

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

May 23, 2014

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

OAHU

Cancellation of Governor's Executive Order No. 3918 to Department of Land and Natural Resources, Division of State Parks, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:011.

APPLICANT:

Department of Land and Natural Resources, Division of State Parks

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 3-1-042:011, as shown on the attached map labeled **Exhibit A**.

AREA:

7.878 acres, more or less.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: F-1/P-2

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:

Governor's Executive Order No. 3918 setting aside 7.878 acres to Department of Land and Natural Resources, Division of State Parks for Addition to Diamond Head

Monument purposes.¹

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements.

APPLICANT REQUIREMENTS:

None

REMARKS:

On October 13, 2000, under agenda item D-6, the Board approved and recommended to the Governor setting aside the subject property, which was the former Cannon Club site, to the Division of State Parks (“SP”) for addition to the Diamond Head Monument purposes.

On September 28, 2001, under agenda item D-9, the Board authorized the issuance of a 65-year lease to the University of Hawaii (“UH”) over the subject property for educational purposes. UH planned to use the subject property to construct the new Culinary Institute of the Pacific as part of Kapiolani Community College’s culinary arts program (“UH Project”). SP did not have any objection to the proposed lease in 2001 noting that there was a pending EO to SP. UH is expected to bid out the UH Project construction in the near future.

Eventually, EO 3918 was signed by the Governor on April 23, 2002, and General Lease 5661 to UH was signed on August 16, 2004.

UH plans to issue a covenant in favor of the U.S. Economic Development Administration to facilitate UH be granted federal funding for the improvement described in the preceding paragraphs. At its meeting on December 13, 2013, under agenda Item D-26, the Board approved the request, further subject to AG’s review and approval. In the review process, AG noted the overlapping jurisdiction due to existence of EO 3918 and GL 5661. Therefore, AG advised the Department that the issue of the overlapping jurisdiction needed to be resolved.

In 2013, SP completed Phase 1 of the Fort Ruger Pathway project. During the discussion regarding the proposed cancellation of EO 3918, SP noted that portions of the improved walkway, entrance gate, rock wall, and kiosks (“Improvements”) are situated on the subject property, as depicted on site plan attached as **Exhibit B**. SP does not wish to relocate the Improvements and is willing to continue the maintenance of the Improvements beyond the cancellation of EO 3918.

¹ Notwithstanding the proposed cancellation of EO 3918 in the subject request, the subject parcel is still considered part of the Diamond Head Monument.

Staff acknowledges that under usual circumstances, the preference might be to withdraw the land occupied by the Improvements from GL 5661, by going through the subdivision process. In this case, however, staff understands that: (a) UH urgently needs to satisfy the EDA mandated grant preconditions² (b) the Improvements are expected to have only minimal impact (if any) on the construction and operation of the UH project, (c) the subdivision process can be lengthy and costly, and (d) UH and SP have a cooperative relationship with respect to the UH project on the subject property and that SP remains willing to continue to maintain and keep in good repair the Improvements. Given this, staff recommends that no further document, including map, is needed for the ongoing maintenance of the Improvements beyond the EO 3198 cancellation.

Upon review of the situation, UH and SP are agreeable to the approach described above regarding the future maintenance obligation of the Improvements described in the preceding paragraphs. There are no other pertinent issues or concerns and staff recommend the Board approve the request.

RECOMMENDATION: That the Board approve of and recommend to the Governor issuance of an executive order canceling Governor's Executive Order No.3918 in the manner described above, subject to:

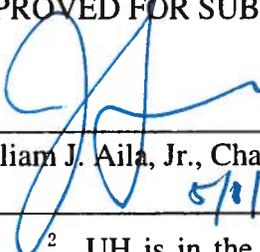
- A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
- B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following 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.

