

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

May 8, 2015

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

Kaua'i

Consent to Assign General Lease No. SP-0152, Anna Thuente, Miles Kawamoto, Michael Zins, Gary Miller, Assignors, to Anna Thuente, Michael Zins and Jon Ohman, Assignees, Lot 84, Pu'u Ka Pele, Waimea (Kona), Kaua'i, Hawai'i, TMK: (4) 1-4-002:086

APPLICANT:

Anna Thuente, widow, as Tenant in Severalty, an undivided one-half (1/2) interest.

Michael Zins, married, as Tenant in Severalty, an undivided one-fourth (1/4) interest.

Jon Ohman, single, as Tenant in Severalty, an undivided one-fourth (1/4) interest.

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 X

ITEM E-1

CHARACTER OF USE:

Recreation - residence.

TERM OF LEASE:

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

ANNUAL RENTAL:

\$6,500.00.

CONSIDERATION:

\$10.00.

RECOMMENDED PREMIUM:

\$0.00.

APPLICANT REQUIREMENTS:

Applicant/Assignee has prepared and submitted a fully executed Assignment of General Lease document, Exhibit B, and meets other requirements as described herein.

REMARKS:

Ms. Anna Thuente acquired her interest in General Lease No. SP0152, effective as of January 1, 2009. At its December 11, 2009 meeting, the Board approved Ms. Thuente's request to assign her lease to herself, Miles Kawamoto, Mike Zins and Gary Miller. Due to the advanced age and ill health of two of the assignors, the parties are now requesting another assignment of the lease to Anna Thuente, Michael Zins and Jon Ohman.

To the best of Staff's knowledge, Lessees are in compliance with the lease terms and conditions, including general liability insurance, fire insurance, a surety bond and current lease rent payments.

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:

1. That the Board consent to the Assignment of General Lease No. SP-0152, from Anna Thuente, Miles Kawamoto, Michael Zins and Gary Miller to Anna Thuente, Michael Zins and Jon Ohman
2. That the lease be amended to correct the termination date to read December 31, 2028.
3. The standard terms and conditions of the most current consent and/or amendment to lease forms apply, as may be amended from time to time.
4. 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:


CARTY S. CHANG
Interim Chairperson

Exhibit A - Legal Description and Survey Map



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULUC & P. No. KAUAI 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 southwest corner of Lot 78 of Puu Ka Pele Park Lots, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALE 2" being 1796.94 feet South and 941.82 feet West, as shown on H.S.S. Plat 1095, thence running by azimuths 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. 238° 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 HAWAIIBy: Akira Ishida
Akira Ishida
Land Surveyor

mh

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

FY1967 " " "

