

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

February 26, 2016

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

PSF: 15KD-213

Kauai

Request for Consent to Assignment of a One-Half Undivided Interest in General Lease No. S-4575, Estate of Hiroshi Azeka, Deceased, Assignor, to Fran Shizuno Miyake, formerly known as Fran Shizuno Azeka, Assignee, Nawiliwili Harbor Lots, Lihue, Kauai, Tax Map Key: (4) 3-2-004:014

APPLICANT:

Estate of Hiroshi Azeka, Deceased, as Assignor, to Fran Shizuno Miyake, formerly known as Fran Shizuno Azeka, married, Tenant in Severalty as to an undivided one-half interest, as Assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Nawiliwili situated at Nawiliwili Harbor Lots, Lihue, Kauai, identified by Tax Map Key: (4) 3-2-004:014, as shown on the attached map labeled Exhibit A.

AREA:

.576 acres, more or less.

TRUST LAND STATUS:

Section 5(a) 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:

40 years, commencing on November 30, 1977 and expiring on November 29, 2017. Last rental reopening occurred on November 30, 2007.

ANNUAL RENTAL:

\$45,000.00, due in semiannual installments on May 31st and November 29th of each year.

CONSIDERATION:

\$90,000.00 lease bond.

RECOMMENDED PREMIUM:

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

DCCA VERIFICATION:

Assignor/Assignee is a landowner and, as such, is not required to register with DCCA.

REMARKS:

On June 13, 1975, the Land Board under item F-30 approved the sale of a lease of the subject lands at public auction. The auction was held on November 30, 1977. The successful bidders were Hiroshi Azeka and Toshiko Azeka, husband and wife, as tenants by the entirety.

By letter dated January 19, 1978 from the Azekas' attorney, lessees requested consent to add Norman David Thompson and Karen Edith Thompson to the lease. The reason for this request was to help finance construction of the required improvements on the premises.

On April 14, 1978, the Land Board under item F-1-j approved the request to assign the lease from Hiroshi Azeka and Toshiki Azeka, also known as Patsy Toshiko Azeka, as assignor, to Hiroshi Azeka and Patsy Toshiko Azeka, husband and wife, as tenants by the entirety as to a one-half undivided interest, and Norman David Thompson and Karen Edith Thompson, husband and wife, as tenants by the entirety as to a one-half undivided interest, as assignees, the whole being held as tenants in common. Exhibit B.

Patsy Toshiko Azeka passed away on February 27, 2007. Upon her death, Hiroshi Azeka

succeeded to the entire ownership of an undivided one-half interest in lease.

Hiroshi Azeka passed away on April 2, 2014. An order approving final accounts and distributing and settling estate was approved by the Circuit Court of the Fifth Circuit on April 20, 2015. The order vests title of Mr. Azeka's interest in the lease to Fran Shizuno Miyake, formerly known as Fran Shizuno Azeka. Exhibit C.

Lessees have complied with all lease terms and conditions of lease. Rent, insurance, and performance bond are all current. Inspection was last done in June, 2013. Default history had three (3) instances for performance bond and three (3) instances for insurance issues. All were mainly due to the insurance company not sending in copies of bonds or certificates on a timely manner, and were quickly resolved.

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.

RECOMMENDATION:

That the Board consent to assignment of an undivided one-half interest in General Lease No. S-4575 from the Estate of Hiroshi Azeka, Deceased, as Assignor, to Fran Shizuno Miyake, formerly known as Fran Shizuno Azeka, as Assignee:

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,



Marvin Mikasa
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



DOCUMENT FOR APPROVAL BY THE BOARD OF LAND AND NATURAL RESOURCES

April 14, 1978

ASSIGNMENT:

KAUAI

HIROSHI AZEKA and TOSHIKO AZEKA, husband and wife, assignor, to HIROSHI AZEKA and TOSHIKO AZEKA, husband and wife and NORMAN DAVID THOMPSON and KAREN EDITH THOMPSON, husband and wife, assignees, a one-half undivided interest as tenants in common to General Lease No. S-4575 described below. Each husband and wife shall, between themselves, hold their one-half undivided interest as tenants by the entirety.

