

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

May 27, 2022

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

PSF No.: 16OD-144

OAHU

Sale of Remnant to James M. Sedeno, Waimanalo, Koolaupoko, Oahu, Tax Map
Key: (1) 4-1-023:008.

APPLICANT:

James M. Sedeno, married, tenant in severalty.

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands Waimanalo situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-023:008, as shown on **Exhibit A**.

AREA:

4,653 square feet, more or less.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: R-5

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:

Portion of the subject parcel is encumbered with a perpetual, non-exclusive easement [LOD 26533] for sanitary sewer purposes in favor of the City and County of Honolulu.

CONSIDERATION:

One-time, lump sum payment of fair market value to be determined by independent 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 on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 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" under Part 1, item 37, which states, "transfer of title to land". The request is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of §11-200.1-17, HAR. (**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. Pay for an appraisal to determine the one-time payment of fair market value of the remnant;¹ and
2. Consolidate the remnant with the Applicant's abutting property through the County subdivision process.

REMARKS:

At its meeting of March 9, 2018, under agenda item D-8, the Board deferred the subject request. The Board asked staff to show that the parcel is "economically or physically unsuitable or undesirable" for development or utilization if and when the matter was brought back to the Board. Based on new information, staff returns the matter to the Board for consideration.

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

¹ Applicant is aware of the possible cost of appraisal.

reason of location, size, shape, or other characteristics." The subject parcel has been determined to be a remnant by this definition as described in the following paragraphs.

Discussion on remnant

The State abstractor provides a historical account of subject parcel, which is a Poalima.² It is also identified as Exclusion 1 on Map 2 of Land Court Application 1569 where the adjacent residential subdivision was developed. A 12-foot-wide Easement A was designated on Map 2 over Lot 32 (owned by the applicant, Mr. Sedeno) which appears to provide legal access connecting the State parcel and the public road.³

Staff reviewed the title deed and transfer certificate of title for Lot 32, further identified as TMK (1) 4-1-023:009. Nevertheless, staff could not locate any record of a grant of the subject Easement A to anybody, including the State. In short, the State parcel is landlocked and surrounded by private properties.

Research did not show any form of disposition issued by the government regarding the subject parcel, and a previous inspection noted that the State parcel was overgrown with vegetation.

Acquisition of an easement over Lot 32 for the benefit of the State parcel is arguably an alternative. However, Lot 32 is owned by the applicant of the subject request who intends to purchase the fee title to build. Staff believes any friendly acquisition of an easement is unlikely.

Another idea to utilize the State parcel is setting aside the parcel to Hawaii Housing and Finance Development Corporation (HHFDC) for affordable housing project. Staff was working with HHFDC for another vacant State parcel in Honolulu where a non-profit entity was planning to develop into a multi-unit affordable housing project. That parcel had an area of 12,558 sf. During the solicitation for comment among government agencies, the Board of Water Supply required additional fire hydrant and water meter improvements. The non-profit entity eventually decided to pull the project. Due to the smaller size of the subject parcel (4,653 sf) and its landlocked status, staff believes it has even less development potential and will likely continue to remain vacant land if not sold as a remnant. By an email dated May 2, 2022, HHFDC confirmed that they would not be interested in receiving a set aside of the parcel due to the lot size and access issue.

² Poalima is a historical parcel of land separate and distinct from the kuleana claim of the tenant who cultivated the Poalima specifically to provide *fief*, or food, for the konohiki. In accordance with the laws of the Mahele, the title and ownership of the subject poalima was confirmed to be the private lands of Kamehameha III as a portion of the Crown Ahupuaa of Waimanalo. By mesne probates and subsequent operation of laws, the title and ownership of Kamehameha III in and to the subject Poalima was granted to the State of Hawaii pursuant to section 5(b) of the Admissions Act of August 18, 1959.

³ In the submittal of 2018, the 12-foot-wide access easement was mistakenly believed to be in favor of the State. Further research indicates the State parcel is land-locked as described above.

If the Board were to approve today's request, the lot could be utilized by the proposed purchaser, an adjoining landowner.

Lastly, if the parcel is to remain as State land, Land Division will find it difficult to keep patrolling and maintaining it as unencumbered land as there is no legal access over Lot 32. Possible abandoned vehicles or other forms of unauthorized use may raise potential liability issues for the State.

Abutting Owners

Applicant is the owner of parcel (1) 4-1-023:009 as staff has confirmed with the information provided on the City and County of Honolulu Real Property Assessment Division website.

