

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

November 14, 2014

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

PSF No.:14OD-133

Oahu

Cancellation of Revocable Permit No.S-7629, Denial of Request for Revocable Permit for Residential and Home Gardening Purposes by Jacob Kaleo Hines; Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-018:050.

APPLICANT:

Jacob Kaleo Hines, an unmarried person

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-018:050, as shown on the attached map labeled **Exhibit A**.

AREA:

0.80 acres, more or less.

ZONING:

State Land Use District: Agriculture
City and County of Honolulu LUO: Country

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:

Formerly encumbered under Revocable Permit No. 7629 to Joseph J. Hines and Elaine Nickie Hines, which was mutually terminated on June 1, 2014. See REMARKS Section.

[Note: The following sections are only applicable if the Board decide to authorize the issuance of revocable permit. See Background Section.]

CHARACTER OF USE:

Residential and home gardening purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$500.00 per month (previous rent under RP-7629). See comments in REMARKS Section.

COLLATERAL SECURITY DEPOSIT:

One month's rent.

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 (4), 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 (4), that states "Repair, maintenance and renovation of existing structures on leased state lands."

In addition to the above, the propose request would be exempt pursuant to Exemption Class No. 2, which states " Replacement or reconstruction of existing structures and facilities where the new structure will be and will have substantially the same purpose, capacity, density, height and dimensions as the structure replaced." Also, pursuant to Exemption Class No. 9, which states "Demolition of structures, except those structures located on any historic site as designated in the National Register or Hawaii Registrar as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or Chapter 6, Hawaii Revised Statutes." **(Exhibit B)**

DCCA VERIFICATION:

Not applicable. Applicant is an individual.

BACKGROUND:

Previous RP

The subject property was leased to Mr. and Mrs. Joseph Hines under Revocable Permit 5545 since October 1, 1977 for residential and home gardening purposes.

Act 237, SLH 1988 authorized the Board to enter into lease negotiations with qualified revocable permittees on state-owned agricultural-zoned land so that the permittees would be able establish long term tenure, subject to certain criteria. Joseph Hines was deemed ineligible under Act 237 because he held a homestead lease under the Department of Hawaiian Home Lands. Subsequently, Act 257, SLH 1996 was enacted to address those cases that once were deemed eligible, including Joseph Hines. The Board, at its meeting of February 14, 1997, item D-15, authorized the direct negotiation of a 35-year lease for agriculture purposes to Mr. and Mrs. Joseph Hines. However, the rent offered under the proposed lease was not accepted by Joseph Hines, while the law sunset on July 1, 2001. Staff reported the overall result of the Acts to the Board at its meeting of July 27, 2001, item D-5 (**Exhibit C**). In short, Mr. & Mrs. Hines remained on the revocable permit until recently. RP 5545 was replaced by RP 7629 in 2010 due to the updated language in the insurance provision. Other basic conditions, e.g. use and rent, remain the same.

By way of letter dated May 21, 2014, Joseph Hines informed Land Division that Nickie Hines had passed away and that he was requesting a mutual cancellation of the revocable permit effective June 1, 2014. Meanwhile, Jacob Kaleo Hines, the grandson of the former permittees, requests a revocable permit to use the subject property for the same purposes.

Staff Response on Current Request

Upon discussions within the Land Division, issues and concerns were raised towards the subject request for a revocable permit. As shown on Exhibit A, most of the adjacent lots have been set aside to the Department of Agriculture and utilized by commercial farmers. Therefore, Land Division believes a lease for commercial farming will be in order for the future disposition of the subject parcel. Such future disposition could be a set aside to the Department of Agriculture or a open bidding process for agriculture use.

