

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

July 27, 2012

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

PSF No: 01KD-320
Kauai

Amend Prior Board Action of March 22, 2002, Item D-5, Sale of Remnants to Jeff Hill and Gregory L. Smith Trust, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-5-012:por. 3. The Purpose of the Amendment is to Substitute Brown-Clay Family LLC as Applicant in Place of Gregory L. Smith Trust.

BACKGROUND:

At its meeting on March 22, 2002, Item D-5, the Board approved the sale of two (2) remnant parcels to Gregory L. Smith Trust (PSF No. 01KD-320) and Jeff Hill aka Jeff A. Hill (PSF No. 01KD-323). See Exhibit 'A'. To date, neither remnant sale has been consummated.

With respect to the remnant sale to Gregory L. Smith Trust (Smith Trust), the remnant was valued by independent appraisal at \$42,255, and the Smith Trust paid the purchase price in full in January 2005. In April 2010, the Smith Trust sold its private property abutting the State remnant to Brown-Clay Family LLC. See warranty deed recorded on April 28, 2010, a copy of which is attached as Exhibit 'B'. As a result, the Smith Trust is no longer eligible to purchase the remnant, and has authorized the Brown-Clay Family LLC to consummate the purchase of the remnant using the funds Smith Trust previously paid. By letter dated December 15, 2010 from the Planning Department of the County of Kauai, Brown-Clay Family LLC received final subdivision approval for the consolidation of the remnant with its private lands.

The sale to Jeff Hill is still pending, awaiting final subdivision approval from the County of Kauai Planning Commission, consolidation map and tax clearances.

REMARKS:

In finalizing the sale of the remnant to Brown-Clay Family LLC, staff was advised by the Department of Attorney General that Board approval would need to be obtained to complete the conveyance to Brown-Clay Family LLC instead of to Smith Trust. Accordingly, staff is requesting an amendment to the Board's prior action of March 22, 2002, Item D-5 by changing applicant

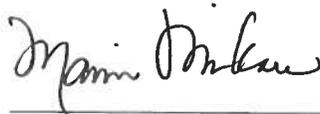
July 27, 2012

Gregory L. Smith Trust to Brown-Clay Family LLC, due to the sale of the property covered by warranty deed recorded on April 28, 2010.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of March 22, 2002, under agenda item ,by changing the applicant from Gregory L. Smith Trust to Brown-Clay Family LLC.
2. All terms and conditions listed in its March 22, 2002 approval to remain the same.

Respectfully Submitted,



Marvin Mikasa
Acting District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



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

March 22, 2002

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

PSF:01KD-323 (Hill)
01KD-320 (Smith)
KAUAI

Sale of Remnants to Jeff Hill and Gregory L. Smith Trust,
Kapaa, Kawaihau, Kauai, Tax Map Key 4-5-12: por.3

APPLICANTS:

Jeff A. Hill, single, whose address is

Gregory L. Smith Trust, whose address is

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kapaa Town Lots situated at Kapaa,
Kawaihau, Kauai, Hawaii identified by Tax Map Key: 4-5-12: por.
3, as shown on the attached map labeled Exhibit A.

AREA:

Por. of parcel 3 abutting Parcel 7: 1,200 sq.ft., more or less
Por. of parcel 3 abutting Parcel 14: 1,500 sq.ft., more or less

ZONING:

State Land Use District: Urban
County of Kauai CZO: Open District "O"

TRUST LAND STATUS:

Acquired after Statehood (non-Trust lands)

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: NO

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

3/22/02

ITEM D-5

EXHIBIT " A "

CURRENT USE STATUS:

Vacant and unencumbered.

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 the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, 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."

DCCA VERIFICATION:

Place of business registration confirmed: N/A
Registered business name confirmed: N/A
Applicant in good standing confirmed: N/A
Applicants applying as individuals

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) 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:

The parcel is part of an abandoned railroad right-of-way abutting the applicant's properties.

In order to dispose of remnants, they must be first offered for sale to the abutting property owners. The applicant's are the

only abutting owners to this railroad right of way remnant. As to the disposition of portions of this specific abandoned railroad right of way to abutting owners, the Board has already approved the sale of a 1,500 sq.ft. remnant one lot south of the area Mr. Smith is requesting to purchase (3/23/01, Item D-3. For informational purposes, an independent appraiser valued the 1,500 sq.ft. area at \$38,450)

Both Mr. Hill and Mr. Smith 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.

Agency comment. Comments were solicited from OHA, however, no response was received. The County of Kauai Public Work's Department provided comments dated 10/8/01. They were not interested in acquiring the subject remnants, and had no objection to the sales provided the applicants understand that they cannot access their properties through the Kapaa Park, and that the remnants be consolidated with their abutting private properties.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above:

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. 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.
3. Authorize the subdivision and consolidation of the subject remnant by the Applicant.
4. Authorize the sale of the subject remnants to Jeff A. Hill and Gregory L. Smith Trust covering the subject areas under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The Grantee shall consolidate the remnant with his abutting property through the County subdivision process;

- b. The standard terms and conditions of the most current deed or grant (remnant) form, as may be amended from time to time;
- c. Review and approval by the Department of the Attorney General;
- d. As recommended by the County of Kauai, vehicular access to the private properties through Kapaa Park shall be prohibited; and
- d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

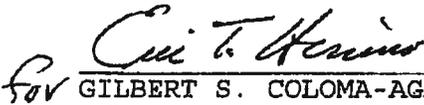
Respectfully Submitted,



MICHAEL L. LAURETA
Acting Kauai District Land Agent

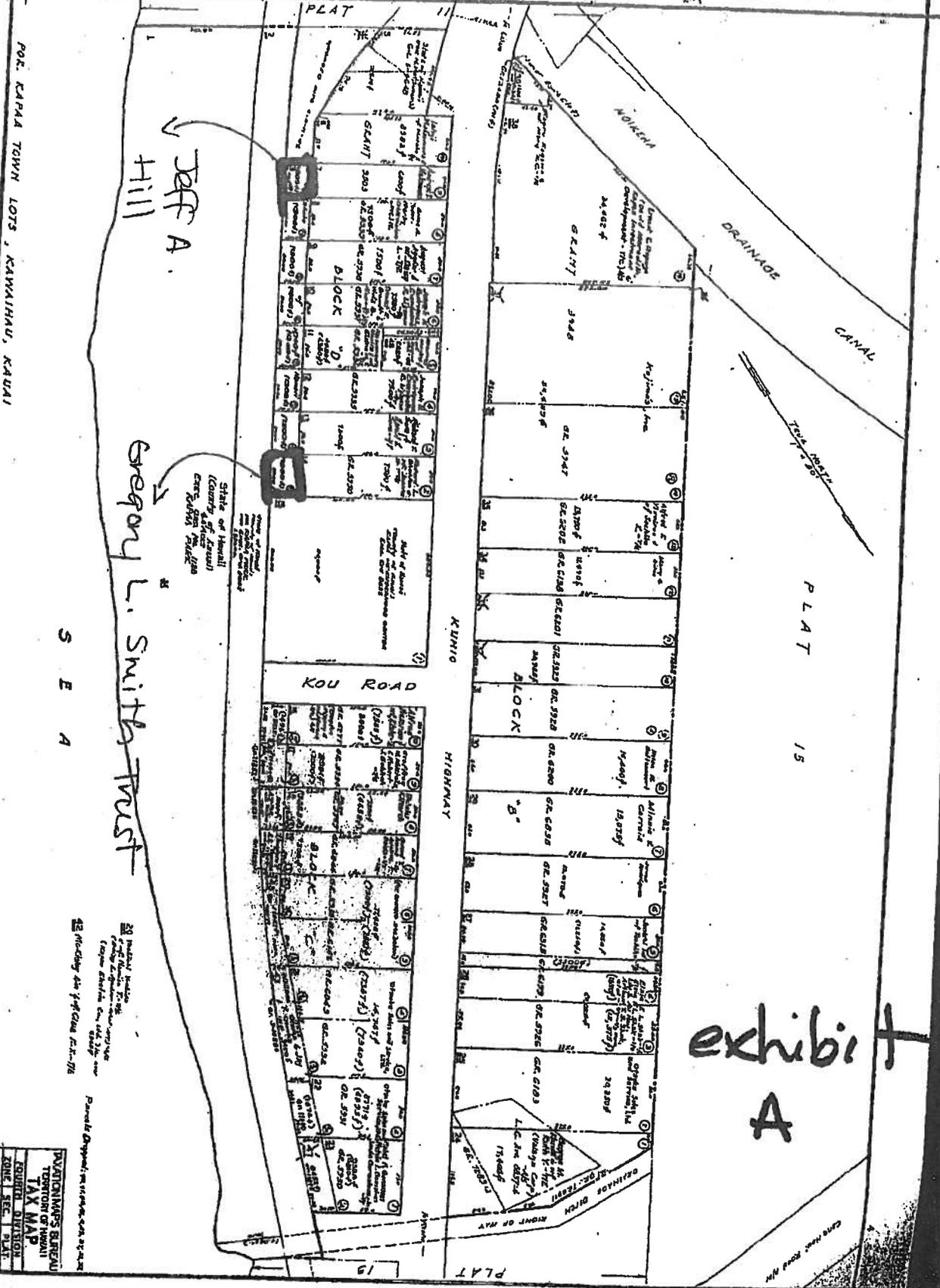


APPROVED FOR SUBMITTAL:



GILBERT S. COLOMA-AGARAN, Chairperson

Taxation Maps Bureau, Reg. Map 1410
 Div. No. 1
 Date: 1918



FOR KAPPA TOWN LOTS, KAWAII, KAUAI

PLANNERS & ARCHITECTS
 TERRITORY OF HAWAII
 TAX MAP
 ZONE REC. PLAN

DAGS-SURVEY DIVISION CAD MAPPING STANDARDS

MAP SIZES:

- 8.5" x 13" or longer – CSF Map size with 0.2" border
- 11" x 17" – CSF Map size with 0.2" border
- 21" x 32" – Plat Map size with 0.5" border
- 24" x 36" – Plat Map size with 0.5" border

SUGGESTED GUIDELINES FOR CAD DRAWINGS:

See Attachment

SCALES:

10, 20, 30, 40, 50, 60 and multiples of 10x

COORDINATE SYSTEM:

Drawing will be referenced to a local government survey triangulation station.
Azimuths will be referenced from True South.
Distance will be in feet.

**DRAWING SHALL BE SUBMITTED IN .DWG (AUTOCAD 2000 OR R1X) OR .DXF
FORMAT ON DISKETTE, 100MB ZIP, OR CD-ROM.**

OTHER REQUIREMENTS:

Plat will be positioned so that the north arrow points upward.
Main drawing and all insets will have a north arrow and scale.
Area will be in square feet and/or acres.
Mathematical closures should be within 0.01.
Easements should be tied to the lot and ties checked for proper closure.
Do not describe easements by centerline if it begin or end at a curved boundary.
Grant and award lines will be shown as long dash lines with two dots or short dashes representing dots except along roadways.
All forest reserve lines will be shown as long dash lines with three dots or short dashes representing dots.
Map title shall include the location, scale, tax map, date and drawing size.
Map should show name of surveyor, company, and registered stamp.

