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COMMISSION ON WATER RESOURCE  
MANAGEMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

January 9, 2020

TO: Chairperson and Board Members

THROUGH: Russell Tsuji, Administrator 

FROM: Ian Hirokawa, Special Projects Coordinator 

SUBJECT: Land Division Comments Regarding January 10, 2020 Agenda Item C-3:  
“Request approval of settlement between Department of Land and Natural Resources and Dole Food Company Inc, regarding real property acquired for addition to the ‘Ewa Forest Reserve, Pa‘ala‘a-Uka and Wahiawa, O‘ahu, Tax Map Key (1) 7-1-002:011.”

Land Division (“LD”) respectfully submits comments expressing its concerns regarding the agenda item referenced above. While LD is generally supportive of a settlement to resolve this matter, we have significant concerns that the proposed settlement amount of \$39,000 is simply too low given the extensive valuations done for the subject parcel at issue. As noted in the submittal, an appraisal contracted for by the Department valued the subject parcel at \$661,200<sup>1</sup>. For conveyance tax purposes, the parties to the transaction allocated a value of \$570,000 for the subject parcel. Additionally, an appraisal prepared for the seller valued the property at \$117,000.

LD acknowledges that the total purchase price for the acquisition does not exceed the fair market value adjusted to exclude the subject parcel. However, it is important to note that while negotiating the transaction the Department’s understanding was that it was paying valuable consideration for the subject parcel. At no point during the acquisition process was it discussed that the parcel was being gifted to the State due to a potential title issue. Furthermore, the Seller executed a warranty deed with the State, with the Seller warranting title to the subject parcel. Given this background, we do not believe there is adequate justification to accept the proposed settlement amount of \$39,000.

Additionally, LD notes that the submittal’s recommendations do not provide for any further action regarding the denial of the title insurance claim. The Department conducted reasonable due diligence in obtaining a title report and a title insurance policy to safeguard against unforeseen issues that may arise, such as in this very instance. With respect to the justification provided by the title insurer to deny the insurance claim, we note that there is no evidence of any

<sup>1</sup> The appraisal was prepared by John Child & Company, the same appraiser that determined the fair market value for the entire property that was acquired. This previous appraisal was accepted by all parties, including federal agencies that provided funding for the acquisition.

appropriate disposition, formally approved and executed in writing, by the State of its interest in the subject parcel to a private party. To accept this justification would essentially acknowledge that the State could divest itself of fee interest in public lands by merely a survey or mapping error. Therefore, even if the Board were to approve the settlement with the Seller, LD strongly recommends that any potential claims against the title insurer not be waived and that the Department be allowed to pursue such claims as appropriate.