

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

July 12, 2013

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

PSF No.: 12OD-136

OAHU

RESUBMITTAL: Amend Prior Board Action of March 8, 2013 (Item D-7) by Removing Reference to Governor's Executive Order No. 1423 in the Submittal; Sale of Remnants to Grant T. Hamachi, as Trustee of the Grant T. Hamachi Revocable Living Trust, dated November 19, 1999 and Toyoko Hamachi, as Trustee of the Toyoko Hamachi Revocable Living Trust, dated November 19, 1999; Withdrawal from Governor's Executive Order Nos. 1598 and 1423, Waimanalo, Koolauapoko, Oahu; Tax Map Key: (1) 4-1-025:036 portion and 052

BACKGROUND:

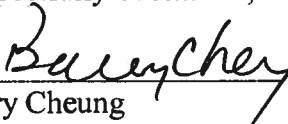
On March 8, 2013, under agenda item D-7, the Board approved the subject request of selling two (2) portions of former irrigation ditch as remnant to the abutting owners. In the submittal, staff noted the subject portions of irrigation ditches were encumbered by Governor's Executive Order Nos. ("GEO") 1598 and 1423 to the Department of Agriculture and Board of Water Supply respectively. Withdrawal of the remnants from the GEO are required. A copy of the approved Board submittal is attached as **Exhibit 1**.

During the preparation of the map and description of the subject remnants, the State Survey Division verified that both portions of ditch actually encumbered by GEO 1598 only. Therefore, staff recommends the Board amend its prior action by removing any reference to GEO 1423 in the prior submittal.

RECOMMENDATION: That the Board:


1. Amend its prior Board action of March 8, 2013 (Item D-7) by removing any reference to Governor's Executive Order No. 1423 in the prior submittal.
2. All terms and conditions listed in its March 8, 2013 approval to remain the same.

Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:

D-16


William J. Aila, Jr., Chairperson

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

March 8, 2013

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

PSF No.: 12OD-136

OAHU

Sale of Remnants to Grant T. Hamachi, as Trustee of the Grant T. Hamachi Revocable Living Trust, dated November 19, 1999 and Toyoko Hamachi, as Trustee of the Toyoko Hamachi Revocable Living Trust, dated November 19, 1999; Withdrawal from Governor's Executive Order Nos. 1598 and 1423, Waimanalo, Koolaupoko, Oahu; Tax Map Key: (1) 4-1-025:036 portion and 052

APPLICANTS:

Grant T. Hamachi and Toyoko Hamachi, as Trustees, with the two trusts taking title as tenants in common.

LEGAL REFERENCE:

Section 171-11 and 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-025:036 portion and 052, shown on the attached map labeled as Exhibit A.

AREA:

(1) 4-1-025:036 portion 0.341 acre, more or less
(1) 4-1-025:052 0.060 acre, more or less

ZONING:

State Land Use District:
City & County of Honolulu

Agricultural
LUO: AG-2

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

March 8, 2013 *GD.*

D-7

EXHIBIT 1

TRUST LAND STATUS FOR BOTH LOTS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Parcel 36 is encumbered by Governor’s Executive Order No. 1598 to the Department of Agriculture for operation and maintenance of an irrigation system to develop small scale farming.

Parcel 52 is under the jurisdiction of the City and County of Honolulu Board of Water Supply per Governor’s Executive Order No. 1423 for purposes of a water pipeline easement.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by an independent 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 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.

DCCA VERIFICATION:

Not applicable. The Applicants as landowners are not required to register with DCCA.

APPLICANTS REQUIREMENTS:

Applicants shall be required to:

- 1) Provide survey maps and descriptions for both remnants according to DAGS standards and at the Applicants' own cost;
- 2) Pay for an appraisal to determine the one-time payment of fair market value for both remnants; and
- 3) Consolidate both remnants with the Applicants' abutting properties through the county subdivision process.

REMARKS:

The Applicants are requesting the purchase of State-owned lands and intend to put them to agriculture use. The Applicants' agriculture zoned properties abut both subject parcels being requested for purchase. At this time, the Applicants do not intend to construct any building improvements upon the requested subject parcels.

