

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

December 13, 2013

Ref. No.: GLS-5405

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

HAWAII

Mutual Cancellation of General Lease No. S-5405, Yvonne K. Okamoto, Lessee,  
Kikala-Keokea, Puna, Hawaii, Tax Map Key: (3) 1-2-043:005.

PURPOSE:

Mutual Cancellation of General Lease No. S-5405, Yvonne K. Okamoto, Lessee.

LEGAL REFERENCE:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Lot 5, Kalapana Section situated at Kikala-Keokea,  
Puna, Hawaii, identified by Tax Map Key: (3) 1-2-043:005.

AREA:

1.2050 acres, 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 January 1, 1997 and expiring on December 31, 2061. First scheduled rental reopening is for January 1, 2022.

ANNUAL RENTAL:

\$132.00

REMARKS:

At its meeting of December 16, 1994, Item F-3, the Board of Land and Natural Resources, pursuant to Act 314, authorized the awarding of direct residential leases at Kikala-Keokea, Puna, Hawaii. A drawing of lots was conducted on December 9, 1995, and Yvonne K. Okamoto was awarded a 65-year residential lease, under General Lease No. S-5405.

At its meeting of November 17, 1995, Item F-9, the Board of Land and Natural Resources approved to amend its prior board action of December 16, 1994 (Item F-3) to revise or delete certain conditions contained in the lease form, relating to authorization to award direct residential leases pursuant to Act 314, Session Laws of Hawaii of 1991, as amended. These amendments included: 1) deletion of lease requirements regarding performance bond, fire insurance, and extended insurance; and 2) that designated successors of the lease be a spouse, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson, granddaughter of Lessee.

At its meeting of November 20, 1998, Item D-6, the Land Board authorized Land Division to instruct its Fiscal Office to stop rental billings of the 48 general leases and to amend the lease document to reflect a "new" commencement date.

At its meeting of September 8, 2006, Item D-5, the Board of Land and Natural Resources approved to amend the 48 general leases awarded for residential purposes by: 1) Authorizing Land Division to instruct its Fiscal Office to commence with billing of lease rents, effective January 1, 2007; and 2) Amending lease terms and conditions relating to rent, liability insurance, improvements, mortgage, construction requirement, and the Kikala-Keokea Residential Community Association.

At its meeting of April 11, 2008, Item D-2, the Land Board approved to amend the insurance requirement for the forty-eight Kikala-Keokea general leases awarded for residential purposes, by lowering the amount of coverage required from \$300,000 per occurrence and \$500,000 aggregate to \$100,000 per occurrence/aggregate.

Staff reviewed the file and can report that from January 2007, when the charging of rents resumed, notices of default were routinely sent for delinquent rents and failure to provide the required liability insurance. A late fee of \$50 was assessed for every month rents

were not paid.

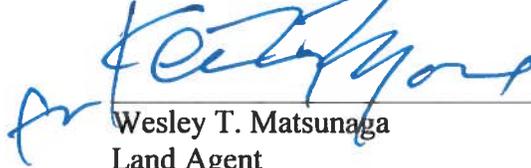
On October 3, 2013, Mr. Calvin Okamoto, husband of Yvonne Okamoto was in HDLO to make a payment of \$4,092 to bring the account current. Mr. Okamoto informed staff that they are unable to comply with the lease requirements and have no intention of residing on the property. As a result, Mrs. Okamoto requested that the lease be cancelled.

RECOMMENDATION: That the Board:

1. Authorize the mutual cancellation of General Lease No. S-5405, Yvonne K. Okamoto, Lessee, subject to the following:
  - a. The standard terms and conditions of the most current mutual cancellation of lease document 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;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-5405 to be applied to any past due amounts;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of December 13, 2013, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law; and

4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under General Lease No. S-5405 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,

  
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Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:

  
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William J. Aifa, Jr., Chairperson

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