

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

May 22, 2015

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

PSF No.: 15OD-047

OAHU

Approval in Principle for Issuance of Direct Lease to Pu`a Foundation and Hui Mahi`ai for Community Farming Purposes; Authorize the Issuance of an Immediate Right-of-Entry for Due Diligence Purpose; Waimanalo, Koolaupoko, Oahu, TMK (1) 4-1-008:008.

APPLICANT:

Pu`a Foundation and Hui Mahi`ai; both are domestic non-profit corporations, and 501(c) (3), Internal Revenue Code organizations ("Applicants").

LEGAL REFERENCE:

Section 171-6, 43.1, and 55 Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-008:008, as shown on the attached map labeled **Exhibit A**.

AREA:

14.252 acres, more or less.

ZONING:

State Land Use District: Agricultural
City and County of Honolulu LUO: AG-1

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:

Community farming purposes.

LEASE TERM:

Thirty (30) years.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

\$480 per year, pursuant to the Board policy on minimum rent currently at \$480 per year.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

Every 10th year during the term of the lease, subject to the Board policy on minimum rent applicable at the time of reopening.

PERFORMANCE BOND:

Twice the annual rental amount.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Upon approval of subject request, applicant will commence the environmental assessment pursuant to Chapter 343, HRS. Outcome of such assessment process will be brought to the Board before final approval of the requested lease is considered by the Board.

In accordance with the Division of Land Management's Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject request for issuance for right-of-entry is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation", and pursuant to Exemption

Class 5, that states " Permission to enter State lands for the purpose of basic data collection, research, experimental management and resources evaluation activities such as archaeological survey, topographic survey, test borings for soil test, ground cover survey inspection of property for appraisal and development feasibility study purposes." **(Exhibit B)**

DCCA VERIFICATION:

Place of business registration confirmed:	YES	<u>X</u>	NO	___
Registered business name confirmed:	YES	<u>X</u>	NO	___
Good standing confirmed:	YES	<u>X</u>	NO	___

APPLICANT REQUIREMENTS:

None at the time of writing this submittal, subject to insertion of any applicant requirement upon finalization of the environmental assessment process.

REMARKS:

Over the years, portions of the subject parcel have been leased pursuant to multiple leases or revocable permits for agriculture purposes. The majority of those leases or permits no longer exist for various reasons. Adjacent to the subject parcel is a subdivision developed by the Department of Hawaiian Home Lands and the individual lots are leased to qualified homesteaders.

Hui Mahi`ai, a domestic non-profit corporation set up by one of the homesteaders, intends to set up a community farm on the subject parcel. According to the bylaws, the organization intends "...to educate about, foster the study of, and practice the principles of ahupua`a land management for subsistence farming in Waimanalo...", and "... to develop a fully operating sustainable subsistence cooperative in the community of Waimanalo."

Pu`a Foundation is also a domestic non-profit organization since 1996, which aims at promoting Hawaii's history and culture to reconcile the past to the present. It works with the community and develops programs bringing positive changes to native Hawaiian women.

Both applicants will be jointly responsible for developing and managing the proposed community farming operation. Under the proposal, individual residents will be allocated a portion of the subject parcel for farming, subject to payment of appropriate share of utilities and other similar costs. Harvests will either be consumed by the residents and their families or sold at the farmers' market.

Based on the information provided on the questionnaire completed by the applicants attached as **Exhibit C**, staff solicited comments from other agencies on the requested

approval-in-principle of a direct lease, with the issuance of a right-of-entry for due diligence purposes.

Division of Forestry and Wildlife, Board of Water Supply, Department of Planning and Permitting, Department of Facility Maintenance, Commission on Water Resources, and Department of Parks and Recreation have no objection/comment to the subject request.

Department of Hawaiian Home Lands, State Historic Preservation Division, Department of Agriculture, and Office of Hawaiian Affairs have not responded to the solicitation for comment before the deadline.

STAFF POSITION

In previous cases regarding direct leasing for non-profit organizations, staff would recommend the issuance of a 24-month right-of-entry permit to allow the applicant going through the environmental assessment process. Upon compliance with the environmental assessment process, staff would bring the application to the Board for final approval for the issuance of a direct lease. Staff understands the environmental assessment process is costly. Further, an applicant would want to obtain an approval-in-principle from the Board before it starts any due diligence. The approval-in-principle would facilitate the applicant to seek funding to conduct the due diligence.

Applicant has 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, and is a domestic non-profit corporation and 501(c) (3) entity, which qualifies for a direct lease pursuant to 171-43.1, HRS.

Staff does not have any objection to the subject request.