In addition, at its meeting on January 13, 2012, item D-6, the Board considered the request for a revocable permit for residential use to Jundale Hashimoto on Kauai, which would allow the original family members of a 999-year homestead lease continue to reside on the premises. As noted in the minutes of the 2012 meeting (**Exhibit D**), Ms. Hashimoto is committed to the parcel on Kauai. There were times when Ms. Hashimoto struggled to keep the monthly rent (\$3,500) current, though she failed eventually. However, Ms. Hashimoto tried really hard to remain on the land. Eventually, the Board recognized the commitment of Ms. Hashimoto and approved the issuance of a RP to her

with additional direction to the staff for maintaining the reduced monthly rent (\$450) good for the life span of Ms. Hashimoto.

For the subject request, the original permittees no longer reside on the premises due to death or voluntary departure. In short, the need to the original permittee ceases to exist. A revocable permit has always been contemplated as a short term land disposition that can be issued by direct negotiation, whereas a long term disposition is required by statutes to be disposed of by public auction, with few exceptions. It was never intended for a revocable permit to be passed on to other family members, unless unique circumstances warrant the issuance of a revocable permit, like Ms. Hashimoto's case.

Therefore, staff recommends the Board deny the request from Jacob Kaleo Hines for the issuance of a revocable permit. Staff will proceed to obtain the possession of the subject property subsequently.

If the Board decides to approve the request for the issuance a revocable permit to Jacob Kaleo Hines, staff provides the following status of the premises and rent for the Board's consideration.

Currently, there are three (3) structures on the premises including the main structure, which is in poor and deteriorating condition, and two smaller structures. If the Board were to issue a revocable permit, it was suggested that prior to issuance of a revocable permit, a right-of-entry permit would be issued to the applicant to 1) demolish the main dwelling and haul away all debris; and 2) consolidate the two smaller structures into one dwelling structure. Both actions have to be completed within ninety (90) days of the acceptance of the right-of-entry permit:

Currently, the rent under RP-7629 is at \$500.00 a month since November 2000 and the previous annual RP renewal done by staff appraiser did not recommend any increase in the rent. Staff is recommending that the rent for the new revocable permit remain the same, however, we would request the review of the rent when the next annual RP renewal exercise is done.

Upon satisfactory completion of the above, staff would process the request to the Department of the Attorney General for the preparation of a revocable permit to the applicant to allow the subject property to be used for residential and home gardening purposes.

Department of Planning and Permitting, Department Design and Construction, Department of Facility Maintenance, Board of Water Supply, Department of Hawaiian Home Lands and DLNR – Engineering Division and the Commission on Water Resource Management have no comments/objections to the request. Department of Agriculture had verbally stated no comments/objections to the request.

Office of Hawaiian Affairs has not responded as of the suspense date.

The proposed use is allowable under the County ordinances and there will be no changes under the existing use of the permit.

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.

RECOMMENDATION: That the Board:

1. Deny the request for the issuance of a revocable permit to Jacob Kaleo Hines for residential and home gardening purposes

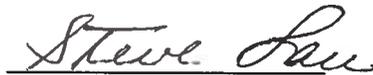
OR

2. In the event the Board decides to approve the request to Jacob Kaleo Hines, that the Board:
 - A. 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.
 - B. Authorize cancellation of Revocable Permit No.S-7629.
 - C. Authorize the issuance of a right-of-entry permit to Jacob Kaleo Hines covering the subject area for site management purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - i. The standard terms and conditions of the most current right-of-entry permit document as may be amended from time to time;
 - ii. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
 - D. Authorize the issuance of a revocable permit to Jacob Kaleo Hines covering the subject area for residential and home gardening purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - i. The standard terms and conditions of the most current revocable

permit document as may be amended from time to time;

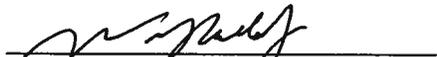
- ii. Review and approval by the Department of the Attorney General;
and
- iii. Such other terms and conditions as may be prescribed by the
Chairperson to best serve the interests of the State.

