

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

June 14, 2013

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

Statewide

Amend Prior Board Action of September 28, 2001, Item D-4, as amended, Delegation of Authority to Issue Right-of-Entry Permits on Unencumbered State Lands. The Purpose of the Amendment is to Declare an Exemption from the Requirements of Hawaii Revised Statutes Chapter 343 on Environmental Assessments for the Wiki Permits System, Restrict to the Chairperson the Delegation of Authority to Issue Right-of-Entry Permits, Specify the Circumstances under which Right-of-Entry Permits onto Unencumbered State Lands will be Issued by the Board and the Chairperson, Establish a Schedule of Fees Applicable to the Processing of Late Requests for Right-of-Entry Permits, and Implement a Procedure for the Issuance of After-the-Fact Right-of-Entry Permits under Special Circumstances.

BACKGROUND:

On September 28, 2001, under agenda item D-4, as amended, the Board of Land and Natural Resources adopted an amended policy regarding the issuance of right-of-entry permits onto unencumbered State lands. A copy of the prior Board action is attached as Exhibit 1.

In short, this action set the minimum rent to be charged for right-of-entry permits, and delegated to the Chairperson, the Land Division Administrator, the district land agents and the supervising land agent different levels of authority to issue permits based on factors such as the duration of the permit and the land use designation of the area it covered. For example, the Board gave the Chairperson authority to issue permits of any duration regardless of the land use designation, while the district land agents could only issue permits of up to one month and could not issue permits in the conservation district. See Exhibit 1, pages 4-5, for additional details.

REMARKS:

The prior Board action of September 28, 2001 contains an explanation of why right-of-

entry permits are used, and much of that discussion remains relevant today. Individuals, organizations, and business entities frequently request temporary use of State unencumbered lands for special events and the best way to balance these requests with the general public's right to use the lands is a permitting system that describes the use and includes an obligation on the permittee's part to indemnify the State and obtain liability insurance naming the State as an additional insured. However, since the Board's adoption of the amended policy in 2001, there have been several developments that require staff to return to the Board with a request to update the policy.

First, based on the 2001 delegated authority, Land Division implemented an automated permitting system called Wiki Permits in November 2008 to cover a limited category of commercial events on unencumbered State beaches, including weddings, vow renewals, christenings, etc.¹ Wiki Permits allows a person who obtains a permit to hold an event on a beach for a fee, but limits the duration of the permit to two hours, does not give the permittee exclusive use of any permitted area, and substantially restricts the kinds of objects that can be brought onto the beach.² Wiki Permits is frequently used by wedding coordinators and others. Approximately 8,300 permits were pulled on Wiki Permits in 2012 alone. Each permit bears the Chairperson's electronic signature.

Second, in 2009, the former Chairperson implemented a department-wide procedure requiring that a separate exemption notification be prepared and signed by the Chairperson for each project or land use falling within the purview of Hawaii Revised Statutes Chapter 343 on Environmental Assessments. This procedure required exemption notifications to be generated for each right-of-entry permit. Because the Chairperson had to sign the exemption notification, it made sense for her/him to sign the right-of-entry permit at the same time. Additionally, having the Chairperson sign each right-of-entry permit ensures that the permits are issued uniformly in each district and contain the necessary protections of the State's interests. As a result, the Chairperson currently signs

1 These events are considered commercial because some participant, whether the officiant, wedding planner or photographer, is generally receiving compensation for performing services. The definition of "commercial activity" Under Hawaii Administrative Rules Sections 13-221-2 and -35 casts a wide net. Where a person establishes that there is no commercial aspect to his or her event, the person can obtain an acknowledgment letter from Land Division that the event is not commercial, thereby obviating the need for a permit under the Wiki Permits system. However, the person is bound by the same restrictions applicable to Wiki Permit permittees as to items allowed to be placed on the beach in conjunction with the event. A person who wants to hold a non-commercial event on the beach that requires the placement of temporary structures or similar items would need to obtain a regular right-of-entry permit from the Board as discussed below.

