

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

July 27, 2018

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

PSF No.: 18KD-071

KAUAI

Sale of Remnant (abandoned ditch) to Yuliya V. Burko, Kapaa Homesteads, 4th Series, Kawaihau, Kapaa, Kauai, Tax Map Key: (4) 4-6-024: Portion of 123.

APPLICANT:

Yuliya V. Burko, married, wife of Daniel Burko, Tenant in Severalty.

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands, an abandoned ditch right-of-way, Kapaa Homesteads, 4th Series, situated at Kawaihau, Kapaa, Kauai, identified by Tax Map Key: (4) 4-6-024: portion of 123, as shown on the attached map labeled Exhibit A.

AREA:

0.30 acres (13,068 s.f.), more or less.

ZONING:

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

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES x NO

CURRENT USE STATUS:

Vacant and unencumbered.

CONSIDERATION:

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

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See exemption notification attached as Exhibit B.

DCCA VERIFICATION:

Not applicable. The Applicant as a natural person 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 fair market value for the remnant; and
3. Consolidate the remnant with the Applicant's abutting property through the County subdivision process, at Applicant's expense.

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 reasons:

1. The parcel is vacated/closed/abandoned ditch right-of-way.

Applicant is the owner of abutting parcel (4) 4-6-024:065, as staff has confirmed through the County Real Property Tax Office. According to Section 171-52, HRS, 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 sealed bid or the Board may authorize the subdivision of the remnant so that a portion may be sold to each abutting owner. There are no other abutting properties to the subject remnant parcel.

At its meeting of December 13, 2013, item D-5, and July 8, 2016, item D-1, the Land Board approved the sale of two mauka sections of the same ditch right of way in Plat 10 to two other abutting landowners. For various reasons, neither request has yet been completed. Staff will follow-up on those transactions.

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.

On June 5, 2018, staff solicited comments from various government agencies and community interest groups. The results are indicated below:

AGENCIES	COMMENTS
County of Kauai:	
Planning	No response
Public Works	No response
Water Supply	No response
State of Hawaii:	
DHHL	No response
DLNR - CWRM	No response
DLNR - SHPD	See comments below.
DOA	No response
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	See comments below

The State Historic Preservation Division (SHPD) had no objections to the sale of the abandoned ditch. SHPD indicates that although the former ditch appears to be historic, it has not been recorded, and that no archaeological inventory has been conducted. Records further indicate that the ditch has been in-filled.

The Office of Hawaiian Affairs had no objections, but asked that the Department of Hawaiian Home Lands also be solicited for comments.

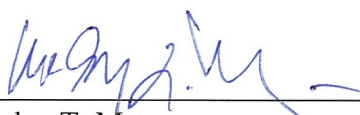
Staff has no objections to the sale of the remnant to Yuliya V. Burko as a major portion of the ditch is filled in and is no longer in operable condition.

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.

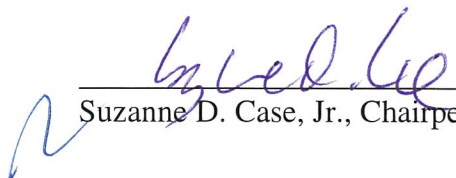
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4) 4-6-024:065, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. 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.
4. Authorize the subdivision and consolidation of the subject remnant by the Applicant.
5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Yuliya V. Burko 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 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.

Respectfully Submitted,



Wesley T. Matsunaga
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Jr., Chairperson

Subject remnant
TMK: (4) 4-6-024:123

Burko property
TMK: (4) 4-6-024:065

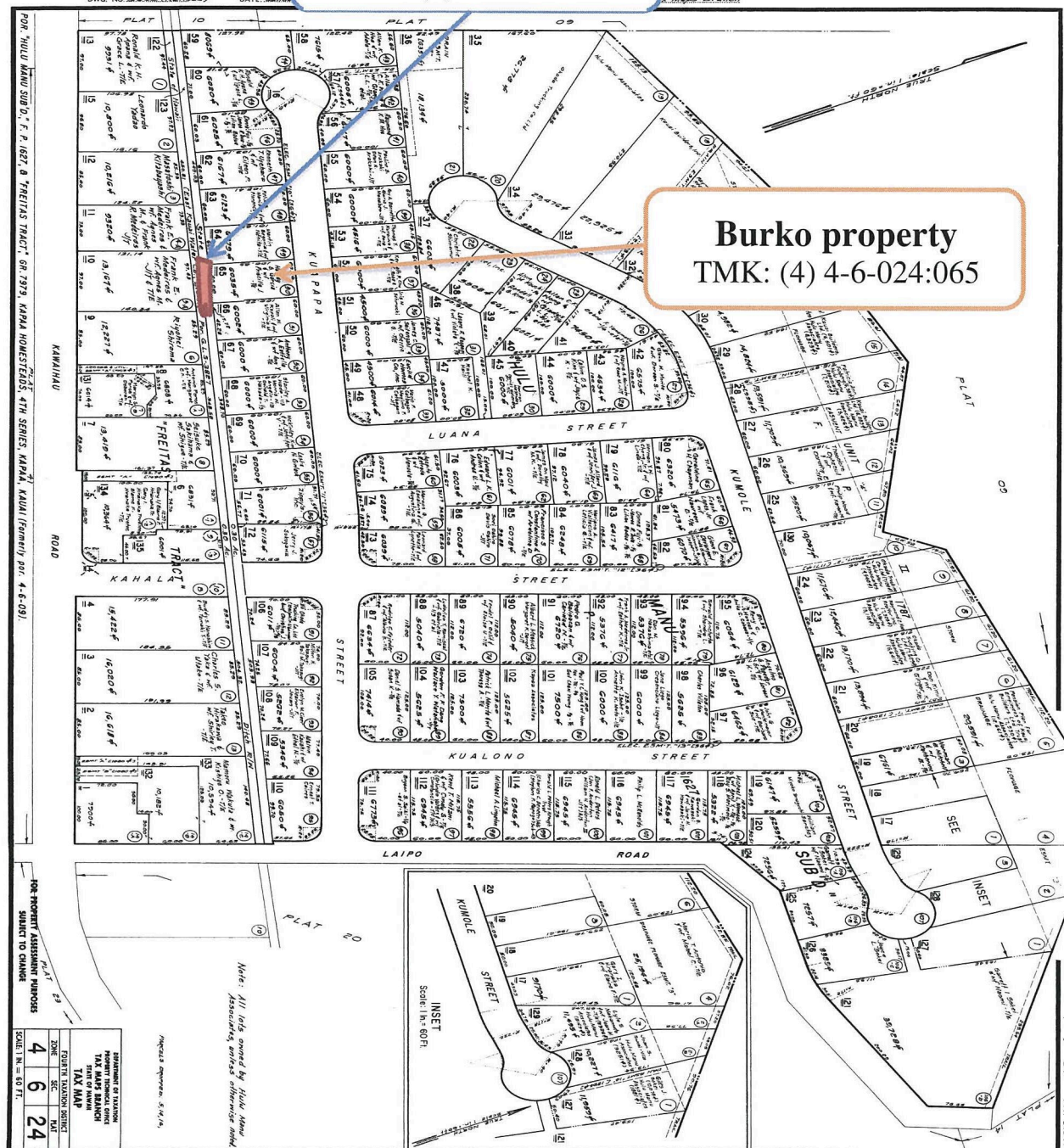
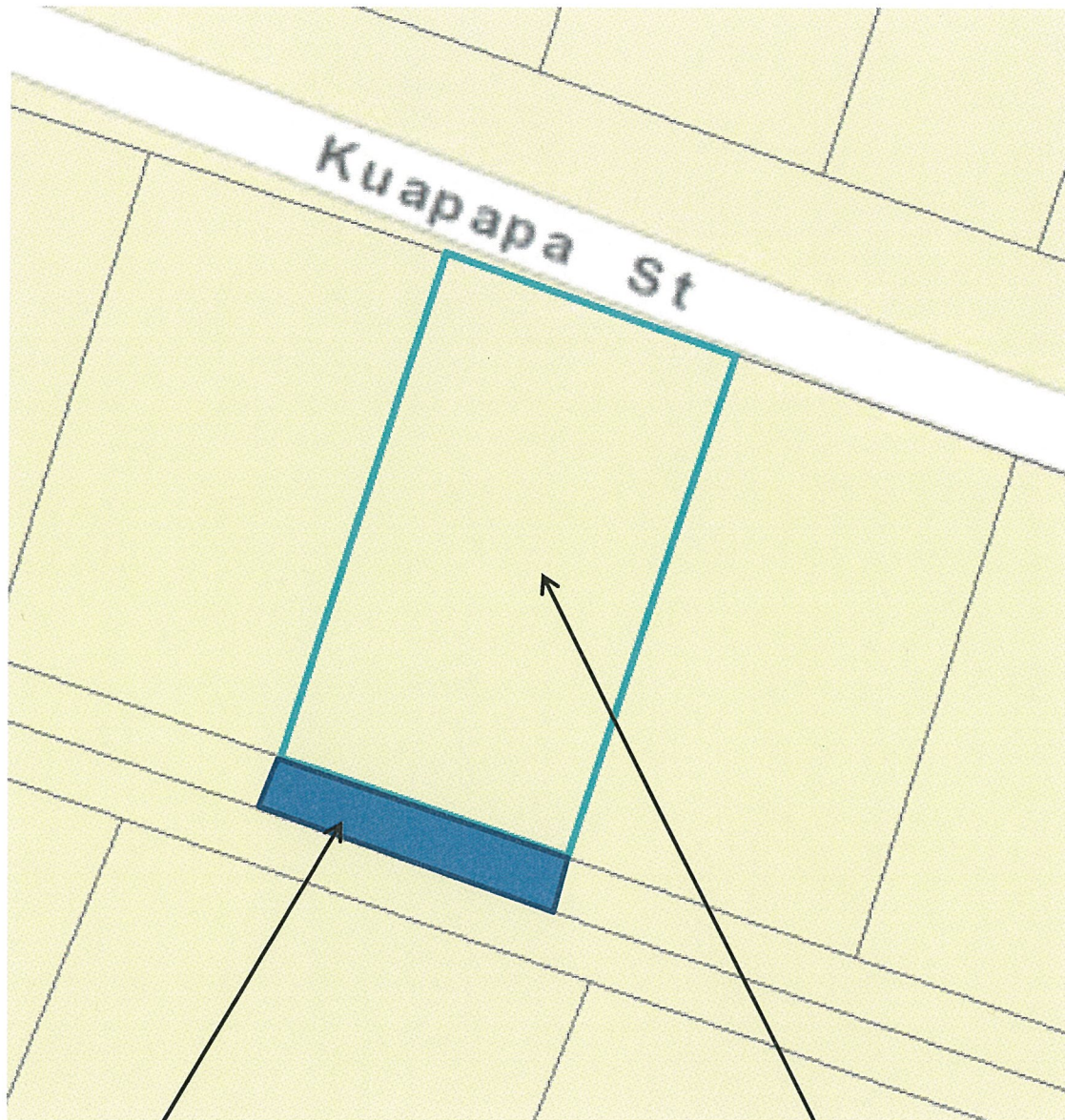


EXHIBIT A



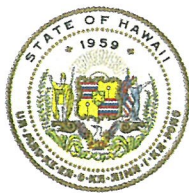
TMK: (4) 4-6-024:123
Abandoned Ditch

EXHIBIT A



TMK: (4) 4-6-024:123 por.
Abandoned Ditch Remnant

Applicant's Private Property
TMK: (4) 4-6-024:065



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 27, 2018

Ref. No.: 18KD-071

EXEMPTION NOTIFICATION

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

Project Title: Sale of Remnant (abandoned ditch) to Yuliya Burko.

Project / Reference No.: PSF No. 18HD-071

Project Location; Kapaa Homesteads, 4thSeries, Kawaihau, Kapaa, Kauai, Tax
Map Key: (4) 4-6-024:123 por.

Project Description: Sale of Remnant to Yuliya Burko.
Chap. 343 Trigger(s): Use of State lands.

Exemption Class No. In accordance with Hawaii Administrative Rule Section 11-200-8 and
and Item No. : 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 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."

Cumulative Impact of
Planned Successive
Actions in Same Place
Significant: No. The request is a single occurrence in the area.

Action May Have
Significant Impact on
Particularly Sensitive
Environment: No. The action proposed will have no significant impact to any
particularly sensitive environment.

EXHIBIT B

Analysis: The subject ditch is no longer in use with portions filled-in over the years by the abutting landowners. The Land Board has previously approved the sale to portions of the ditch to adjacent landowners. Staff believes that the requests would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: The State Historic Preservation Division, Commission on Water Resource Management, Office of Hawaiian Affairs, and other agencies listed in the submittal were contacted. No agency had any objection to the proposed exemption.

Declaration: It is recommended that the Board find this disposition will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment. Portions of the subject remnant, a ditch, have been filled-in with portions previously sold.