

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

April 11, 2014

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

PSF No.: 13KD-205

Kauai

Issuance of Revocable Permit to Vernon and Charlette Souza for pasture purposes at Wailua & Kula Lots, portion of Lot 7, Wailua, Kawaihau, Kauai; Tax Map Key: (4) 4-1-002:020.

APPLICANT:

Vernon & Charlette Souza, husband and wife, Tenants by the Entirety.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Portion of Government lands of Wailua & Kula Lots, portion of Lot 7, situated at Wailua, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-1-002:020, as shown on the attached map labeled **Exhibit A**.

AREA:

4.08 acres, more or less.

ZONING:

State Land Use District:	Conservation
County of Kauai CZO:	Conservation

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:

Pasture purposes.

COMMENCEMENT DATE:

December 1, 2013 (expiration date of General Lease No. S-5562).

MONTHLY RENTAL:

\$40.00 per month (see Remarks Section).

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." (**Exhibit B**).

DCCA VERIFICATION:

Applicants are natural persons and, as such, are not required to register with DCCA

REMARKS:

The subject property was leased to Vernon Souza under General Lease No. ("GL") S-5562 for pasture purposes since 1998, and Mr. Souza has cared for the property for the past 15 years. The lease expired on December 1, 2013. Based on past experience with Mr. Souza, who cleaned and maintained the premises, staff believes the applicants will be good land stewards.

Under GL S-5562, condition no. 59 requires a Level One (1) Hazardous Waste Evaluation and complete abatement and disposal, if necessary, be performed prior to

lease termination. However, staff is recommending that this condition be deferred until the termination of the revocable permit. Staff is including a recommendation below that the revocable permit include special conditions extending the permittee's obligations for environmental conditions, hazardous materials and indemnity from the date of the commencement of GL S-5562 to the termination of the permit.

A final inspection of the property was conducted on December 4, 2013 at which time the premises was found to be clean with no trash or abandoned property. Refer to the inspection report. (**Exhibit C**).

The Kauai District Land Office has not received any other request for the use of the subject property. Mr. and Mrs. Souza intend to continue to use the property for pasture purposes to raise goats, on a month-to-month tenancy which is the most appropriate disposition at this time.

The 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 had continued since 1998 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 areas. 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.

Various government agencies and interest groups were solicited for comments. The Division of Forestry & Wildlife and the County of Kauai's Public Works Department have no objection/comment to the subject request. The State Historic Preservation Division stated: "We believe that no historic properties will be affected."

Department of Health, Commission of Water Resource Management, Kauai County Planning Department and the Office of Hawaiian Affairs have not responded by the suspense date.

Staff recommends the Board authorize the issuance of the requested revocable permit at a monthly rent of \$40.00, in accordance with the Minimum Rent Policy for New Dispositions approved by the Board on May 13, 2005, item D-19. This rent is higher than the lease rent (\$190.00 per year at lease expiration).

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 environmental and is therefore, exempt from the preparation of an environmental assessment.

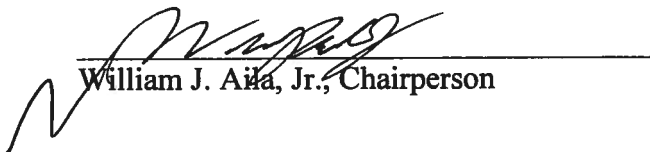
2. Authorize the issuance of a revocable permit to Vernon & Charlette Souza, covering the subject area for pasture purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time; except that the permit shall include special conditions extending the permittee's obligations for environmental conditions, hazardous materials and indemnity from the date of the commencement of General Lease No. S-5562 to the termination of the permit;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Marvin Mikasa
Acting District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

