

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

February 10, 2012

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

PSF No.:110d-210

OAHU

Quitclaim of State's Interests, if Any, in Forest Ridge Way to the City and County of Honolulu, Honolulu, Oahu, Tax Map Key: (1) 2-5-015;adjacent to 014 & 018.

APPLICANT:

City and County of Honolulu.

LEGAL REFERENCE:

Sections 171-95(a)(5) and 264-2, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Honolulu, Oahu, identified by Tax Map Key: (1) 2-5-015: adjacent to 014 & 018, as shown on the attached map labeled **Exhibit A1** and **A2**.

AREA:

Lot 1 - 3,551 square feet, more or less.

ZONING:

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

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:

Existing County road.

CONSIDERATION:

Not applicable.

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 **Exhibit B**)

APPLICANT REQUIREMENTS:

None [City and county of Honolulu has provided the required map and description of the subject area.]

REMARKS:

The subject area (Lot 1) is at the end of the existing Forest Ridge Way, which is a county highway as defined in Section 264-1, HRS. The City has accepted ownership and jurisdiction of the subject area pursuant to Act 288, SLH 1993 and adoption of City Council Resolution 93-287, CD-1, FD-1.

Pursuant to the Resolution No. 11-180, the City Council approved the disposition of Lot 1 to the abutting private owner, who owns both (1) 2-5-015:014 & 018. By a letter dated November 8, 2011, the City requests the transfer of the subject area. A copy of the Resolution is attached as **Exhibit C**.

Pursuant to Section 264-2, HRS, the ownership of all "public highways" (roads, alleys, streets, ways, lanes, bikeways, and bridges in the State, opened, laid out, or built by the government) are owned either by the State for state highways under the jurisdiction of the Department of Transportation or the county for all other public highways. While ownership was transferred by operation of law pursuant to this statutory section, the counties have continued to dispute that they own the roads because they do not have paper title.

Act 288, SLH 1993, stated in its preamble "In consideration of the State waiving its right to have the proceeds from the sale of county public highways remitted to the State, the counties shall acknowledge ownership and jurisdiction of all disputed public highways within their respective counties, as defined in section 264-1, HRS, without the necessity of conveyancing documents transferring title from the State to the respective counties, except when required for the purpose of disposal." (Emphasis added.)

As a result, it is staff's practice that formal documentation (i.e., quitclaim deeds) be issued on roads owned by the counties under Section 264-2, HRS, only when the county is going to subsequently dispose of any real property interests (fee conveyance or any interests less than fee) in at least a portion of the road to a third party. In all other cases, the State's position is that the fee simple interest in the road was passed to the counties by operation of law and documentation is unnecessary. This policy provides for the chain of title and enables subsequent real estate transactions to occur. This policy should not be misconstrued to mean or imply that the State does not assert that the roads being quitclaimed are already owned by the applicable county.

To enable the City to convey the fee title of the subject area to the abutting private owner mentioned above, staff is recommending the issuance of a quitclaim deed. The form of the deed has been approved by the Department of the Attorney General and contains specific wording that the State is releasing and disclaiming any interest since it is our assertion that the County already owns the road.

Previously, the City has inquired with the Department regarding any comment on the proposed sale to the abutting private owner. Division of Forestry and Wildlife request a vehicular easement for its maintenance vehicle and personnel into the forest reserve adjacent to the subject area. Easement A-1 containing 2,086 square feet is depicted on Exhibit C and authorization is requested accordingly.

Office of Conservation and Coastal Lands, Board of Water Supply, and Department of Facility Maintenance have no objections/comments to the request. Commission on Water Resource Management, Department of Planning and Permitting, and Office of Hawaiian Affairs have not responded as of the suspense date.

There are no other pertinent issues or concerns, and staff does not have any objection to the request

RECOMMENDATION: That the Board:

1. Determine the State does not own the subject property or any interest in it.
2. 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.

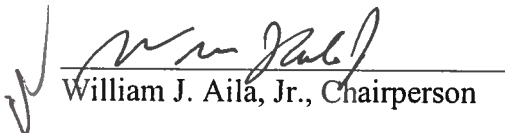
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above authorize the quitclaim of interests, if any, the State may have in the subject roadway parcel to the City and County of Honolulu covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- a. The standard terms and conditions of the most current quitclaim deed (roads) form, as may be amended from time to time;
 - b. Reservation of vehicular and pedestrian access easement (A-1) in favor of the Division of Forestry and Wildlife of the Department;
 - 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.

