

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

May 25, 2012

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

PSF No.: 12od-047

OAHU

Mutual Cancellation of General Lease No. 3811, HI 120 Properties, Inc, Lessee;  
Sale of Remnant to CP Kam Properties, LLC, Kalauao, Ewa, Oahu, Tax Map  
Key: (1) 9-8-013:015.

APPLICANT:

CP Kam Properties, LLC, a Delaware limited liability company ("Applicant"), and  
HI 120 Properties, Inc., a domestic profit corporation ("Lessee").

LEGAL REFERENCE:

Section 171-6 and 52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kalauao, Ewa, Oahu, identified by Tax Map  
Key: (1) 9-8-013:015, as shown on the attached map labeled **Exhibit A**.

AREA:

617 square feet, more or less.

ZONING:

State Land Use District: Urban  
City and County of Honolulu LUO: B-2

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Encumbered by a 65-year non-exclusive access easement filed under General Lease No. 3811, commencing from April 2, 1964; HI 120 Properties, Inc., Lessee; at a current annual rent of \$1,389. The next rental opening is April 2, 2019.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent, 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 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." See **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; and
- 2) Consolidate the remnant with the Applicant's abutting property through the County subdivision process.

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 because the parcel is unable to be developed as an economic unit because of the size and configuration.

Applicant is the owner of parcel (1) 9-8-013:013 as staff has confirmed by the City and

County of Honolulu real property tax office records. Other abutting properties to the subject remnant parcel include another State parcel (1) 9-8-013:014, encumbered by General Lease No. 4644. According to Section 171-52, HRS, if there is more than one abutting owner who is interested in purchasing the remnant, it shall be sold to the one submitting the highest sealed bid or if the remnant abuts more than one parcel, the Board may subdivide the remnant so that a portion may be sold to each abutting owner.

Applicant is in the process of undergoing a redevelopment over Parcel 13. Part of the redevelopment plan is to include the subject remnant (Parcel 15) as the future road widening and improved intersection. Applicant is affiliated with the Lessee of GL 3811, and written concurrence from the Lessee of GL 3811 is received.

The subject remnant abuts Parcel 14, another State parcel, as noted above, which is encumbered by GL 4644 until 2035. Further, subject remnant has been used for access since 1964 pursuant to GL 3811. Therefore, the Applicant is the only eligible abutting owner and staff believes the sale of the subject remnant is appropriate.

At the time of writing this submittal, the Lessee is current regarding the terms and conditions of GL 3811 and the 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.

Department of Health does not have comments on the request. Department of Planning Permitting, Department of Facility Maintenance, Board of Water Supply, Office of Hawaiian Affairs, and the State Historic Preservation Division have not responded as of the suspense date requesting for comment.

Lessee requests for mutual termination of GL 3811 in view of the purchase of the subject remnant. In the past, staff had been recommending the Board authorized mutual termination contingent upon the outgoing lessee performing a Phase I environmental assessment. In the subject request, the leased premises will become a remnant to be sold to the Applicant, which is also an affiliate with the Lessee, staff will not recommend a phase I environmental assessment prior to the mutual termination.

There are no other pertinent issues or concerns. Staff does not have any objection to the request.

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: (1) 9-8-013:013, 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.

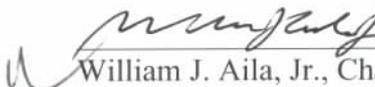
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the consolidation of the subject remnant by CP Kam Properties, LLC.
5. Authorize the mutual termination of General Lease No. 3811 and further subject to the following:
  - A. The standard terms and conditions of the most current mutual termination 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. Subject to the Applicant fulfilling all of the Applicant Requirements listed above and the mutual termination of General Lease No. 3811, authorize the sale of the subject remnant to CP Kam Properties LLC 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.