SUGGESTED
GUIDELINES
FOR
CAD DRAWINGS

LAYER	COLOR No.	COLOR	PEN WEIGHT	LINETYPE	STYLE
PROJECT	6	MAGENTA	0.80	(VARIOUS)	
PROJTEXT	3	GREEN	0.50		ROMANS
EASE	1	RED	0.25	DASHED	
EASETEXT	1	RED	0.25		ROMANS
LOT	2	YELLOW	0.35	CONTINUOUS	
LOTTEXT	2	YELLOW	0.35		ROMANS
TEXT	2	YELLOW	0.35		ROMANS
RADIAL	1	RED	0.25	HIDDEN	
ROAD	3	GREEN	0.50	CONTINUOUS	
ROADTEXT	2	YELLOW	0.35		ROMANS
AREATEXT	5	BLUE	0.60		ROMANS

FONT SIZES: TEXT HEIGHT = $\frac{\text{SCALE}}{10}$

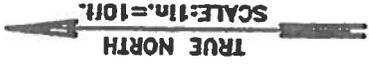
LEADERHEAD = $\frac{\text{SCALE}}{10}$

LTSCALE = $\frac{\text{SCALE}}{2}$

MAP SIZES: —

- C.S.F. SIZES — 8.5" X 13" OR LONGER
11" X 17"
- PLAT SIZE — 21" X 32"
- PLAT SIZE — 24" X 36"

11" x 17" - CSF Map with 0.2" border



0.2"

(TITLE SAMPLE)
**PORTION OF THE
GOVERNMENT (CROWN) LAND OF WAIKEA**
Waikae, South Hill, Island of Hawaii, Hawaii
Scale: 1 inch = 10 feet

JOB
C. No.

TAX MAP 2-3-0812

C.S.F. NO.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

C.D. November 16, 1990

11" x 17" = 13 3/4" x 17"

PLAT SIZES - 21" x 32" with 1/2" border
24" x 36" with 1/2" border

(T I T L E S A M P L E)
STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
SURVEY DIVISION
RANDALL M. HASHIMOTO - STATE LAND SURVEYOR

PORTION OF THE
GOVERNMENT (CROWN) LAND OF WAIAKEA
Waiakea, South Hilo, Island of Hawaii, Hawaii
Scale: 1 inch = 100 feet
January 31, 1989

H.S.S. PLAT

WARRANTY DEED

KNOW ALL PEOPLE BY THESE PRESENTS:

GREGORY LAWRENCE SMITH, unmarried, whose mailing address is , Kapaa, Kauai, Hawaii 96746, hereinafter called the "Grantor", in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to the Grantor paid by BROWN-CLAY FAMILY LLC, a Hawaii limited liability company, whose mailing address is 491 Kamalu Road, Kapaa, Kauai, Hawaii 96746, hereinafter called the "Grantee", the receipt of which is hereby acknowledged, do hereby grant and convey unto the Grantee, as a tenant in severalty, its successors and assigns, the property described in Exhibit "A" attached hereto and incorporated herein by reference.

AND the reversions, remainders, rents, issues, and profits thereof, and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto.

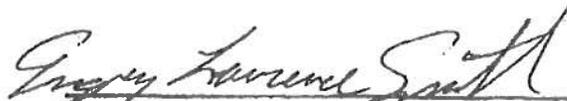
TO HAVE AND TO HOLD the same, together with the improvements thereon and all rights, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed therewith, unto the Grantee according to the tenancy herein set forth, forever.

The Grantor hereby covenants with the Grantee that the Grantor is lawfully seised in fee simple of the premises described herein and has good right to sell and convey the same; that the same are free and clear of all encumbrances except as set forth herein and except for the lien of real property taxes not yet required by law to be paid; and that the Grantor will WARRANT AND DEFEND the same unto the Grantee against the lawful claims and demands of all persons, except as aforesaid.

This conveyance and the respective covenants of the Grantor and the Grantee shall be binding on and inure to the benefit of the Grantor and the Grantee, respectively. The terms "Grantor" and "Grantee" as and when used herein, or any pronouns used in place thereof, shall mean and include the singular or plural number, individuals, partnerships, trustees and corporations, and each of their respective heirs, personal representatives, successors and assigns. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed herein.

This Warranty Deed may be executed in counterparts. Each counterpart shall be executed by one or more of the parties hereinbefore named and the several counterparts shall constitute one instrument to the same effect as though the signatures of all the parties are upon the same document.

IN WITNESS WHEREOF, the Grantor has caused these presents to be duly executed on
this 23rd day of April, 20 10.



