

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

January 24, 2014

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

PSF No.: 13KD-102

Kauai

Request for Issuance of Revocable Permit to Kaiola Canoe Club for Canoe & Equipment Storage Purposes, Kekaha Beach Homes, Kekaha, Waimea (Kona), Kauai, Tax Map Key: (4) 1-3-008:005.

APPLICANT:

Kaiola Canoe Club, domestic non-profit corporation whose mailing address is P.O. Box 3288, Lihue, Hawaii 96766.

LEGAL REFERENCE:

Section 171-43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kekaha Beach Homes, situated at Kekaha, Waimea (Kona), Kauai, identified by Tax Map Key: (4) 1-3-008:005, as shown on the attached map labeled Exhibit A.

AREA:

0.3146 acres, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: C-N, Neighborhood Commercial

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:

Vacant and unencumbered.

CHARACTER OF USE:

Canoe & Equipment storage purposes.

COMMENCEMENT DATE:

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

MONTHLY RENT:

Pursuant to HRS 171-43.1, and the minimum rent policy established by the Board at its meeting of May 13, 2005, under agenda item D-19, the annual rent will be set at \$480.00, or \$40 per month.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached below as Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed: YES
Registered business name confirmed: YES
Applicant in good standing confirmed: YES

REMARKS:

This parcel was previously encumbered under RP S-4037, 4038, 4245 and 4400. The last permittee, Aurellano Agbulos, used the property primarily for his residence and operation of a small business – sharpening lawn mower blades, chain-saw blades, etc. Mr. Agbulos passed away in 1969. The parcel has been vacant since 1969 and is in need of some cleaning. The lot is overgrown and littered. There are currently no structures on the property.

Applicant Kaiola Canoe Club was established in 1985. The founders of Kaiola Canoe Club are Keiki O Ka Aina (Children of the Land) who have paddled since “small-kid-time”. The members of the canoe club have coached hundreds of paddlers, and now as all parents do, look upon efforts and progeny with continued support, pride and joy. Sustainability of Kaiola Canoe Club comes from members’ strength, hard work,

determination, perseverance, foresight, desire to support the community and an unshakable love for the Hawaiian culture and art of canoe paddling.

Kailoa Canoe Club has over 200 active members and thousands of alumni and friends. It currently has nine (9) paddling programs and 22 canoes including "Haupu", their precious Koa wood canoe. This is the largest collection of canoes on Kauai.

The applicant has stated that it will clean up the overgrown weeds and remove the litter from the lot in order to use it as a storage area for its club canoes. No grading or grubbing will take place as this lot is flat and the weeds will only require mowing. The applicant does not have plans to build a structure or fence the property at this time. If the applicant decides to build any structures or other improvements, it will return to the Board for approval and comply with Hawaii Revised Statutes Chapter 343 on environmental assessments prior to applying with the County of Kauai for the necessary permits.

Kaiola Canoe Club is an Internal Revenue Code Section 501(c)(3) non-profit, tax exempt organization. See Exhibit C.

The Land Board is authorized to lease State lands to qualifying eleemosynary (charitable) organizations at nominal rent. The statutory authority is as follows:

§171-43.1 Lease to eleemosynary organizations. The board may lease, at a nominal consideration, by direct negotiation and without recourse to public auction, public lands to an eleemosynary organization which has been certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The lands shall be used by such eleemosynary organizations for the purposes for which their charter was issued and for which they were certified by the Internal Revenue Service. [L 1970, c 83, §5; am L 1971, c 100, §1; am L 1982, c 202, §1; am L 1991, c 212, §3]

A section 501(c)(1) organization must be both organized by an Act of Congress and be an instrumentality of the United States, while a section 501(c)(3) organization is a privately organized charitable organization.

When considering lease dispositions to, or rental reopenings for, eleemosynary organizations, the Land Board may therefore set the rent by direct negotiation at an amount below fair market rental (i.e., nominal rent).

On May 13, 2005, the Land Board established a Minimum Rent Policy that stated, among other things, that the minimum rent for a lease to a charitable organization be no less than \$480 per year. Staff believes "nominal rent" under Section 171-43.1, Hawaii Revised Statutes ought to be anywhere between fair market rent and the minimum rent of \$480 per year. In order to have a standard nominal rent for qualifying non-profit tenants, staff generally recommends rent be set at \$480 per year.

Applicant 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.

Comments were solicited from:

State Agencies:

| | |
|--------------------------|---|
| DOH | If clearing of parcel is undertaken, Community Noise Control under Title 11, HAR 11-46 and Air Pollution Control under Title 11, HAR 11-60.1 is required. |
| DLNR - Historic Preserv. | No response by suspense date. |
| OHA | No response by suspense date. |

County Agencies

| | |
|--------------------|--|
| Parks & Recreation | No response by suspense date. |
| Public Works | If any structures to be built, permits required w/ elevation certificate, etc. Area in designated flood plain. |
| Water Department | No response by suspense date. |

Outside Agencies

| | |
|--------------------------|-------------------------------|
| Garden Isle Canoe Racing | No response by suspense date. |
|--------------------------|-------------------------------|

Staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

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 the issuance of a revocable permit to Kaiola Canoe Club covering the subject area for canoe and equipment storage 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,

