

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

May 27, 2016

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

PSF No: 15KD-184

KAUAI

Amend Prior Board Action of February 12, 2016, Item D-1, Issuance of Revocable Permit to Michael Fernandes and Leland Fernandes for Pasture Purposes, Wailua, Kawaihau (Puna), Kauai, Hawaii, Tax Map Key: (4) 4-1-009:007 and 4-1-010:016.

BACKGROUND:

At its meeting of February 12, 2016, Item D-1, the Board of Land and Natural Resources approved the Issuance of Revocable Permit to Michael Fernandes and Leland Fernandes for Pasture Purposes at Tax Map Key: (4) 4-1-009:007 and 4-1-010:016.

REMARKS:

An error was discovered while reviewing Revocable Permit Document with applicant, Michael Fernandes. The document listed Leland Fernandes' marital status as married, but Michael Fernandes informed staff that Leland Fernandes was actually single.

The error is in the above-mentioned Board Submittal where it identifies "Michael Fernandes, Married; Leland Fernandes, Married; Joint Tenants" under "APPLICANTS." Instead, they should be identified as "Michael Fernandes, Married; Leland Fernandes, Single; Joint Tenants." Please see original Board Submittal labelled Exhibit 1.

An amendment to the Board Submittal is required, so that the Attorney General's Office can make the necessary correction for the Revocable Permit Document.


RECOMMENDATION: That the Board:

1. Amend its prior Board action of February 12, 2016, under agenda item D-1 by changing "Michael Fernandes, Married; Leland Fernandes, Married; Joint Tenants" to "Michael Fernandes, Married; Leland Fernandes, Single; Joint Tenants"

Tenants.”

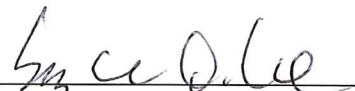
2. All terms and conditions listed in its February 12, 2016 approval to remain the same.

Respectfully Submitted,



Kurt Yasutake
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

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

February 12, 2016

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

PSF No.: 15KD-184

KAUAI

Issuance of Revocable Permit to Michael Fernandes and Leland Fernandes for Pasture Purposes, Wailua, Kawaihau (Puna), Kauai, Hawaii, Tax Map Key: (4) 4-1-009:007 and 4-1-010:016.

APPLICANTS:

Michael Fernandes, Married; Leland Fernandes, Married; Joint Tenants.

LEGAL REFERENCE:

Section 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kapaa situated at Kapaa Homesteads Series 4, Kapaa, Kauai, identified by Tax Map Key: (4) 4-1-009:007 and 4-1-010:016, as shown on the attached maps labeled Exhibit A & Exhibit B.

AREA:

7.452 acres, more or less.

ZONING:

State Land Use District:	Conservation, Urban
County of Kauai CZO:	Agricultural

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

February 12, 2016 Go

D-1

EXHIBIT 1

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

CURRENT USE STATUS:

Tax Map Key: (4) 4-1-009:007; Encumbered by Perpetual Easement LOD No. S-27346,
Citizens Utilities Co.

Tax Map Key: (4) 4-1-010:016; Encumbered by Perpetual Easement LOD No. S-27433,
Deane B. & Julia O. Abben.

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE:

June 1, 2014.¹

MONTHLY RENTAL:

\$40 per month, based on an in-house valuation recommendation by staff and attached as
Exhibit D.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit C.

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

REMARKS:

Michael Fernandes previously leased State-owned parcels TMK: (4) 4-1-009:007 and 4-1-010:016 under General Lease No. S-5582, which expired on May 26, 2014. The character of use of the lease was for pasture purposes. The rent under General Lease No. S-5582 was

¹ Staff is recommending a commencement date retroactive to June 1, 2014 because the applicants remained in possession of the property after the expiration of General Lease No. S-5582 in May 2014.

\$193 per year.

Leland Fernandes is the son of Michael Fernandes. Leland worked alongside Michael for many years and has recently taken over the family's cattle business, Michael J. Fernandes & Sons. Michael Fernandes and Leland Fernandes are requesting a Revocable Permit for parcels TMK: (4) 4-1-009:007 and 4-1-010:016; with the same intended use, pasture land, as the lands covered by the previous General Lease No. S-5582. The applicant understands the Revocable Permit is a temporary disposition as Land Division will be putting the land out for public auction.

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.

Comments were solicited from the agencies identified below with the results indicated.

State Agencies:

DOH	"No environmental health concerns."
DOA	No response by suspense date.
DLNR – Historic Preserv.	No response by suspense date.
OHA	"No comments at this time."

County Agencies:

County Planning	No response by suspense date.
Water Department	No response by suspense date.