2 Permitted objects include unamplified musical instruments, a limited number of chairs as strictly necessary for the support of elderly, infirm or disabled persons attending the event, and a small podium or cake stand, not to exceed three square feet in size.

every right-of-entry permit issued for unencumbered lands. Staff therefore believes that there is no longer a need for the Administrator, supervising land agent or district land agents to have delegated authority to sign the permits.

Third, also in 2009, after the implementation of the Wiki Permits system, the Department of the Attorney General (DAG) required staff to take requests for commercial uses of public beaches, such as fireworks displays, to the Board for approval. Prior to this time, the Chairperson or district land agents had been issuing permits for these displays under the 2001 delegated authority. Fireworks displays are commercial use of unencumbered lands, but require the temporary placement of firing racks and other equipment on the beach and thus are not eligible under the Wiki Permits system. Staff now brings fireworks display requests to the Board for approval of each show.³

Fourth, occasionally an applicant for temporary commercial use of unencumbered lands approaches staff with a late request for a right-of-entry, often because of a last-minute request from a customer or client to retain applicant's services. Sometimes staff is able to expedite the request and get it on the next Board agenda in advance of the requested event date. But sometimes the request comes in so late that it is not possible to get the request to the Board for consideration prior to the event.

Proposed Changes in Policy

Staff is including a recommendation below that the Board affirm and ratify its 2001 policy on the issuance of right-of-entry permits, with the following changes:

First, amend the written policy to clarify that the issuance of right-of-entry permits, whether by the Board or the Chairperson, is subject to HRS Chapter 343, Environmental Assessments. An exemption notification is to be prepared for the Chairperson's signature for each event, when appropriate. When an event is not eligible to receive an exemption notification, it will not be permitted without full compliance with HRS Chapter 343. As for permits issued through the Wiki Permits system, staff is attaching a statewide notification of exemption for the Wiki Permits program. See Exhibit 2.

Second, amend the delegation of authority to provide that the Chairperson is to sign all right-of-entry permits.

Third, among the unencumbered lands Land Division manages are many of the State's beaches, which require special attention. These lands are highly valued recreational resources. Accordingly, with the exception of permits issued under the Wiki Permits

³ For a period of a little more two years from late 2009 to early 2012, the Board issued revocable permits for fireworks displays. This procedure involved an inordinate amount of time and paperwork for each event. In 2012, DAG concurred in the use of Board-approved right-of-entry permits for fireworks shows.

system and the film permitting system,⁴ staff is recommending all requests for right-of-entry for commercial use of unencumbered lands be brought to the Board for review and approval.⁵ Further, all non-commercial events that occupy a specified area and have the potential to substantially interfere with the general public’s recreational use of unencumbered lands shall be brought to the Board for review and approval.⁶

Fourth, in cases where the request to hold an event (whether commercial or non-commercial) is received too late to bring to the Board for consideration but the proposed use is routine and similar uses have been made at the same location in the recent past, staff is proposing that the Board allow the Chairperson to issue a right-of-entry permit at his discretion, provided that an after-the-fact approval for the permit is sought at the next available Board meeting. Additionally, staff is recommending that surcharges be imposed for late requests for rights-of-entry on an escalating basis. A request will be deemed timely if it is received at least four weeks prior to the date of the event. Staff is proposing that additional fees be assessed for late requests as follows:

Date Request Received	Surcharge
More than four weeks in advance of event	No additional charge
In the fourth week before the event	\$250
In the third week before the event	\$500
In the second before the event	\$1,000
One week or less before the event	\$1,000 plus 3% of the contract amount the permittee is receiving for providing its services at the event (for commercial uses)

Under this schedule, for an event desired to be held on Saturday, June 29, a timely request (meaning no surcharges incurred) would be one received prior to the close of business

⁴ In prior actions, the Board adopted a specific policy on commercial filming on lands under its jurisdiction. See Board action of January 8, 1988, Item H-4, which approved a Memorandum of Agreement (MOA) between DLNR and the Department of Business, Economic Development and Tourism regarding film permit procedures (executed in September 1993). Nothing in the present submittal is intended to modify the Board’s policy on film permits or the MOA.

