

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

August 28, 2009

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

PSF No.: 02KD-422

Kauai

Rescind Prior Board Action of May 23, 2003, under Item D-14,
Sale of Remnant to Richard Scott and Aren Blake Scott,
Portion of Kapaa Town Lots, Kawaihau, Kauai, Tax Map Key:
(4) 4-5-12: Portion 03,

REMARKS

On May 23, 2003, the Board approved the sale of Remnant to Richard Scott and Aren Blake Scott under Item D-14. (See Exhibit A)

KDLO in a letter dated August 12, 2004 notified Mr. and Mrs. Scott that the cost of the remnant would be \$42,700.00 plus \$30.00 for document fee and \$25.00 fee for the map and description a total of \$42,755.00. KDLO received the check for the cost of the remnant and fee on July 25, 2005 and deposited on August 5, 2005. KDLO received a cashier's check from Richard Scott for \$42,755.00 on July 25, 2005.

In a letter dated June 6, 2005, Mr. And Mrs. Scott were informed of the applicant's requirement to obtaining the County of Kauai, Planning Department approval for the consolidation of the remnant and their parcel before the document would be prepared by the Attorney General's Office (AG Office). KDLO received the final consolidation map on February 12, 2008.

KDLO requested the AG Office to prepared the documents on October 20, 2008. We received the Land Patent Grant S-16026 on November 26, 2008. Land Patent Grant S-16026 was sent to Mr. And Mrs. Scott for signature on January 2, 2009.

Mr. Richard Scott in a letter date March 11, 2009 stated that due to his divorce and the ceded land issue he was will not be able to purchase the subject remnant parcel and requested a refund of \$42,755.00 for the cost of the remnant \$42,700.00 plus \$30.00 for document fee and \$25.00 fee for the map. (See Exhibit B)

At this time the State Survey Office did complete the CSF 23,571 map and description for the remnant parcel and we received it on July 15, 2003.

The Deputy Attorney General completed the Land Patent Grant 16026 on November 20, 2008 and we received the document on November 26, 2008.

Because the map and description and the Land Patent Grant was completed Mr. Richard Scott should be refunded only \$42,700.00 the cost of the remnant.

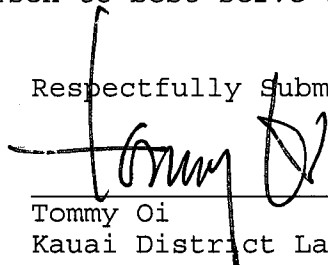
In a letter from the County of Kauai, Planning Department to Richard Scott dated June 19, 2009 the Subdivision Approval No. S-2007-05 was terminated as of June 18, 2009 undoing the consolidation of their land and the State owner remnant Lot 5-C. (See Exhibit C)

RECOMMENDATION:

That the Board:




1. Rescind Prior Board Action of May 23, 2003, under Item D-14, Sale of Remnant to Richard Scott and Aren Blake Scott.
2. Refund \$42,000.00 to Richard Scott and Aren Blake Scott.
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Tommy Oi
Kauai District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

P-14

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

May 23, 2003

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

PSF No.: 02KD-422

KAUAI

Sale of Remnant to Richard Scott and Aren Blake Scott, Por.
Kapaa Town Lots, Kawaihau, Kauai, Tax Map Key: 4-5-12: por.
3.

APPLICANT:

Richard and Aren Blake Scott, married, as tenants by the
entirety, whose mailing address is 4-1191 Kuhio Highway #311,
Kapaa, Hawaii 96746.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kapaa Town Lots, Kawaihau, Kauai
identified by Tax Map Key: 4-5-12: por. 3 (abutting parcel 11),
as shown on the attached map labeled Exhibit A.

AREA:

1,500 sq.ft., more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Open District "O"

TRUST LAND STATUS:

Acquired after Statehood (non-Trust lands)

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

CURRENT USE STATUS:

Vacant and unencumbered.

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

5/23/03

EXHIBIT "A"

ITEM D-14

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 the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, "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."

