

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

September 14, 2012

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

PSF No: 11OD-143

OAHU

Amend Prior Board Action of January 27, 2012, D-11 by Revising the Remnant Area; Sale of Remnant to Harry Y N Mau Family Trust and Kenneth and Estrellita Leonhardt, and Withdrawal from Governor’s Executive Order No. 1598; Waimanalo, Koolaupoko, Oahu; TMK (1) 4-1-024:portions of 066

BACKGROUND:

On January 27, 2012, under agenda item D-11, the Board approved the above-referenced request involving the withdrawal of portions of a former irrigation ditch from Executive Order No, 1598 and selling such portions as remnants to the abutting private owners. A copy of the approved submittal is attached as **Exhibit 1**. The yellow and blue areas as shown on Exhibit A to the submittal were to be conveyed to Harry Y N Mau Family Trust and Kenneth and Estrellita Leonhardt respectively.

REMARKS:

Subsequent to the Board approval, staff was advised by the applicants that the actual plan was to split only the yellow portion between them. The proposed purchase will allow the Leonhardts to have adequate land area for an ohana dwelling adjacent to the existing house at the particular corner of their lot to be the residence of Mr. Leonhardt’s mother. Neither applicant has any intent to take up the blue area.

While staff prefers that both the blue and yellow areas of the now abandoned ditch be conveyed, staff has no strong position on the modified request. Therefore, today’s request is to ask the Board amend its prior action by revising the remnant area to be conveyed.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of January 27, 2012, under agenda item D-11 by replacing Exhibit A with the map attached as **Exhibit 2**, with the latest subject

remnant area shown hatched.


2. All terms and conditions listed in its January 27, 2012 approval to remain the same.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

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

January 27, 2012

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

PSF No.: 11od-143

OAHU

Sale of Remnant to Harry Y N Mau Family Trust and Kenneth and Estrellita Leonhardt, and Withdrawal from Governor's Executive Order No. 1598; Waimanalo, Koolaupoko, Oahu; TMK (1) 4-1-024:portions of 066

APPLICANT:

- (A) Harry Y N Mau Family Trust; and
- (B) Kenneth and Estrellita Leonhardt, tenants by the entirety.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-024:portions of 066, as shown on Exhibit A.

AREA:

To be determined, and subject to review and approval by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Agricultural
City and County of Honolulu LUO: AG-2

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 Governor's Executive Order No. 1598 setting aside to the Department of

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON *1/27/12*
January 27, 2012

Agriculture for operating and maintenance of irrigation system.

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:

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 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, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class Bo. 4 that states "Minor alteration in the conditions of land, water, or vegetation." See Exemption Notification attached as Exhibit B.

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 the one-time payment of fair market value for the remnant;
- 2) Consolidate the remnant with the Applicant's abutting property through the County subdivision process;
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 4) Pay for the pro-rated cost to subdivide the remnant so that portions may be sold to multiple abutting owners.

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 is considered to be a remnant parcel because it is a portion of an abandoned irrigation ditch, and is physically unsuitable for development.

The subject ditch parcel was formerly used for water delivery to the agricultural

lots in Waimanalo. State of Hawaii is the fee owner of the irrigation ditch system and is under the jurisdiction of the Department of Agriculture pursuant to Governor's Executive Order No. 1598.

Harry Y N Mau Family Trust owns the property identified as tax map key (1) 4-1-024:059, while Mr. & Mrs. Leonhardt own (1) 4-1-024:088 as staff has confirmed the respective ownership information with the City and County of Honolulu's records. The subject remnant is located between the applicants and there are no other abutting property owners.

According to Section 171-52, HRS, if there is more than one abutting owner who is interested in purchasing the remnant, it shall be sold to the one submitting the highest sealed bid or if the remnant abuts more than one parcel, the Board may subdivide the remnant so that a portion may be sold to each abutting owner. Both applicants agree to a proposal of subdividing the subject remnant depicted on Exhibit A.

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.

Board of Water Supply, Department of Agriculture, and Department of Health have no comment/objection to the request. Department of Hawaiian Home Lands, Division of Aquatic Resources, Historic Preservation Division, Commission on Water Resource Management, Department of Planning and Permitting, Department of Facility Maintenance, and the Office of Hawaiian Affairs have not responded as of the suspense date.

There are no other pertinent issues or concerns. Staff has no objection to the request.

