

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

March 9, 2012

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

PSF No.: 11od-104

OAHU

Quitclaim of State's Interests, if Any, in Kalia Road to the City and County of Honolulu, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-6-008:adjacent to 001

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 Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 2-6-008:adjacent to 001, as shown on the attached map labeled **Exhibit A**.

AREA:

8,272 square feet, more or less.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: Resort Mixed Use Precinct

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 survey maps and descriptions for the subject area.

REMARKS:

The subject remnant was a portion of land acquired in 1895 filed in the department by Land Office Deed 431. Over the years, it was used as portion of Kalia Road until re-alignment of the road as shown on the map attached as **Exhibit C**. The State was not involved in the maintenance of the subject road.

The City is in the process of conveying the subject area to the abutting private owner, and requests the Board authorize the issuance of a quitclaim deed over the subject area to the City.

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 subject area to the abutting owner, 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.

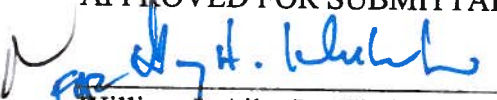
RECOMMENDATION: That the Board,

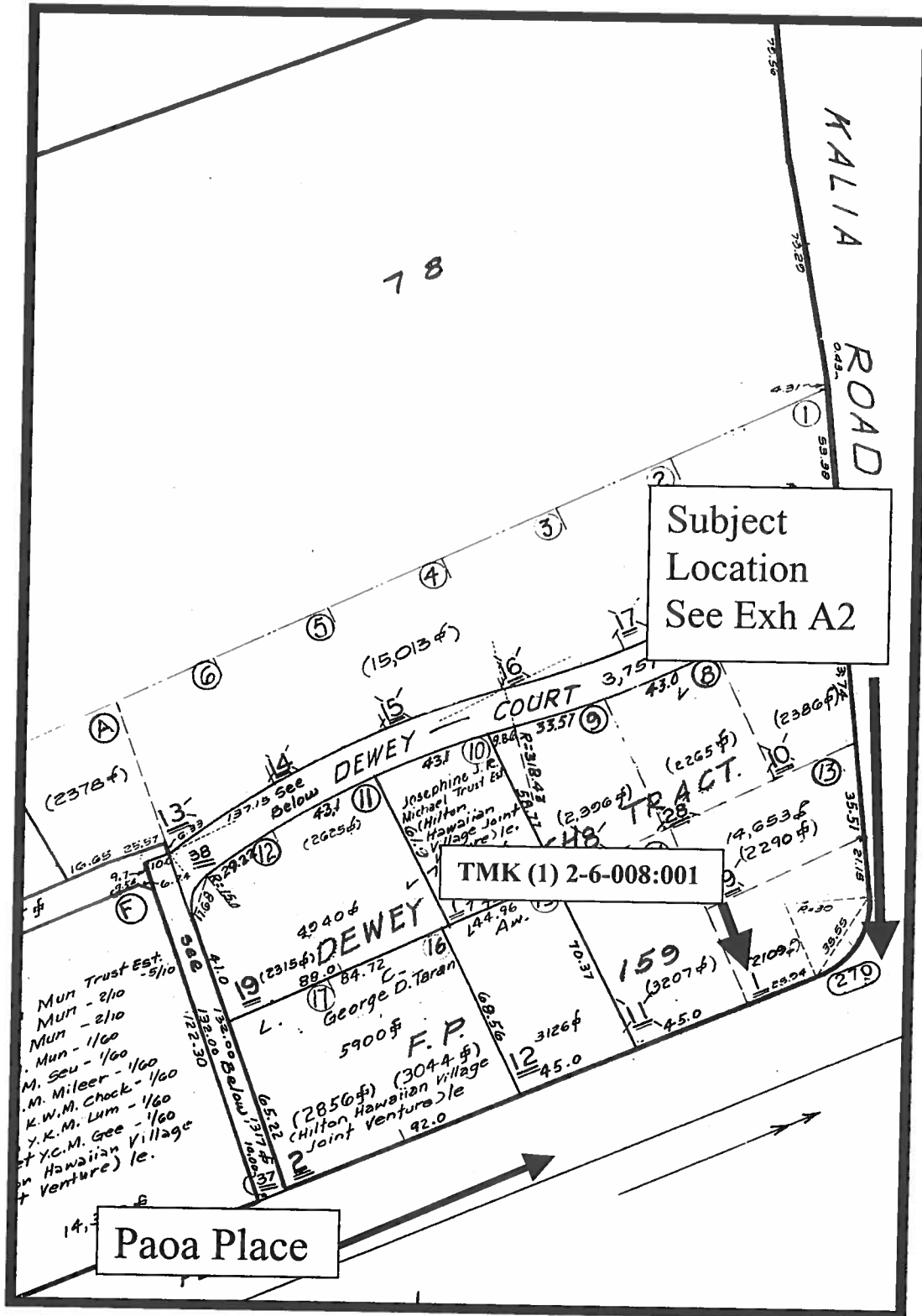
1. Subject to a determination by the Department of the Attorney General, find that the State does not own the subject property or any interest in it.
2. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
3. 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. 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



TMK (1) 2-6-008:portion of 001

EXHIBIT A

EXEMPTION NOTIFICATION

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

Project Title: Quitclaim of State Interest over Kalia Road

Project / Reference No.: PSF 11od-104

Project Location: Honolulu, Oahu, Tax Map Key: (1) 2-6-008:adjacent to 001

Project Description: Quitclaim of State Interest, if any.

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


Exemption Class No.: In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) 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".

Staff understands the subject remnant 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 remnant. 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

2.23.12
Date

EXHIBIT B

TAPA TOWER

79

Consignment of

Court

Lot 11
(Map 51)

166' 33"
431'

57' 11"
0.12'

1441 L. C. Ave 451' 1" Aligned

U F W F

Devev

Beul

Inct

7

File Plan 150

PAOA PLACE
(Formerly Devev Way)

Parcel 4

338.71

4328.1

KALIA

ROAD

Subject Location

PARCEL KP-1
8,272 Sq. Ft.

SCALE 1" = 20 FT
TRUE NORTH

Military Reservation
Fort De Russy
Air Department General Order No. 20, Dated May 20, 1917
United States of America (Owner)



MAP SHOWING REMNANT PARCEL KP-1
AT KALIA, WAIKIKI, HONOLULU, OAHU, HAWAII

ALTON & ASSOCIATES, INC.
1155 KALIA ROAD, SUITE 200
HONOLULU, HAWAII 96813

EXHIBIT "C"