

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

December 13, 2013

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

PSF No.: 13KD-165

Kauai

Mutual Cancellation of Grant of Non-Exclusive Easement No. S-5983 to George Tsukamoto, Grantee, and Sale of Remnant Ditch to George Tsukamoto, Castro Tract, Kapaa Homesteads, 4th Series, Kawaihau, Kauai, Tax Map Key: (4) 4-6-010:004 & 005.

APPLICANT:

George Tsukamoto, Individual, Tenant in Severalty

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kawaihau situated at Kapaa Homesteads, 4th Series, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-010:004 & 005 (por.), as shown on the attached map labeled Exhibit A.

AREA:

0.0459 acres, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Agriculture

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 Grant of Non-Exclusive Easement No. S-5983 to George Tsukamoto for Access and Utility Purposes.

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:

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 natural person, 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 of Kauai's subdivision process; and
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

In January 2007, George Tsukamoto applied to refinance the mortgage on his private properties. In the title search by the escrow company, it was discovered that there was no legal easement to access his rear property (TMK: (4) 4-6-010:035). In February 2007, Mr. Tsukamoto applied for an easement over the abandoned State ditch that bisects his properties. At the time of application, staff advised him that he also had the option to purchase the remnant parcels. With his wife's death and his financial situation not settled, and after reviewing the options with his financial advisor, Mr. Tsukamoto determined the cheaper alternative would be the easement. The consideration for the easement was a one-time payment of \$629.00.

After six years, his financial situation is now stable and Mr. Tsukamoto has decided to cancel the existing Grant of Non-Exclusive Easement No. S-5983 and apply for the purchase of the

remnant parcels.

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 parcels have been determined to be remnants by this definition for the following reason:

- 1) The parcels are portions of a discontinued irrigation ditch.

Applicant is the owner of parcels (4) 4-6-010:035 & 036 as staff has confirmed by County of Kauai – Real Property Tax Assessment Division.

There are no other abutting owners to the remnant parcels.

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.

Comments were solicited from the following agencies with the results indicated:

State Agencies:

DOH	No comments
Historic Preservation	No historic properties will be affected
OHA	No response received by suspense date

County Agencies

County Planning	No response received by suspense date
Public Works	No comments

RECOMMENDATION:

That the Board:

1. Authorize the mutual cancellation of Grant of Non-Exclusive Easement No. S-5983, George Tsukamoto, Grantee, subject to the following:
 - a. The standard terms and conditions of the most current mutual cancellation of lease document 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.
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.

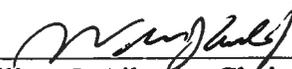
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the consolidation of the subject remnants, Tax Map Keys: (4) 4-6-010:004 & 005, with Applicant's private parcels, Tax Map Key: (4) 4-6-010:035 & 036.
5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnants to George Tsukamoto 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,



Marvin Mikasa
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

