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GOVERNOR OF
HAWAII



SUZANNE D. CASE
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COMMISSION ON WATER RESOURCE MANAGEMENT

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COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
WATER & LAND

Friday, February 10, 2017
9:00 AM
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 839
RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES

House Bill 839 proposes to require the Auditor to conduct a procurement audit of the Department of Land and Natural Resources (Department). **The Department appreciates the intent of this bill and provides the following comments.**

The Department welcomes a fair and independent audit as an opportunity to improve our work. The Department regularly reports financial information in Legislative reports and a multitude of budget forms for special, general, and capital improvement project funds. The Department is willing to provide additional information to Legislators, auditors, or any other interested parties.

Like other departments, the Department is regularly audited, such as the Annual Departmental Audit – (completed by Ohata, Chun, Yuen, LLP), the Annual A-133 Audit – (completed by Accuity, LLP), as well as various Federal audits for grants from the United States Fish and Wildlife Service and Forest Service.

The Department strives to be transparent and proactive, so we would appreciate the opportunity to address any additional questions that are giving rise to an audit recommendation now, rather than waiting for a long and protracted audit process.

The Department's Division of Forestry and Wildlife recently provided the Legislature responses to the following questions regarding the 2030 watershed plan:

1. *Does the Department use contractors or staff for the watershed initiative?*
 - a. DLNR employees in LNR 407, 402, and 172 are responsible for the planning and oversight of fence construction contracts, construction of which are large one-time projects mainly performed by contractors. Ongoing management of the State's watershed forests are done both by DLNR employees as well as contractors – primarily staff from the Watershed Partnerships. DLNR hopes to increase efficiency and cost-effectiveness by maintaining and eventually expanding its civil service capacity to do the ongoing maintenance work and reduce reliance on contractors.

2. *What is the plan for the 2030 Watershed Initiative and how much is it going to cost?*
 - a. Currently, 127,000 acres of high-priority forests are protected (15%). To reach the goal of 30% by 2030, DLNR must protect 9,000 acres per year. DLNR and partners currently have fences planned and identified for the next decade. The Department has already completed compliance, permitting and conducted public outreach for many of these projects. DLNR is requesting \$7.5 million per year this biennium in CIP fencing costs to get back on track towards the 2030 target. In future years, \$5 million per year is needed to stay on track. The executive budget also includes \$500,000 in additional operational funding to maintain these newly protected watershed forests, which will require modest yet steady increases in future years to maintain protected areas.

The Department has provided the Chairs of the House Committees on Finance and Water and Land the permits and management plans associated with each fence, and is happy to provide copies to other interested members of the Legislature.

With respect to the Special Land and Development Fund (SLDF), Land Division procures disinterested appraisers to determine lease rents and fair market values for the sale of remnants and other dispositions, procures planning, architectural, engineering and other consultants to advise the Department on its leases, vacant lands, and tenant improvements on expired leases, and procures hearing officers for contested cases.

House Bill 839 specifies that the procurement audit shall:

- (1) Review all of the contracts, grants, and memorandums of understanding awarded by the department of land and natural resources relative to its management and administration division, division of forestry and wildlife, and special land development fund;
- (2) Identify the methods used by the department of land and natural resources to base its decisions regarding how and where to expend funds; and
- (3) Examine whether the funds were expended by the department of land and natural resources in accordance with the contracts, grants, and memorandums of understanding.

With respect to the procurement of appraisers, Section 171-17, Hawaii Revised Statutes (HRS), requires that rents for public land leases be no less than the value determined by a disinterested

appraiser whose services shall be contracted for by the Board of Land and Natural Resources (Board). In retaining real estate appraisal services, the Department follows the procurement process for professional services set forth in the Hawaii Procurement Code, Chapter 103D, Hawaii Revised Statutes (HRS). The Department publishes a Land Division solicitation for statements of qualifications and expressions of interest from licensed real estate appraisers on the State and County Procurement Notices for Solicitations internet site, and also publishes notices of solicitation in the Honolulu Star Advertiser, as well as the county newspapers. A review committee appointed by the Chairperson reviews and evaluates submissions from real estate appraisers who submit statements of qualifications and expressions of interest (SoQs) by the published due date and prepares the list of persons qualified to provide appraisal services. As required by Section 103D-304(c), HRS, the review committee members have education or training sufficient to review the credentials of the appraisers who submit SoQs.

