

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

November 14, 2014

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

PSF No.: 14OD-075

OAHU

Sale of Remnant to Steven Katzman and Marilyn Katzman; Withdrawal from Governor's Executive Order No. 1598, Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-025:039 (Portion).

APPLICANTS:

Steven Katzman and Marilyn Katzman, husband and wife.

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: portion of 039, shown on the map attached as **Exhibit A**.

AREA:

0.474 acres, more or less

ZONING:

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

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:

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.

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.

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; and
2. Provide survey maps and descriptions according to State DAGS standards and at the Applicants' own cost.

REMARKS:

The Applicants recently acquired the abutting property designated as TMK: (1) 4-1-025:012 & 013(Parcels 12 & 13). Applicants request to purchase a portion of an abandoned State-owned irrigation ditch and intend to consolidate such portion with their adjacent property. The subject location was formerly used for transmission of irrigation water.

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 owners of private Parcels 12 & 13, as confirmed by the warranty deed recorded as A51770320 on March 1, 2014 and warranty deed recorded as A51721227 on February 26, 2014.

The subject portion of ditch runs through the Applicants' private properties. Therefore, staff believes the subject portion of ditch, due to its size, is incapable of development or

utilization as a separate unit and recommends the Board declare the requested area a remnant.

Department of Planning and Permitting, Department of Agriculture, Board of Water Supply, Division of Aquatic Resources, Office of Hawaiian Affairs and Department of Facility Maintenance have no comments/objections to the request.

State Historic Preservation Division and Commission on Water Resource Management, have not responded as of the suspense date.

Department of Hawaiian Home Lands (“DHHL”) provided its comment at **Exhibit C**, in which DHHL requests documentation to support the trust land status, DHHL’s entitlement to the subject portion of ditch, and protection of DHHL’s water rights. Article XII, Section 1 of the Hawaii State Constitution provides that DHHL shall be entitled to 30% of State receipts derived in three situations, namely, (1) leasing of sugarcane cultivated lands; (2) water licenses; and (3) leasing of lands cultivated as sugarcane lands as of November 7, 1978. The subject remnant is formerly a portion of an irrigation ditch, which has been abandoned. It was not a portion of sugarcane land in 1978 and the subject request is not leasing for sugarcane cultivation. In addition, the request is not a water license. Therefore, staff respectfully disagrees with the contents of DHHL’s letter at Exhibit C.

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 recommends the Board authorize the sale of the subject remnant according to the terms and conditions described above.

RECOMMENDATION: That the Board:

1. Find that the subject land is 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 request to be applicable in the event of a change in the ownership of the abutting parcels described as Tax Map Key: (1) 4-1-025:012 and 013 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.

4. 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-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.

5. Authorize the subdivision and consolidation, as appropriate, of the subject remnant by the Applicant.

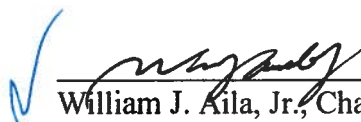
6. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Steven Katzman and Marilyn Katzman covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject 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,

