

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

April 26, 2019

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

PSF No.: 19KD-013

KAUAI

Sale of Remnant (Abandoned Ditch Right-of-Way) to Christopher Duane Thomas, Castro Tract, Kapaa Homesteads, 4<sup>th</sup> Series, Kawaihau, Kauai, Tax Map Key: (4) 4-6-010: portion of 004.

APPLICANT:

Christopher Duane Thomas, married, as tenant in severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Castro Tract situated at Kapaa Homesteads, 4<sup>th</sup> Series, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-010: portion of 004 (abandoned ditch right-of-way), as shown on the attached map labeled Exhibit A.

AREA:

0.0178 acre, 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: NO

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:

In accordance with Section 11-200-8, items (a)(1) & (4), Hawaii Administrative Rules (HAR), 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 "Operation, 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." See Exhibit B.

DCCA VERIFICATION:

Not applicable. The 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 fair market value for the remnant; and
- 3) Consolidate the remnant with the Applicant's abutting property through the County subdivision process.

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 a discontinued abandoned ditch right-of-way.

Christopher Thomas is the owner of the adjacent private parcel identified by Tax Map Key: (4) 4-6-010:031, as confirmed with the County of Kauai, Real Property Tax Office.

The State parcel identified by TMK: (4) 4-6-010:004 (Parcel 4) is an abandoned ditch right-of-way. Applicant is requesting to purchase the portion of Parcel 4 that abuts the Applicant's property.

Another abutting landowner to Parcel 4 is Laverne K. Packard, owner of Tax Map Keys: (4) 4-6-010:036 & 037. Mrs. Packard submitted her application to purchase portions of Parcel 4 and TMK: (4) 4-6-010:005 (Parcel 5) on July 3, 2018. As required by section 171-52, HRS, all abutting owners, including Applicant, were contacted to determine their interest in purchasing the remnants.

On December 18, 2018, Mr. Thomas turned in an application to the Kauai District Land Office, requesting to purchase a portion of Parcel 4. Later Applicant and Mrs. Packard reached an agreement as to which sections of the remnant that they would request to purchase. See Exhibit A for details.

Various neighboring private landowners have made similar requests to purchase portions of the same remnant that abut their respective private properties.

At its meeting of December 13, 2013, item D-5, the Land Board approved the sale of portions of Parcels 4 and 5 to the George Y. Tsukamoto and Chiyoko Tsukamoto, owners of TMKs: (4) 4-6-010:035 & 036.

At its meeting of July 8, 2016, item D-1, the Land Board approved the remnant sale of Parcels 4 and 5 to the Stephen P. Rapozo Sr. Trust, Mervin & Fay Rapozo Trust, Doreen A. Rita, and Madeline M. Yamaguchi, landowners of TMKs: (4) 4-6-010:027 & 028.

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.

Various government agencies and interest groups were solicited for comments.

AGENCIES	COMMENTS
<b>County of Kauai:</b>	
Planning Department	No response by due date.
Public Works	No response by due date.

<b>State of Hawaii:</b>	
DLNR - CWRM	No response by due date.
DLNR – Historic Preservation	No response by due date.
Department of Health	“No comments.”
<b>Other Agencies/ Interest Groups:</b>	
Office of Hawaiian Affairs	No response by due date.
EKWUC – East Kauai Water Users Co-op	No response by due date.

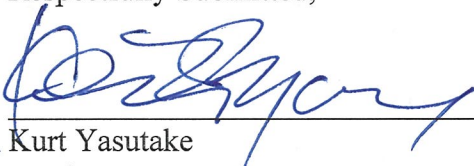
RECOMMENDATION:

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 a remnant pursuant to Chapter 171-52, HRS.
2. Authorize the subject request to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4) 4-6-010:031, 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, and at Applicant’s own expense. Tax Map Key: (4) 4-6-010:004 (abandoned ditch right-of-way) is to be Consolidated with Tax Map Key: (4) 4-6-010:031.
5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Christopher Duane Thomas 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

