

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of State Parks  
Honolulu, Hawaii 96813

February 14, 2014

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawai'i

Kaua'i

Consent to Assign General Lease No. SP-0152, Gary Miller, Assignor, to Jon Ohman, Assignee, Lot 84, Pu'u Ka Pele, Waimea (Kona), Kaua'i, Hawai'i, TMK: (4) 1-4-002:086

APPLICANT:

Gary Miller, Assignor, to Jon Ohman, Assignee.

LEGAL REFERENCE:

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

LOCATION:

Lot 84, Pu'u Ka Pele, Waimea (Kona), Kaua'i, Tax Map Key: (4)1-4-002:086, as shown on the attached legal description and survey map labeled Exhibit A.

AREA:

.82 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

CHARACTER OF USE:

Recreation - residence.

**ITEM E-4**

TERM OF LEASE:

Twenty (20) years, commencing January 1, 2009, and expiring on December 31, 2029.  
There is one rental reopening scheduled after ten years.

ANNUAL RENTAL:

\$6,500.00.

CONSIDERATION:

\$10.00.

RECOMMENDED PREMIUM:

\$0.00.

DCCA VERIFICATION:

Not required. Applicant is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant/Assignee shall prepare and submit fully executed assignment of lease and meet other requirements as described herein.

REMARKS:

Mr. Gary Miller acquired his interest for a portion of General Lease No. SP0152 along with Miles Kawamoto and Mike Zins by assignment from the original lessee, Anna Thuente who also retained an interest in the lease for herself.<sup>1</sup> Ms. Thuente entered in to the lease cited above effective January 6, 2009 as a result of direct negotiations with the Department of Land and Natural Resources (DLNR) pursuant to Act 223 SLH 2008. Ms. Thuente held the previous lease covering the property. Mr. Miller now wishes to assign his interest to Mr. Jon Ohman

Lessees are in compliance with the lease terms and conditions, except that staff was unable to locate evidence of commercial liability and fire and extended coverage insurance required under the lease. Staff is working with representatives of the parties to resolve the issue and requests the Board condition its approval of the assignment upon Lessee furnishing copies of fire and liability insurance required pursuant to the terms of the lease within 30 days of the date of this meeting.

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<sup>1</sup> Said assignment was approved by the Board at its meeting on July 22, 2009 (Agenda Item E-11)  
2014\_02\_14 SP0152 Assignment SUBMITTAL

Staff notes that the term of the lease is for a period of 20 years commencing January 1, 2009. On the first page of the lease, however, the termination date is listed as December 31, 2029 in error. This would indicate a 21 year lease and is inconsistent with Act 223. Upon consultation with the Department of the Attorney General, a simple amendment can be made to the lease correcting the termination date to read December 31, 2028. Staff recommends this be completed simultaneously with the other documents necessary for the assignment.

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.

Rent re-opening is not scheduled until after the first ten years of the lease. There are no outstanding rental reopening issues.

No comments have been solicited or received from any agency or the community.

RECOMMENDATION:

That the Board consent to the Assignment of General Lease No. SP-0152, Gary Miller, Assignor, to Jon Ohman, Assignee, subject to the terms above which are hereby incorporated by reference and further subject to the following:

- a. That the lease be amended to correct the termination date to read December 31, 2028;
- b. The standard terms and conditions of the most current consent and/or amendment to lease forms, as may be amended from time to time;
- c. Review and approval by the Department of the Attorney General; and,
- d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



DANIEL S. QUINN  
State Parks Administrator

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson

Exhibit A – Legal Description and Survey Map



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C. & P. No. KADAI FILE  
FOLDER 2

November 27, 1967

(REVISED - NOVEMBER, 1967)

PUU KA PELE PARK LOTS

LOT 84

Waimea (Kona), Kauai, Hawaii

Being a portion of Waimea Canyon Park  
(Governor's Executive Order 2209)

Beginning at the north corner of this lot, the south-  
west corner of Lot 78 of Puu Ka Pele Park Lots, the coordinates  
of said point of beginning referred to Government Survey Tri-  
angulation Station "HALE 2" being 1796.94 feet South and 941.82  
feet West, as shown on H.S.S. Plat 3095, thence running by azi-  
muths measured clockwise from True South:-

- 1. 262° 07' 150.00 feet along Lot 78 of Puu Ka Pele Park Lots;
- 2. 33° 26' 248.09 feet along remainder of Waimea Canyon Park (Governor's Executive Order 2209);
- 3. 89° 24' 185.75 feet along remainder of Waimea Canyon Park (Governor's Executive Order 2209);
- 4. 207° 17' 135.64 feet along remainder of Waimea Canyon Park (Governor's Executive Order 2209);
- 5. 236° 43' 130.68 feet along remainder of Waimea Canyon Park (Governor's Executive Order 2209), to the point of beginning and containing an Area of 0.82 Acre.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: Akira Ishida  
Akira Ishida  
Land Surveyor

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FY1967 " " "

Compiled from survey  
by J. Chrystal, Jr.,  
A. Ishida and Govt.  
Survey Records.