Parcel 36, portion, consists of 0.341 acre (approximately 14,854 square feet) of irrigation flume; formerly used for water delivery to agricultural lots. The irrigation ditch system had once serviced the Waimanalo Farm Lots extending throughout Waimanalo.

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 Applicants are the fee owner of private properties identified as Tax Map Key Nos.: (1) 4-1-025: 031 and 032, as staff has confirmed by the City and County's Real Property Tax website. Parcel 36, portion, is located between the Applicants' two privately owned parcels. Thus, due to the subject's location within the abandoned irrigation flume, the subject is incapable for development or utilization as a separate unit. Thus, staff recommends that subject parcel 36, portion, be treated as a remnant, as previously defined.

Parcel 52 is a triangular-shaped lot wedged between Kumuhau Street and the Applicants' privately owned property, identified as Tax Map Key (1) 4-1-025: 032. Thus, due to the subject parcel's small size, staff recommends that the Board find that it is a remnant because it is physically undesirable for development or utilization as a separate unit.

The Board of Water Supply, Department of Agriculture, Department of Health, Department of Hawaiian Home Lands, Department of Planning and Permitting and the Division of Facility Maintenance have either no comments or no objections to the subject request. There were no comments or objections to the subject request from

Michiyo Stanton, the owner of the private property identified as Tax Map Key: (1) 4-1-025:035. Similarly, no objections were received from Robert and Wayne Shimokawa, the owners of the private property identified as Tax Map Key: (1) 4-1-025:034. Both private properties abut subject parcel number 52.

The 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.

There are no other pertinent issues or concerns, and staff has no objection to the request.

Staff now brings the subject request to the Board for its approval.

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. 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 subject requests to be applicable in the event of a change in the ownership of the abutting parcels described as Tax Map Key: (1) 4-1-025: 031 and 032, 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. Approve of and recommend to the Governor the issuance of executive orders withdrawing the subject areas from Governor's Executive Order Nos. 1598 and 1423, 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-thirds vote of either the House

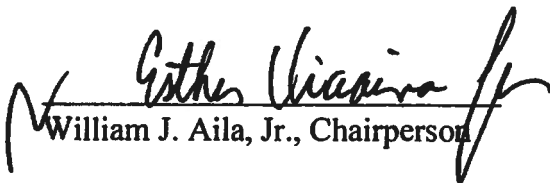
- of Representatives or the Senate or by a majority vote by both in any regular or special session following the date of the setting aside;
- c. Review and approval by the Department of the Attorney General; and
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the subdivision and consolidation of the subject remnant by the Applicant.
5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Grant T. Hamachi, as Trustee of the Grant T. Hamachi Revocable Living Trust, dated November 19, 1999 and Toyoko Hamachi, as Trustee of the Toyoko Hamachi Revocable Living Trust, dated November 19, 1999, with the two trusts taking title as tenants in common, 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.

