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

January 8, 2016

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

Kaua'i

Consent to Assign General Lease No. SP-0145, Anne Colgate Sutton, Assignor, to Anne Colgate Sutton and Richard Carpenter Sutton , Jr, Assignees, Waimea Canyon State Park, Lot 37, Pu'u KaPele , Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-002:044.

APPLICANT:

Anne Colgate Sutton, Assignor, to Anne Colgate Sutton and Richard Carpenter Sutton, Jr., Assignees, as joint tenants.

LEGAL REFERENCE:

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

LOCATION:

Lot 37, Pu'u Ka Pele, Waimea (Kona), Kaua'i, Tax Map Key: (4)1-4-002:044, as shown on the attached legal description and survey map labeled Exhibit A.

AREA:

0.88 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

CHARACTER OF USE:

Recreation - residence.

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.

*

ITEM E-2

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:

$3,800.00.

CONSIDERATION:

None.

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:

Anne Colgate Sutton, entered in to a lease under General Lease No. SP0145 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. Anne Colgate Sutton held the previous lease covering the property and a revocable permit immediately prior to the new lease being issued.

By way of a letter dated September 4, 2013, Richard Carpenter Sutton Jr., son of Anne Sutton had informed State Parks that his mother, Anne Colgate Sutton is 91 years old and wished to assign the rights and obligations of the lease under SP0145 to herself, Anne Colgate Sutton and her son , Richard Carpenter Sutton Jr.

Lessee is in compliance with the rent as well as the liability insurance required pursuant to the terms of the lease. However, the Applicant's son has stated that his insurance agent had stated that the premises was uninsurable and that his insurance company would not be able to provide the fire extended coverage insurance for the property as 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.

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.

Staff has no objections to this request

RECOMMENDATION:

That the Board consent to the Assignment of General Lease No. SP-0145, Anne Colgate Sutton, Assignor, to Anne Colgate Sutton and Richard Carpenter Sutton Jr., Assignees, subject to the terms above which are hereby incorporated by reference and further subject to the following:

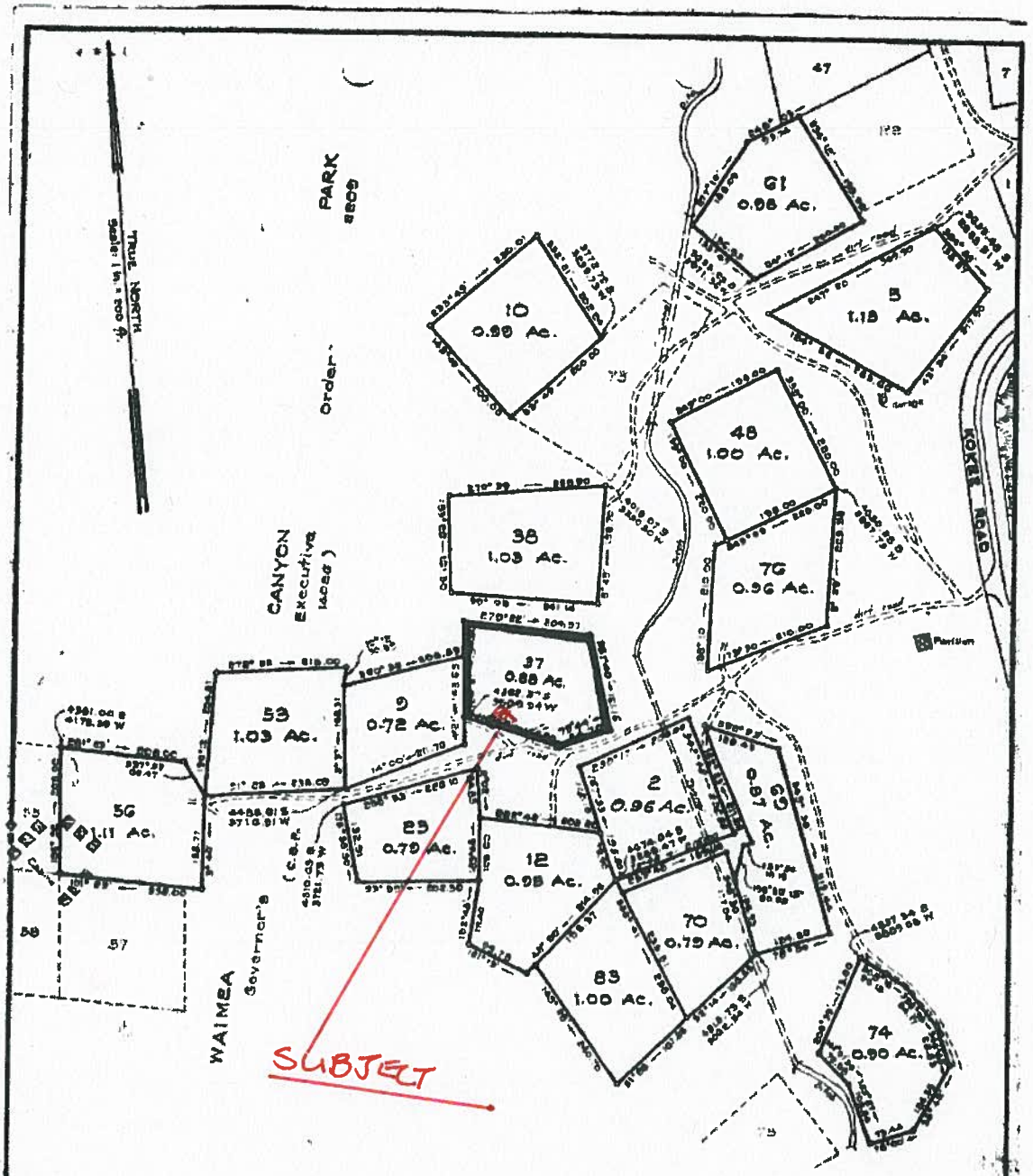
a. That the lease be amended to correct the termination date to read December 31, 2028;
b. The standard terms and conditions of the most current consent and/or amendment to lease forms, as may be amended from time to time;
c. Review and approval by the Department of the Attorney General; and,
d. Such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

Respectfully submitted,

CURT A. COTTRELL
State Parks Administrator

APPROVED FOR SUBMITTAL:

SUZANNE D. CASE, Chairperson



(Revised November 1967)

PUU KA PELE PARK LOTS

LOTS 5, 9, 10, 12, 23, 38, 48, 53, 56, 61, 69, 70, 74, 76, 83, 2 AND 37

Waimea (Kona), Kauai, Hawaii

Scale: 1 inch = 800 feet

EXHIBIT

JOB No. K-3711
C. BK. I.B.M. Folder 1 (Kauai)

Lot 37 added to plan by P. Nuha Jan 11, 1980 (Job K-422(79))
Lot 2 added to plan by A. Tago Feb 26, 1983 (Job No. K-434)

All lot corners marked with pipes October 1967, A.T., A.I. and J.E.J.
Coordinates referred to "HALE E'A

TAX MAP 1-4-08
Sheet 2 of 4 Sheets
KAUAI FILE FOLDER 2

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

C.S.O. Nov. 27, 1967