When an appraisal is required, all appraisers on the qualified list are evaluated for the job in accordance with the requirements of subsections (e) and (f) of Section 103D-304, HRS, by a selection committee appointed by the Chairperson. Although the statute requires that a minimum of three persons be ranked, the selection committee ranks all of the qualified appraisers to determine the top three ranked appraisers. The selection criteria provided in subsection (e), in descending order of importance, are:

- (1) Experience and professional qualifications relevant to the project type;
- (2) Past performance on projects of similar scope for public agencies or private industry, including corrective actions and other responses to notices of deficiencies;
- (3) Capacity to accomplish the work in the required time; and
- (4) Any additional criteria determined in writing by the selection committee to be relevant to the purchasing agency's needs or necessary and appropriate to ensure full, open, and fair competition for professional services contracts.

In accordance with Section 103D-304(g), HRS, the selection committee sends its ranking to the Chairperson for approval. If approved, pursuant to Section 103D-304(h), HRS, Land Division staff (as the Chairperson's designee) contacts the first-ranked appraiser and negotiates a contract in writing, to include a rate of compensation that is fair and reasonable. If a satisfactory contract cannot be reached with the first-ranked appraiser, negotiations are formally terminated and negotiations with the second ranked appraiser commence. (The process will continue down the list of the ranked appraisers if necessary.) Section 103D-304(h), HRS, also provides that negotiations shall be conducted confidentially. The contract with the appraiser includes the appraisal assignment, date of valuation, and agreed upon compensation to the appraiser.

With respect to revocable permits, Chapter 171, HRS, does not require that rents be established by a disinterested appraiser. Rather, pursuant to Section 171-55, HRS, the Board issues revocable permits "under conditions and rent which will serve the best interests of the State . . ." In the past, Land Division had a licensed staff appraiser who would review revocable permit rents from time-to-time. However, Land Division has not had a licensed appraiser on staff for a number of years. In 2016, the Chairperson convened a task force to revisit and evaluate the

existing protocols and criteria for selecting a revocable permit or a lease for a disposition of use of State lands and to make recommendations for improvement. The Task Force made a number of findings and recommendations designed to improve the process of issuing and renewing revocable permits, which are set forth in a report to the Board of Land and Natural Resources at its meeting of June 24, 2016, under agenda Item D-7 (copy of report attached).

A legislative informational briefing (before the Senate Committee on Water, Land and Agriculture) on the Report and Recommendations of the Department's Revocable Permits Task Force was held on July 13, 2016.

Also in 2016, the Department procured an independent appraiser to review the rents for revocable permits. The appraiser's focus is on those permits covering lands and uses that have potential to generate significant rents, such as permits for commercial, industrial and parking uses. It would be cost prohibitive to have an appraiser value each one of Land Division's approximately 350 revocable permits statewide. Subject to budget constraints in the Special Land and Development Fund,¹ we expect the appraiser to reach rent conclusions in 2017-18, after which Land Division staff intends to present recommendations for rent increases to the Board. In the interim, in 2016 the Board did increase rents for all revocable permits for land by 1.5% for each year since the last rental adjustment for each permit.

The professional services procurement method is also used to procure planning, architectural, engineering and other professional services. However, the review and selection committees for the respective professions have different members than the appraisal review and selection committees.

The Department believes a procurement audit will verify that the Department expends funds in accordance with the contracts, grants and memorandums of understanding.

Thank you for the opportunity to comment on this measure.

¹ The estimated cost of preparing a portfolio appraisal report on 167 parcels under revocable permit is approximately \$600,000.

AMENDED

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Honolulu, Hawai'i 96813

June 24, 2016

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Statewide

Report and Recommendations from the Department of Land and Natural Resources
Revocable Permits Task Force

INTRODUCTION

This report was prompted by an inquiry from the Board of Land and Natural Resources ("Board") and public interest regarding the Department of Land and Natural Resources application and management of revocable permits and leases. Chairperson Case convened this task force to revisit and evaluate the existing protocols and criteria for selecting a revocable permit or a lease for a disposition of use of State lands and to make recommendations for improvement. The goals are to best serve the needs of the people of Hawai'i, utilize public land to optimize its use in a sustainable manner, generate additional income for natural and cultural resource management, and to satisfy the fiduciary responsibility to the State of Hawai'i. The Department of Land and Natural Resources has a responsibility to implement the public trust in managing State lands and as such, it is Department of Land and Natural Resources' duty to award and steward these lands accordingly.

The vast variety of public lands under the jurisdiction of Department of Land and Natural Resources deserves a rationale and protocol for discerning the type of disposition that may be warranted. These recommendations are the result of the task force's goal to provide a more efficient, equitable, and inclusive system of public land management.

