

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

November 9, 2012

Ref. No.: GLS-5228

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

**HAWAII**

Request for Consent to Mortgage, General Lease No. S-5228, Wilfred Kaupiko,  
Lessee, Milolii-Hoopuloa, South Kona, Hawaii, Tax Map Key: 3<sup>rd</sup>/ 8-9-014:058.

**APPLICANT AND REQUEST:**

Wilfred Kaupiko, requesting consent to mortgage from First Hawaiian Bank, Mortgagee, in  
an amount not to exceed \$ 60,000.00.

**LEGAL REFERENCE:**

Section 171-22, Hawaii Revised Statutes, as amended.

**LOCATION:**

Portion of Government lands of Milolii-Hoopuloa Houselots, Lot 5, Phase III, situated at  
Hoopuloa, South Kona, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/ 8-9-014:058, as shown on  
the attached map labeled **Exhibit A**.

**AREA:**

.2296 acres (10,000 square feet), more or less.

**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  

**CHARACTER OF USE:**

Residential purposes.

**TERM OF LEASE:**

65 years, commencing on June 1, 1992 and expiring on May 31, 2057. First rental reopening  
is scheduled for June 1, 2017.

ANNUAL RENTAL:

\$132.00. Payable in advance, without notice or demand, in semi-annual installments of \$66.00 on June 1<sup>st</sup> and December 1<sup>st</sup> of each and every year during the term.

USE OF LOAN PROCEEDS:

Disbursements of loan proceeds are as follows:

\$60,000.00 Refinance of existing high interest business loans with additional cash for working capital.

REMARKS:

Act 62, Session Laws of Hawaii 1982, as amended by Act 83, Session Laws of Hawaii 1984, authorized the Department of Land and Natural Resources to negotiate and enter into long term leases with persons residing in Milolii who were dispossessed or displaced as a result of the 1926 volcanic eruption of Mauna Loa on the Island of Hawaii. Act 362, Session Laws of Hawaii 1987, as amended by Act 68, Session Laws of Hawaii 1989, and Act 86, Session Laws of Hawaii 1991, extended the sunset date to January 1, 1989, providing sufficient time to process Phase III of the Milolii-Hoopuloa Lots.

At its meeting of July 22, 1988, Item F-3, the Board approved the direct lease for residential purposes at Milolii-Hoopuloa Lots, Phase III, Hoopuloa, South Kona, Hawaii. On August 3, 1992, Wilfred Kaupiko was issued a direct residential lease encumbered under General Lease No. S-5228.

On September 23, 1993, the Chairperson of the Board of Land and Natural Resources consented to the mortgage of General Lease No. S-5228, Wilfred Kaupiko, Mortgagor, to First Hawaiian Bank, Mortgagee, for \$25,000. The mortgage was subsequently paid in full.

By letter dated September 12, 2012, Mr. Robert Nakamoto, Business Banking Officer, First Hawaiian Bank, requested consent to Mortgage of General Lease No. S-5228, Wilfred Kaupiko, Lessee/ Mortgagor, to First Hawaiian Bank, Mortgagee. Mr. Kaupiko has been approved for a \$60,000 Office of Hawaiian Affairs loan that will be serviced through First Hawaiian Bank, contingent upon satisfying various loan conditions. Proceeds of the loan will be disbursed to consolidate Mr. Kaupiko's high interest business loans and for operating capital for his business (Hawaiian Roll Off Services, LLC.).

Staff reviewed the file and can report that for the past two (2) years, notices of default were sent on January 13, 2012 and June 29, 2012 for delinquent annual rental payments. Rent was brought current on August 21, 2012. A notice of default for liability insurance was first sent on December 30, 2009, with numerous follow-ups being made through the years. The default for the liability insurance was recently cured on October 11, 2012. The bond, a Hawaii Community FCU check no. 2098, in the amount of \$264 (receipt #003765), was deposited with the Office of Budget and Finance. The Lessee has never been cited for any

illegal or unlawful activity on the State property.

Wilfred Kaupiko 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.

The first rental reopening is scheduled for June 1, 2017. There are no outstanding rental reopening issues.

No agency comments were solicited, as there will be no new disposition or change in use of the land.

Staff notes that the loan proceeds are not being used to finance improvements to the property or otherwise for the benefit of the leasehold premises. Rather, Mr. Kaupiko is requesting to use his leasehold estate in the property as security for a business loan for Hawaii Roll Off Services which staff understands is operating out of another location. While the lease does not prohibit such a transaction, staff notes that this request is not typical in that consents to mortgage for the Department's lands generally involve improvements to, or authorized business operations occurring on the State lands. For this reason, staff takes no position on this request and leaves such decision to this Board's discretion and wisdom.

