

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

July 12, 2013

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

PSF No.:13OD-115

Oahu

Issuance of Revocable Permit to The Harry and Jeanette Weinberg Foundation Incorporated, for Storage, Parking, Roadway and Office Purposes; Cancellation of Revocable Permit No.S-7797, Kalihi-Kai, Honolulu, Oahu, TMK: (1) 1-2-021:037.

APPLICANT:

The Harry and Jeanette Weinberg Foundation Incorporated.

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kalihi-Kai, Honolulu, Oahu, identified by TMK: (1)1-2-021:037, as shown on the attached map labeled **Exhibit A**.

AREA:

0.674 acre, more or less.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: I-2

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered under Revocable Permit No. 7797 to SCDC Alahao, LLC, which will be terminated upon the issuance of the requested permit. See Remarks Section.

CHARACTER OF USE:

Storage, parking, roadway & office purposes.

COMMENCEMENT DATE:

Upon the termination of Revocable Permit No. 7797.

MONTHLY RENTAL:

Initially, staff recommends the requested revocable permit be issued at the current rent of RP 7797, which is \$2,730 per month, subject to any rent adjustment as a result of the appraisal process described in the next paragraph.

On December 14, 2012, under agenda item D-18, the Board approved the annual renewal of the statewide revocable permits. The Board also authorized staff to procure the service of independent appraiser to review and recommend adjustments to the rents for revocable permits. The redetermined rents would be subject to approval by the Chairperson. Land Division recently issued the Notice to Proceed to the independent appraiser, and staff expects the appraisal will be completed soon.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 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 Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation." (**Exhibit B**)

DCCA VERIFICATION:

Place of business registration confirmed: YES X NO __
Registered business name confirmed: YES X NO __

Applicant in good standing confirmed: YES X NO

REMARKS:

At its meeting of March 14, 2008, under agenda item D-3, the Board authorized the issuance of a revocable permit to SCDC Alahao, LLC ("SCDC") covering the subject location for storage, parking, roadway and office purposes. RP 7797 was issued subsequently.

Staff notes that SCDC is one of the lessees of the adjacent private property identified as tax map key (1) 1-2-021:015, owned by Harry & Jeanette Weinberg Foundation (the "Applicant"). In exercising Condition A.5 of RP 7797 requiring a 25 calendar days notice before vacating the premises, SCDC, through its managing agent, requests RP 7797 be terminated by its letter dated June 11, 2013, as SCDC's interest over Parcel 15 has been transferred to the fee owner, i.e. the Applicant.

Applicant is interested in obtaining a revocable permit to allow its lessees and their visitors keep using the subject State parcel for the same purposes. Staff agrees the Applicant's request is appropriate since the Applicant is the fee owner of the adjoining Parcel 15.

Generally, a permittee cannot transfer its interest under a revocable permit, as provided in the standard permit condition, which reads, "[t]his Permit or any rights hereunder shall not be sold, assigned, conveyed, leased, mortgaged, or otherwise transferred or disposed of." Staff recommends the Board allow the Applicant's lessee(s) and its visitors using the permit area. Staff notes that any condition in this respect will be subject to the review and approval of the Department of the Attorney General.

No comments were solicited from other governmental agencies. The proposed use is allowable under the County ordinances and there will be no changes under the existing use of the permit.

Additional Revocable Permit Condition.

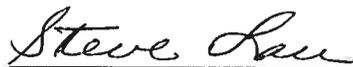
In the past, the Division has issued revocable permits for interim short-term uses, with the understanding that the permit would be terminated once the Division determines an appropriate long-term use. However, despite this understanding and the fact that a revocable permit may be terminated with 30 days notice, many permittees have, in the past, subsequently objected to such termination, with some even seeking Legislative intervention. In certain cases, this has prohibited the Division from implementing its long-range plans or other plans that would be in the best interest of the State and the public land trust. As such, staff recommends the subject revocable permits include a condition under which the permittees acknowledge that the permit is for short-term use; that the permit will be terminated when the Department determines an appropriate long-term disposition; and that the permittee will not object to the Department's long term plans for the subject properties and the termination of the revocable permits.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions. There are no pertinent issues or concerns. Staff has no objections to this request.

RECOMMENDATION: That the Board:

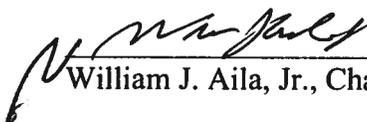
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize cancellation of Revocable Permit No.S-7797.
3. Authorize the issuance of a revocable permit to The Harry and Jeanette Weinberg Foundation Incorporated covering the subject area for storage, parking, roadway and office purposes 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 above, including the Additional Revocable Permit Condition in the Remarks section;
 - B. Allow the lessee(s) and its visitors to the property identified as tax map key (1) 1-2-021:015 to use the subject premises;
 - C. The standard terms and conditions of the most current revocable permit document as may be amended from time to time;
 - 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.

