

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

June 12, 2015

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

PSF No.: 14HD-047

HAWAII

Sale of Remnant (Flume ROW) to Ryan M. Catron, aka: Ryan M. Nases and Joel Madden Nathansen, Kaiwika, South Hilo, Hawaii, Tax Map Key: (3) 2-9-004: Portion of Abandoned Flume Right-of-Way.

APPLICANT:

Ryan M. Catron (aka: Ryan McLeod Catron, Ryan M. Nases and Ryan McLeod Nases) and Joel Madden Nathansen (aka: Joel M. Nathansen), both unmarried, as Joint Tenants.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kaiwika Homesteads situated at Kaiwika, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-9-004: Portion of Flume Right-of-Way as shown on the attached map labeled Exhibit A.

AREA:

.346 acres, more or less.

ZONING:

State Land Use District:	Agriculture
County of Hawaii CZO:	Ag-20A

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:

Vacant and unencumbered.

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:

Not applicable. Subject lands are to be conveyed to abutting landowner(s) and will become privately owned land at that point. Chapter 343, HRS, would not apply to any future development on the parcel, as no State lands would be involved.

DCCA VERIFICATION:

Not applicable. Grantees as individuals are not required to register with the DCCA.

APPLICANT REQUIREMENTS:

Applicants shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
2. Pay for an appraisal to determine the one-time payment of fair market value for the remnant; and
3. Consolidate the remnant with Applicant's abutting property through the County subdivision process.

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:

Parcel is a remnant of an abandoned 10-foot wide flume right-of-way.

On November 9, 1932, a public auction was held for a Land License identified as General Lease No. 2301. The Hakalau Plantation Company, as the highest bidder, was issued a 21-year land license, which commenced on November 9, 1932. The proposed use of the license was for the rights, privilege and authority to enter Government lands of Hakalau, for utilizing rights-of-ways 10-foot wide for roads and flume purposes. Upon expiration of General Lease No. 2301, the Hakalau Plantation Company requested and was granted a Revocable Permit (No. 1253), for similar purposes. There are no documents on file to

indicate when Revocable Permit No. 1253 was terminated or when the flume right-of-way was abandoned.

By letter dated October 26, 2009, a Mr. John Fitzgerald, Trustee of the Fitzgerald Family Trust requested to purchase the abandoned flume right-of-way. The Fitzgerald Trust owns the abutting property identified as TMK: (3) 2-9-004:027.

At its meeting of October 8, 2004, Item D-15, the Board of Land and Natural Resources approved the sale of the remnant to the Fitzgerald Family Trust. In the processing of the sale of the remnant, Mr. John Fitzgerald, Trustee of the Fitzgerald Family Trust refused to pay for the appraisal fees required to determine the value of the flume right-of-way. As a result, at its meeting of September 26, 2008, Item D-2, the Land Board rescinded its prior actions of October 8, 2004 (D-15).

By letter dated June 30, 2014, Ryan M. Catron, aka: Ryan M. Nases and Joel M. Nathansen submitted a request to purchase the remnant, a flume right-of-way.

Staff has confirmed through the County of Hawaii, Real Property Tax Office that Mr. Ryan M. Catron (Nases) and Joel M. Nathansen are the owners of the abutting private property identified as Tax Map Key: (3) 2-9-004:057.

A Mr. Alan Okamoto, Attorney at Law, representing Mr. Fitzgerald, provided a letter dated March 20, 2015, which contained a summary of terms and conditions to an agreement between Mr. Fitzgerald and Mr. Catron/Nases, involving matters relating to the subject flume right-of-way. In part, the letter included confirmation that Mr. Fitzgerald is no longer interested in purchasing a portion of the remnant.

Ryan M. Catron (aka: Ryan M. Nases) and Joel Madden Nathansen (aka: Joel M. Nathansen), as Grantees, 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.

Various governmental agencies and interest groups were solicited for comments regarding the sale of the remnant. No negative responses were received.