TMK No. (4) 4-1-002:020

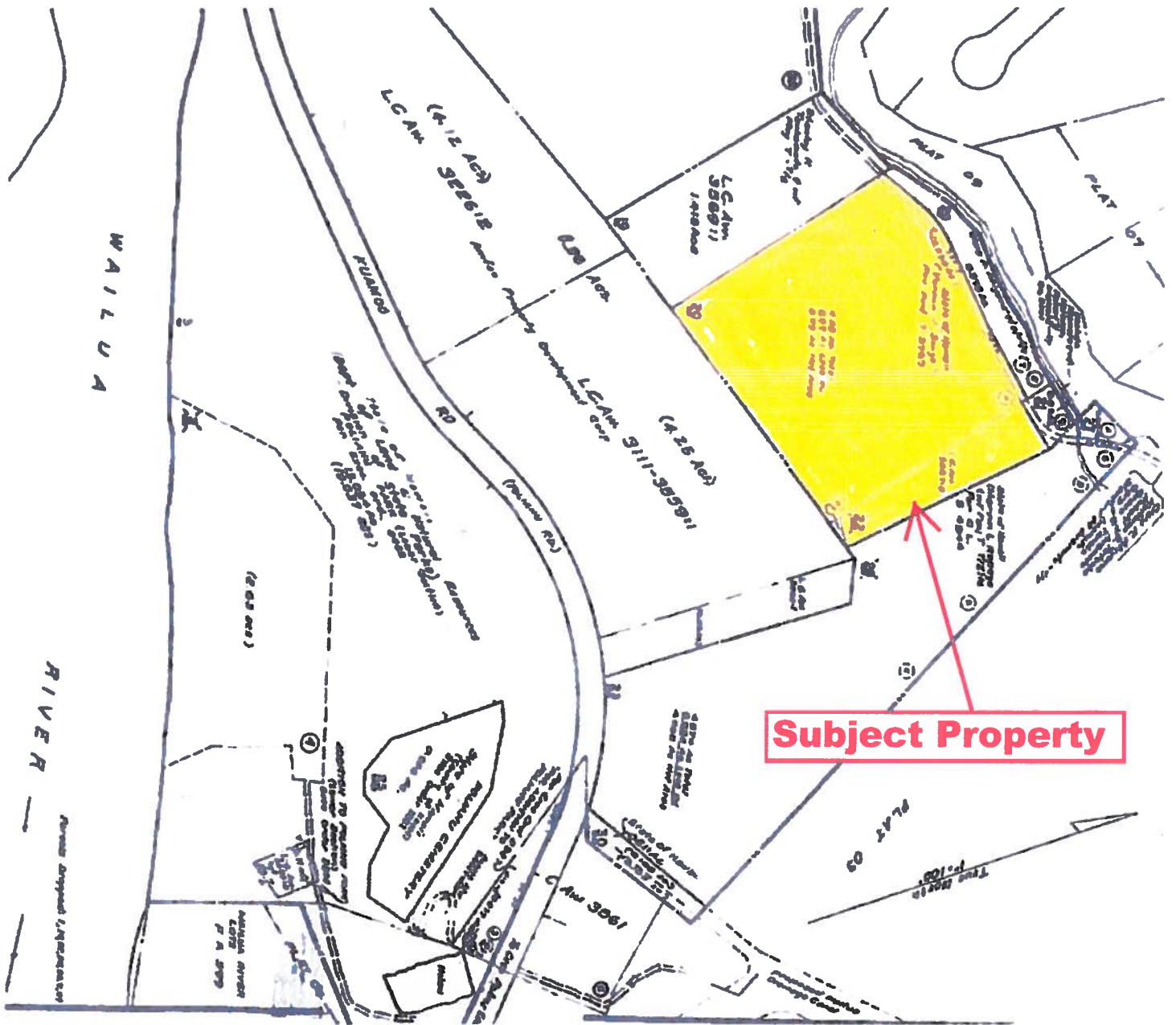
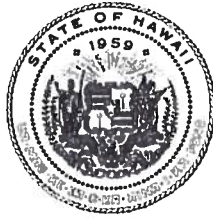


Exhibit "A"

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

March 17, 2014

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

JESSE K. SOUKI
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
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION


regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Issuance of Revocable Permits to Vernon and Charlette Souza for pasture purposes at Wailua & Kula Lots, portion of Lot 7
Project / Reference No.:	PSF No. 13KD-205
Project Location:	Wailua, Kawaihau, Kauai, Tax Map Key: (4) 4-1-002:020
Project Description:	Issuance of Revocable Permit to Vernon and Charlette Souza for pasture purposes
Chap. 343 Trigger(s)	Use of State Land
Exemption Class No. and Description:	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."
Consulted Parties:	DLNR – Forestry & Wildlife, Office of Conservation and Coastal Lands and Historic Preservation; Department of Health; County of Kauai Planning and Public Works; Office of Hawaiian Affairs and East Kauai Soil & Water Conservation District.
Recommendation:	It is anticipated this project will probably have minimal or no significant effect on the environmental and is presumed to be exempt from the preparation of an environmental assessment.

Exhibit "B"



William J. Aila, Jr., Chairperson



Date 3/25/14

INSPECTION REPORT FINAL INSPECTION

General Information

Document Number: GLS 5562 or RPS _____ Character of Use Pasture
 Inspection Date: 12/4/13 Inspection Time: 12:30am Land Agent: Milo Spindt

TENANT INFORMATION

Name: Vernon Souza Home Phone: _____
 Address: _____ Business Phone: _____
Koloa, HI 96756 Fax: _____
 Contact Person: _____ Contact Phone: _____

SITE INFORMATION

TMK: (4) 4-1-02:020 Area: Wailua
 Site Address: Koki Rd

FISCAL INFORMATION

ITEM	N/A	CURRENT= COMPLIANCE	DEFAULT = NON-COMPLIANCE	COMMENTS
Rent		X		
Liability Insurance		x		
Fire Insurance	X			
Bond		x		

FIELD INSPECTION RESULTS (refer to Field Inspection Worksheet)

ITEM	N/A	COMPLIANCE	NONCOMPLIANCE	COMMENTS
Subleases	X			
Improvements	X			
Premises		X		
Character of Use		X		
Phase I Environmental Site Assessment				

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			attach copy of list or map if applicable
Improvement Construction Buildings	X			note deadlines for % completion
Improvement Construction Other structures/misc.	X			note deadlines for % completion

Field Inspection

ITEM	SATISFACTORY?			COMMENTS/NOTES
	N/A	YES	NO	
SUBLEASES	X			
Consents approved	X			
Use adheres to lease purpose	X			
IMPROVEMENTS	X			
<u>Buildings/Residences:</u> roof	X			
paint	X			
exterior	X			
interior	X			
<u>Structures:</u> roads	X			
walkways	X			
fencelines		X		
others	X			
PREMISES		X		
clean, sanitary, orderly appropriate storage/use of hazardous materials	X			
CHARACTER OF USE adheres to lease purpose		X		

ITEM	SATISFACTORY?			COMMENTS/NOTES
	N/A	YES	NO	
Other:	X			<p>This lease ended on December 1, 2013. A final inspection was conducted. The tenants have applied to continue using the property via RP.</p> <p>Photos are attached.</p>