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: (1) 4-1-024:059 and 088, as appropriate, 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.
5. Approve of and recommend to the Governor the issuance of an executive order withdrawing the subject area from Governor's Executive Order No. 1598, subject to the following:
 - a. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - b. Disapproval by the Legislature by two-third vote of either the House of Representatives or the Senate or by the majority vote by both in any regular or special session following the date of the setting aside;
 - c. Review and approval by the Department of the Attorney General;
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
6. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Harry Y N Mau Family Trust and Kenneth and Estrellita Leonhardt covering the respective 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,



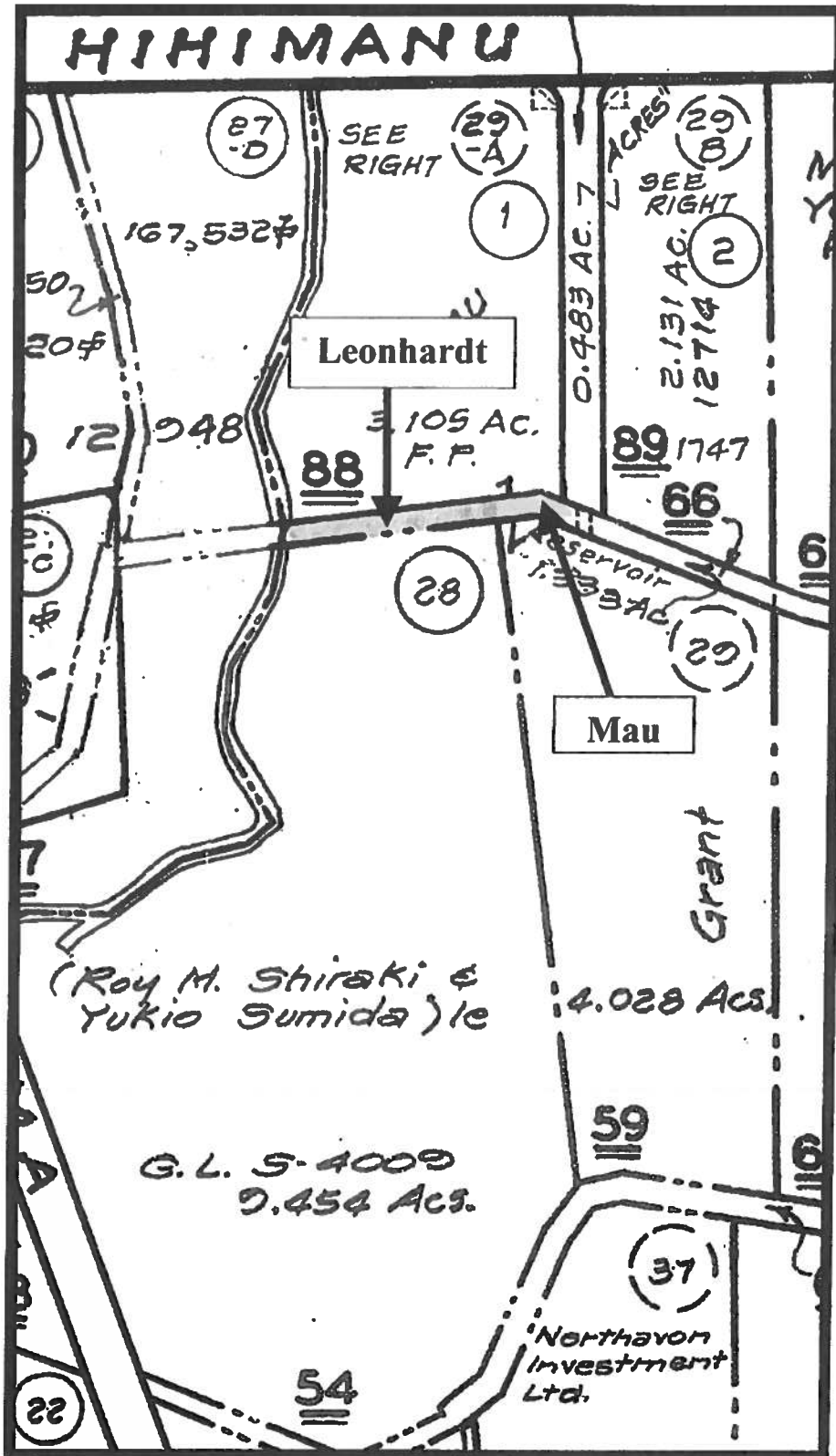
Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





TMK (1) 4-1-024:portions of 066

EXHIBIT A



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: Sale of Remnant

Project / Reference No.: PSF 110d-143

Project Location: Waimanalo, Koolauapoko, Oahu, Tax Map Key: (1) 4-1-24:66 por.