In today's world, it is critical to adapt and to learn, from the frequent updates and improvements from the way businesses are run to downloading the newest and most effective apps for computers and mobile phones. The purpose is always to improve upon a system or method. The task force applied this approach to the job at hand; i.e., to update the Department of Land and Natural Resources system and method of selecting types of dispositions to better manage the task of public land management and to deliver a more equitable process between permitors/permittees and lessors/lessees.

LEGAL REFERENCES

Sections 171-6, 13, 55, and 58, Hawai'i Revised Statutes, as amended, govern the revocable permit process

as amended

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

June 24, 2016 *uo.*

ITEM D-7

BACKGROUND

Members of the public and local media shined a spotlight on the Department of Land and Natural Resources' revocable permits and leases, present, past and "on the table." The task force took this complex organizational challenge and began working on what needs to be done to accomplish positive change. This called for revisiting each island and its special issues while scrutinizing the system in place. In the majority of instances, we found evidence of fair pay, equitability, and satisfaction.

Having noted that, our attention turned to the aberrations in the system. Our priority was to be mindful of our obligations to the Public Trust and stewardship overseeing these public lands. The State statutes and administrative rules were our ready reference to confirm appropriate and authorized uses. We researched opportunities to suggest and/or consider repurposing our methods to achieve the highest and best use of these lands. We examined why and how agreements can sometimes appear to be "questionable." We determined that we need to raise the bar on our level of review regarding the length of the lease or permit time, fair market rents, parcel legal specifications, and broadening the scope and style of the bidding process.

In February 2016, Chairperson Case convened the task force to review the Department of Land and Natural Resources' revocable permit process and permit status, and to make any recommended changes to the Board to ensure the process serves the public trust and provides inclusiveness and consistency.

Chairperson Case appointed the following members to the task force:

- Chris Yuen, Board Member
- Paula Harris, Real Property Professional
- Scott Glenn, Office of Environmental Quality Control Director
- Jeff Pearson, Department of Land and Natural Resources Water Deputy
- Department of Land and Natural Resources Administrators:
 - Russell Tsuji, Land Division
 - Ed Underwood, Division of Boating and Ocean Recreation
 - Curt Cottrell, Division of State Parks
 - David Smith, Division of Forestry and Wildlife

The task force's areas of focus were to examine:

- Reasons for revocable permits vs longer-term dispositions
- Notice and opportunity for competition
- Duration of revocable permit terms
- Pricing, including establishment of value and any reasons for discounted value
- Review of current longer-term revocable permits
- Recommendations on possible administrative rules

The expected outcomes were to:

- Identify best practices and articulate principles to be applied;
- Update the Board review process and submittal form;
- Propose specific revocable permits for reconsideration by the Board, to long-term lease status, as appropriate; and
- Have new practices in place at the Department of Land and Natural Resources by June 30, 2016.

To fulfill its mandate, the task force met February through April 2016.

PRINCIPLES

The task force identified the following principles, which served as the basis for its findings, discussion, and recommendations.

1. The Department of Land and Natural Resources stewards the largest amount of state land. The Department of Land and Natural Resources has constitutional and statutory obligations to implement the public trust of stewarding resources, provide for reasonable and sustainable use of resources, and in return obtain a fair revenue for reinvestment into resource management. The method to obtain this goal is to add value and purpose to certain lands rather than leaving them vacant, thus allowing for both use and stewardship of the land. It is also a goal to provide value-added service and activity for the public by evaluating and creating opportunity on public land.
2. In many cases, it is preferable to have long-term and competitive leases than revocable permits; however, revocable permits have a useful function in helping the Department of Land and Natural Resources to administer its fiduciary responsibility by enabling the adaptation and transition to new uses over a short period of time.
3. Each revocable permit should have a specific justification. The revocable permit process is a public process that can be made more accessible to the *people* of Hawai'i, add purpose to public land in a sustainable manner, provide a fair compensation to the *State* of Hawai'i for the use of public land, and allow fair competition and certainty for the applicants seeking to use public trust resources.
4. The revocable permit process and decision making standards must be consistent and equitable across the respective Department of Land and Natural Resources Divisions.

