

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

July 24, 2020

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

PSF No.: 20KD-009

KAUAI

Sale of Remnant (abandoned ditch) to Gregory L. Tacbian and Cosie M. Tacbian,
Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-6-026: portion of 001.

APPLICANTS:

Gregory L. Tacbian and Cosie M. Tacbian, as Joint Tenants.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Kapaa Homesteads, 4th Series, Kawaihau, Kauai,
identified by Tax Map Key: (4) 4-6-026: portion of 001, as shown on the attached map
labeled EXHIBIT A.

AREA:

563 square feet, 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: 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 Hawaii Administrative Rules (“HAR”) § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on March 3, 2020, 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 Part 1, Item No. 38, that states “Transfer of title to land.” See EXHIBIT B.

DCCA VERIFICATION:

Not applicable. The Applicants as landowners are not required to register with DCCA.

APPLICANTS REQUIREMENTS:

Applicants shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicants’ 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 Applicants’ abutting property through the County subdivision process.

REMARKS:

Gregory L. Tachian and Cosie M. Tachian (Applicants) are the owners of the adjacent private parcel identified by TMK: (4) 4-6-026:002, as confirmed with the County of Kauai, Real Property Tax Office.

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.

The State parcel identified by TMK: (4) 4-6-026:001 (Parcel 001) is an abandoned ditch right-of-way. Applicants are requesting to purchase the portion of the State parcel that abuts the Applicants' property at TMK: (4) 4-6-026:002.

On July 17, 2019, Kauai District Land Office received a letter from the applicants to purchase a portion of Parcel 001. As required by section 171-52, HRS, all abutting owners were contacted to determine their interest in purchasing the remnants.

Spence Aguiar is another abutting landowner to Parcel 001 by virtue of his ownership of TMK: (4) 4-6-026:004.

On May 8, 2020, letter was sent to Mr. Aguiar asking if he was interested in purchasing the portion of Parcel 001 abutting his property.

On May 26, 2020, Mr. Aguiar signed the letter and checked the box which specified, "Not interested. I/We waive our right to purchase."

Parcel 001 also abuts a portion of Kawaihau Road, identified by TMK: (4) 4-6-026:999, which is owned by the County of Kauai – Department of Public Works (COK – DPW).

On June 10, 2020, the COK – DPW was sent a draft Board submittal of the subject request to review and comment.

On June 17, 2020, COK – DPW responded that the "DPW has no objections to the sale."

Various private landowners located in Kawaihau, near the subject area, have made similar requests to purchase other portions of State-owned abandoned remnant ditches that abut their respective private properties.

At its meeting of December 13, 2014, item D-5, the Land Board approved the sale of portions of abandoned ditch remnants TMKs: (4) 4-6-010: portions of 004 & 005 to 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 sale of portions of abandoned ditch remnants TMKs: (4) 4-6-010: portions of 004 & 005 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.

At its meeting of April 26, 2019, item D-3, the Land Board approved the sale of portions of abandoned ditch remnants TMKs: (4) 4-6-010: portions of 004 & 005 to Laverne K. Packard and Christopher Thomas. Laverne K. Packard is the landowner of abutting private parcels TMKs: (4) 4-6-010:036 & 037. Christopher Thomas is the landowner of abutting private parcel TMK: (4) 4-6-010:031.

Applicants have 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
County of Kauai:	
Planning Department	No response by due date.
Public Works	“DPW has no objections to the sale.”
State of Hawaii:	
DLNR – CWRM	No response by due date.
DLNR – Historic Preservation	No response by due date.
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No response by due date.

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) 4-6-026:002, 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 11-200.1, 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 Applicants, and at Applicants' own expense. Tax Map Key: (4) 4-6-026: portion of 001 to be consolidated with Tax Map Key: (4) 4-6-026:002.
5. Subject to the Applicants fulfilling all of the Applicants Requirements listed above, authorize the sale of the subject remnant to Gregory L. Tacbian and Cosie M. Tacbian 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

