



HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION · DEPARTMENT OF HAWAIIAN HOME LANDS

# **Income Producing Properties**

## **Future Direction Status**

### **Agenda Item No. F-7 – For Information Only**

**August 15-16, 2022**



# Revenue Generation Properties -- Background

- **Why is it important?**
  - **Flexibility**
    - When resources from State (GF or GOB) are lean, DHHL development program/operations continue
  - **Commission directed**
  - **Greater revenue = more services and programs**



# Trust Considerations – Potential Takeaways from “Kalima”

- **Court found that the State breached its duties as trustee (4 duties identified)**
  - Liability Order (Circuit Court Nov 3, 2009)
  - 4<sup>th</sup> duty – the duty to make the trust property productive.
  - Case applies to period 1959-1988 only, but
- **Standard the Court applied should be considered, and may still be applicable**
- **Revenues from DHHL general leases should be compared to leases issued by “private trust entities that have same trust obligations” (KS? QLT?) not DLNR leases.**



# “Kalima” Cont.

- Kalima v. State of Hawaii, Circuit Court, Nov 3, 2009 p.10

...the State’s control and leasing of public lands that are not HHCA trust lands is not constrained by the duties of loyalty to HHCA beneficiaries and to make the trust productive. The discretionary and political considerations properly governing DLNR’s leases of non-trust lands would not reach the same results for trust lands. For example, the State in leasing public lands may have chosen to support or shore up declining economic sectors...by offering more favorable leases and water license terms than those found in the private sector...

p.11 **The more applicable analysis here is comparison with private trust entities that have the same trust obligations which obtain to the Defendant State when leasing Hawaiian home lands.**



# Considerations

- **Considerations**
- Nelson Case requires HHC declare property not available for homesteading
  - Primarily Industrial and Commercial properties (small inventory of land to maximize revenue)
- To mitigate risk to the Trust, preference policy was ended by HHC action October 2001.
  - Should be replaced with business assistance efforts and early outreach so native Hawaiian businesses can prepare ahead of RFP release, or bid date for property



# Considerations Cont.

- **Considerations Cont.**
- Requests for non-competitive general leases in lands designated commercial/industrial (usually a non-profit request)
  - What is the proposal? Will all beneficiaries benefit? If not, who benefits?
  - What is the opportunity cost? If KS owned the property, what could they earn given the land use designation, location, property constraints, and market?
  - Do the benefits of the proposal outweigh the opportunity costs to the trust?

\*speaks to trust duty to deal impartially with beneficiaries



# Opportunities

- **Opportunities**
  - Outreach lessons learned from RP Pilot; applied to General Leasing program
  - Start EARLY with outreach to native Hawaiian businesses
  - Potential partnerships with business assistance entities
  - Long-term leasing opportunities for beneficiary businesses; community benefits for beneficiaries/homesteads as part of general leases
  - BUT, trying to maximize revenue for the trust (hopefully with beneficiary partners)



