

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

December 14, 2012

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

PSF No.: 12KD-153

Kauai

Sale of Remnant to Kimberly and Kealoha Estrella, Kapaa Homesteads, 1st Series, Kawaihau, Kauai; TMK (4) 4-6-04:por 028

APPLICANT:

Kimberly and Kealoha Estrella, wife and husband, Tenants in the Entirety

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated, Kapaa Homesteads, 1st Series, Kawaihau, Kauai; identified by TMK (4) 4-6-04:por 028, as shown on the attached map labeled Exhibit A.

AREA:

0.12 acre, more or less, subject to review and approval by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Agricultural
County of Kauai CZO: A-O

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 railroad right-of-way

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:

Not applicable. Subject lands are to be conveyed to abutting landowner(s) and will become privately owned land at that point.

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

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:

The subject parcel is considered to be a remnant parcel because it is a portion of an abandoned railroad right-of-way, and is physically unsuitable for development.

Kimberly and Kealoha Estrella own the abutting property identified as tax map key (4) 4-6-004:061 as staff has confirmed the respective ownership information with the County of Kauai's Tax Office records.

Other abutting properties to the subject remnant parcel include: Mark & Charlotte Seyer (4) 4-6-004:055. 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.

In accordance with section 171-52, HRS a letter was sent on October 19, 2012 notifying Mark and Charlotte Seyer of the application to purchase the State remnant. They were notified of the requirements that a purchaser would need to satisfy, including their right to purchase a subdivided portion of the abutting State remnant. As of November 14, 2012 there has been no response to the letter.

Comments were requested from the following agencies: Division of Forestry & Wildlife, Historic Preservation Division, County of Kauai Department of Planning and Public Works. There has been no response as of the suspense date.

The Applicants have 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.

There are no other pertinent issues or concerns. Staff has no objection to the request.

RECOMMENDATION:

That the Board:

1. Find that the subject land 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, HRS.
2. Authorize the subject request to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4) 4-6-04:061, as appropriate, 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. Authorize the subdivision and consolidation of the subject remnant by the Applicant.
4. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Kimberly and Kealoha Estrella 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,



Milo Spindt
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



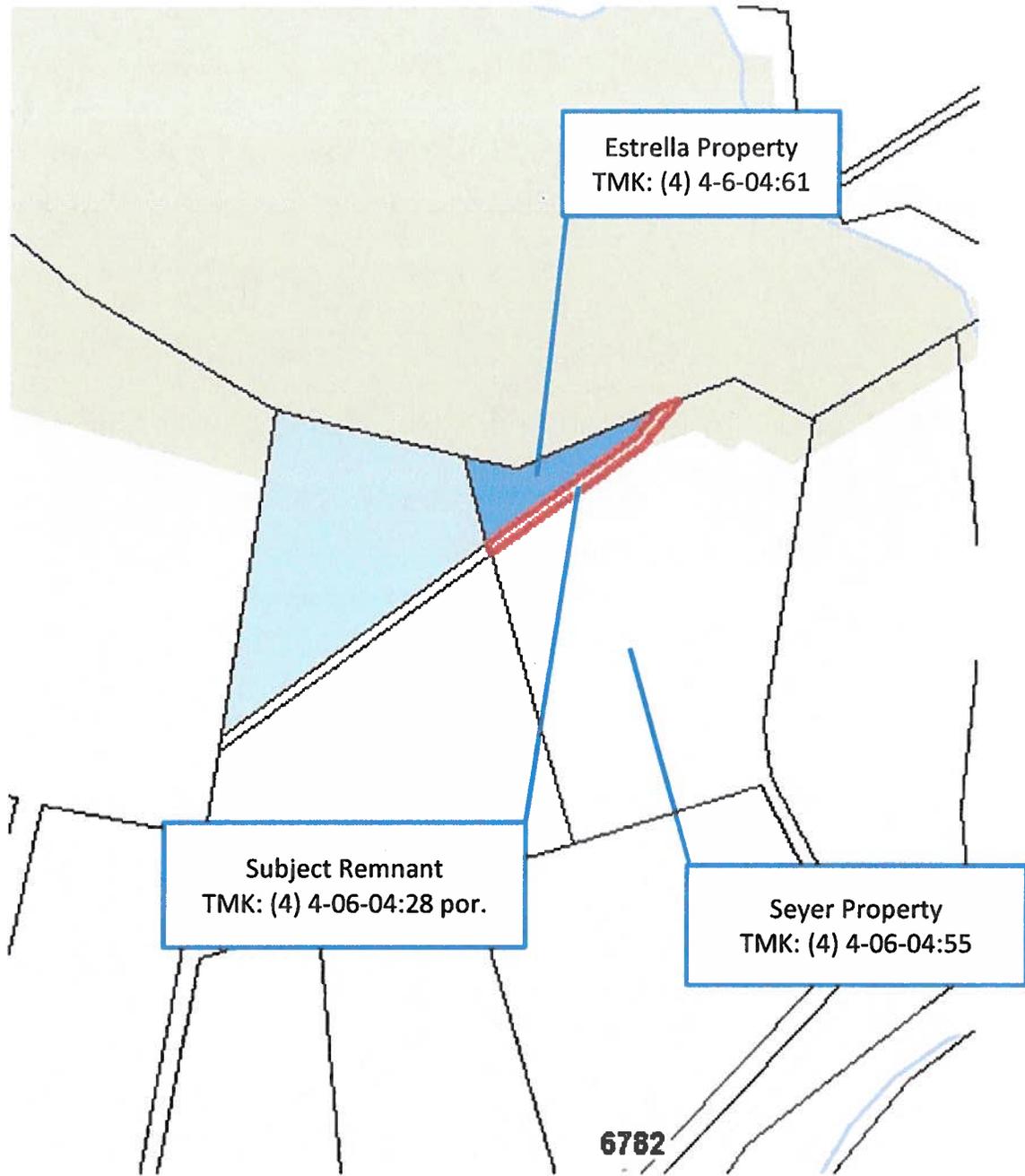


EXHIBIT A