Kurt Yasutake
Land Agent

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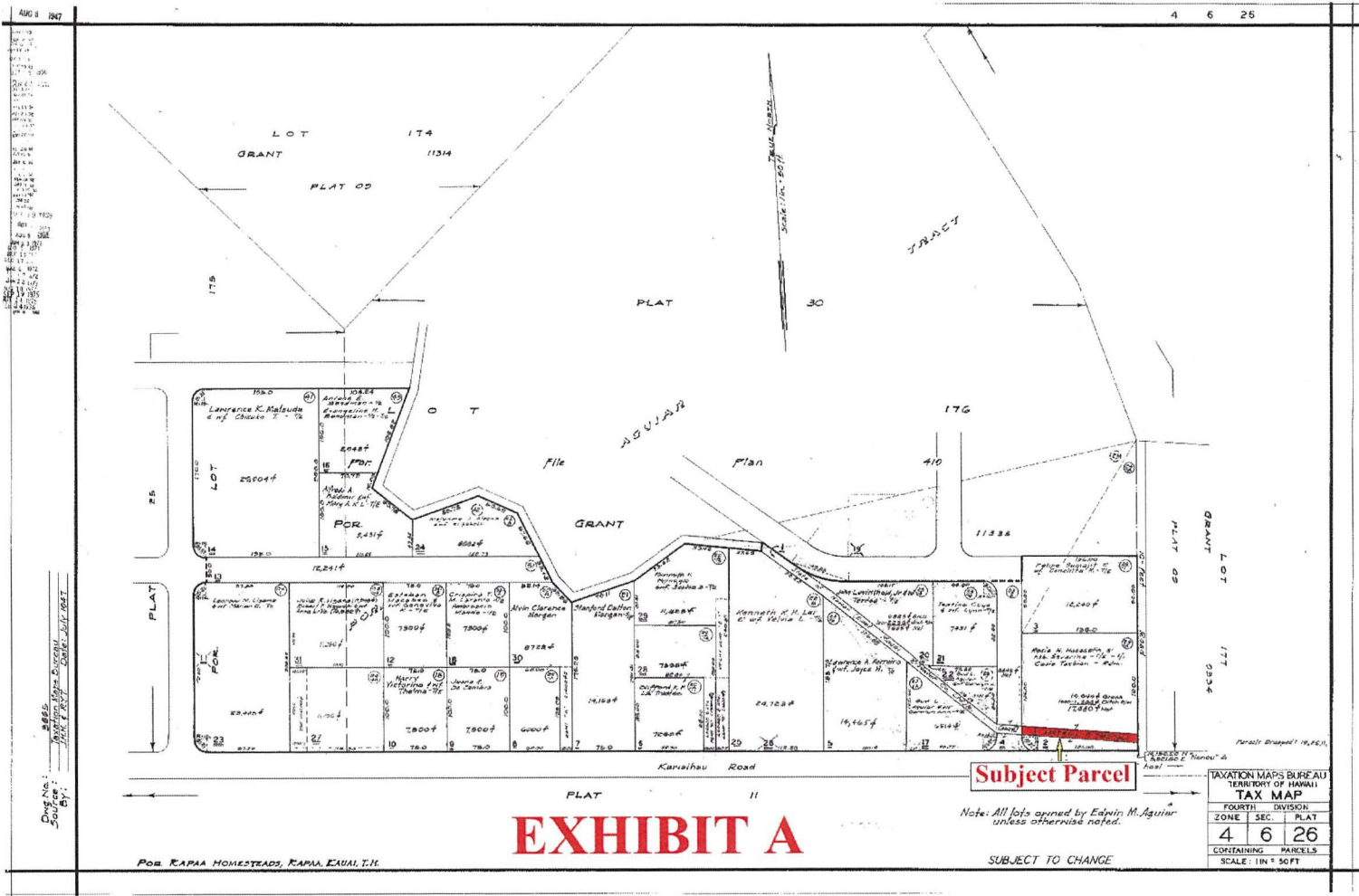
KEM

APPROVED FOR SUBMITTAL:

RT

Suzanne D. Case

Suzanne D. Case, Chairperson



DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 24, 2020

EXHIBIT B

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, Hawaii Administrative Rules.

Project Title:	Sale of Remnant (abandoned ditch) to Gregory L. Tacbian and Cosie M. Tacbian.
Project / Reference No.:	20KD-009
Project Location:	Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-6-026: portion of 001.
Project Description:	Sale of Remnant (abandoned ditch) to Gregory L. Tacbian and Cosie M. Tacbian.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with Hawaii Administrative Rules ("HAR") § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on March 3, 2020, 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 Part 1, Item No. 38, that states "Transfer of title to land."
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No. There is no projected negative cumulative impact due to successive action.

Action May Have
Significant Impact on
Particularly Sensitive
Environment:

No. Any particularly sensitive environmental issues for the subject area were not brought to the attention of the Division.

Consulted Parties

Agencies as noted in the submittal.

Analysis:

Based on the above mentioned, staff believes there would be no significant impact to the environment.

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.