

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

March 14, 2014

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

Kauai

Mutual Cancellation of General Lease No. S-5585, Rosaline Lopez, Lessee, and Request for Waiver of Level One (1) Hazardous Waste Evaluation Requirement, Kapaa River Remnant B, Kapaa Homesteads 4th Series, Kapaa, Kawaihau (Puna), Kauai, Tax Map Key: (4) 4-6-009:050.

PURPOSE:

Mutual Cancellation of General Lease No. S-5885, Rosaline Lopez, Lessee, and Waiver of Level One (1) Hazardous Waste Evaluation Requirement.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kapaa River Remnant B, Kapaa Homesteads, 4th Series situated at Kapaa, Kawaihau (Puna), Kauai, identified by Tax Map Key: (4) 4-6-009:050., as shown on the attached map labeled Exhibit A.

AREA:

3.40 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: NO

CHARACTER OF USE:

Pasture purposes.

TERM OF LEASE:

15 years, commencing on May 27, 1999 and expiring on May 26, 2014.

ANNUAL RENTAL:

\$156.00 due in semi-annual payments.

REMARKS:

At its meeting of June 13, 1996, Item D-20, the Board of Land and Natural Resources approved the sale of nine (9) Fifteen Year (15) pasture leases at public auction. One of these pasture leases was awarded to Patrick Lopez, Sr. and Rosaline Lopez, husband and wife, as tenants in entirety under General Lease No. S-5585. Mr. Lopez passed away on March 23, 2012. Upon his death, Rosaline Lopez succeeded to the entire leasehold interest under General Lease No. S-5585 as a tenant by the entirety with right of survivorship.

On February 7, 2014 the Kauai District Land office received a request from Rosaline Lopez to mutually cancel General Lease No. S-5585, labeled as Exhibit 'B'. The basis of the request is financial hardship. Staff notified the tenant of condition no. 58 of the lease requiring that a Level One (1) Hazardous Waste Evaluation and complete abatement and disposal (if necessary) be performed prior to lease termination. Ms. Lopez responded that she could not afford the extremely high cost to conduct a Level One (1) Hazardous Waste Evaluation and also stated that the property has only been used for pasture purposes and at no time did her husband use or allow any heavy equipment or chemicals on the property.

A final inspection of the property was conducted on February 12, 2014 at which time the premises was found to be clean with no trash or abandoned property. Refer to Exhibit 'C', inspection report.

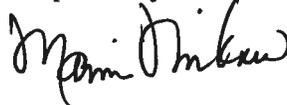
Therefore, based on the pasture character of use in the general lease, the statements of the lessee, and the findings at the time of the final inspection, staff agrees that the Level One (1) Hazard Waste Evaluation should be waived.

Staff is requesting the cancellation of the general lease be effective February 28, 2014, which is within 30 days of the date of Ms. Lopez's termination request.

RECOMMENDATION: That the Board:

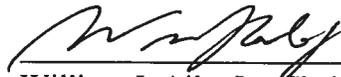
1. Authorize the cancellation of General Lease No. S-5585 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-5585 to be applied to any past due amounts;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of February 28, 2014, 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-5585 and to pursue all other rights and remedies as appropriate.
5. Waive requirement for a Level One (1) Hazardous Waste Evaluation.