⁵ Examples of covered events include fireworks displays and events that require the placement of temporary stages or other structures or equipment on the beach.

⁶ Examples of covered events include canoe races, surf meets, and sandcastle building contests, where there is no commercial element to the events. Under this approach, the Chairperson would retain authority to issue right-of-entry permits for limited uses of the beach that do not require the occupancy of a specific area. One example is a request for a manual beach clean-up by a community organization. If the event involves a group of volunteers walking the beach and collecting rubbish by hand, with no temporary shelters or other structures required, staff believes the Chairperson should have discretion to issue a right-of-entry permit for this type of event.

(COB) on Friday, May 31. A request received after COB, Friday, May 31 up to COB on Friday, June 7, is received in the fourth week before the event. A request received after COB, Friday, June 7 up to COB on Friday, June 14, is received in the third week before the event. A request received after COB, Friday, June 14 up to COB on Friday, June 21, is received in the second week before the event. A request received after COB, Friday, June 21 up to COB on Friday, June 28, is received one week or less before the event. A request that is sent electronically on a holiday or weekend will be deemed to be received on the next business day. A request received after the event will be treated as an unauthorized use of State lands and an enforcement action will be brought to the Board with a recommendation for a fine.

Again, such late or after-the-fact requests will be at the Chairperson's discretion.

RECOMMENDATION: That the Board:

- A. Amend its prior action of September 28, 2001, Item D-4, as amended, by deleting the Recommendation section in its entirety and replacing it with the following:

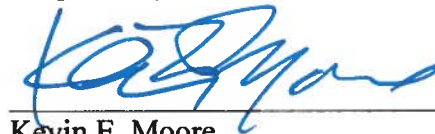
RECOMMENDATION: That the Board:

1. Rescind its prior Board actions of June 24, 1983 (agenda item F-9) and of June 14, 1991 (agenda item F-11).
2. Find that the issuance of right-of-entry permits, whether by the Board or the Chairperson, is subject to HRS Chapter 343, Environmental Assessments. An exemption notification shall be prepared for the Chairperson's signature for each event, when appropriate. When an event is not eligible to receive an exemption notification, it will not be permitted without full compliance with HRS Chapter 343.
3. Declare that, after considering the potential effects of the Wiki Permits system as provided by Chapter 343, HRS, and Chapter 11-200, HAR, the Wiki Permits system and the permits issued thereunder will probably have minimal or no significant effect on the environment and are therefore exempt from the preparation of an environmental assessment.
4. Delegate to the Chairperson of the Board of Land and Natural Resources the authority to sign right-of-entry permits on behalf of the Board, provided, however:
 - a. With the exception of Wiki Permits and film permits issued by the Film Office of the Department of Business, Economic Development and Tourism, all requests for rights-of-entry for commercial use of unencumbered lands shall be presented to the Board for review and approval at a public meeting. Wiki Permits and film permits will continue

to be issued in accordance with their existing procedures.


- b. All requests for rights-of-entry for non-commercial events that occupy a specified area and have the potential to substantially interfere with the general public's recreational use of unencumbered lands shall be presented to the Board for review and approval at a public meeting.
5. Authorize the Chairperson to issue right-of-entry permits at his discretion without prior Board approval in cases where the request for a right-of-entry to hold a commercial or non-commercial event on unencumbered State lands is received too late to bring to the Board for consideration but the proposed use is routine and the Board has approved at least one substantially similar event at the same location within the twelve months preceding the date of the event, provided, however:
- a. That Land Division staff shall request after-the-fact approval of the right-of-entry permit at the next available Board meeting following the event.
 - b. The Chairperson is authorized to impose a surcharge for late requests for rights-of-entry on an escalating basis as set forth in the table above. For non-commercial events, the Chairperson may waive or reduce the surcharge at his discretion.
- B. Nothing in this approval shall be deemed to modify the Board's action of January 8, 1988, Item H-4, relating to film permits, or the Memorandum of Agreement between DLNR and the Department of Business, Economic Development and Tourism regarding film permit procedures executed in September 1993.
- C. Except as amended hereby, the Board's prior action of September 28, 2001 shall remain the same.