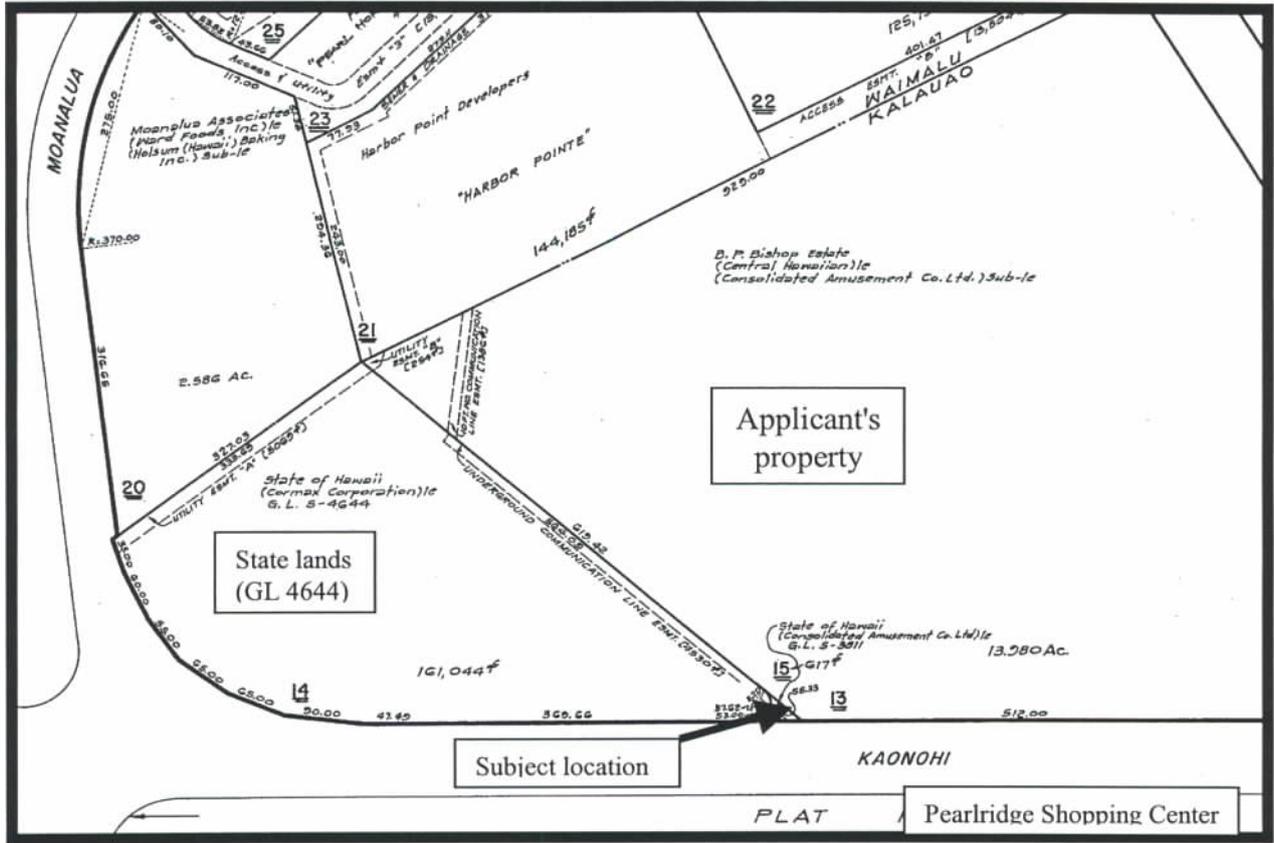
Respectfully Submitted,



Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

  
William J. Aila, Jr., Chairperson



**TMK (1) 9-8-013:015**

**EXHIBIT A**

**EXEMPTION NOTIFICATION**

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

Project Title: Sale of Remnant

Reference No.: PSF 12od-047

Project Location: Ewa, Oahu, Tax Map Key: (1) 9-8-013:015

Project Description: Sale of Remnant

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 has been used as an access since 1964 and the applicant is not planning to change the use. Therefore it is recommended that the request be exempted from an environment assessment.

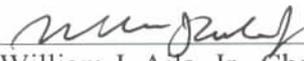
Consulted Parties Not applicable

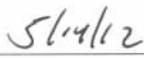
Exemption Item

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

**EXHIBIT B**