DISCUSSION AND FINDINGS

The task force held discussions and made findings as follows:

1. The numbers of revocable permits by Division as of April 2016 are as follows:
 - a. Land Division; 340
 - b. Division of Boating and Ocean Resources; 30
 - c. Division of State Parks; 29
 - d. Division of Forestry and Wildlife; 1

2. As of 2015, Land Division's Revocable Permit list consisted of 340 permits, containing about 97,650 acres, and generating about \$2,032,000 in annual rents. In contrast, Land Division also manages about 1,012 long-term leases and 1,104 easements totaling about 2,116 long-term dispositions, with annual revenues of about \$13,357,000, as of April 2016.
3. The Department of Land and Natural Resources and Board are responsible for managing approximately 1.3 million acres of public lands comprised of sensitive natural, cultural and recreational resources. Much of these lands are set aside to government agencies for public purposes such as forest reserves, state parks, commercial and small boat harbors, airports, schools, etc. The remaining lands are mainly under the management of the Land Division who issued the dispositions (leases, permits, easements, etc.) above.
4. The Division of Boating and Ocean Resources and the Division of State Parks have recently engaged in reviews of their respective revocable permit lists to determine those that qualify to be issued under a lease process and those that require further examination due to anomalies and specific circumstances.
5. Current Division report templates to the Board have a section for revocable permit discussions. However, discussions vary in depth and completeness.
6. Water-related revocable permits are administered under Section 171-58, Hawai'i Revised Statutes, which is a separate statute and process from the land-related revocable permits regulated under Section 171-55. The statute states that water-related temporary uses may be issued so long as they will best serve the interest of the State and may be issued on a month-to-month basis subject to a maximum term of one year and other restrictions under the law. To obtain a long-term lease, the statute requires applicants to comply with the environmental review provisions of Chapter 343, Hawai'i Revised Statutes, consult with the Department of Hawaiian Home Lands on water amounts and issues, perform an appraisal, and then go to auction, prior to Board approval. This process can take more than one year to complete. Section 171-58 also provides for obtaining water leases for non-consumptive uses, such as hydropower, without public auction, by direct negotiation.
7. Currently, the Land Division administers 14 water revocable permits to 10 permittees. During the 28th Legislature of the State of Hawai'i, 2016 Regular Session, House Bill 2501 was introduced to address this process for permittees in holdover status. It allows those in holdover status time to complete the process to move from revocable permits to long-term leases, while retaining the water rights under the revocable permit for up to three years. At the time of this report, House Bill 2501 passed the State Legislature and is awaiting the Governor's review.
8. Appraising parcels and issuing leases are resource-intensive activities for Divisions. These activities require funds and staff time. They are sometimes delayed if funds are not available or staff have other issues that take precedent for their time. Costs for appraisals must be able to be recovered in a reasonable time through revocable permit fees for the appraisal to be justified.
9. A review of Division reasons for issuing revocable permits yielded common factors that could be summarized into a checklist. Factors included conditions about the lot that precluded leasing, such as the inability to subdivide, future

planned use of a parcel, and liability concerns, among others. An additional "other" reason could be added to the checklist to clarify why a lease is infeasible. Staff reports could check the applicable reasons and include supplemental information as needed to justify the revocable permit issuance.

10. Some parcels, by their nature, have limited to no competition for their use. Encouraging competition may not be practical due to administrative costs and limited market response, such as parcels where only an adjoining landowner owns legal access. In other cases, lands are provided to organizations that provide benefits to the State and it does not make sense to charge a fee.
11. Some activities on a specific parcel are new or experimental in nature and require a one-year temporal process to determine if the disposition yields a sufficient return.
12. Exhibit 1 summarizes task force review of certain revocable permits that have received scrutiny recently. The task force, with the help of the Land Division, took a fresh look at a selected group of revocable permits. This practice will continue with other revocable permits going forward.

RECOMMENDATIONS

The task force offers the following recommendations to the Board:

1. Land Division's revocable permits should be reviewed at four meetings a year, by county. Other divisions should present all of their own revocable permits at one Board meeting.
2. Given the strong public interest in the revocable permit/long-term lease process, continue to ask the Legislature to create and fund additional staff positions, including increased management-level staff, at the Land Division and other Divisions to implement the process so that the desired higher level of service can be better achieved.
3. Standardize the Divisions' submittal template to the Board to include a checklist for revocable permits and supporting details for their review (See Exhibit 2).
4. Develop policy guidance for all Divisions on the revocable permit process and standards consistent with this report.
5. Develop a timeline for follow up for revocable permit reviews in accordance with the policy.
6. List revocable permits online with key information and a contact point for questions or interest. The current revocable permit list can be found at <http://dlnr.hawaii.gov/ld/revocable-permits-land-division/>.
7. Require each Division to track market interest in parcels currently used under revocable permits and determine a threshold for when enough interest is present that the parcel is put out for competitive bidding, either as a revocable permit or a lease.
8. Develop an internal calendaring system for each Division to track a parcel's movement toward a long-term disposition, as appropriate.
9. Review and update, as appropriate, revocable permit rental amounts and provide justification for rental amount.