Project Description: Sale of Remnant

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 remnant has been abandoned for irrigation purposes and the applicants are not planning to change the use of or place improvement on the subject remnant. Therefore it is recommended that the subject request be exempted from an environment assessment.

Consulted Parties Not applicable

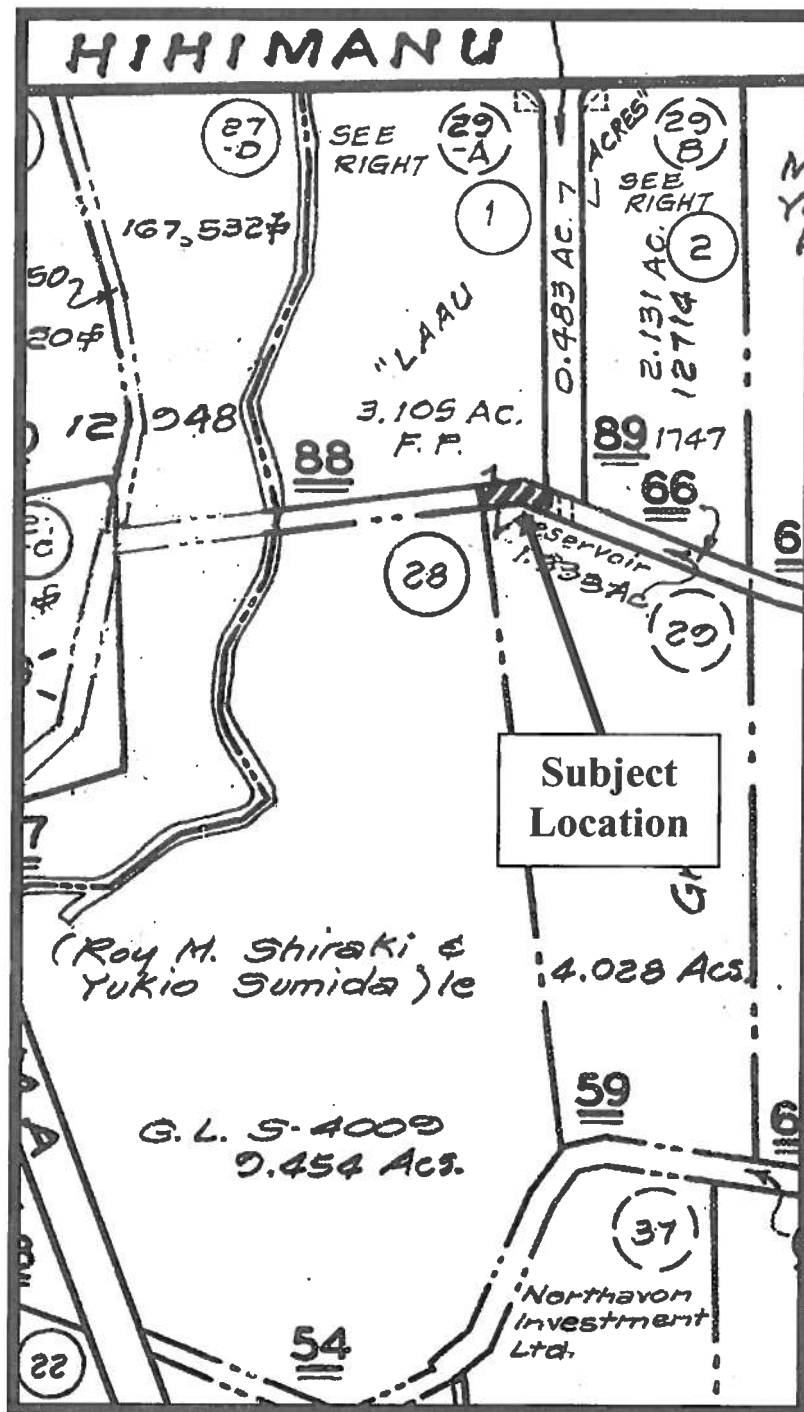
Exemption Item Description from Agency Exemption List: Not applicable

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

12/29/11
Date

EXHIBIT B



TMK (1) 4-1-024:portion of 066