# Kaei Hana I Industrial Subdivision, Waiekea S. Hilo, Hawaii Island

## Site Info

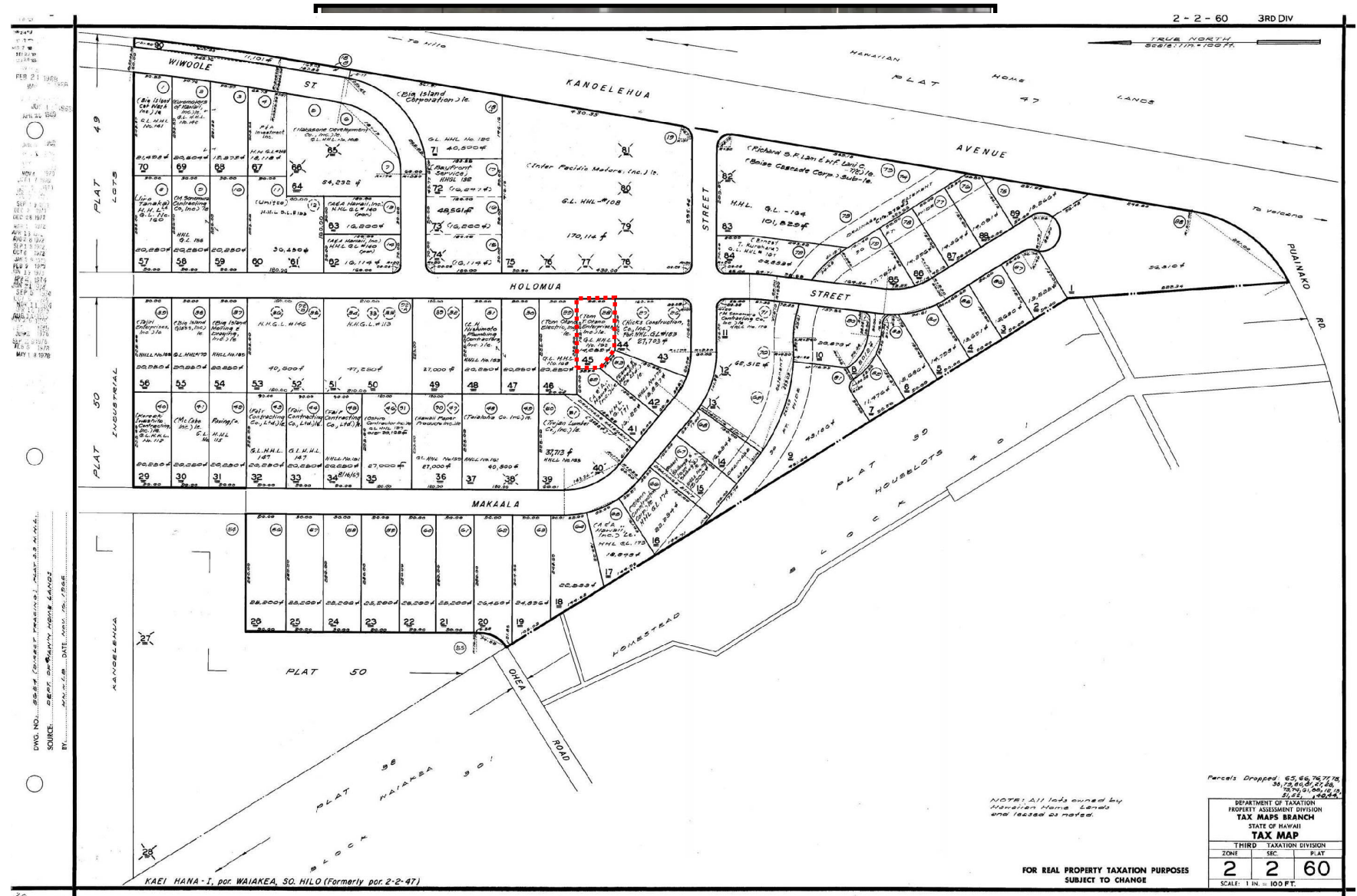
TMK: (3) 2-2-060:045

Land Area – 0.3228 Ac

Market Land Value:  
\$221,600

Rent @ 8%:  
\$17,728

Located within  
Industrial developed  
area with infrastructure







# Kaei Hana II, Industrial Subdivision, Kawaihae, Hawaii Island

## Site Info

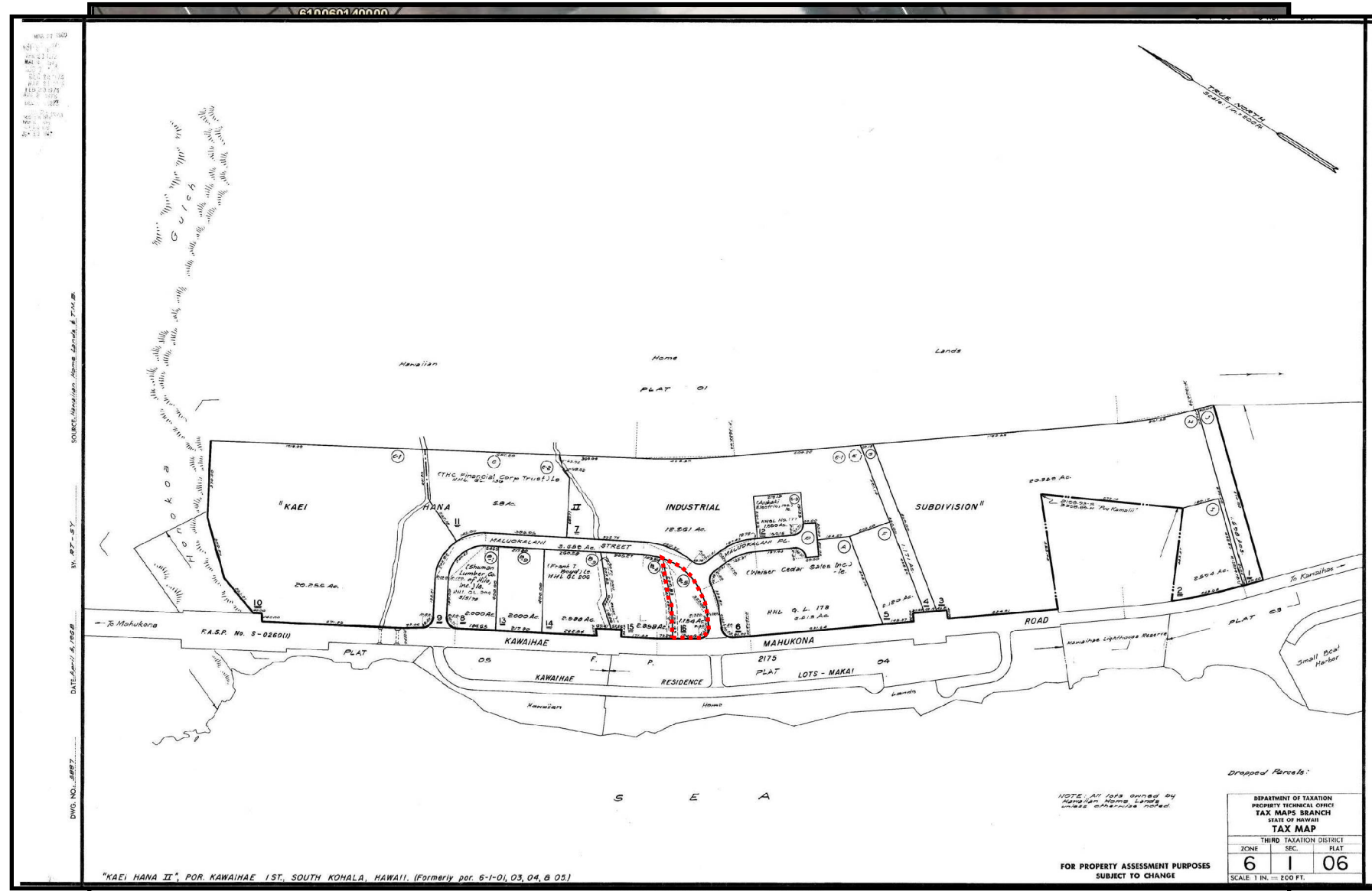
TMK: (3) 6-1-006:016

