

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

August 10, 2012

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

PSF No.:040D-155

Oahu

Amend Prior Action of October 24, 2008, under Agenda Item D-13 (Approval in Principle of Land Exchange between the State of Hawaii and Hawaii Baptist Academy for State-Owned Land at Nuuanu, Honolulu, Oahu, Tax Map Keys: (1) 2-2-22:02 & 19, and Privately-Owned Property Yet to be Identified), by omitting State-Owned Land identified as Tax Map Key (1) 2-2-22:02 from the exchange; and identifying Privately-Owned Property located in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu, Tax Map Key (1) 9-4-49:62 for the exchange.

BACKGROUND:

At its meeting of October 24, 2008, under Agenda Item D-13, the Board of Land and Natural Resources ("Land Board") approved in principle an exchange between the State of Hawaii and Hawaii Baptist Academy ("HBA").¹ The public purpose for the exchange, as approved by the Land Board, was to increase revenues to support the public land trust and the Department of Land and Natural Resources' ("DLNR") fiduciary duties.

The State lands approved for the proposed exchange included two parcels located in Nuuanu, Honolulu, Oahu, identified as TMKs (1) 2-2-22:02 & 19 ("Parcel 2" & "Parcel 19", respectively), as shown on the tax map (**Exhibit A-1**).² Photos of the State lands are attached

¹ The Land Board required HBA to (1) pay for the cost of appraisal reports, (2) pay for the public notice, (3) provide survey maps and description for the private property, (4) obtain a title report, and (5) pay for and conduct a Phase I environmental site assessment and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards required by the Federal Environmental Protection Agency and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department.

² **Parcel 2** (7.787 acres) is within the State Land Use Conservation District (Limited Subzone) and is zoned P-1 (Preservation) by the City and County of Honolulu ("City"). **Parcel 2** is vacant and unencumbered. **Parcel 19** (4.971 acres) is within the State Land Use Urban District and zoned R-10 (Residential) by the City. **Parcel 19** is leased to HBA under GL S-5687. Current annual ground rent is \$23,400 with a rent reopening on November 1, 2013. Both parcels were acquired in September 1958 by the Territory of Hawaii and are non-ceded lands.

as **Exhibit A-2**.

At the time of the Land Board action HBA did not own property that would satisfy the public purpose for the exchange. Accordingly, the Land Board's action also established general criteria to help identify an acceptable private property for HBA to acquire and convey to the State as part of the proposed exchange. The Land Board also delegated authority to the Chairperson to approve the final selection of private property. Based on the approved criteria, HBA has identified the property described herein.

SUMMARY OF IDENTIFIED PRIVATE PROPERTY:

HBA has identified a privately-owned property located along Leokane Street in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu. The property is further identified as TMK (1) 9-4-49:62 ("Private Property") as shown on the tax map attached as **Exhibit B-1**.

Tax records indicate the Private Property has a land area of 18,410 square feet and is zoned I-2 (Intensive Industrial) by the City and County of Honolulu. Building improvements consist of a 2-story concrete block structure built in 1975, with a building area of 17,870 square feet.

Building interior areas are partitioned into nine units, all of which are separately metered for electricity. Eight units are currently leased to private businesses, while the property owner occupies the remaining unit. Off-street parking is located on concrete yard areas along the Private Property's street frontage. Photos of the Private Property from an appraisal report are attached as **Exhibit B-2**.

Tenant information and unaudited financial statements provided to DLNR indicates leasing activity for Private Property generates an annual revenue of about \$78,500 per year (not including collections for C.A.M. and excise taxes), and resulted in a net operating income of \$52,000 in 2010.

DUE DILIGENCE:

Pursuant to the Land Board's prior action, HBA has provided DLNR a preliminary title report, Alta/ACSM Land Title Survey, a Phase I Environmental Site Assessment ("ESA"), and paid for independent appraisal reports that were contracted for by DLNR. In addition HBA has provided a Facility Assessment Report covering the Private Property. Due diligence findings and staff comments are summarized below.

Preliminary Title Report: Title Guaranty of Hawaii, Inc. prepared a preliminary title report dated April 11, 2011. The title report identifies ELUM TWO, LLC as the fee owner of the Private Property and no breaks in title were identified. Encumbrances of record

include a perpetual right and easement for utility purposes (Hawaiian Electric Company and GTE Hawaiian Telecom), and a Mortgage, an Assignment of Rents, and a Financing Statement (all between ELUM TWO, LLC and Bank of Hawaii).