RECOMMENDATION: That the Board:

1. Approve in principle for the issuance of a direct lease to Pu`a Foundation and Hui Mahi`ai.
2. At its own cost, Pu`a Foundation and Hui Mahi`ai shall pursue satisfactory compliance with Chapter 343, Hawaii Revised Statutes within twenty-four (24) months of the Land Board's approval;
3. Should Pu`a Foundation and Hui Mahi`ai fail to obtain satisfactory compliance with Chapter 343, Hawaii Revised Statutes within twenty-four (24) months of the Land Board's approval, the Land Board's approval shall be considered rescinded;
4. Pu`a Foundation and Hui Mahi`ai shall acknowledge the following:
 - A. All costs associated with the necessary compliance with Chapter 343, Hawaii Revised Statutes shall be the responsibility of the Pu`a Foundation and Hui Mahi`ai; and

- B. This action is an approval in principle and does not provide any assurance of a direct lease and such approval of a direct lease shall be subject to consideration by the Land Board under a separate action after satisfactorily complying with Chapter 343, Hawaii Revised Statutes.
5. Declare that, after considering the potential effects of the requested right-of-entry as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
6. Authorize the issuance of an immediate right-of-entry permit to the Pu`a Foundation and Hui Mahi`ai for conducting due diligence pertaining to environmental assessment compliance for the requested leases covering the subject area 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 right-of-entry permit form, as may be amended from time to time; and
- B. 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:


Suzanne D. Case, Chairperson

EXEMPTION NOTIFICATION

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

Project Title: Right-of-Entry for Due Diligence Purposes

Project / Reference No.: 15OD-047

Project Location: Waimanalo, Koolaupoko, Oahu Tax Map Key: (1) 4-1-008:008

Project Description: Due diligence purposes.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation", and pursuant to Exemption Class No. 5, that states "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource."

The request is related to due diligence needs for the proposed direct lease for community farming. Staff does not expect there will be major alteration in the conditions of the land, water or vegetation at the location.

Consulted Parties Agencies as noted in the submittal

Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



 Suzanne D. Case, Chairperson
 Date 5/1/15

EXHIBIT B

APPLICATION AND QUALIFICATION QUESTIONNAIRE
(Non-Profit)

DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII
2015 MAR - AM 11:18
RECEIVED
LAND DIVISION

Write answers in the spaces provided. Attach additional sheets as necessary, clearly indicating the applicable section number.

Part I: General Information

1. Applicant's legal name: Pū'ā Foundation/Hui Mahi`ai
2. Applicant's full mailing address: Honolulu, Hawaii 96828
3. Name of contact person: Toni Bissen
Contact person Phone No.: _____ Fax No.: N/A
4. Applicant is interested in the following parcel:
Tax Map Key No.: 41008008000 Location: Waimanalo, Oahu
If Applicant is current lessee: General Lease No.: _____
5. When was Applicant incorporated? 1996
6. Attach the following:
 - A. Articles of Incorporation
 - B. Bylaws
 - C. List of the non-profit agency's Board of Directors
 - D. IRS 501(c)(3) or (c)(1) status determination
 - E. Tax clearances from State of Hawaii and respective county Real Property Tax Office.
 - F. Audited financial statements for the last three years. If not audited, explain why.
If Applicant is a new start-up, attach projected capital and operating budgets.
 - G. Any program material which describes eligibility requirements or other requirements to receive services

Part II: Qualification

7. Is Applicant registered to do business in Hawaii: Yes/No
8. Has Applicant received tax exempt status from the Internal Revenue Service? Yes/No
9. Is Applicant licensed or accredited in accordance with federal, State or county statutes, rules, ordinances, to conduct the proposed activities? Yes/No
List all such licenses and accreditations required: N/A
10. Is Applicant in default or otherwise not in good standing with any State department (e.g. POS agency, DCCA, DLNR, etc.)? Yes/No
If yes, explain:

EXHIBIT "C"

11. Has Applicant had a State of Hawaii lease, permit, license, easement or sale in fee cancelled within the last five years? If yes, list: Yes/No

<u>Doc. No.</u>	<u>Type of Agreement</u>	<u>Term of Agreement</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

12. Does Applicant have any policies which discriminate against anyone on the basis of race, creed, color, national origin, sex or physical handicap? Yes/No

If yes, explain:

13. Has Applicant received funding from a federal, State, or county government agency, the Aloha United Way, and/or a major private foundation within the last three years? Please list all such contracts below: Yes/No

<u>Agency</u>	<u>Contract Term</u>	<u>Contract Amount</u>
OHA	2013-2014	\$ 50,000
Family Court/ OYS	2013-2014	\$ 35,000
AUW	2013-2014	\$ 2,000
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

14. If Applicant has not received funding from a federal, State or county government agency, the Aloha United Way and/or a major private foundation during the past three years, describe Applicant's qualifications to effectively perform the proposed services, including but not limited to, grants or subsidies received from non-major, private funders and/or staff or Board members who possess significant experience in Applicant's service field.

