

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

September 27, 2013

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

Ref. No.: GLS-5136

HAWAII

**Rescind Prior Board Action of June 9, 2006, Item D-4, Consent to Assignment of General Lease No. S-5136, Felisa S. Kaniho, Assignor, to Leonard Naboa, Sr., Assignee, Milolii-Hoopuloa, South Kona, Hawaii, Tax Map Key: (3) 8-9-014:022.**

**Consent to Assign General Lease No. S-5136, Felisa S. Kaniho, Assignor, to Olana Halena Kaiwi, Assignee, Milolii-Hoopuloa, South Kona, Hawaii, Tax Map Key: (3) 8-9-014:022.**

APPLICANT:

Felisa S. Kaniho, as Assignor, to Olana Halena Kaiwi, wife of Casey D. Kaiwi-Machen, Tenant in Severalty, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION AND AREA:

Portion of Government lands of Milolii-Hoopuloa, Lot 9, Phase II, situated at Hoopuloa, South Kona, Hawaii, identified by Tax Map Key: (3) 8-9-014:022, consisting of approximately .230 acres, as shown on the attached map labeled Exhibit A.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CHARACTER OF USE:

Residential purposes.

TERM OF LEASE:

65-years, commencing on December 31, 1986 and expiring on December 30, 2051. The last rental reopening occurred on December 31, 2011. The next rental reopening is scheduled for December 31, 2031.

ANNUAL RENTAL:

\$480.00. Due in semi-annual installments of \$240.00 on the First day of January and July of every year.

CONSIDERATION:

Gratis

RECOMMENDED PREMIUM:

Not applicable as the lease does not allow for a premium.

DCCA VERIFICATION:

Assignor/ Assignee, as individuals, are not required to register with DCCA.

REMARKS:

Act 62 of the 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 to 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.

At its meeting of October 24, 1986, Item F-2, the Board of Land and Natural Resources approved the awarding of leases for residential purposes at Milolii-Hoopuloa Lots, Phase II, Milolii-Hoopuloa, South Kona, Hawaii. A drawing of Lots was conducted on September 27, 1986, and Yvonne L. Teves was awarded a 65-year residential lease over Lot 9, identified as Tax Map Key: (3) 8-9-014:022. A resident of Kauai, Mrs. Teves was unable to construct a house on the parcel, and therefore requested to assign General Lease No. S-5136 to a Sheldyn E. Baniaga.

At its meeting of November 20, 1992, Item F-1-g, the Board approved the assignment of General Lease No. S-5136, Yvonne L. Teves, Assignor, to Sheldyn E. Baniaga.

However, Mrs. Baniaga unfortunately was not able to construct a residence and began falling behind in the rent. Facing default, Mrs. Baniaga decided to assign the lease to her aunt, Felisa S. Kaniho.

At its meeting of January 12, 1996, Item F-1-c, the Board approved the assignment of General Lease No. S-5136 from Sheldyn E. Baniaga, Assignor, to Felisa S. Kaniho, Assignee.

At its meeting of June 9, 2006, under Item D-4, the Board approved the consent to assignment of General Lease No. S-5136, from Felisa S. Kaniho, Assignor, to Leonard Naboa Sr., Assignee. However, the consent to assignment was never finalized because Mr. Naboa was unable to provide the required homeowner's liability insurance and pay the various fees to complete the assignment. Due to the Felisa Kaniko decided that the lease should instead be assigned to her granddaughter.

By letter dated June 26, 2013, Felisa S. Kaniho, who no longer resides in Milolii, requested to assign General Lease No. S-5136 to her granddaughter, Olana Halena Kaiwi. Olana H. Kaiwi will reside in the Milolii house and will maintain the lease rent, taxes, mortgage and insurance. An executed Assignment of Lease document between Felisa S. Kaniho and Olana Halena Kaiwi was received on July 26, 2013. Mrs. Olana H. Kaiwi is a qualified applicant as a granddaughter of Felisa S. Kaniho, a qualified lessee under Act 362, HSL 1987.

Staff reviewed the file and can report that for the past two (2) years, annual rent has been current. There are no requirements for performance bond or fire insurance. The lessee has never been cited for any illegal or unlawful activity on the State property. A Notice of Default was sent on 11/22/04 for failure to maintain liability insurance. Records indicate that the liability insurance has lapsed and that there is no current policy in effect. Ms. Kaiwi has agreed to obtain of liability insurance within 30 days of the issuance of the instrument consenting to the assignment and to provide proof thereof to Land Division as required by the lease.

Olana Halena Kaiwi, as Assignee, 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.

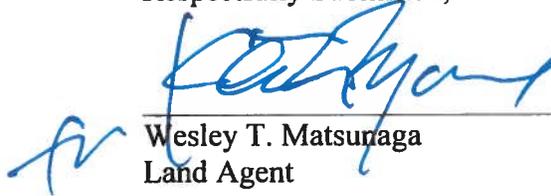
The last rental reopening occurred on 12/31/2011. The next rental reopening is scheduled for 12/31/31. There are no outstanding rental reopening issues.