Respectfully Submitted,



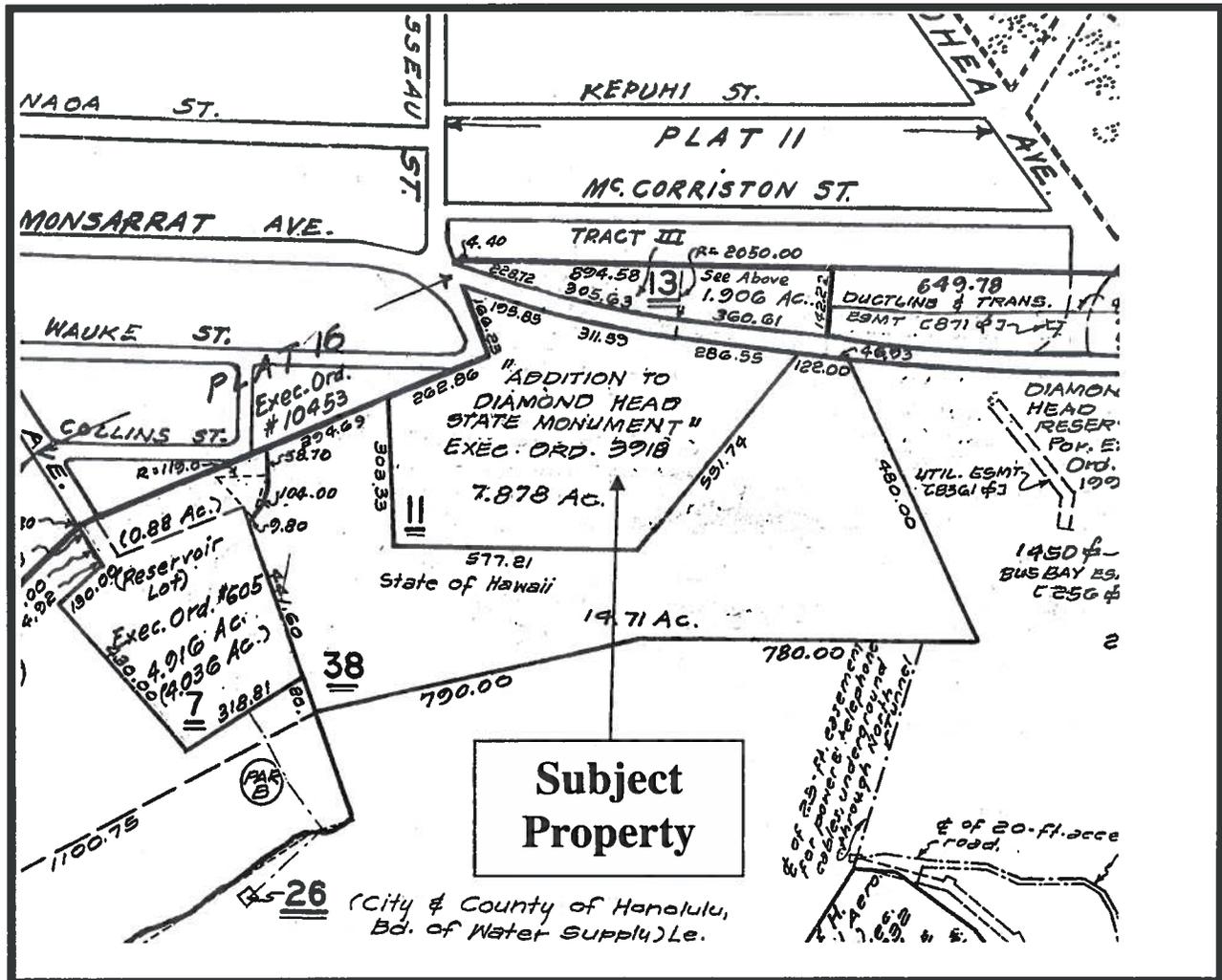
Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

² UH is in the process of obtaining a title opinion. The proposed EO cancellation is appropriate and expected to help confirm UH's interest in the subject property and result in the UH lease being the only significant encumbrance on the subject property.



TMK (1) 3-1-042:011

EXHIBIT A