Other Agencies:

NRCS	No response by suspense date.
------	-------------------------------

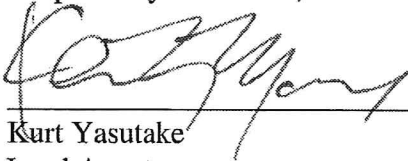
RECOMMENDATION: That the Board:

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 environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to Michael Fernandes and Leland Fernandes 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;

- 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,



Kurt Yasutake
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

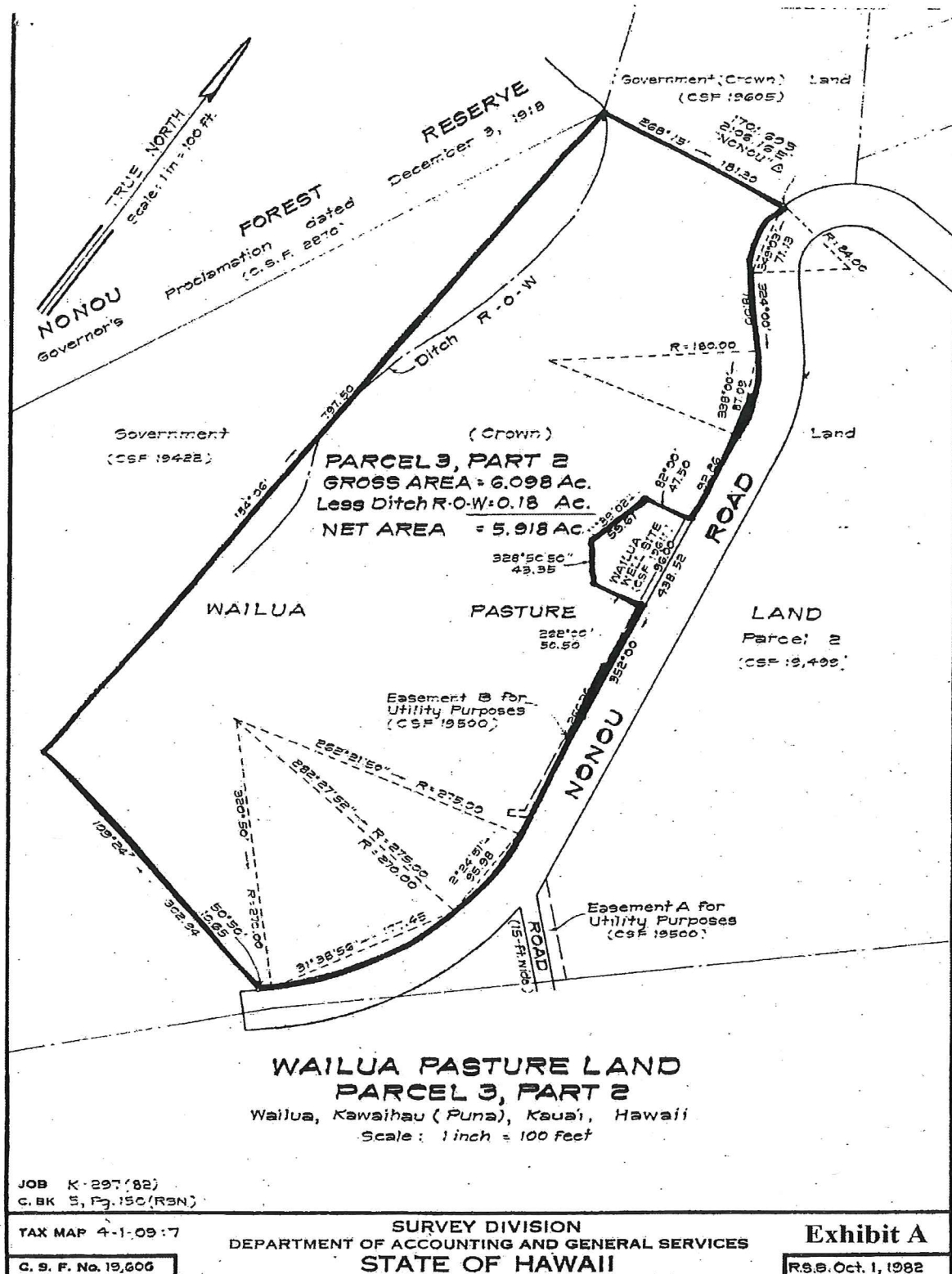
Land Board Meeting: February 12, 2016; D-1: Approved as submitted.

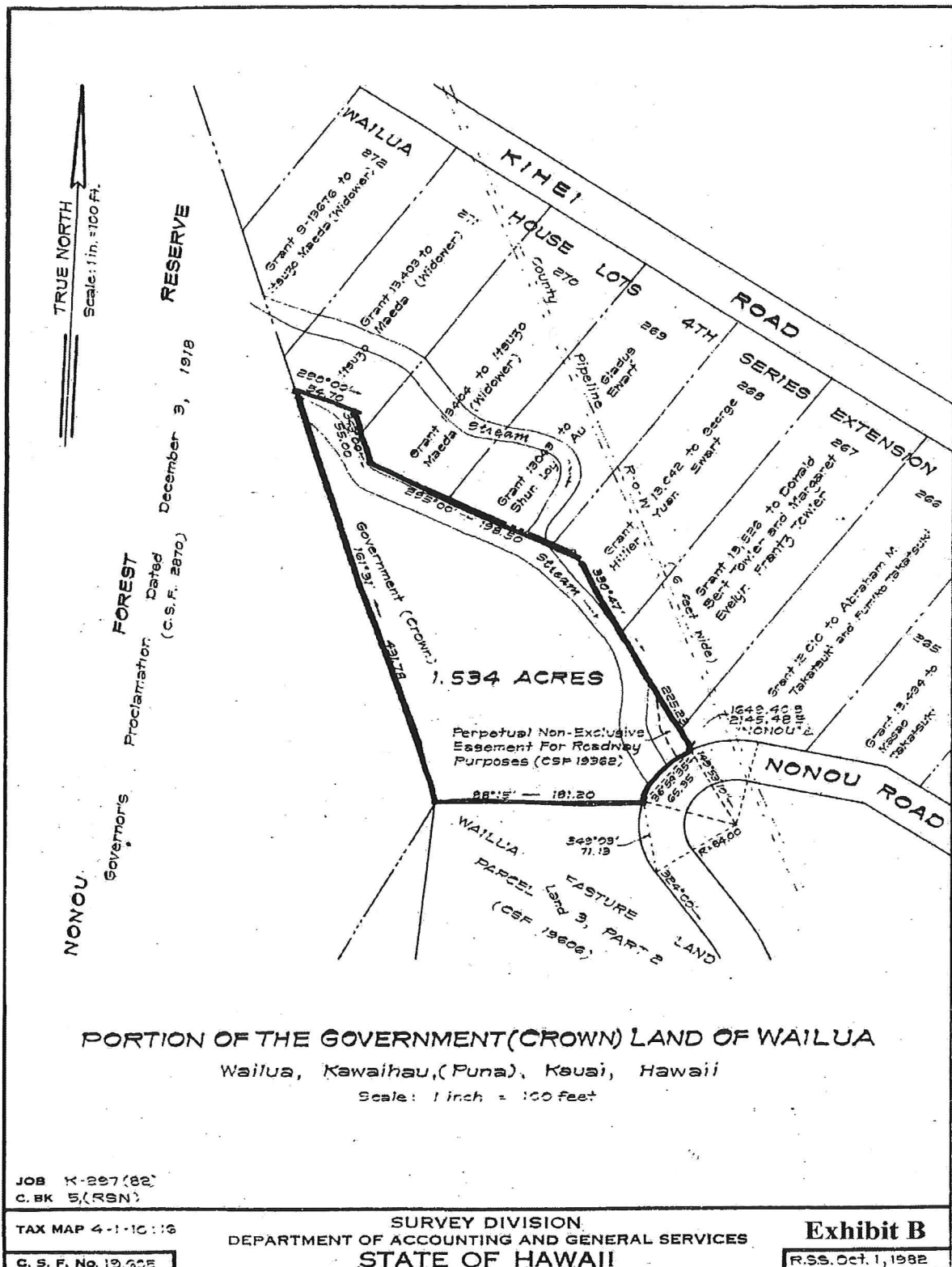
See attached page.

Land Board Meeting: February 12, 2016; D-1: Approved as submitted.

Approved as submitted.¹

¹ Board member Gomes commented on items D-1 and D-2 that he does not see a clear methodology in the staff submittals for determining rents for pasture leases and pasture permits. He made a general request for staff to have a dialogue with the Department of Agriculture and the University of Hawaii Extension Service on how they determine fair market rent for pasture leases. The appraisers should be looking at the specifics for each property, including rainfall and soil conditions. Board Member Gomes added that the Hawaii Cattlemen's Council should also be consulted. Board Member Roehrig echoed this request and added that he would like to see a fundamental change to the policy of appraising pasture lease rents.







STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT
KENA KALUJAWA
DEPUTY
JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER
AGRICULTURE
BOATING AND OCEAN RECREATION
BUREAU OF CONSERVATION
COMMISSION ON WATER RESOURCES MANAGEMENT
CONSERVATION AND CRITICAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
MARSHLANDS AND WETLANDS
LAND
STATE PARKS

Exhibit C

TO: Land Division

THROUGH: Suzanne Case, Chairperson

FROM: Michael Fernandes and Leland Fernandes

DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR REVOCABLE PERMIT TO MICHAEL FERNANDES AND LELAND FERNANDES, FOR PASTURE PURPOSES UNDER PSF No. 15KD-184

The following permitted activities are found to be exempted from preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR:

Project Title:

Revocable Permit to Michael Fernandes and Leland Fernandes, for Pasture Purposes.

PSF Number: 15KD-184

Project Description:

Michael Fernandes previously leased State-owned parcels TMK: (4) 4-1-009:007 and 4-1-010:016 under General Lease No. S-5582, which expired on May 26, 2014. The purpose of the lease was for pasture land.

Leland Fernandes is the son of Michael Fernandes. Leland worked alongside Michael for many years and has recently taken over the family's cattle business, Michael J. Fernandes & Sons. Michael Fernandes and Leland Fernandes are requesting a Revocable Permit for parcels TMK: (4) 4-1-009:007 and 4-1-010:016; with the same intended use, pasture land, as the lands covered by the previous General Lease No. S-5582.

Consulted Parties:

A copy of the Revocable Permit Draft Board Submittal was sent out for review and comments to the following agencies: Hawaii Department of Health (DOH), Department of Agriculture (DOA), State of Hawaii Historic Preservation Division, Office of Hawaiian Affairs (OHA), Kauai County Planning Department, Kauai County Water Department and National Resources Conservation Service (NRCS).


Exemption Determination:

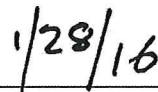
After reviewing HAR § 11-200-(8), DLNR has concluded that the activities under this permit would have minimal or no significant effect on the environment and that issuance of the permit is categorically exempt from the requirement to prepare an environmental assessment.

According to the Exemption List for the Department of Land and Natural Resources, as Reviewed approved by the Environmental Council on June 5, 2015, Exemption Class No.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 [HAR § 11-200-8(a)(46)]".

Conclusion:

It is recommended that the Board declare that 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 Case
Board of Land and Natural Resources


Date

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES



POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 7, 2016

MEMORANDUM

TO: Suzanne D. Case, Chairperson

THROUGH: Russell Y. Tsuji, Land Division Administrator

FROM:  Kurt Yasutake, Land Agent 

SUBJECT: In-House Valuation Recommendation – Revocable Permit for Pasture Purposes

PSF No.: 15KD-184
Applicant: Michael Fernandes and Leland Fernandes
Location: Wailua, Kawaihau (Puna), Kauai
Land Area: 7.452 acres
Tax Map Key: (4) 4-1-009:007, 4-1-010:016
Char. of Use: Pasture

We have been requested to provide a monthly rent amount for the issuance of a revocable permit for pasture purposes on the above-referenced property. This rent amount will be included in staff's submittal to the Board for approval of this permit and will not be effective unless such approval is received.

The subject consists of approximately 7.452 acres in Wailua, Kawaihau (Puna), Kauai. Based on a site inspection conducted by our land agents, only 60% of the subject property or 4.4712 acres is usable for Class D pasture purposes.

Based on an animal production formula for the subject acreage, we calculate the monthly rent using a 4 AUW capacity:

	Usable Acreage		Capacity ¹	AUW
Pasture Details	4.4712	x	0.895	= 4
Average weight gain per animal per year			x	300
Annual weight gain				1200 lbs

Exhibit D

Average live weight price (3-yr. average) ²	x	\$0.70
Gross value of beef		\$840
Portion of gross profit to Lessor	x	25%
Gross annual rent		<u>\$210</u>
 Rounded annual rent		 \$210
Monthly rent (÷ 12)		\$17.50

¹Carrying capacity estimated by applicant.

²Average live weight price (cents per pound) from the *Statistics of Hawaiian Agriculture* by averaging the period 2008 to 2010, the most recent data available.

Year	Statewide	Kauai
2006	\$0.767	\$0.643
2007	\$0.724	\$0.675
2008	<u>\$0.677</u>	<u>\$0.775</u>
Average (rounded)	\$0.723	\$0.698

Applying the above formula, it was found that the monthly rental amount calculated was below the Land Board's current minimum rent policy rate of \$480 per annum or \$40 per month.

*Therefore, as of the date of this document, the monthly market rent for the revocable permit to the applicant will not be \$17.50 per month as calculated, but is recommended to be at the Land Board's minimum rental rate of \$40 per month.

Special Assumptions and Limiting Conditions

- 1) This rental valuation estimate is for internal purposes only. This document does not take the place of an appraisal and does not constitute an appraisal that adheres to the Uniform Standards of Professional Appraisal Practices.
- 2) The subject property was not inspected by an appraiser. Land Division does not presently have an appraiser on staff.

Approved/Disapproved:


Suzanne D. Case, Chairperson

Date: 1/28/16

cc: District Branch Files
Central Files