Respectfully Submitted,



Steve Lau
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

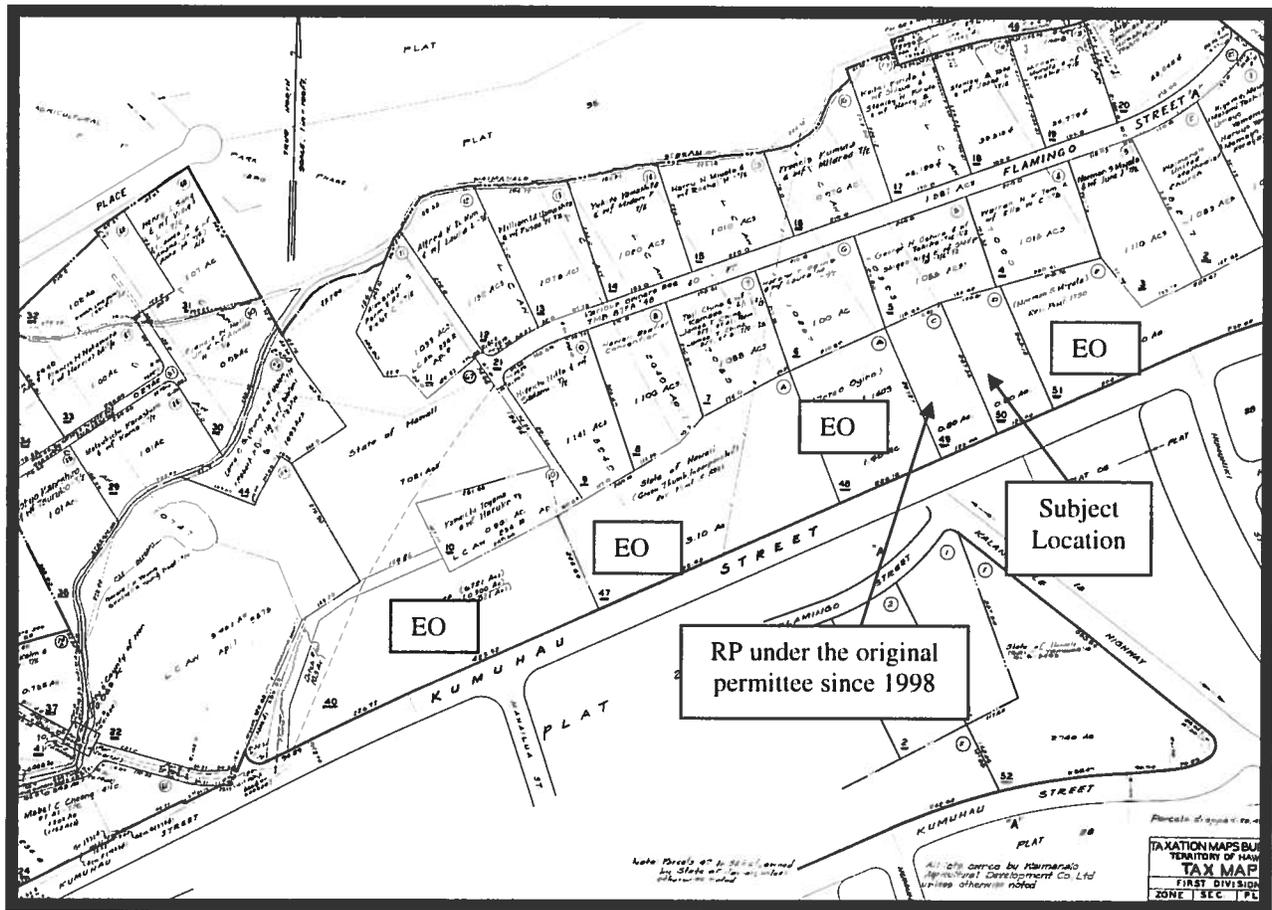


EXHIBIT "A"

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 Jacob Kaleo Hines.

Project / Reference No.: PSF 14OD-133

Project Location: Waimanalo, Koolaupoko, Oahu, TMK:(1) 4-1-018:050

Project Description: Issuance of Revocable Permit for residential and home gardening 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."

