

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

October 11, 2013

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

Maui

Cancellation of Revocable Permit No. S-7681 to West Maui Center, LLC., and Request for Waiver of Level One (I) Hazardous Waste Evaluation Requirement, Lahaina, Maui, Tax Map Key:(2) 4-5-007:007.

PURPOSE:

Cancellation of Revocable Permit No. S-7681, to West Maui Center, LLC. and Waiver of Level One (1) Hazardous Waste Evaluation Requirement.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Lahaina, Maui, identified by Tax Map Key: (2) 4-5-007:007, as shown on the attached map labeled Exhibit A.

AREA:

0.421 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: Yes ___ NO x

CHARACTER OF USE:

Landscape and maintenance purposes.

COMMENCEMENT DATE OF PERMIT:

Commenced on: May 1, 2011.

MONTHLY RENTAL:

\$99.00

REMARKS:

Pursuant to a Land Board approval of May 14, 2004 under item D-4, West Maui Center LLC, was issued Revocable Permit S-7396 for the use of the subject parcel for landscape and maintenance purposes. West Maui Center LLC, is the owner of the adjacent commercial complex and wanted to keep the parcel in a well maintained condition.

A replacement Revocable Permit S-76781 was issued to West Maui Center LLC, effective the date May 1, 2011 due an update to contract language for the use of State land. Included in the terms of this agreement was a requirement for execution of a Level One (1) Hazardous Waste Evaluation and complete abatement and disposal (if necessary) prior to termination of the subject permit.

On September 5, 2013 the Maui District Land office received a written request (Exhibit B) from Ms. Lynn Okamoto of CBRE, Inc., who is the Managing Agent for West Maui Center, LLC, requesting to cancel their permit for the use of the subject property. She indicated that West Maui Center, LLC no longer had the need to utilize the area and therefore would like to cancel the permit. On September 11, 2013, staff conducted a final inspection of the property. During this inspection the premises was found to be in a clean and acceptable condition. Refer to (Exhibit C), Final Inspection Report.

Upon advising Ms. Okamoto of the requirement to conduct a Phase 1 Environmental Site Inspection, she related that the property was only used for landscape and maintenance purposes throughout the duration of the permit and no hazardous materials were ever stored or introduced to the area. Ms. Okamoto requested to have the Phase 1 inspection waived due to the fact that they only maintained the property by cutting the grass, and trimming the large tree annually. Therefore, based on the request of the permittee, and findings at the time of the final inspection, the district office agrees that due to the previously approved use of Landscape and Maintenance Purposes, the Level (1) One Hazardous Waste Evaluation should be waived. Staff is further requesting Board approval for the cancellation of the Permit

effective the date of October 1, 2013 (25 days from date of written notification).

RECOMMENDATION: That the Board:


1. Authorize the cancellation of Revocable Permit No. S-7681 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-7681 to be applied to any past due amounts;
3. Terminate the permit and all rights of Permittee and all obligations of the Permitter effective as of October 1, 2013, provided that any and all obligations of the Permittee which have accrued up to said effective date or which are stated in the lease 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 the 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-7681, and to pursue all other rights and remedies as appropriate; and
5. Waive requirement for a Level One (1) Hazardous Waste Evaluation.

Respectfully Submitted,



Daniel Ornellas, District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



(2) 4-5-007:007
RP-7681

EXHIBIT A

COMMERCIAL REAL ESTATE SERVICES

RECEIVED
MAIL DIST

CBRE

Lynn M. Okamoto (S)
Associate Director

2013 SEP -5 PM 11

1221 Honoapiilani Highway
Lahaina, HI 96761

CBRE, Inc.
Asset Services

808 661 5304 Tel
808 677 2884 Fax

lynn.okamoto@cbre.com
www.cbre.com

August 30, 2013

Mr. Daniel Ornellas
District Land Agent
Department of Land and Natural Resources
Land Division
54 South High Street, Room 101
Wailuku, Hawaii 96793

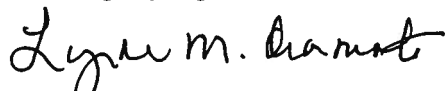
Dear Mr. Ornellas:

Re: **Revocable Permit No. S-7681**

Pursuant to Section A. 5 of the Revocable Permit No. S-7681, this letter is to provide you with twenty-five (25) calendar day notice to terminate the month-to-month permit. We no longer have the need to utilize the area and therefore are requesting to cancel our permit.

Thank you.