Other abutting properties to the subject parcel include (1) 4-1-023:007, 013 and 014. Letters were sent to the record owners of the abutting properties inquiring about their interest, if any, in purchasing the subject parcel as remnant from the State. Staff did not receive any response indicating interest in the subject parcel.

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.

Comments from other agencies

Department of Facility Maintenance, Department of Planning and Permitting, Board of Water Supply, and State Historic Preservation Division have no comments/objections to the request.

Division of Aquatic Resources recommends that Best Management Practices should be followed when the parcel is developed. Staff notes that this issue will be handled during the building permit process administered by the City and County of Honolulu.

Department of Health, Department of Hawaiian Home Lands, Commission on Water Resource Management, Office of Hawaiian Affairs, and Department of Parks and Recreation have not responded to the solicitation for comments before the deadline.

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, 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: (1) 4-1-023:009, 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 as a de minimis activity.
4. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to James M. Sedeno 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,

Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case

Suzanne D. Case, Chairperson *for* RT

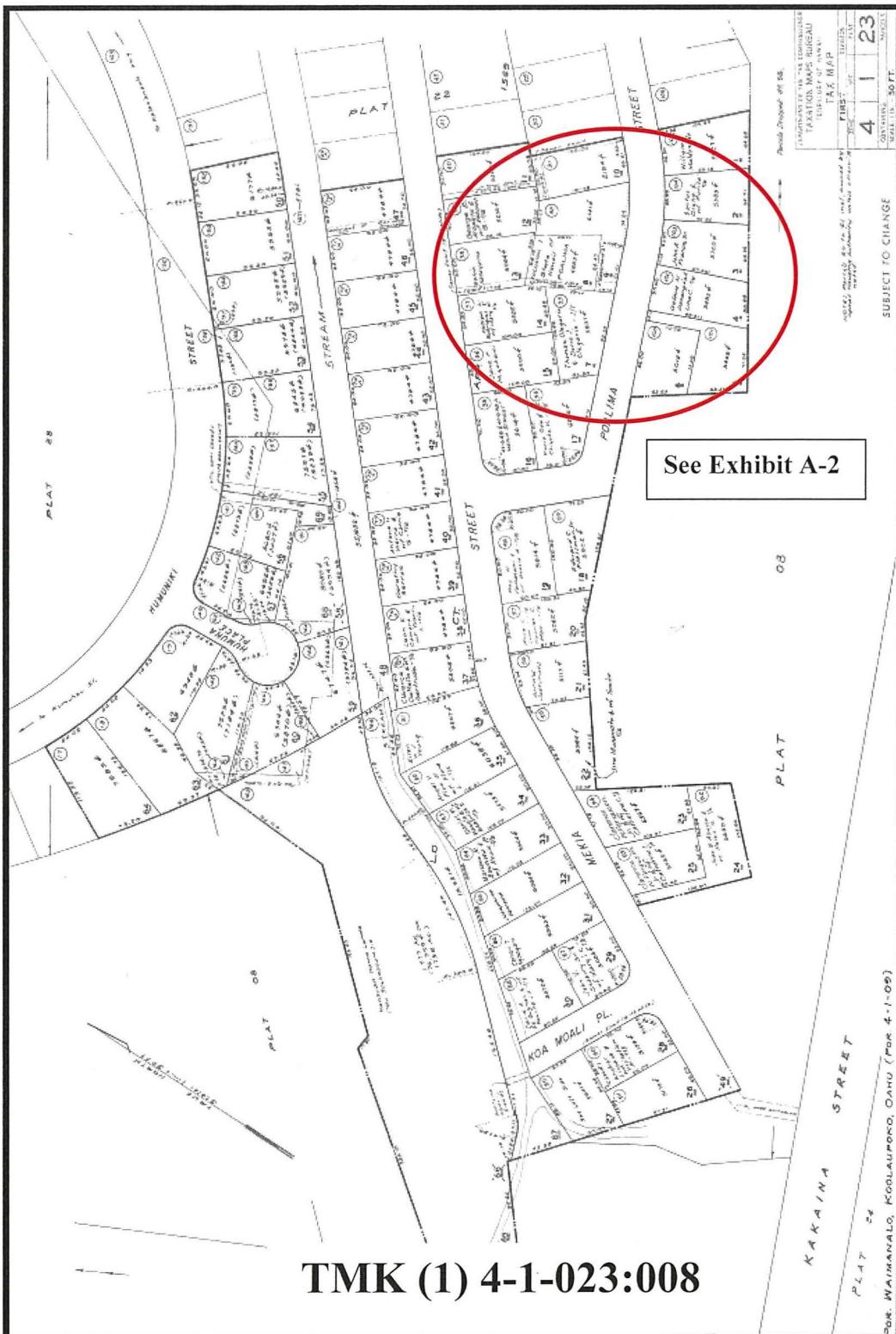