In addition to the above, the propose request would be exempt pursuant to Exemption Class No. 2, which states "Replacement or reconstruction of existing structures and facilities where the new structure will be and will have substantially the same purpose, capacity, density, height and dimensions as the structure replaced." Also, pursuant to Exemption Class No. 9, which states "Demolition of structures, except those structures located on any historic site as designated in the National Register or Hawaii Registrar as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or Chapter 6, Hawaii Revised Statutes."

The subject property was used for residential and home gardening purposes since 1950, though the permittees changed over the years.

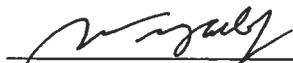
The request does not involve any expansion or change in use of the subject area beyond that previously existing, therefore, it is recommended that the subject request be exempt from an environmental assessment.

Consulted Parties: Not applicable

EXHIBIT "B"

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 10/31/14

D-5

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

July 27, 2001

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

Oahu

Results of Permit to Lease Conversion for Qualified Waimanalo Permittees of Agricultural Revocable Permits, Act 257, SLH 1996, Waimanalo, Koolaupoko, Oahu

This report is to present to the Land Board the results of Act 257, SLH 1996, permit to lease conversion for qualified permittees in Waimanalo, Oahu.

Act 237, SLH 1988 authorized the department to enter into lease negotiations with qualified revocable permittees on state-owned agricultural-zoned land so that the permittees would be able to establish long-term land tenure. To qualify for the conversion from a permit to a long-term lease a person would have to 1) as of July 1, 1988, held a revocable permit to conduct agricultural activities on non-agriculturally- or non-agriculturally-zoned lands; or 2) has formerly held an agricultural lease which expired within the last ten years preceding the effective date of this Act and has continued to occupy the state land; and 3) does not own agriculturally-zoned land of twenty-five acres or more in the State, individually or jointly with the person's spouse, or whose spouse does not own twenty-five acres or more of agriculturally-zoned land in the State.

There were five (5) Waimanalo permittees that submitted applications in 1988, but were disqualified by the Department for the following reasons:

Permittee	Reason for Disqualification
Thomas Noa, Sr.	C&C of Honolulu zoning not agriculture, but preservation or country.
Herbert Omizo, etal	C&C of Honolulu zoning not agriculture, but preservation or country.
Joseph Hines	Held a Dept of Hawaiian Home Lands homestead lease
Joseph Aruda, Jr	Wife had checked the wrong ownership box on application form.
David Larsen	Property was earmarked for a government reservoir site.

Act 257, SLH 1996 was enacted so that the Department could negotiate and enter into leases with those revocable permittees who are situated in the Waimanalo area who were previously deemed ineligible to obtain a lease under Act 237, SLH 1988. The original sunset date of Act 257 (July 1, 1999) was extended to July 1, 2001 by Act 54, SLH 1999.

No action required. sa

ITEM D-5

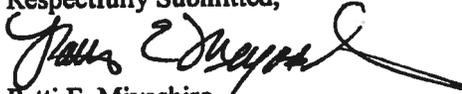
EXHIBIT "C"

At its meeting on February 14, 1997, Item D-15, the Land Board authorized conversion of the above permits to leases. In the cases of Mr. Noa and Mr. Omizo, it was the permittees responsibility for obtaining the reclassification of the land either done by themselves or a private consultant.

The following are the results of Act 257, SLH as of its sunset date (as amended) of July 1, 2001:

Permittee	Results
Thomas Noa, Sr.:	Did not obtain reclassification of land – remains on revocable permit
Herbert Omizo, etal	Obtained reclassification – General Lease No. S-5592 issued
Joseph Hines	Did not accept offer of lease rental, applicant advised to hire own appraiser. No response. – remains on revocable permit.
Joseph Aruda, Jr.:	Heine Aruda, not Joseph Aruda applied for this conversion. Review of the correspondence file of Revocable Permit No. S-1159 revealed that Mr. Joseph Aruda, Jr. passed away in February 1985. Prior to his death (1984), Mr. Aruda had requested that his permit be cancelled and a new permit be issued to his son, Heine Aruda. On November 19, 1999, Item D-38, authorized after-the-fact issuance of permit to son, Heine Aruda, and qualification under Act 257. – General Lease No. S-5620 issued.
David Larsen	Property not needed for reservoir site – General Lease S-5530 issued