HBA shall acquire the fee simple interest in the Private Property prior to conveying the Private Property to the State as part of the proposed exchange. Staff has no objection to the existing utility easement. HBA, however, shall ensure that all other encumbrances of record are removed from title prior to the proposed exchange.

Survey: ControlPoint Surveying, Inc. prepared an Alta/ACSM Land Title Survey dated February 15, 2012. The survey reports the Private Property to have a gross land area of 18,410 square feet and is within an area in which flood hazards are undetermined. The survey also identifies a portion of a chainlink fence encroaching up to 18 inches onto an adjacent privately-owned property. A concrete block trash enclosure also encroaches up to three inches onto the City sidewalk/Leokane Street right of way fronting the property.

HBA shall ensure the two identified encroachments are resolved subject to DLNR approval prior to the proposed exchange.

Phase I Environmental Site Assessment ("ESA"): EnvironServices & Training Center, LLC prepared a Phase I ESA dated February 2012. The Phase I ESA found no evidence of any release of hazardous materials or any recognized environmental condition ("REC") in connection with Private Property's industrial uses. However, the Phase I ESA states, there may be the presence of residual contaminants associated with the historical usage of the Private Property for commercial sugar cultivation, resulting in a historical REC.

Notwithstanding the above and as previously approved by the Land Board, HBA shall be required to provide a Phase I ESA that meets applicable EPA standards for this exchange,³ and if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards required by the Federal Environmental Protection Agency and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department.

Appraisal Reports: Independent appraisal reports covering the State and Private Property were contracted for by DLNR. Results of the appraisal reports and value conclusions and are summarized below.

³ Federal Environmental Protection Agency's All Appropriate Inquiries Rule requires certain aspects of a Phase I ESA to be completed within six months prior to the date of acquisition. Consequently, by itself the February 2012 Phase I ESA does not meet applicable EPA standards for this proposed exchange.

State Land - TMK (1) 2-2-22:02 & 19

Independent Appraiser: Hastings, Conboy, Braig and Associates
Highest and Best Use: Parcel 2 - Open space land buffer
Parcel 19 - Single family residential
Effective Date of Value: February 28, 2012
Rights Appraised: Unencumbered fee simple interest in
land
Value Conclusions: Parcel 2 \$ 240,000
Parcel 19 \$2,080,000
Comment: Parcel 19 was valued under the
hypothetical condition that it is
vacant and not encumbered by GL S-5687.

Private Property - TMK (1)9-4-49:62

Independent Appraiser: Rehkemper & Company, Inc.
Highest and Best Use: As improved (Industrial)
Effective Date of Value: February 10, 2012
Rights Appraised: Fee simple interest, as encumbered by
various tenant leases
Value Conclusion: \$1,825,000
Comment: The appraiser reports the existing
subject improvements are in below
average condition and are in need of
general refurbishing. Considering the
condition of the existing improvements,
the appraiser opined that existing
contract rents are below current market
rents for comparable spaces. Based on
the condition of the existing
improvements and existing contract
rents, the appraiser estimated a net
operating income of over \$106,000 for
the first year projections.

Facility Assessment Report: HBA provided a Facility Assessment
Report, prepared by Group 70 International and dated February 6,
2012 ("Assessment Report") to DLNR. The Assessment Report concludes
the existing subject building is generally in good structural
condition. However, the Assessment Report also recommends repairs
over a five year period to address certain architectural (e.g. ADA
accessibility, painting, reroofing, etc.), mechanical (e.g. plumbing
and ventilation), and other deficiencies (e.g. repairs to parking
area and exterior light fixtures) identified in the Private
Property. The Assessment Report estimates the total cost to repair
the identified items over a five year period at \$219,150.

Although the recommended repairs will result in expense levels above those projected in the appraisal report, the additional expenses are expected to be off-set by reduced on-going maintenance after the repairs are completed and an extended economic life of the building improvements.

REMARKS:

Based on a review of the due diligence summarized above, the Private Property is consistent with the selection criteria approved by the Land Board. Considering both the independent appraiser's projected income and the Assessment Report's recommendations and cost estimates, leasing activities for the Private Property are still expected to exceed ground rents DLNR receives under GL S-5687. Accordingly, the Private Property satisfies the public purpose for this exchange.

