

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

July 8, 2010

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

PSF No.:080D-025

Oahu

Sale of Remnant to Elden K. Fernandez and Lawrence J. Fernandez Jr. as Trustees for the Ruth H. Fernandez Revocable Living Trust, Puahuula Tract, Kaneohe, Oahu, Tax Map Key:(1)4-5-044:portion of 009

APPLICANT:

Elden K. Fernandez and Lawrence J. Fernandez Jr. as Trustees for the Ruth H. Fernandez Revocable Living Trust dated April 23, 1992, as Tenants by Severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Puahuula Tract, F.P.415 situated at Kaneohe, Oahu, identified by TMK:(1)4-5-044:09 (portion) as shown on the attached map labeled Exhibit A.

AREA:

1,671 sq. ft., more or less.

ZONING:

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

TRUST LAND STATUS:

Section 5(b) 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.

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 and will become privately-owned land at that point.

DCCA VERIFICATION:

Not applicable. Individual applicants 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;
- 2) Consolidate the remnant with the Applicant's abutting property through the County subdivision process;
- 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."

According to Section 171-52(a)(2), the subject property, being a portion of an abandoned ditch right-of-way, is determined to be a remnant.

Staff has confirmed that the applicant is the fee owner of Tax Map Key:(1)4-5-044:07 with the Real Property Tax Office. No other property abuts the subject remnant parcel.

There is an abandoned ten foot wide irrigation ditch right-of-way located in the applicant's lot which is owned by the State of Hawaii. The right-of-way was once part of an irrigation ditch system in Waikalua, Kaneohe. Waikalua was once government public lands. Grants were issued by the Territory in this area which reserved the fee title of the ditch system to the Territory.

The ditch was eventually abandoned and the area was subdivided into houselots which included the abandoned ditches which were still owned by the State of Hawaii. Lot owners in Waikalua have in the past acquired the title for these ditches.

By way of a letter dated January 25, 2008, the applicant, owner of the property (TMK:(1)4-5-044:007) in which the right-of-way ditch is located, is requesting to purchase the remnant property from the State.

The applicant has 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.

Comments were solicited from various State and County agencies. The Engineering Division, Historic Preservation Division, Department of Agriculture, Department of Design and Construction and Department of

Facility Maintenance have all expressed no objections.

Office of Hawaiian Affairs, Commission on Water Resource Management, Department of Hawaiian Home Lands and Department of Planning and Permitting have not responded as of the writing of this submittal.

There are no other pertinent issues or concerns from other government agencies. Staff has no objection to the request.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above:

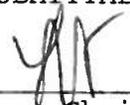
1. Find that the subject lands are economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1)4-5-044:007, 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 Applicants fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Ruth H. Fernandez Revocable Living Trust dated April 23, 1992 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,

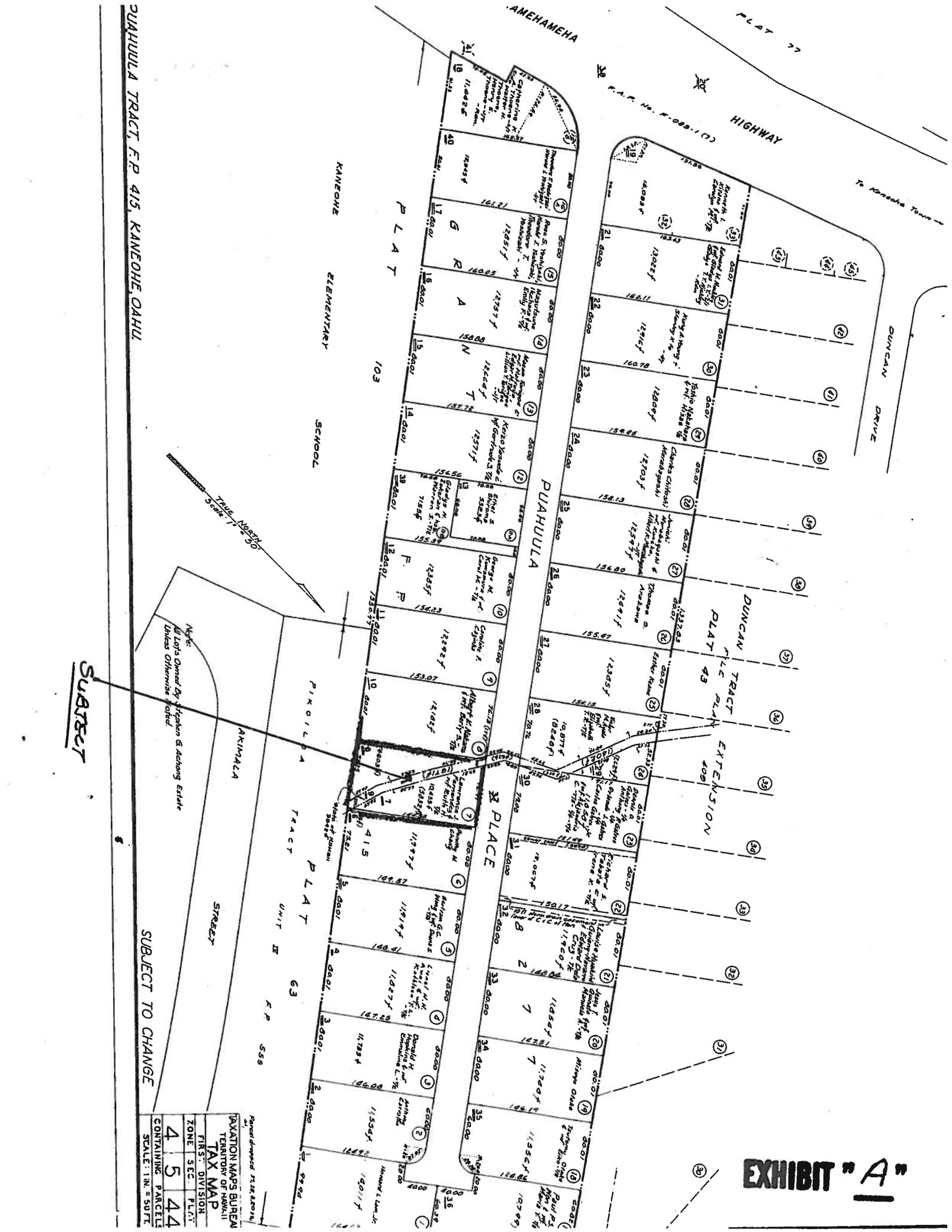


Steve Lau
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 



Printed December 23, 1980

TAXATION MAPS BUREAU
TERRITORY OF HAWAII
TAX MAP

ZONE	SEC.	PLAT
4	5	44

CONTAINING PARCELS
SCALE: 1 IN. = 50 FT.

EXHIBIT "A"