

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

October 9, 2015

Ref. No.: S5304

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

O'ahu

Consent to Transfer of General Lease No. S-5304 to Blanche Soga by Succession, Ahupuaa O Kahana State Park, Lot No. 27 C, Kahana, District of Ko'olaupua, City and County of Honolulu, State of Hawai'i TMK: (1) 5-2-005:023)

APPLICANT:

Blanche Soga, as successor designee, through her attorneys, Native Hawaiian Legal Corporation

LEGAL REFERENCE:

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

LOCATION:

Lot No. 27 C, Kahana, District of Koolauloa, City and County of Honolulu, State of Hawai'i as shown on Exhibit A attached hereto.

AREA:

12,249 square feet, more or less.

TRUST LAND STATUS:

The properties are not ceded land.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES ___ NO x

ITEM E-1

CHARACTER OF USE:

Living park residential purposes.

TERM OF LEASES:

65-years, commencing on December 1, 1993, and expiring on November 30, 2058.

ANNUAL RENTAL:

None. In lieu of monetary rent, lessees to contribute in-kind services to the Department by participating in its interpretive programs at the park.

CONSIDERATION:

N/A

APPLICANT REQUIREMENTS:

Applicant shall comply with the terms and conditions of General Lease No. S-5304 as the named successor.

DCCA VERIFICATION:

Not applicable.

ENVIRONMENTAL REVIEW

This action before the Board is merely a request to approve the transfer of an interest in an existing general residential lease. State Parks believes the request will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under Chapter 343, Hawaii Revised Statutes (HRS) and §11-200-8, Hawaii Administrative Rules (HAR). This action is listed under Exemption Class 1 of the Department's Exemption List approved by the Environmental Council on June 5, 2015 which exempts operations involving negligible or no expansion or change of use beyond that previously existing.

REMARKS:

Pursuant to Act 5 (1987), as amended, the Legislature authorized the Department of Land and Natural Resources (Department) to negotiate and enter into long-term leases to persons residing in Kahana Valley.

On June 1, 1993, the Department entered into General Lease No. S-5304 with Vernon Tokiharu Soga. As amended, the lease covers Lot 27 C at Ahupuaa O Kahana State Park as indicated in the map attached as Exhibit A.

Following the passing of Mr. Soga in 2012, Beatrice Soga sought to have the lease transferred to her as successor. The Department refused on the ground that the assignment was a probate matter to be determined by a court with proper jurisdiction. Ms. Soga filed suit against the Department in *Soga v. BLNR, CIV. No. 12-1-2255-08 KKS*. In that case, the court held that Beatrice, as the named successor, became the mandatory successor of the lease. The Department respectfully disagrees with the court's decision but chose not to appeal. At its meeting on April 12, 2013, (under agenda item E-1), the Board consented to the assignment of the lease to Beatrice Soga. The case is concluded and final judgment was entered on May 1, 2013.

On April 13, 2013, the Department received a letter from Ms. Soga's counsel with a new successor designation form naming Blanche Soga as successor under the lease.

On April 18, 2015, Beatrice Soga passed away. In a letter dated June 26, 2015, counsel for Blanche Soga requested this matter be brought to the Board for consideration. A copy of the successor designation form is attached as Exhibit B. The form indicates that Blanche Soga is Beatrice's daughter.

Blanche Soga is a qualified assignee for a Kahana Valley lease. Act 5 itself does not impose any restrictions on assignees. The lease provides that preference as to an assignment shall be given to family members who reside in the Valley. Staff understands that Blanche Soga is qualified to contribute in-kind services as required by the lease.

Blanche Soga 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.

No governmental agency or interest groups were solicited for comments as this is not a new disposition or change in use.

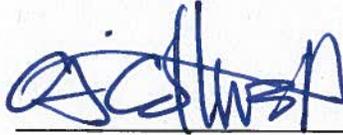
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RECOMMENDATION:

That the Board consent to the assignment of General Lease No. S-5304 to Blanche Soga by succession subject to the following:

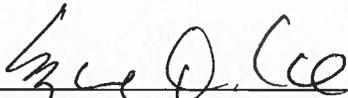
1. The standard terms and conditions of the most current acknowledgement of transfer through successorship form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General and,
3. Such other terms and conditions as may be prescribed by the Chairperson to best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

Respectfully Submitted,



Curt A. Cottrell
Administrator
Division of State Parks

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

Exhibit B – Successor Designation

**EXHIBIT D
RESIDENTIAL LEASE
KAHANAVALLEY STATE PARK**

Lessee's name Beatrice Turay Sage Lease No. 2-5304

DESIGNATION OF SUCCESSOR

Pursuant to the terms of Lease No. 5-5304, Lessee shall designate a successor. The designation shall comply with the following criteria:

- 1) The designee is a member of Lessee's immediate family.
- 2) Preference shall be given to those immediate family members residing in Kahana Valley

In addition, the designee shall be able to comply with the terms of this lease and be financially qualified to assume any mortgage obligations under the lease.

I hereby designate Mahe Sage to be my successor to this lease in case of my inability to fulfill the requirements of the lease. The person named is qualified as follows:

Member of Lessee's family (state how related)

Daughter

Present resident of Kahana Valley; or

Not resident of Kahana Valley. His/her address is:

Lessee's Signature Beatrice Turay Sage Date 4-11-13

OR

I do not choose to name a successor and I understand that the Board of Land and Natural Resources will name a successor under the provisions of the lease.

Lessee's Signature _____ Date _____

for Park Manager's Signature [Signature] Date 5/13/14