

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

October 9, 2015

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

PSF No.:14KD-003

Kauai

Sale of Remnant Lateral Ditch No. 11 to Hafiz Heartsun and Chandra Radiance, por. of Kapaa Homesteads, 4th Series, Kawaihau, Kauai, Tax Map Key:(4) 4-6-009:005.

Issuance of Immediate Right-of-Entry Permit to Hafiz Heartsun and Chandra Radiance for Access to Complete Land Survey of Property for Proposed Condominium Property Regime Units.

APPLICANT:

Hafiz Heartsun and Chandra Radiance, Tenants by the Entirety.

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) 4-6-009:005, as shown on the attached map labeled Exhibit A.

AREA:

0.52 acres, more or less.

ZONING:

State Land Use District: Agriculture
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:

Vacant and Unencumbered.

CONSIDERATION:

One-time lump sum payment to be determined by independent appraiser contracted by the State, 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 one-time payment;
- 2) Consolidate the remnant parcel with the Applicant's abutting property through the County of Kauai subdivision process;
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicants own cost.

REMARKS:

Pursuant to Section 171-52, Hawaii Revised Statutes (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."

According to subsection 171-52(a)(2), HRS, the subject property, being a portion of an abandoned ditch system, is determined to be a remnant. The remnant is identified as a portion of Lateral Ditch No. 11, bearing Tax Map Key: (4) 4-6-009:005.

In order for the Board of Land and Natural Resources to dispose of a remnant, it must be first offered for sale to the abutting property owners. Staff has confirmed with the County of

Kauai's Real Property Tax Assessment Division that the applicants own two (2) parcels of land identified as Tax Map Keys: (4) 4-6-009:002 and (4) 4-6-009:004, both of which abut Lateral Ditch No. 11. See Exhibit A attached. Staff has confirmed there are no other abutting owners to the remnant.

According to the East Kauai Water Users Cooperative (EKWUC), this ditch has not functioned since the late 1960's. After reviewing the request, EKWUC determined the ditch is not part of its jurisdiction.

Applicants wish to develop their private parcels into a three (3) unit Condominium Property Regime (CPR). The acquisition of the remnant ditch and consolidation of the ditch with their properties will facilitate the development of the CPR.

Applicants 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.

Comments were solicited from the agencies identified below with the results indicated.

State Agencies:

DOH	Follow HAR 11-46, Community Noise Control
DLNR - CWRM	No response by suspense date
DLNR - Historic Preserv.	No response by suspense date
OHA	No response by suspense date

County Agencies:

County Planning	No objections
Public Works	No objections

Other Agencies:

EKWUC	No objections to sale of remnant lateral ditch no. 11, not part of EKWUC jurisdiction.
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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: (4) 4-6-009:002 and (4) 4-6-009:004, 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 Hafiz Heartsun and Chandra Radiance 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.
4. Authorize the issuance of an immediate right-of-entry permit to Hafiz Heartsun and Chandra Radiance, covering the subject lands 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 right-of-entry permit form, as may be amended from time to time;
 - B. Right-of-entry permit will expire upon completion of the sale of the remnant parcel; 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
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

