

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

November 19, 2009

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

PSF No.:05MD-225

MAUI

Issuance of Revocable Permit to Barron Thomas Souza Jr. for Pasture Purposes,
Honopou-Hoolawa, Hamakualoa, Makawao, Maui, Tax Map Key: (2) 2-9-
001:008 & 011.

APPLICANT:

Barron Thomas Souza Jr., husband of Melissa Ann M. Souza, as Tenant in Severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Honopou-Hoolawa, situated at Hamakualoa, Makawao,
Maui, identified by Tax Map Key: (2) 2-9-001:008 & 011, as shown on the attached map
labeled Exhibit (A) and the attached G.I.S topographic photo labeled Exhibit (C).

AREA:

Tax Map Key: (2) 2-9-001:008 Area: 1.800 acres
Tax Map Key: (2) 2-9-001:011 Area: 8.603 acres

ZONING:

State Land Use District: Agricultural District/Portion Conservation
County of Maui CZO: Agriculture/Special Management Area

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Currently the subject property is encumbered by Land Office Deeds (LOD) to Lafayette Young (LOD-28523) and Barron T. Souza Jr. (LOD-28590). Both deeds are for access and utility purposes.

CHARACTER OF USE:

Pasture 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.

REMARKS:

Previously the subject parcels were encumbered under Revocable Permit No. S-6177 to Paul and Helen Gale for pasture purposes. Mr. and Mrs. Gale planned to move to Hawaii and live on their abutting private property, tax map key: 2-9-1:13. Ms. Nancy Chastang had been maintaining the Gales' property and paying the monthly rent on the State-owned lands. Eventually, Ms. Chastang and Mr. Seth Ashby bought out the Gales' interest in the abutting

private property.

At its meeting of July 24, 1987, under agenda Item F-1-d, the Board granted the issuance of a revocable permit to Nancy Chastang and Seth Ashby for pasture purposes. Revocable Permit No. S-6520 was issued effective September 1, 1987.

At its meeting of October 8, 2004, under agenda Item D-8, the Board approved staff's recommendation to cancel Revocable Permit No. S-6520 due to failure to keep the rent payments current. The Board further amended its approval by giving the Permittee 30 days to obtain adequate liability insurance otherwise the permit would be cancelled. The deficiencies were not cured. On November 8, 2004 the permit was terminated.

Since the termination of the permit, there has been no other significant use or activity on the premises that has affected or changed the conditions of the property. Staff is not aware of any condition or use of the property during the period when it stood vacant that may or could have had a significant effect on the environmental condition of the property

Historically the subject lands have been used for pasture purposes, which is allowable under both the State and County zoning.

Mr. Barron Thomas Souza 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.

Mr. Souza Jr. indicated in his application that he has raised horses and cattle for the past thirty years. He also has the knowledge and ability to maintain this type of property for his ranching operations.

There has been no other applications submitted or interest from the public with regards to the use of the subject parcels.

We have attached a letter of reference submitted by Mr. Lafayette Young that Mr. Souza Jr. has demonstrated that he is a good steward of the land and would be an asset to the area.

On Parcel 11 there is a fifty (50) foot wide strip of pali land (zoned as conservation) that runs along the coastline. This area shall remain as open space. Mr. Souza Jr. has been informed that prior to making any improvements within this area, he will be required to obtain approval from the Office of Conservation and Coastal Lands.

Mr. Souza Jr. is the private property owner of the abutting parcel identified as tax map key: 2-9-001:009 and has access to the State parcels.

Comments were solicited from the following agencies:

Agency	Comments
Dept of Hawaiian Home Lands	No comment or objections
DLNR – DOFAW	No comment or objections
DLNR – Historic Preservation	No response
Commission on Water Resource Management	No objections but will require the following prior to any stream alterations: 1) A Stream Channel Alteration Permit is required before any alteration can be made to the bed and/or banks of a stream channel; 2) A Stream Diversion Works Permit is required before any stream diversion works is constructed or altered; 3) A Petition to Amend the Interim Instream Flow Standard is required for any new or expanded diversion of surface water.
County of Maui – Planning	Any proposed structures or development require a SMA permit. Access to the shoreline is provided via a road located on Parcel 11. The County requests that the tenant is prohibited from restricting access to the shoreline.
County of Maui – Public Works	No objections
Office of Hawaiian Affairs	No comment

CWRMS's comments were submitted to Mr. Souza Jr. At this time, Mr. Souza Jr. is not planning to do any work (improvements) in the stream or streambed.

Concerning the Department of Planning's request. Our staff explained that this was a County function to provide shoreline access to the public. It would normally occur when the tenant is seeking a County permit (in this case SMA).

We have not seen such a restriction placed in a lease or permit.

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 Barron Thomas Souza Jr., 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:

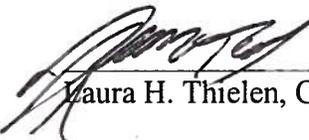
- a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
- b. Review and approval by the Department of the Attorney General; and
- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Larry Pacheco
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



12 September 2005

STATE DISTRICT
LAND DIVISION

2005 SEP 14 PM 4:10

Mr. Dan Ornellas
Land Agent,
Dept. Of Land & Natural Resources, Ground Floor
State Building
Wailuku, HI 96793

Dear Mr. Ornellas:

I would like to strongly champion my friend and neighbor Baron Souza as the perfect candidate for the vacant State Revocable Permit for parcel TMK 2-9-01:11.

Baron presently has an easement through the parcel to reach his homestead.

Baron owns horses, but is unable to quarter them at his homestead for lack of forage. Having the State permit would allow him to fence a substantial area of pasture, enjoy his horses and benefit by letting go of other rental pastures.

Baron has demonstrated that he is a good steward of the land.

It would be an asset to the neighborhood if the parcel were managed and enjoyed by the very family surrounded by the State Land.

Sincerely,



Lafayette Young

Revocable Permit Holder # RP-5232

HC 1, Box 42
Haiku, HI 96708

EXHIBIT B

DS

Green: Conservation District
Blue: State Land

Conservation District

Conservation District runs along top of cliff to the ocean below.

B. Souza
009

(2) 2-9-001:011

(2) 2-9-001:008