Respectfully Submitted,

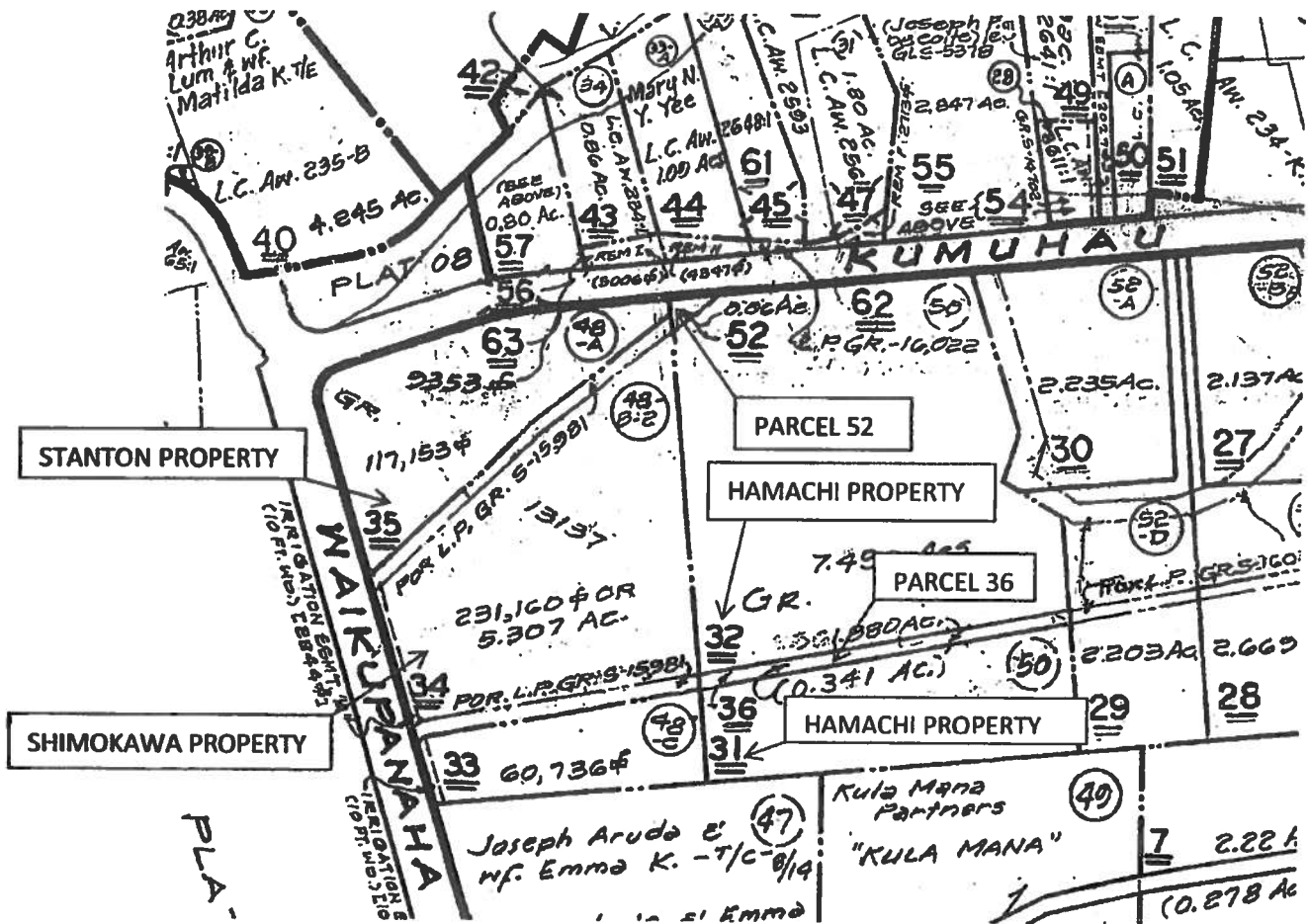


Timmy Chee
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



TAX MAP KEY: 4-1-025:

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 Remnants to Grant T. Hamachi, as Trustee of the Grant T. Hamachi Revocable Living Trust, dated November 19, 1999 and Toyoko Hamachi, as Trustee of the Toyoko Hamachi Revocable Living Trust, dated November 19, 1999; Withdrawal from Governor's Executive Order Nos. 1598 and 1423, Waimanalo, Koolaupoko, Oahu; Tax Map Key: (1) 4-1-025:036 portion and 052
- Project / Reference No.: PSF 12OD-136
- Project Location: Waimanalo, Koolaupoko, Oahu; Tax Map Key: (1) 4-1-025:036 portion and 052
- Project Description: Sale of Remnants
- Chap. 343 Trigger(s): Use of State Land
- Exemption Class No.: In accordance with Hawaii Administrative Rule Section 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."

The subject remnants are currently zoned for agriculture use. The Applicants intend to use the remnants for agriculture use. As such,

EXHIBIT B


staff believes that the intended use of the remnants would involve negligible or no expansion or change in use of the subject areas beyond that previously existing. Based upon Exemption Class No. 1, the subject request is exempt from the preparation of an environmental assessment.

Consulted Parties

Not applicable

Recommendation:

It is anticipated 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

2/25/13
Date