Respectfully Submitted,



Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson

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State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 28, 2001

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

STATEWIDE

Subject: Amendment to the Delegation of Authority to Issue Right-of-Entry Permits on Unencumbered State Lands

BACKGROUND:

As landowner, the Department (Land Division) receives numerous requests for the temporary use of public lands for a variety of purposes. These requests may be for sites on either encumbered or unencumbered land. Some of these requests include, for instance:

- Beach activities – surf meets, beach weddings, beach Olympics, volleyball tournaments, canoe races
- Scientific, engineering or archaeological studies, soils investigations or surveys
- Storage of construction materials or equipment for abutting property
- Land maintenance activities on State land or abutting private property
- Taping of movies or television shows
- Miscellaneous – fireworks display, geography field trips

In response to many of these requests, the Department currently issues "rights-of-entry." There are three main instances in which we issue rights-of-entry:

- 1) Right-of-entry to enter public lands encumbered by a lease, executive order or other encumbrance. Staff obtains approval from the Board of Land and Natural Resources (Board) for these requests.
- 2) Rights-of-entry for construction and/or management that precede a land disposition, e.g., set aside, lease, utility easement. These requests are approved by the Board at the same time the disposition is approved.
- 3) Right-of-entry to enter unencumbered public lands for a minor, temporary use that does not involve a land disposition. These rights-of-entry are issued by the Chair, Land Administrator or District Land Agent pursuant to the delegated authority, the

As Amended
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
September 28, 2001. POU

ITEM D-4

EXHIBIT 1

subject of this Board submittal.

The Board delegated the authority to issue rights-of-entry on unencumbered lands on two occasions (see Exhibits A and B). On June 24, 1983, under agenda item F-9, the Board authorized the Chairperson to issue rights-of-entry "he may deem appropriate to the foregoing Camp Andrews area and other unencumbered State parcels." On June 14, 1991, under agenda item F-11, the Board reaffirmed that the Chairperson may issue rights-of-entry for temporary activities on State-owned unencumbered lands and authorized the Administrator and District Land Agents to issue rights-of-entry for temporary activities on State unencumbered lands.

In the past, the District Land Agents broadly interpreted this delegated authority to mean they could issue rights-of-entry for any type of activity, for any length of time, where such activity is taking place on State unencumbered lands. Some rights-of-entry issued were, in essence, dispositions, conveying the right of occupancy. Through retraining, staff is now clear that their authority is not that far-reaching in that the delegation submittals referred to minor, innocuous activities such as huli huli chicken sales, beach volleyball and use of lands to access abutting construction sites.

The issue of the Department's authority to issue "rights-of-entry" on State land has come into question recently. Therefore, staff would like to confirm the authority by which we are issuing permits for the temporary use of State unencumbered land and clarify the parameters by which this delegated authority is exercised.

AUTHORITY:

Pursuant to Section 171-55, HRS, Permits, the Board of Land and Natural Resources (Board) may "issue permits for the temporary occupancy of state lands or an interest therein on a month-to-month basis by direct negotiation without public auction, under conditions and rent which will serve the best interests of the State, subject, however, to those restrictions as may from time to time be expressly imposed by the Board."

Pursuant to Section 13-221-5, HAR, Permits, "the Board or its authorized representative may issue permits governing the use of public facilities or areas within the premises." ("Premises" is defined as unencumbered public lands which means "any lands defined as public lands by section 171-2, HRS, and which have not been: (1) set aside for any purpose, by statute, executive order or otherwise, to a governmental agency, or (2) encumbered by lease, license, permit, easement or otherwise issued by the department.")

DEFINITIONS

Right-of-Entry Permit

First, staff would like to clarify the use of terminology. Staff is unsure as to where the term "right-of-entry" first arose. There is no reference to "right-of-entry" in either Chapter 171, HRS, or real estate dictionaries. In standard real estate terminology, it would appear we are

granting "licenses." According to "The Language of Real Estate" by John W. Reilly, a license is a "permission or authority to do a particular act on the land or property of another, usually on a nonexclusive basis. A license is a personal, revocable and nonassignable right, but unlike an easement, it is not considered an interest in the land itself."