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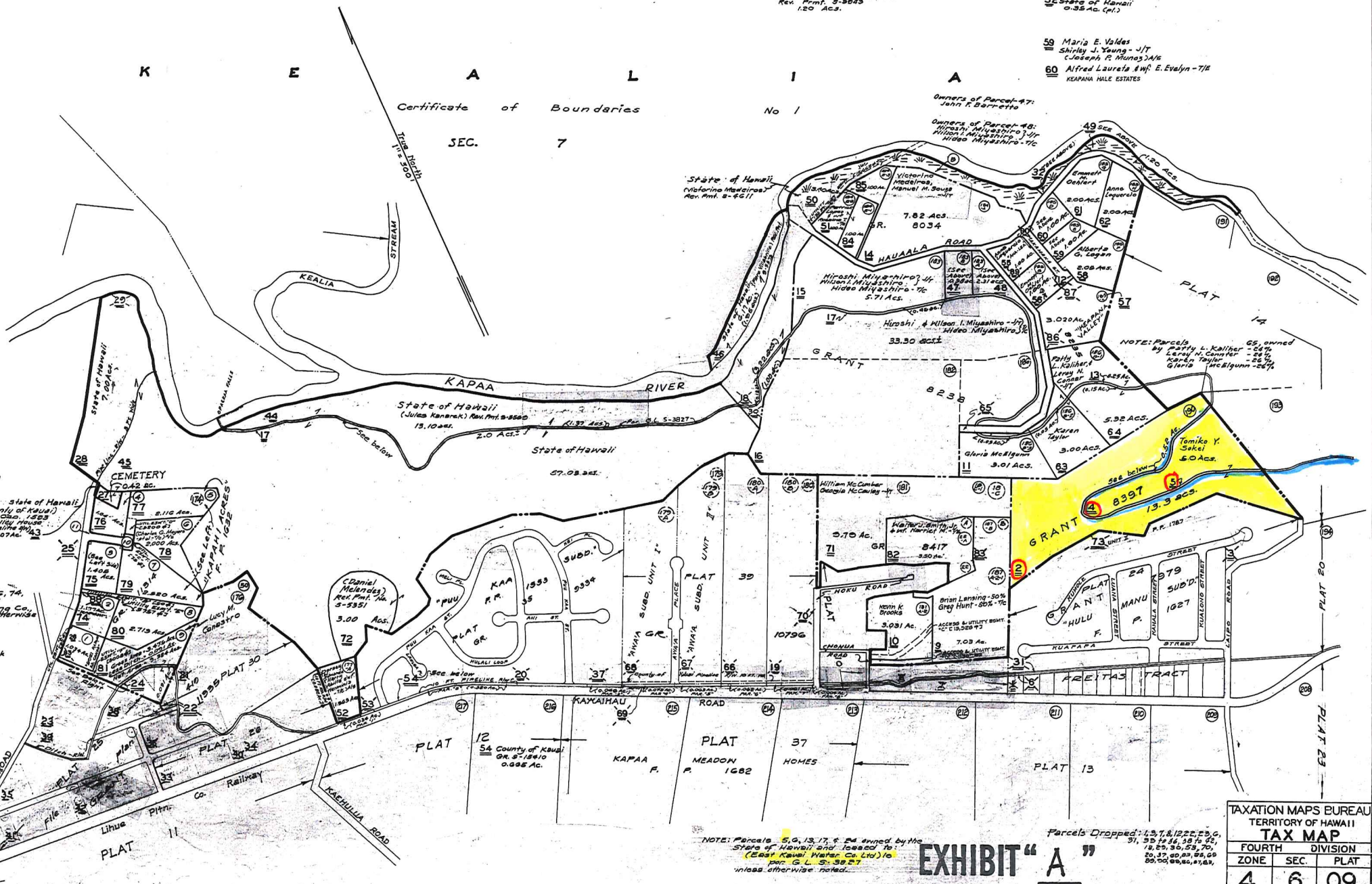
K A U A I
Certificate of Boundaries No 1
SEC. 7

PARCEL 49:
State of Hawaii
(Saleman M. Kusuhara, Jr.)
Rev. Prmt. 3-3043
1.20 Acs.

32 State of Hawaii
0.55 Ac. (pt.)

59 Maria E. Valdes
Shirley J. Young - J/T
(Joseph R. Munoz) A/E

60 Alfred Laureta & Wf: E. Evelyn - 7/8
KEAPANA MALE ESTATES



NOTE: Parcels 5, 6, 13, 17, & 24 owned by the
State of Hawaii and leased to:
(Easy Kawaii Water Co. Ltd.)
Per: G.L.S. 39-27
unless otherwise noted.

Parcels Dropped: 63, 71, 82, 83, 84,
85, 86, 87, 88, 89,
90, 91, 92, 93, 94, 95,
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996, 997, 998, 999, 1000

EXHIBIT "A"

TAXATION MAPS BUREAU TERRITORY OF HAWAII			
TAX MAP			
FOURTH DIVISION		PLAT	
ZONE	SEC.	PLAT	
4	6	09	
CONTAINING PARCELS			
SCALE: 1 in. = 300 Ft.			
PRINTED			