

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

May 11, 2018

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

PSF No.: 18OD-015

OAHU

Sale of Remnant to Kathleen Dowd and Thomas Grande; Termination of Revocable Permit No. 7018; Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-010:016.

APPLICANT:

Kathleen Dowd and Thomas Grande, as joint tenants

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-010:016, as shown on the maps attached as **Exhibit A1** and **A2**.

AREA:

0.21 acre, more or less.

ZONING:

State Land Use District: Agricultural
City & County of Honolulu LUO: Country

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:

Encumbered by Revocable Permit No. 7018, Thomas Grande, Permittee, for home gardening and landscaping purposes.

CONSIDERATION:

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

DCCA VERIFICATION:

Individuals, not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources, concurred and reviewed 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 44, which states, "Transfer of title to land." See **Exhibit B**.

APPLICANT REQUIREMENTS: Applicants shall be required to:

1. Provide survey map and legal description according to DAGS Survey Division standard and at Applicants' own cost;
2. Pay for the appraisal to determine the one-time payment of fair market value for the remnant;¹ and
3. Consolidate the remnant with the Applicants' abutting property through the County subdivision process.

REMARKS:

The subject parcel, (1) 4-1-010:016 ("Parcel 16"), is a portion of Government land of Waimanalo. Since 1996, a revocable permit has been issued to Thomas Grande for landscaping purposes, and the current monthly rent is \$54.14.

Pursuant to Section 171-52, Hawaii Revised Statutes, 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." Staff recommends the Board determine Parcel 16 is a remnant as it is unsuitable or undesirable for development for the following reasons:

¹ Applicants are aware of the obligation to pay the non-refundable appraisal fee.

1. Lack of legal access. Staff checked the title deeds for the nine (9) private properties,² including the Applicants', abutting the 20-foot driveway as shown on Exhibit A2. Each private property has an undivided 1/9th interest over the 20-foot access road. Parcel 16 does not have any legal access over the roadway before connecting to a public road, i.e. Parcel 16 is land-locked.

If the State were to acquire an interest over the 20-foot roadway from the nine (9) owners, staff is doubtful the benefit would outweigh the cost of the resources to be spent on such acquisition. In addition to the consideration to be paid for the easement along with the cost of the appraisal, due diligence for a typical State acquisition would include, at the minimum, a title report and environmental baseline study of the land under the easement corridor.

2. Minimum lot size. Parcel 16 does not meet the minimum lot size, which is one (1) acre as required by the City and County of Honolulu Land Use Ordinance.
3. Future use. Pursuant to a discussion with the Department of Agriculture ("DOA") regarding the transfer of agriculture land in Waimanalo under Act 90, another State parcel, TMK (1) 4-1-018:049, in Waimanalo with an area of 0.8 acre was determined by DOA as too small for commercial farming. Area of Parcel 16 is only 0.21 acre, and staff does not anticipate DOA will request transfer of Parcel 16 for any future commercial farming purposes, even if the lack of legal access described above could be resolved.
4. Other State lands in the vicinity. There is a State parcel at the intersection of Kakaina Street and Waikupanaha Street shown on Exhibit A1, further identified as TMK (1) 4-1-010:008 ("Parcel 8"). It is presently encumbered by executive order to DOA. The possibility of any consolidation is very low in view of the access issue mentioned above and the presence of multiple private parcels between Parcels 8 and 16.
5. Conversion of RP. It is also the Board's directive to convert revocable permits to long term dispositions. Upon approval of today's request, Revocable Permit No. 7018 will be superseded by the forthcoming conveyance document. Therefore, the proposed disposition is in line with the Board's directive.

Abutting Owners

Applicants are the record owner of the private property identified as TMK (1) 4-1-010:021, as supported by the records of the City and County of Honolulu, Real Property Assessment Division.

According to the statutes, if there is more than one abutting owner who is interested in purchasing the remnant, it shall be sold to the one submitting the highest bid or the Board may subdivide the remnant so that a portion may be sold to each abutting owner.

² TMKs for these nine (9) parcels are (1) 4-1-010:010 to 015, 017, 019, and 021, and circled in red on Exhibit A2.

The owner of the private property abutting the subject State parcel, further identified as TMK (1) 4-1-010:017, had previously indicated in writing that he was not interested in purchasing the subject State parcel as a remnant.

Other abutting owners would include the nine (9) owners who have an undivided interest over the roadway. Nevertheless, Section 171-52, HRS also provides that “... *no remnant shall be sold to any abutting owner unless the remnant, when combined or consolidated with the abutting property, shall constitute a lot acceptable to the appropriate agency of the county in which the remnant lies ...*” Staff does not believe consolidation of the subject State parcel or any portions thereof with any abutting property, except Parcels 17 and 21, would be acceptable to the City and County of Honolulu. Therefore, staff did not solicit interest from the abutting owners, except Parcel 17.

Comments from other agencies

State Historic Preservation Division, Division of Aquatic Resources, Board of Water Supply, Department of Facility Maintenance, Department of Hawaiian Home Lands, and Department of Planning and Permitting have no objection to the request and the proposed exemption declaration for preparing an environmental assessment.