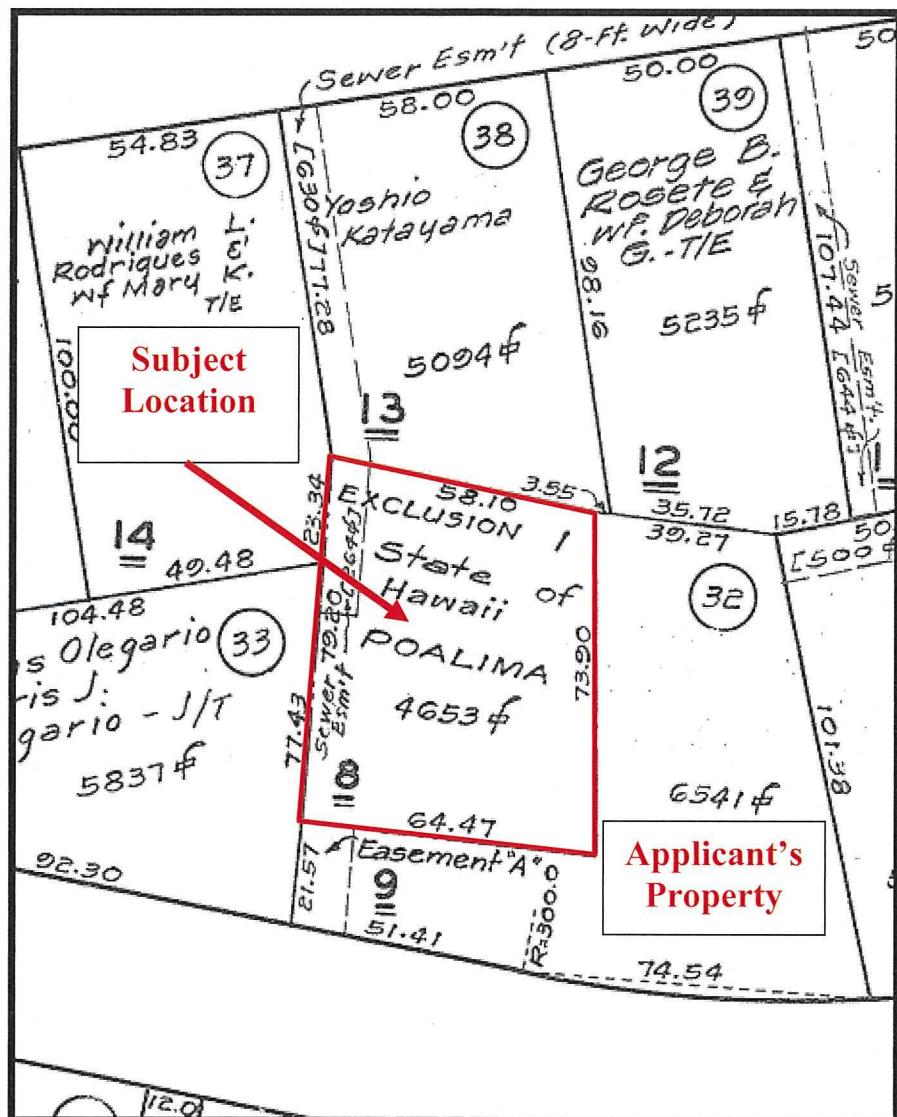


Exhibit A-1



TMK (1) 4-1-023:008

Exhibit A-2

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title:	Sale of Remnant
Project / Reference No.:	PSF 16OD-144
Project Location:	Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-023:008
Project Description:	Sale of remnant due to lack of legal access for State parcel.
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 on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 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" under Part 1, item 37, which states, "transfer of title to land". The request is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of §11-200.1-17, HAR.
	Any proposed development of the subject parcel, upon the consummation of the sale, including the building of a new dwelling in this residential area, will follow the applicable zoning and building codes. Therefore, staff believes that the request would involve negligible impacts on the environment.
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No. Staff believes there are no cumulative impacts involved.
Action May Have Significant Impact on Particularly Sensitive Environment?	No. There are no particularly sensitive environmental issues involved with the proposed use of the property.
Consulted Parties:	As listed in the submittal.

EXHIBIT B

Analysis: Transfers of title to State lands are exempt from preparation of an environmental assessment.

Recommendation: It is recommended that the Board find that 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.