

D9

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

July 24, 2015

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

PSF No.: 15HD-090

HAWAII

Sale of Remnant to The Church of Jesus Christ of Latter Day Saints; Assignment of Board of Land and Natural Resources' Interest in Grant of Non-Exclusive Easement, Land Office Deed No. S-28,625, to The Church of Jesus Christ of Latter Day Saints, Onouli, South Kona, Hawaii , Tax Map Key: (3) 8-1-004: Remnant (E-4).

APPLICANT:

Church of Jesus Christ of Latter Day Saints,

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Onouli, South Kona, Hawaii, identified by Tax Map Key: (3) 7-1-004: Remnant (E-4) as shown on the attached map labeled Exhibit A.

AREA:

10,217 square feet or .2346 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Hawaii CZO: Ag-5

TRUST LAND STATUS:

Acquired after statehood. (non-trust)

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES _____ NO x

CURRENT USE STATUS:

Encumbered by Land Office Deed No. S-28,625 to Jack B. Greenwell, Trustee of Jack B. Greenwell Revocable Trust dated June 9, 1986.

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 and will become privately owned land at that point.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u> x </u>	NO
Registered business name confirmed:	YES <u> x </u>	NO
Applicant in good standing confirmed:	YES <u> x </u>	NO

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
2. Pay for an appraisal to determine the one-time payment of fair market value for the remnant; and
3. 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 for the following reasons:

The subject parcel of land was acquired by condemnation for the construction of Onouli Road, for legal accesses to Konawaena Elementary School. The remnant is in excess of the needs for which the land was condemned and cannot be developed as a separate unit

because of its irregular size and configuration.

In the condemnation of lands for the new Konawaena Elementary School, the State acquired an approximate 100-foot wide area, as an entrance into the new school. Upon design of the road, remnants were created as a result of excess lands beyond the 50-foot right-of-way that was required for the road to be dedicated to the County of Hawaii. Staff is not sure why the acquisition was not limited to the 50-foot right-of-way but can only assume that it was a lack of an engineered design for the entry road.

As part of the condemnation, owners on both sides of Onouli Road (Parcel 76) were provided with easements. Across the street from the property belonging to The Church of Jesus Christ of Latter Day Saints (LDS Church) is a parcel under the Maile B. Melrose Trust, identified as TMK (3) 8-1-004: por. 036, which was issued an easement under Land Office Deed No. S-28,624 dated August 5, 2003. Next to the LDS Church property, over the remnant and subject of this request, the Jack B. Greenwell Trust of TMK (3) 8-1-004:036 & 045, was issued an easement under Land Office Deed No. S-28,625 (LODS-28,625) on September 22, 2003. The Greenwell Trust property was sold in September 2013 to the Kinau Family Limited Partnership and 3D Family Limited Partnership. The issuance of these easements fulfilled the State's requirements under the condemnation action.

TMK: (3) 8-1-004:045, formerly under the Jack Greenwell Trust, is presently owned by the Kinau Family Limited Partnership and 3D Family Limited Partnership. LODS-28,625 continues to serve as the legal access/driveway to the private property, with portions traversing remnant E-4. As a result the conveyance of the remnant to the LDS Church shall be subject to all current and future easements and other encumbrances that a title report or survey may show.

Where private property is concerned, access and utility easements generally run with the land. As a result, the conveyance of property encumbered by and easement will generally include the conveyance of the grantor's rights in the easement. For a clear record, however, staff is recommending that the Board authorize the assignment of the Board's right, title and interest as grantor under Grant of Non-Exclusive Easement, LODS-28,625 to the LDS Church, to the extent the Department of the Attorney General determines that such an assignment is necessary or appropriate.

Applicant LDS Church is the owner of parcel (3) 8-1-004:005 as staff has confirmed through the County of Hawaii Real Property Tax Office. There are no other abutting properties to the subject remnant parcel, other than Onouli Road.

LDS Church 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.

Various governmental agencies and interest groups were solicited for comments. To date,

all respondents, including OHA had no objections to the request.

The County of Hawaii originally commented that it objected to the sale of the remnant to the LDS Church as it would prefer to retain the subject remnant for future road widening purposes.