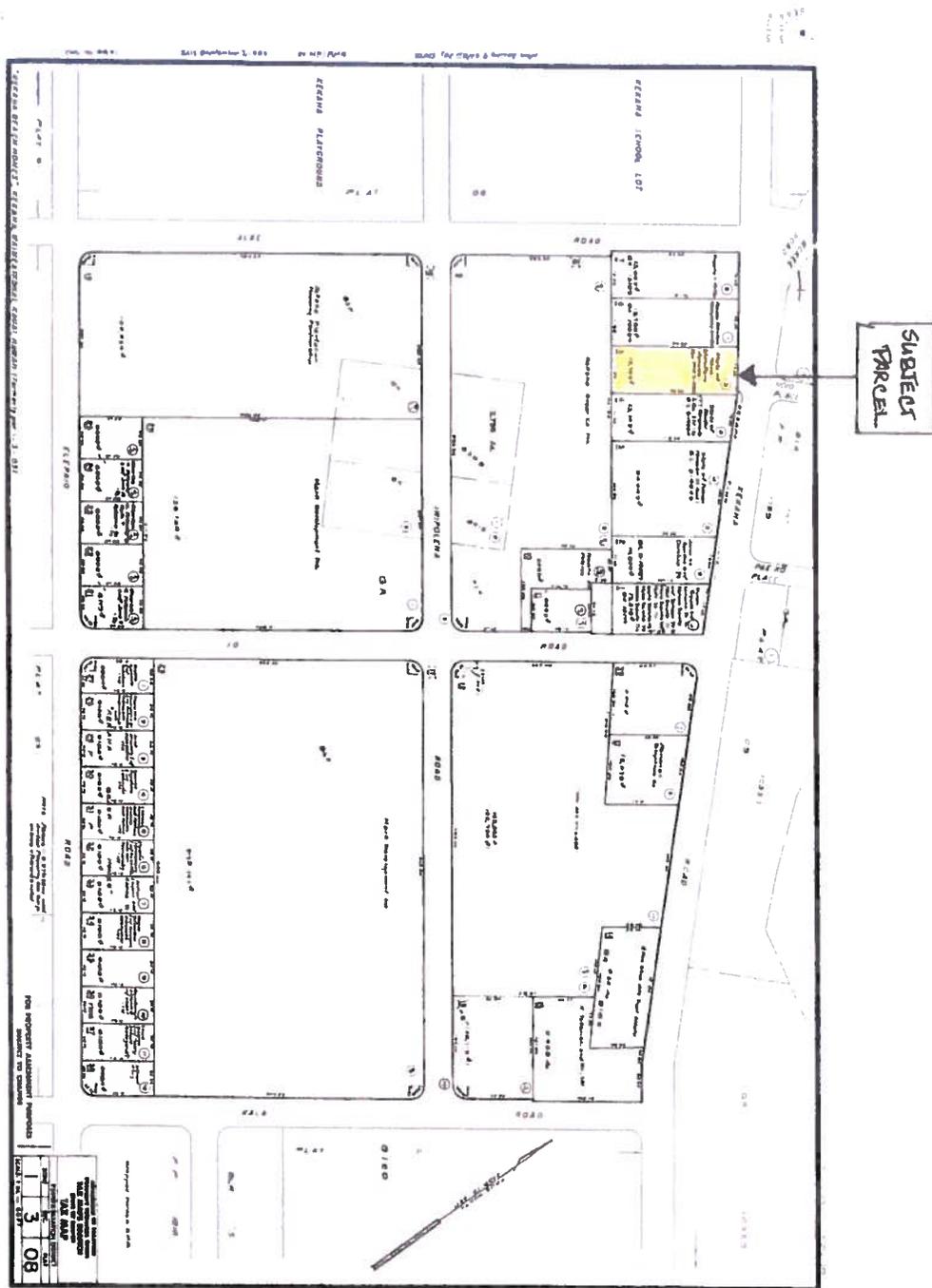


Marvin Mikasa
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AHJ, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COORDINATOR OF WATER RESOURCES MANAGEMENT

ESTHER KUA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
DIVISION AND DEPARTMENT RELATION
BUREAU OF CONSERVATION
COORDINATOR OF WATER RESOURCES MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES DEVELOPMENT
ENGINEERING
HISTORY AND WILDLIFE
HISTORY PRESERVATION
KAIHOLEAWAI AND RESERVE COORDINATOR
LAND
STATE PARKS

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 Kaiola Canoe Club

Project / Reference No.: PSF 13KD-102

Project Location: Hanapepe, Waimea (Kona), Kauai

Project Description: Canoe & Equipment Storage Purposes

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

Exemption Class No.: In accordance with the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council (Docket 91-EX-2, December 4, 1991), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.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 [HAR § 11-200-8(a)(1)]." Exemption Class No. 4, which states, "Minor alterations in the conditions of land, water or vegetation [HAR § 11-200-8(a)(4)]"

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.

EXHIBIT B

Recommendation:

It is recommended that the Land Board find that issuance of Direct Lease for canoe & equipment storage 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



Date



Internal Revenue Service

Date: May 23, 2007

KAIOLA CANOE CLUB
PO BOX 3502
LIHUE HI 96766-6502

Department of the Treasury
P. O. Box 2508
Cincinnati, OH 45201

Person to Contact:
Mr. Schatz ID 31-06701
Customer Service Representative
Toll Free Telephone Number:
877-829-5500
Federal Identification Number:

Dear Sir or Madam:

This is in response to your request of May 23, 2007, regarding your organization's tax-exempt status.

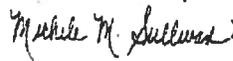
In July 1992 we issued a determination letter that recognized your organization as exempt from federal income tax. Our records indicate that your organization is currently exempt under section 501(c)(3) of the Internal Revenue Code.

Our records indicate that your organization is also classified as a public charity under section 509(a)(2) of the Internal Revenue Code.

Our records indicate that contributions to your organization are deductible under section 170 of the Code, and that you are qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Internal Revenue Code.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,



Michele M. Sullivan, Oper. Mgr.
Accounts Management Operations 1

EXHIBIT " c "