Notwithstanding the above, the combined fair market value of Parcel 2 and Parcel 19 (based on the *hypothetical condition* that Parcel 19 is vacant and not encumbered by GL S-5687) exceed 120% of the fair market value of the Private Property.⁴ Consequently an exchange involving both Parcels 2 and 19 for the Private Property does not comply with Section 171-50(b), HRS. The appraisal reports do, however, indicate that the fair market value of Parcel 19 is within 120% of the fair market value of the Private Property. Pursuant to 171-50(b), the difference between the fair market value of the public land over the Private Property shall be paid to DLNR at the time of the exchange.⁵

Based on the foregoing HBA requests, and staff recommends, the Land Board amend its prior approval in principle by omitting State-owned land in Nuuanu, identified as TMK (1) 2-2-22:02 from this exchange.⁶

Moreover, notwithstanding prior Land Board approval delegating authority to the Chairperson to approve the final selection of private property to be conveyed to the State in the exchange, staff

⁴ Based on the value conclusion of the independent appraisal report covering the Private Property, the estimated market value of the State land cannot exceed \$2,190,000 (\$1,825,000 x 1.20) for this exchange.

⁵ Based on the value conclusions of the independent appraisal reports, the difference in estimated market value of Parcel 19 and the Private Property (the amount HBA would be required to pay the State at the time of the exchange) is \$255,000, which exceeds the estimated cost of all repairs recommended in the Facility Assessment Report.

⁶ In lieu of acquiring Parcel 2 through this proposed exchange, HBA has submitted an application to acquire Parcel 2 as remnant land pursuant to Section 171-52, HRS. Whereas there are several land owners abutting Parcel 2, any disposition of Parcel 2 will be done outside of the framework of this proposed exchange.

further recommends the Land Board affirm the selection of the Private Property and amend its prior approval in principle by identifying the Private Property to be conveyed to the State in this proposed exchange as TMK (1) 9-4-49:62.

Subject to Land Board approval to amend its prior action, staff will complete its review of remaining due diligence and other requirements as recommended herein and pursuant to Section 171-50, HRS. Upon satisfying all requirements, and prior to finalizing the proposed exchange, staff shall report all remaining findings to the Land Board and request final approval of the proposed exchange as amended.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is to amend a prior approval in principle of an exchange of public lands for private property. As such this action relates to the transfer of ownership and does not constitute a use of State lands or funds, and therefore, this action and the eventual transfers of ownership are not subject to the provisions of Chapter 343, HRS, relating to environmental impact statements.

Whereas HBA's current use of Parcel 19 is a use of lands currently owned by the State, the Final Environmental Assessment covering the current uses and improvements was published in the OEQC's Environmental Notice on September 8, 2002, with a finding of no significant impact (FONSI). Upon completion of the proposed exchange Parcel 19 will be private property.

Upon completing the exchange, the Private Property will be State-owned property and remain under DLNR, Land Division's jurisdiction. Consistent with the public purpose for this exchange, DLNR will continue operating the property as a multi-tenanted industrial building with areas leased for uses allowed under the City zoning ordinances. Based on the foregoing, DLNR's planned use of the property is exempt from the preparation of an environmental assessment in accordance with Sections 11-200-8(a)(1) & (4), and the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, pursuant to their respective Exemption Class 1, both of which include "*Operations, repairs or maintenance... involving negligible or no expansion or change of use beyond that previously existing.*" and Exemption Class 4 "*Minor alterations in the conditions of land, water, or vegetation.*" A copy of the Chapter 343, Exemption Notification is attached.

All future changes in the use of the then State-owned lands, if any, shall remain subject to compliance with the provisions of Chapter 343, HRS, as amended.

RECOMMENDATION: Based on the foregoing, staff recommends the Land Board:

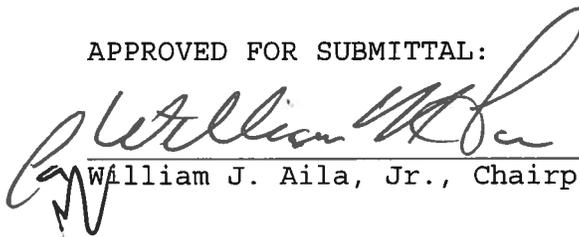
1. Amend its prior action of October 24, 2008, under Agenda Item D-13 by:
 - A. Omitting State-owned land located at Nuuanu, Honolulu, Oahu, identified as TMK (1) 2-2-22:02 from the exchange; and
 - B. Approving the privately-owned property located in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu, identified as TMK (1) 9-4-49:62 for conveyance to the State as part of the exchange, under the terms and conditions cited above, which are by this reference incorporated herein.
2. Reaffirm that after considering the potential effects of the proposed exchange as provided by Chapter 343, HRS, and Chapter 11-200, HAR, the proposed exchange will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
3. All other terms and conditions approved in its prior action of October 24, 2008, under Agenda Item D-13, to remain the same, subject to such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gavin Chun
Project Development Specialist

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



EXHIBIT A-2



Southerly view along easterly boundary of parcel 19.



