

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

April 28, 2023

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

PSF No.: 22KD-081

KAUAI

Sale of Remnant (abandoned ditch) and Immediate Right of Entry Permit for Survey Purposes to Charles K. Bright & Eileen I. Bright, Kapaa Homesteads, 4th Series, Kawaihau, Kauai, Tax Map Key: (4) 4-6-027: portion of 025.

APPLICANT:

Charles K. Bright and Eileen I. Bright, Husband and Wife, as Joint

Tenants. LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands at Kapaa Homesteads, 4th Series, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-027: por. of 025, as shown on the attached map labeled **Exhibit A**.

AREA:

Total parcel area is 0.23 acre, more or less.
Estimated remnant purchase area is 0.031 acre, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: R4 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 an independent appraiser, subject to review and approval by the Chairperson.

For Right of Entry Permit: Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources approved 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, 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. 37, “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:

Charles K. Bright and Eileen I. Bright are the owners of the private parcel identified by Tax Map Key: (4) 4-6-027:010 (Parcel 010), as confirmed with the County of Kauai, Real Property Tax Office. They are requesting to purchase a portion of the adjacent subject remnant identified as Tax Map Key: (4) 4-6-027: por. of 025 and consolidate it

with their Parcel 010. As a routine part of the application process, Land Division reaches out to all landowners abutting the intended remnant purchase to assess additional interest. At present, Land Division has received no expression of interest from any of the abutting owners.

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.

The State parcel identified by TMK: (4) 4-6-027:025 is an abandoned ditch. Applicant is requesting to purchase the portion of the ditch that abuts the Applicant's fee simple property.

Various neighboring private landowners have made similar requests to purchase portions of the same ditch parcels that abut their respective private properties. Most recently, Land Board approved the sale of remnant (abandoned ditch) to Gregory L. Tachian and Cosie M. Tachian, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-6-026: portion of 001 on July 24, 2020 under agenda item D-1.

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
County of Kauai:	
Planning Department	No response by due date
Public Works	No response by due date
State of Hawaii:	
Commission of Water Resource Management	No response by due date
DLNR – Historic Preservation	No response by due date
Department of Health	No Objection
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

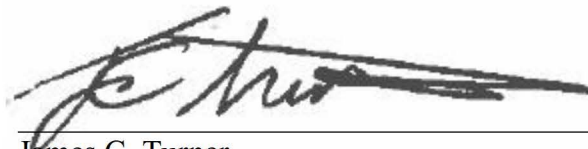
undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.

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) 4-6-027:010, 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 Applicant, and at Applicant's own expense. Tax Map Key: (4) 4-6-027:025 por. (ditch) to be consolidated with Tax Map Key: (4) 4-6-027:010.
5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Charles K. Bright and Eileen I. Bright 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.
6. Grant an immediate right-of-entry permit for surveying purposes to Charles K. Bright and Eileen I. Bright, their consultants, contractors, and/or persons acting for or on their behalf, onto the subject property to survey the property, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current management right-of-entry form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State;
 - C. This right-of-entry is authorized to continue for a term of one year or until the

survey is completed, whichever shall first occur. The Chairperson is authorized to the continue the right-of-entry permit for additional one year periods for good cause shown; and

- D. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

Respectfully Submitted,



James C. Turner
Land Agent

APPROVED FOR SUBMITTAL:



Dawn N.S. Chang, Chairperson



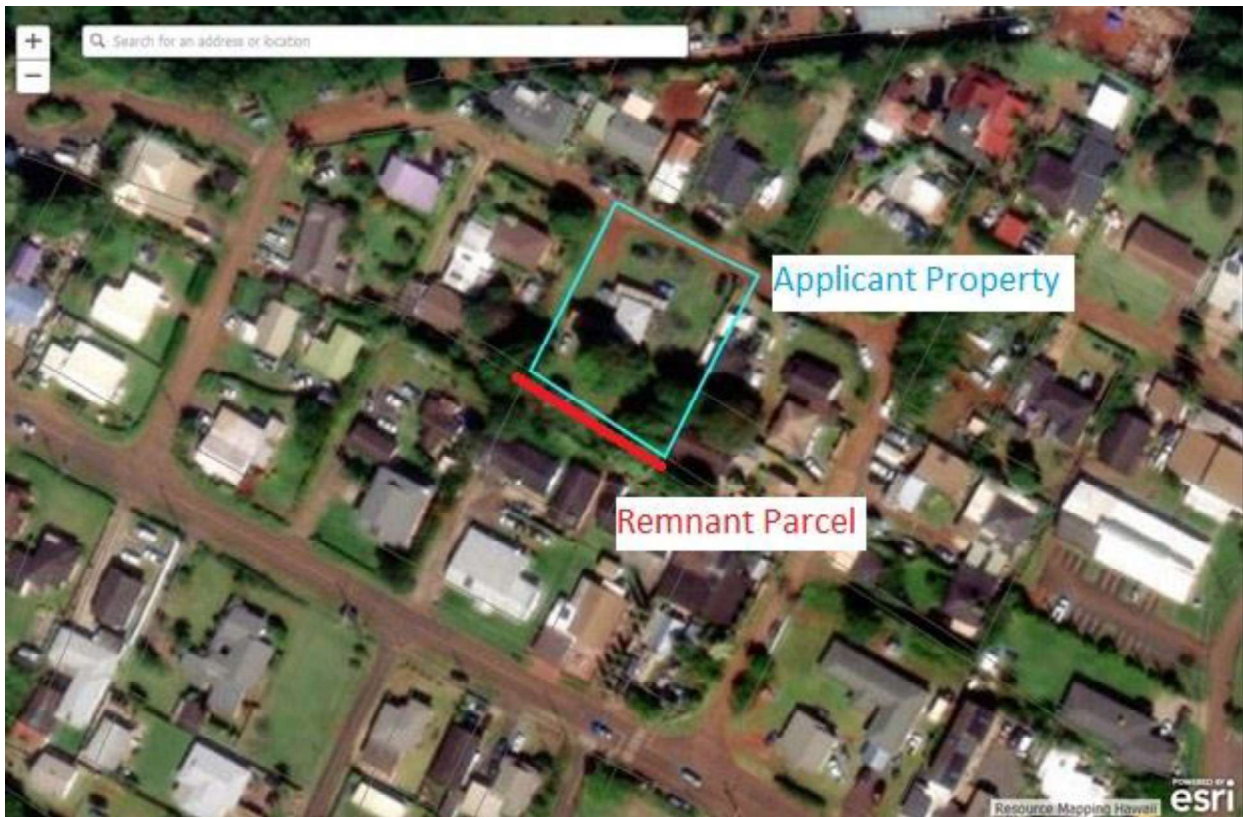
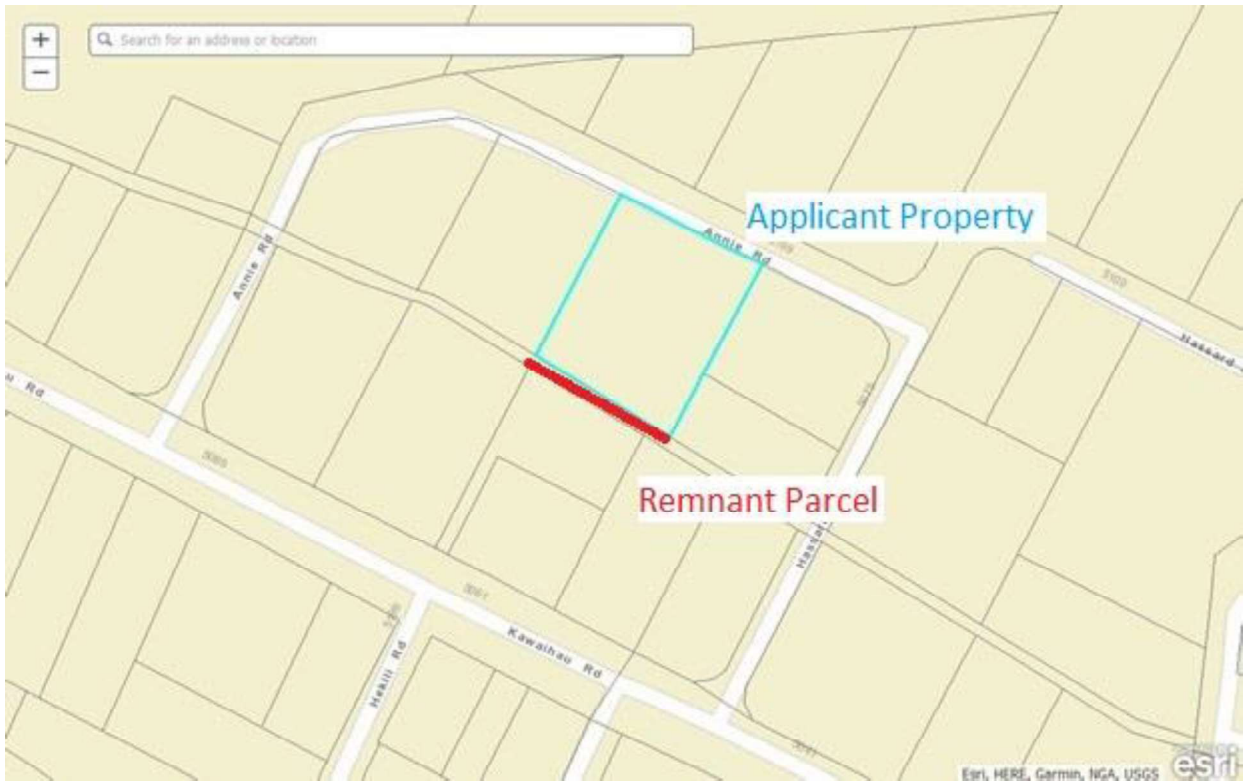
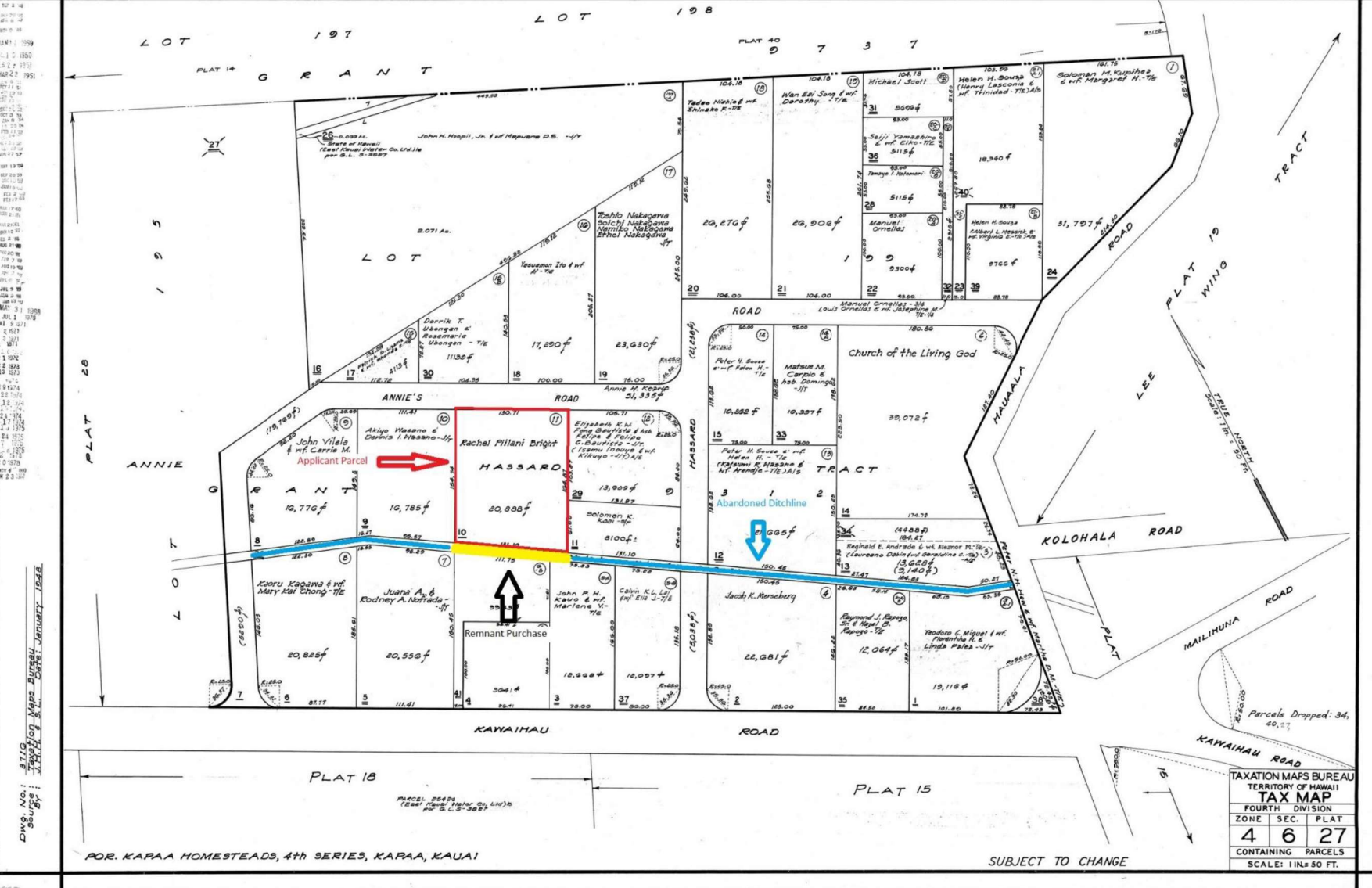


Exhibit A



TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH	SECTION	PLAT
4	6	27
CONTAINING PARCELS		
SCALE: 1 IN = 50 FT.		

Exhibit A

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

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April 28, 2023

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 Parcel (abandoned ditch) Charles K. Bright and & Eileen I. Bright

Project / Reference No.: 22KD-081

Project Location: Kapaa Homesteads, 4th Series, Kawaihau, Kauai, Tax Map Key: (4) 4-6-027: portion of 025

Project Description: The applicants are requesting to purchase a portion of a remnant State parcel (abandoned ditch) to consolidate with their abutting private property.

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

Exemption Class No. and Description: 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, Part 1 that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing," and Item 37 that states, Item 44 that states "Transfer of title to land".

EXHIBIT B

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 remnant were sold to abutting owners. 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 (COK) Planning Department, COK Public Works Department, State Historic Preservation Division, State of Hawaii (SOH) Department of Forestry and Wildlife, SOH Commission on Water Resource Management, and SOH Office of Hawaiian Affairs.

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.