

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

July 22, 2022

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

PSF No.: 22KD-041

Kauai

Cancellation of Revocable Permit No. S-7897, Katherine Enoka, Permittee and Request for Waiver of Phase I Environmental Site Assessment Requirement, Lot 11-B Hanapepe Town Lots, 1st Series, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-005:053.

REQUEST:

Cancellation of Revocable Permit No. S-7897 effective January 1, 2022 and request for waiver of Phase I Environmental Site Assessment requirement.

LEGAL REFERENCE:

Sections 171-6, 13 and -55 and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands, Lot 11-B, Hanapepe Town Lots, 1st Series, Hanapepe, Waimea, Kauai, identified by Tax Map Key : (4) 1-9-005:053, as shown on the attached map labeled Exhibit A.

AREA:

0.136 acre, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Commercial

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Currently encumbered under Revocable Permit No. S-7897 to Katherine Enoka for business purposes.

CHARACTER OF USE:

Business purposes.

CANCELLATION DATE:

Cancellation effective date of January 1, 2022.

REMARKS:

The subject State property is a 5,909 square foot lot in Hanapepe town, with a 960 square foot State historic structure located on property. The property is commercially zoned and in close proximity to retail stores, art galleries, gift shops and cafes in the area. The subject property has been utilized as an art gallery and studio for almost 20 years.

The subject parcel was leased September 5, 2005, under General Lease No. S-5822, awarded via public auction. The 10-year lease expired on September 30, 2015 but was held over through June 30, 2016. Prior to General Lease No. 5822, the property had been vacant for extended periods, following three unsuccessful attempts at public auctions. Throughout the years, the subject property has also been under several revocable permits with the last being Revocable Permit No. S-7897 (RPS-7897) which was Board approved on November 10, 2016 under agenda item D-1 to Katherine Enoka.

By letter dated November 27, 2021, Katherine Enoka informed the Kauai District Land Office that she requested to cancel her lease due to financial hardships caused by Covid-19. RPS-7897 provides as follows at page 7, paragraph B.13:

Prior to termination or revocation of the subject Permit, Permittee shall conduct a Phase I environmental site assessment and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Department of Health, and the DLNR. Failure to comply with the provisions of this paragraph shall not extend the term of this Permit or automatically prevent termination or revocation of the Permit. The Board, at its sole option, may refuse to approve termination or revocation unless this evaluation and abatement provision has been performed. In addition or in the alternative, the Board may, at its sole option if Permittee does not do so, arrange for

performance of the provisions of this paragraph, all costs and expenses of such performance to be charged to and paid by Permittee.

Ms. Enoka asked that the Board waive the Phase I Environmental Site Assessment requirement under the permit considering that the premises has been used as an art gallery the whole time and during her tenancy absolutely no chemicals in any form have ever been on the premises and no construction occurred. See attached exhibit C.

During her tenancy under RPS-7897, Ms. Enoka paid her rent in a timely manner and kept the gallery clean and well maintained. On April 22, 2016 under agenda item D-1, the Land Board approved the sale of a 10 year lease at public auction for the subject property. On November 13, 2020 under agenda item D-4 the submittal was amended to extend the lease term from 10 years to 30 years. The property is now vacant while the Kauai District Land Office staff prepare the property for public auction.

Staff is recommending the Board cancel RPS-7897 to Ms. Enoka, Lessee, and waive the Phase I Environmental Site Assessment requirement contained in the current revocable permit. An inspection of the property was performed on May 3, 2022 with no evidence of any use other than for an art gallery. The building was vacant and clean. See attached Exhibit C.

RECOMMENDATION: That the Board:

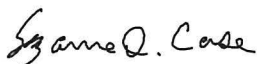
1. Authorize the cancellation of Revocable Permit No. S-7897 to Katherine Enoka, Lessee, in the manner specified by law.
2. Waive the Phase I Environmental Site Assessment requirement as set forth on page 7, paragraph B.13, upon cancellation of Revocable Permit No. S-7897.

