

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

July 13, 2012

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

Kaua'i

Consent to Assign General Lease No. SP-0178 Dwight Ornellas, Assignor, to
George I. Kawamura and Elizabeth A. Kawamura, Assignees

APPLICANT:

Dwight Ornellas, Assignor, to George I. Kawamura and Elizabeth A. Kawamura,
Assignees

LEGAL REFERENCE:

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

LOCATION:

Lot 27, Waimea (Kona), Kaua'i, Tax Map Key: (4)1-4-004:030, as shown on the attached
legal description and survey map labeled Exhibit B.

AREA:

.65 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.

ITEM E-1

TERM OF LEASE:

20 years, commencing January 1, 2009, and expiring on December 31, 2029. There is one rental reopening scheduled after ten years.

ANNUAL RENTAL:

\$4,800.00.

CONSIDERATION:

\$10.00.

RECOMMENDED PREMIUM:

\$0.00.

DCCA VERIFICATION:

N/A because all persons involved are individuals and not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant/assignee shall prepare and submit fully executed assignment of lease.

REMARKS:

Mr. Ornellas held the previous lease covering the property. Act 223 (2008) and Board action directed staff to negotiate new leases with existing permit holders so the new lease was issued to Mr. Ornellas who now wishes to assign to Mr. and Mrs. Kawamura.

Staff recommends that a premium of \$0.00 be charged to the assignor as there was no consideration.

Lessee is in compliance with all lease terms and conditions. On September 4, 2009, Lessee was issued a notice of default due to not having liability insurance. The default was cured shortly thereafter and there were no other defaults.

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 received from any agency or the community.

The proposed assignment is attached as Exhibit A.

RECOMMENDATION:

That the Board consent to the Assignment of Lease No. SP-0178, attached as Exhibit A, from Dwight Ornellas, Assignor, to George I Kawamura and Elizabeth A. Kawamura, Assignees, 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,



DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson

Attachments

Exhibit A – Assignment Request**ASSIGNMENT OF GENERAL LEASE NO. SP-0178**

THIS ASSIGNMENT OF LEASE NO. SP-0178 is made by and between DWIGHT ORNELLAS, whose mailing address is 294 Kamalu Road, Kapaa, Kauai, Hawaii 96746, hereinafter called the "Assignor", and, GEORGE I. KAWAMURA and ELIZABETH A. KAWAMURA, husband and wife, whose mailing address is P. O. Box 264, Hanapepe, Kauai, Hawaii 96716, hereinafter called the "Assignee".

The Assignor, in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration paid to the Assignor by the Assignee, the receipt of which is acknowledged, and of the covenants and agreements contained herein on the part of the Assignee to be observed and performed, sells and assigns unto the Assignee, as tenants by the entirety with full rights of survivorship, their heirs and assigns, the lease described in Exhibit "A" and as shown on the map marked Exhibit "B", attached hereto and made a part hereof, hereinafter called the "Lease".

TO HAVE AND TO HOLD the Lease and all the right, interest and estate of the Assignor in and to the premises demised by and described in the Lease, and all buildings, improvements, rights, privileges, TO HAVE AND TO HOLD the Lease and all the right, interest and estate of the Assignor in and to the premises demised by and described in the Lease, and all buildings, improvements, rights, privileges, and appurtenances belonging or appertaining to or held and enjoyed in connection with the Lease, unto the Assignee according to the tenancy set forth herein for and during the unexpired term of the Lease, subject, however, to the payment of the rents reserved by the Lease, to the covenants and conditions contained in the Lease which are to be observed and performed by the Lessee named in the Lease, and to the encumbrances, exceptions, and reservations set forth in Exhibit "A".

The Assignor covenants with the Assignee that the Assignor is the lawful owner of the Lease; that the Lease is in full force and effect in accordance with its terms and is not in default in any respect; that the Lease and leasehold estate are free and clear of and from all liens and encumbrances, except for the lien of real property taxes not yet by law required to be paid and except as set forth herein; that the Assignor has good right to sell and assign the Lease; and that the Assignor will WARRANT AND DEFEND the Lease unto the Assignee against the lawful claims and demands of all persons, except as aforesaid.

The Assignee covenants with the Assignor that the Assignee will pay the rents reserved by the Lease as and when the rents become due and payable and will faithfully observe and perform all the covenants and conditions contained in the Lease which are to be observed and performed by the lessee named in the Lease and will indemnify the Assignor against the nonpayment of the rents and the nonobservance or nonperformance of the covenants and conditions contained in the Lease.

This instrument and the respective covenants of the Assignor and the Assignee shall be binding upon and inure to the benefit of the Assignor and the Assignee, respectively. The terms "Assignor" and "Assignee" as and when used herein, or any pronouns used in place thereof, shall

mean and include the singular or plural number, individuals, partnerships, trustees and corporations, and each of their respective heirs, personal representatives, successors and assigns. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed herein.

The parties agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and the counterparts shall together constitute one and the same instrument, binding all parties notwithstanding that all of the parties are not signatory to the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

The parties agree that this Assignment of General Lease No. SP-0178 shall be dated this 2nd day of April, 2012.


DWIGHT ORNELLAS

Assignor


GEORGE I. KAWAMURA


ELIZABETH A. KAWAMURA

Assignee

Exhibit B - Description of the Property



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.P. No. KAUAI FILE
FOLDER 3

November 2, 1966

KOKEE CAMP SITE LOTS

LOT 27

Waimea (Kona), Kauai, Hawaii

Being a portion of Kokee Park
(Governor's Executive Order 1509)

Beginning at a pipe at the easterly corner of this lot, the northerly corner of Lot 26 of Kokee Camp Site Lots, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KOKEE" being 173.66 feet North and 539.71 feet East, as shown on H.S.S. Plat 3096, thence running by azimuths measured clockwise from True South:-

- 1. 46° 27' 155.21 feet along Lot 26 of Kokee Camp Site Lots to a pipe;
- 2. 126° 31' 30" 177.21 feet along the remainder of Kokee Park (Governor's Executive Order 1509) to a pipe;
- 3. 214° 56' 142.05 feet along the remainder of Kokee Park (Governor's Executive Order 1509) to a pipe;
- 4. 303° 31' 30" 208.20 feet along the remainder of Kokee Park (Governor's Executive Order 1509) to the point of beginning and containing an Area of 0.63 Acre.

EXCEPTING AND RESERVING to the State of Hawaii, its successors and assigns, a dirt roadway, over and across the above-described Lot 27, as shown on plan attached hereto and made a part hereof.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

Compiled from maps by
Henry Sumida and Associates,
Inc. and Govt. Survey Records.

By: Alvin Taga
Alvin Taga
Land Surveyor bys

SK (Surveyor's) J. Christensen
D. G. S. O. G. S. Accepted EXHIBIT "A"