DCCA VERIFICATION:

Place of business registration confirmed: N/A
Registered business name confirmed: N/A
Applicant in good standing confirmed: N/A
Applicants applying as individuals

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) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.
- 3) Consolidate the remnant with the 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:

The parcel is part of an abandoned railroad right-of-way abutting the applicant's property.

Applicant is the owner of parcel (4) 4-5-12:11 as staff has confirmed with the County of Kauai Real Property. In order to dispose of remnants, they must be first offered for sale to the abutting property owners. The only other property that abuts this remnant belongs to the County of Kauai (by Executive Order),

who has declined the opportunity to obtain any portion of this railroad right of way. The applicant's are the only abutting owners to this portion of the railroad right of way remnant. As to the disposition of portions of this specific abandoned railroad right of way to abutting owners, the Board has already consented to the sale of three portions of this railroad right of way remnant.

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.

Agency comments. Comments were solicited from OHA, however, no response was received. The County of Kauai Public Work's Department provided comments dated 10/8/01. They were not interested in acquiring the subject remnants, and had no objection to the sale provided the applicants understand that they cannot access their property through the Kapaa Park, and that the remnants be consolidated with their abutting private property.

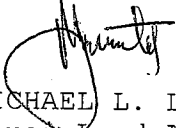
RECOMMENDATION:


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 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 Richard and Aren Blake Scott 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;

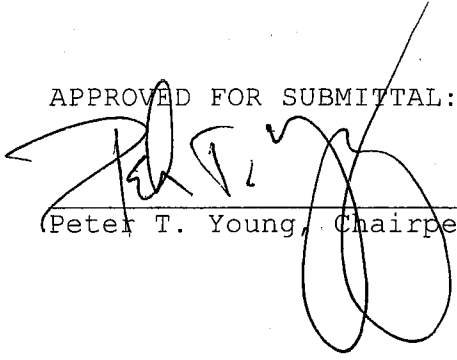
- b. Review and approval by the Department of the Attorney General; and
- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


MICHAEL L. LAURETA
Kauai Land Agent

CU 

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

March 11, 2009

To: Thomas Oi
District Land Agent
State of Hawaii, DNLR, Land Division
3060 Eiwa Street, Room 205A
Lihue, HI 96766

From: Richard Scott
4-1191 Kuhio Hwy #311
Kapaa, HI 96746
808 635-4591

Re: Ref. No.: LPGS -16,026
Letter dated: January 2, 2009

Thomas,

Do to a number of circumstances beyond my control, I'm not able to purchase the State remnant land, por. Kapaa Town Lots, Kawaihau, Kauai,

Tax Map Key: 4/4-5-12: por 3

Other issues are that, I'm divorced from Aren Blake Scott and the State of Hawaii selling "ceded lands".

Please refund the consideration price of \$42,755.00 and any other costs.

Thank you,



Richard Scott

PW2:12:53

EXHIBIT "B"

MAR 12 '09

DLNR KDLO RCUD

BERNARD P. CARVALHO, JR.
MAYOR



IAN K. COSTA
DIRECTOR OF PLANNING

GARY K. HEU
ADMINISTRATIVE ASSISTANT

IMAIKALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

**COUNTY OF KAUA'I
PLANNING DEPARTMENT**

4444 RICE STREET
KAPULE BUILDING, SUITE A473
LIHU'E, KAUA'I, HAWAII 96766-1326

TEL (808) 241-4050 FAX (808) 241-6699

June 19, 2009

Richard Scott
4-1191 Kūhiō Highway #311
Kapa'a, Hawai'i 96746

**SUBJECT: TERMINATION OF SUBDIVISION APPROVAL
Subdivision No. S-2007-05**

Applicant: Richard Scott
Tax Map Key: (4) 4-5-012:003, 011

Pursuant to your request to void the subject application, the department is officially terminating the above referenced subdivision effective **June 18, 2009**.

Should you have further questions, please contact Dale A. Cua of my staff at (808) 241-4050.

Ian K. Costa
Planning Director

xc: COK – Public Works, Water
State – Health Dept.
R. Caires, CLS-Hawai'i
File: S-2007-05

JUN 18 2009

JUL 22 2009

EXHIBIT "C"

DIANE KOLD ROVO

AN EQUAL OPPORTUNITY EMPLOYER