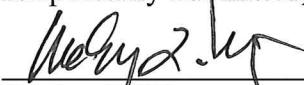
AGENCIES	COMMENTS
County of Hawaii:	
Planning	No comments/ objections
Public Works	No comments
Water Supply	No objections
State of Hawaii:	
DHHL	No response
DLNR-Aquatic Resources	No objections
DLNR-Historic Preservation	No response
DLNR-Na Ala Hele Trails	No comments

DLNR-Stat Parks	No objections
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No objections

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, the proposed disposition does not require an environmental assessment as provided by Chapter 343, HRS, and Chapter 11-200, HAR. That the subject lands are to be conveyed to abutting landowner and will become privately owned, therefore, Chapter 343, HRS, would not apply to any future development on the parcel, as no State lands would be involved.
3. Authorize the consolidation of the subject remnant by the Applicant to the abutting private property belonging to the applicant.
4. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Ryan M. Catron (aka: Ryan Mc Leod Catron, Ryan M. Nases, and Ryan Mc Leod Nases) and Joel Madden Nathansen (aka: Joel M. Nathansen), 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,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

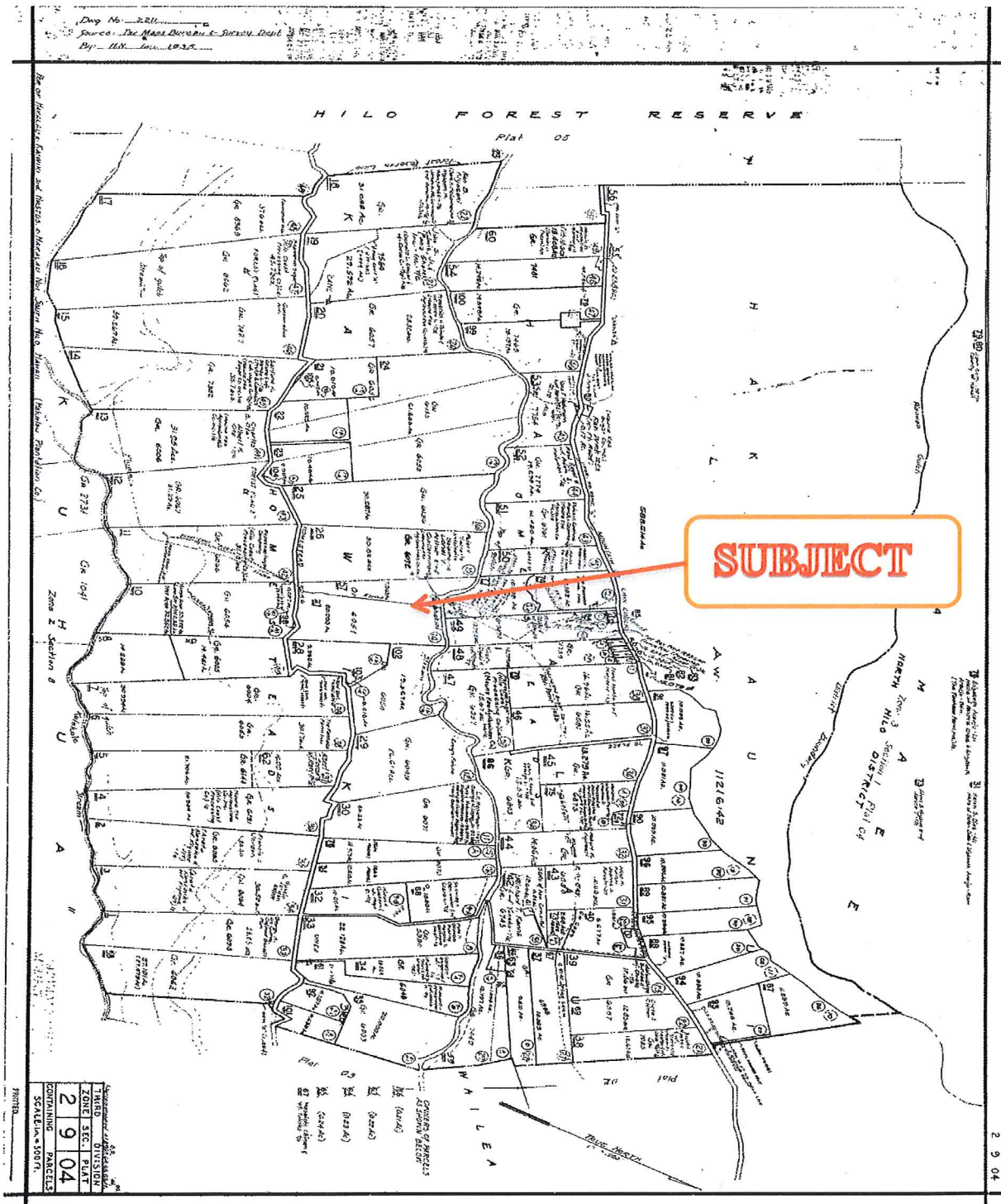
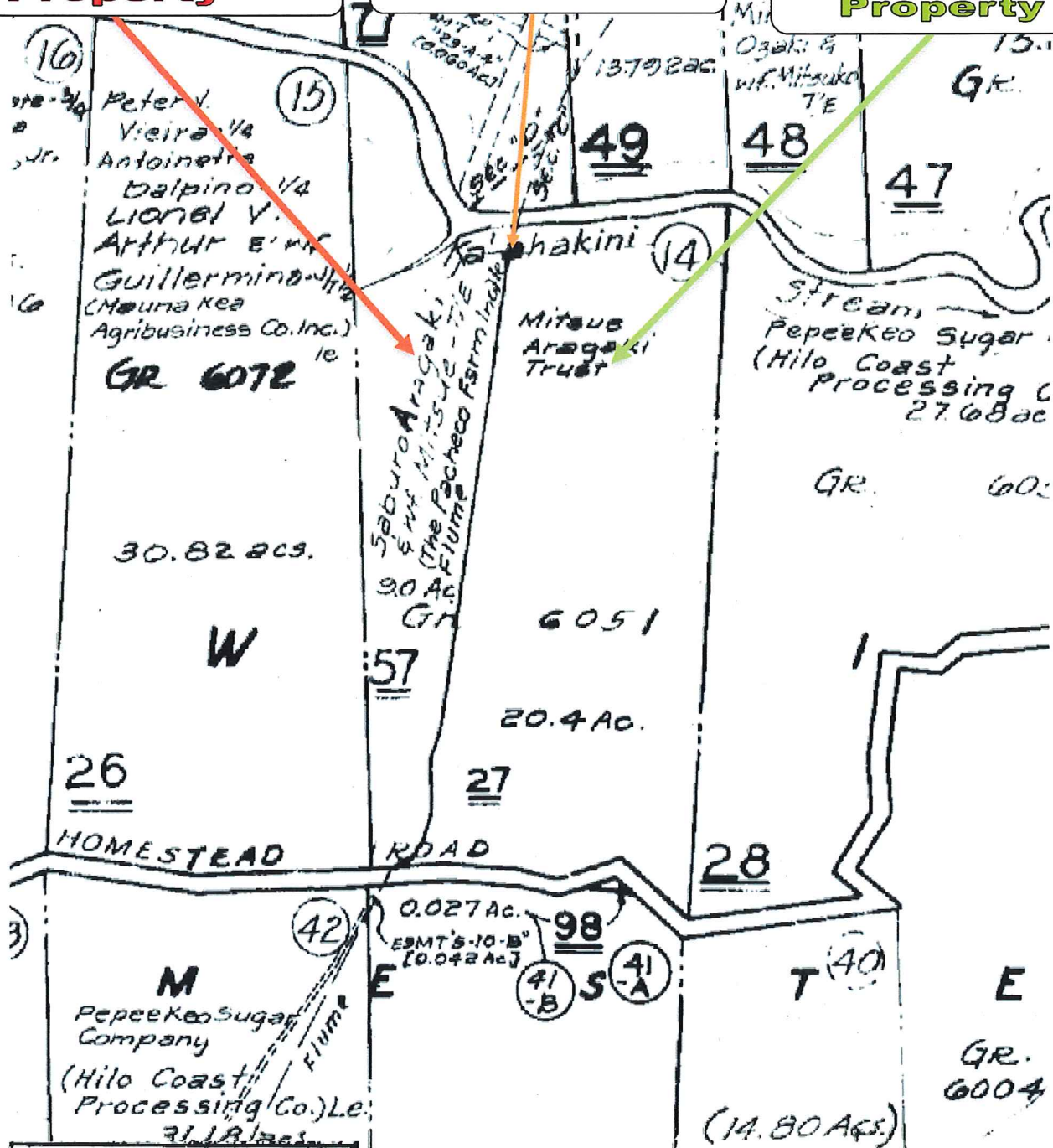


EXHIBIT A

**FitzGerald
Property**



THIRD		DIVISION	
ZONE	SEC.	PLAT	
2	9	04	
CONTAINING		PARCELS	
SCALE: lin. = 500 ft.			

EXHIBIT A