

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

May 10, 2013

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

PSF No.: 12OD-126

OAHU

Sale of Remnant to Hawaii Baptist Academy, Nuuanu, Honolulu, Oahu, Tax Map  
Key: (1) 2-2-022:002.

APPLICANT:

Hawaii Baptist Academy, a domestic nonprofit corporation

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Nuuanu, Honolulu, Oahu, identified by Tax Map  
Key: (1) 2-2-022:002, as shown on the attached map labeled Exhibit A.

AREA:

7.787 acres, more or less.

ZONING:

State Land Use District: Conservation  
City and County of Honolulu LUO: P-1

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:

1,812 square feet encumbered by the perpetual, non-exclusive easement for sewer purposes in favor of the City and County of Honolulu (LOD 24113). Remaining portions of the parcel are vacant and unencumbered.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent 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 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 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 and filing of a conservation district use application for a departmental permit 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 (“Parcel 2”) is a portion of vegetated slope with the elevation ranges between 200 and 460 feet plus. An approximate 20-foot portion of the boundary abuts the public road which provides the only potential vehicular access point. On top of the ridge, there are private residences overlooking the subject parcel. Staff anticipates substantial site formation costs would be required before any development could take place on the subject parcel.

Hawaii Baptist Academy (“HBA”) is the current lessee of the abutting parcel, identified as (1) 2-2-022:019 (“Parcel 19”), pursuant to GL 5687 for school and related purpose. Meanwhile, HBA is working with the Department to pursue a land exchange which will transfer the fee title of Parcel 9 to HBA. At the time of writing this submittal, staff understands the legislative resolution for the proposed land exchange has been approved.

Parcel 2 was originally included in the above-mentioned land exchange. On August 10, 2012, under agenda item D-9, the Board removed Parcel 2 from the land exchange due to the statutory limit on the difference between the market values of the exchanged parcels. However, HBA is agreeable to purchase Parcel 2 as remnant. Therefore, staff believes the subject parcel is undesirable for development as a separate unit due to the costs and the topography, and should be considered as a remnant pursuant to 171-52, HRS.

Other abutting properties to the subject remnant parcel include three private residences, namely, Parcel 36, 38, 44 as depicted on Exhibit A. Letters were sent to the private owners asking if they had any interest in acquiring a portion of the remnant, and staff did not receive any positive responses from the private owners.

Department of Health, Department of Facility Maintenance, Board of Water Supply have no objection/comment to the request. Division of Forestry and Wildlife, State Historic Preservation Division, and Department of Planning and Permitting have not responded as of the suspense date.

Office of Conservation and Coastal Lands (OCCL), by its response attached as **Exhibit C**, indicates that a conservation district use application for a department permit for the proposed consolidation of the subject remnant and the applicant’s private property (Parcel 3) is required. The Applicant Requirements have been modified in accordance with OCCL’s remarks.

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.

There are no other pertinent issues or concerns. Staff has no 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.

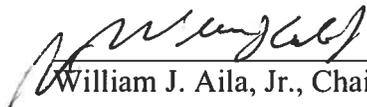
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 2-2-022:003, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years 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. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Hawaii Baptist Academy 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,