Ironically, Onouli Road has not yet been dedicated to the county due to the county's refusal to accept the roadway because of the lack of an "as-built" agreement. There are possible discrepancies involving a stone wall with railings at the entrance to Onouli Road, off Kuakini Highway. As a result, the County now has no objections to the LDS Church acquiring the remnant. (Exhibit B)

The Department of Education is in support of the LDS Church's efforts to acquire the remnant (Lot E-4) as they have been unable to dedicate Onouli Road to the County of Hawaii. The DOE will continue to maintain Onouli Road and considers Lot E-4 to be unsuitable and excess to DOE's needs. The DOE anticipates that if the LDS Church acquires the lot, the area would be landscaped or maintained in its present condition. (Exhibit C)

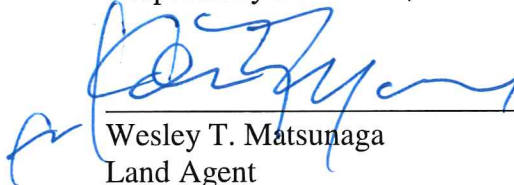
RECOMMENDATION: That the Board:

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: (3) 8-1-004:005, 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 subdivision and consolidation of the subject remnant by the Applicant, and at applicant's expense.
5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to the The Church of Jesus Christ of Latter Day Saints covering the subject area under the terms and conditions cited

above, which are by this reference incorporated herein and further subject to the following:

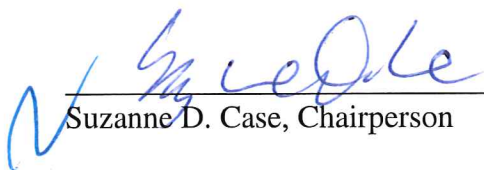
- A. The standard terms and conditions of the most current deed or grant (remnant) form, as may be amended from time to time;
 - B. Subject to any and all existing easements or dispositions upon the subject remnant;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
6. Authorize the assignment of all of the Board's right, title, and interest as grantor under Grant of Non-Exclusive Easement, Land Office Deed No. S-28,625, to The Church of Jesus Christ of Latter Day Saints, to the extent the Department of the Attorney General determines such as assignment is necessary or appropriate, 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 assignment of grantor's interest in easement 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,