RECOMMENDATION: That the Board:

- A. Consent to the mortgage between Wilfred Kaupiko, Mortgagor, and First Hawaiian Bank, Mortgagee, subject to the following:
1. The loan proceeds shall be used for the purposes as stated in "Use of Loan Proceeds" above. The Lessee shall maintain records of loan expenditures, which may be inspected by the Department;
  2. The standard terms and conditions of the most current consent to mortgage form, as may be amended from time to time;
  3. Review and approval by the Department of the Attorney General; and
  4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

OR:

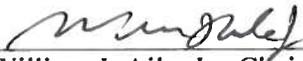
- B. Deny the request for consent to the mortgage between Wilfred Kaupiko, Mortgagor, and First Hawaiian Bank, Mortgagee.

Respectfully Submitted,



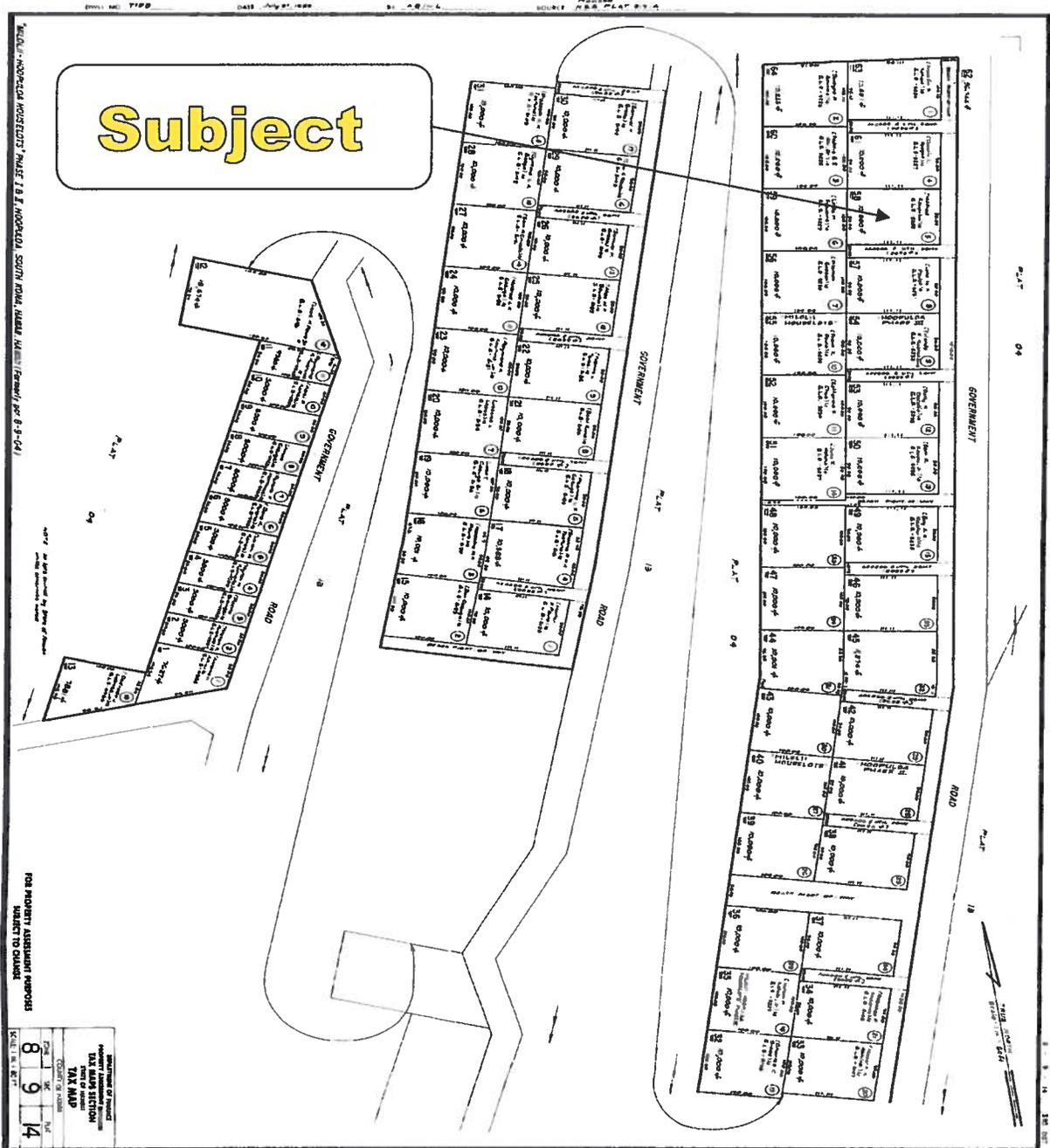
Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





**EXHIBIT A**