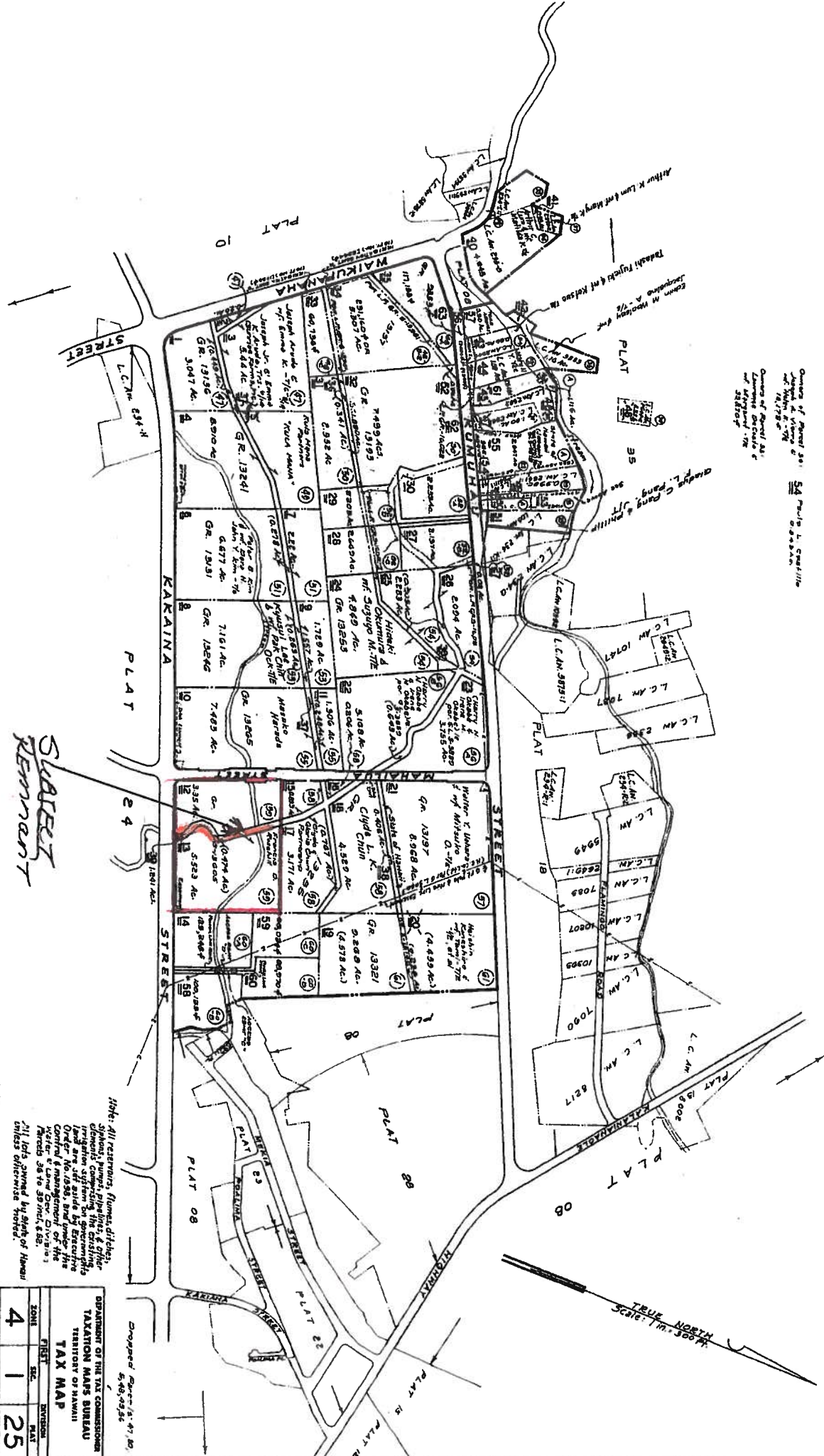


Steve Lau
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



Owner of Parcel 20: SA Paula L. Steadille
 Owner of Parcel 21: SA Paula L. Steadille
 Owner of Parcel 22: SA Paula L. Steadille
 Owner of Parcel 23: SA Paula L. Steadille
 Owner of Parcel 24: SA Paula L. Steadille
 Owner of Parcel 25: SA Paula L. Steadille
 Owner of Parcel 26: SA Paula L. Steadille
 Owner of Parcel 27: SA Paula L. Steadille
 Owner of Parcel 28: SA Paula L. Steadille
 Owner of Parcel 29: SA Paula L. Steadille
 Owner of Parcel 30: SA Paula L. Steadille
 Owner of Parcel 31: SA Paula L. Steadille
 Owner of Parcel 32: SA Paula L. Steadille
 Owner of Parcel 33: SA Paula L. Steadille
 Owner of Parcel 34: SA Paula L. Steadille
 Owner of Parcel 35: SA Paula L. Steadille
 Owner of Parcel 36: SA Paula L. Steadille
 Owner of Parcel 37: SA Paula L. Steadille
 Owner of Parcel 38: SA Paula L. Steadille
 Owner of Parcel 39: SA Paula L. Steadille
 Owner of Parcel 40: SA Paula L. Steadille
 Owner of Parcel 41: SA Paula L. Steadille
 Owner of Parcel 42: SA Paula L. Steadille
 Owner of Parcel 43: SA Paula L. Steadille
 Owner of Parcel 44: SA Paula L. Steadille
 Owner of Parcel 45: SA Paula L. Steadille
 Owner of Parcel 46: SA Paula L. Steadille
 Owner of Parcel 47: SA Paula L. Steadille
 Owner of Parcel 48: SA Paula L. Steadille
 Owner of Parcel 49: SA Paula L. Steadille
 Owner of Parcel 50: SA Paula L. Steadille
 Owner of Parcel 51: SA Paula L. Steadille
 Owner of Parcel 52: SA Paula L. Steadille
 Owner of Parcel 53: SA Paula L. Steadille
 Owner of Parcel 54: SA Paula L. Steadille
 Owner of Parcel 55: SA Paula L. Steadille
 Owner of Parcel 56: SA Paula L. Steadille
 Owner of Parcel 57: SA Paula L. Steadille
 Owner of Parcel 58: SA Paula L. Steadille
 Owner of Parcel 59: SA Paula L. Steadille
 Owner of Parcel 60: SA Paula L. Steadille