LOCATION:

Government remainder situate at Nawiliwili, Lihue, Kauai, C.S.F. Map No. 17,596, same being Tax Map Key 3-2-04:14 at Nawiliwili, Kauai.

AREA:

25,084 sq. ft.

ANNUAL RENTAL:

\$5,280.00 per annum

LENGTH OF LEASE TERM:

General Lease No. S-4575 commences on November 30, 1977 and expires on November 29, 2017.

SPECIFIC PURPOSE:

Industrial

IMPROVEMENT REQUIREMENT:

Lessee shall within three (3) years from date of sale complete construction of a building or buildings, install perimeter fencing and a paved parking area at a cost of not less than \$50,000.00.

REMARKS:

The lessee, through his attorney, informs us in part as follows: "The reason for this request is that my client finds that due to the increase in the cost of construction, he will need some assistance in raising the capital necessary to develop the property leased according to his plans. Mr. and Mrs. Thompson will be assisting him." Accordingly, the reasons for assignment are (a) lessee is required to put in substantial building improvements and (b) economic hardship.

RECOMMENDATION:

That the Board approve the foregoing assignment of the general lease, subject to the compliance of all of the terms and conditions contained in said general lease.

EXHIBIT "B" ITEM F-1-j

FILED

2015 APR 20 PM 3: 22

5TH CIRCUIT COURT
STATE OF HAWAII

CLERK Coreena Olivas Brun

WALTON D. Y. HONG
Attorney-at-Law
A Law Corporation

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Lihue, HI 96766
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Attorney for Personal Representative

IN THE CIRCUIT COURT OF THE FIFTH CIRCUIT
STATE OF HAWAII

THE ESTATE)	P. NO. 14-1-0055
)	
OF)	ORDER APPROVING FINAL
)	ACCOUNTS AND DISTRIBUTING
HIROSHI AZEKA,)	AND SETTLING ESTATE
)	
DECEASED.)	Date: April 15, 2015
)	Time: 1:00 p.m.
)	Judge: Kathleen N.A.
)	Watanabe
)	

ORDER APPROVING FINAL ACCOUNTS
AND DISTRIBUTING AND SETTLING ESTATE

On April 15, 2015, the Petition for Approval of Final Accounts and Distribution and Complete Settlement of Estate, filed February 18, 2015, was heard. The Court finds:

1. Notice of the time and place of hearing the Petition was given to all interested persons as provided by law.
2. An inventory of the estate was filed on September 10, 2014, and an amended inventory filed on December 31, 2014.

EXHIBIT "C"

I do hereby certify that this is a full, true and correct copy of the original on file in this office.

Clerk, Circuit Court, Fifth Circuit

3. Notice to creditors was given in the manner provided by law.

4. All debts, expenses and Hawaii estate and transfer taxes have been paid.

5. The estate is in a condition to be closed.

6. The final accounts are correct.

7. Statutory Personal Representative's fees are waived, and statutory attorneys' fees and costs of \$ 2,674.72 are reasonable.

8. The property remaining in the estate includes, *inter alia*, the undivided one-half interest in State of Hawaii General Lease No. S-4575, for property at 3337 Nawiliwili Road, Lihue, Hawaii, more particularly identified as Kauai Tax Map Key: 3-2-04-14;

9. All property remaining in the estate should be distributed to Fran Shizuno Miyake, formerly known as Fran Shizuno Azeka.

IT IS ORDERED THAT:

1. The final accounts of the Personal Representative are approved.

2. The Personal Representative shall distribute the property of the estate to the person entitled, as set forth

above. Title to the above-described real property interest under State of Hawaii General Lease No. S-4575 shall be and hereby is vested in FRAN SHIZUNO MIYAKE, formerly known as Fran Shizuno Azeka.

3. The Personal Representative shall pay attorney's fees and costs of \$ 2,674.72.

4. Upon the filing of receipts showing distribution as provided herein, the appointment of the Personal Representative shall be terminated and the Personal Representative shall be discharged from any further claim or demand of any interested person.

DATED: Lihue, Hawaii, APR 20 2015.



KATHLEEN N.A. WATANABE

Judge of the above-entitled Court