Respectfully Submitted,



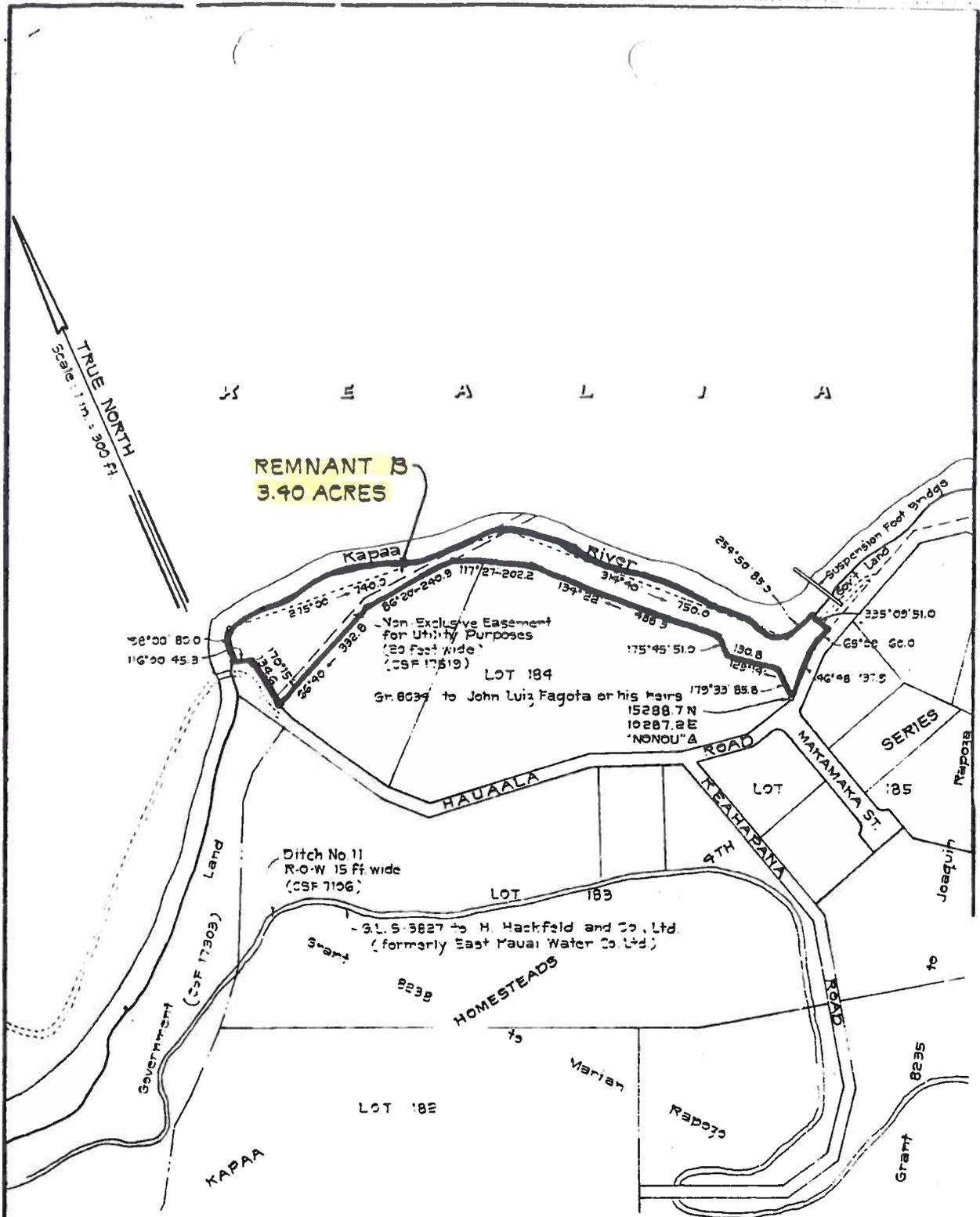
Marvin Mikasa
Acting District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





REMNANT B
3.40 ACRES

KAPAA RIVER REMNANT B
 Kapaa Homesteads, Fourth Series
 Kapaa, Kawaihau (Puna), Kauai, Hawaii
 Scale: 1 inch = 300 feet

PRELIM. APPR'D.
 Department of the
 Attorney General

JOB K-33 (82)
 c. BK 10 Pg. 92 - S. Nakamura

TAX MAP 4-6-09 : 50

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

EXHIBIT "A"

C. S. F. No. 19,512

R.S. April 7, 1982

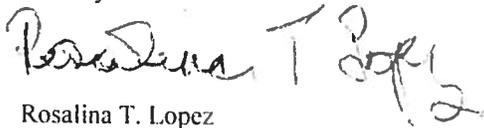
State of Hawaii
Department of Land and Natural Resources
Division of Land Management
3060 Eiwa Street, Rm #308
Lihue, Hawaii 96766-1875

To whom it may concern:

Re: Kapaa River Remnant B, tax map 4*6*09*50

I, Rosalina T. Lopez would like to ask to discontinue my lease for the property located at Kapaa River Remnant B, tax map 4*6*09*50 due to hardship. Currently I am having a hard time meeting my expenses due to the loss of my husband Patrick Lopez Sr., on March 23, 2012. I am also unable to care for the property due to a chronic injury to my Achilles Tendon. I would like to cease my lease as soon as possible.

