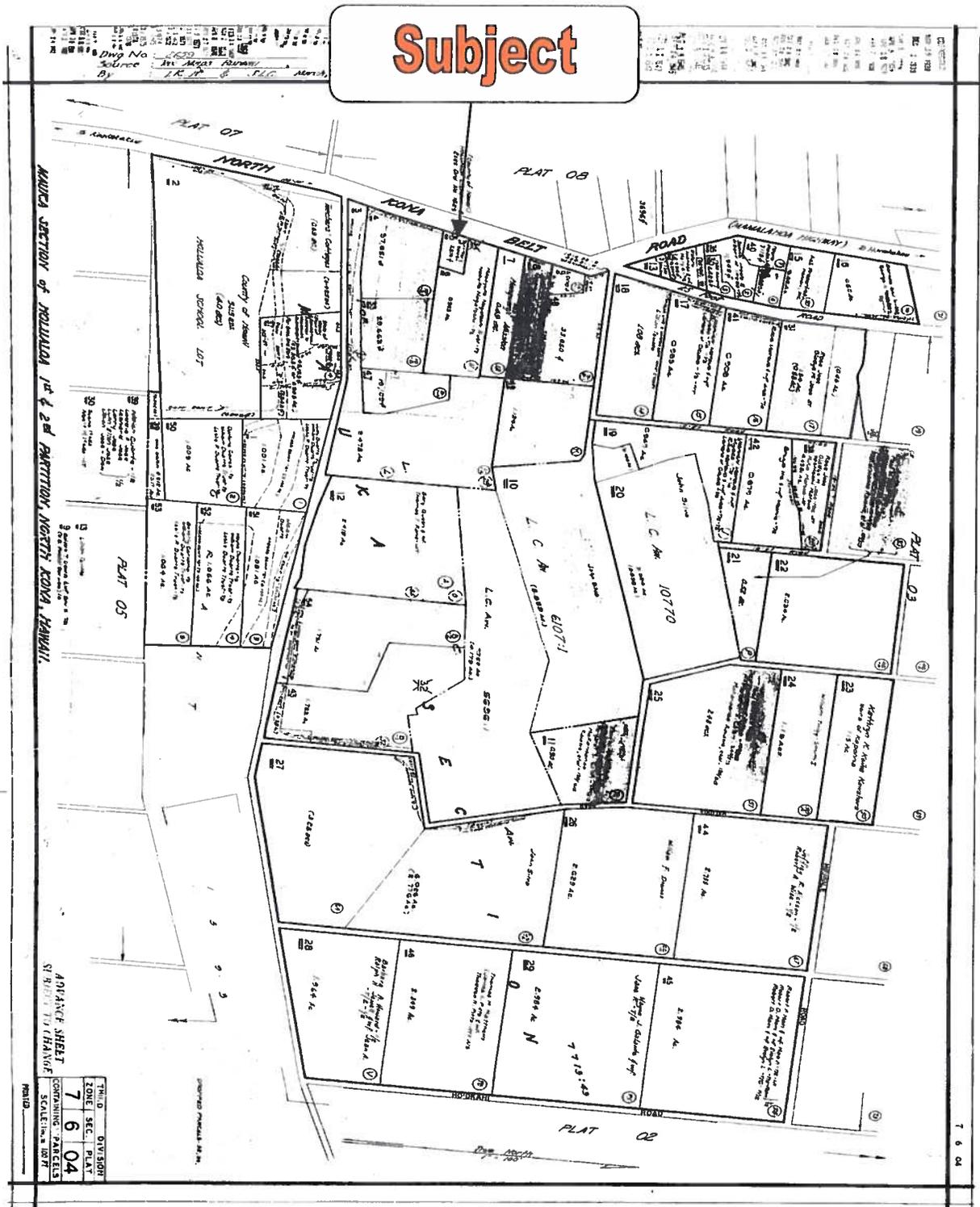


EXHIBIT A

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
HAWAII STATE PUBLIC LIBRARY SYSTEM
OFFICE OF THE STATE LIBRARIAN
11 MERCHANT STREET
HONOLULU, HAWAII 96813