In Chapter 171, HRS, however, a "license" specifically refers to granting a privilege to enter land to remove some sort of material (e.g., sand, timber, soil, rock, etc.). Furthermore, the authority to issue the right to temporarily use State land is established under Section 171-55, Permits. Therefore, staff is recommending that we clarify the terminology by calling them "right-of-entry permits" and define this term as an expressed, temporary right to enter State land for a specified purpose that is in writing.

"Activity" or "Use"

A wide spectrum of activities occurs on unencumbered State lands. In areas that invite the public (mostly beaches), there are so many varying uses that the question arises of what uses or activities should require a right-of-entry permit. For areas that the public is not allowed access to (i.e., vacant parcels of land), it is clear that any temporary activity or use would require a right-of-entry permit (otherwise, the use would be deemed unauthorized use of public lands).

For unencumbered lands where the public is invited, mostly beaches, we have been advised by the Department of the Attorney General that right-of-entry permits may be required only when an applicant desires to have exclusive use of a certain area of public lands or desires to engage in an activity that is otherwise restricted pursuant to rule. A right-of-entry permit authorizes the permittee to exclude others from the designated area or engage in the restricted activity. If a person or organization does not obtain a permit from the Department, they have no right to keep others out of the area.

ANALYSIS:

Who Can Issue What Kind of Right-of-Entry Permit

To develop the parameters by which the delegated authority may be used, staff identified different variables which may affect the exercise of this authority:

1. **Type of activity.** Temporary use permits are intended to grant permission to enter the premises to perform a particular activity, to exercise a certain privilege or to carry on a particular business. It is a personal privilege or permission with respect to some use of land and is revocable at the will of the landowner. Activities with greater liability or risks to the State should be approved at higher levels.
2. **Length of use.** Temporary use permits are intended to for temporary uses. The longer the duration of the activity, the more factors come into play, e.g., risk, liability. Therefore, we are recommending that the longer the use, the higher the approval level required.

3. Whether land is encumbered or unencumbered. The authority delegated to the Chairperson, Division Administrator and the District Land Agents should extend only to unencumbered lands. The Board has entered into a contract with the tenants of encumbered lands and, therefore, should approve any uses over those lands.
4. Whether activity constitutes a land use in the Conservation District. If the activity is a land use in the Conservation District, then additional scrutiny should be applied. In the past, rights-of-entry were given for the placement of sandbags on the beach.
5. Emergency nature of activity. Public health and safety concerns should be accounted for in the delegation of authority to ensure that the Department can act promptly and appropriately in emergencies.
6. Impact on resources and on public access and enjoyment of public lands. The greater the impact on resources and on public access, the higher the approval level should be obtained.

Rent to be Charged

Up to this point, staff has been charging a rent of \$0.15 per square foot per day based on an earlier appraisal. In response to a request to re-appraise this rent amount, the staff appraiser recommends a rent of \$0.10 per square foot per day. This rent amount was based on a survey of average rents charged by the Department for resort uses as the majority of the right-of-entry permits are issued for beach use for commercial purposes. The staff appraiser also recommended the rent be either the square foot amount using the \$0.10 charge or the minimum charge based on the cost of processing such permits. Staff is recommending, similar to revocable permits and leases, that a minimum rent of \$20 be charged for right-of-entry permits based on the average staff time and cost to process a right-of-entry permit.

There are certain types of uses which may not warrant charging rent, including engineering and scientific studies and surveys and educational field trips. Furthermore, in certain special circumstances, it is in the State's interest to waive the rent under a right-of-entry permit. Staff is recommending that the Chairperson have the authority to waive the rent in these cases.

RECOMMENDATION: That the Board:

1. Rescind the prior Board actions of June 24, 1983 (agenda item F-9) and of June 14, 1991 (agenda item F-11).
2. Delegate authority to the Chairperson, Land Division Administrator, District Land Agents and Supervising Land Agent to issue right-of-entry permits pursuant to Section 171-55, HRS, for public lands under the management of the Land

Division for exclusive uses as follows:

- a. The Chairperson shall have the authority to issue right-of-entry permits for uses that are:
 - 1) On unencumbered State land; and
 - 2) Any length in duration; or
 - 3) Address an emergency situation; or
 - 4) Otherwise necessary to serve the best interests of the State.

- b. The Land Division Administrator shall have authority to issue right-of-entry permits for uses that are:
 - 1) On unencumbered State land; and
 - 2) Do not involve a land use in the Conservation District; and
 - 3) No more than one year in duration; and
 - 4) Pose little liability to the State; and
 - 5) Have minimal impact on resources and on public access and enjoyment of public lands.

- c. Authority to issue temporary use permits shall be delegated to the District Land Agents and Supervising Land Agent for uses that are:
 - 1) On unencumbered State land; and
 - 2) Do not involve a land use in the Conservation District; and
 - 3) No more than one month in duration; and
 - 4) Pose little liability risk to the State; and
 - 5) Have minimal impact on resources and on public access and enjoyment of public lands.

Provided that this delegation shall not effect right-of-entry permits that have been issued prior to this date.

--- continued on next page ---

3. Establish the rent for right-of-entry permits at \$0.10 per square foot per day with a minimum of \$20.00, provided that the Chairperson may waive the rent for:
 - a. Any government-related project;
 - b. Uses where no entity involved in the use intends to profit monetarily; or
 - c. Uses that provide the State of Hawaii with substantial, out-of-State marketing exposure, through television, movies or other media.

Respectfully submitted,



 DIERDRE S. MAMIYA
Assistant Administrator

APPROVED FOR SUBMITTAL:



GILBERT S. COLOMA-AGARAN, Chairperson

APPROVED AS AMENDED. The Board amended the submittal by adding an additional recommendation condition (3) Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF LAND MANAGEMENT
P. O. BOX 681
HONOLULU, HAWAII 96809

June 24, 1983

Board of Land and
Natural Resources
Honolulu, Hawaii

Gentlemen:

OAHU

Subject: Delegation of Authority to the Chairman for the
Issuance of Rights of Entry to Unencumbered State
Land

Revocable Permit No. S-4966 covering some 260,000 sq. ft. of
the former Camp Andrews area at Nanakuli, Waianae, Oahu, Hawaii,
Tax Map Key: 8-9-02:Por. 1 to the Department of Education for
parking and school bus turnaround purposes was cancelled at the
request of the Permittee on May 9, 1983.

As a community service, the Department of Education during
the term of its permit had been issuing its own permits covering
use of the area in question to various organizations (such as
the Lions Club, Pop Warner Group, etc.) on almost a weekly
basis for huli huli chicken (and other types of) sales purposes.

To accommodate several groups which had been issued (now
null and void) Department of Education permits to the subject
area, the Chairman has executed rights of entry letters to the
following organizations:

1. The Lualualei Lions Club covering June 10, 11 and 12, 1983.
2. Makakilo-Honokai-Nanakuli Bobby Sox Softball League
covering June 18 and 19, 1983.
3. Waianae Coast Culture & Arts Society covering June 25
and 26, 1983.
4. Ka Hana O Ke Akua United Church of Christ covering
July 2, 3 and 4, 1983.
5. E Ola Kakou Womens' Softball Team covering July 9 and
10, 1983.

Permits (rights of entry) have also been requested by other
organizations for later dates extending into the Labor Day
Weekend.

APPROVED BY THE CHAIRPERSON
OF THE BOARD OF LAND AND
NATURAL RESOURCES

6/24/83

ITEM F-9

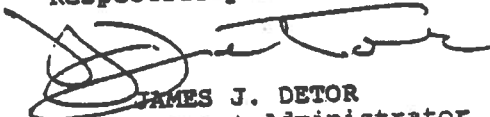
EXHIBIT A

RECOMMENDATION:

That the Board:

1. Confirm the above described rights of entry already issued by the Chairman.
2. Authorize the Chairman to continue issuing rights of entries he may deem appropriate to the foregoing Camp Andrews area and other unencumbered State parcels.

