

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

October 12, 2012

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

PSF No.: 12KD-043

Kauai

Issuance of Revocable Permit to Jack and Margaret Phillips for Parking and Maintenance Purposes, Por. Kapaa Rice and Kula Lots, Kawaihau, Kapaa, Kauai, Tax Map Key: (4) 4-5-004:por. of 2

APPLICANT:

Jack & Margaret Phillips, married, Tenants by the Entirety.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kapaa, situated at Kapaa Rice and Kula Lots, Kawaihau, Kapaa, Kauai, identified by Tax Map Key: (4) 4-5-004:por. 2, as shown on the attached map labeled Exhibit A.

AREA:

.277 acre, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: General 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:

Parking and maintenance purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$110.00 per month, based on a 1999 appraised value under RP Nos. S-7175 and S-7338 with a rental amount of \$77.00, adjusted upward for inflation using the Consumer Price Index for Honolulu, all urban consumers. (See attached Exhibit "B")

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

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, 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."

DCCA VERIFICATION:

Place of business registration confirmed: N/A
Registered business name confirmed: N/A
Applicant in good standing confirmed: N/A

Applicants are natural persons and are not required to register with DCCA.

REMARKS:

The subject parcel, Tax Map Key: (4) 4-5-004: 002 (Parcel 2), has a very odd configuration as shown in Exhibit A attached. It is somewhat C-shaped, with most of the

parcel being too narrow to be productively utilized. Staff has been unable to determine the history behind the shape of the parcel.

On April 9, 1999 under item D-24, the Board approved the issuance of RP No. S-7175 to Leonard Yamamoto, the managing agent for Leonard's Inc. for maintenance, beautification, parking and signage purposes. RP No. S-7175 covered the same portion of Parcel 2 that is the subject of the present request. RP No. S-7175 terminated on August 12, 2002 at Mr. Yamamoto's request.

On December 13, 2002 under agenda item D-61, the Board approved a disposition of Parcel 2 that required the subdivision of the land into three parts, with the portion abutting Panihi Road being set-aside to the County of Kauai for roadway purposes, the portion abutting Kuhio Highway being set-aside to the Department of Transportation, Highways Division (DOT-H) for highway purposes, and the balance of the parcel (including the area of the subject request) being conveyed in fee to the Department of Hawaiian Home Lands (DHHL). Recognizing that it would take some time to complete the subdivision and various dispositions, the Board further approved the issuance of an interim RP No. S-7338 to Lisa DeRock and Danny G. Lepley for maintenance, beautification, parking and signage purposes.

At the request of Ms. DeRock and Mr. Lepley, RP No. S-7338 was cancelled effective February 2, 2011.

On April 3, 2012 Kaipo Duncan, Land Agent for DHHL, stated that DHHL had not procured a contract to survey and subdivide the property, which are required prior to conveyance. DHHL had no objection to the Board's issuance of another revocable permit over the subject area. Applicants Jack and Margaret Phillips intend to use the area as an overflow parking lot for their residents at the Kapaa Garden Apartments, 4558 Akoa Road. They will also maintain the grass and other vegetation on the property, thereby relieving Land Division of this expense. Applicants understand that the subject area is pending transfer to DHHL, and that their use of the land can be terminated at any time on 30 days' notice.

Month-to-month tenancy is appropriate in this case, until DHHL takes the steps necessary for subdivision and set-aside/conveyance of the respective portions to the County, DOT-H and DHHL.

Applicants have 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.

The proposed use has continued since 1999 and will continue. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing

Comments were solicited from:

State Agencies:

DNLR Archaeology/Historic Preservation	No historic properties will be affected
DOH	Temporary fugitive dust emissions could be emitted by vehicular traffic (HAR 11-60.1)
DOT	No objections
DHHL	No objections to RP

County Agencies:

Public Works	Parcel located in a special flood hazard area designated Zone AE
Planning	No response by suspense date

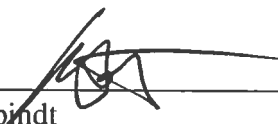
Based on an in-house appraisal in 1999, rent for the subject area under RP No. S-7175 was initially established at \$255 per month. But the Kauai District staff at the time felt that this rent was too high due to topography, flood issues, and restricted use. The in-house appraisal was then discounted to \$77, and this rent was also used in RP No. S-7338. Staff is proposing a rent for the new requested RP at the monthly rate of \$110, which is based on the 1999 appraised value but adjusted upward for inflation as calculated by the Consumer Price Index for Honolulu, all urban consumers (an increase of 43.48% from 1999 to 2012).

