

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

April 26, 2013

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

Kauai

Cancellation of Revocable Permit No. S-7190 to Gary Rodrigues and Request for Waiver of Level One (1) Hazardous Waste Evaluation Requirement, por. Kapaa Homesteads, 1st and 3rd Series, Kawaihau, Kauai, Tax Map Key: (4) 4-6-008:023 and 024.

PURPOSE:

Cancellation of Revocable Permit No. S-7190 to Gary Rodrigues and Waiver of Level One (1) Hazardous Waste Evaluation Requirement.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kawaihau situated at por. Kapaa Homesteads, 1st and 3rd Series, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-008:023 and 024, as shown on the attached map labeled Exhibit A.

AREA:

- (4) 4-6-008:023 – 32.80 acres, more or less.
- (4) 4-6-008:024 – 00.20 acres, more or less.

ZONING:

State Land Use District:	Agriculture
County of Kauai CZO:	Open District "O"

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:

Revocable Permit No. S-7190

CHARACTER OF USE:

Conservation Management purposes.

COMMENCEMENT DATE:

October 8, 1999

MONTHLY RENTAL:

\$13.00 per month.

REMARKS:

Subject site is an irregularly shaped, hard to access valley north of Kapaa Town that was formerly encumbered by Revocable Permit No. S-6399 under the current permittee's father – John S. Rodrigues. His permit was cancelled as of March 9, 1995.

From the time of the cancellation in 1995, Gary Rodrigues saw the property deteriorate due to unauthorized activities such as dumping of trash and vehicles, hunting and other illegal activities including drug use and loitering.

On October 8, 1999, Revocable Permit No. S-7190 was issued to Gary Rodrigues for Conservation Management purposes. From the time Mr. Rodrigues occupied the property up to January 2008, the land was cleared of trash, abandoned vehicles and invasive species. Due to his financial situation thereafter, Mr. Rodrigues requested cancellation of the revocable permit. As stated in his letter dated January 15, 2013 (Exhibit B), payment and a request to cancel Revocable Permit No. 7190 were made on September 16, 2010. Fiscal processed the payment but no letter of request for immediate cancellation was received by Land Division – Kauai Branch.

Subsequently, Mr. Rodrigues started to clean the area again with no charge to the State. Upon receiving the Notice of Non-Renewal of Revocable Permit No. S-7190 letter dated January 10, 2013, he vacated the property and ceased all activities. (See Exhibit C)

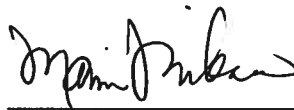
A final inspection of the property was conducted on March 9, 2013 at which time the premises was found to be clean, with no trash or abandoned property, to the satisfaction of Kauai Branch. (Exhibit D), inspection report.

Based on the conservation management character of use in the revocable permit and the findings at the time of the final inspection, staff recommends that the Level One (1) Hazard Waste Evaluation should be waived. Staff is also recommending the cancellation of the Permit effective October 1, 2010.

RECOMMENDATION: That the Board:

1. Authorize the cancellation of Revocable Permit No. S-7190 per the request of the permittee in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under Revocable Permit No. S-7190 to be applied to any past due amounts;
3. Terminate the permit and all rights of Permittee and all obligations of the Permittee effective as of October 1, 2010, provided that any and all obligations of the Permittee which have accrued up to said effective date or which are stated in the permit to survive cancellation shall endure past such cancellation date until duly fulfilled, and further provided that Permitter reserves all other rights and claims allowed by law;
4. Authorize the Department of Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under Revocable Permit No. S-7190 and to pursue all other rights and remedies as appropriate; and
5. Waive requirement for a Level One (1) Hazardous Waste Evaluation.

