

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

March 9, 2012

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

Hawai'i

Consent to Assign General Lease No. S-4664, Jack D. Umphrey and John D. Umphrey, Assignor, to J. D. Umphrey & B. A. Umphrey, Co-Trustees of The J. D. Umphrey & B. A. Umphrey Trust Dated April 7, 2004, Assignee, Waiakea, South Hilo, Hawaii Tax Map Key: 3rd/2-2-37:97.

APPLICANT:

Jack D. Umphrey and John D. Umphrey, as Assignor, to J. D. Umphrey & Barbara A. Umphrey, Co-Trustees of The J. D. Umphrey & B. A. Umphrey Trust dated April 7, 2004, as Assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Lot 4, Block 40, Waiakea Industrial Lots situated at Waiakea, South Hilo, Hawaii identified by Tax Map Key: 3rd/2-2-37:97, as shown on the attached map labeled Exhibit A.

AREA:

17,022 square feet, 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:

General industrial purposes.

TERM OF LEASE:

55 years, commencing on August 28, 1980 and expiring on August 29, 2035. Last rental reopening occurred on August 28, 2010; next rental reopening is scheduled for August 28, 2020.

ANNUAL RENTAL:

\$18,200.00.

CONSIDERATION:

\$ 10.00.¹

RECOMMENDED PREMIUM:

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

DCCA VERIFICATION:

The Assignors are individuals and the Assignees are co-trustees and, as such, are not required to register with DCCA.

REMARKS:

General Lease No. S-4664 was sold at public auction held on August 28, 1980 for the upset price of \$8,600.00 per annum to James E. Miles Construction, Inc. for a period of 55 years, expiring on August 28, 2035.

At its meeting of November 11, 1985, under agenda item F-1-j, the Board consented to the assignment of lease from James E. Miles Construction, Inc. as assignor to James E. Miles, an individual, as assignee.

¹ This assignment of lease is a transfer of property from one of the Lessees to their trust for estate planning purposes.

Further at its meeting of October 29, 1989, under agenda item F-1-h, the Board consented to the assignment of lease from James E. Miles, assignor to John D. Umphrey husband of Barbara A. Umphrey and Jack D. Umphrey, single, as assignees.

The Lessee is compliant with all the terms and conditions of the lease with regard to the liability insurance, fire/property insurance. The performance bond requirement was waived by the Board at its meeting of May 10, 1985 under agenda item F-2. Consistent with previous Board actions, staff is recommending that the Board reinstate the performance bond² as a requirement for this assignment request.

The purpose of this assignment is for estate planning purposes³. The Lessees propose to transfer this lease from Jack D. Umphrey and John D. Umphrey to the J. D. Umphrey & B. A. Umphrey Trust dated April 7, 2004.

Last rental reopening occurred on August 28, 2010; next rental reopening is scheduled for August 28, 2020. There are currently no outstanding rental reopening issues at this time.

The Lessee is current with all lease terms and conditions including rent, insurance and performance bond.

The 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 the assignment of General Lease No. S-4664 from Jack D. Umphrey and John D. Umphrey, as Assignor, to J. D. Umphrey & B. A. Umphrey, Co-Trustees of The J. D. Umphrey & B. A. Umphrey Trust dated April 7, 2004, 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 Section 18, page 10 of the lease states in part; Performance Bond. That the Lessee shall, at its own cost and expense, procure and deposit with the Lessor and thereafter keep in full force and effect during the term of this lease a good and sufficient surety bond, conditioned upon the full and faithful observance and performance by said Lessee of all the terms, conditions and covenants of this lease, in an amount equal to two times the annual rent then payable.

³ The Assignment of Lease document was signed on January 5, 2012, Lessee, Jack Umphrey passed away on January 23, 2012.