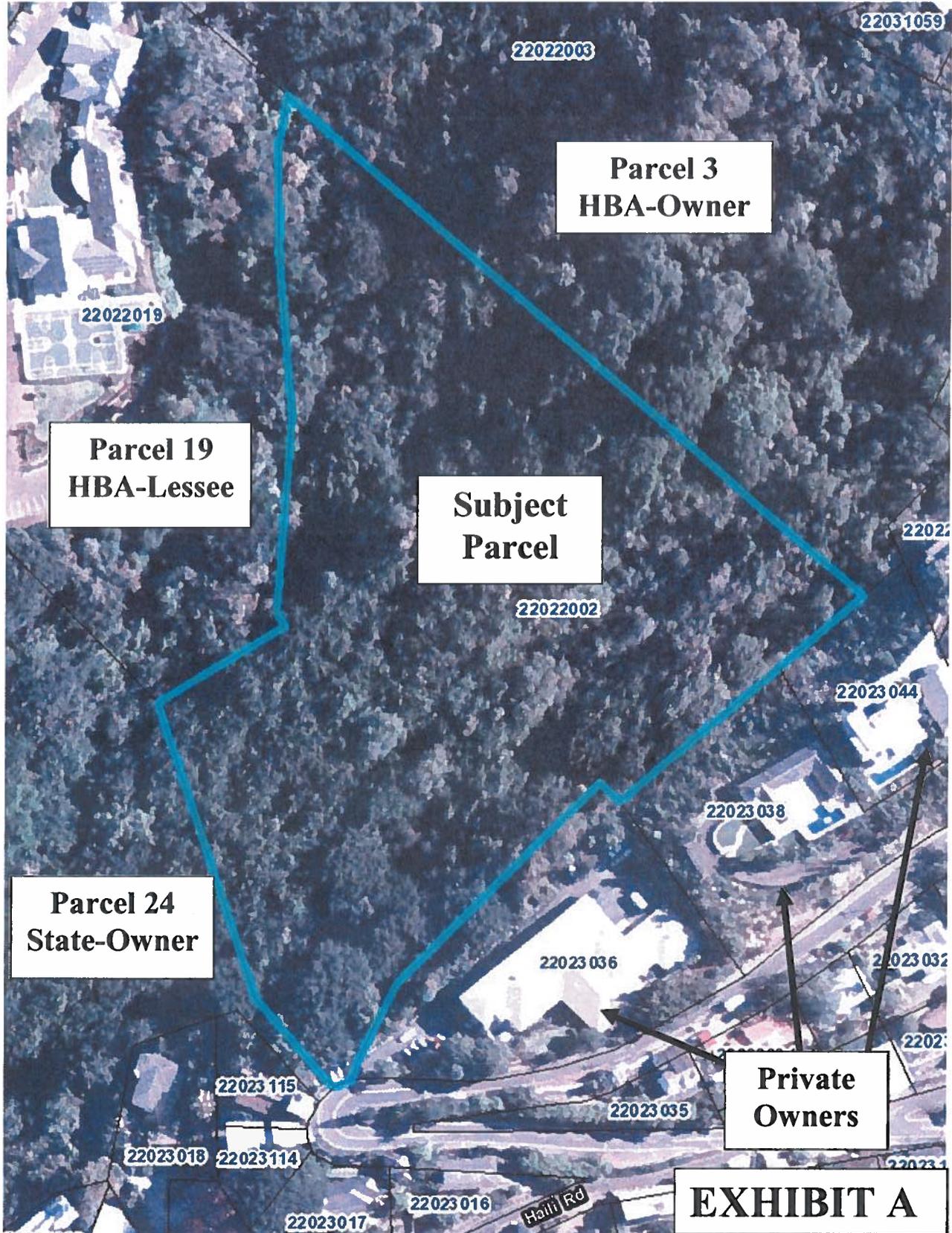
Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:



---

William J. Aila, Jr., Chairperson



**EXEMPTION NOTIFICATION**

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

Project Title: Sale of Remnant

Project / Reference No.: PSF 12OD-126

Project Location: Honolulu, Oahu, Tax Map Key: (1) 2-2-022:002

Project Description: Sale of Remnant

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

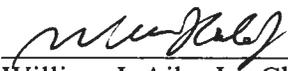
Exemption Class No.: In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental 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."

The applicant does not have any long term plan for the subject remnant. There will be minimal to no alteration in the conditions of land, water, and vegetation of the subject remnant. Therefore it is recommended that the subject request be exempted from an environment assessment.

Consulted Parties Office of Conservation and Coastal Lands

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**



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

REF:OCCL:TM

MEMORANDUM

TO: Barry Cheung, District Land Agent  
Land Division

FROM: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands (OCCL)

SUBJECT: Request for Sale of Remnant by Hawaii Baptist Academy (HBA) Located at  
Nu'uanu, Oahu, TMK: (1) 2-2-022:002

Correspondence OA 13-99

FEB 27 2013

A large, handwritten signature in black ink, appearing to be "Samuel J. Lemmo", with a large scribble over it.

The OCCL has reviewed your draft Board submittal and note the subject parcel lies within the Limited subzone of the Conservation District. As mentioned in the submittal under APPLICANT REQUIREMENTS, HBA would be required to consolidate the remnant with its abutting property through the County subdivision process.

Further in the submittal under REMARKS, it states, "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."

HBA's abutting property noted as TMK: (1) 2-2-022:003 also has a portion of the parcel within the Limited subzone of the Conservation District. To consolidate parcels 003 and 002 would require the filing of a Conservation District Use Application (CDUA) for a Departmental permit in addition to the County subdivision process pursuant to §13-5-22 P-10 Subdivision or Consolidation of Property (C-2) consolidation of property into a lesser number of legal lots of record currently existing and approve, which furthers the objectives of the subzone. **Language should be included noting that consolidation of the properties requires further authorization by the Department.**

Regarding §171-52, HRS, stating that the Board may subdivide the remnant; §183C, HRS defines subdivision as a land use that shall be regulated by the issuance of permits. Therefore should there be more than one abutting landowner interested in purchasing the remnant and the parcel would need to be subdivided for a public purpose, a CDUA would need to be filed and processed for a Board permit.

Should you have any questions regarding this memorandum, contact Tiger Mills at 587-0382.

EXHIBIT " e "