DOA was also asked to comment on the subject request as the subject State parcel could fall under the transfer of agriculture lands to DOA pursuant to act 90, Session Laws of Hawaii 2003. DOA does not have any objection/comment to the request and the proposed environmental assessment exemption declaration.

Department of Health and Office of Hawaiian Affairs have not responded to the solicitation for comments before the suspense date.

Current condition of subject parcel

A recent inspection of the subject area was conducted, and staff noted the parcel was well maintained by the Applicants.

There are no other pertinent issues or concerns. Staff has no objection to the request described above.

RECOMMENDATION: That the Board:

1. Find that the subject land is 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 remnant pursuant to Chapter 171, Hawaii Revised Statutes.
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.

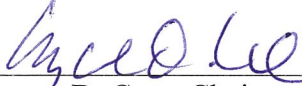
3. Subject to the Applicants fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Kathleen Dowd and Thomas Grande covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most deed or grant form between government agencies, 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 interest of the State.
4. Termination of Revocable Permit No. 7018 upon consummation of the subject sale of remnant.

Respectfully Submitted,

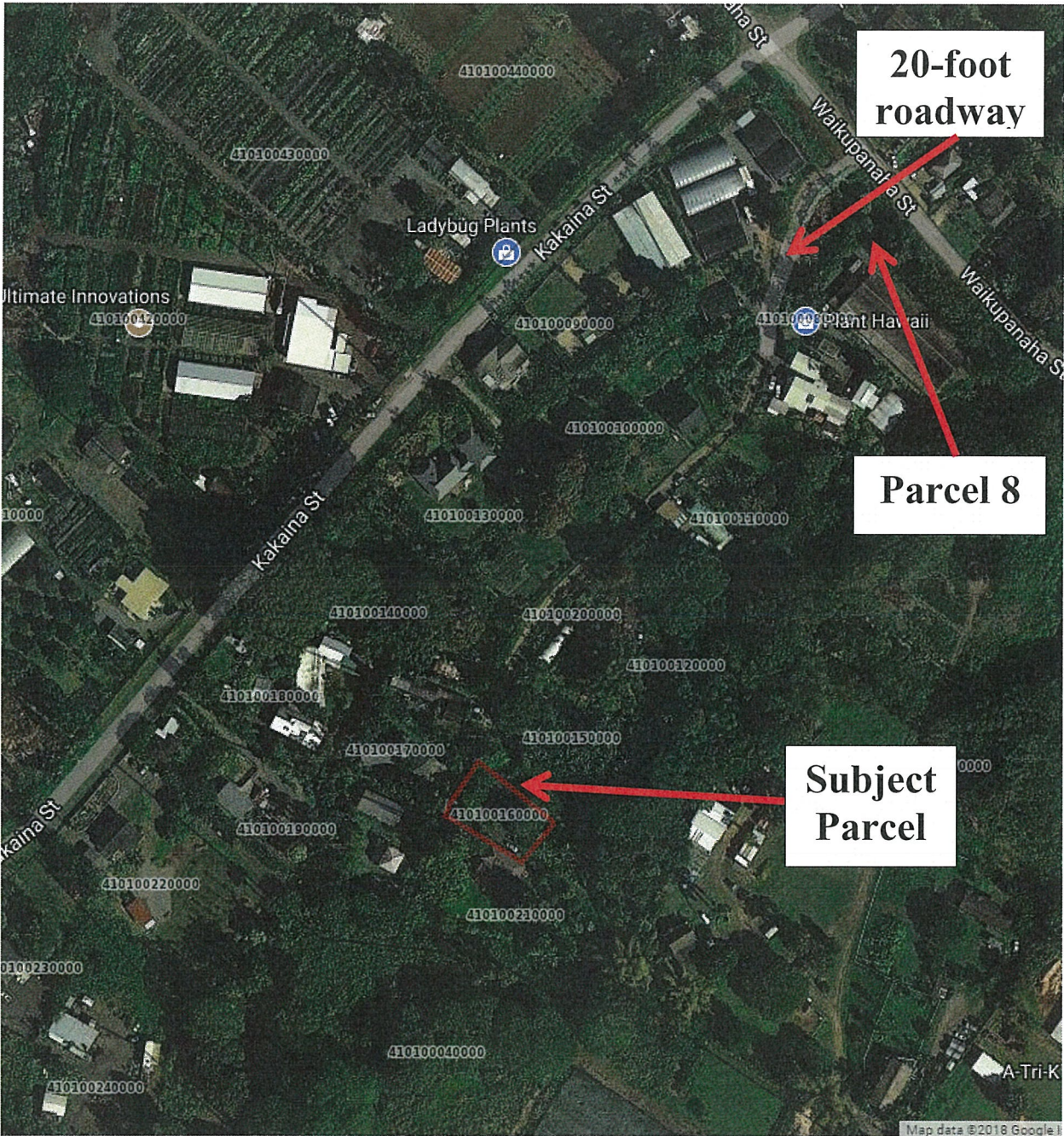


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:

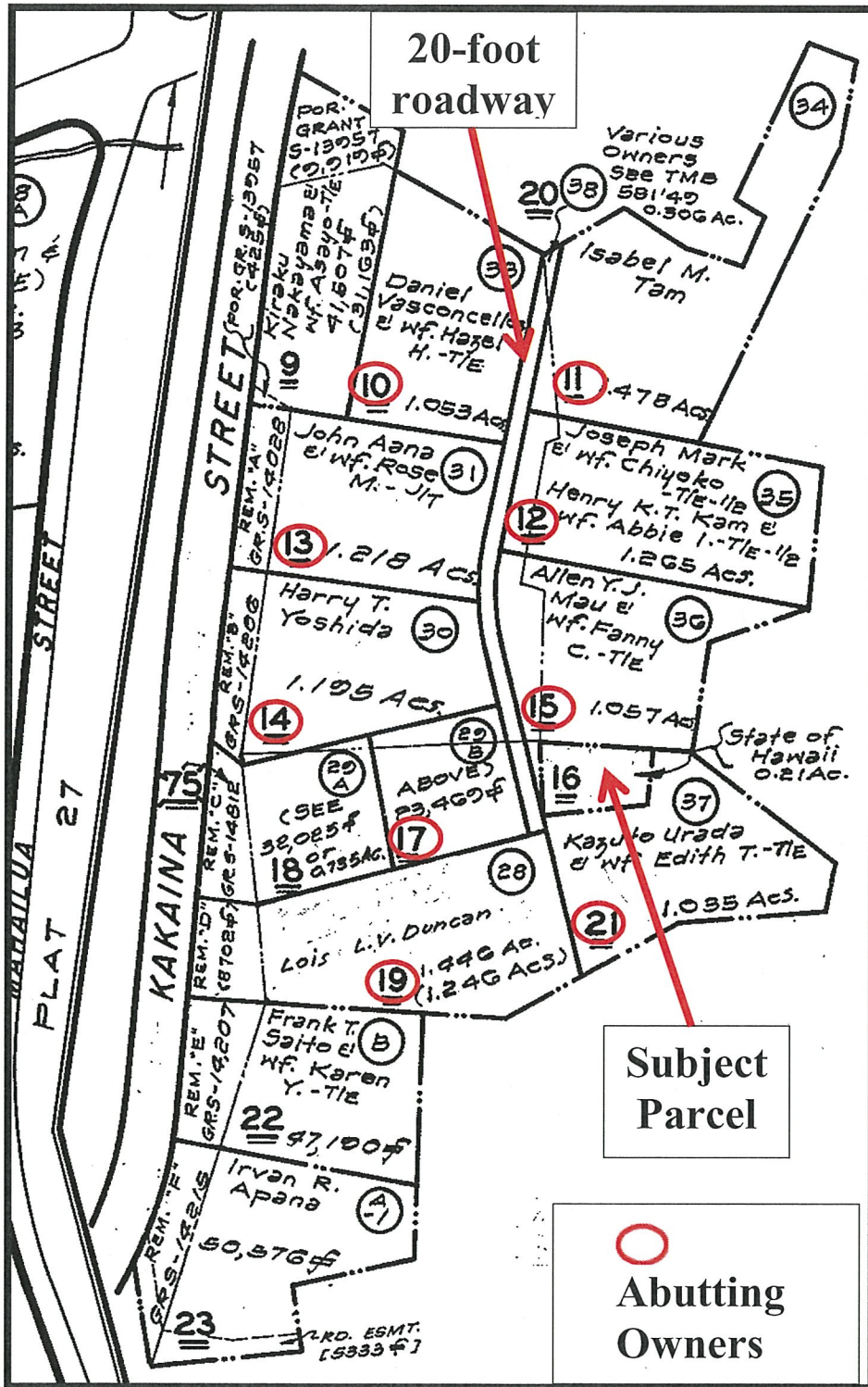


Suzanne D. Case, Chairperson



TMK (1) 4-1-010:016

EXHIBIT A1



TMK (1) 4-1-010:016

EXHIBIT A2

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Sale of Remnant

Project / Reference No.: PSF 18OD-015

Project Location: Waimanalo, Koolauloko, Oahu, TMK: (1) 4-1-010:016

Project Description: Sale of remnant due to insufficient lot area

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

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with 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, "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," item 44 that states, "Transfer of title of land."

Cumulative Impact of Planned Successive Actions in Same Place Significant: No. The subject area was always used for agriculture.

Action May Have Significant Impact on Particularly Sensitive Environment: The subject area is a portion of the agricultural community in Waimanalo. Staff is not aware of any particularly sensitive environment that the request may have a significant impact on such sensitive environment.

Analysis: Any proposed development of the private property, upon the consummation of the sale, including the replacement of the existing building with new residential units will follow the zoning and building codes. As such staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Agencies as noted in the submittal.

EXHIBIT B

Recommendation:

It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.