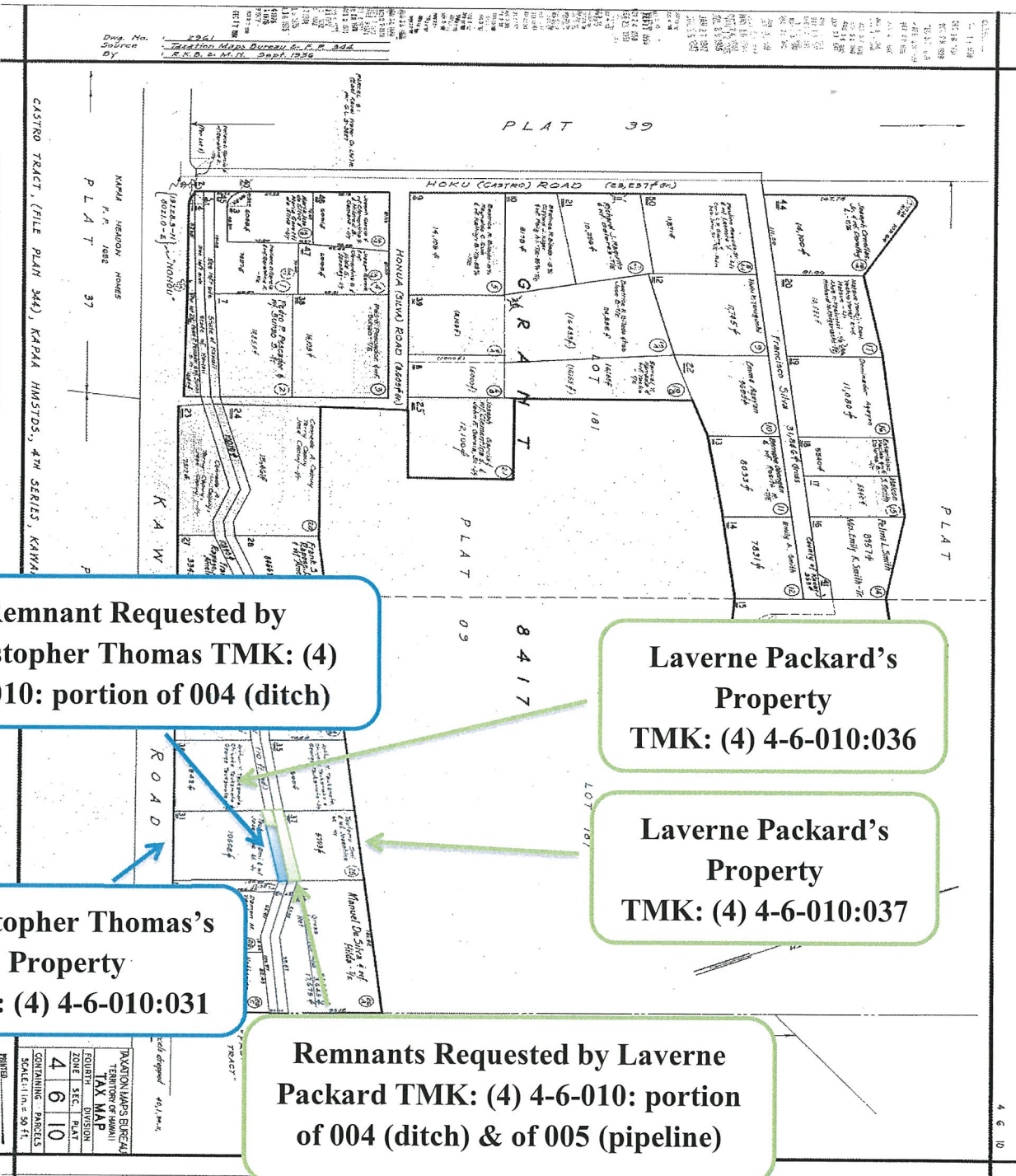
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
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Kurt Yasutake  
Land Agent

APPROVED FOR SUBMITTAL:

  
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Suzanne D. Case, Chairperson



**Remnant Requested by Christopher Thomas TMK: (4) 4-6-010: portion of 004 (ditch)**

**Laverne Packard's Property TMK: (4) 4-6-010:036**

**Laverne Packard's Property TMK: (4) 4-6-010:037**

**Christopher Thomas's Property TMK: (4) 4-6-010:031**

**Remnants Requested by Laverne Packard TMK: (4) 4-6-010: portion of 004 (ditch) & of 005 (pipeline)**

Scale: 1 in. = 50 ft.

TAX MAP			
FOURTH DIVISION	SEC. 1	PLAT	461,128
ZONE	SEC.	PLAT	461,128
4	6	10	
CONTAINING PARCELS			

# EXHIBIT A



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

April 26, 2019

## 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 Right-of-Way) to Christopher Duane Thomas.

**Project / Reference No.:** 19KD-013

**Project Location:** Castro Tract, Kapaa Homesteads, 4<sup>th</sup> Series, Kawaihau, Kauai  
Tax Map Key: (4) 4-6-010: portion of 004

**Project Description:** The applicant is requesting the sale of a remnant State parcel.

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

**Exemption Class No. and Description:** In accordance with Section 11-200-8, items (a)(1) & (4), Hawaii Administrative Rules (HAR), 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 No. 1, Item 44 that states "Transfer of title to land".

**Cumulative Impact of Planned Successive Actions in Same Place Significant?:** No. Staff believes there are no cumulative impacts involved with the sale of the remnant.

**Action May Have Significant Impact on Particularly Sensitive Environment?:** No. There are no sensitive environmental issues involved with the sale of the remnant.

**Analysis:** The proposed action is the transfer of title in a State-owned remnant to a private owner. In the past, several similar segments of the subject remnants were sold to abutting owners.

# EXHIBIT B

The dispositions have not resulted in known significant impacts to the natural and environmental resources in the area. As such staff believes that the proposed disposition would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

**Consulted Parties:**

County of Kauai – Planning Department, County of Kauai – Public Works, DLNR – Commission on Water Resource Management, DLNR – Historic Preservation, Department of Health, Office of Hawaiian Affairs, East Kauai Water Users Co-op.

**Recommendation:**

That the Board find 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.