Sincerely,
CBRE, Inc.
Managing Agent for West Maui Center, LLC



Lynn M. Okamoto (S)
Associate Director

c: West Maui Center, LLC

EXHIBIT "B"


INSPECTION REPORT
Commercial/Industrial/Resort/Other Business
FINAL INSPECTION

General Information

Document Number: GLS _____ or RPS 7681

Character of Use: Landscape and Maintenance

Inspection Date: 9/11/2013 Inspection Time: 9:15am

Land Agent: L. Pacheco 

TENANT INFORMATION

Name: West Maui Center, LLC

Home Phone: _____

Address: _____

Business Phone: _____

1221 Honoapiilani Hwy. Lahaina HI. 96761

Fax: _____

Contact Person: Lynn Okamoto

Contact Phone: _____

SITE INFORMATION

TMK: (2) 4-5-007:007

Area: 0.421 acres

Site Address: Lahaina, Maui

FISCAL INFORMATION

ITEM	N/A	CURRENT= COMPLIANCE	DEFAULT = NON-COMPLIANCE	COMMENTS
Rent		x		Annual Rent: \$1,188.00
Liability Insurance		x		Fireman's Ins. Co. Exp. 4/1/2014
Fire Insurance	x			
Bond	x			

FIELD INSPECTION RESULTS

ITEM	N/A	COMPLIANCE	NONCOMPLIANCE	COMMENTS
Subleases	x			
Improvements	x			Area is a vacant lawn area with no improvements.
Premises		x		Clean and orderly.
Character of Use		x		Landscape and maintenance
Phase I Environmental Site Assessment	x			Staff will request to have the Phase I assessment waived by the Board of Land & natural Resources.

Field Inspection Worksheet
Commercial/Industrial/Resort/Other Business

File Review

LICENSES/PERMITS/CONSENTS

ITEM	DLNR Approval Docs in File			COMMENTS/NOTES/LISTS
	N/A	YES	NO	
Subletting	x			No subletting taking place.
Improvement Construction Buildings	x			There are no improvements on the subject property. It is an empty grass lot with a large tree.
Improvement Construction Other structures/misc.	x			No construction or structures on the property.

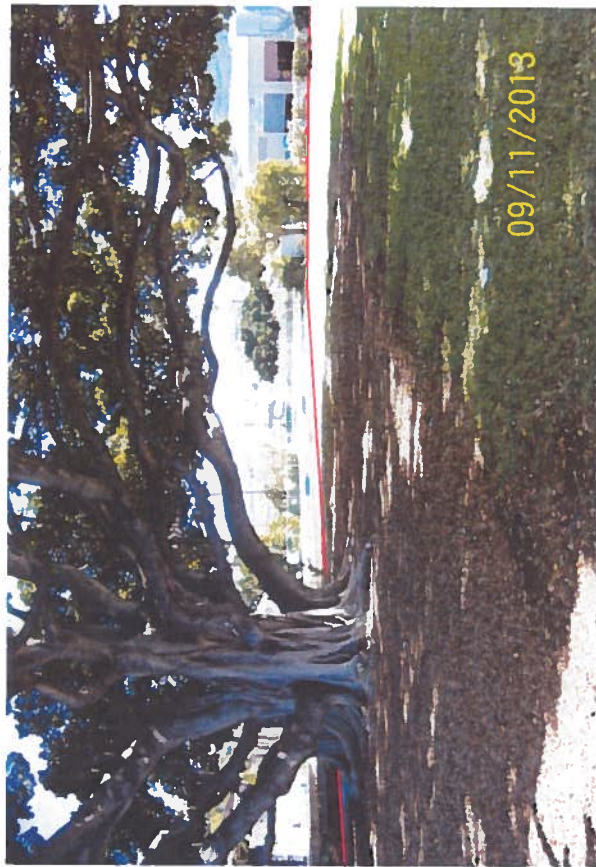
Field Inspection

ITEM	SATISFACTORY?			COMMENTS/NOTES
	N/A	YES	NO	
SUBLEASES				There are no subleases or tenants on the property.
Consents approved	x			
Use adheres to lease purpose	x			
IMPROVEMENTS				No buildings on the subject property.
<u>Buildings/Residences:</u> roof	x			
paint	x			
exterior	x			
interior	x			
<u>Structures:</u> roads	x			
walkways	x			No structures on the subject property.
fencelines	x			
others	x			
PREMISES				The property was found to be clean and maintained.
clean, sanitary, orderly		x		No hazardous materials used or stored on the property.
appropriate storage/use of hazardous materials	x			
CHARACTER OF USE				The property has been only used for maintenance and landscape purposes. The large grass area is mowed And the large tree trimmed annually by the tenant.
adheres to lease purpose		x		

