

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

December 13, 2013

Ref. No.: GLS-5513

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

HAWAII

Amend General Lease No. S-5513, Hospice of Hilo, Lessee, Condition 14, Relating to Subletting, Piihonua, South Hilo, Hawaii, Tax Map Key: (3) 2-3-032: portion of 011.

APPLICANT:

Hospice of Hilo, a Hawaii nonprofit corporation.

LEGAL REFERENCE:

Sections 171-6 and 43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Piihonua, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-3-032: portion of 011, as shown on the attached map labeled Exhibit A.

AREA:

2.134 acres, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Residential

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:

Encumbered under General Lease No. S-5513 to Hospice of Hilo.

CHARACTER OF USE:

For Hospice and allied purposes.

LEASE TERM:

65 years, commencing on October 1, 1997 and expiring on September 30, 2062. Last rental reopening occurred on October 1, 2007. Next reopening is scheduled for October 1, 2017.

ANNUAL RENT:

\$480.00 Payable in advance, without notice or demand, on October 1st of each and every year.

RENTAL REOPENINGS:

At the 10th, 20th, 30th, 40th, 50th, and 60th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Twice the annual rental amount.

DCCA VERIFICATION:

| | | |
|---|--------------|----|
| Place of business registration confirmed: | YES <u>x</u> | NO |
| Registered business name confirmed: | YES <u>x</u> | NO |
| Applicant in good standing confirmed: | YES <u>x</u> | NO |

APPLICANT REQUIREMENTS:

None.

REMARKS:

At its meeting of January 26, 1996, under agenda Item F-6, the Board of Land and Natural Resources approved the direct issuance of a 65-year lease to Hospice of Hilo for hospice purposes. General Lease No. S-5513 commenced on October 1, 1997.

At its meeting of March 23, 2007, Item D-2, the Land Board approved to Amend General Lease No. S-5513, for a reconsideration of rent, setting rents at a nominal rate of \$480 per year, with rental reopening commencing on September 1, 2007 to August 31, 2017.

At its meeting of May 11, 2007, Item D-4, the Land Board approved Second Amendment to correct the commencement of the rental reopening period October 1, 2007 to September 30, 2017.

At its meeting of August 28, 2009, under agenda item D-10, the Land Board approved Third Amendment of General Lease No. S-5513, allowing the lease premises to be encumbered by a mortgage. The Land Board further approved Consent to Mortgage with Estoppel Certificate for \$3,000,000, by First Hawaiian Bank, Mortgagee.

At its meeting of October 25, 2013, Item D-3, the Land Board approved consent to sublease of General Lease No. S-5513, Hospice of Hilo, Sublessor, Technology Credit Corporation, Sublessee, for installation of a roof mounted photovoltaic system.

In the processing of the above consent to sublease, it was then realized that the subject lease does not permit subletting. As a result, staff is now requesting that the lease as currently written, be amended to allow subletting of portions of the leased property.

The lease, Paragraph 14, Subletting, currently states:

“14. Subletting, The Lessee shall not rent or sublet the whole or any portion of the premises.”

Staff is requesting that paragraph 14 be deleted in its entirety and replaced with the following, which provides subletting with Board prior written approval.

“The Lessee shall not rent or sublet the whole or any portion of the premises, without prior written approval of the Board; provided however, that prior to such approval, the Board shall have the right to review and approve the rent to be charged to the proposed sublessee and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the said sublessee, provided, further, that the rent may not be revised downward.”

Hospice of Hilo, a non-profit organization, is seeking alternative sources of energy for powering its Waianuenue Facility, due to the rising cost of its operating expenses. Installation of a photovoltaic system will drastically reduce its electric bill. However, in order to do so, the existing lease must first be amended to allow subletting of the leased premises.

Hospice 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.

No governmental agencies or interest groups were solicited for comments as there will be no new disposition or change in land use.

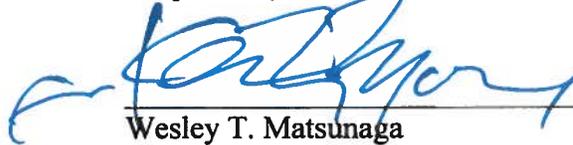
RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling the Applicant requirements listed above, Authorize the Amendment of General Lease No. S-5513, Hospice of Hilo, Lessee, to delete the current provision for "Subletting" (Condition 14), and replace it with the following:

"The Lessee shall not rent or sublet the whole or any portion of the demised premises, without the prior written approval of the Board; provided, however, that prior to such approval, the Board shall have the right to review and approve the rent to be charged to the proposed sublessee and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the said sublessee; provided, further, that the rent may not be revised downward."