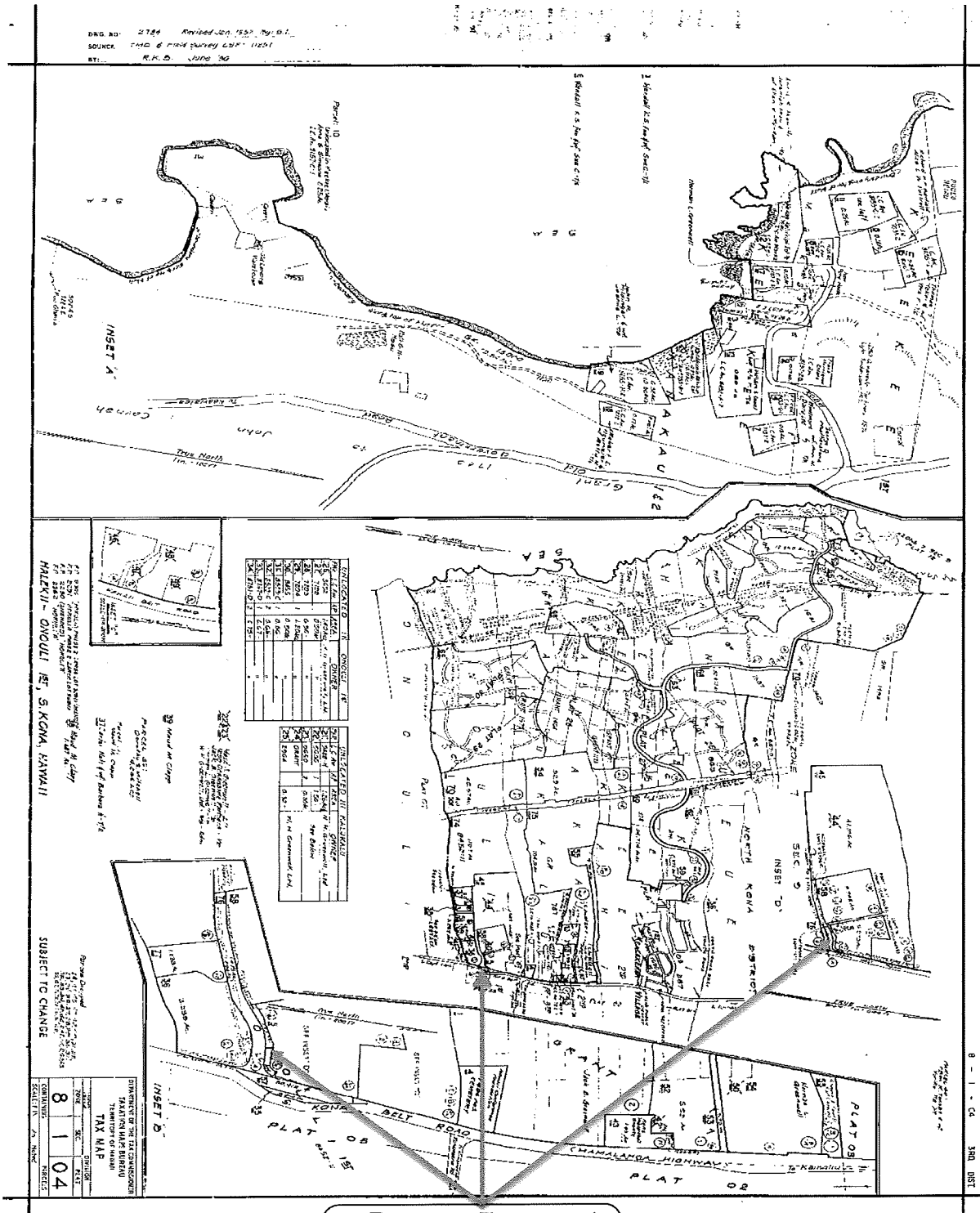


Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



Subject

EXHIBIT A

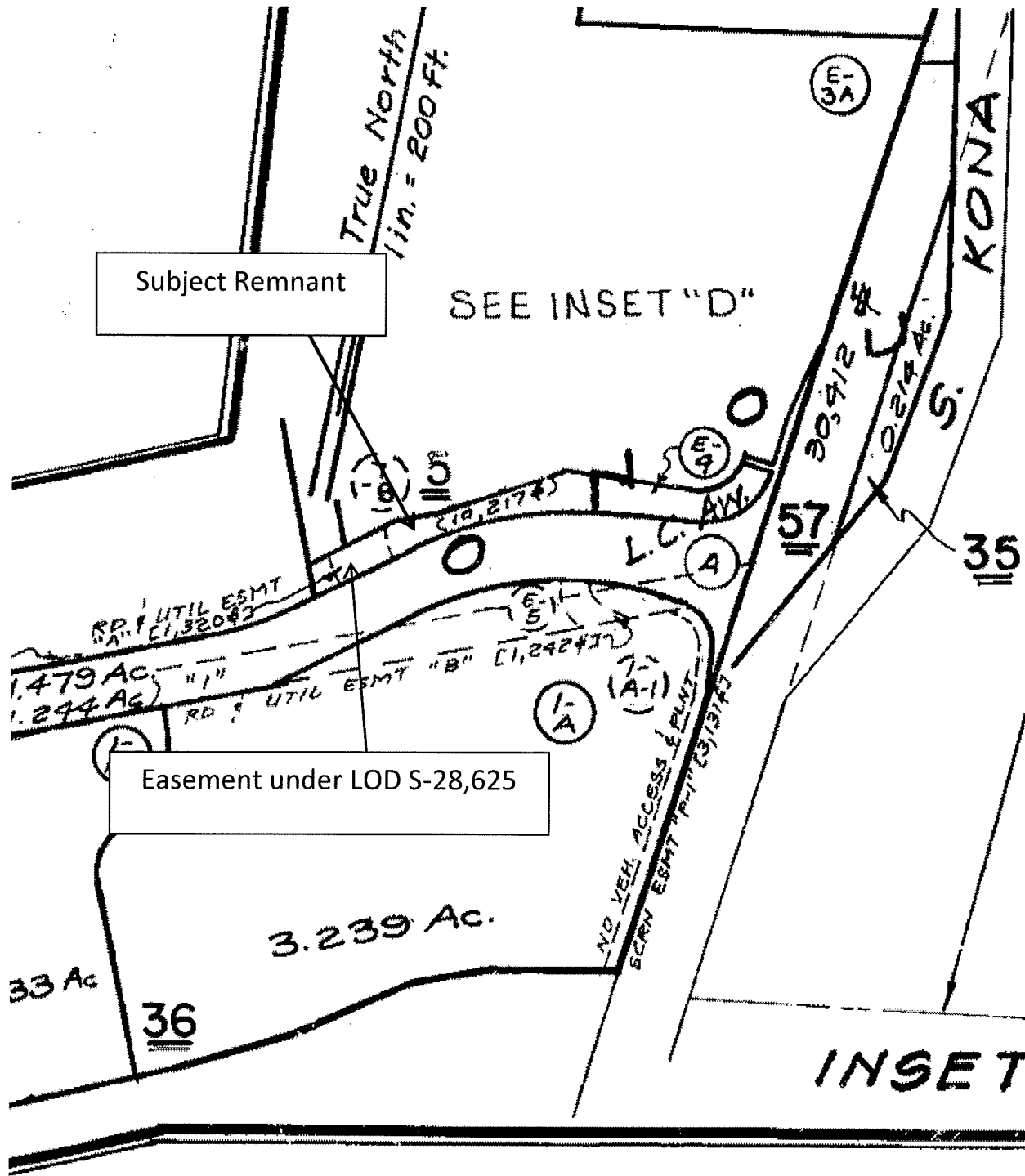


EXHIBIT A

THE CHURCH OF
JESUS CHRIST
OF LATTER-DAY SAINTS

SPECIAL PROJECTS DEPARTMENT
Real Estate Services Division
50 East North Temple Street
Salt Lake City, Utah 84150-0012
Phone: 1-801-240-2915
Facsimile: 1-801-240-4005

April 30, 2015

Mr. Warren Lee, Director
County of Hawai'i
Department of Public Works
101 Pauahi Street, Suite 7
Hilo, HI 96720


RE: Request for Support to Acquire Remnant Lot E-4 at Onouli, South Kona, Island and County of Hawai'i (TMK: (3) 8-1-004:076 por.)

We are the landowners of the property adjacent to Lot E-4. Lot E-4 is owned by the State and managed by the State Department of Education (DOE). Lot E-4 is part of the land the State condemned for Konawaena Elementary School. Subdivision No. 7539-r created Lots E-1 through E-5 and Roadway Lot A (see Exhibit A). The State owns Lot E-2 (the Konawaena Elementary School site), Lot E-4, and Roadway Lot A (named Onouli Road). Subsequent subdivisions configured our lot to its current dimensions where it abuts Lot E-4 along its entire length (see Exhibit B for a map of the current parcel boundaries).

We will submit a request to the Department of Land and Natural Resources (DLNR) to acquire Lot E-4. We understand DOE offered to dedicate Onouli Road and Lot E-4 to the County, but the County rejected the offer. We would appreciate your support of our request by responding with a letter to us that we could attach to our formal request to DLNR or by signing below and returning this letter to us. If you have any questions, you may contact me at the phone number, address, or email below.

EXHIBIT B

Yours truly


Steve Hansen, Real Estate Project Manager

REAL ESTATE SERVICES DIVISION

The Church of Jesus Christ of Latter-Day Saints

50 E. North Temple Street, 12th Floor | Salt Lake City, UT 84150-0012

Phone: 801-240-0330 |

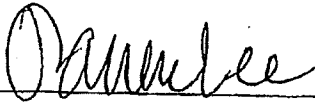
E-mail: hansens@ldschurch.org

C: Roy Takemoto, PBR Hawaii