10. Develop procedures for competition over revocable permits when there is reason to think market interest exists and it is not feasible to put it out to public auction.
11. Work with holders of water revocable permits to initiate the process to convert to water leases.

Based on the details noted in this report, we recognize that in addition to implementing these recommendations, additional staffing is of utmost importance to make a successful shift from the way Department of Land and Natural Resources conducts this process to a revised model that honors accountability.

Respectfully Submitted,
The Revocable Permit Task Force

APPROVED FOR SUBMITTAL:



Suzanne D. Case

Land Board Meeting: June 24, 2016; D-7: Approved as amended.

Approved as amended. See attached page.

Land Board Meeting: June 24, 2016; D-7: Approved as amended.

Approved as amended. The Board amended the recommendation section by adding the following:

12. All divisions should notate any noncompliance issues with any existing revocable permit being renewed (in the renewal spreadsheet form template provided to the task force meetings) or in the submittal for new revocable permits.

13. All division should notate any pending litigation involving any existing revocable permit being renewed (in the renewal spreadsheet template form discussed in the task force meetings) or in the submittal for new revocable permits.

EXHIBIT 1: REVOCABLE PERMIT "FRESH LOOK" FOR RECENTLY HIGHLIGHTED PERMITEES

Below is a fresh look at a sample of recently discussed revocable permits. Task force members did a review and report the following. **Staff will bring recommendations to the Board as appropriate.**

- **Antone Carrillo/previous permit to Annitta Perreira/\$600 per month**
Generally, Land Division does not issue long-term leases for residential properties to allow flexibility for changing tenants. In addition, the Department of Land and Natural Resources is not organized to function effectively as a residential manager. This area is not in high demand and a reasonable rent is charged.
- **Diamond Head Papaya Co. Ltd./agricultural lands 125 acres/\$709 per month**
Lands have been under revocable permit since 1983 to Diamond Head Papaya. It has been under Revocable Permit 7656 since 2011. Other revocable permits were started in 1989 (80 acres at \$400/month) and 2003 (125 acres at \$700/month). There was a review done on monthly rent with comparable lands nearby. A question was raised about Mr. Renton Nip's involvement with obtaining the revocable permits but no reference to him was found in any of the permit documents dating back to 1983. Staff should review for long-term lease potential.
- **Donna Nunes-Hoopii/request to cancel**
Staff is not aware of non-compliance issues of the permit terms at this time. This is a residential revocable permit and not intended for lease (see above regarding residential properties).
- **Francis Madrid/rental rates/\$386 per month**
Rent is based on unimproved land. Tenant has resided there for more than 50 years. In 1992, Hurricane 'Iniki devastated the home. The permittee cleaned the property and rebuilt the home. The last appraisal was in 1999 at \$514 per month with a 25% discount for tenancy to \$386 per month. This is a residential revocable permit and not intended for lease (see above regarding residential properties).
- **Hazel Higgins/rental rates/\$262 per month**
Rent was at \$435/month, appraised in 1999, and lowered to \$262/month. Lands are not subdivided. There may be interest in a land purchase as a remnant parcel. Staff should confirm the current fair market value.
- **Jacob Kaleo Hines/rental rates/\$500 per month**
Surrounding lands are permitted for agricultural use. The Board approved the revocable permit with conditions to demolish the main dwelling and consolidate the two smaller dwellings. This is a residential revocable permit and not intended for lease (see above regarding residential properties).
- **Junedale Hashimoto/rental rates/\$454 per month**
This is a unique situation that the Board approved on June 13, 2012 after extensive review based on staff recommendation for a revocable permit.

EXHIBIT 1: REVOCABLE PERMIT “FRESH LOOK” FOR RECENTLY HIGHLIGHTED PERMITEES

- **Peter Kunstadter/pier dock/\$19 per month**

A non-commercial pier for which the owner refused a long-term easement. Mr. Kunstadter’s pier qualified under Act 261, Session Laws of Hawai’i 2000 for a 55-year non-exclusive easement. He failed to act timely before the sunset date and remained under a revocable permit. Staff wrote to Mr. Kunstadter recently to determine whether to proceed with a long-term easement or terminate the revocable permit.

