

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

February 22, 2008

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

PSF No.: 05od-264

OAHU

Authorize the Sale of Remnant by Sealed Bid, Niu, Honolulu, Oahu; TMK (1) 3-1-011:003.

APPLICANT:

Sidney G. Y. Goo, whose mailing address is 415 South Street, Apt. 302, Honolulu, Hawaii 96813; and

Charles Lucas Residuary Trust, whose mailing address is P.O. Box 3170, Honolulu, Hawaii 96802-3170.

Note: The Applicant, as mentioned hereinafter, is the one submitting a sealed bid containing the highest offer above the appraised value.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Niu, Honolulu, Oahu, identified by Tax Map Key: (1) 3-7-011:003, as shown on the attached map labeled Exhibit A.

AREA:

6,647 square feet, more or less.

ZONING:

State Land Use District: Urban
City & County of Honolulu LUO: R-10

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES _____ NO
 X

CURRENT USE STATUS:

Vacant and unencumbered.

UPSET PRICE:

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.

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 (See Remarks);
- 2) Consolidate the remnant with the Applicant's abutting property through the County subdivision process; and
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

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 3 (Parcel 3) was acquired by condemnation in 1951 (LOD 10126) relating to the widening of Kalanianaʻole Highway. In 1994, portion of Parcel 3, and other State land were set aside by governor's Executive Order No. 3619 to the Department of Transportation for highway widening purposes. After the set aside in 1994, Parcel 3 was left vacant. Therefore, Parcel 3 fits into the definition of a remnant as mentioned in §171-52 (a)(1).

Pursuant to the county zoning, Parcel 3 can only be used for residential use. There are two sections of Chapter 171, namely, 45 & 70, that allow residential uses. However, it appears that both sections are intended to address situations in which the State determines residential development is desirable on certain public lands, but also intended for residential development on larger parcels of land which involve subdividing into several individual residential plots. The subject lot is a single, substandard sized lot. Further, both sections restrict potential lessees to those individuals whose annual gross income (including the spouse's income) does not exceed \$20,000. Parcel 3 is situated on a slope which requires a substantial investment in the site formation cost. A copy of a photo showing Parcel 3 is attached as Exhibit B. Therefore, it is not unreasonable to assume that a potential lessee with annual gross family income of \$20,000 finds it difficult to finance such cost. Under the statutes, 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". Staff believes that Parcel 3 is unsuitable to be developed as a separate unit. Therefore, it qualifies as a remnant.

Staff has inquired of the interest of the owners of the properties abutting Parcel 3. These properties are identified by tax map key (1) 3-7-011:002, 004 & 054 and the ownership has been confirmed by the county real property tax office website. Charles Lucas Residuary Trust, owner of parcel 002 and Sidney G.Y. Goo, owner of parcel 054 indicated their interests to the proposed sale. Owner of parcel 004 did not respond as of suspense date. 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. Staff believes disposing Parcel 3 by sealed bid is preferred. Any subdivision of Parcel 3 will result in a less desirable configuration and size of the lots, which will reduce the value of Parcel 3.

In order to determine the upset price of the sealed bid, staff appraisal manager indicates that normally, an independent appraiser is hired to determine the value of a remnant. Staff recommends the Board authorize the collection of appraisal fee from both owners. Eventually, the unsuccessful bidder will receive a full refund of the appraisal fee.

Neither Charles Lucas Residuary Trust nor Sidney G. Y. Goo has 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.

Staff has confirmed with the Department of Transportation, Highways Division that no record of federal funds were used in the acquisition 50 years ago.

Office of Hawaiian Affairs and Department of Hawaiian Home Lands did not respond to our request for comment. State Historic Preservation Division, City and County of Honolulu's Department of Design and Construction, Facilities Maintenance, and Board of Water Supply have no objections to the request. Engineering Division of the Department pointed out Parcel 3 is in an area in which the flood hazards are undetermined.

