Quitclaim Sale of Remnant (abandoned road right-of-way) to Dennis D. Raymond and Colleen L. Raymond; Issuance of Right-of-Entry for Access Purposes, Kaapuna & Moloaa Hui, Kawaihau, Kauai, Tax Map Key: (4) 4-9-003:Road, also designated as Tax Map Key: (4) 4-9-008:999.

APPLICANT:

Dennis D. Raymond and Colleen L. Raymond, husband and wife, tenants by the entirety.

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands (abandoned right-of-way) situated at Kaapuna & Moloaa Hui, Kawaihau, Kauai, Tax Map Key: (4) 4-9-003:Road, also designated as TMK: (4) 4-9-008:999, as shown on the attached maps labeled Exhibit A.

AREA:

0.105 acres or 4,575 square feet, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____ NO x ____
CURRENT USE STATUS:

Vacant and Unencumbered.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit C

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council on June 5, 2015, 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" and Item No. 44, "Transfer of title to land."

DCCA VERIFICATION:

Not applicable. Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
2) Pay for an appraisal to determine the one-time payment of the remnants, at fair market price, and at applicant’s own cost; and
3) Consolidate the remnant with the Applicant's abutting properties through the County of Kauai’s subdivision process, at Applicant’s own cost.

REMARKS:

Pursuant to Section 171-52, HRS, a remnant is defined as "a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics." The subject parcel has been determined to be a remnant by this definition for the following reason:
1) The parcel is a discontinued portion of an old government road.

The parcel is identified as TMK: (4) 4-9-003:Road by DOT Highways, Right-of-Way Branch, and as TMK: (4) 4-9-008:999 by the County of Kauai, and is an abandoned road right-of-way, formerly known as Anuenue Road.

Staff confirmed with the County of Kauai Real Property Tax Office that Dennis D. Raymond and Colleen L. Raymond (together, the Raymonds) are the fee owners of Tax Map Key: (4) 4-9-003:013 (the Raymond Property), that abuts the subject remnant. The Raymonds desire to purchase the remnant for legal access purposes. The Raymond Property currently has no legal access to a government roadway and is therefore landlocked. Although another landowner in the area, Kaapuni Hui Land who owns Tax Map Key: (4) 4-9-011:013, also abuts the remnant, the remnant will only be sold to the Raymonds as provided by law because the remnant is required for legal access. Staff understands that should portions of the remnant be sold to both the Raymonds and Kaapuni Hui Land, the Raymonds would still be landlocked.

In 2012, the Raymonds applied to the Department of Transportation, Highways Division (DOT-Highways), to purchase the road remnant because at that time it was presumed the remnant was under DOT-Highways’ jurisdiction, as part of the old Kaumualii Highway before the highway was realigned.

DOT-Highways offered to sell a portion of the old government road containing an area of 4,575 square feet for $4,500 (internal valuation), by way of a Quitclaim Deed even if the Kaapuni Hui Land also abutted the remnant. While processing the conveyance, a certificate of search was completed by DOT-Highways which unexpectedly indicated that the old government road remnant was acquired by the State of Hawaii through the Hawaii Admissions Act. DOT-Highways determined that the remnant actually belongs to the Department of Land and Natural Resources¹ and therefore should be sold by the Board of Land and Natural Resources. (Exhibit B) The title issue is unsettled in Land Division’s view and, therefore, staff recommends that the conveyance be effected by a quitclaim conveyance from the Board to the Raymonds.

The Raymonds have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with the terms and conditions thereof.

On April 13, 2017 various government agencies and interest groups were solicited for comments. The responses are as follows:

¹ At its meeting of March 23, 1984, Item D-4, the Board authorized DOT-Highways to sell a number of road remnants statewide. However, the subject remnant was not included on the approved list. Accordingly, if approved, Land Division staff will process this disposition.
Staff understands that the Raymonds currently access their property over the remnant. Staff is therefore including a recommendation below for the issuance of a right-of-entry permit to the Raymonds for access purposes to remain in effect until the conveyance of the remnant to the Raymonds. There will be no separate consideration paid for the right-of-entry, but the Raymonds will be required to provide liability insurance and indemnify the State for their use of the land in the interim.

RECOMMENDATION: That the Board:

1. Find that the subject lands are economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.

2. 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.

3. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4) 4-9-003:013, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.

4. Authorize the subdivision and consolidation of the subject remnant to the Applicant’s private property, and at applicant’s own expense.

5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Dennis D. Raymond and Colleen L.
Raymond, covering the subject area 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 quitclaim deed or grant (remnant) 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.

6. Grant a right-of-entry to Dennis D. Raymond and Colleen L. Raymond, over and across the subject remnant, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:

A. The standard terms and conditions of the most current right-of-entry form, as may be amended from time to time;

B. The right-of-entry will be effective upon the Raymonds’ execution of the right-of-entry permit and submission of the required proof of insurance and shall continue until the remnant is conveyed to the Raymonds; and

C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Wesley T. Matsunaga
Acting Kauai District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case, Chairperson
PORTION OF OLD GOVERNMENT ROAD
SHOWN ON
MAP OF PARTITION
KAAPUNA HUI LANDS
REGISTERED MAP 2978.

AT MOLOAA & PAPA, KAWAHUI, KAIALI, HAWAII

BEGINNING AT THE NORTH CORNER OF THIS PORTION
OF OLD GOVERNMENT ROAD, ON THE SOUTHEASTERN SIDE OF
TMK 4-4-6-011-013, THE COORDINATES OF SAID POINT OF
BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION
STATION "MOLOAA" BEING 2,411.62 FEET SOUTH AND 6,032.00
FEET WEST AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE
FROM TRUE SOUTH:

1. 344' 25' 00" 23.30 FEET ALONG THE REMAINDER OF OLD
   GOVERNMENT ROAD;
2. 043' 34' 00" 208.03 FEET ALONG TMK 4-4-9-003-013;
3. 074' 29' 00" 28.00 FEET ALONG THE NORTH SIDE OF KUHIO
   HIGHWAY;
4. 223' 34' 00" 251.46 FEET ALONG TMK 4-4-9-011-013 TO
   THE POINT OF BEGINNING AND CONTAINING
   AN AREA OF 4,676 SQUARE FEET.

PORTION OF GRANT 536 TO JAMES W. SMITH

TMK 4-4-6-011-013
"MOLOAA VALLEY"

223' 34' 00" 251.46
TMK 4-4-9-003-013
9,344 SQ.FT.

74' 25' 00" 176.86'
74' 25' 00" 176.86'

KUHIO HIGHWAY

AIALANA SURVEYING & GEOMATICS LLC
PHONE (808)346-1818
FAX 1-800-666-6287
INFO@AIALANASURVEYING.COM

MAP DATED: JULY 10, 2012

TMK(4)4-9-003-013
Mr. Dennis Raymond

Kilauea, Hawaii 96754

Dear Mr. Raymond:

Subject: Kuhio Highway (Kauai Belt Road), Project No. F-056-1(3) At Hanalei and Kawailau, Kauai, Hawaii, TMK (4) 4-9-03: Rd Request for Purchase a Portion of Old Government Road

The State of Hawaii offers for sale a portion of old government road containing an area of 4,575 square feet delineated on the attached exhibit for the amount of $4,500.00.

This offer is subject to consolidation of said portion of road with your abutting property in accordance with the Ordinance of the County of Kauai. An outside surveyor of your choice can provide consolidation services such as mapping and descriptions; however, such costs are your sole responsibility.

A check in the amount of $34.50 made payable to the Bureau of Conveyances will be requested from you at the time of recording. This separate check includes a conveyance tax of $4.50 and a recording fee of $30.00.

The portion of road is being offered “as is” and will be conveyed by Quitclaim Deed. The portion of road will be sold subject to any encumbrances now of record. The State makes no warranty or representation about the suitability or marketability of the portion of road for any particular use; the presence of any hazardous materials on, under, or about the same; and the physical condition of the portion of road and any improvements thereon. Further, the State will not be responsible for clearing the land of vegetation and debris.

This offer is also contingent upon the successful recording of the Quitclaim Deed within one year from the date of this letter.

Please have all owners of record sign the acceptance portion of this letter and return it to us together with requested information for the deed. This offer to sell you the said portion of road is good for thirty (30) days from the date of this letter. If we do not receive your signed acceptance within the specified thirty (30) days time limit, then this offer will be null and void without any action on our part.

EXHIBIT B
Please be reminded that terms and conditions as stated in our letter dated May 14, 2012 (ref. HWY-RM 3.89302) are still applicable.

Should you have questions, please call Katja Jordan-King, Right-of-Way Agent, at (808) 692-7331, or you may e-mail her at Katja.M.Jordan-King@hawaii.gov.

Very Truly Yours,

CHRIS M. YAMAMOTO
Section Head
Property Management

Attachment: Parcel Map Exhibit

ACCEPTANCE

The undersigned hereby accepts the offer to purchase from the State of Hawaii the property identified as portion of old government road, Project No. F-056-1(3) containing 4,575 square feet and delineated on attached exhibit, on the terms and conditions contained herein for $4,500.00 in U.S. dollars. The check for $4,500.00 shall be made payable to the State of Hawaii, Department of Transportation. Also, a separate check for $34.50 made payable to the Bureau of Conveyances, will be requested at the time of recording. It is agreed that the conveyance will be made by Quitclaim Deed.

Signature

Print Grantee Legal Name

Mailing Address for Document:

(Please fill in data for the quitclaim deed document)
March 15, 2013

Mr. Dennis Raymond

Kilauea, Hawaii 96754

Dear Mr. Raymond:

Subject: Kuhio Highway (Kauai Belt Road), Project No. F-056-1(3)
At Hanalei and Kawaihau, Kauai, Hawaii, TMK (4) 4-9-03: Rd
Request for Purchase a Portion of Old Government Road

We regret to inform you that the processing of the sale of a portion of Old Government Road is being deferred to the Department of Land and Natural Resources (DLNR). It was determined that the land belongs to DLNR and therefore would be the appropriate agency to process the sale.

Please contact Milo Spindt, Kauai District Land Agent at (808) 274-3491 for further information.

If you have any questions, please call me at (808) 692-7331 or you can email me at Katja.M.Jordan-King@Hawaii.Gov.

Very truly yours,

KATJA M. JORDAN-KING
Right-of-Way Agent
Property Management
EXEMPTION NOTIFICATION
Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR.

Project Title: Quitclaim Sale of Remnant (abandoned road right-of-way); Issuance of Right-of-Entry to Dennis D. Raymond and Colleen L. Raymond for Access Purposes, Kaapuna & Moloaa Hui, Kawaihao, Kauai, Tax Map Key: (4) 4-9-003: Road

Project / Reference No.: PSF No.: 15KD-151

Project Location: Moloaa Hui, Kawaihao, Kauai.

Project Description: Quitclaim Sale of Remnant (abandoned roadway) with Access Right-of-Entry.

Chap. 343 Trigger(s): Use of State land.

Exemption Class No. and Description: In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved 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 1, "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" and Item No. 44, "Transfer of title to land."

Exemption Item Description from Agency Exemption List: 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.
Transfer of title to land.

Consulted Parties: The Department of Transportation, Highways Division.

Recommendation: The quitclaim sale of a remnant, an abandoned road right-of-way, and the issuance of a right-of-entry will probably have minimal or no significant effect on the environment. It is recommended that the Board of Land and Natural Resources find that the action is exempt from the preparation of an environmental assessment.

Suzanne D. Case, Chairperson

Date 5/23/17