

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

May 22, 2026

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

PSF No.: 15HD-091

HAWAII

Rescission of Prior Board Action of April 27, 2018, Item D-2, as Amended, *Quitclaim of State's Interests, if Any, in the Abandoned Government Roadway off Kynnersley Road, to the County of Hawaii, Nunulu Nui, North Kohala, Hawaii, Tax Map Key: (3) 5-4-001: 005*; and

Quitclaim Sale of Remnant (Abandoned Government Roadway) to Alice Leiomalama Solomon, as Trustee of the Alice Leiomalama Solomon Revocable Trust dated February 3, 2000, as amended, and Hulali Flora Solomon Covington and Robert Tredwell Covington, Trustees of that certain unrecorded Revocable Living Trust of Hulali Flora Solomon Covington and Robert Tredwell Covington dated March 8, 2021; Dowling Family 2000 Trust; and Marilynn Kanehailua, Raylynn Kanehailua, and Reymond Kanehailua, (collectively as "Applicants") Kaauhuhu, North Kohala, Hawaii, Tax Map Key: (3) 5-4-001:005.

The reason for the rescission of the prior Board action and the request to convey the abandoned road to Applicants by way of quitclaim is that the County of Hawaii declined to accept the conveyance of the abandoned roadway after Board approval. The Applicants still desire to acquire the abandoned roadway in spite of the County's decision not to accept the prior Board-approved conveyance.

APPLICANTS:

Alice Leiomalama Solomon, as Trustee of the Alice Leiomalama Solomon Revocable Trust dated February 3, 2000, as amended, and Hulali Flora Solomon Covington and Robert Tredwell Covington, Trustees of that certain unrecorded Revocable Living Trust of Hulali Flora Solomon Covington and Robert Tredwell Covington dated March 8, 2021; a Trust holding ownership interest of adjacent parcel Tax Map Key (TMK): (3) 5-4-001:012 (Solomon);

Dowling Family 2000 Trust; a Trust holding ownership interest of adjacent parcel TMK: (3) 5-4-001:029 (Dowling); and

Marilynn Kanehailua, Raylynn Kanehailua, and Reymond Kanehailua; individuals holding ownership interest of adjacent parcel TMK: (3) 5-4-001:029 (Kanehailua).

Collectively are referred to hereinafter as "Applicants" and individually as "Solomon", "Dowling" and "Kanehailua"

LEGAL REFERENCE:

Sections 171-52 and 264-3, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands (abandoned government roadway) situated at Nunulu Nui, North Kohala, Hawaii, TMK: (3) 5-4-001:005, which can be viewed at:

<https://qpublic.schneidercorp.com/Application.aspx?AppID=1048&LayerID=23618&PageTypeID=1&PageID=9875&Q=1932167519&KeyValue=540010050000>

AREA:

3.821 acres, more or less.

ZONING:

State Land Use District: Agriculture  
County of Kauai CZO: A-20a

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 abandoned roadway.

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 §11-200.1-15 of the Hawaii Administrative Rules 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:

**Exemption Class No. 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.

**Part 1, Item 37:** Transfer of title to land.

The proposed quitclaim conveyance of an abandoned roadway to the applicants 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.

PUBLIC TRUST ANALYSIS:

The State maintains that it does not have ownership of the abandoned road remnant and that pursuant to the Highways Act, Chapter 264, HRS, the road belongs to the County of Hawaii. The County of Hawaii has refused to accept ownership of the abandoned road. Therefore, the abandoned road remnant is not part of the public trust lands and the quitclaim of any implied interest the State may have in the abandoned road does not affect the public trust lands inventory.

DCCA VERIFICATION:

Not applicable. Applicants, as trusts and individuals, are not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicants shall be required to:

- 1) Pay for the appraisal to determine the one-time payment of fair market price for the abandoned roadway remnant.

REMARKS:

Applicants have worked with the Department of Land and Natural Resources (Department) and the County of Hawaii (County) for many years in an effort to secure access over the subject abandoned roadway. In 2017, the parties agreed that the quitclaim conveyance of the abandoned roadway from the State to the County would allow the County to, in turn, sell portions of the roadway to abutting landowners desiring to establish or reestablish access over it. The State proposed a quitclaim conveyance because the State viewed the road as a County road pursuant to the Highways Act, Chapter 264, HRS. A quitclaim deed allows the State to make a conveyance of land while disclaiming any interest in it.

In accordance with that agreement, by letter dated October 26, 2017, the County requested the conveyance of the abandoned roadway. Staff presented the County's request to the Board of Land and Natural Resources (Board) at its meeting of April 27, 2018, under agenda Item D-2. The Board approved the staff recommendation with an amendment, which directed the Land Division Administrator to advise the County of then Board member Christopher Yuen's concern that there be public access to lands at the higher elevations where an old cane haul road exists or once existed. A copy of the April 27, 2018, Meeting Minutes (see pages 6 and 7) and Board Submittal, Item D-2, can be viewed at <https://dlnr.hawaii.gov/wp-content/uploads/2018/07/180427-minutes.pdf> and <https://dlnr.hawaii.gov/wp-content/uploads/2018/04/D-2-1.pdf>, respectively.

Subsequently, staff requested the Department of the Attorney General (AG) to prepare the quitclaim deed from the State to the County. On August 13, 2020, staff transmitted the document to the County with instructions to execute and return the document for signature by the Chairperson and further processing. However, County administration changed at the end of 2020 and support for acceptance of the quitclaim deed waned and the conveyance was never consummated.

On August 2, 2023, Applicants filed a complaint for declaratory relief against the State and the County in the Circuit Court of the Third Circuit, State of Hawaii, Civil No. 3CCV-23-0000281. The complaint sought a judicial determination as to whether the State or the County had jurisdiction over the road and maintenance responsibility for it, or whether the road was in fact abandoned so that it could be disposed of to private parties in accordance with law. Applicants filed a motion to include, as additional defendants in the action, other property owners abutting the abandoned road. On March 21, 2024, Applicants filed a first amended complaint naming these additional defendants who later sought dismissal from the case. At a June 21, 2024 hearing, the court denied the motion to dismiss the additional defendants but agreed to stay the proceedings as to them.

The State, County and Applicants reached a settlement of the litigation where the Department agrees to request that the Board, which is not a party to the lawsuit, declare that the road is a "remnant" parcel as that term is defined by §171-52(a)(2), HRS, and abandoned under Chapter 264, HRS and to be offered for sale to the abutting landowners in accordance with §171-52(c) or §264-3, HRS [Disposal of abandoned public highway], or both, as may be deemed appropriate by the Board.

Pursuant to §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." Based on this definition, staff has determined that the subject parcel meets this definition as the configuration of the roadway is Y-shaped with a width of 40 feet and a length of more than 4,000 feet. The long, narrow Y-shaped parcel precludes any development or utilization by the State even if the State had title to the lands (which it does not). Therefore, the abandoned government roadway may be disposed of

by quitclaim as a remnant under Section §171-52, HRS.

The Board may also dispose of the abandoned government roadway pursuant to §264-3, HRS, which similarly provides for sale to abutting owners and for sale at public auction if the abutting owners do not express interest in purchasing the land after a reasonable time. Staff contacted all abutting owners to participate in the purchase of the remnant and all other abutting landowners have declined to participate in the purchase.

Therefore, staff has determined that the most appropriate method of sale is by quitclaim as a remnant pursuant to Section §171-52, HRS.

Staff confirmed with the County of Hawaii Real Property Tax Office that:

Solomon, are the fee owners of Tax Map Key: (3) 5-4-001:012 (Parcel 12) that abuts a portion of the subject remnant at one of its ends; and

Dowling, are the fee owners of Tax Map Key: (3) 5-4-001:029 (Parcel 29) that abuts a portion of the subject remnant at one of its ends; and

Kanehailua, are the fee owners of Tax Map Key: (3) 5-4-001:014 (Parcel 14) that abuts a portion of the subject remnant along its course.

Solomon, Dowling, and Kanehailua all desire to purchase the remnant to establish or reestablish access to their private parcels which are physically and legally landlocked because the subject abandoned government roadway serves as their only access. It is most desirable for the applicants to own undivided interest in the abandoned roadway without separating use sections and all will have equal access to their parcels.

Although other landowners in the area also abut the remnant, the remnant will only be sold to Applicants as provided by law because the remnant is required for legal access.<sup>1</sup> Staff understands that should portions of the remnant be sold to both the Applicants and other abutting landowners (whose properties are located between Parcel 12 and Kynnersley Road), the Applicants' parcels would still be landlocked.

The 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 the terms and conditions thereof.

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<sup>1</sup> Section 171-52(c) provides in part that, "In the event that one abutting landowner lacks access to a street, and such access can be secured by disposition of the remnant, such remnant shall be first offered for sale to such abutting owner, or subdivided so as to protect the access of all abutting landowners..."

RECOMMENDATION: That the Board:

1. Find that the subject abandoned government roadway 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. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, the sale of the abandoned government roadway as a remnant parcel 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.
3. Authorize the subject request to be applicable in the event of a change in the ownership of the abutting parcels described as Tax Map Keys: (3) 5-4-001:012, 029 and 014 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.
4. Subject to the Applicants fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant by way of quitclaim deed to Alice Leiomalama Solomon, as Trustee of the Alice Leiomalama Solomon Revocable Trust dated February 3, 2000, as amended, and Hulali Flora Solomon Covington and Robert Tredwell Covington, Trustees of that certain unrecorded Revocable Living Trust of Hulali Flora Solomon Covington and Robert Tredwell Covington dated March 8, 2021; Dowling Family 2000 Trust; and Marilyn Kanehailua, Raylynn Kanehailua, and Reymond Kanehailua, (collectively as "Applicants"), the whole being held as tenants in common, 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 quitclaim deed or grant 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,

*Candace Martin*

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Candace Martin  
Hawaii District Land Agent

APPROVED FOR SUBMITTAL:



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L.Y. Ryan K.P. Kanakaole, Acting Chairperson