Respectfully Submitted,


Patti E. Miyashiro
Land Agent

APPROVED FOR SUBMITTAL:


GILBERT S. COLOMA-AGARAN, Chairperson

and costs subject to court approval. Named plaintiffs will receive \$3000 each. He asked who is paying. Us? Diamond Parking? Or both? Mr. Wynhoff said the details of where the monies are coming from are the specific thing and he would rather not discuss it in open session.

Board member Gon moved that the Board go into Executive Session pursuant to Section 92-5(a)(4), HRS to consult with our attorney on our questions and issues relating to the Board's powers, duties, privileges, immunities and liabilities. Member Edlao seconded it. All voted in favor.

Chair Aila asked whether anyone was here for item D-3 and there was. He said we were waiting for some folks to fly in from Kaua'i.

9:20 AM EXECUTIVE SESSION

9:33 AM RECONVEND

Anthony Locricchio, an attorney testified that he wanted to point out to the Board that the problem discussed at the AWSBH also exists at the DLNR building. You have inadequate public parking in the October 2011 meeting in the public parking spaces were State vehicles that work for DLNR. Tickets were issued and people have to keep quarters in hand and there are delays in meetings like this where they have to feed the meters or they are subject without the same protections that are now being discussed. In your own house you have exactly the same problem. That problem must be changed or there will be additional action brought. Thank you.

Unanimously approved as submitted (Morgan, Gon)

Item D-6 Issuance of Revocable Permit to Jundale U. Hashimoto for Residential Use, Anini, Hanalei, Kauai, Tax Map Key No.: (4) 5-3-007:005 and Amend Prior Board Action of January 23, 2009, Agenda Item D-1, Re-Submittal Forfeiture of Revocable Permit No. S-6040, John K. Hashimoto and Junedale U. Hashimoto, Permittee, Anini, Kauai Tax Map Key: (4) 5-3-007:005.

Mr. Tsuji reminded the Board that item D-6 came up on numerous occasions over the past 5 or 6 years and he noticed this item didn't appear to be resolved and certainly not to his satisfaction. He had staff look at the evaluation of the rent where the rent was adjusted during annual renewals of revocable permits (RP) that annually comes to the Board. One of the Board members recognized this as a new, exclusive beach area where the beach is right across the street. Mr. Tsuji asked staff to look at the rent and whether that was fair considering the location. What happened was they looked at the rent and the staff appraiser came up with a market value jumping it from what it was about \$500-\$600 per month to \$3500 per month. Ms. Hashimoto made those payments, but struggled over the years. Staff looked at that and other DLNR special type of leases where for certain reasons it wasn't driven by market value. Under the Statute for RPs this Board does have