- **Wanda Nakoa of Waianae/deceased/permit renewed**

Staff was not informed of the permittee’s death and has no mechanism for receiving this information automatically. Meanwhile, the permit remained in full compliance. At times, permits may be covered by a family member and the Board may re-issue the permit to a family member who applies for it. This is a residential revocable permit and not intended for lease (see above regarding residential properties).

EXHIBIT 2: REVISED BOARD SUBMITTAL TEMPLATE

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
_____ Division
Honolulu, Hawaii 96813
(Date of Board Meeting)

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

PSF No.: _____

(Island)

Issuance of Revocable Permit to (Name), (Town), (District), (Island), Tax Map Key: _____.

APPLICANT:

(Name of Applicant), marital status, Tenants in _____, OR a _____ corporation/partnership, (as applicable).

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of _____ situated at (Town), (District), (Island), identified by Tax Map Key: _____, as shown on the attached map labeled Exhibit A.

AREA:

___ acres, more or less.

ZONING:

State Land Use District: _____

County of _____ CZO: _____

TRUST LAND STATUS:

Section 5() lands of the Hawaii Admission Act

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

EXHIBIT 2: Revised Board Submittal Template

CURRENT USE STATUS:

Vacant and unencumbered.

Or

Encumbered by General Lease No. S-____, (*Lessee Name*), Lessee, for (*character of use*) purposes. Lease to expire on (*Date*).

CHARACTER OF USE:

_____ purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$_____ per month, based on staff appraisal dated (*Date*), attached as Exhibit B.

OR

[Optional] To be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

Explain why the rent charged is fair under the circumstances.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. __, Item No. __. See exemption declaration attached as Exhibit __.

OR

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on (*date*) with a finding of no significant impact (FONSI).

OR

The Final Environmental Impact Statement acceptance notice for the subject project was published in the OEQC's Environmental Notice on (*date*).

OR

EXHIBIT 2: Revised Board Submittal Template

If subject lands are in Conservation District, check with Applicant and OCCL if CDUP required.

DCCA VERIFICATION:

Place of business registration confirmed: YES _ NO

Registered business name confirmed: YES _ NO

Applicant in good standing confirmed: YES _ NO

(If not applicable, state as such and explain why. E.g.: 1) Applicant is not operating a business and, as such, is not required to register with DCCA, 2) Applicant is sole proprietorship and, as such, is not required to register with DCCA, etc.)

JUSTIFICATION FOR REVOCABLE PERMIT (IF APPLICABLE):

Explain why month-to-month tenancy is more appropriate than long-term disposition in this case. [E.g., does the parcel have legal access? Is it a legally subdivided lot? Is it a substandard lot size? Is it pending transfer to another division or agency? Are there issues with squatters or dumping? Is it a remnant? Has anyone from the public expressed interest in acquiring a long-term disposition of the parcel?]

- A. Site issues make property unsuitable for public auction lease (RP typically goes to adjacent owner):
 - 1. No legal access
 - 2. Substandard lot size or irregular shape
 - 3. Only interest is for a portion of a lot; subdivision difficult (example, landscaping)
 - 4. Pasture property difficult to use except in conjunction with adjacent property (adjacent owner may have water system, fencing, ability to move cattle)
 - 5. Property cannot be leased without major infrastructure improvements (Hoonee Place)
- B. Truly short-term use (examples, construction staging area)
- C. Interim arrangements pending lease disposition
 - 1. Could be leased at public auction, staff needs time to prepare (staff will give timetable)
 - 2. Awaiting long-term decisions to be decided in planning process (example, Banyan Dr.)
- D. Testing market and operational issues, plan to go to lease later (example, parking at State Parks)

EXHIBIT 2: Revised Board Submittal Template

E. Government uses

1. Pending E.O. or other long-term disposition (provide timetable)
2. Only short-term transfer needed

F. Non-profits

1. Pending direct lease (provide timetable)
2. Trial period while nonprofit gets funding, proves capacity to use site, etc.

G. Staff unaware of interest in long-term disposition

H. Other unusual circumstances (provide explanation)

Discussion:

REMARKS:

Discuss the history of the parcel.

Discuss whether proposed use is allowable in the county zoning, including, where necessary, comments from county planning or land utilization departments on such compliance.

Make a statement that Applicant 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.

Discuss the applicant's qualifications to be using land. For ag/pasture permits, comment on whether applicant would qualify as a bona fide farmer pursuant to §171-14.5, HRS. Discuss special circumstances which would exempt Applicant from this.

Discuss whether there were other applicants requesting the same parcel, and if so, indicate dates requests made.

