

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

December 13, 2013

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

PSF No.: 13OD-191

OAHU

Withdrawal from Governor’s Executive Order No. 3879 and Reset Aside to Department of Transportation for Ka Iwi Scenic Shoreline Phase 1, Increment 2 Improvements; Amending the Purposes of Governor’s Executive Orders 3520 and 3879 to “Kaiwi State Scenic Shoreline”, Maunalua, Honolulu, Oahu, Tax Map Key: (1) 3-9-011:002 and 007, (1) 4-1-014:001.

CONTROLLING AGENCY (of subject executive order):

Department of Land and Natural Resources, Division of State Parks (“DSP”)

APPLICANT (requesting set aside):

Department of Transportation (“DOT”)

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Maunalua, Honolulu, Oahu, Tax Map Key: (1) 3-9-011:002 and 007, (1) 4-1-014:001, as shown on the map attached as **Exhibit A**.

AREA:

0.744 acre, more or less [For the subject set aside request. See Remarks Section].

ZONING:

State Land Use District: Conservation
City and County of Honolulu LUO: P-1

TRUST LAND STATUS:

PL-88-233 (Parcel 1) and Acquired after Statehood (Parcels 2 and 7)
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Governor's Executive Order No. 3520 dated August 15, 1991 setting aside 38.211 acres to DSP for Makapuu Point State Wayside Park purposes; and

Governor's Executive Order No. 3879 dated October 1, 2001 setting aside 304.830 acres to DSP for Ka Iwi Scenic Shoreline purposes.

PURPOSE OF SET ASIDE:

Ka Iwi Scenic Shoreline Phase 1, Increment 2 Improvements purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

None.

REMARKS:

On June 9, 2006, under agenda D-9, the Board authorized the acquisition of 0.65-acre from the City and County of Honolulu, identified as tax map key (1) 3-9-011:006, as depicted on Exhibit A. The 0.65-acre parcel was planned to be set aside to DSP (0.63 acre) and DOT (0.024 acre). Board approvals for setting aside to the respective agencies were obtained on the same day as the acquisition. However, staff notes the documentation for the two executive orders has not been completed.

Meanwhile, DSP undertook a project which included roadway improvements in accordance with highway standard over an area of 0.744 acre, which is a portion of tax map key (1) 3-9-011:002. The entire Parcel 2 has been set aside to the DSP under EO 3879 for Ka Iwi Scenic Shoreline Site purposes. The 0.744-acre portion is contiguous to the 0.024-acre parcel mentioned in the preceding paragraph. DOT and DSP agree that such 0.744-acre should be withdrawn from EO 3879 and reset aside to DOT according to the purposes in the Purposes of Set Aside section.

In addition, DSP indicates that an entrance sign for the Ka Iwi Shoreline Site is within the 0.744-acre area to be set aside to DOT. Both agencies concur that DSP should be the agency responsible for the future management and maintenance of the sign within the DOT set aside area. Staff recommends a condition be inserted in the executive order document for DOT indicating that the management and maintenance responsibility of the signs is with the DSP.

Further, DSP manages the adjacent State parcels identified as (1) 3-9-011:007 and (1) 4-1-014:001 pursuant to EO 3520 issued in 1991 for Makapuu Point State Wayside Park purposes, while the purpose of EO 3879 is “Ka Iwi Shoreline Site”. To facilitate the enforcement of park rules, DSP suggests amending the public purposes stated in both EOs 3520 and 3879 to read “Kaiwi State Scenic Shoreline”. Staff believes the request is appropriate in addressing the enforcement issue. Therefore, staff recommends the issuance of an executive order amending the public purposes of EOs 3520 and 3879 accordingly.

Upon approval of the subject request, staff will pursue the finalization of documents needed for multiple actions in the subject area, in conjunction with the prior approval.

RECOMMENDATION: That the Board:

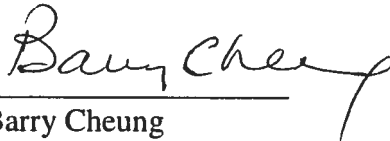
1. Approve of and recommend to the Governor issuance of an executive order withdrawing 0.744 acre from the Governor’s Executive Order No. 3879 and subject to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

2. Approve of and recommend to the Governor the issuance of an executive order setting aside 0.744 acre to Department of Transportation under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Division of State Parks shall be responsible for the management and

maintenance of the sign placed within the subject set aside area:

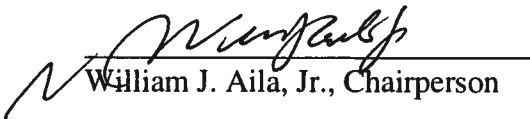
- C. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Approve of and recommend to the Governor the issuance of an executive order amending the purpose of Executive Orders 3520 and 3879 to “Kaiwi State Scenic Shoreline” under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
- A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