the discretion if it's not required to use an appraised or value by a licensed appraiser or issue a fair market value which is required of staff in all of our long term leases. The evaluation was done and came up to about \$400 or so a month which is a lot more affordable than \$3500 per month. The issue was this outstanding rent of about \$150,000 showing on the books. Auditors questioned Mr. Tsuji what staff is doing about this delinquency. As explained in the submittal, staff with this new evaluation was approved by the Chairperson. We went back and retro it of a particular date which staff chose that indicated ...about 2008 where Junedale Hashimoto seemed to be having problems. Staff adjusted the rent and the outstanding balance came down to less than \$25,000 instead of \$150,000. Mr. Tsuji was asked to assist on this case by the Office of Attorney General and he was familiar with the history which he related. Junedale Hashimoto's grandmother was issued a 999 year homestead lease and those leases are very restrictive. You can't mortgage the property and other restrictions on that type of lease. But, those who had the long term lease had an option to buy. The grandmother did elect to buy. The property was appraised at fair market value and offered for sale. Like most people back then (territory/statehood) she was not able to come up with the cash and agreed to have the balance paid over an installment agreement, equivalent to an agreement of sale. Subsequent to that, for whatever reason, the grandmother had some problems making the payments. The Land Board (the current Board's predecessors) terminated it for default. Because of the grandmother's death the matter went to probate. The probate court had a rule that this long term lease was still alive and passed it on to an heir. The Department of Attorney General intervened in that probate and had the court correct that decision informing them that because of the default the Land Board had taken action on terminating the installment agreement or agreement of sale. There was nothing to pass and the court agreed issuing an order. This is significant because when he was a Deputy Attorney General he discussed this matter with counsel for the Hashimotos, but because of that court order and his understanding of real estate law he did not believe that it could simply revert back to the 999 year lease at this time. In dealing with this RP, that is what you got and you got to deal with it. How do you deal with it? This is my presentation of a solution on this matter. The staff evaluation, both of them, were not quote un-quote staff compliant or IE an appraisal as defined or regulated by the DCCA. This is an in-house staff evaluation. But, significant on the current evaluation is that if you look at the comparables they looked at where other DLNR managed residential type leases and the kind of rents they are being asked to pay some of them are in comparison to what Hashimoto was paying. Mr. Tsuji didn't think it was fair for her to pay that amount when others were getting quite a discount. In some instances, giving an example on the Big Island where people were victims of a prior lava flow and their rent is about \$132 a year. This is his recommendation.

It was asked by Member Agor whether this is only for the lifespan of Mrs. (Junedale) Hashimoto only or is she going to be able to pass it down. Mr. Tsuji said we haven't made that a condition and haven't thought about that in this particular matter. There have been instances where a parent may hold an RP and staff would see if there are any children that would like to take it over. He is open to anything for consideration. Member Agor related that Mrs. Hashimoto wants to live her life there and the family has been helpful in keeping her there. If this agreement will be restrained to her lifespan and

renegotiate with heirs, if there are any, you could add that to the language. Mr. Tsuji noted that this RP like all others will be renewed annually and he has no problem with that as a condition.

Member Edlao asked whether the 999 year lease is still applicable. Mr. Tsuji said as a Deputy AG it was, but also we had this court order which suggested going back to court and have the court make the action at the time it was terminated. There were more discussions about the lease which is a legal matter. What was clear was the installment of sale for purchase of the property was terminated. It was unclear whether the issue of the 999 year leases was brought up.

Member Edlao asked what she (Junedale Hashimoto) was paying towards the agreement of sale before her difficulties. Mr. Tsuji said his recollection was it was not significant. It was not 80% of the debt and it was a long time ago. He doesn't believe the payment record was on file. Member Edlao said he doesn't want the money she paid in to be forgotten about. Mr. Tsuji pointed out that they had occupancy. He doesn't think the Deputy (AG) who handled the probate considered this but what he knew at the time there is a current case that says this agreement of sale when you enter into them in the old days you could have paid 90% of the amount, but if you don't pay and defaulted you lose everything. In another day it was litigated all you have to dispute for. Although legal title did not pass the pass upon execution of agreement of sale is equitable title and what that means is even though it doesn't have the deed in the homeowner's name he has a vested interest up to how much to pay off and the debt. If you sell the property there is some interest to invoke to the owner. In this situation we didn't sell it. Staff took it back and the family member went on a RP. Mr. Tsuji recognized that while he was Deputy Attorney General.

