

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

August 14, 2015

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

Hawai'i

Consent to Assignment of 20% interest in General Lease No. S-3611 from the Hiraoki, Elaine and Lawrence Kono Foundation, as Assignor, to Hawaii Planing Mill, Ltd. dba HPM Building Supply, as Assignee, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-032:021.

APPLICANT:

The Hiraoki, Elaine and Lawrence Kono Foundation (20% interest in GL S-3611), as Assignor, to Hawaii Planing Mill, Ltd. dba HPM Building Supply, a Hawaii corporation, as Assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Lots 7,8,9,16,17 and 18, Waiakea Business and Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-032:021, as shown on the attached map labeled Exhibit A.

AREA:

2.334 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:

Industrial purposes.

TERM OF LEASE:

Original term of 55 years, commencing on January 16, 1961 and expiring on January 15, 2016.

Requested extension of 10 years commencing on January 16, 2016 and expiring on January 15, 2026.

ANNUAL RENTAL:

\$74,000.00.

CONSIDERATION:

\$100,000.00.¹

RECOMMENDED PREMIUM:

Not applicable as the lease does not allow for a premium.

DCCA VERIFICATION:

ASSIGNEE:

Place of business registration confirmed:	YES <u>X</u>	NO <u>__</u>
Registered business name confirmed:	YES <u>X</u>	NO <u>__</u>
Good standing confirmed:	YES <u>X</u>	NO <u>__</u>

Assignor is sole proprietorship and, as such, is not required to register with DCCA,

REMARKS:

A review of the basic file reveals the following transactions on the subject property.

1. General Lease No. S-3611 was issued to Hawaii Planing Mill, Ltd. for a term of fifty-five (55) years pursuant to Act 4, First Special Session of 1960, which authorized the direct issuance of leases to victims of a natural disaster (tsunami).
2. Assignment of lease from Hawaii Planing Mill, Ltd. to WILLIAM MACKENZIE, Trustee under that certain Indenture of Trust created March 26, 1955 by Nelle Wood

¹ Aggregate consideration for Assignee's interest in the properties covered by GL S-3611, GL S-3592 and GL S-3609

Carlsmith for the benefit of Carl Wendell Carlsmith, Edith Mattson Carlsmith and Donn Wendell Carlsmith, DONN W. CARLSMITH, Trustee under that certain Trust Agreement dated October 10, 1969 created by Hiroaki Kono for the benefit of Elaine K. Kono and Lawrence H. Kono, DONN W. CARLSMITH, Trustee under that certain Trust Agreement dated December 30, 1955 created by Takeyo Fujimoto for the benefit of Fred Y. Fujimoto, DONN W. CARLSMITH, Trustee under that certain Trust Agreement dated December 30, 1955 created by Takeyo Fujimoto for the benefit of Robert M. Fujimoto, and HAILI INVESTMENT CORPORATION, a Hawaii corporation, (approved by the Land Board, June 28, 1974, under agenda item F-1-b).

3. Consent was granted for Sub-Sublease form William MacKenzie, Trustee, et al, to Hawaii Planing Mill, Ltd. (approved June 28, 1974, under agenda item F-1-b).
4. Consent was granted to Mortgage between William MacKenzie, Trustee, et al, and Bank of Hawaii (approved June 28, 1974, agenda item F-1-b).
5. Consent was granted to an amendment to Sublease Agreement dated April 1, 1982 (approved October 22, 1982 under agenda item F-1-b).
6. Amendment to General Lease No. S-3611 dated June 28, 1983.
7. Consent was granted to an assignment of a 20% undivided interest in a sublease and an assumption of mortgage between the Kono Trust by its trustee, Donn W. Carlsmith, Assignor and Elaine K. Kono, Assignee (approved November 8, 1985 under agenda item F-1-e).
8. At its meeting of October 22, 1993, under agenda item F-8, the Board consented to the partial assignment of sublessees' interest in the sublease and of sub-sublessor's' interest in the sub-sublease of General Lease No. 3611 from ROBERT M. FUJIMOTO and GEORGE ICHIKAWA, Co-Trustees under that certain Trust Agreement dated December 30, 1955, created by Takeyo Fujimoto for the benefit of Fred Y. Fujimoto, GEORGE ICHIKAWA and MARGARET F. GOTA, Co-Trustees under that certain Trust Agreement dated December 30, 1955, created by Takeyo Fujimoto for the benefit of Robert M. Fujimoto and HAILI INVESTMENT CORPORATION, a Hawai'i corporation, Assignors to HAWAII PLANING MILL, LTD., a Hawai'i corporation, Assignee.
9. At its meeting of August 21, 1997, under agenda item D-30, the Board consented to the assignment of lease from Margaret Y. Oda and Donn W. Carlsmith, Personal Representatives of the Estate of Elaine K. Kono, Deceased to the Hiraoki, Elaine and Lawrence Kono Foundation.
10. At its meeting of October 24, 2014, under agenda item D-6, the Board consented to the extension of lease for a period of 10 years, amendment of Terms and Conditions Regarding Allowed Use, Assignment and Sublease Provisions for General Lease No. S-3611.

ASSIGNMENT:

The assignment is a result of the principal Lessee's (Hawaii Planing Mill, Ltd.) consolidation of ownership. The Assignor currently holds a 20% interest in the lease and the Assignee holds a 60% interest.² The Lessee is current with the terms and conditions of the lease including rent and insurance. There are no other outstanding rental reopening issues.

RECOMMENDATION:

That the Board consent to the assignment of 20% interest in General Lease No. S-3611 from the Hiraoki, Elaine and Lawrence Kono Foundation, as Assignor, to Hawaii Planing Mill, Ltd. dba HPM Building Supply, as Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

² The remaining 20% interest is held by WILLIAM MACKENZIE, Trustee under that certain Indenture of Trust created March 26, 1955 by Nelle Wood Carlsmith for the benefit of Carl Wendell Carlsmith, Edith Mattson Carlsmith and Donn Wendell Carlsmith.

EXHIBIT A