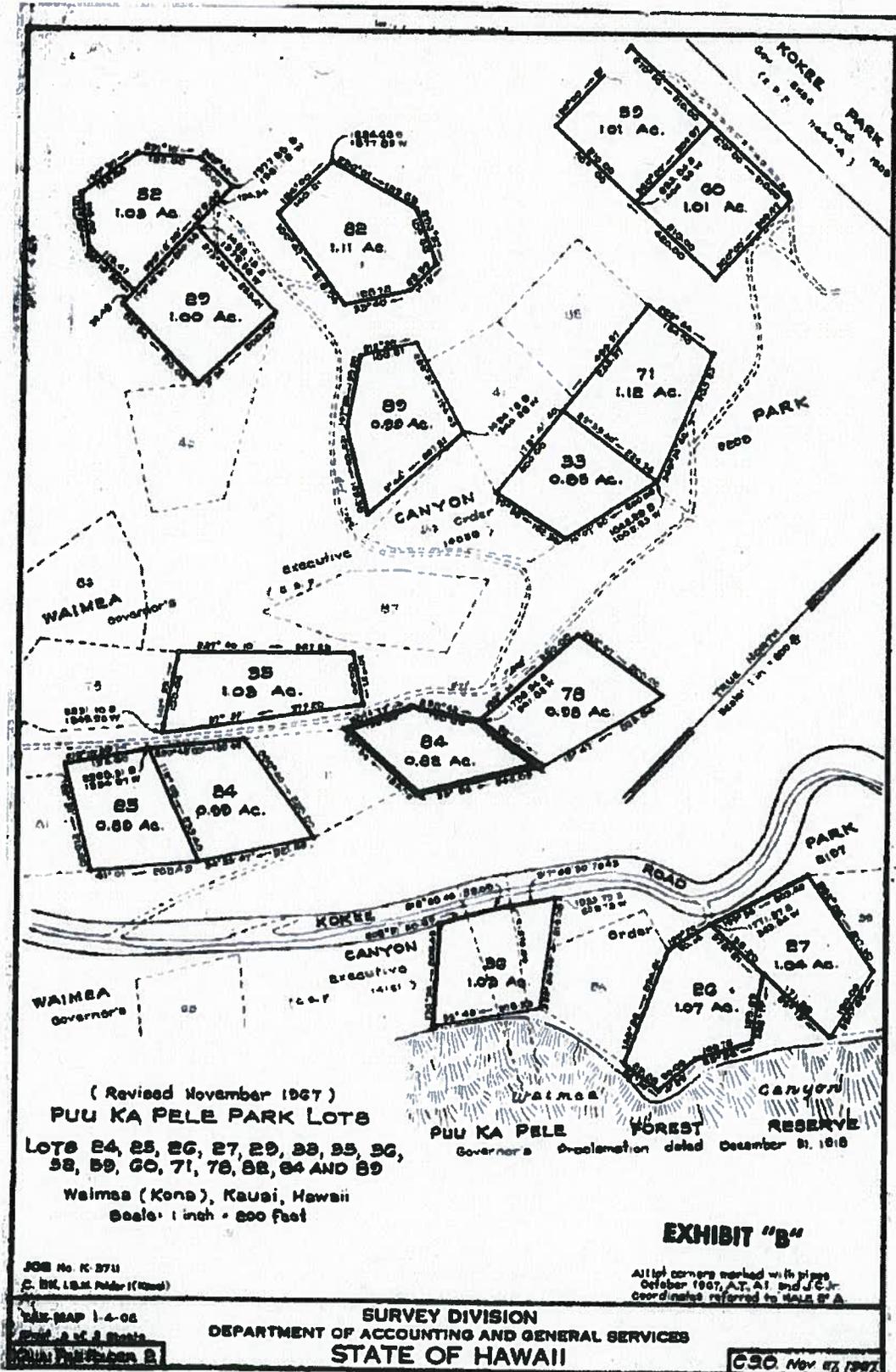


EXHIBIT B

AFTER RECORDATION, RETURN BY MAIL

KURT BOSSHARD
3144 Elua Street
Lihue, Hawaii 96766

TITLE OF DOCUMENT:

ASSIGNMENT OF GENERAL LEASE NO. SP-0152

PARTIES TO DOCUMENT:

Assignor: **ANNA THUENTE, widow**
MILES KAWAMOTO, husband of Kareen Kawamoto
MICHAEL ZINS, husband of Barbara Zins
GARY MILLER, husband of Carol Miller
[REDACTED]

Assignee: **ANNA THUENTE, widow**
MICHAEL ZINS, husband of Barbara Zins
JON OHMAN, single
[REDACTED]

PROPERTY DESCRIPTION:

TMK (4)1-4-002:086

Lot 84, being a portion of
Waimea Canyon Park, Waimea
Kauai, Hawaii

LIBER/PAGE:

DOCUMENT NO.:

TRANSFER

CERTIFICATE

OF TITLE NO(S):

ASSIGNMENT OF GENERAL LEASE NO. SP-0152

THIS ASSIGNMENT dated February 9, 2015, is made by and between ANNA THUENTE, widow, MILES KAWAMOTO, husband of Kareen Kawamoto, MICHAEL ZINS, husband of Barbara Zins, and GARY MILLER, husband of Carol Miller, all whose mailing address is [REDACTED] hereinafter called "Assignor", and ANNA THUENTE, widow, MICHAEL ZINS, husband of Barbara Zins, and JON OHMAN, single, all whose mailing address is [REDACTED] hereinafter called "Assignee";

W I T N E S S E T H :

In consideration of the sum of TEN DOLLARS (\$10.00) and other valuable consideration paid by the Assignee, the receipt whereof is hereby acknowledged, and in further consideration of the covenants and agreements of the Assignee hereinafter expressed, the Assignor does hereby sell, assign, transfer and deliver all of the right, title and interest of the Assignor in and to the General Lease No. SP-0152 described in Exhibit "A", attached hereto and expressly made a part hereof, unto the Assignee, as tenants in common. This conveyance and the warranties of the Assignor are expressly declared to be in favor of the Assignee, in the following proportions and estates:

ANNA THUENTE, widow, as tenant in severalty, her heirs, devisees, personal representatives and assigns, an undivided one-half ($\frac{1}{2}$) interest;

MICHAEL ZINS, husband of Barbara Zins, as tenant in severalty, his heirs, devisees, personal representatives and assigns, an undivided one-fourth (1/4) interest; and

JON OHMAN, single, as tenant in severalty, his heirs, devisees, personal representatives and assigns, an undivided one-fourth (1/4) interest.

TO HAVE AND TO HOLD said Lease and all the right, interest and estate of the Assignor in and to the premises demised by and described in the Lease, and all the rights, privileges, building, improvements and appurtenances situated on or built on or used, occupied and enjoyed in connection with the Lease, unto the Assignee, according to the tenancy set forth herein, for and during the unexpired term of the Lease.