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 Jack and Margaret Phillips covering the subject area for parking and maintenance 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. The permittee understands that the area covered by this permit may be

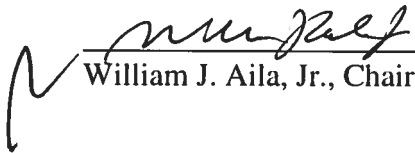
required by the Government for future public use, including its transfer to another government agency. The issuance of this permit does not convey any long term right to the property.

Respectfully Submitted,

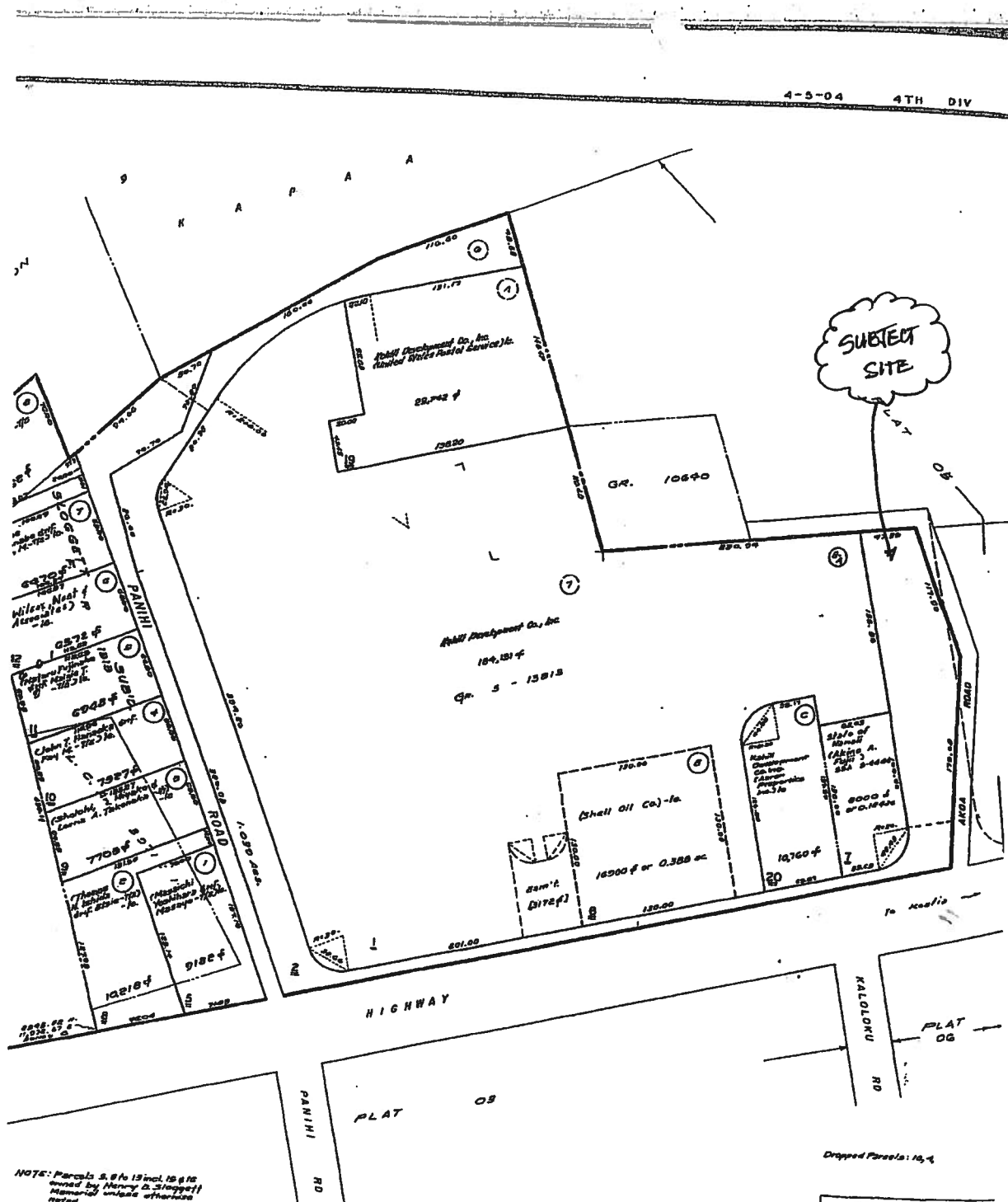


Milo Spindt
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



NOTE: Parcels 5, 6 to 13 incl. ID # 12
issued by Henry D. Stagggett
Mamala, unless otherwise
noted

EXHIBIT "A"

FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE

DEPARTMENT OF TAXATION TAXATION MAPS BUREAU STATE OF HAWAII		
TAX MAP		
FOURTH TAXATION DIVISION		
ZONE	TIC	PLAT
4	5	04

Dropped Parcels: 14, 9

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

May 11, 1999

MEMORANDUM

TO: Timothy E. Johns, Chairperson

THROUGH: Dean Y. Uchida, Land Division Administrator

FROM: Benjamin Marx, Staff Appraiser

RE: Appraisal request for pending Revocable Permit to Leonard Yamamoto (TMK: Kauai 4-5-04:02(por)).

The site contains 12,066 sq. ft. and is to be used for maintenance, beautification, parking and signage purposes. On April 13, 1999 the site was valued at \$203,700 and assigned a rent of \$255 per month. Kauai land agent Mike Laureta, stated the rent was too high considering the site's topography, flood problems and restricted use. Along with his explanation, he included photos. We recalculated our fee value and applied a heavy discount for the subject's restricted use. We understand DHHL uses discounts ranging from 25 to 75 percent for similar properties. The monthly rent is estimated as follows:

Fee simple land value	\$122,700
LESS: discount for restricted use (50%)	<u>61,350</u>
Adjusted land value	61,350
Potential gross annual rent (2%)	\$1,227
LESS: discount for monthly tenancy (25%)	<u>307</u>
Anticipated gross annual rent:	\$920
Anticipated gross monthly rent:	\$76.67
RECOMMENDED RENT PER MONTH:	\$77.00

Recommend Approval:



Dean Y. Uchida, Land Division Administrator

MAY 17 1999

Date

Approved/Disapproved:



Timothy E. Johns, Chairperson

5/17/99
Date

EXHIBIT "B"

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

LAND DIVISION

3060 EIWA STREET, RM #306

LIHUE, HAWAII 96766

May 6, 1999

ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

99KD-127

MEMORANDUM

To: Ben Marx,
Staff Appraiser

From: Michael Laureta,
Kauai Land Agent

Subject: Reconsideration of Monthly Rent Determination for
Revocable Permit to Leonard's Inc, Kapaa, Kauai,
TMK 4-5-4: por. 2

Enclosed are a to-scale tax map of the area, and 3 photos. The designations on the map reflect the direction the picture was taken. Photo 1 shows the sign. Also, the State land is located to the right of the rebar & ribbon; there is a deep swale/ponding area which renders it unuseable - I have marked this area on the map too. It's about half of the property.

Photo 2 is from the middle of the property, looking mauka. Even though the land levels off, Paradise Pets (a lessee of Leonards Inc.) only uses a portion, enough for no more than 5 vehicles. This is not a high volume pet store.

Photo 3, also taken from the middle of the property, is looking makai, towards the highway. The reason there is grass is because of the ponding problem. Although Leonard's Inc. doesn't use this area, they periodically cut the grass down.

Should you need any more information, please call me.

Encl

c: Lynn McCrory, Kauai Land Board Member

GR. 10640

7

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3

8

(Shell Oil Co.) - le.

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130.00

Esm't. [3172 ϕ]

116

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State of Hawaii
(Akino Fujii)
SSA 5-4940

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8000 ϕ
or 0.184 ac

Deep
Subtle

R 30.

7

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179.08

To Kealia

KALOLOKU RD

PLAT OG

RD

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

P.O. BOX 621
HONOLULU, HAWAII 96809

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

April 13, 1999

MEMORANDUM

TO: Timothy E. Johns, Chairperson
THROUGH: Dean Y. Uchida, Land Division Administrator
FROM: Benjamin Marx, Staff Appraiser
RE: Appraisal request for pending Revocable Permit to Leonard Yamamoto (TMK: Kauai 4-5-04:02 (por)).

The site contains 12,066 sq. ft. and is to be used for maintenance, beautification, parking and signage purposes. Calculations shown on the attached adjustment grid show a fee simple value of \$203,700. The monthly rent is estimated as follows:

Fee simple land value:	\$203,700
Potential gross annual rent (2%):	\$4,074
LESS: discount for monthly tenancy (25%)	<u>1,019</u>
Anticipated gross annual rent:	\$3,055
Anticipated gross monthly rent:	\$254.58
RECOMMENDED RENT PER MONTH:	\$255.00


Recommend Approval:



Dean Y. Uchida, Land Division Administrator

4-13-99
Date

Approved Disapproved:



Timothy E. Johns, Chairperson

4-14-99
Date

ADJUSTMENT GRID

Leonard Yamamoto
Kawaihau, Kauai

Tax Map Key: (4) 4-5-04:02 (por)

Transaction	Subject	1	2	3	4	5
Location	Kawaihau	Kawaihau	Kawaihau	Kawaihau	Kawaihau	Kawaihau
Tax Map Key	4-5-04:02	4-3-07:04	4-3-09:12	4-3-09:52	4-5-11:47	4-5-12:28
Land Area (sf)	12,066	9,440	5,622	19,772	3,037	15,075
Pitt Code	300	300	300	300	300	300
Date Sold	9/09/98	7/31/98	6/16/98	5/10/94	2/27/91	
Sale Price	\$30.72	\$27.71	\$15.82	\$24.00	\$29.52	
Conditions of Sale	1.000	1.000	1.000	1.000	1.000	
Financing	1.000	1.000	1.000	1.000	1.000	
Market Conditions	1.000	1.000	1.000	0.780	0.590	
Land Value (sf)	\$30.72	\$27.71	\$15.82	\$18.72	\$17.42	

Adjustments:

Location	0	0	0	0	10	0
Physical Characteristics	0	0	0	0	0	0
Use	-25	-25	-25	0	0	-25
Size	0	-10	5	-20	0	0
Total Adjustments	-25	-35	-20	-10	-10	-25

Adjusted Value	\$23.04	\$18.01	\$12.66	\$16.85	\$13.06	
Weight (1 - 10)	6	7	6	8	5	
Factor	0.188	0.219	0.188	0.250	0.156	
Value	\$4.32	\$3.94	\$2.37	\$4.21	\$2.04	

Fee Simple Land Value	\$16.89 sf					
Total Fee Simple Value	\$203,747					
Rounded	\$203,700					



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 12, 2012

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 Jack and Margaret Phillips for Parking and Maintenance Purposes, Por. Kapaa Rice and Kula Lots, Kawaihau, Kapaa, Kauai, Tax Map Key: (4) 4-5-004:por. of 2

Project / Reference No.: 12KD-043

Project Location: Portion of Government lands of Kapaa, situated at Kapaa Rice and Kula Lots, Kawaihau, Kapaa, Kauai, identified by Tax Map Key: (4) 4-5-004:por. 2

Project Description: Issuance of Revocable Permit

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

Exemption Class No.: 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, 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."

The proposed use has continued since 1999 and will not change. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that

previously existing.

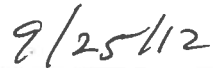
Recommendation:

It is recommended that the Board find that this request 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

N



Date