Camille Kalama, staff attorney with the Native Hawaiian Legal Corporation testified she was here on behalf of Junedale and Jodie Hashimoto. Also, here are her cousins Bruce and Haunani Pacheco who are the son and daughter of one of the would be successors of the 999 year lease. She appreciates the Board members' questions recognizing the 999 year lease on this property and that 999 year lease don't require rent at all. When the attempt was made to purchase the property Mrs. Hashimoto's mother paid about \$33,000 to the Department. It's a question whether the failure to complete an agreement of sale is grounds for cancelling the 999 year lease because of what the lease states failure to fulfill conditions of the lease itself is grounds for cancellation. It's difficult to litigate that issue this much later. Russell, you are correct that it was in the probate and the AG had it removed from probate. It's my understanding currently there is no court order regarding the 999 year lease. Mr. Tsuji said he recalled it was corrected and Ms. Kalama said right, it was in the probate and it was removed. As far as she knows there is no court order or decision that the failure effectively cancelled the lease. That is a bigger issue and what you are touching on is the long term security of this family as Junedale has shown. She is dedicated to this aina. She is committed. Her family has strong ties going back a 100 years at least to that lease and probably before and the cultural connection and knowledge base that goes with that is valuable to all of us who live here. That is why Junedale struggled to pay \$3556 a month for 4 years which comes out approximately to \$180,000.

She gave up her car. She gave up her telephone. She gave up anything she could to remain on that land. She walked up that road to get to work every day. You may have heard from the family on the kind of dedication she has. We appreciate staff's reassessment of the rent. This issue has been up in the air for a few years now and it's very stressful for Junedale who continues to live in uncertainty. The family is agreeable to that rent from here forward. The other issues is something we hope we could work on to give them some longer term security in being there because as you understand leases and now the permit its impossible to get financing to fix your home which is probably a 100 years old and was built by their own family. It is not a vacation rental. It is not a luxury mansion. It is 896 square feet with a shed that is inhabitable. During that time the family was not permitted to use the land to raise income by renting, by sub-leasing or otherwise and they never have. They have kept in compliance with the requirements with that land as far as they are not building illegal structures, not storing old vehicles. They maintain it and malama this aina. We asked considering adding Jodie Hashimoto who is present. She has been the contact person for these issues for the last 2 years because Junedale had to give up her phone and her mail is not at her residence having to walk up to the Post Office. Jodie and Junedale would like to be on the permit together. As far as working out a payment plan or working on this issue of the back rent the family would like to do so and is encouraged to work with Chair Aila on this.

Member Agor asked whether they would be opposed to restricting the discounted rate of \$454 per month to the lifespan of Junedale and renegotiating. Ms. Kalama said if that's possible that would be excellent and they would appreciate it.

Junedale Hashimoto testified appreciating this Board and the previous Board for taking the time to listen to them to try to work out something. She appreciated the staff members for working on this to bring this to the table so they may respond in kind.

Bruce Pacheco testified when this started in 2004 when Junedale's rent went from \$500 to seven times more the next month I realized she needed some help. He related some family history where his great grandfather built the house and signed the lease February 1, 1911. He thanked the Board members and Mr. Tsuji. Mr. Pacheco referred to previous testimonies questioning whether the lease should have been cancelled based on the special agreement sale and being in default which he would like to re-visit later on, but doesn't want to jeopardize his cousin's needs and who lives there. They come from a tight knit community and our children seem to be threatened right now with access to that property. He referred to the amount Junedale has had to pay that she is only one person when her sister stepped in and mortgaged her home. Their family has always tried to be responsible about this lease and tried to be compliant, but it was a struggle and Junedale got into arrears which is when he and Haunani stepped in to support her. We would like to see a resolution on this matter by coming to an agreeable payment schedule. We would need Jodie on the lease or be at risk for lack of communication and not resolving any issues. Junedale is prepared to pay the \$450 per month. We want you to understand how deeply committed they are to this and why.

There were some discussions over who is the contact and Jodie Hashimoto said Jodie Hashimoto-Ormo. It was asked by Mr. Tsuji who will get the billing and Jodie Hashimoto said to both.

Member Agor made a motion to approved staff's recommendation with additional conditions. Adding item 2.d. where the monthly rent of this permit shall be available only for the life span of the applicant. If Junedale passes staff will renegotiate the rent. Item 2.e. add Jodie Hashimoto to the lease. Member Morgan seconded it.

