

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

August 8, 2008

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

PSF No.:08OD-130

Oahu

Sale of Lease at Public Auction for Intensive Agriculture
Purposes, Waimanalo, Koolaupoko, Oahu, TMK:(1) 4-1-026:18

REQUEST:

Sale of lease at public auction for intensive agriculture
purposes.

LEGAL REFERENCE:

Sections 171-14, -14.5, -16, -17, -55 and other applicable
sections of Chapter 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waimanalo situated at Waimanalo,
Koolaupoko, Oahu, identified by Tax Map Key:(1)4-1-026:18, as
shown on the attached map labeled Exhibit A.

AREA:

5.492 acres, more or less, subject to confirmation by the
Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Agricultural
County of Honolulu CZO: AG-2

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Currently encumbered under General Lease No. S-3854 for 45 years
to Patrick and Nancy Maloney, which commenced on August 10, 1964
and will expire on August 9, 2009.

CHARACTER OF USE:

Intensive agriculture purposes

LEASE TERM:

Thirty (30) years

COMMENCEMENT DATE:

The date of sale if the current occupant is the successful bidder, otherwise, sixty (60) days after the date of sale; provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by staff or independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

At the 10th and 20th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Twice the annual rental amount.

PROPERTY CHARACTERISTICS:

Utilities - Utilities are available to the subject site, including water, electricity, telephone, but no sewer.

Slope - Steep. The slope is steep and therefore, highly susceptible to erosion forces. It is stony but not enough to prevent cultivation.

Elevation - Elevation of approximately 200 feet.

Rainfall - 63.7 inches per annum

SCS Soil Series - Kaena stony clay, 12 to 20 percent slopes. The Kaena soils have very dark brown granular clay surface layer. This soil is suitable for cultivated crops, orchard, pasture and woodland.

Legal access to property - Staff has verified that there is legal access to the property off of Waikupahana Street.

Subdivision - Staff has verified that the subject property to be auctioned is a legally subdivided lot.

Encumbrances - Staff has verified that there are no encumbrances on the property.

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."

REMARKS:

The subject property is currently encumbered under General Lease No. S-3854 to Patrick and Nancy Maloney, that commenced on August 10, 1964 and will expire on August 9, 2009. The original term of the lease was for a period of twenty (20) years which expired in August 9, 1984 and was later extended to December 1, 2005 by the Board at its meeting of August 10, 1984.

A notice of default dated June 6, 2008 was issued to Patrick Maloney for various violations on the property in which he has a cure period of sixty(60)days to correct the violations. Cure period will expire on August 12, 2008.

By way of letter to the Land Division dated May 13, 2008, Mr. Maloney has requested that the lease for General Lease No. S-3854 be extended for another 10 years, until August 9, 2019. He intends to pay for substantial improvements to the property through the use of his savings. However, this request is placed on hold due to the notice of default mentioned above.

The location of the subject site is zoned agricultural by County zoning, agriculture remains the predominant land use among other properties in the area and a new lease for that purpose would appear appropriate.

There are strong demands for agriculture leases in Waimanalo. Staff receives inquiries regularly as to the availability of the next public auction of agriculture leases.

Staff did not solicit comments from other agencies as the proposed use for the property would not be different from the previous use of the property. There are no other pertinent issues or concerns.

Staff is recommending that the Board declare its intent to continue the parcel's agricultural use and issue a new lease at public auction.

Staff notes that if the current lessees are able to execute a lease extension (to be considered by the Board when it is appropriate) prior to the expiration of General Lease No. S-3854, this request shall become moot and the approval shall be rescinded automatically.

RECOMMENDATION: That the Board:

1. Find the area to be an economic unit in terms of the intended use.
2. Find that the subject area is not suitable for hunting, nor will it become so during the term of the lease.
3. 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.
4. Authorize the sale of a lease at public auction covering the subject area for intensive agriculture 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 intensive agriculture general lease form, as may be amended from time to time;
 - b. Within the first three years of the lease term, the land under lease shall be utilized for the purposes for which the lease is sold, all in accordance with a conservation plan approved by the Chairperson;
 - c. One dwelling unit for employee use shall be allowed on the premises. The Lessee shall not place or construct any dwelling unit in excess of one employee dwelling unit on the premises; provided, further that the dwelling unit shall be constructed in accordance with plans and specifications approved by the Chairperson.
 - 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.

