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

October 23, 2009

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

PSF No.: 08MD-081

MAUI

Issuance of Revocable Permit to Moses K. Kauhaahaa Jr., for Agriculture Purposes, Kahakuloa Valley, Wailuku, Maui, Tax Map Key:(2) 3-1-004:009 and 014.

APPLICANT:

Moses K. Kauhaahaa Jr., married, husband of Liliu Kauhaahaa, as Tenant in Severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kahakuloa Valley, Wailuku, Maui, identified by Tax Map Key: (2) 3-1-004:009 and 014, as shown on the attached map labeled Exhibit A and topographical photo labeled Exhibit B.

AREA:

0.319 acres, more or less.

ZONING:

State Land Use District: Rural
County of Maui CZO: Rural

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:

Vacant and unencumbered.

CHARACTER OF USE:

Agriculture purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

To be determined by staff appraiser, subject to review and approval by the Chairperson.

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 Applicant is an individual not required to register with DCCA.

BACKGROUND ON PARCEL 9:

On October 1, 1970, Mr. Walter Hoopii, Jr. was issued Revocable Permit No. S-4571. He used the State-owned property (Parcel 9) for storage of fishing nets and equipment until 1989. Mr. Hoopii, Jr. passed away on June 24, 1989.

At its meeting of December 15, 1989, under agenda Item F-1-e, the Board authorized the issuance of a revocable permit to Moses K. Kauhaahaa, Jr. for general agriculture purposes. Mr. Kauhaahaa, Jr. intended on using the State-owned property (Parcel 9) for plumeria, ti-leaf, and banana. Revocable Permit No. S-6692 was issued effective January 1, 1990. In November 2003, Mr. Kauhaahaa, Jr. requested the revocable permit be transferred to his grandson, Moses K. Kauhaahaa IV. Unfortunately, the revocable permit cannot be transferred. It was explained that Moses IV would have to apply and obtain Land Board approval.

BACKGROUND ON PARCEL 14:

On March 1, 1976, Mr. Moses Kauhaahaa, Jr. was issued Revocable Permit No. S-5210. He used the State-owned property (Parcel 13 and 14) for agriculture purposes (cultivating bananas and sweet potatoes) until 1998.

At its meeting of January 22, 1999, under agenda Item D-37, the Board approved the cancellation of Revocable Permit No. S-5210 and authorized the issuance of a new revocable permit to Mr. Kauhaahaa, Jr. for Parcel 14 only. In September 1998, Mr. Kauhaahaa, Jr. notified our Maui District Office that Parcel 13 was almost totally eroded in 1982. At that time, Hurricane Iwa struck the Hawaiian Islands and the Kahakuloa Stream altered its course causing the erosion. Staff conducted a site inspection in October 1998 and discovered that 2/3 of Parcel 13 was under water. The County increasing the property tax triggered this request by the tenant. Revocable Permit No. S-7169 was issued effective January 1, 1999. In November 2003, Mr. Kauhaahaa, Jr. requested the revocable permit be transferred to his grandson, Moses K. Kauhaahaa IV.

At its meeting of July 30, 2004, under agenda Item D-21, the Board authorized the issuance of a revocable permit to Moses K. Kauhaahaa, IV for agriculture purposes. Mr.Kauhaahaa, IV intends to continue planting and caring for banana and ti leaves on Parcels 9 and 14. Revocable Permit No. S-7394 was issued effective January 1, 2005.

Revocable Permit No. S-7394 to Mr. Kauhaahaa IV was not renewed for the period from January 1 to December 31, 2007 due to abandonment of the premises, non-compliance with liability insurance requirements, and accumulated rental delinquencies. Follow-up inspections conducted by staff found multiple abandoned/derelict vehicles and miscellaneous household trash on the State-owned parcels. Attempts were made via certified mail and previously provided phone numbers to contact Mr. Kauhaahaa IV to advise him of his responsibility to clean-up the State-owned parcels. All attempts to locate Mr. Kauhaahaa IV were met with negative results. The rental delinquency has been turned over to the Departments' collection agency.

ANALYSIS:

On April 1, 2008, staff conducted a final inspection of the State-owned parcels. During the inspection contact was made with Mr. Moses K. Kauhaahaa Jr. who was observed clearing the State-owned parcels of overgrown grasses and trash. Mr. Kauhaahaa, Jr. informed staff that he was able to get some assistance with the removal of the abandoned vehicles and trash that was left on the State-owned parcels. Mr. Kauhaahaa, Jr. then related that he was the former permit holder of both parcels before passing it down to his grandson who no longer resides in Kahakuloa village. Mr. Kauhaahaa, Jr. requested an opportunity to submit an application to utilize both parcels once again for the cultivation of dry land taro and bananas.

Mr. Kauhaahaa, Jr. resides on the adjacent property to both State parcels. He has been farming taro fields and banana patches since 1938 and has demonstrated the ability to successfully produce these crops. Therefore, Mr. Kauhaahaa, Jr. is qualified as a bona fide farmer pursuant to Section 171-14.5, Hawaii Revised Statues. As a previous tenant, staff reviewed his records and can attest that he complied with the terms and conditions of his revocable permits. He was a good tenant and good steward of the land. Lastly, he assisted the Maui District Land Office with the clean-up of the State-owned parcels by removing abandoned vehicles, trash, and cutting back the overgrown grass at no cost to the Department.
There are have been no other applications submitted or interest from the public with regards to the use of the subject parcels.