There are no other pertinent issues or concerns, and staff has no objections 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) 3-7-011:002 or (1) 3-7-011:054, whoever is the successful bidder, 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. Authorize the subdivision and consolidation of the subject remnant by the Applicant.
4. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to the successful bidder as mentioned above covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

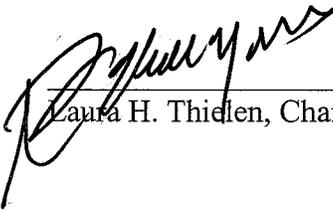
- a. The standard terms and conditions of the most current deed or grant (remnant) form, as may be amended from time to time;
- b. Review and approval by the Department of the Attorney General; and
- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

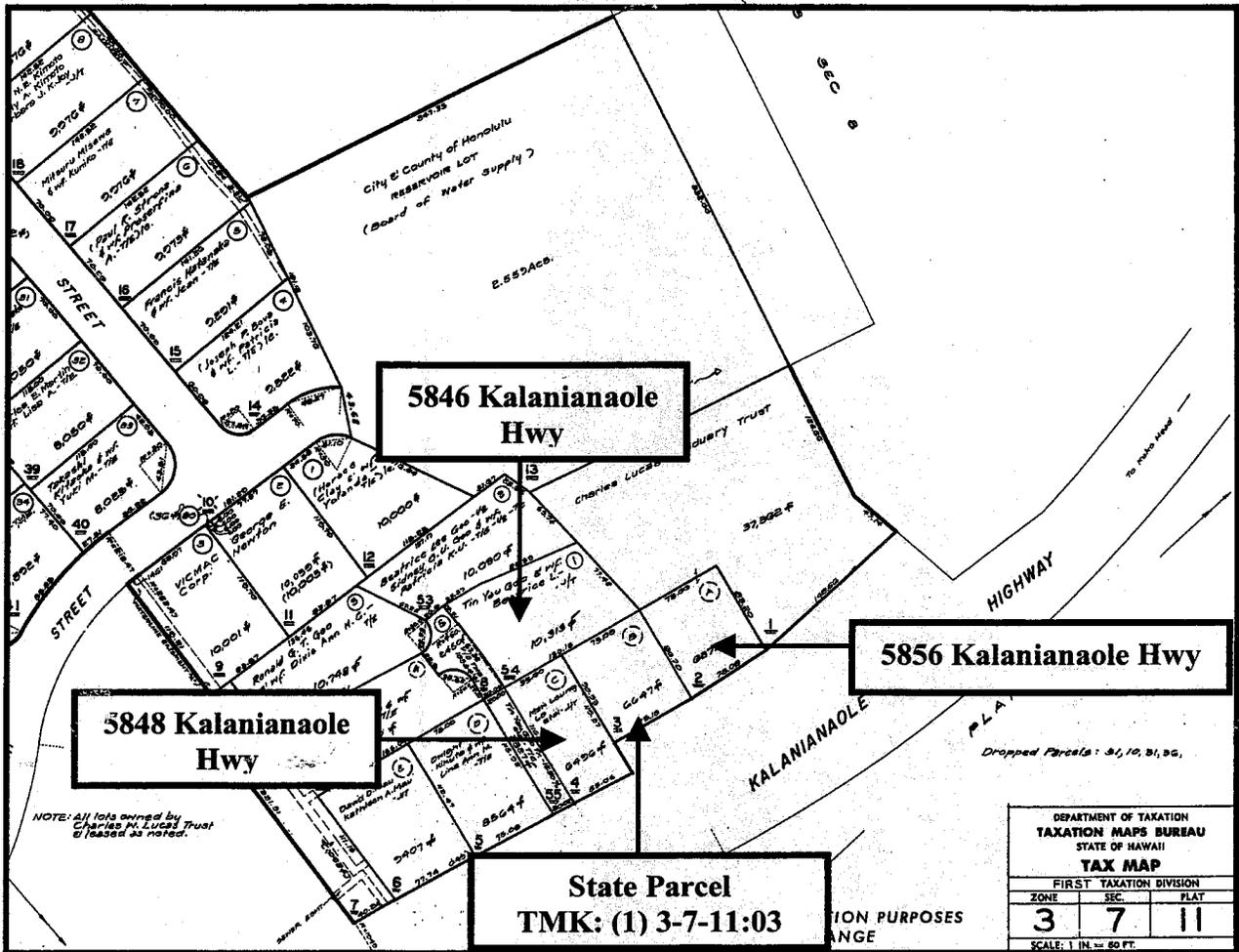


Melvyn Ho
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



Proposed sale of State Land
TMK: (1) 3-7-011:003

EXHIBIT "A"