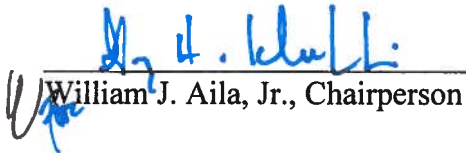
2. Re-instate the performance bond requirement in an amount equal to two times the annual rent;
3. Review and approval by the Department of the Attorney General; and
4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gordon C. Heit
District Land Agent

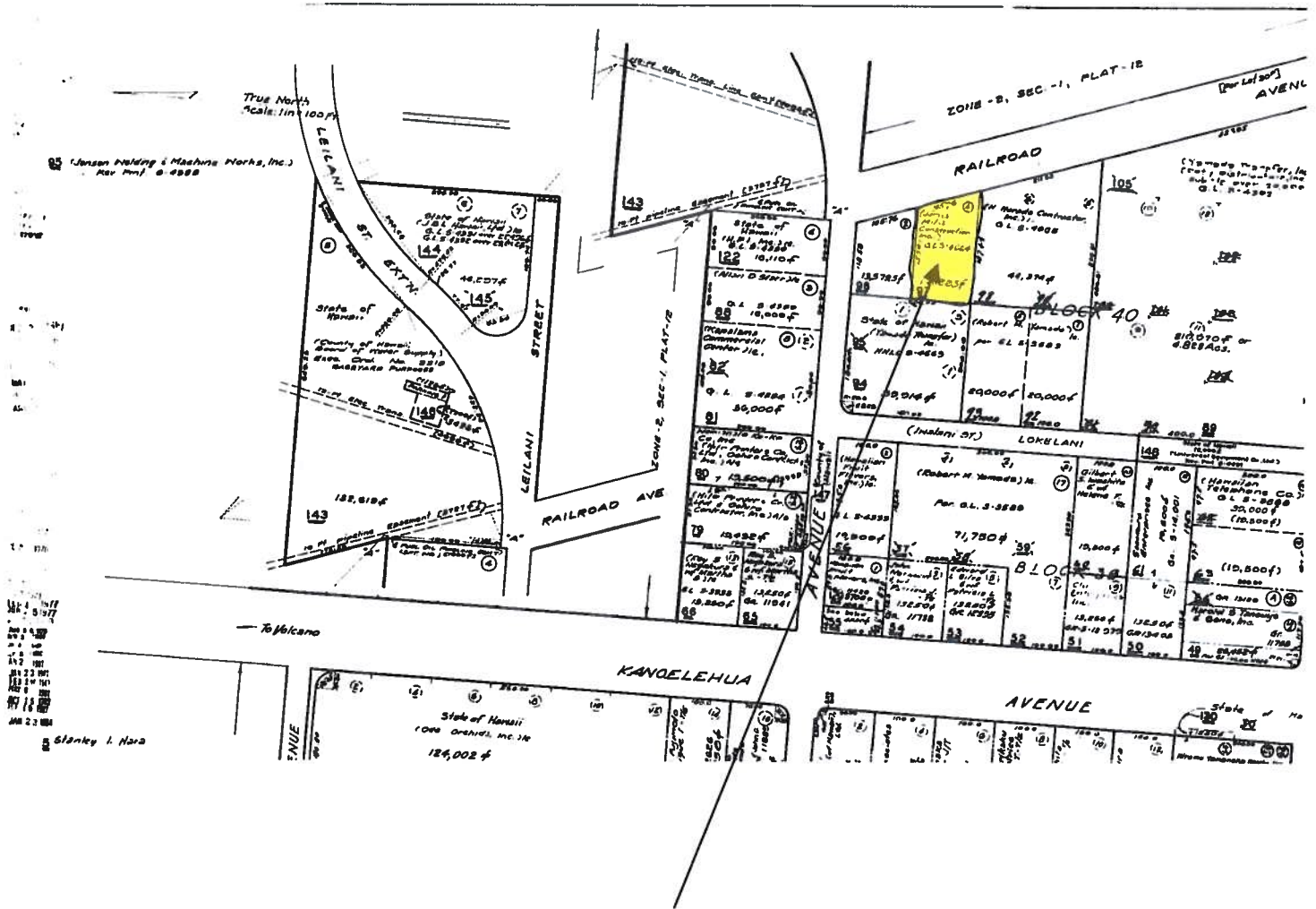
APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

EXHIBIT A

TMK: 3RD/2-2-37:97



**SUBJECT PROPERTY
GL S-4664**