

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

February 24, 2012

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

PSF No.: 11OD-159

Oahu

Withdrawal from Governor's Executive Order No. 1598 issued to Department of Agriculture and Sale of Remnant to Kailua Nursery Inc., Lianne S. Suzuki Trust, Reynard L. Akui Estate and Janice T. Yamane, situate Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-024:071 (portion).

APPLICANT:

Kailua Nursery Inc, Lianne S. Suzuki Trust, Reynard L. Akui Estate and Janice T. Yamane.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government land situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-024:071(portion) as shown on the attached map labeled Exhibit A.

AREA:

.209 acres, more or less.

ZONING:

State Land Use District: Agricultural
City and County of Honolulu LUO: AG-2

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:

Encumbered by Governor's Executive Order No. 1598 set aside to the Department of Agriculture for the operation and maintenance of an irrigation system to develop small scale farming.

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 Rule Sections 11-200-8(a) (1) & (4) and the Exempt List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exempt Class No. 1, that states "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" and Class 4, that states "Minor alteration in the conditions of land, water or vegetation." See Exemption Notification attached as Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u>__</u>
Registered business name confirmed:	YES <u>X</u>	NO <u>__</u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u>__</u>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine the one-time payment of fair market value for the remnant;
- 2) Consolidate the remnant with the Applicant's abutting property through the County subdivision process; and
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

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: It is a portion of an abandoned irrigation ditch, which is physically unsuitable for development.

Staff has confirmed that the applicants are the fee owners of tax map key:(1) 4-1-024:015 with the City and County's Real Property Tax Office. and are also the fee owners of (1) 4-1-024:016, both of which abuts the subject remnant parcel. There are no other abutting property owners.

The subject parcel is an abandoned ten foot wide State-owned irrigation ditch that is located in the applicants lot The parcel was once part of an irrigation ditch system which serviced the Waimanalo Farm Lots pursuant to Governor's Executive Order No.1598.

Grants were issued by the Territory in this area which reserved the fee title of the ditch system to the Territory. The ditch was eventually abandoned and the area was subdivided into houselots which included the abandoned ditches which were still owned by the State of Hawaii.

By way of a letter dated September 16, 2011, the applicants, are requesting to purchase the remnant property from the State, which will later be consolidated with parcels 15 and 16.

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 such terms and conditions.

Department of Agriculture, Department of Hawaiian Home Lands, Engineering Division, Commission on Water Resource Management, Department of Design and Construction, Department of Facility Maintenance, Department of Planning and Permitting and the Board of Water Supply have all expressed no objections to the sale of the abandoned ditch.

No comments were received from Historic Preservation and the Office of Hawaiian Affairs. There are no other pertinent issues or concerns from other government agencies.

Staff has no objection to the sale of this remnant ditch right-of-way.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, 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.
2. 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.
3. 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:(1) 4-1-024:015 and 016, 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. Approve of and recommend to the Governor the issuance of an executive order withdrawing the subject area from Governor's Executive Order No. 1598, subject to the following:
 - a. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - b. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session following the date of the setting aside;
 - c. Review and approval by the Department of the Attorney General; and
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best

serve the interests of the State.

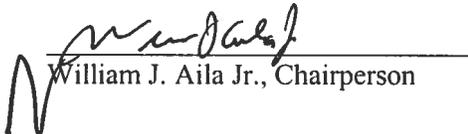
5. Authorize the subdivision and consolidation of the subject remnant by the Applicants.
6. Subject to the Applicants fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant covering the subject area under the terms and conditions cited above, which are by 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,



Steve Lau
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila Jr., Chairperson



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Sale of Remnant Ditch Right-of-Way

Project / Reference No.: PSF 11OD-159

Project Location: Waimanalo, Koolaupoko, Oahu , TMK: (1) 4-1-024:071 (portion)

Project Description: Sale of Remnant Ditch Right-of-Way

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

Exemption Class No.: In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "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" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

Staff understands the subject remnant parcel has been used by the abutting owner over the years and the applicant is not planning to change the use of the subject remnant. Therefore it is recommended that the subject request be exempted from an environment assessment.

Consulted Parties Not applicable

Exemption Item Description from Agency Exemption List: Not applicable

Recommendation: It is recommended that the Board declare 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.



William J. Aila, Jr., Chairperson



Date