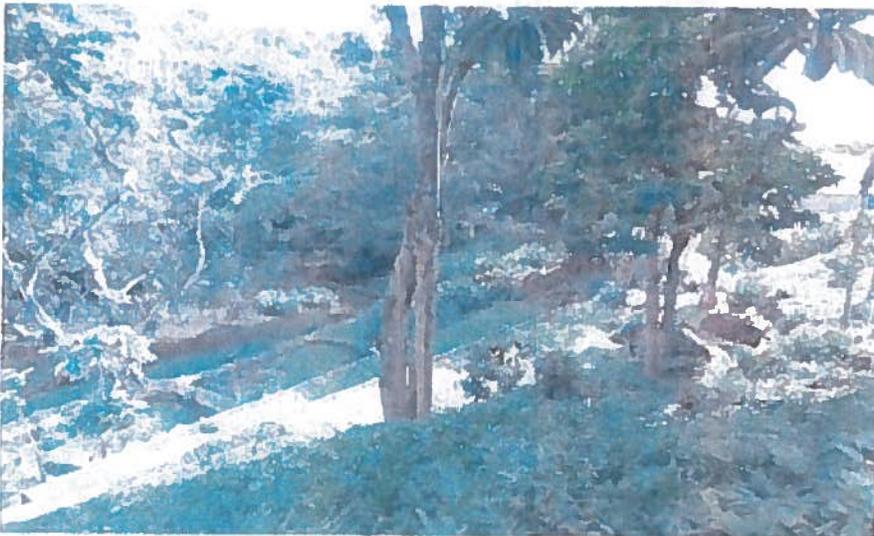
View across southerly portion of parcel 19. Parcel 02 appears to the left.



Northerly view across the center portion of parcel 19.



View of northeast corner of parcel 19.



Southerly view of easterly portion of parcel 19. Parcel 02 appears to the left of Huuanu Stream.

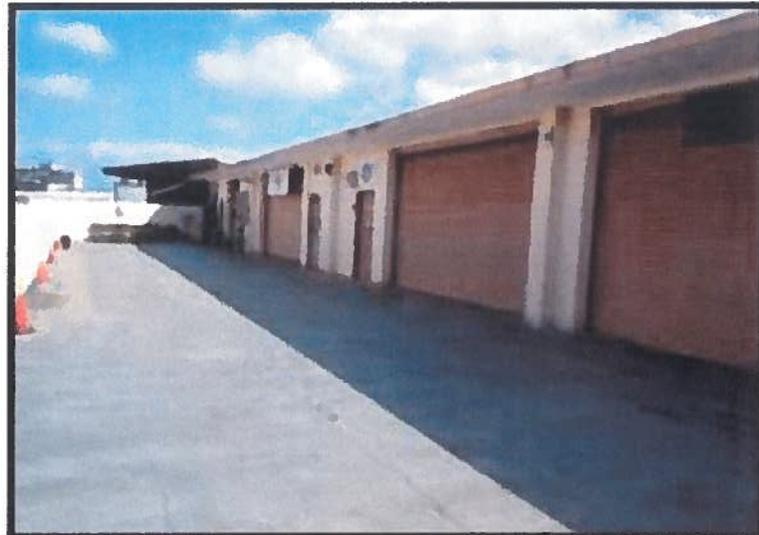


Northerly view along parcel 19 from mid point of parcel. Huuanu Stream appears to the right.



