

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

February 12, 2016

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

Ref: 15OD-202

OAHU

Issuance of Revocable Permit to Kazuto Yamada for Agriculture Purposes, Termination of Revocable Permit No. 7564, Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-008:071 and portion of 072.

APPLICANT:

Kazuto Yamada, married, as tenant of severalty.

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) 4-1-008:071 and portion of 072, as shown on the attached map labeled **Exhibit A and B**.

AREA:

|                            |                                    |
|----------------------------|------------------------------------|
| (1) 4-1-008:071            | 4.083 acres; and                   |
| (1) 4-1-008:portion of 072 | <u>10.304 acres, more or less.</u> |
| Total:                     | 14.387 acres, more or less.        |

ZONING:

State Land Use District: Agriculture  
City and County of Honolulu LUO: AG-1

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:

Parcel 71 - Vacant and unencumbered; and

Parcel 72 - Encumbered by Revocable Permit No. 7564, Kazuto Yamada, Permittee, for agriculture purposes.

CHARACTER OF USE:

Agriculture purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$108.00 per month, i.e. current rent under RP 7564.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 47 that states "[I]eases of state land involving negligible or no expansion or change of use beyond that previously existing." See **Exhibit C**.

DCCA VERIFICATION:

Not applicable. Individual.

REMARKS:

Applicant was the permittee since 1972 under Revocable Permit ("RP") 4804, encumbering 14.5 acres for agriculture purposes. In 1988, Governor John Waihee signed into effect Act 237, which allowed the Board to negotiate long term leases under certain specific restrictions with qualified permittees, including the Applicant. During the negotiation, the Applicant indicated that he preferred the configuration of his leased premises be modified to avoid any area vulnerable to flooding. Map prepared by the Department of Accounting and General Services, Survey Division, dated March 10, 1994

attached as Exhibit B (CSF 22080) and notated as Parcel 72 was prepared to address the Applicant's concern, with an area of 10.304 acres.

Eventually, the Applicant did not execute any long term lease and continued to stay as the permittee under RP 4804. Notwithstanding the map at Exhibit B was prepared, there was no record of withdrawing any acreages from RP 4804.

In the meantime, General Lease No. 5399, for general agricultural purposes, encumbering the adjacent Parcel 71 (CSF 22080 shown on Exhibit B) for an area of 4.083 acres was terminated by the Board on March 31, 1999 due to non-compliance of lease conditions.

In 2009, RP 4804 was replaced by RP 7564 due to the revision of the insurance provision in the permit. The RP area is identified as tax map key Parcel 72.

Recently, staff noticed that the Applicant is using portion of Parcel 71 for growing of flowers pertaining to his lei making business. According to the Applicant, he had obtained approval from the Department a long time ago to use the adjacent Parcel 71 since he surrendered portion of Parcel 72 due to the flooding issue. Staff cannot locate any record of such approval in the files. Staff believes it probably is the result of a past miscommunication between the parties.

To address the situation, staff proposes the issuance of a revocable permit to include both Parcel 71 (4.083 acres) and a portion of Parcel 72 (10.304 acres), as shown on Exhibit B to the Applicant, and a mutual termination of RP 7564 upon issuance of the new permit.

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. Applicant is in compliance with the terms and conditions of his current revocable permit [RP 7564].

Department of Agriculture, Department of Planning Permitting, Department of Parks and Recreation, and Department of Facility Maintenance have no objections/comments to the subject request.

Department of Health, Board of Water Supply, and Office of Hawaiian Affairs have not responded to the solicitation for comments before the deadline.

Department of Hawaiian Home Lands, by its memorandum dated December 1, 2015 (**Exhibit D**), requests the permitted use of the proposed revocable permit be limited to only the "growing of flowers pertaining to [applicant's] lei making business." Applicant has been using the subject lands for the same purpose since early 1970s. In addition, staff considers the proposed use [agriculture purpose] is the highest and best use of the subject land which is zoned for agriculture under the county zoning. Therefore, staff recommends the Board approve the issuance of the requested revocable permit for the purpose stated above.

In addition to the vulnerability to flood as mentioned above, the subject area is not legally subdivided. Therefore, staff believes the requested month-to-month tenancy is more appropriate than a long term disposition.

There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:

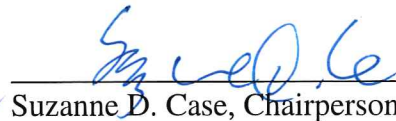
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to Kazuto Yamada covering the subject area for agriculture 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.
3. Authorize the termination of Revocable Permit No. 7564 upon issuance of the revocable permit described above.