ITEM	SATISFACTORY?			COMMENTS/NOTES
	N/A	YES	NO	
<p>Other:</p> <p>The subject property is an empty grass lot with no improvements. West Maui Center, LLC only tried To keep it maintained for beautification purposes because of the adjacent commercial properties.</p> <p>Staff will be requesting that the Phase I Environmental Assessment be waived.</p>				

Final Inspection - 9/11/2013

West Maui Center, LLC RP-7681, TMK: (2) 4-5-007:007

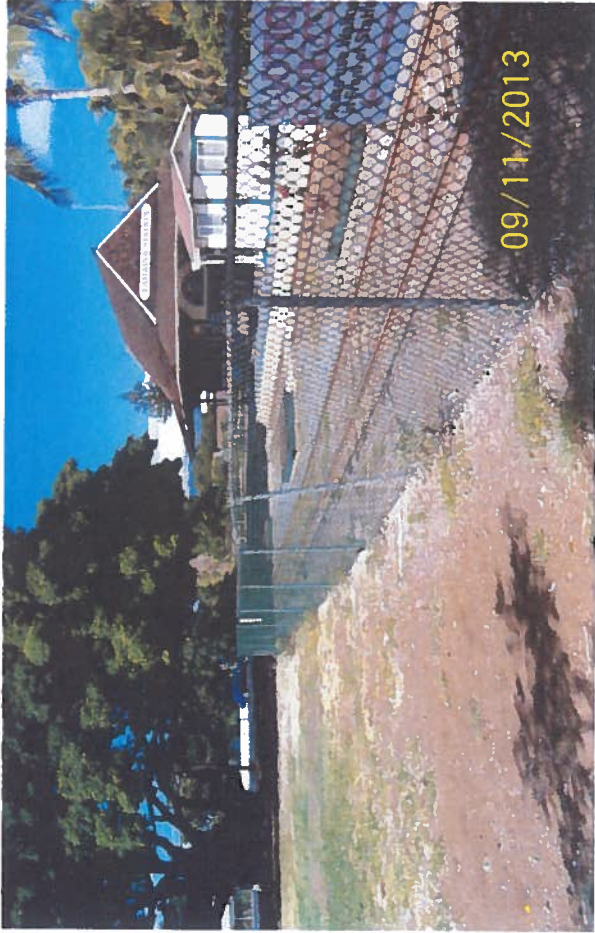


Photos depicting multiple views of parcel (2) 4-5-007:007.



Final Inspection - 9/11/2013

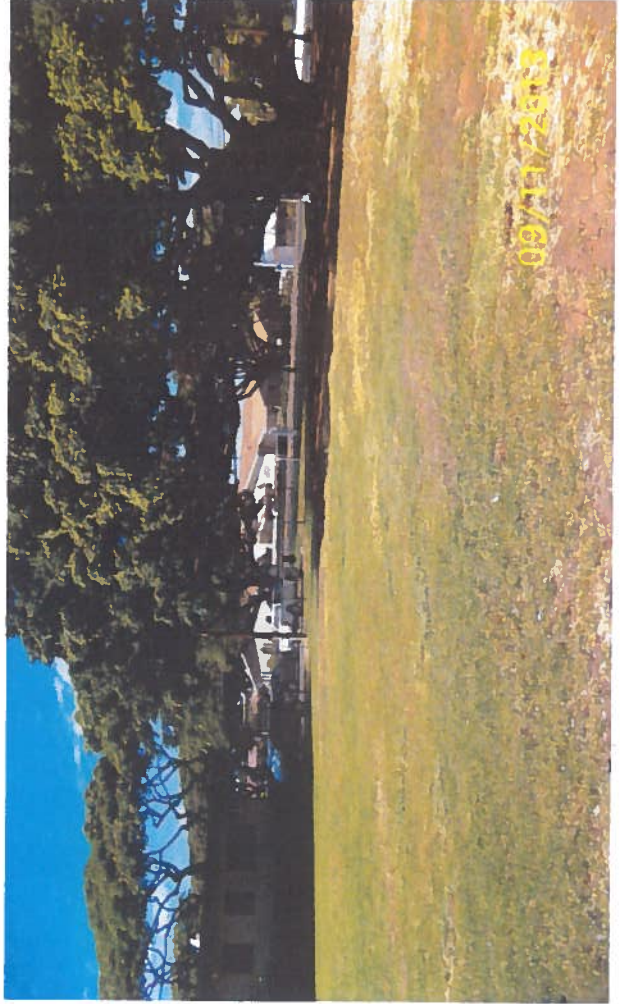
West Maui Center, LLC RP-7681, TMK: (2) 4-5-007:007



Fence line located on the northwest side of the subject parcel.



Fence line and building to the south of the subject parcel.



Wide angle picture of the subject parcel as seen from the northwest fence line.