FRONT VIEW
OF
SUBJECT PROPERTY

ANOTHER FRONT
VIEW OF
SUBJECT PROPERTY



VIEW OF 2ND FLOOR



ANOTHER VIEW OF 2ND FLOOR



INTERIOR VIEW OF UNIT 101



VIEW OF SIDE YARD OF UNIT 101



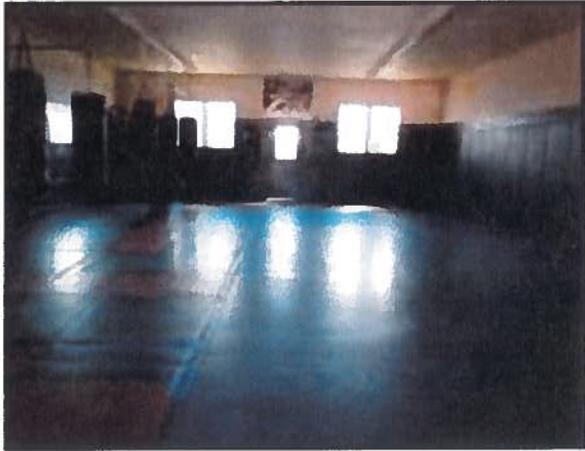
INTERIOR VIEW OF UNIT 102



INTERIOR VIEW OF UNIT 104



INTERIOR VIEW OF UNIT 105



INTERIOR VIEW OF UNIT 201



INTERIOR VIEW OF UNIT 202



INTERIOR VIEW OF UNIT 204



VIEW OF LANAI OUTSIDE UNIT 204



STREET SCENE - SUBJECT ON LEFT



STREET SCENE - SUBJECT ON RIGHT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 10, 2012

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

Project Title: Amend Prior Action of October 24, 2008, under Agenda Item D-13 (Approval in Principle of Land Exchange between the State of Hawaii and Hawaii Baptist Academy for State-Owned Land at Nuuanu, Honolulu, Oahu, Tax Map Keys: (1) 2-2-22:02 & 19, and Privately-Owned Property Yet to be Identified) to exclude State-Owned Land identified as Tax Map Key (1) 2-2-22:02 from the exchange; and to identify Privately-Owned Property located in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu, identified as Tax Map Key (1) 9-4-49:62 for the exchange.

Project / Reference No.: PSF 04OD-155

Project Location: State-owned land: Nuuanu, Honolulu, Oahu, TMK (1) 2-2-22:19
Privately-owned property: Waipahu Industrial Park, Hoaeae, Ewa, Oahu, TMK (1) 9-4-49:62

Project Description: Exchange of State-land for privately-owned real estate pursuant to Ch 171-50, HRS.

Ch 343 Trigger(s): Whereas the exchange represents a transfer of ownership, the exchange itself does not constitute a use of state lands.

The existing improvements and use of State-owned lands in Nuuanu represent a current use of state land. The Final Environmental Assessment covering the current uses and improvements was published in the OEQC's Environmental Notice on September 8, 2002, with a finding of no significant impact (FONSI). Subsequent to the exchange, those lands will be private-lands.

Subsequent to the exchange, the privately-owned property will become State property, use of which requires compliance with Ch 343, HRS.

Exemption List and Approval Date: Whereas subsequent to the exchange, the privately-owned property will become State property, in accordance with the Section 11-200-8(a)(1) & (4) and the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the proposed activity is considered

to be exempt from the preparation of an environmental assessment under the following exemption classes.

Exemption Class and Description:

Exemption Class 1: "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."

Exemption Class 4: "Minor alterations in the conditions of land, water, or vegetation."

Remarks:

The privately-owned property is located along Leokane Street in the Waipahu Industrial Subdivision, Hoaeae, Ewa, Oahu. The property has a land area of about 18,410 square feet and is zoned Intensive Industrial by the City and County of Honolulu. Building improvements consist of a 2-story concrete block structure that was built in 1975. Interior areas are currently leased to individual businesses for various purposes as may be permitted by the current zoning ordinances.

Upon completion of the exchange, the property will be State-property and remain under the jurisdiction of DLNR, Land Division. Consistent with the public purpose of the land exchange, Land Division will continue to lease existing building areas for uses as may be permitted by the existing zoning ordinances. Accordingly, the proposed use of the property will involve negligible or no expansion or change of use beyond what currently exists.

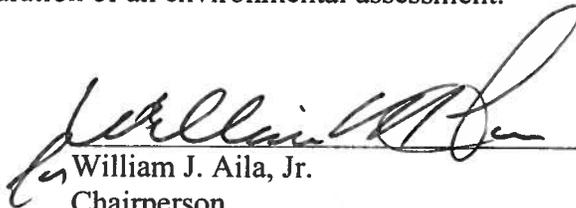
Whereas the property is located in an improved industrial subdivision DLNR's continued leasing of building areas for uses as may be permitted under the existing zoning ordinances represent minor alteration in the conditions of land, water, or vegetation.

Consulted Parties:

Department of Land and Natural Resources, Land Division and the Department of the Attorney General, Land Transportation Division were consulted as sources authority having jurisdiction or expertise in this matter, and concurs that the exemption identified above is applicable to and appropriate for the proposed project.

Recommendation:

It is anticipated 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.



William J. Aila, Jr.
Chairperson

Date: 7/25/12