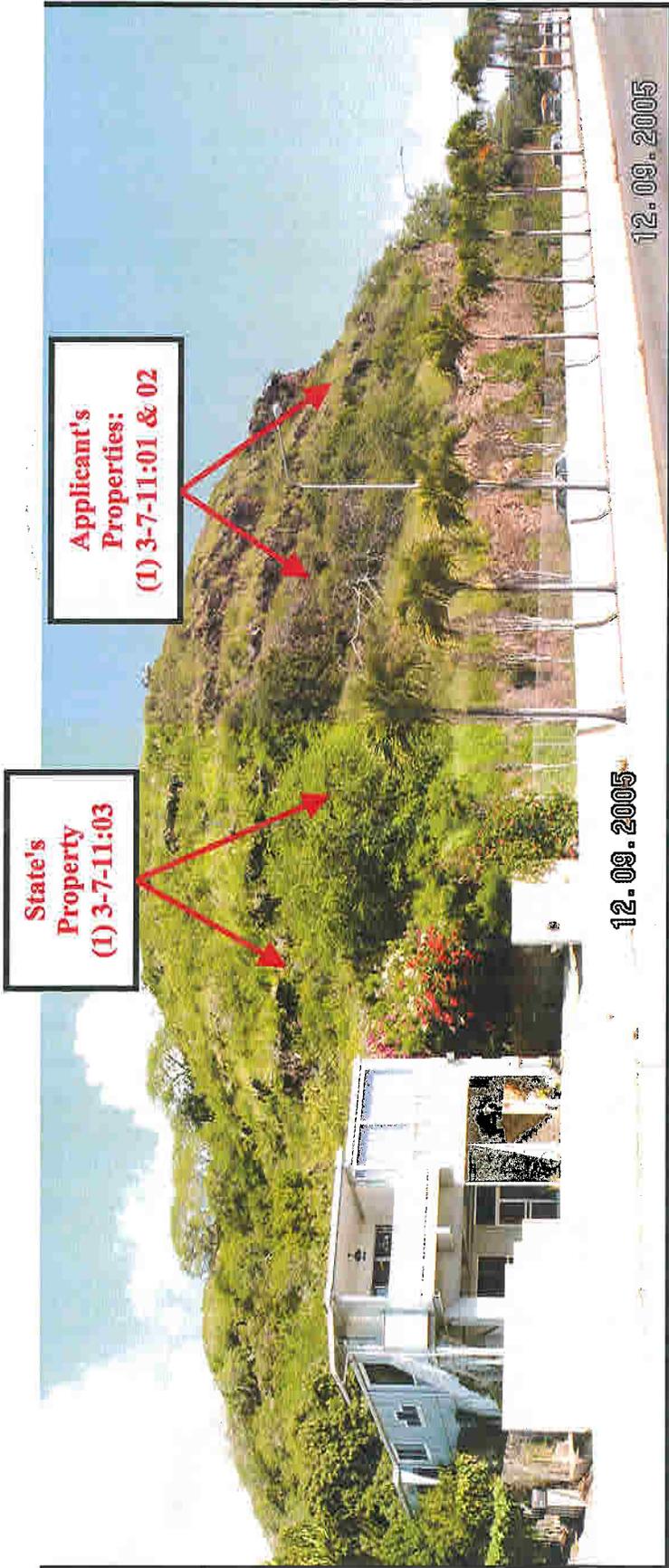


EXHIBIT "B"