Member Gon said for the record I firmly believe that we have an important role to play in keeping kama'aina on the lands of their families in the face of history, of disenfranchisement, and escalating rents assessed on the value of surrounding properties. I think it is a major issue and I'm glad we can play a role in that.

Member Edlao asked whether the applicant was ok with the changes and whether it was no problem negotiating again after Junedale passes away. (Couldn't hear or understand her response.) Mr. Tsuji said that as long as he is at Land Division and has some say he will make it comparable to other similar type of RPs.

Jodie Hashimoto asked whether the rent is based on her sister's lifetime and not on hers because in the next 20 years would she have to go through this again. Member Agor said you would renegotiate the rent. You would be able to continue to stay there under the permit, but renegotiate the rent.

Chair Aila noted that the analysis for the negotiation on the rent would be similar to the one we are going through right now. Mr. Tsuji said this is typical of RPs which are 30 days, but they bring it back once a year and sometimes they adjust the rent. Usually, the focus is on the commercial industrial RPs.

Member Morgan supports the motion, but we don't know what the property will be like at a later date and maybe you might live some place else and this becomes a weekend home, but it is not. It is your life which is why I support the motion.

Member Edlao said that the fine has been resolved and is glad they are moving forward and he supports the motion.

Mr. Pacheco asked for one clarification to avoid the situation that they are in right now. When the rent went to \$3556 what we finally realized is the responsibility more so than ever before that you can't gain revenue from this property. At that time that \$3556 was based on market value so we were never able to achieve market value because they were restricted by the lease from generating revenue from the property. This lease the revocable 1 year \$450 per month might be negotiable as the State law requires review. Does this lease still restrict us from generating revenue? Mr. Tsuji affirmed that saying yes. It will be for the purpose which was agreed in this case, residential. Mr. Pacheco asked that is status quo, right. Mr. Tsuji said that market value at Anini Beach as you see it with three homes is really how it was at the time. Not commercial generation.

Member Edlao explained the rent stays there until Junedale passes and then the rent will be renegotiated. Mr. Tsuji said it will be re-evaluated.

All voted in favor.

The Board:

Approved as amended. Recommendation 2 was amended by adding a 2(d) and 2(e) as follows:

- 2(d) That the rental analysis of using other residential permits and leases as comparables for rental purposes shall continue in future years for the life of Jundale Hashimoto; and**
- 2(e) That Jundale's sister, Jodi Hashimoto-Omo shall be added as a permittee, together with Junedale Hashimoto; billings, insurance and other notices shall be sent to both permittees.**

Jodie Hashimoto-Omo

Anahola, Kauai, HI 96703

Otherwise, all other portions of the staff submittal and recommendations were approved as submitted.

Unanimously approved as amended (Agor, Morgan)

Item D-12 Reconsideration of Rent for Milolii-Hoopuloa Residential Leases, Phase I, Consisting of Twelve (12) General Leases for Residential Purposes at Milolii and Hoopuloa, South Kona, Hawaii, Tax Map Key: (3) 8-9-014: 001-013 and 8-9-014: 016.

Written testimony from Annie Tai See was distributed to the Board.

Mr. Tsuji informed the Board that this is another group of leases on the Big Island that have residential type leases on trying to be a fishing village. Their rents are not market and these are long term and are not RPs. In this case, there were re-openings as leases are at a certain point. You get an eval. on the rent and it came up to \$400 or so dollars. Staff's recommendation in the report indicated the recommendation was to stay at the fair market value, but he wanted to modify it. It's up to the Board whether you agree or not. I had similar situations where we do in-house or full on appraisal by an outside appraiser where they come up with a value of X dollars. If it drops before the Board's policy of minimum rent which was calculated to design and cover administrative costs to manage the lease on an annual basis at \$480 a month. Mr. Tsuji had outside appraisers come in a