Mr. Moses K. Kauhaahaa, Jr. 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.

Due to the size and location of these small parcels that are surrounded by private residential lots and legal access also being questionable, a month-to-month tenancy is the most appropriate disposition at this time.

Comments were solicited from the following agencies:

Agency	Comments
Dept of Health	No response
Dept of Hawaiian Home Lands	No comment
DLNR - Historic Preservation	No response
Commission on Water Resource Management	No comment
County of Maui - Planning	No response
County of Maui - Public Works	No comment
Office of Hawaiian Affairs	No objections

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 Moses K. Kauhaahaa, Jr. covering the subject area for 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 revocable permit form, as may be amended from time to time;

b. Review and approval by the Department of the Attorney General; and

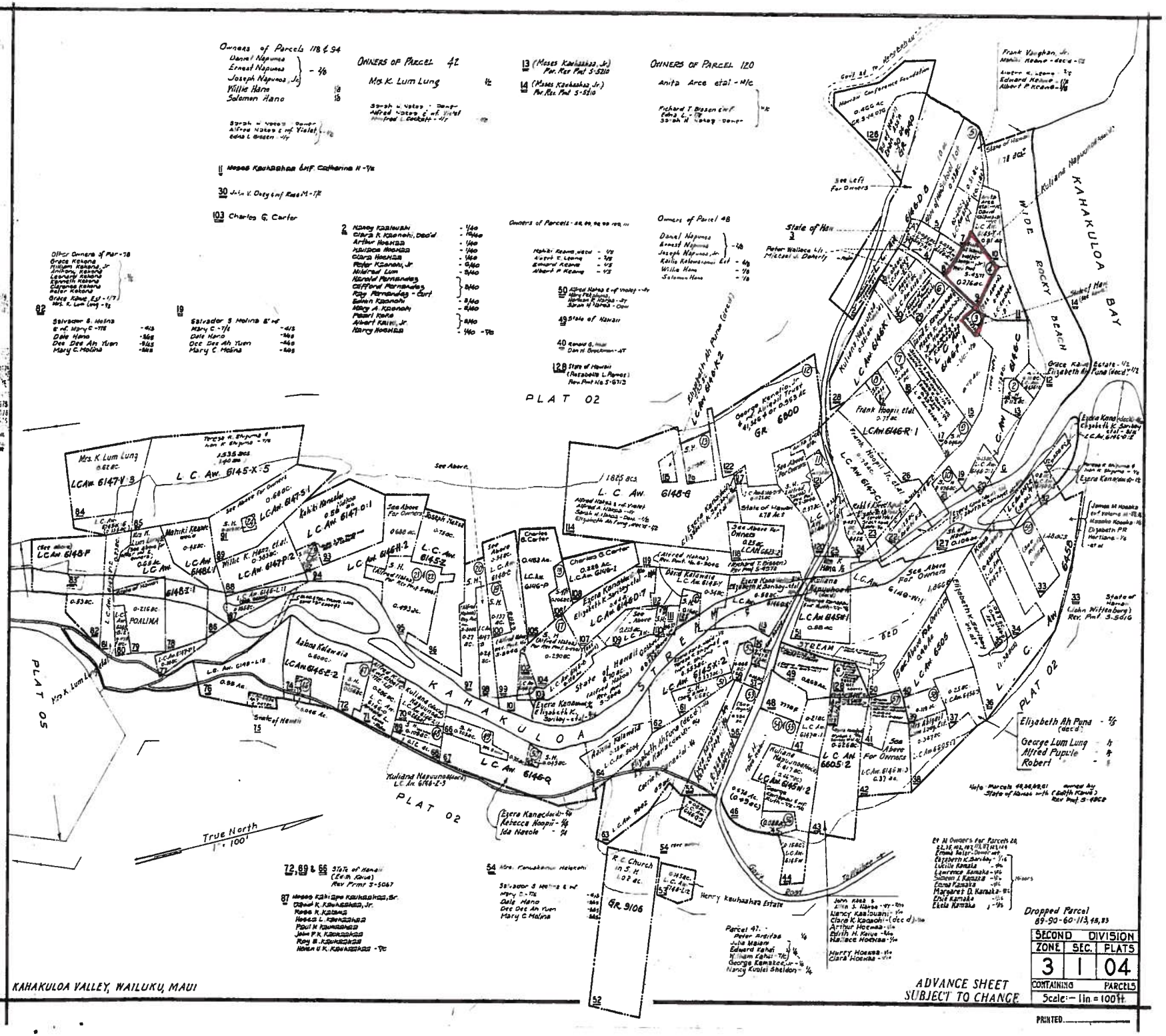
c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

for Larry Pacheco
Land Agent

APPROVED FOR SUBMITTAL:

Laura H. Thielen, Chairperson



KAHAKULOA BAY
WIDE ROCKY BEACH
KAHAKULOA STREAM
PLAT 02
PLAT 05
POALIMA
True North
Dropped Parcel
89-90-60-113, 48, 83
SECOND DIVISION
ZONE 3
SEC. 1
PLATS 04
CONTAINING PARCELS
Scale: — 1in = 100ft.
PRINTED
ADVANCE SHEET
SUBJECT TO CHANGE
KAHAKULOA VALLEY, WAILUKU, MAUI
Dwg No. 1919
Revised to
Source: Tax Maps Bureau

EXHIBIT A

EXHIBIT "B"