Discuss any agency or community comments, including a statement on what agencies were solicited for comments and a statement that no comments were received, where applicable.

EXHIBIT 2: Revised Board Submittal Template

Discuss any other pertinent issues or concerns, including but not limited to, those for which a special condition was made in the Recommendation section.

Whenever recommending an action that qualifies for an exemption from the preparation of an environmental assessment, you need to include a short statement why the action should be exempt. The proposed use has continued since xxxx and will continue. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

RECOMMENDATION: That the Board:

ONLY IF APPLICABLE (if EA/EIS done, delete):

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 (Name) covering the subject area for _____ 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.

(Any other special conditions not included in the current document form.)

Respectfully Submitted,

EXHIBIT 2: Revised Board Submittal Template

(Name of Agent)

(Title)

APPROVED FOR SUBMITTAL:

Suzanne D. Case, Chairperson



HOUSE COMMITTEE ON WATER & LAND
The Honorable Ryan I. Yamane, Chair
The Honorable Sam Satoru Kong, Vice Chair

H.B. 839, Relating to the Department of Land and Natural Resources

Hearing: Friday, February 10, 2017, 9:00 A.M.

The Office of the Auditor has **no position** regarding the “procurement audit” of the Department of Land and Natural Resources’ Management and Administration Division, Division of Forestry and Wildlife, and Special Land Development Fund that H.B. No. 839 requires us to perform. **We, however, support the funding contained in the bill for us to hire additional analysts to perform the requested audit in the required time and further suggest certain amendments to the bill as described below to more clearly reflect the intended scope of the audit.**

Section 2 of the bill specifically requires us to review all of the contracts, grants, and memorandums awarded by the Department of Land and Natural Resources relative to the three aforementioned divisions and special fund. While the State Procurement Code may apply to some of the contracts, grants, and memorandums of agreement, there are likely many more memorialized transactions and agreements within the scope of review called for by H.B. No. 839 that have not been “procured.” As such, a “procurement audit” may not be the appropriate type of examination. If the general intent of the audit is to examine the department’s administration of the relevant contracts, grants, and memorandums of agreement, **we suggest that the committee amend the bill to direct us to perform an “audit of the contracts, grants, and memorandums of agreement of the Department of Land and Natural Resources’ Management and Administration Division, Division of Forestry and Wildlife, and Special Land Development Fund.”**

We strongly support Section 4 of the bill, which appropriates \$300,000 in both fiscal year 2017-2018 and fiscal year 2018-2019 for us to hire additional analysts and a consultant, if necessary. We currently have 13 line staff, all of whom are assigned to audits and are concerned about our ability to perform the requested audit without additional staff.

As an example of our staffing concerns, Acts 245 and 261, Session Laws of Hawai‘i 2016 (codified as sections 23-71 through 23-81 and 23-91 through 23-96, Hawa‘i Revised Statutes), require us to review about 120 tax exemptions, exclusions, credits, and deductions to determine, among other things, the amount of the particular tax incentive and to recommend whether it should be continued, modified or repealed. The Joint Legislative Audit and Review Committee (JLARC), which is the State of Washington’s functional equivalent of our office, has been conducting a similar review of its state’s tax incentives. That office has four full-time analysts

dedicated to the tax incentive reviews as well as one-half of both the director and deputy director's time.

Although we are currently uncertain of our staffing needs to properly perform the tax incentive reviews, we expect that a number of staff will be dedicated to that project. Given the number of ongoing audits, statutorily required audits, and the additional examinations the legislature likely will request us to perform, we have concerns about our ability to commit sufficient resources to undertake what likely will be a relatively large, complex audit of the Department of Land and Natural Resources' Management and Administration Division, Division of Forestry and Wildlife, and Special Land Development Fund. For that reason, we feel that the additional appropriation is necessary for us to do the work required by the bill

Thank you for considering our testimony related to H.B. No. 839.

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WAIPAHU, HAWAII 96797

LATE

**Testimony to the House Committee on Water & Land
Friday, February 10, 2017
9:00 a.m.
Conference Room 325**

RE: HB 839 & 840 – Relating to the Department of Land & Natural Resources

Chair Yamane, Vice-Chair Kong, and members of the committee:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII is in support of H.B. 839 and H.B. 840, which proposes the following:

H.B. 839 proposes to require the Auditor to conduct a procurement audit of the department of land and natural resources to review the procurement activity of its management and administration division, division of forestry and wildlife, and special land development fund.

H.B. 840 proposes to require the Auditor to conduct procurement audit of the land division of the department of land and natural resources to examine all land leases and revocable permits issued and managed by the land division.