Respectfully Submitted,



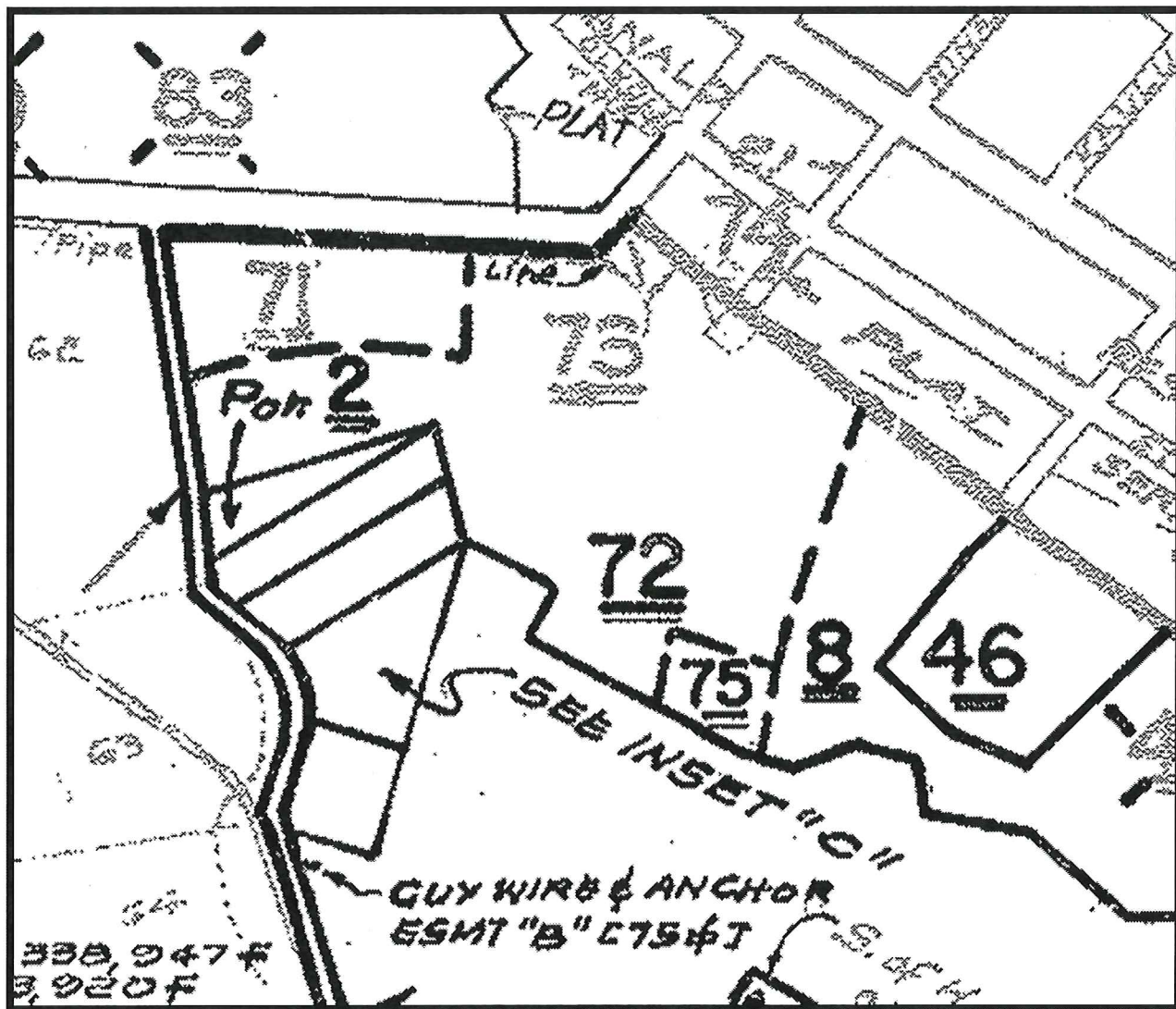
Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