April 26, 2011

TO: The Honorable William J. Alla, Jr., Chairperson
Board of Land and Natural Resources

FROM: *Richard Burns*
State Librarian

SUBJECT: Request Board Approval on Rescinding the Executive Order No. 1623
Pertaining to the Holualoa Public Library

960 1623

SILib-11-162

RICHARD BURNS
STATE LIBRARIAN

RECEIVED

'11 APR 27 12 32

DEPT
& NAT

RECEIVED
LAND DIVISION
HILDA, HAWAII

2011 MAY 11 P 5 00

The Hawaii State Public Library System (HSPLS) requests that the Board of Land and Natural Resources approve the rescinding of Executive Order no. 1623 dated May 20, 1954, for the Holualoa Public Library. We received concurrence from the State Board of Education on April 7, 2011 to proceed with this action.

The Holualoa Public Library has been closed since July 1, 2009. The permanent Library Technician VII position assigned to this library has been vacant since December 28, 2007. HSPLS was forced to close this public library as a result of the budget cuts and restrictions dating back to FY 2009. Due to the Governor's mandates at that time, we could not fill this vacant LT VII position and could no longer transfer or assign employees from the neighboring library (Kailua-Kona Public Library) to cover the Holualoa public service hours of operation. Since its schedule had been scaled back to 12 hours a week prior to its closure, their numbers, statistics, and activities could not justify its reopening or filling of their half-time position. For these reasons and factors, we are strongly recommending rescinding the Executive Order no. 1623, returning this site and building back to the State, under the Department of Land and Natural Resources (DLNR). It is our understanding that the Department of Education and the County of Hawaii have expressed great interest in taking over this facility. After DLNR and its Board approve our action to rescind this Executive Order, either party can then submit a formal request for the management and control of the Holualoa Public Library property and building.

HSPLS can no longer financially support the Holualoa Public Library with staffing and operating costs. Even with only 12 hours of public service each week, their usage was decreasing steadily. Freeing the Kailua-Kona Library staff from having to continue covering this library allowed them to consolidate and provide more consistent services at the largest and busiest library on the east side of the Big Island.

AN AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY EMPLOYER

E. G. H. BULLOCK

EXHIBIT B

The Honorable William J. Aie, Jr., Chairperson
April 28, 2011
Page 2

This action clears the way for utilizing this property to more effectively meet the needs of the community. It is our understanding that the Department of Education, the County of Hawaii and community members have all indicated support for this proposal.

Please contact Keith Fujio, our Administrative Services Officer, at ext. 6-3700 if you need any additional information. Thank you.

c: The Honorable Bruce A. Coppa, Comptroller
Department of Accounting and General Services

Mr. Donald Horner, Chairperson
Board of Education

Enclosure

EXHIBIT B

MEL ABERNETHY
GOVERNOR



EO 1623 69564
KATHRYN S. MATAYOSHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2389
HONOLULU, HAWAII 96804

RECEIVED

11 MAY -2 P 1 24

OFFICE OF THE SUPERINTENDENT

& NATURAL RESOURCES
STATE OF HAWAII

April 27, 2011

TO: The Honorable William J. Aila Jr., Chairperson
Department of Land and Natural Resources

FROM: Kathryn S. Matayoshi, Superintendent
Department of Education

SUBJECT: Request for an Executive Order for the Former Holualoa Public Library,
Holualoa, North Kona, TMK: 7-6-004:005

RECEIVED
LAND DIVISION
H.I.O. HAWAII
2011 MAY -5 P 11:40

The Department of Education (DOE) would like to request an Executive Order to assign the site of the former Holualoa Public Library to the DOR. The DOR would like to use the land and the library facility to expand Holualoa Elementary School and possible joint use of the building with the County of Hawaii for community purposes.