Financial and human resources to support the development of the community gardening/subsistence farming endeavors will initially come from Pū'ā Foundation. Hui Mahi'ai board members, volunteers, supporters and partnering organizations, including faith-based organizations.

Part III: Program Activities and Persons to be Served

15. What activities will be conducted on the premises to be leased?
Community gardening/subsistence farming primarily for Waimanalo residents, as well as

community groups and/or other appropriate organizations, including faith-based organizations and Ahupua'a land management traditions and practices.

16. What are the specific objectives of these activities?
To create sustainable subsistence cooperative primarily benefitting Waimanalo residents, as well as community groups and/or other appropriate organizations, including faith-based organizations.

17. Describe the community need for and the public benefit derived from these activities.
There is the need to create a source of healthy, fresh, low cost nutritious foods for community consumption to support Waimanalo residents and the distribution to the needy through faith-based organization's food banks.

18. Describe the targeted population for these activities by: 1) age group, 2) gender, 3) ethnic background, 4) income level, 5) geographic location of residence, 6) special needs/disability, and 7) other applicable characteristic(s).
The target population include residents of Waimanalo and individuals/families that frequent faith-based organization food bank distribution centers.

19. Describe all eligibility requirements of clients to participate in the activities, e.g. age, income level, ethnic background, income level, disability, etc.
The eligibility of participants for the community gardening/subsistence farming include Waimanalo residents. Ahupua'a land management traditions and practices.

20. Do you require membership to participate in these activities? Yes/No
If yes, list the requirements of becoming and remaining a member:

21. How many unduplicated persons will engage in the activities annually?

<u>Activity</u>	<u>Persons Per Year</u>
<u>Community gardening/subsistence farming</u>	<u>approximately 100</u>

22. Is State funding made available for the activities to be conducted on the leased premises? Unsure Yes/No
If yes, by which State agency: _____

23. List all activities to be conducted on the leased premises which require payment of excise taxes, e.g. subleasing, sale of products or services. Include an estimate of annual gross revenues from each activity.
Not applicable. All participating members will pay their share of operating costs of the farm, eg. Utilities, insurance, rental. There will be no selling of produce or subleasing on the premises.

Development of the Land

24. Describe the proposed site development plan for the property, indicating the location and size of buildings, parking areas, landscaped areas and related uses. Attach sketch of plan if available.
No major site development is planned, however appropriate farming structures/sheds to support food processing for community gardening/subsistence farming, i.e. cleaning and preparing fruits and vegetables, storage of tools, equipment, supplies, and the like are planned. In addition, pathways will be created to access various plots on the property.

25. What improvements to the land do you intend to make and at what cost?
No major improvement to the land is intended.

26. How will the improvements be funded?
If any improvements were to be made, funding would be provided through donations

27. Describe all environmental, land use and other permitting requirements which must be met to develop the land as proposed.
No major land improvements are planned that would impact the need for permitting – planned land use is for community gardening/subsistence farming. Applicant will comply with any permit requirements imposed by any government agencies, should the occasion require.

28. Will you be subleasing any portion of the property? If yes, describe the sublease uses:
Current plans do not include subleasing.

Part V: Notarized Certification

I/We hereby certify that the statements and information contained in this Application and Questionnaire, including all attachments, are true and accurate to the best of my/our knowledge and understand that if any statements are shown to be false or misrepresented, I/we may be disqualified from receiving a lease or my/our lease may be canceled.

Toni G. Bissen, PUA Foundation Applicant Name
Blanche McMillian, Hui Mahiai Applicant Name

By: [Signature] Executive Director
By: [Signature] President

Date: 3/6/15

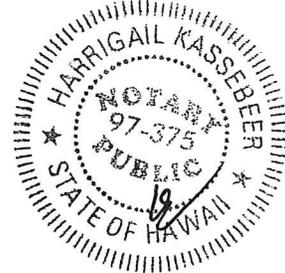
Subscribed and sworn to before me this 6 day of March, 2015.

[Signature] Notary Public

County of: Honolulu

State of: Hawaii

My commission expires: July 31, 2017



Doc. Date: March 6, 2015 Pages: [blank]
Notary Name: Harrigail Kassebeer Circuit: [blank]
Doc. Description: Application and Qualification Questionnaire
[Signature] Date: March 6, 2015
NOTARY CERTIFICATION