A periodical review of processes and procedures in any government institution should be welcomed as audits often identify areas that need to be revised or re-engineered to bring the current processes and procedures more in line with today's objectives or outcomes.

We strongly support the passage of both H.B. 839 and H.B. 840, and appreciate the opportunity to provide our comments on this matter.

waltestimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 11:41 AM
To: waltestimony
Cc: philferna@gmail.com
Subject: Submitted testimony for HB839 on Feb 10, 2017 09:00AM

HB839

Submitted on: 2/9/2017

Testimony for WAL on Feb 10, 2017 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Philip Fernandez	Hawaii Fishermen's Alliance for Conservation and Tradition, Inc.	Support	No

Comments: HFACT SUPPORTS HB 839 relating to the Department of Land and Natural Resources. HFACT believes that a procurement audit is the type of tool that the legislature should use to provide oversight to the Department of Land and Natural Resources. The Governor nor the Chairperson cannot object to transparency of an audit. HFACT seeks not only transparency but hope that an audit will lead to improvements in the Departments procurement practices. HFACT apologizes for this late testimony and thanks Chair Yamane, Vice Chair Kong, and the members of the committee for the opportunity to provide supporting comment. Phil Fernandez President Hawaii Fishermen's Alliance for Conservation and Tradition, Inc.

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Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Water and Land
Friday, February 10, 2017 at 9:00 A.M.
Conference Room 325, State Capitol**

**RE: HOUSE BILLS 839 AND 840 RELATING TO THE DEPARTMENT OF LAND
AND NATURAL RESOURCES**

Chair Yamane, Vice Chair Kong, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent** of HB 839 and HB 840, which propose the following:

HB 839 proposes to require the Auditor to conduct a procurement audit of the department of land and natural resources to review the procurement activity of its management and administration division, division of forestry and wildlife, and special land development fund.

HB 840 proposes to require the Auditor to conduct procurement audit of the land division of the department of land and natural resources to examine all land leases and revocable permits issued and managed by the land division.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

A periodical review of processes and procedures in any government institution should be welcomed as audits often identify areas that need to be revised or re-engineered to bring the current processes and procedures more in line with today's objectives or outcomes.

We strongly support the passage of both HB 839 and HB 840, and appreciate the opportunity to provide our comments on this matter.

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From: mailinglist@capitol.hawaii.gov
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To: waltestimony
Cc: HAWAIIFUNDIVER@HOTMAIL.COM
Subject: *Submitted testimony for HB839 on Feb 10, 2017 09:00AM*

HB839

Submitted on: 2/8/2017

Testimony for WAL on Feb 10, 2017 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
jason Hijirida	Individual	Support	No

Comments:

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To: waltestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB839 on Feb 10, 2017 09:00AM*

HB839

Submitted on: 2/7/2017

Testimony for WAL on Feb 10, 2017 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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kong2 - Crystal

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Cc: fishingready@gmail.com
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HB839

Submitted on: 2/9/2017

Testimony for WAL on Feb 10, 2017 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ronald Tam	Individual	Support	No

Comments: I support the proposed legislation because an (independent) outside review of the inner workings of any organization or segment thereof is typically accomplished with the goal of improving processes and process execution. As a boater, my regular interactions with DLNR staff are indirectly removed from the Division which the proposed legislation will impact. Nonetheless, there is no benefit in not conducting the proposed audit. If nothing else, perhaps there will be improved recognition of how deeply the Department is underfunded . . . at least in Divisions that I am familiar with: DOBOR, DAR, and DOCARE. However, as a former inspector and investigator, I also realize that an audit has little to no value if recommended changes are not reviewed by the audited organization and implemented where deemed appropriate. If not implemented, why not? Thank you for the opportunity to testify.

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Cc: rnvfishing@gmail.com
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HB839

Submitted on: 2/9/2017

Testimony for WAL on Feb 10, 2017 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Roy N Morioka	Individual	Support	No

Comments: Chair Yamane, Vice Chair Kong and Members of the House Committee on Water and Land: I strongly support this measure that hopefully initiates a series of procurement audits of Divisions within the DLNR. Respectfully, Roy Morioka

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HB839

Submitted on: 2/8/2017

Testimony for WAL on Feb 10, 2017 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
William K. Chang	Individual	Support	No

Comments:

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HB839

Submitted on: 2/9/2017

Testimony for WAL on Feb 10, 2017 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
James Silva	Individual	Support	No

Comments: I strongly support this measure

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