Respectfully Submitted,

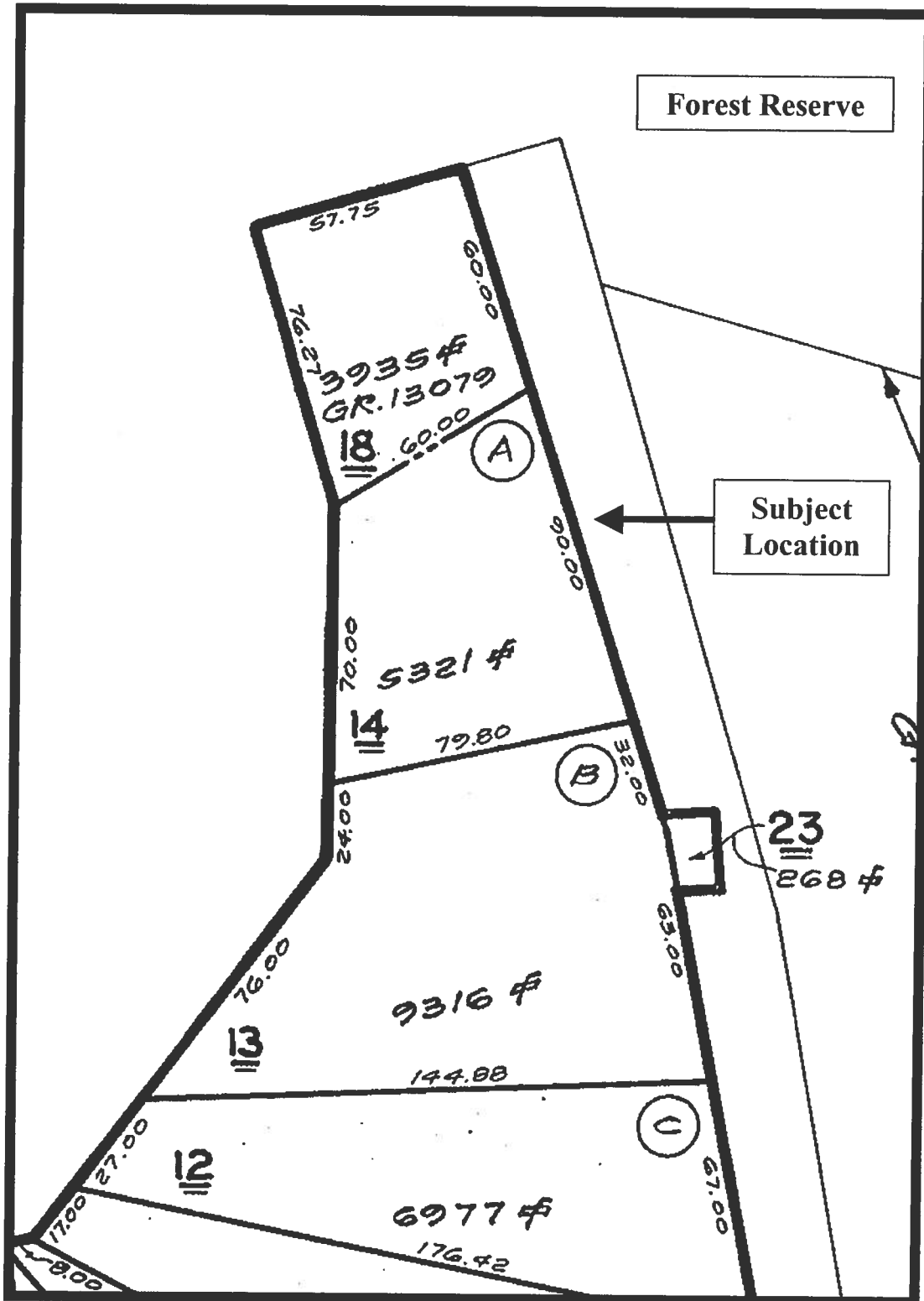


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



TMK (1) 2-5-015:adjacent to 014 & 018

EXHIBIT A1

RECEIVED

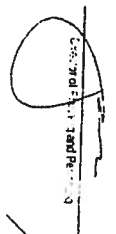
2011 OCT -3 PM 3:30

CITY OF HONOLULU
CITY & COUNTY OF HONOLULU

DATE OCT 14 2011

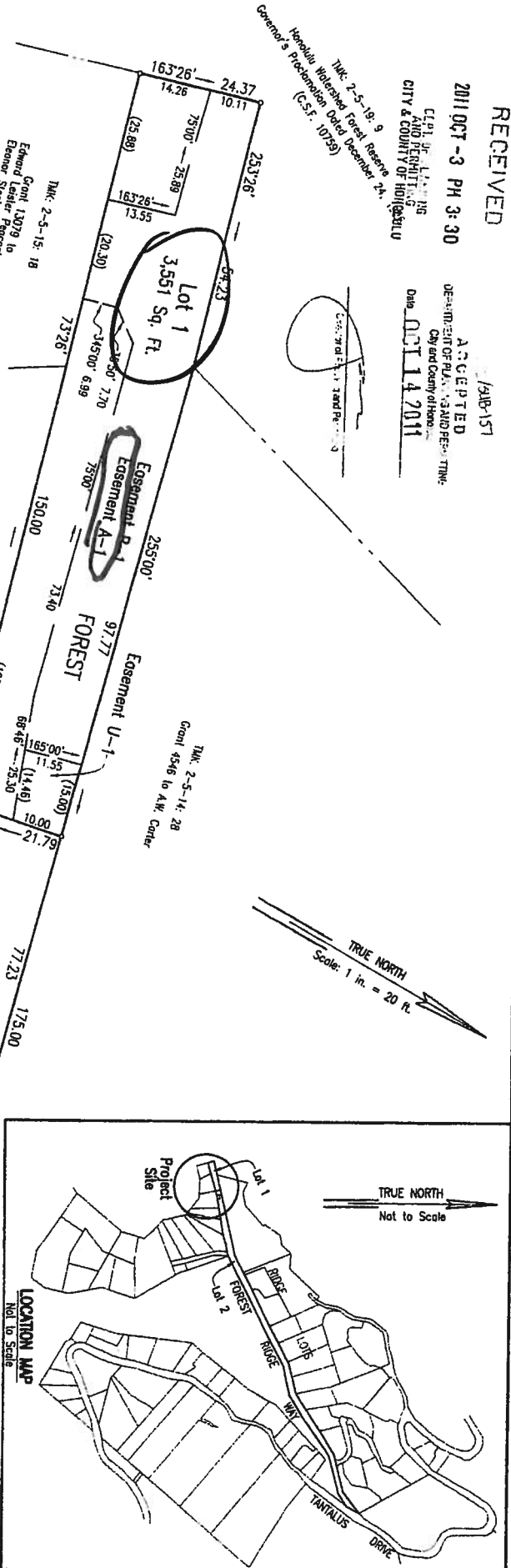
ACCEPTED
DEPARTMENT OF PUBLIC WORKS
City and County of Honolulu

TKM: 2-5-18: 9
Honolulu Watercolor Forest Reserve 24,
General's Proclamation Dated December 24,
(C.S.F. 10759)



TRUE NORTH
Scale: 1 in. = 20 ft.

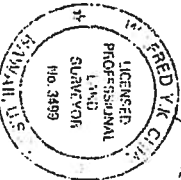
TRUE NORTH
Not to Scale



Notes:
Easement A-1 for Vehicular and Pedestrian Access Purposes affecting Lot 1
in favor of the State of Hawaii = 2,088 Sq. Ft.
Easement P-1 for Pedestrian Access Purposes affecting Lot 1 in favor of the
City and County of Honolulu = 2,088 Sq. Ft.
Easement U-1 for Utility purposes affecting Lot 1 in favor of HECO and Hawaiian Telecom = 198 Sq. Ft.
This property is located within the area designated Zone X on the FRMA
Owner: City and County of Honolulu

**PLAN SHOWING
SUBDIVISION OF FOREST RIDGE WAY
BEING ALSO A PORTION OF
GOVERNMENT (CROWN) LAND OF POLOKE
INTO LOTS 1 AND 2
AND DESIGNATION OF EASEMENTS A-1, P-1 AND U-1**

CONTROLPOINT SURVEYING, INC.
1150 SOUTH KING STREET, SUITE 1200



By: *William D. K. Okun*
Licensed Professional Land Surveyor
Certificate Number 3499
License Expires 4/12

EXHIBIT "A2"



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

EXEMPTION NOTIFICATION

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

Project Title: Quitclaim of Interest

Project / Reference No.: PSF 11od-210

Project Location: Honolulu, Oahu, Tax Map Key: (1) 2-5-015:adjacent to 014 & 018

Project Description: Quitclaim of Interest

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."

Staff understands the subject area has been used as part of the roadway. The City and the abutting private owner are not planning to change the use of the subject area. Therefore it is recommended that the subject request be exempted from an environment assessment.

Consulted Parties Not applicable

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

1/23/12

Date

EXHIBIT B



RESOLUTION

APPROVING THE ABANDONMENT AND SALE OF LOT 1, FOREST RIDGE WAY ROAD STUB ABUTTING 221 FOREST RIDGE WAY (TMK 2-5-015:14 AND 18), HONOLULU, OAHU, HAWAII, AREA 3,551 SQUARE FEET.

