

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

March 28, 2008

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

PSF No.:07KD-204

Kauai

Re-submittal Cancellation of Revocable Permit No. S-7190 to Gary Rodrigues and Issuance of Revocable Permit to Gary W. Rodrigues and Tani Olaso Rodrigues for Conservation Management Purposes, Kapaa Homesteads, 1st and 3rd Series, Kawaihau, Kauai; Tax Map Key: (4) 4-6-8: 23 & 24.

APPLICANT:

Gary W. Rodrigues and Tani Olaso Rodrigues, husband and wife, tenants in common, whose mailing address is 6272 Kahuna Road, Kapaa, Hawaii 96746.

LEGAL REFERENCE:

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

LOCATION:

Por. Kapaa Homesteads, 1st and 3rd Series, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-8: 23 & 24, as shown on the attached map labeled Exhibit A.

AREA:

33.0 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Kauai CZO: Open

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:

Encumbered by Revocable Permit No. S-7190 to Gary Rodrigues for conservation management purposes.

CHARACTER OF USE:

Conservation management is for management and maintenance purposes. Activities include the removal of non-native and introduced species of vegetation, and re-planting of native species.

COMMENCEMENT DATE:

Upon cancellation of Revocable Permit No. S-7190 and on the first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

\$40.00 as shown on appraisal report on attached label Exhibit 'C'.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

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 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."

DCCA VERIFICATION:

Not applicable as individuals are not required registering with the DCCA.

REMARKS:

At its meeting of October 8, 1999, under agenda item D-1 the Board authorized the issuance of a revocable permit to Mr. Gary Rodrigues for conservation management purposes. The State property was previously encumbered by Revocable Permit No. S-6399 to John S. Rodrigues, Mr. Rodrigues father.

By letter dated December 6, 2007, Mr. Gary Rodrigues requested to add his wife, Tani Olaso Rodrigues to the revocable permit as shown on the attached label Exhibit 'B'.

The Land Board at its meeting of February 8, 2008, under agenda item D-2, the Board asked that this submittal be deferred.

The Applicant after a lengthy trial and appeal process was incarcerated on January 7, 2008 in a Federal Prison in California.

The Applicant has not had a lease, permit, easement or other deposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The following comments were received for this application:

State Agencies:

Department of Health: No Comments
DLNR – Historic Preservation: No Comments
DLNR – CWRM: No Comments

County Agencies:

Planning Dept.: No Comments
Public Works: No Objections
Water Dept.: If applying for future water meter, request information on water system status.

OHA: Ceded Lands – 20% Revenue Share

Other Agency:

East Kauai Water Users Coop.: No Objections

A long-term lease for Parcel 23 cannot be sold at auction until such time the County of Kauai accepts this roadway (roads in limbo) as their jurisdictional responsibility. Furthermore, the low lands are located within the flood zone/flood way, and the steep topography make agriculture cultivation difficult. The alternative is to keep the property vacant with no management, or to place someone on the land who will take responsibility for it. The latter is the best course of action at this time.

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.

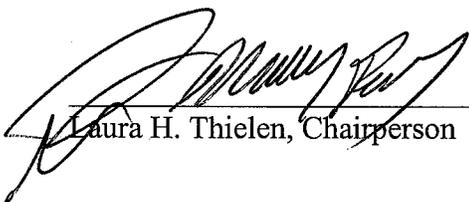
2. Authorize the cancellation of Revocable Permit No. S-7190 to Gary Rodrigues and issuance of month-to-month revocable permit to Gary W. Rodrigues and Tani Olaso Rodrigues covering the subject area for conservation management purposes under the terms and conditions cited above, which are by this reference 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,



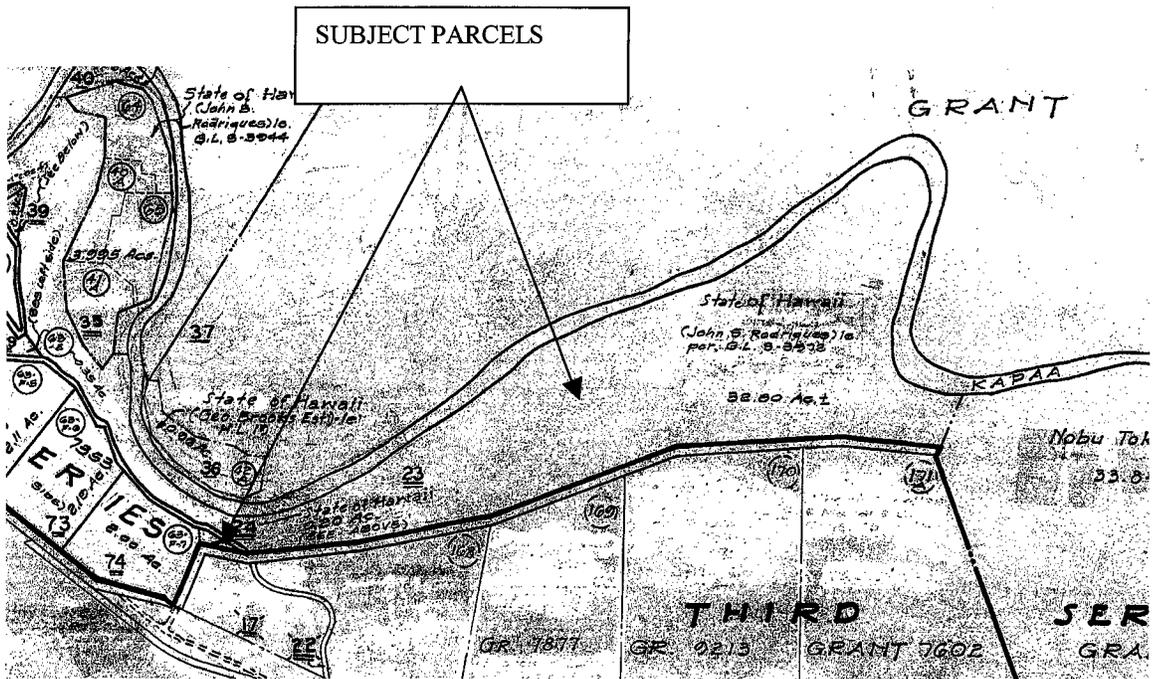
Marvin Mikasa
Acting Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





GARY W. RODRIGUES &
TANI OLASO RODRIGUES

EXHIBIT 'A'

TMK: (4) 4-6-8: 23 & 24

December 6, 2007

RECEIVED
LAND DIVISION

2007 DEC 10 A 10:35

Mr. Morris Atta
Acting Administrator
DEPARTMENT OF LAND AND NATURAL RESOURCES
State of Hawaii
P. O. Box 621
Honolulu, Hawaii 96809

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

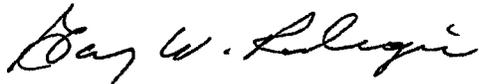
RE: Revocable Permit No. 7190

Dear Mr. Atta:

This is to request that my wife, Tani Olaso Rodrigues, be added to Revocable Permit No. 7190.

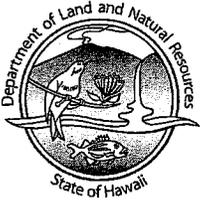
Enclosed is a copy of your letter dated November 16, 2007 and my personal check no. 1231 in the amount of \$156.00 for rent from January-December 2008.

Sincerely,



Gary W. Rodrigues

EXHIBIT 'B'



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 31, 2008

MEMORANDUM

TO: Laura H. Thielen, Chairperson

THROUGH: *for* Morris M. Atta, Acting Administrator *Madeline B. Unoloi*

FROM: Cyrus C. Chen, Real Estate Appraisal Manager *Cyrus Chen*

SUBJECT: In-House Valuation Recommendation – Revocable Permit for Conservation and Management Purposes

MAR 5 '08

MAR 5 '08

OLAH KOLD ROAD

PSF No.: 07KD-204
Applicant: Gary W. Rodrigues & Tani Olaso Rodrigues
Location: Kapaa Homesteads, 1st and 3rd Series, Kawaihau, Kauai
Land Area: 33 acres
Tax Map Key: (4) 4-6-8: 23 & 24
Char. of Use: Conservation & management purposes

We have been requested to provide a monthly rent amount for the issuance of a revocable permit for conservation and management 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 is currently encumbered by RP S-7190 issued to Gary Rodrigues. Mr. Rodrigues has requested this permit be cancelled and a new permit be issued which would include his wife, Tani Olaso Rodrigues. The current rent for this permit is \$13 per month, which was determined by staff in 1999 based on a highest and best use of pasture. This analysis determined the subject to be marginal for pasture use and the rent concluded was below the minimum rent at that time. Therefore, staff concluded a rent of \$13 per month.

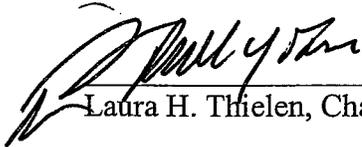
The character of use will not change and will only include an additional name to the permit holder. Permits are reviewed annually according to a schedule approved by the Land Board. However, on May 13, 2005, the Land Board, under agenda item no. D-19, approved a Minimum Rent Policy for New Dispositions, which stipulated that the minimum monthly rent for new dispositions is \$40 per month.

Therefore, as of January 31, 2008, the monthly market rent for the revocable permit to Gary W. Rodrigues & Tani Olaso Rodrigues is recommended to be \$40 per month.

Special Assumptions and Limiting Conditions

- 1) This document does not take the place of an appraisal and does not constitute an appraisal, which adheres to the Uniform Standards of Professional Appraisal Practice.
- 2) The subject property has not been inspected by the staff appraiser.

Approved/Disapproved:



Laura H. Thielen, Chairperson



Date

cc: District Branch Files
Central Files