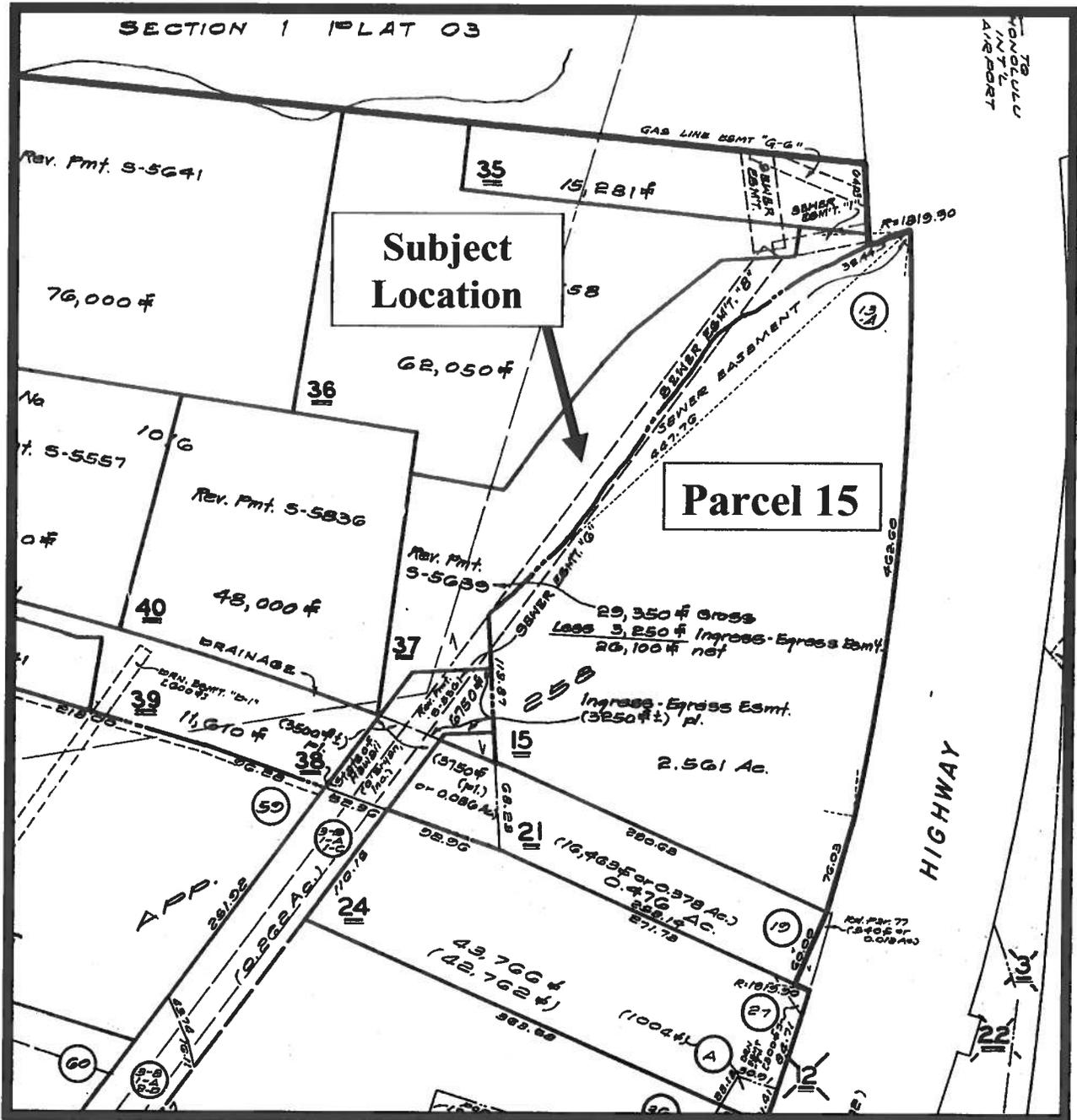
Respectfully Submitted,



Steve Lau
Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson



TMK (1) 1-2-021:037

EXHIBIT A

EXEMPTION NOTIFICATION

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

Project Title: Issuance of Revocable Permit to The Harry and Jeanette Weinberg Foundation Inc.

Project / Reference No.: PSF 13OD-115

Project Location: Kalihi-Kai, Honolulu, Oahu, TMK:(1)1-2-021:037

Project Description: Issuance of Revocable Permit for storage, parking, roadway and office purposes.

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

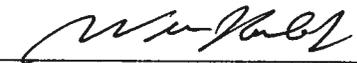
Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

This Division has issued a previous permit for the use of the State property in the past. The proposed use will have no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such staff believes that the proposed event would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Not applicable

Recommendation: It is recommended that the Board find that 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 7/3/13

EXHIBIT B