SHEET
 REMAINT

NOTE: All easements, fences, ditches, drains, water pipes, etc., and other improvements shown on this map are not shown by the Department of Taxation. The Department of Taxation is not responsible for the accuracy of the information shown on this map. The Department of Taxation is not responsible for the accuracy of the information shown on this map. The Department of Taxation is not responsible for the accuracy of the information shown on this map.

DEPARTMENT OF THE TAX COMMISSIONERS
 TERRITORY OF HAWAII
 TAX MAP

SOON	FIRST	SECOND	THIRD
4	1	25	
CONTAINING PARCELS			

SCALE 1 IN. = 300 FT.

EXHIBIT "A"

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 14OD-075
 Project Location: Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-25:039 (portion)
 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."

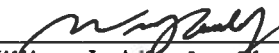
The applicant does not have any long term plan for the subject remnant. There will be minimal to no alteration in the conditions of land, water, and vegetation of the subject remnant. Therefore it is recommended that the subject request be exempted from an environment assessment.

Consulted Parties Agencies listed in submittal.

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. Aifa, Jr., Chairperson
 Date 11/28/14

EXHIBIT B



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P O BOX 1879
HONOLULU, HAWAII 96805

Ma y . 6, 2014

TO: Steve Lau, Land Agent
Department of Land and Natural Resources

FROM: Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

SUBJECT: Request for Comments on Steve and Marilyn Katzman Request for Sale of
Remnant - Waimanalo, Koolau Poko, Oahu, TMK (1) 4-1-025:039 (Portion)

The Department of Hawaiian Home Lands (DHHL) received the above-mentioned memorandum dated April 10, 2014, regarding the Steven and Marilyn Katzman application to purchase a portion of the abandoned irrigation ditch right-of-way for the above-referenced TMK involving State lands. DHHL offers the following comments:

(1) Trust Land Status. DHHL requests that it be provided with supporting documentation to verify the Trust Land status for the subject parcel by either the Department of Land and Natural Resources (DLNR), or the applicant, prior to the authorization of the sale of this subject parcel. DHHL is entitled to 30 percent of the revenue generated by the sale of this property if this parcel has Trust Land status per Article XII, Section I, of the Hawaii State Constitution.

(2) Protection of DHHL's water rights. DHHL is entitled to 30 percent of the receipts collected from water licenses issued by the State per Article XII, Section I, of the State Constitution. Additionally, per the State Water Code as well as the Hawaiian Homes Commission Act, 1920, as amended, the Commission on Water Resource Management shall "reserve" water for future DHHL needs to the extent applicable, based on DHHL projections. As a result, the sale of the property, which includes an abandoned irrigation ditch right-of-way, should address these rights and/or DHHL's right to revenue or to water in the irrigation ditch.

Mahalo for the opportunity to comment. If you have further questions, please contact Andrew Choy at (808) 620-9279 or email him at andrew.h.choy@hawaii.gov.

EXHIBIT "C"