5. Rescind the subject approval if the current lessee executed a lease extension prior to its expiration date.

Respectfully Submitted,

Steve Lau

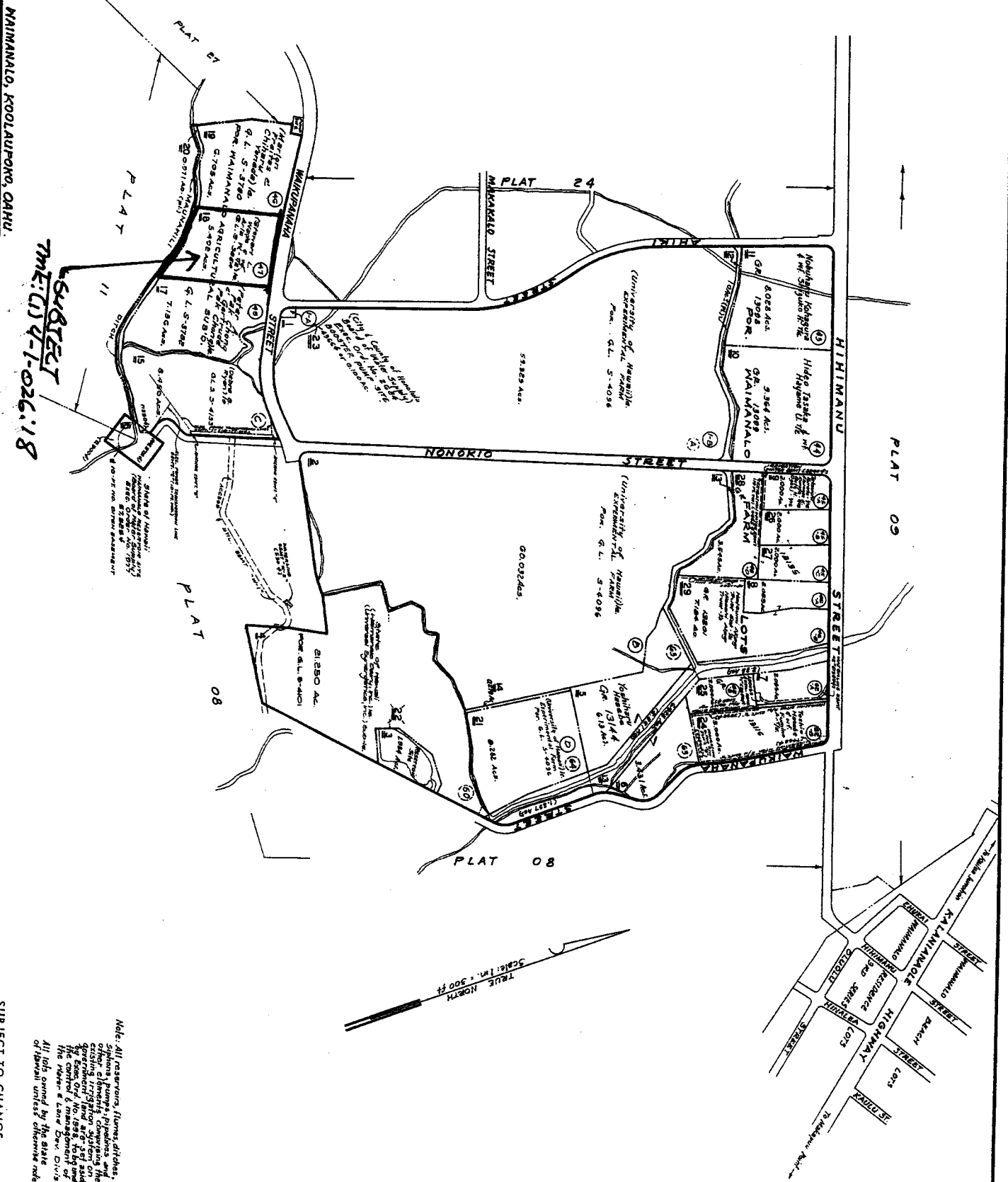
Steve Lau
Land Agent

APPROVED FOR SUBMITTAL:

for *Ken C. Kawa*

Laura H. Thielen, Chairperson *ms*

EXHIBIT "A"



SUBJECT
THE (1) 1-1-026:18

Note: All reservoirs, flumes, ditches, canals, pumps, pipelines and existing irrigation systems and government land are of state the corner No. 10, 1988, to be under the Water & Land Dev. Division. All lots owned by the state of Hawaii unless otherwise noted.

SUBJECT TO CHANGE

Parcel Dropped: 02

DEPARTMENT OF THE TAX COMMISSIONER			
TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
ZONE	NEST	SEC.	DIVISION
4	1	26	
CONTAINING 300 FT.			
PARCELS			