

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

February 11, 2011

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

Hawaii

Forfeiture of Revocable Permit No. S-7421, Felix Ibarra, Permittee, Waiohinu, Ka'u, Hawaii, Tax Map Key: 3rd/9-5-05: portion of 03.

PURPOSE:

Forfeiture of Revocable Permit No. S-7421, Felix Ibarra, Permittee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Waiohinu, Ka'u, Hawaii, identified by Tax Map Key: 3rd/9-5-05: portion of 03, as shown on the attached map labeled Exhibit A.

AREA:

140 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE OF PERMIT:

Commenced on 01/01/2000.

MONTHLY RENTAL:

\$80.00.

REMARKS:

Pursuant to the provisions contained in Revocable Permit S-7421, Felix Ibarra, Permittee, was mailed three default notification letters dated 10/4/10, 11/9/10, and 12/3/10 for:

Failure to keep lease rental payments current

Failure to post required security deposit

Failure to post required fire insurance policy

Failure to post required liability insurance policy

Other: _____

These notices were for rent owed for the months of September, October and November 2010. A check for \$80.00 received by the DLNR fiscal office on 10/1/10. However this check was returned for non-sufficient funds (NSF) along with an additional \$25.00 return fee (2nd NSF check in two years). The Permittee has not made a payment since

As of 1/24/11, the current status of all permit compliance items is as follows:

RENT: The Permittee has a rental delinquency of \$755.00 for the time period from 7/01/10 to 2/28/11.
The delinquency amount includes all late fees and service charges.

INSURANCE: The Permittee has posted the required liability insurance policy.
Expires 2/08/2011.

SECURITY DEPOSIT:
The Permittee has posted the required security deposit.
(cash deposit \$160.00)

The subject parcels were previously encumbered by General Lease No. 3511 for sugar production to Hutchinson Sugar Company (HSC) from 1/01/1955 through to 12/31/1969. Following the expiration of the lease, HSC held the land under Revocable Permit No. S-4737, effective 1/01/1970. Subsequent to the issuance of the RP, HSC changed its name to Ka'u Sugar Company, Inc., then to Ka'u Agribusiness company, Inc. The permit was cancelled 12/31/1999.

Prior to the cancellation of the revocable permit, Ka'u Agribusiness had been allowing ranching to occur on portions of State and private lands while it transitioned out of the sugar business. Three of the ranchers using these lands requested continued use of the

State land for ranching purposes and as a result, at its meeting of 4/12/2001, parcels 3rd/9-5-05:03 and 3rd/9-5-13:01 were portioned out to Daleico Ranch, Felix Ibarra and S & S Dairy, Inc. for pasture use. A smaller portion of the property was permitted to Sydney Andrade for intensive agriculture purposes.

Felix Ibarra has been utilizing a portion (approximately 140 acres) of parcel 9-5-05:03 under RP S-7272 as of January 1, 2000. From May 2008, rent payment has been periodic with late fees accumulating. On two separate occasions, payment checks were returned due to insufficient funds. The most recent payment, dated September 29, 2010 was returned to us as unpaid by the Bank of Hawaii. No further payment has been received since that time.

RECOMMENDATION: That the Board:

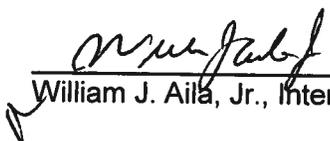
1. Authorize the cancellation of Revocable Permit No. S-7421 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under Revocable Permit No. S-7421 to be applied to any past due amounts;
3. Terminate the permit and all rights of Permittee and all obligations of the Permitter effective as of February 11, 2011, provided that any and all obligations of the Permittee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Permitter reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under Revocable Permit No. S-7421 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



Gordon C. Heit
Land Agent *KSH*

APPROVED FOR SUBMITTAL:

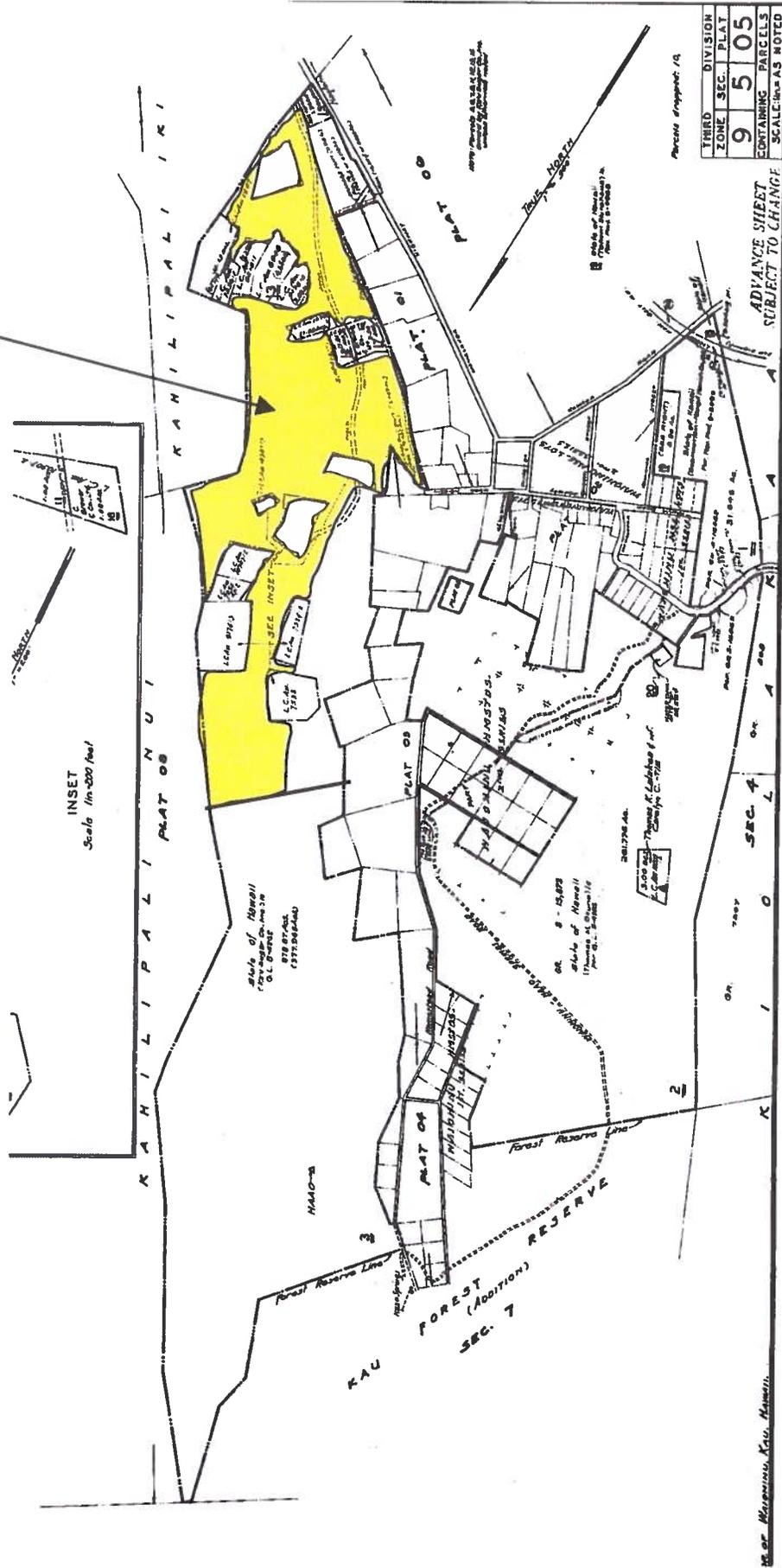


William J. Aila, Jr., Interim Chairperson

EXHIBIT A

FELIX IBARRA RP S-7421

TMK: 3rd/9-5-05: portion of 03



W. or. Hawaiian, Kau, Hawaii.