

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

August 10, 2018

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

18OD-072

OAHU

Quitclaim of State's Interests, if Any, over Portion of Kapahulu Avenue to the City and County of Honolulu, Honolulu, Oahu, Tax Map Key: (1) 2-6-027: Road.

APPLICANT:

City and County of Honolulu.

LEGAL REFERENCE:

Sections 171-95(a)(5) and 264-2, Hawaii Revised Statutes ("HRS"), and Act 288, Session Laws of Hawaii ("SLH"), 1993 as amended.

LOCATION:

Portion of Kapahulu Avenue identified as Parcel 161-D, adjacent to TMK (1) 2-6-027:001 and further shown on **Exhibits A1 to A3**.

AREA:

252 square feet, more or less.

ZONING:

State Land Use District:	Urban
City and County of Honolulu LUO:	Resort Mixed Use

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:

Existing County road.

CONSIDERATION:

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:

Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The subject area, as shown on the tax map attached, is a portion of Kapahulu Avenue and therefore considered as portion of the county highway pursuant to Chapter 264, HRS. The City intends to sell the subject remnant to the abutting owner, and requests the Board quitclaim the fee title of the subject remnant to the City to perfect the chain of title of the transaction.

Pursuant to Section 264-2, HRS, all "public highways" (roads, alleys, streets, ways, lanes, bikeways, and bridges in the State, opened, laid out, or built by the government) are owned either by the State for state highways under the jurisdiction of the Department of Transportation or the county for all other public highways. While ownership was transferred by operation of law pursuant to this statutory section, the counties have continued to dispute that they own the roads because they do not have paper title.

Act 288, SLH 1993, stated in its preamble "In consideration of the State waiving its right to have the proceeds from the sale of county public highways remitted to the State, the counties shall acknowledge ownership and jurisdiction of all disputed public highways within their respective counties, as defined in section 264-1, HRS, without the necessity of conveyancing documents transferring title from the State to the respective counties, except when required for the purpose of disposal." (Emphasis added.)

As a result, it is staff's practice that formal documentation (i.e., quitclaim deeds) be issued on roads owned by the counties under Section 264-2, HRS, only when the county is going to subsequently dispose of any real property interests (fee conveyance or any interests less than fee) in at least a portion of the road to a third party. In all other cases, the State's position is that the fee simple interest in the road was passed to the counties by operation of law and

documentation is unnecessary. This policy provides for the chain of title and enables subsequent real estate transactions to occur. This policy should not be misconstrued to mean or imply that the State does not assert that the roads being quitclaimed are already owned by the applicable county.

Board of Water Supply, Department of Planning and Permitting, and the Department of Parks and Recreation have no objection/comment to the request and concurs with the proposed EA exemption. Office of Hawaiian Affairs have not provided any written response to solicitation for comment before the response deadline.

Staff is recommending the issuance of a quitclaim deed. The form of the deed has been approved by the Department of the Attorney General and contains specific wording that the State is releasing and disclaiming any interest since it is our assertion that the City already owns the road.

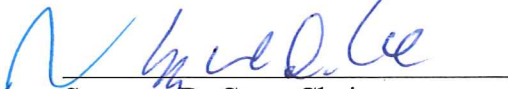
RECOMMENDATION: That the Board:

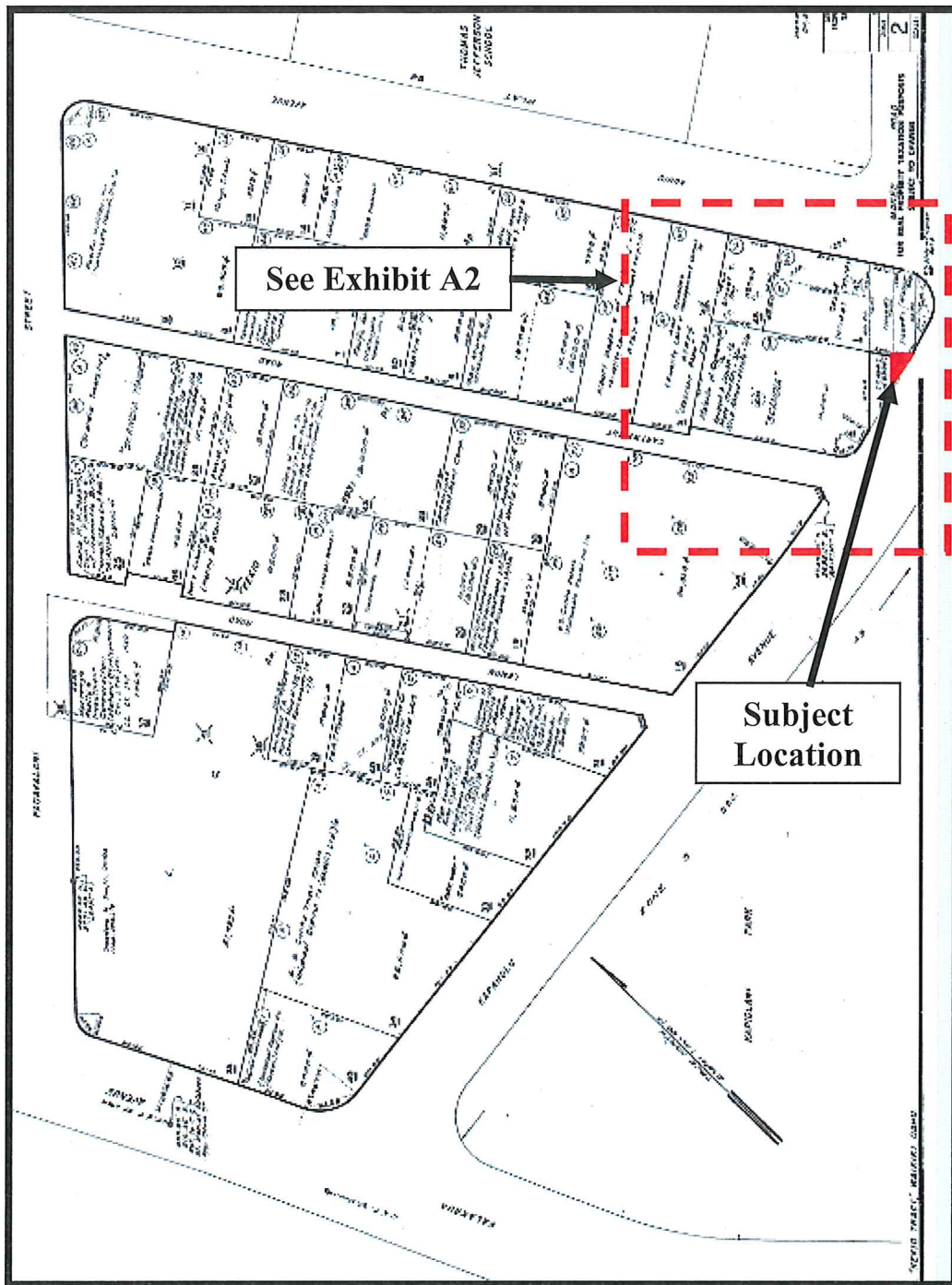
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above authorize the quitclaim of interests, if any, the State may have in the subject roadway parcel to the City and County of Honolulu 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 (roads) 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,


Darlene Bryant-Takamatsu
Land Agent

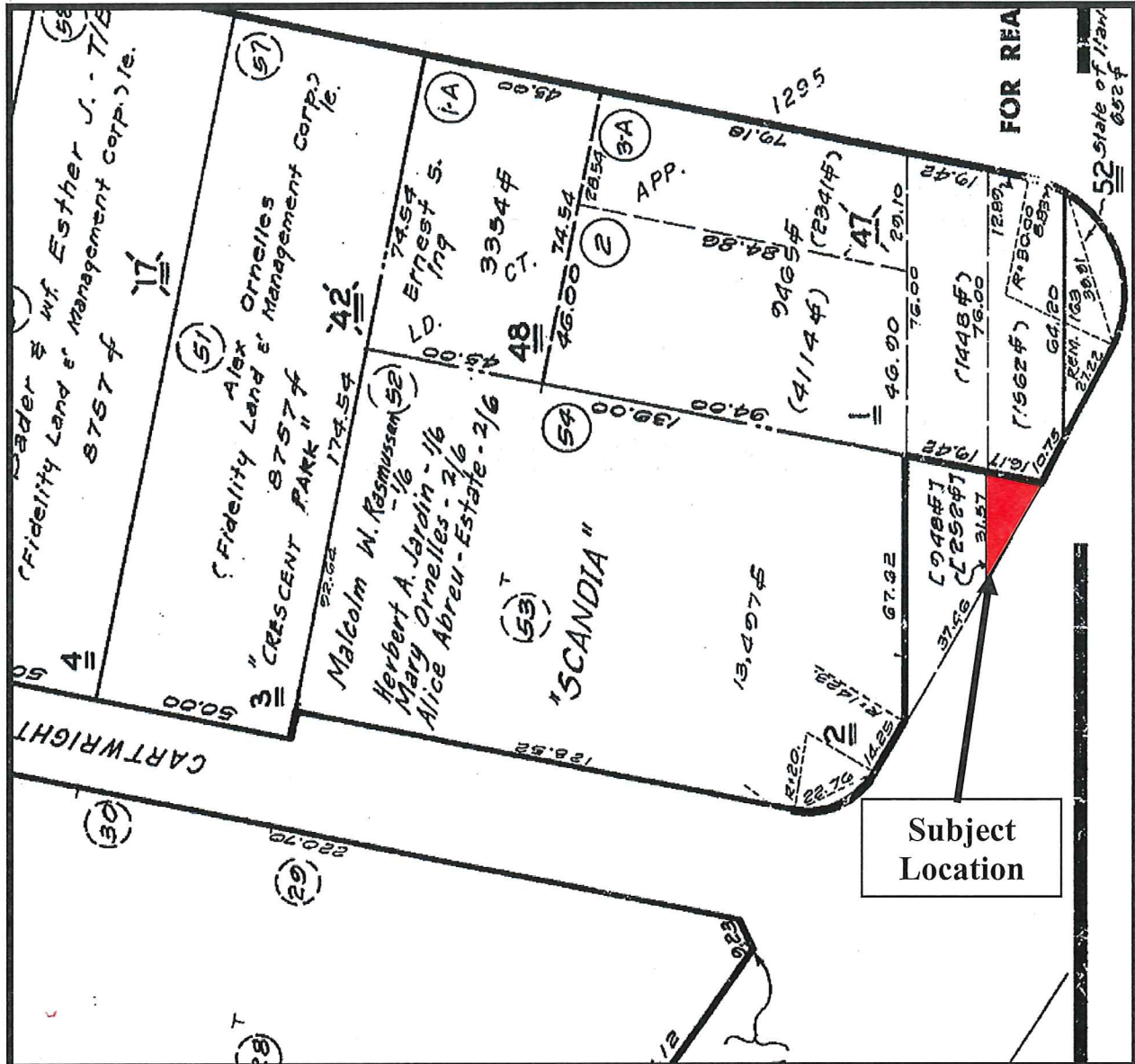
APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



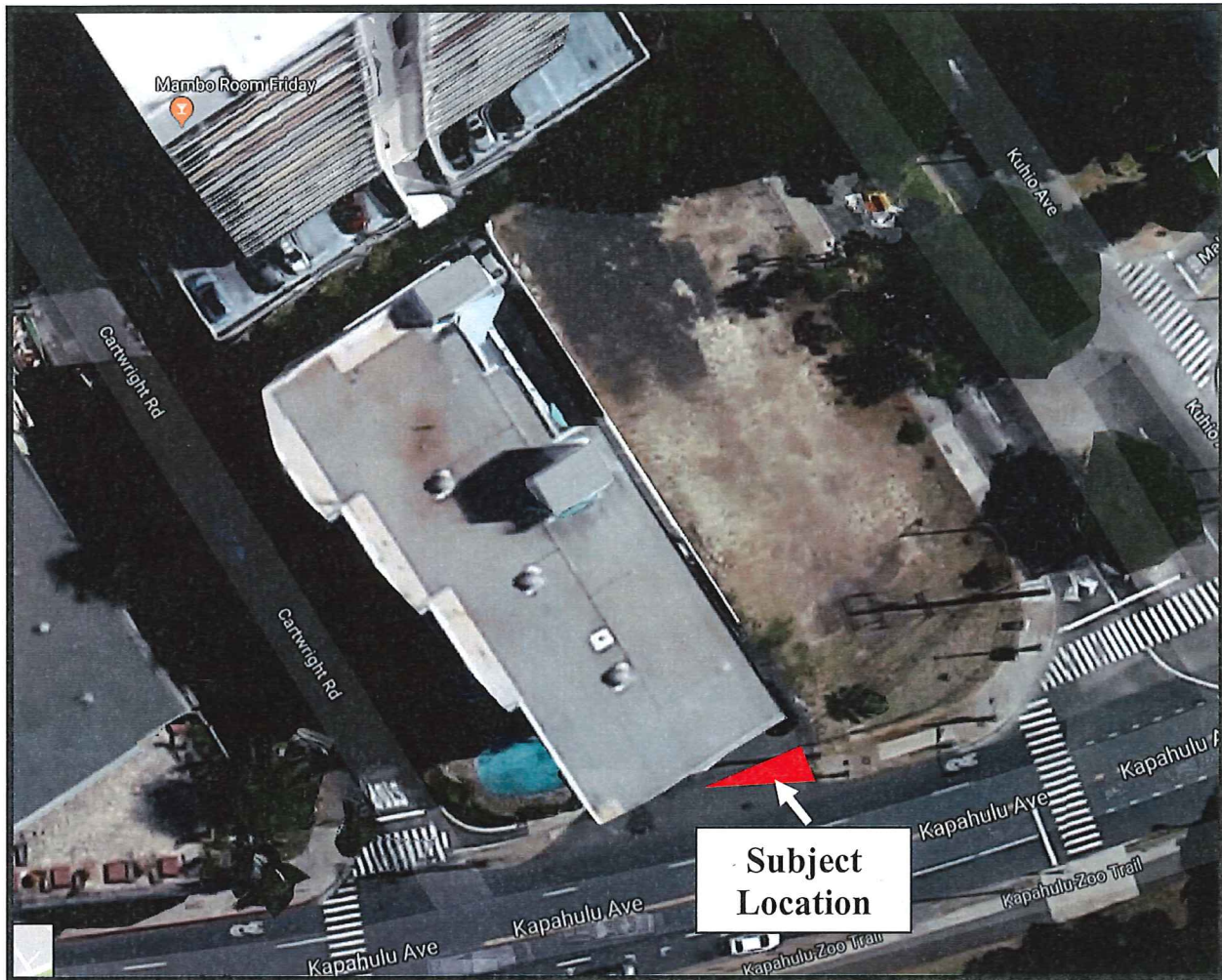
TMK (1) 2-6-027: Road

EXHIBIT A1



TMK (1) 2-6-027: Road

EXHIBIT A2



TMK (1) 2-6-027: Road

EXHIBIT A3

EXEMPTION NOTIFICATION

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

Project Title:	Quitclaim of State's interest over County road.
Project / Reference No.:	PSF 18OD-072
Project Location:	Honolulu, Oahu, TMK: (1) 2-6-027: Road
Project Description:	Quitclaim of State's interest over County road.
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 request is a single action.
Action May Have Significant Impact on Particularly Sensitive Environment:	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, 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:	Board of Water Supply, Department of Parks and Recreation, and Department of Planning and Permitting concur to the proposed exemption.
Recommendation:	It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and is

EXHIBIT B

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presumed to be exempt from the preparation of an environmental assessment.