Attached: Exhibits A & B

To: Department of Land and Natural Resources

The County of Hawai'i Department of Public Works has no objections to convey Lot E-4 (TMK (3) 8-1-004:076 por.) to the adjacent owner of this remnant, The Church of Jesus Christ of Latter-Day Saints.



Warren Lee, Director
County of Hawai'i
Department of Public Works

CLR

Date

22 MAY 2015

DAVID Y. IGE
GOVERNOR



KATHRYN S. MATAYOSHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION

P.O. BOX 2380
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

May 15, 2015

Mr. Steve Hansen, Real Estate Project Manager
Real Estate Services Division, Special Project Department
The Church of Jesus Christ of Latter-Day Saints
50 East North Temple Street
Salt Lake City, Utah 84150-0012

Re: Support for the Acquisition of Remnant Lot E-4 at Onouli, South Kona, TMK 8-1-004:076

Dear Mr. Hansen:


I am responding to your letter of April 30, 2015 expressing your interest in acquiring a remnant lot of state owned land adjacent to Onouli Road in South Kona. The road has served Konawaena Elementary School for the past 15 years or more.

The Department of Education (DOE) supports your effort to acquire Lot E-4. We have been unable to dedicate Onouli Road over to the County of Hawaii. Your acquisition of Lot E-4 would reduce the DOE's responsibility and liability along the road area. We consider Lot E-4 to be unsuitable and excess to DOE's needs. We anticipate that if the Church of Jesus Christ of Latter-Day Saints acquires the lot, the area would be landscaped or maintained in its present condition as it would serve as a border between the church and the road.

We appreciate your assistance in past efforts to get Onouli Road dedicated to the County.

If you have any questions, please call Heidi Meeker of the Facilities Development Branch at (808) 377-8301.

Very truly yours,


Kathryn S. Matayoshi
Superintendent

KSM:jmb

c: Art Souza, Complex Area Superintendent, Honokaa/Kealakehe/Kohala/Konawaena Complex Area
Roy Takemoto, PBR Hawaii

EXHIBIT C

AN AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY EMPLOYER