The Board of Education, at its April 7, 2011 meeting, approved a recommendation that the current Executive Order for the property (E.O. No. 1623) be rescinded by the Board of Land and Natural Resources.

We appreciate your assistance on this matter. If you have any questions, please call Heidi Meeker of the Facilities Development Branch at 377-8301.

KSM:HM:jmb

c: Art Souza, CAS, Honokaa/Kealahou/Kohala/Konawaena Complex Areas

AN AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY EMPLOYER

EXHIBIT C

William P. Kono
Mayor



William T. Takaha
Manager Director

Walter K.M. Lee
Deputy Managing Director

County of Hawai'i
Office of the Mayor

23 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 951-6553
KONA • 14-3044 Ane Keohokalohe Hwy., Bldg. C • Kailua-Kona, Hawai'i 96740
(808) 323-4444 • Fax (808) 323-4440

2011 NOV -3 P 12:17

RECEIVED
LAND DIVISION
HILLO, HAWAII

November 1, 2011

Mr. William J. Alla, Jr.
Board of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96808

Re: Request to revoke Executive Order No. 1623 for the former Holualoa Public Library,
Holualoa, North Kona, Hawai'i, TMK: (3) 7-6-04:05

Dear Chairman Alla:

The County of Hawai'i respectfully requests that the Hawai'i Board of Land and Natural Resources revoke Executive Order No. 1623 which conveys the Holualoa Library site to the County of Hawai'i. We understand that the Hawai'i Department of Education is interested in utilizing this facility to expand the library at Holualoa Elementary School and we are happy to relinquish this asset for this purpose.

Please be aware that the property was conveyed to the County of Hawai'i in 1954 when the libraries were the responsibility of the counties. The library system was assumed by the Hawai'i Department of Education when the Hawai'i State Constitution was ratified in 1959. However, Executive Order No. 1623 was never cancelled despite the state assuming all responsibilities for the building and grounds.

As such, we respectfully ask for a waiver from the requirement of a Phase I Environmental Site Assessment (ESA), and if necessary, a Phase II ESA, prior to the state accepting the land back into DLNR's inventory.

Should you or your staff have any questions, please contact my executive assistant Bobby Command, at (808) 323-4442.

Aloha,


Billy Kono
MAYOR

cc: Kevin Moore, Land Agent, DLNR
Kathryn Matayoshi, Superintendent, Department of Education
Randy Moore, Assistant Superintendent, Department of Education
Art Souza, West Hawaii Complex, Department of Education
Kenneth Van Bergen, Land Manager, County of Hawai'i

County of Hawai'i is an Equal Opportunity Provider and Employer

EXHIBIT D

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AHL, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
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
KAIHOLOLAWI ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

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

Project Title: Cancellation of EO No. 1623; Re-set Aside to DOE for Addition to Holualoa Elementary School and Community Related Purposes.

Project / Reference No.: PSF No.: 11HD-212

Project Location: Holualoa, North Kona, Hawaii, Tax Map Key: (3) 7-6-004: 005.

Project Description: Cancellation of Executive Order No. 1623; Re-set Aside to DOE for Addition to Holualoa Elementary School and Community Related Purposes.

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

Exemption Class No. and Description: In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to:

Exemption Class No. 1, which 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

Exemption Class No. 4, which states, "Minor alterations in the conditions of land, water or vegetation."

Exemption Item Description from Agency Exemption List: 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.

Consulted Parties:

Minor alterations in the conditions of land, water or vegetation. The State Historic Preservation Division and the County Planning Department were consulted, as a source authority having jurisdiction or expertise in this matter.

Recommendation:

The subject land and improvements have been in use since 1959. It is recommended that the Land Board find that the reset aside to DOE for addition to the Holualoa Elementary School and Community Related purposes is exempt from Chapter 343, HRS, as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



William J. Aila, Jr., Chairperson



2/14/12
Date

EXHIBIT E