Thank you



Rosalina T. Lopez

Kapaa, Hawaii 96746

EXHIBIT " B "

INSPECTION REPORT
Intensive Ag/Special Livestock/Pasture/Commercial Timber

FINAL INSPECTION

General Information

Document Number: GL S-5585 **Character of Use:** pasture purposes
Inspection Date: February 10, 2014 **Inspection Time:** 12:30am **Land Agent:** Marvin Mikasa

TENANT INFORMATION

Name: Patrick Lopez, Sr. (deceased) & Rosealine Lopez **Home Phone:**
Address: Kapaa, Hawaii 96746 **Business Phone:** None
Contact Person: Rosealine Lopez **Fax:** None
Contact Phone:

SITE INFORMATION

TMK: (4) 4-6-009:050 **Area:** 3.40 acres more or less
Site Address: off Hauula Road
 Kapaa, Kauai

FISCAL INFORMATION

ITEM	NOT APPLICABLE	CURRENT = COMPLIANCE	DEFAULT = NON-COMPLIANCE
Rent		X	
Liability Insurance		X	
Fire Insurance	X		
Bond		X	
Mortgage	X		

EXHIBIT "c"

ANNUAL INSPECTION REPORT
Intensive Ag/Special Livestock/Pasture/Commercial Timber

File Review

LICENSES/PERMITS/CONSENTS

ITEM	DLNR Approval Does in File			COMMENTS/NOTES/LISTS
	N/A	YES	NO	
Removal of Minerals/Waters	X			
Prehistoric/Historic Remains	X			
Cutting/Removal of Trees	X			
Hazardous Material Storage/Use	X			
Subletting	X			
Improvement Construction Buildings	X			
Improvement Construction Other structures	X			
Conservation Plan		X		

Field Inspection

ITEM	CRITERIA FOR COMPLIANCE	MEETS COMPLIANCE			COMMENTS/NOTES
		N/A	YES	NO	
Subletting	consents approved use adheres to lease purpose	X			
Buildings/ Residence roof, paint, exterior, interior	clean, sanitary, orderly suitable & well maintained DLNR construction consent adheres to completion schedule *check for hazardous materials	X			
Structures: roads, walkways, fences, pipelines, others	cross check w/ conservation plan clean, sanitary, orderly well maintained adheres to completion schedule *check for hazardous materials		X		No fence line along Kapaa River, last Flood eroded posts. Other parts fenced in.
Conservation Plan: conservation structures and plantings	adheres to plan map & schedule well maintained		X		

ITEM	CRITERIA FOR COMPLIANCE	MEETS COMPLIANCE			COMMENTS/NOTES
		N/A	YES	NO	
Premises	clean, sanitary, orderly		X		
Hazardous Material Storage/ Use	controlled and adheres to consent	X			
Character of Use	adheres to lease purpose		X		
Phase 1 Environment Site Inspection	as required in General Lease or Revocable Permit				No equipment was stored on property and no storage buildings, etc. on-site No fertilizers or pesticides were used. GMO free cattle.
Other					

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- Available Layers**
- Parcels
 - Parcel Numbers
 - Address #
 - Yearly Sales
 - Buildings
 - Streets (Google)
 - Satellite (Google)
 - Hybrid (Google)
 - Physical (Google)



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Kauai County makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein. Its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll.

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Reports

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Selected Parcel	4100905000000 (Click for Card)
Property Class	Agricultural
Area	1.4
Physical Address	KALANANAKA RD STATE OF HAWAII
Owner	
Total Market Value	\$ 320,000
Total Assessed Value	\$ 700
Total Exemptions	\$ 0
Total Net Taxable Value	\$ 700
Improvements on Parcel	0
Total Improvement Area	0
Sq Ft	
Two most recent parcel sales	
Date	Price
Website last updated December 2, 2013	
GIS Maps last updated November 19, 2013	

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