**RECOMMENDATION:** That the Board:

- A. Rescind Its Prior Board Action of June 9, 2006, Item D-4, Consent to Assignment of General Lease No. S-5136, Felisa S. Kaniho, Assignor, to Leonard Naboa, Sr., Assignee.

- B. Consent to the Assignment of General Lease No. S-5136 from Felisa S. Kaniho, as Assignor, to Olana Halena Kaiwi, as Assignee, subject to the following:
1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
  2. Review and approval by the Department of the Attorney General; and
  3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

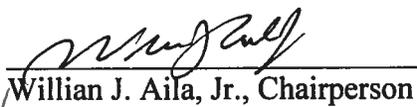
Respectfully Submitted,



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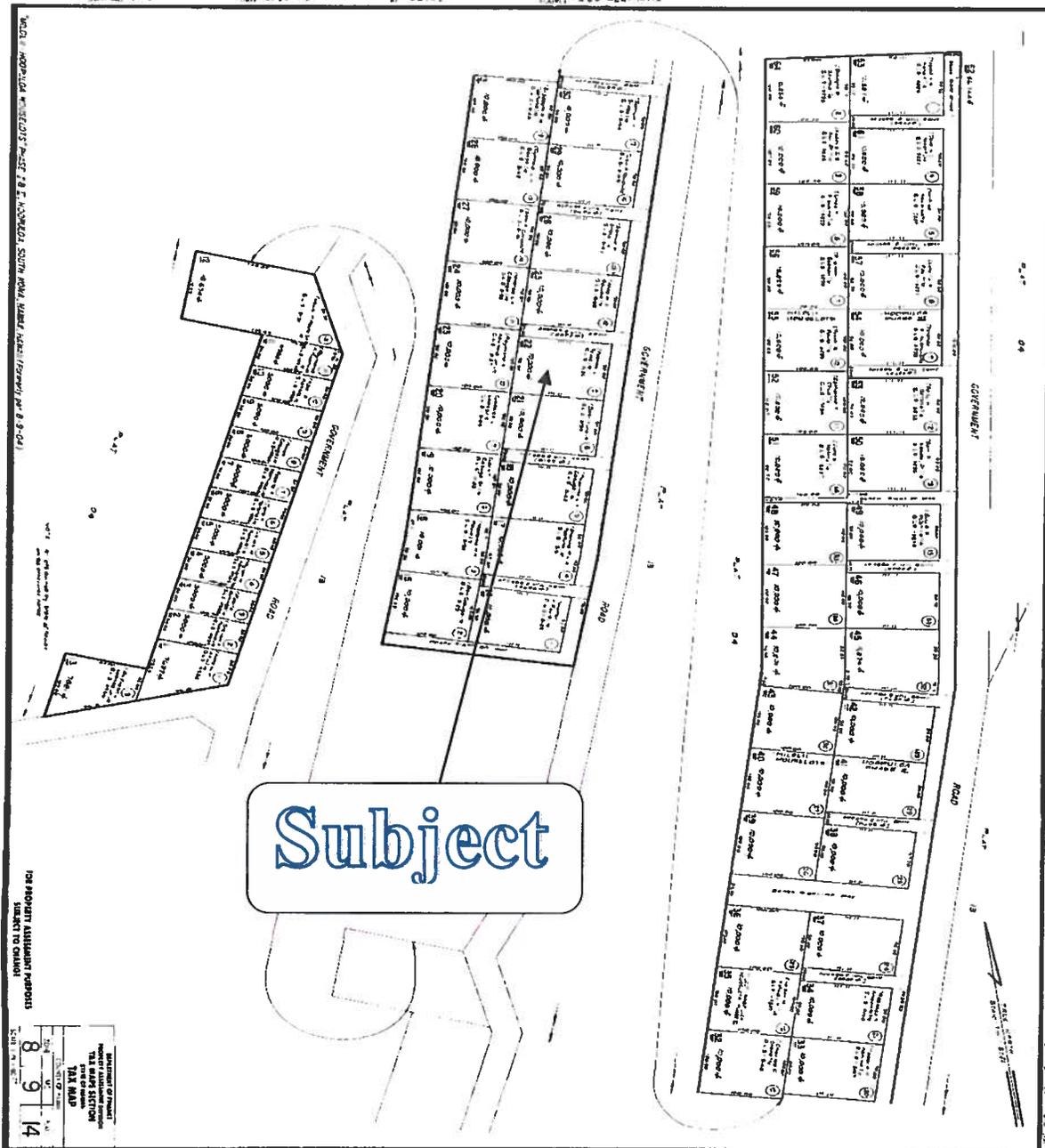
Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:



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William J. Aila, Jr., Chairperson



**EXHIBIT A**