

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

September 11, 2015

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

PSF No.: 15OD-109  
OAHU

Approval in Principle for Issuance of a Term, Non-Exclusive Easement to Blow Up, LLC for AM Radio Transmission Tower Purposes; Authorize the Issuance of an Immediate Right-of-Entry for Due Diligence Purpose; Moanalua, Honolulu, Oahu, TMK (1) 1-1-003:Portions of 003 and 207.

APPLICANT:

Blow Up, LLC, a domestic limited liability company (“Applicant”).

LEGAL REFERENCE:

Section 171-13 and 55 Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Moanalua, Honolulu, Oahu, identified by Tax Map Key: (1) 1-1-003:portions of 003<sup>1</sup> and 207, as shown on the map as **Exhibit A**.

AREA:

3,600 square feet (tentative, subject to change).

ZONING:

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

<sup>1</sup> During the solicitation for comment stage, Parcel 204 was inadvertently noted as the requested parcel, instead of Parcel 003 as noted herein.

CURRENT USE STATUS:

Encumbered by Revocable Permit No. 7843, Tactical Airgun Fames Hawaii LLP, Permittee, for Commercial Recreational Use purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove a radio transmission tower including antenna and related equipment as approved by the State for AM radio broadcasting over, under and across State-owned land.

EASEMENT TERM:

Thirty (30) years.

COMMENCEMENT DATE:

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

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on June 5, 2015, the subject request for issuance for right-of-entry is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 5(1), that states "Conduct surveys or collect data on existing environmental conditions (e.g. noise, air quality, water flow, water quality, etc.)" See **Exhibit B**.

DCCA VERIFICATION:

Place of business registration confirmed:	YES	<u>  X  </u>	NO	<u>    </u>
Registered business name confirmed:	YES	<u>  X  </u>	NO	<u>    </u>
Good standing confirmed:	YES	<u>  X  </u>	NO	<u>    </u>

APPLICANT REQUIREMENTS:

None at the time of writing this submittal, subject to insertion of any applicant requirement upon finalization of the environmental assessment process.

REMARKS:

Applicant is the permittee under a revocable permit [#HY-09-053] issued by the Department of Transportation, Highways Division at the State parcel identified as tax

map key (1) 1-2-013:023 since October 2010. The character of use under the permit is for the installation of a radio transmission tower together with placing of equipment and antenna associated with the broadcast.

Portions of the elevated guideway for the Honolulu Rail Transit Project will traverse the permit area mentioned above. Pursuant to the requirement of the Federal Communications Commission, the existing tower needs to be relocated due to its proximity to the future rail traffic. Therefore, the Applicant requests the Board authorize a land disposition at the requested site for the purpose of continuing the broadcast. Staff understands the future tower will be secured by an anchor on the submerged land. At the moment of writing this submittal, staff does not have further information regarding the proposed tower which might trigger a land use in conservation district, e.g. anchor in the submerged lands. However, such information or issues will be covered in the forthcoming environmental assessment.

As shown on the map prepared by the Applicant (Exhibit A), two locations are depicted. Upon approval of today's request, the Applicant will start the due diligence process for the requested easement. Depending on the outcome of such assessment, the final location of the tower could be on the 2<sup>nd</sup> Choice on Exhibit A, and identified as tax map key (1) 1-1-003:portion of 207.

Both parcels involved in this request [003 or 207] are encumbered by the RP 7843 for commercial recreational use. Depending on the final location of the proposed tower, applicant will also need an access easement over the area under RP 7843. If any reduction in rent for RP 7843 warrants consideration by the Board, staff will bring the request for the Board's approval at a later date. Permittee of RP 7843 has no objection to the requested right-of-entry.

Division of Aquatic Resources, Department of Facility Maintenance, Department of Parks and Recreation, Department of Transportation, Highways Division, and Board of Water Supply do not have any objection or comment to the request.

Department of Health, State Historic Preservation Division, Office of Conservation and Coastal Lands, Department of Planning and Permitting, Office of Hawaiian Affairs, and Honolulu Authority for Rapid Transportation have not responded to the solicitation for comment before the deadline.

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. There are no other pertinent issues or concerns.

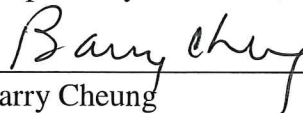
RECOMMENDATION: That the Board:

1. Approve in principle for the issuance of a term, non-exclusive easement as described above to Blow Up, LLC.



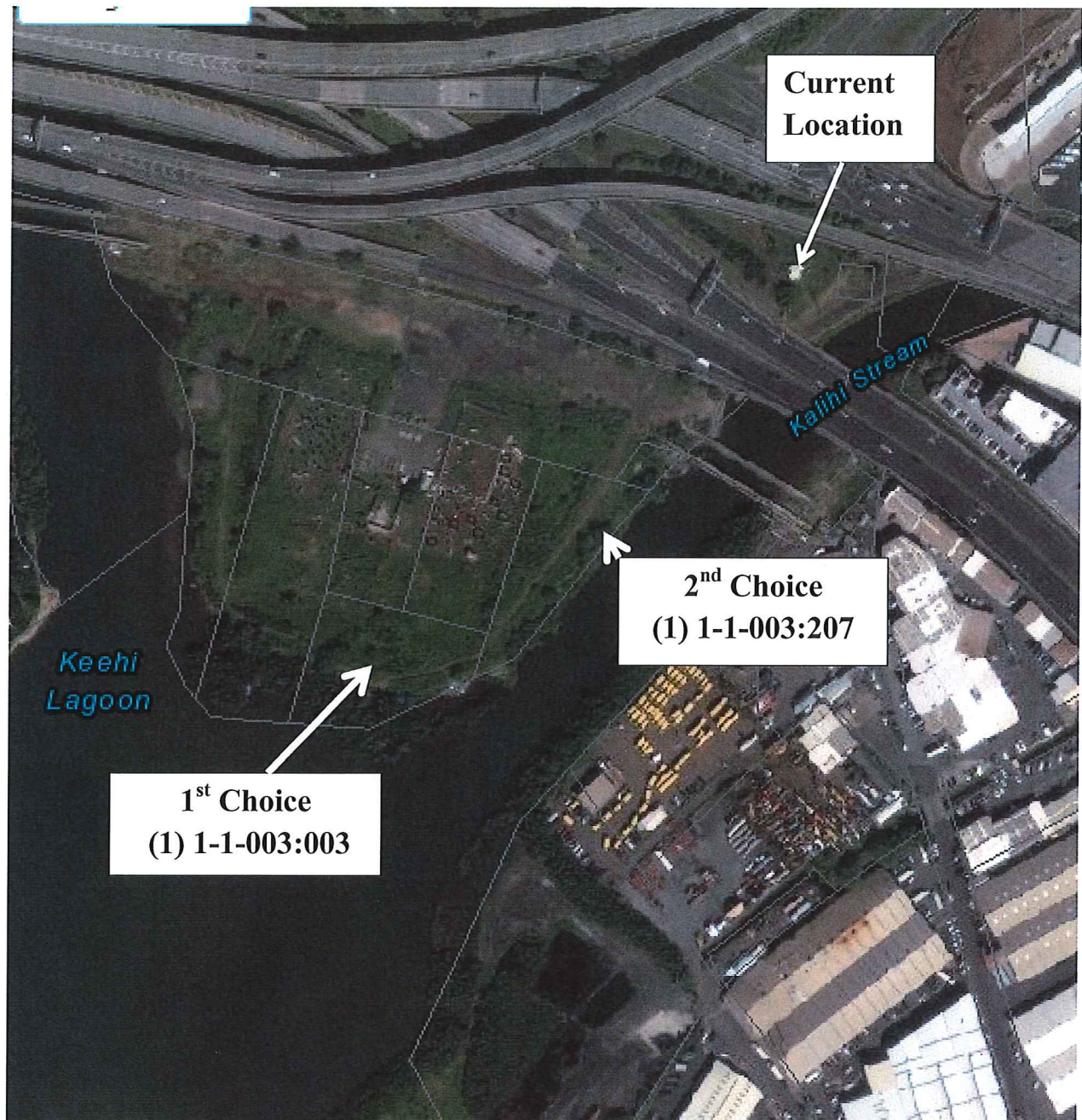
2. At its own cost, Blow Up, LLC shall pursue satisfactory compliance with Chapter 343, Hawaii Revised Statutes within twenty-four (24) months of the Land Board's approval.
3. Should Blow Up, LLC fail to obtain satisfactory compliance with Chapter 343, Hawaii Revised Statutes within twenty-four (24) months of the Land Board's approval, this Land Board's approval shall be considered rescinded.
4. Blow Up, LLC shall acknowledge the following:
  - A. All costs associated with the necessary compliance with Chapter 343, Hawaii Revised Statutes shall be the responsibility of Blow Up, LLC; and
  - B. This action is an approval in principle and does not provide any assurance of an easement and such approval of an easement shall be subject to consideration by the Land Board under a separate action after satisfactorily complying with Chapter 343, Hawaii Revised Statutes.
5. Declare that, after considering the potential effects of the requested right-of-entry as provided by Chapter 343, HRS, and Chapter 11-200, HAR, the request will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
6. Authorize the issuance of an immediate right-of-entry permit to the Blow Up, LLC for conducting due diligence pertaining to environmental assessment compliance for the requested easement covering the subject area 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 right-of-entry permit form, as may be amended from time to time;
  - B. Written concurrence from the Permittee of RP 7843; and
  - C. 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:

  
Suzanne D. Case, Chairperson



**TMK (1) 1-1-003:003 and 207**

**EXHIBIT A**



## EXEMPTION NOTIFICATION

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

Project Title: Right-of-Entry for Due Diligence Purposes

Project / Reference No.: 15OD-109

Project Location: Moanalua, Honolulu, Oahu Tax Map Key: (1) 1-1-003:003 & 207

Project Description: Due diligence purposes.

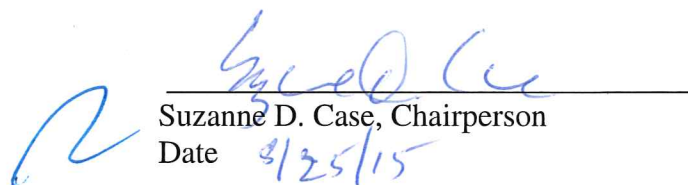
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on June 5, 2015, the subject request for issuance for right-of-entry is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 5(1), that states "Conduct surveys or collect data on existing environmental conditions (e.g. noise, air quality, water flow, water quality, etc.)".

The request is related to due diligence needs for the proposed easement for radio transmission tower purposes.

Consulted Parties: Agencies as noted in the submittal

Recommendation: That the Board find 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.

  
 \_\_\_\_\_  
 Suzanne D. Case, Chairperson  
 Date 9/25/15

# EXHIBIT B