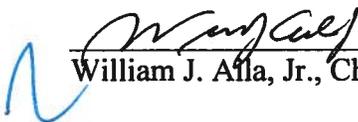
2. The lease amendment shall further be subject to the following:
 - A. The standard terms and conditions of the most current lease amendment document form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Afla, Jr., Chairperson

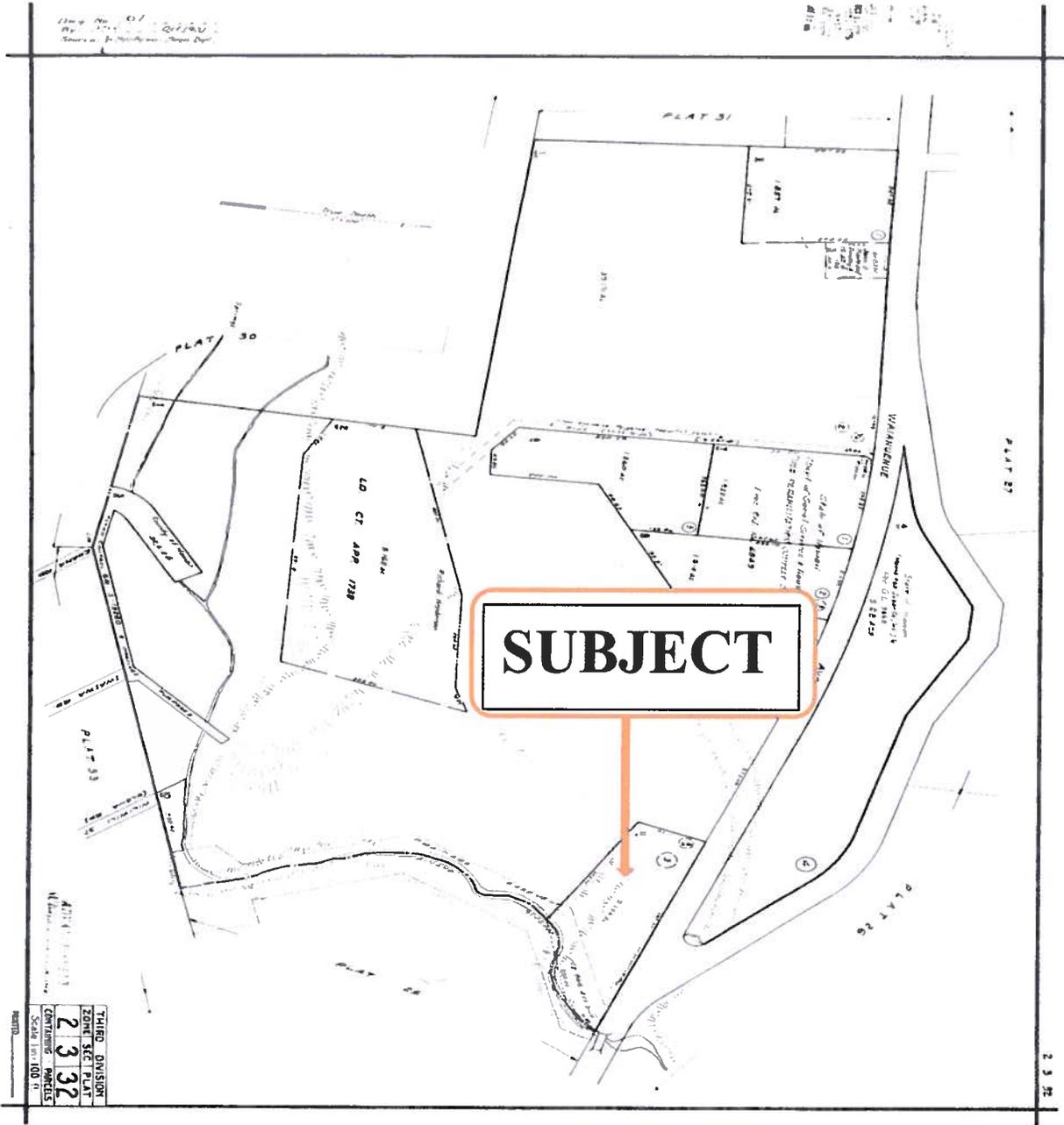


EXHIBIT A