Land Area – 1.134 Ac

Market Land Value:  
\$222,700

Rent @ 8%:  
\$17,816

Located within  
Industrial developed  
area with infrastructure





# Campbell Industrial Park, Kalaeloa, Oahu Island

## Site Info

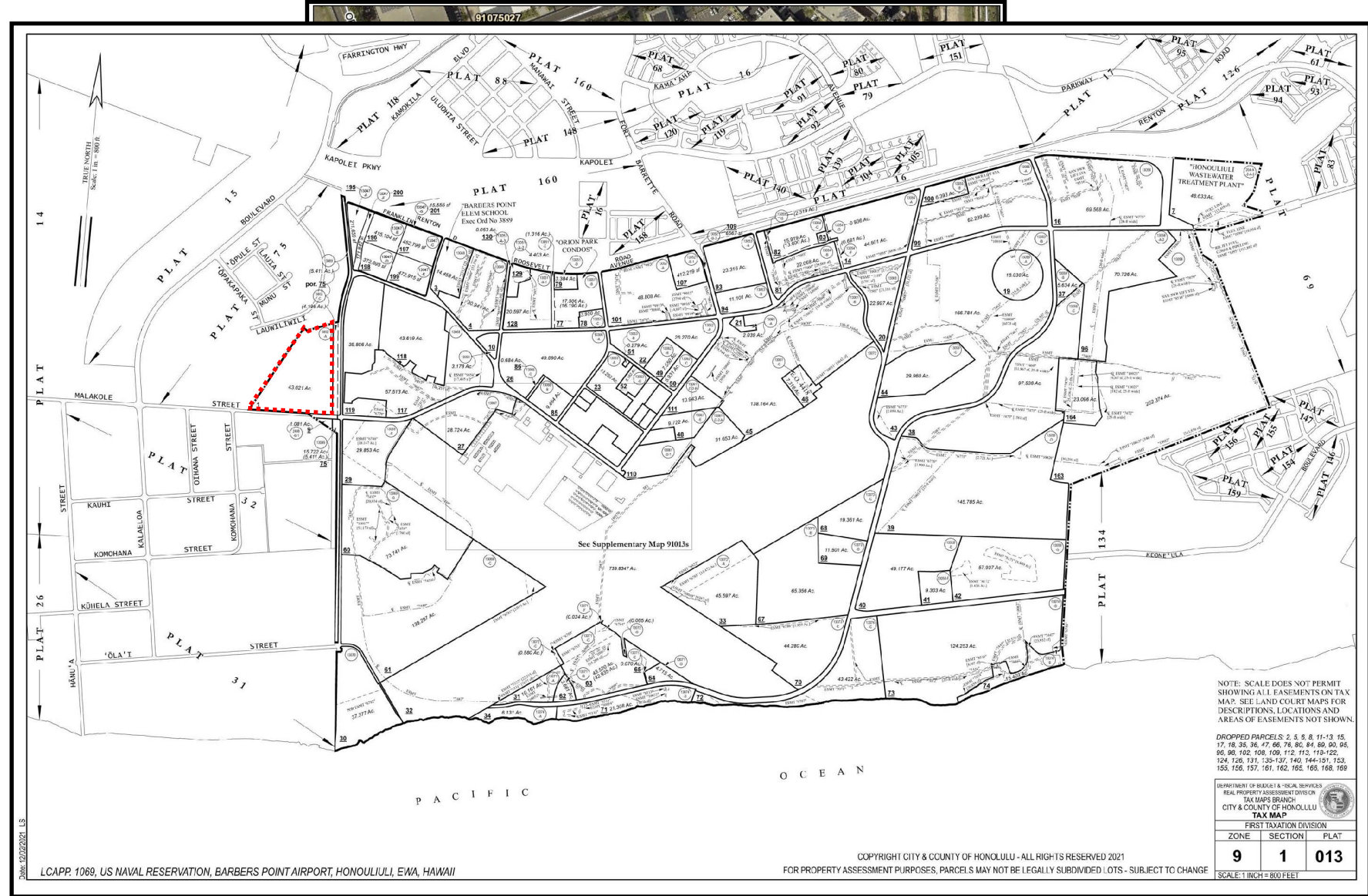
TMK: (1) 9-1-013:001

Land Area – 43.0 Ac

Assessed Land Value:  
\$40,802,300

Rent @ 8%:  
\$3,264,184

Located within  
Industrial developed  
area with infrastructure





# Next Steps

- **Identify properties**  
best suited to generate revenue for the Trust
- **Seek HHC authorization**  
to begin process
- **Secure appraisals**
- **Initiate outreach –EARLY**  
so interested native Hawaiian businesses or individuals can plan and prepare for when properties are ready for bid or a Request for Proposals is released



# Mahalo



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[www.dhhl.hawaii.gov](http://www.dhhl.hawaii.gov)