This Assignment is subject, however, to the payment of the rents reserved by the Lease and subject also to the covenants and conditions contained in the Lease which are or ought to be observed by the Lessee therein named.

The Assignee confirms that Assignee has inspected the property being conveyed and specifically attest that Assignee is leasing the property on an "AS IS" basis, with a full understanding that only Assignee and not the Assignor will be responsible for any and all imperfections, defects, obsolescence, wear and tear, and all other conditions of said property and hereby waives any claim hereafter against the Assignor for breach of express or implied warranty as to the condition of the property.

The Assignee does hereby promise, covenant and agree to and with the Assignor that the Assignee will pay the rent, taxes,

assessments and other charges reserved in said Lease as and when the same become due and payable pursuant to the provisions of said Lease, and will also faithfully at all times hereafter indemnify and save the Assignor harmless from and against the nonpayment of said rent, taxes, assessments and other charges and the nonobservance of the covenants and conditions contained in said lease.

The rights and obligations of the Assignor and the Assignee shall be binding upon and inure to the benefit of their respective estates, heirs, personal representatives, administrators, successors, successors in trust and permitted assigns. All obligations undertaken by two or more persons shall be deemed joint and several unless a contrary intention is clearly expressed elsewhere herein.

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first above written.

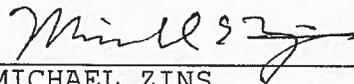
ASSIGNOR:



ANNA THUENTE



MILES KAWAMOTO



MICHAEL ZINS

STATE OF HAWAII)
) SS.
COUNTY OF KAUAI)

On this 25th day of February, 2015, before me personally appeared MILES KAWAMOTO, to me known to be the person described herein, who, being by me duly sworn or affirmed, did say that he executed the foregoing ASSIGNMENT OF GENERAL LEASE NO. SP-0152 dated February 9, 2015, which document consists of 8 pages (including Exhibit "A"), as his free act and deed.

Witness my hand and seal.

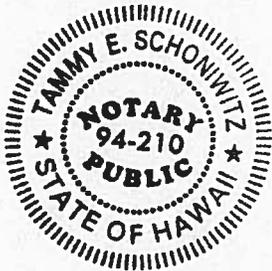


Renee S.N. Hiranaka
Name of Notary: Renee S.N. Hiranaka
Notary Public, Fifth Judicial Circuit
State of Hawaii
My commission expires: 3/30/18
Commission No.: 94-190

STATE OF HAWAII)
) SS.
COUNTY OF KAUAI)

On this 11th day of February, 2015, before me personally appeared MICHAEL ZINS, to me known to be the person described herein, who, being by me duly sworn or affirmed, did say that he executed the foregoing ASSIGNMENT OF GENERAL LEASE NO. SP-0152 dated February 9, 2015, which document consists of 8 pages (including Exhibit "A"), as his free act and deed.

Witness my hand and seal.



Tammy E. Schonowitz
Name of Notary: Tammy E. Schonowitz
Notary Public, Fifth Judicial Circuit
State of Hawaii
My commission expires: 4/1/18
Commission No.: 94-210

STATE OF FLORIDA)
)
COUNTY OF MARION) SS.

On this 3rd day of march, 2015, before me personally appeared GARY MILLER, to me known to be the person described herein, who, being by me duly sworn or affirmed, did say that he executed the foregoing ASSIGNMENT OF GENERAL LEASE NO. SP-0152 dated Feb. 9, 2015, which document consists of 8 pages (including Exhibit "A"), as his free act and deed.

Witness my hand and seal.

Sarah F Glass



Name of Notary:
Notary Public,
State of Florida

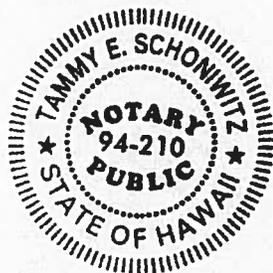
My commission expires: 8-7-2015
Commission No.: EE119955

STATE OF HAWAII)
)
COUNTY OF KAUAI) SS.

On this 11th day of February, 2015, before me personally appeared JON OHMAN, to me known to be the person described herein, who, being by me duly sworn or affirmed, did say that he executed the foregoing ASSIGNMENT OF GENERAL LEASE NO. SP-0152 dated February 9, 2015, which document consists of 8 pages (including Exhibit "A"), as his free act and deed.

Witness my hand and seal.

Tammy E. Schonowitz



Name of Notary: Tammy E. Schonowitz
Notary Public, Fifth Judicial Circuit
State of Hawaii

My commission expires: 4/11/18
Commission No.: 94-210



STATE OF HAWAII
SURVEY DIVISION
DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. KAWAI FILE
FOLDER 2

November 27, 1967

(REVISED - NOVEMBER, 1967)

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LOT 84

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SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Akira Ishida
Akira Ishida
Land Surveyor

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

EXHIBIT "A"