Respectfully submitted,


JAMES J. DETOR
Land Management Administrator

APPROVED FOR SUBMITTAL:


SUSUMU ONO, Chairman



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF LAND MANAGEMENT
P. O. BOX 627
HONOLULU, HAWAII 96808

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT
DN 6356F
Refer to:
DU-91:15

June 14, 1991

Board of Land and
Natural Resources
Honolulu, Hawaii

STATEWIDE

SUBJECT: Delegation of Authority to the District Agents, Division of Land Management, for the Issuance of Rights-of-Entry to Unencumbered State Lands

On June 24, 1983 under agenda Item F-9 the Board authorized the Chairperson to issue rights-of-entry for temporary use of State-owned unencumbered lands. Currently, the Land Management District office prepare various types of temporary rights-of-entry for activities which include:

- ° Huli huli chicken preparation and sale
- ° Beach activities (olympics, volleyball, etc.)
- ° Use of State lands to access construction sites on abutting private property (i.e., Waikiki hotel renovations)

Under the existing practice, the District Agent assesses the proposed activity and may suggest certain modifications before preparing the right-of-entry. The right-of-entry document includes specific conditions which would mitigate or eliminate conflict at the site. In addition, once the right-of-entry is issued the District Agent must insure that payment is made and proper insurance obtained.

Because of the District Agent's active involvement in the preparation, issuance and monitoring of the right-of-entry, and given the processing time it takes to secure signatures in Honolulu for activities that occur on the neighbor islands, Land Management believes that the District Agents should be given the responsibility to issue (sign) the right-of-entry. The suggested change is intended to allow Land Management an opportunity to better serve the community.

Recommendation:

That the Board:

1. Re-affirm that the Chairperson continue to issue rights-of-entry for temporary activities on State-owned unencumbered lands; and

EXHIBIT B

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

ITEM F-11

JUN 14 1991

Board of Land and
Natural Resources
Page Two
June 14, 1991

2. Authorize the Land Management District Land Agents and/or Administrator to issue rights-of-entry for temporary activities on State-owned unencumbered lands.

Respectfully submitted,

W. Mason Young

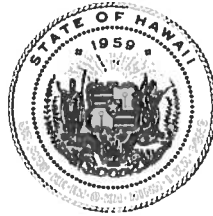
W. MASON YOUNG
Land Management Administrator

APPROVED FOR SUBMITTAL:

W. W. Paty

WILLIAM W. PATY, Chairperson

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
EMERALD
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Wiki Permits System for Permitting Weddings and Similar Events on State Beaches

Project Number: None

Project Location: Statewide

Project Description: The Department of Land and Natural Resources uses the Wiki Permits system to issue permits for weddings, vow renewals, christenings, memorial services and similar events of short duration on unencumbered State beaches

Consulted Parties: Office of Conservation and Coastal Lands

Exemption Class No.: In accordance with the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council (Docket 91-EX-2, December 4, 1991), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 4, "Minor alterations in the conditions of land, water, or vegetation [HAR § 11-200-8(a)(4)]," and HAR § 11-200-8(a)(1), "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."

This exemption is appropriate because Hawaii residents and visitors have routinely used public beaches for weddings, vow renewals, christenings, memorial services and similar events for many decades. The Wiki Permits system is designed to regulate these existing uses by limiting the duration of each event to two hours, restricting the types of objects that can be brought on to the beach so as to reduce interference with the general public's recreational activities, and to clarify that a permittee does not have

EXHIBIT 2

a right under the permit to use any specific area to the exclusion of the general public.

The Wiki Permits system and the individual permits issued thereunder will result in no material change or significant cumulative impact. If further actions are taken that result in a material change, the Department will comply with the applicable requirements of Chapter 343.

Recommendation:

It is recommended that the Board find that the Wiki Permits system and the permits issued thereunder will probably have minimal or no significant effect on the environment and are presumed to be exempt from the preparation of an environmental assessment.



William J. Aila, Jr., Chairperson

6/3/13

Date