GREGORY LAWRENCE SMITH

Grantor

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 23rd day of April, 20 10, before me appeared GREGORY LAWRENCE SMITH, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing WARRANTY DEED dated April 23, 20 10, which document consists of 9 page(s), as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Name of Notary: Warren Takabayashi
Notary Public, Fifth Judicial Circuit,
State of Hawaii.

My commission expires: _____

Warren Takabayashi
Expiration Date: **May 22, 2013**

EXHIBIT "A"

All of that certain parcel of land (being all of the land(s) described in and covered by Land Patent Grant Number 5950 to Charles Lono Kelekoma) situated, lying and being at Kapaa, District of Kawaihau, Island and County of Kauai, State of Hawaii, being LOT 2, in BLOCK D, of the "KAPAA TOWN LOTS", and thus bounded and described:

Beginning at an X on a stone at the north corner of this lot and the west corner of Lot 1, Block D, on the east side of the Government Main Road from which point a X on stone at the north corner of Block D is by true azimuth and distance 213° 01' 200.0 feet and "NONOU" Triangulation Station is by true azimuth 63° 49', as shown on Government Survey Registered Map No. 2450, and running by true azimuths:

1. 303° 01' 150.0 feet along Lot 1, Block D, to an X on a stone;
2. 33° 01' 50.0 feet along Government Land;
3. 123° 01' 150.0 feet along Lot 3, Block D;
4. 213° 01' 50.0 feet along Government Main Road to the point of beginning and containing an area of 7,500 square feet, more or less.

Being the same premises conveyed to GREGORY LAWRENCE SMITH, husband of Melissa R. Smith, as Tenant in Severalty, by QUITCLAIM DEED dated December 18, 2004, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2004-264236.

SUBJECT, HOWEVER, to the following:

1. Encroachments or any other matters as shown on survey map prepared by Roger M. Cairns, Land Surveyor, with CLS- HAWAII Land Surveying & Mapping, dated March 13, 2010.
2. Any unrecorded leases and matters arising from or affecting the same.
3. Any "aviation artifact", "burial good", "burial site", "historic property", or "human skeletal remains", as those terms are defined in Hawaii Revised Statutes Section 6B-2, as amended from time to time (collectively referred to as "Historic Properties"), that may be located on, under, or within the property; the right or claim of any person to preserve or access such Historic Properties; and any effects on the use or development of the property caused by the existence of such Historic Properties on the property.

on, under, or within the property; the right or claim of any person to preserve or access such Historic Properties; and any effects on the use or development of the property caused by the existence of such Historic Properties on the property.

EXHIBIT "B"

RE: Kohio Highway, Kaneohe, Hawaii 96746

Room One

2 Hallway lights
1 a/c
2 shutters (2 windows worth)
1 sink
1 built in desk and overhead shelves
1 fan
1 mirror and shelf

Bath 1

1 toilet
1 sink
1 tub

Room 2

1 sink
2 mahogany cabinets
1 fan
1 a/c
1 mirror and shelf

Room 3

1 a/c
1 sink with built in cabinets
1 painted built in cabinet and mirror

Bath 2

1 toilet
1 sink with cabinet
1 shower
1 medicine cabinet

Room 4

Sink with cabinets
2 a/c's
5 attached full length mirrors

Room 5 (ocean room)

1 a/c
1 sink with built in cabinets
1 small refrigerator
blinds
overhead cabinets

Room 6 (laundry room)

1 a/c
blinds
Hallway in back
Built in cabinets

Room 7 (x-ray room)

1 sink
1 built in countertop
1 overhead shelf

Room 8 (chiro 2)

1 fan
shutters
1 a/c
4 built in shelves/cabinets

Room 9 (chiro 1)

1 fan
1 a/c
2 shutters (2 windows worth)
1 built in cabinets with shelves



Room 10 (private office)

1 a/c

Living Room

1 L shaped countertop

2 fans

1 Aquarium (with fish, coral, filtration system, etc. included)

1 Aquarium stand

2 built in shelves

9 small shelves