

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

September 28, 2012

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

PSF No.: 12OD-033

OAHU

Sale of Government Land to Hawaiian Electric Company for an
Electrical Substation Site, Honouliuli, Ewa, Oahu, Tax Map
Key: (1)9-1-17: Portion of 110.

APPLICANT:

Hawaiian Electric Company (HECO), a Hawaii corporation.

LEGAL REFERENCE:

Sections 171-64.7 and 95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Lot 18066, Map 1410, Land Court Application 1069, situate
at Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-17: Portion of 110, as
shown on the attached map labeled Exhibit A.

AREA:

1.230 acres, more or less.

ZONING:

State Land Use District: Urban
City & County of Honolulu CZO: Mixed Residential

TRUST LAND STATUS:

Non-ceded Government land acquired after statehood from the Estate of
James Campbell by Final Order of Condemnation, dated August 22, 1994,
under Civil No. 90-1704-06 filed in the Circuit Court of the First
Circuit.

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

CURRENT USE STATUS:

Vacant and unencumbered.

CONSIDERATION:

One-time lump sum payment of the fair market value to be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Impact Statement (FEIS) acceptance notice for the East Kapolei Master Plan was published in the OEQC Environmental Notice in July 1998.

The subject land is located within the East Kapolei Master Plan FEIS study area.

DCCA VERIFICATION:

Place of business registration confirmed: YES
Registered business name confirmed: YES
Applicant in good standing confirmed: YES

APPLICANT REQUIREMENTS:

HECO shall be required to:

1. Comply with the requirements of Section 171-64.7 and Hawaii Revised Statutes, as amended, at HECO's own cost.
2. Pay for an appraisal to determine the one-time payment of the fair market value for the subject State land.
3. Obtain final subdivision approval for the subject State land from the City and County of Honolulu at HECO's own cost.
4. Provide survey maps and descriptions according to State DAGS, Survey Division standards at HECO's own cost.

REMARKS:

The subject State land is a portion of the East Kapolei lands chosen by the Department of Hawaiian Home Lands (DHHL) as part of a 16,518-acre settlement agreement with the State to bring DHHL's land trust to the total acres mandated by the Hawaiian Homes Commission Act of 1920.

HECO, which does not have land of its own in the East Kapolei area suitable for a substation site, has offered to purchase the subject State land to construct an electrical substation. The substation will receive electrical power from HECO's Kahe power plant for delivery to its East Kapolei subscribers.

DHHL has no objection to the sale of the subject State land to HECO. DHHL plans to build several increments of residential units at East Kapolei that will be offered to the beneficiaries of the Hawaiian Homes Commission Act of 1920. All of these residences would receive electrical power from HECO's proposed East Kapolei substation.

HECO's policy when acquiring land for a substation is to purchase the land in fee simple. A new substation is a sizeable investment and when energized it becomes a permanent facility that cannot be easily relocated. HECO's ownership of the land will ensure its permanent occupancy of the site and its control of the facility's long-term land costs.

Section 171-95(a)(1), Hawaii Revised Statutes, as amended, allows the Board to sell government lands to public utility companies without public auction. The sale of government land to a public utility company is subject to the following:

1. The selling price of the government land shall be at fair market value as determined under Section 171-17(b), Hawaii Revised Statutes, as amended.
2. The Board's right to repurchase the land, if the use for which it was purchased ceases, at the original selling price or fair market value, whichever is lower, and to purchase improvements at the depreciated value or fair market value, whichever is lower.
3. No disposition shall be made to a public utility company with suitable lands of its own.
4. Disapproval by the legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both in any regular or special session next following the date of the disposition.

Section 171-64.7, Hawaii Revised Statutes, as amended, mandates that all sales or gifts, in fee simple, of public lands, subject to specific exceptions, must obtain the prior approval of the legislature by concurrent resolution. The resolution must contain the following information:

1. The specific location and size of the public land to be sold or given.
2. The date of the appraised value of the public land to be sold or given.
3. Reason for the sale or gift of the public land.

4. A detailed summary of any development plans for the land to be sold or given.

A draft of the concurrent resolution must also be submitted to the Office of Hawaiian Affairs at least three (3) months prior to the convening of a regular or special session of the legislature to determine whether the subject land was classified as government or crown land prior to August 15, 1895, or acquired by the State in exchange for such land.

Prior to submission of the concurrent resolution to the legislature for its approval of the sale or gift of public land, the State agency or entity, as appropriate, must hold an informational briefing on the proposed sale or gift in the community where the land to be sold or given is located.

Section 171-64.7, Hawaii Revised Statutes, as amended, is an affirmation process that requires an informational briefing on the proposed sale or gift be held in the affected community and detailed development information be submitted to the legislature by way of a concurrent resolution. If the legislature does not approve the concurrent resolution the sale or gift of public land must be abandoned.

Under Section 171-95, Hawaii Revised Statutes, as amended, the legislature has the right to disapprove the sale or gift of public land. No action by the legislature on a sale or gift of public land would allow the sale to stand.

Both Sections 171-64.7 and 95, Hawaii Revised Statutes, as amended, relate to the sale of public lands. However, the only requirement both laws have in common is that the selling price of the land must be at its fair market value. The assistance of the Department of the Attorney General, Land/Transportation Division (DAG-L/T), was requested to determine under which statute the subject land sale should be processed.

DAG-L/T advised that the subject sale must comply with both laws, but compliance with both the legislative approval and disapproval requirements is not necessary because the legislative approval process, pursuant to Section 171-64.7 would satisfy both laws.

HECO 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.

RECOMMENDATION:

That the Board:

1. Authorize the subdivision of the subject land by HECO on behalf of the State.
2. Subject to HECO fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject land to HECO covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - a. Approval by the legislature of the concurrent resolution proposing the sale of the subject State land, pursuant to Section 171-64.7, Hawaii Revised Statutes, as amended.
 - b. Review and approval by the Department of the Attorney General.
 - c. The standard terms and conditions of the most current quitclaim deed form, as may be amended from time to time.
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the issuance of a right-of-entry permit to HECO for planning and construction purposes, subject to the following:
 - a. The right-of-entry permit shall commence upon the Board's approval of the subject sale and shall expire upon completion of the substation's construction, or the issuance date of the quitclaim deed, whichever occurs first.
 - b. The standard terms and conditions of the most current right-of-entry permit form for planning and construction purposes, as may be amended from time to time.

- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gary Martin
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



DEPARTMENT OF PLANNING
 PROPERTY INFORMATION SECTION
 150 SOUTH KING STREET
 HONOLULU, HAWAII 96813
 TEL: 531-4300

CITY & COUNTY OF HONOLULU	PLAT
DATE	SECTION
9	1
SCALE: 1" = 100 FT.	

Owners, lessees, & vendees are hereby notified that this map and plat are subject to all laws, rules, regulations, and orders of the City and County of Honolulu, Hawaii.

COPYRIGHT CITY & COUNTY OF HONOLULU - ALL RIGHTS RESERVED 2002
 FOR PROPERTY ASSESSMENT PURPOSES, PARCELS MAY NOT BE LEGAL SUBDIVIDED LOTS - SUBJECT TO CHANGE

EXHIBIT "A"

HONOLULU, ENWA, OAHU, HAWAII