Respectfully Submitted,



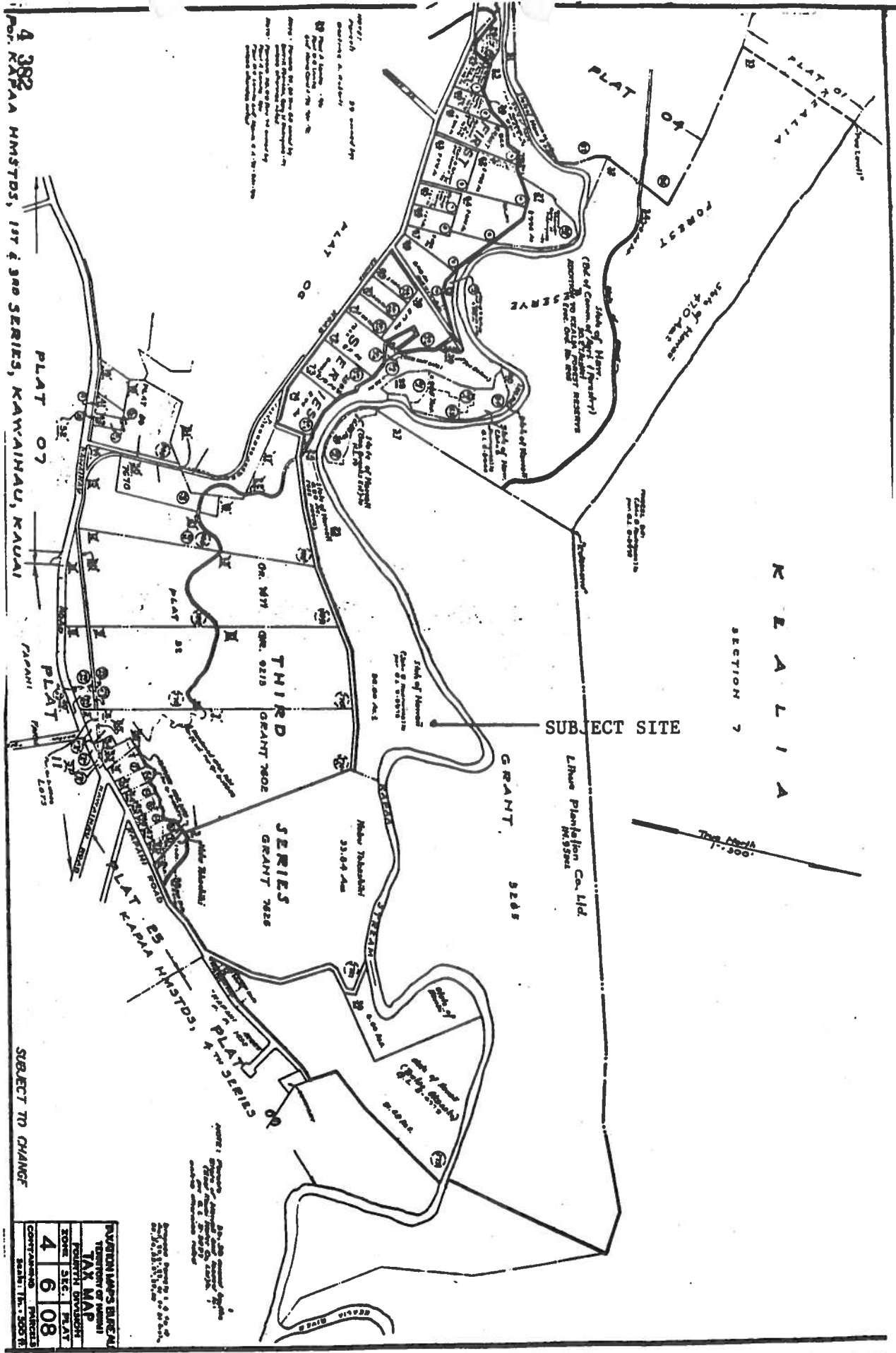
Marvin Mikasa
Land Agent



APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



4 382
 FOR KAWAIAU MISTDS, 1ST & 2ND SERIES, KAWAIAU, KAUAI

SUBJECT TO CHANGE

DIVISION OF LANDS	
TERRITORY OF HAWAII	
LAND MAP	
FOURTH DIVISION	
FORM	PLAT
4	6 08
COPYRIGHTED 1923	
GRANT 157-2027	

To: Russell Y. Tsuji, Administrator
Department of Land and Natural Resources, Land Division
State of Hawaii
3060 Eiwa Street, Room 208
Lihue, HI 96766

From: Gary W. Rodrigues *GWR*

Re: Revocable Permit No. 7190

Date: January 15, 2013

This is to acknowledge receipt of your notice of January 10, 2013 that revocable permit no. 7190 was not renewed by the Board of Land and Natural Resources on December 14, 2012 because of rental payment in the arrears for more than sixty (60) days.

I have not occupied the premises and have no personal property on the premises. The premises are overgrown with trees and brush just as it was when was granted the revocable permit.

I request that my record with DLNR be corrected to reflect facts related to the revocable permit. On September 16, 2010, my wife, Tani, submitted a check in the amount of \$467 to DLNR for fees and penalties and also notified DLNR that the revocable permit be terminated immediately. Since that notice DLNR has continuously sent payment notices. It is unfortunate that we could not continue the permit because of financial conditions. If in the future DLNR would want to establish a program for me to volunteer my time to help preserve the area I would be happy to assist. I recommend that DLNR review such areas for conservation and grant permits without the requirement for any insurance requirement because the insurance exceeds \$1,000 per year as compared to the lease payment.

Please notify me when the DLNR records have been corrected. Mahalo.

DLNR KOLE ROOM
JAN 22 2013
8:32 PM HST

EXHIBIT " B "



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

3060 Iiwa Street, Room 208
Lihue, Hawaii 96766

PHONE (808) 271-3491

FAX (808) 241-3535

January 10, 2013

CERTIFIED MAIL

Gary Rodrigues

Kapaa, HI 96746

Dear Mr. Rodrigues:

Subject: Revocable Permit No. 7190

On December 14, 2012 the Board of Land and Natural Resources, under agenda Item D-18, approved the continuation of permits on a month-to-month basis for an additional year up to December 31, 2013, except for permits that are in arrears of rental payment for more than 60 days. Permits in arrears of rental sixty (60) days or more shall not be renewed.

As of December 2, 2012, our fiscal records show your permit is in arrears of \$1,588.00 for sixty (60) days or more. Your permit was not renewed.

You have thirty (30) days upon receipt of this letter to vacate the premises and to completely remove your personal property from the premises, including any improvements that you own and would like to remove. If you have not vacated by this date, we will commence eviction action, including confiscating any items remaining on the premises.

Furthermore, you are expected to leave the premises in a clean and orderly condition. You are also specifically required to pay for a Level One (1) Hazardous Waste Evaluation and conduct a complete abatement and disposal in accordance with federal Environmental Protection Agency standards. Failure to comply with these provisions may result in the Board's arrangement for performance and all costs and expenses of such performance will be charged to and paid by you. If the amount of your security deposit is inadequate to cover these costs, then the amount will be billed to you and, if unpaid, will be sent to a collection agency. Finally, the termination of the permit will not relieve you of those obligations and covenants that the permit provides are to survive termination.

EXHIBIT "C"

If you have any questions, please feel free to contact our Kauai District Office at 274-3491. Thank you.

Sincerely,

Russell Y. Tsuji
Administrator

cc: Central
District

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece, or on the front if space permits.	<p>A. Signature X <i>Tani O. Rodriguez</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Tani O. Rodriguez</i></p> <p>C. Date of Delivery <i>1/28/13</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>
1. Article Addressed to: GARY RODRIGUES KAPAA, HI 96746 RP-7190	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
2. Article Number (Transfer from service label)	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
7003 2260 0003 4724 5430	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$.45
Certified Fee	2.95
Return Receipt Fee (Endorsement Required)	2.35
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.75
Postmark Here	
Sent To: GARY RODRIGUES	
Street, Apt. No., or PO Box	
City, State, ZIP+4	
KAPAA, HI 96746	

PS Form 3800, June 2002

See Reverse for Instructions

0255 4224 4724 5430
7003 2260 0003 4724 5430

INSPECTION REPORT
Conservation Management
FINAL INSPECTION

General Information

Document Number: RP S-7190

Character of Use Conservation Management

Inspection Date: March 9, 2013 Inspection Time: 2:00pm

Land Agent: Marvin Mikasa *MS*

TENANT INFORMATION

Name: Gary Rodrigues

Home Phone: _____

Address: _____

Business Phone: _____

Kapaa, Hawaii 96746

Fax: _____

Contact Person: Tani O. Rodrigues

Contact Phone: _____

SITE INFORMATION

TMK: (4) 4-6-8:23 & 24

Area: 33.0 acres

Site Address: Kapaa Homesteads, 1st and 3rd Series

Kapaa, Kawaihaum Kauai

FISCAL INFORMATION

ITEM	NOT APPLICABLE	CURRENT = COMPLIANCE	DEFAULT = NON-COMPLIANCE
Rent			X
Liability Insurance			X
Fire Insurance	X		
Bond		X	
Mortgage	X		

ANNUAL INSPECTION REPORT
Intensive Ag/Special Livestock/Pasture/Commercial Timber

File Review

LICENSES/PERMITS/CONSENTS

ITEM	DLNR Approval Docs in File			COMMENTS/NOTES/LISTS
	N/A	YES	NO	
Removal of Minerals/Waters	X			
Prehistoric/Historic Remains	X			
Cutting/Removal of Trees	X			
Hazardous Material Storage/Use	X			
Subletting	X			attach list or map if applicable
Improvement Construction Buildings	X			note deadlines for % completion
Improvement Construction Other structures	X			note deadlines for % completion
Conservation Plan	X			review plan and schedule; make copy of plan map and text table for use during inspection No conservation plan required.

Field Inspection

ITEM	CRITERIA FOR COMPLIANCE	MEETS COMPLIANCE			COMMENTS/NOTES
		N/A	YES	NO	
Subletting	consents approved use adheres to lease purpose	X			
Buildings / Residences: roof, paint, exterior, interior	clean, sanitary, orderly suitable & well maintained DLNR construction consent adheres to completion schedule *check for hazardous materials	X			prior improvements need to be maintained by current tenant
Structures: roads, walkways, fence lines, pipelines, others	cross check w/ conservation plan clean, sanitary, orderly well maintained adheres to completion schedule *check for hazardous materials	X			prior improvements need to be maintained by current tenant
Conservation Plan: conservation structures and plantings	adheres to plan map & schedule well maintained	X			refer to SWCD if plan application & maintenance not in compliance No conservation plan required.

Premises	clean, sanitary, orderly		X		
Hazardous Material Storage / Use	controlled and adheres to consent	X			
Character of Use	adheres to lease purpose		X		Conservation management
Phase I Environmental Site Inspection	as required in General Lease or Revocable Permit		X		Per condition #14 of the Revocable Permit a Phase (1) Hazardous Waste Evaluation must be conducted if necessary. Based on the visual site inspection and the conditions of the area along with its described use the Phase (1) Inspection may be waived.
Other					



Marvin Mikasa Marvin.T.Mikasa@hawaii.gov

Marvin Mikasa <Marvin.Mikasa@yahoo.com>

"Marvin.T.Mikasa@hawaii.gov" <Marvin.T.Mikasa@hawaii.gov>,