Respectfully Submitted,



Alison Neustein
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

EXHIBIT B

Regarding RP NO S-7897

[REDACTED]
Hanapepe, HI 96716
[REDACTED]
[REDACTED]

November, 27, 2021

To whom it may concern,

I am sending this letter to give notice to end my month to month revocable permit for 3876 Hanapepe Road. I have already sent a check to cover the month of December and intend to vacate the premises by 12/31/2021.

I am supposed to provide an EIS study on the building and surrounding area but due to the hardships Covid has had on my business I am requesting the board waive the study considering that it has simply been an art gallery the whole time and absolutely no chemicals in any form have ever been on the premises during my time here and no construction. Please consider allowing me to skip that step as it is lengthy in time, very costly and truly unnecessary in this case.

My property taxes for the building are paid in full up until January 1, 2022.

Please let me know what other information you might need to make the transition smooth. Thank you very much for your time and I look forward to your response.

Sincerely,

Katherine Enoka

EXHIBIT C

State of Hawai'i
DLNR, Land Division

INSPECTION REPORT
Commercial/Industrial/Resort/Other Business
FINAL INSPECTION

General Information

Document Number: RPS 7897 Character of Use Business Purposes
Inspection Date: 5/3/2022 Inspection Time: 12:00pm Land Agent: Alison Neustein

TENANT INFORMATION

Name: Katherine Enoka Home Phone: [REDACTED]
Address: [REDACTED] Business Phone: [REDACTED]
Kalaheo, HI 96741 Fax: [REDACTED]

SITE INFORMATION

TMK: (4) 1-9-005:053 Area: .136 acres, more or less
Site Address: [REDACTED] Hanapepe HI 96716

FISCAL INFORMATION

| ITEM | N/A | CURRENT= COMPLIANCE | DEFAULT = NON-COMPLIANCE | COMMENTS |
|---------------------|-----|------------------------|-----------------------------|----------|
| Rent | | X | | |
| Liability Insurance | | X | | |
| Fire Insurance | | X | | |
| Bond | X | | | |

FIELD INSPECTION RESULTS (refer to Field Inspection Worksheet)

| ITEM | N/A | COMPLIANCE | NONCOMPLIANCE | COMMENTS |
|---|-----|------------|---------------|---------------------------|
| Subleases | X | | | |
| Improvements | | X | | |
| Premises | | X | | |
| Character of Use | | X | | |
| Phase 1 Environmental Site Assessment | | | | Going to Board for waiver |

EXHIBIT C

State of Hawai'i
DLNR, Land Division

Field Inspection Worksheet Commercial/Industrial/Resort/Other Business

File Review

LICENSES/PERMITS/CONSENTS

| ITEM | DLNR Approval Docs in File | | | COMMENTS/NOTES/LISTS |
|---|----------------------------|-----|----|--|
| | N/A | YES | NO | |
| Subletting | X | | | attach copy of list or map if applicable |
| Improvement Construction Buildings | X | | | note deadlines for % completion |
| Improvement Construction Other structures/misc. | X | | | note deadlines for % completion |

Field Inspection

| ITEM | SATISFACTORY? | | | COMMENTS/NOTES |
|--|---------------|-----|----|----------------|
| | N/A | YES | NO | |
| SUBLEASES | X | | | |
| Consents approved | X | | | |
| Use adheres to lease purpose | | | | |
| IMPROVEMENTS | | X | | |
| <u>Buildings/Residences:</u> roof | | X | | |
| paint | | X | | |
| exterior | | X | | |
| interior | | X | | |
| <u>Structures:</u> roads | X | | | |
| walkways | X | | | |
| fencelines | X | | | |
| others | X | | | |
| PREMISES | | X | | |
| clean, sanitary, orderly | | X | | |
| appropriate storage/use of hazardous materials | | X | | |
| CHARACTER OF USE | | X | | |
| adheres to lease purpose | | X | | |

EXHIBIT C

| ITEM | SATISFACTORY? | | | COMMENTS/NOTES |
|--------|---------------|-----|----|----------------|
| | N/A | YES | NO | |
| Other: | | | | |

EXHIBIT C



EXHIBIT C



EXHIBIT C