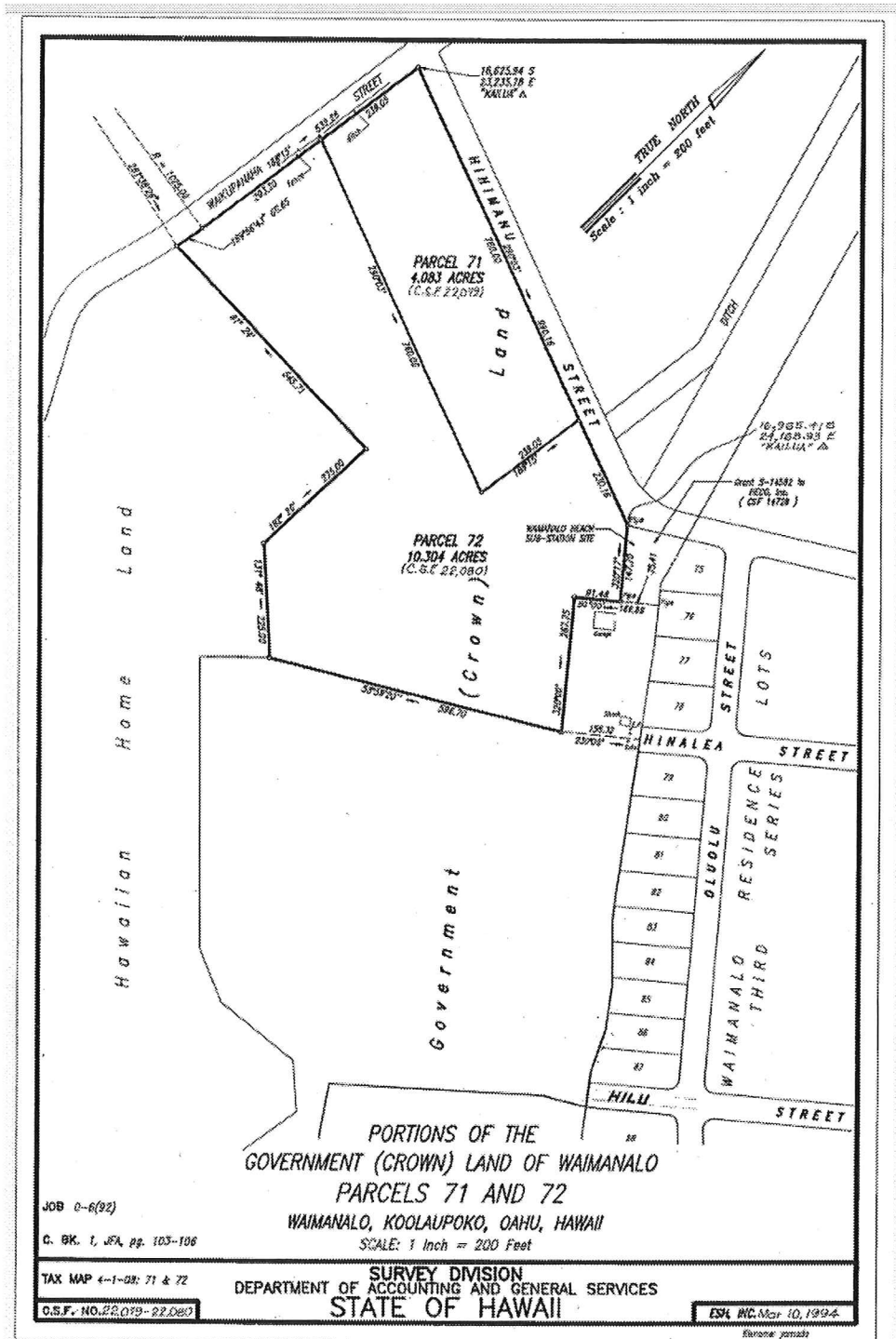




**TMK (1) 4-1-008:071 and portion of 072**

**Note: This map shows the general location. For acreages under the proposed revocable permit, please refer to Exhibit B of this submittal.**

**EXHIBIT A**



**EXHIBIT B**

**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 for Agriculture Purposes

Project / Reference No.: 15OD-202

Project Location: Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-008:071 and a portion of 072

Project Description: Agriculture purposes.


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

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 47, that states “[I]ease of state land involving negligible or no expansion or change of use beyond that previously existing.”

The requested area comprises of a portion of Parcel 72 which is currently used by the applicant under a revocable permit, and Parcel 71 which was previously used for agriculture purposes until the lease was terminated by the Board. Staff does not expect there will be major alteration in the conditions of the land, water or vegetation at the location.

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 JAN 14 2016

**EXHIBIT C**



DAVID Y. IGE  
GOVERNOR  
STATE OF HAWAII

SHAN S. TSUTSUI  
LT. GOVERNOR  
STATE OF HAWAII



JOBIE M. K. MASAGATANI  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

WILLIAM J. AILA, JR.  
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879  
HONOLULU, HAWAII 96805

December 1, 2015

MEMORANDUM

TO: Barry Cheung, Land Agent  
Department of Land and  
Natural Resources

FROM: Jobie M. K. Masagatani, Chairman *masagatani*  
Hawaiian Homes Commission

SUBJECT: Request for Comments on Request for Issuance of  
Revocable Permit Waimanalo, Koolau Poko, Oahu, TMK (1)  
4-1-008:071 & 072

The Department of Hawaiian Home Lands (DHHL) received the above-mentioned memorandum dated November 25, 2015, regarding the request for issuance of a revocable permit for agriculture purposes to Kazuto Yamada. DHHL offers the following comments:

These parcels border Hawaiian Home Land properties. As such DHHL requests that the permitted use of the revocable permit be limited to only the "growing of flowers pertaining to [Mr. Yamada's] lei making business" as stated in the enclosed materials with the November 25, 2015 memorandum. Allowing other types of uses on these parcels in addition to the "growing of flowers" may have unintentional negative effects on the neighboring Hawaiian Home Land Properties. Explicitly limiting the permitted use in the revocable permit to "the growing of flowers" will help to reduce the likelihood that Mr. Yamada's use of the subject parcels will have an adverse effect on neighboring Hawaiian Home Land properties.

Mahalo for the opportunity to comment. If you have further questions, please contact Andrew Choy at (808) 620-9279 or email him at [andrew.h.choy@hawaii.gov](mailto:andrew.h.choy@hawaii.gov).

**EXHIBIT "D"**