WHEREAS, Paragraph 16, Section 46-1.5, Hawaii Revised Statutes (HRS), as amended, authorizes the counties, under certain conditions, to dispose of real property as the interests of the inhabitants of the county may require; and

WHEREAS, Lot 1, with an area of 3,551 square feet, which is the road stub abutting 221 Forest Ridge Way (TMK 2-5-015:14 and 18), is surplus to the City's needs, and is shown outlined in red on the map designated as Exhibit "A", attached hereto and by reference made a part of this resolution; and

WHEREAS, the City accepted ownership and jurisdiction of Lot 1 pursuant to Act 288, SLH 1993 and adoption of City Council Resolution 93-287, CD-1, FD-1; and

WHEREAS, Lot 1 is a county highway as defined in Section 264-1 HRS; and

WHEREAS, said Section 264-1, HRS provides that all county highways once established shall continue until vacated, closed, abandoned, or discontinued by a resolution of the legislative body of the county wherein the county highway lies; and

WHEREAS, said Section 264-3 HRS provides that a county highway, before it is disposed of in any way, it shall be first offered to the abutters for a reasonable length of time and at a reasonable price; and

WHEREAS, Lot 1 was offered to the State of Hawaii, Department of Land and Natural Resources (DLNR), as the abutting property owner of TMK 2-5-019:9, and Darrell Welch, trustee, as the abutting property owner of TMK 2-5-014:28, and both abutting property owners were not interested in purchasing Lot 1; and

WHEREAS, Lot 1 will be sold subject to Easement A-1, which is a perpetual easement for pedestrian and vehicular access purposes in favor of the State, and Easement P-1, which is a perpetual easement for public pedestrian access purposes in favor of the City; and

WHEREAS, both Easements A-1 and P-1 have a total area of 2,086 square feet, and are shown colored in yellow on the attached Exhibit "A"; and

BFS-FOREST RIDGE WAY.R11



RESOLUTION

WHEREAS, Lot 1 will also be sold subject to Easement U-1, with an area of 158 square feet, for utility purposes in favor of the Hawaiian Electric Company, Inc. and Hawaiian Telcom; and

WHEREAS, the various City agencies, including the Department of Transportation Services, have no objections to the disposal of Lot 1; and

WHEREAS, the Director of Budget and Fiscal Services, with the concurrence of the Corporation Counsel, has recommended to the Council to sell Lot 1, pursuant to Sections 37-1.2, 37-1.4 and 37-1.6, Revised Ordinances of Honolulu 1990, as amended; and

WHEREAS, the Director of Budget and Fiscal Services has proposed and recommended the sale of Lot 1 by negotiated sale to John J. Cogan, Trustee of the John J. Cogan Revocable Living Trust, as the abutting property owner; and

WHEREAS, the minimum sale price of Lot 1 is \$48,000, based on an appraisal done by the Department of Design and Construction; and

WHEREAS, the sale price of \$48,000 will be deposited into the reserve for fiscal stability fund; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that Lot 1 is hereby abandoned as a public roadway effective as of the date of recordation of the deed of conveyance; and

BE IT FURTHER RESOLVED by the Council of the City and County of Honolulu that it approves the sale of said Lot 1, with an area of 3,551 square feet, as shown on the map attached as Exhibit "A"; and

BE IT FURTHER RESOLVED that the sale be in accordance with the recommendations of the Director of Budget and Fiscal Services, and/or designee and with all applicable laws; and

BE IT FURTHER RESOLVED by the Council of the City and County of Honolulu that it approves the sale price of \$48,000 be deposited in the reserve for fiscal stability fund; and

BFS-FOREST RIDGE WAY.R11



RESOLUTION

BE IT FURTHER RESOLVED that the Director of Budget and Fiscal Services, and/or designee, shall be authorized to sign the deed and other necessary documents; and

BE IT FINALLY RESOLVED that the Clerk be directed to transmit a certified copy of this resolution to the Director of Budget and Fiscal Services.

INTRODUCED BY:

Walter J. Davis (br)

DATE OF INTRODUCTION

JUN 20 2011

Honolulu, Hawaii

Councilmembers

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
S T A T U S

RESOLUTION 11-180

Introduced: 06/20/11 By: NESTOR GARCIA (BR)

Committee: BUDGET

Title: RESOLUTION APPROVING THE ABANDONMENT AND SALE OF LOT 1, FOREST RIDGE WAY ROAD STUB ABUTTING 221 FOREST RIDGE WAY (TMK 2-5-015:14 AND 18), HONOLULU, OAHU, HAWAII, AREA 3,551 SQUARE FEET.

Links: [RES11-180](#)
[CR-245](#)

Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

BUDGET	08/03/11	CR-245 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.							
COUNCIL	08/17/11	CR-245 AND RESOLUTION 11-180 WERE ADOPTED.							
ANDERSON	Y	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

Related Communications: