

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

August 10, 2012

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

GL No. SP0159

Kaua'i

Consent to Assign and Approval to Amend General Lease No. SP0159, Harwood Williamson and Nancy Williamson, Assignor, to Harwood Williamson, Nancy Williamson, and Thomas B. Williamson, Assignees, Waimea Canyon State Park, Waimea (Kona), Kaua'i, Hawai'i TMK: (4) 1-4-003:013

APPLICANT:

Harwood Williamson and Nancy Williamson, Assignor, to Harwood Williamson, Nancy Williamson, and Thomas B. Williamson, Assignees.

LEGAL REFERENCE:

Section 171-36(a)(5) and 184-3, Hawaii Revised Statutes, as amended.

LOCATION:

Lot 15, Waimea (Kona), Kauai, Tax Map Key: (4) 1-4-003-013, as shown on the attached map labeled Exhibit A.

AREA:

1.82 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

Item E-2

CHARACTER OF USE:

Recreation - residence.

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:

\$8,000.00.

CONSIDERATION:

\$1.00.

RECOMMENDED PREMIUM:

None.

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:

Harwood and Nancy Williamson held the previous lease covering the property.

Act 223 (SLH2008) and board action directed staff to negotiate new leases with existing permit holders so the new lease was issued to Harwood and Nancy Williamson who now wish to assign back to themselves and to Thomas B. Williamson. Staff recommends that no premium be charged for the assignment.

In reviewing the proposed assignment, staff has discovered two errors in the lease: Attachment Exhibit A contains the incorrect lot description and attachment Exhibit B indicates the incorrect lot as depicted on the map. The lot incorrectly listed is Lot 53 in Pu'u ka Pele instead of the correct Lot 15, Halemanu Valley, Kōke'e Campsites Lots. The tax map key references and the lot references in the body of the lease are correct.

Secondly, the termination date should be 12/31/2028 in order for the lease reflect a 20 year term. The listed expiration date is 12/31/29 which contemplates 21 years and is inconsistent with Act 223 and other term references in the lease.

Lessee is in compliance with all lease terms and conditions. There have been no prior defaults. Assignees have 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.

RECOMMENDATION:

That the Board consent to the assignment of General Lease No. SP0159 from Harwood and Nancy Williamson, Assignors, to Harwood Williamson, Nancy Williamson, and Thomas B. Williamson, Assignees, and that the Board consent to the amendment of the lease to correct the lot description and the term as described above, subject to the following:

1. that no premium to be charged;
2. the standard terms and conditions of the most current consent to assignment form and amendment form, as may be amended from time to time;
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,



DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson

August 10, 2012

ORIGINAL

Return by Mail (X) Pickup () To:
Mr. & Mrs. Harwood Williamson
2659 Tantalus Drive
Honolulu, HI 96813

Document contains 9 pages

Tax Map Key: (4) 1-4-003-013

LIMITED WARRANTY ASSIGNMENT OF GENERAL LEASE NO. SP-0159

HARWOOD WILLIAMSON (aka Harwood D. Williamson) and NANCY WILLIAMSON, husband and wife, of Honolulu, Hawaii, hereinafter called the "Assignors", in consideration of One Dollar (\$1.00) to them paid, the receipt of which is hereby acknowledged, and of love and affection, do hereby assign, transfer and set over unto HARWOOD WILLIAMSON (aka Harwood D. Williamson), husband of Nancy Williamson, and NANCY WILLIAMSON, wife of Harwood Williamson, both of whose address is 2659 Tantalus Drive, Honolulu, Hawaii 96813, and THOMAS B. WILLIAMSON, husband of Mary F. Williamson, whose address is P. O. Box 455, Kalaheo, Hawaii 97401, hereinafter called the "Assignees", as joint tenants with full rights of survivorship:

ALL of that certain General Lease No. SP-0159 (herein the "Lease") described in Exhibit "A" attached hereto and made a part hereof, subject, however, to the encumbrances (if any) mentioned in said Exhibit "A";

TO HAVE AND TO HOLD the same unto the Assignees as joint tenants as aforesaid, for the unexpired residue of the term of the Lease, subject to the encumbrances (if any) mentioned in said Exhibit "A";

AND the Assignors, for themselves, and their respective heirs and personal representatives, hereby covenant with the Assignees, their respective heirs, personal representatives and assigns: THAT the Assignors have good right to sell and assign the Lease and the premises demised thereunder unto the Assignees as herein set forth and that the same are free and clear of and from all encumbrances made or suffered by the Assignors;

AND the Assignees hereby acknowledge, verify and confirm that the Assignees have reviewed and fully understands all the material terms, covenants and conditions of the Lease, and in consideration of the premises, the Assignees hereby covenant with (1) the Assignors, and (2) the lessor under the Lease, and their respective heirs, personal representatives, successors and assigns: THAT the Assignees will pay the rent reserved by the Lease and will observe and perform all of the covenants and agreements in the Lease contained and on the part of the lessee thereunder to be paid, observed and performed, and will indemnify and keep the Assignors and the lessor under the Lease indemnified against all claims, demands, damages, costs, counsel fees and expenses by reason of any breach of these covenants.

The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or 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 REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Assignors and the Assignees have executed this instrument this 18th day of February, 2010.

HARWOOD WILLIAMSON
(aka Harwood D. Williamson)

By: Nancy H. Williamson
Nancy Williamson
His Attorney-in-Fact

Nancy Williamson
NANCY WILLIAMSON

Assignors

HARWOOD WILLIAMSON
(aka Harwood D. Williamson)

By: Nancy H. Williamson
Nancy Williamson
His Attorney-in-Fact

Nancy Williamson
NANCY WILLIAMSON

Thomas B. Williamson
THOMAS B. WILLIAMSON

Assignees

[ASSIGNOR]

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 4 day of Feb, 2010, before me personally appeared NANCY WILLIAMSON, Attorney-in-Fact for Harwood Williamson (aka Harwood D. Williamson), to me known or proven on the basis of satisfactory evidence to be such person, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: [Signature]
Name: MICHELLE C.L. CHING
Notary Public, State of Hawaii

My commission expires: APRIL 17, 2012

ss

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description: Limited Warranty Assignment of General Lease No. SP-0159, covering land situate at Waimea (Kona), Kauai, Hawaii, and identified by Tax Map Key No. (4) 1-4-003-013.	
<input type="checkbox"/> Doc. Date: <u>N/A</u>	or <input checked="" type="checkbox"/> Undated at time of notarization
No. of Pages: <u>8</u>	Jurisdiction: First Circuit
(in which notarial act is performed)	
<u>[Signature]</u>	<u>Feb. 4, 2010</u>
Signature of Notary	Date of Notarization and Certification Statement
<u>MICHELLE C.L. CHING</u>	(Official Stamp or Seal)
Printed Name of Notary	

ss

[ASSIGNOR]

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 4 day of FEB., 2010, before me personally appeared NANCY WILLIAMSON, to me known or proven on the basis of satisfactory evidence to be such person, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: [Signature]
Name: MICHELLE C. L. CHING
Notary Public, State of Hawaii

My commission expires: APRIL 24, 2012

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Limited Warranty Assignment of General Lease No. SP-0159, covering land situate at Waimea (Kona), Kauai, Hawaii, and identified by Tax Map Key No. (4) 1-4-003-013.

Doc. Date: N/A or Undated at time of notarization

No. of Pages: 0 Jurisdiction: First Circuit
(in which notarial act is performed)

Signature of Notary [Signature] Date of Notarization and Certification Statement FEB. 4, 2010

MICHELLE C.L. CHING (Official Stamp or Seal)
Printed Name of Notary

[ASSIGNEE]

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 4 day of FEB., 2010, before me personally appeared NANCY WILLIAMSON, Attorney-in-Fact for Harwood Williamson (aka Harwood D. Williamson), to me known or proven on the basis of satisfactory evidence to be such person, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

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Signature: [Signature]
Name: MICHELLE CL CHING
Notary Public, State of Hawaii

My commission expires: APRIL 27, 2012

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description: Limited Warranty Assignment of General Lease No. SP-0159, covering land situate at Waimea (Kona), Kauai, Hawaii, and identified by Tax Map Key No. (4) 1-4-003-013.	
<input type="checkbox"/> Doc. Date: <u>N/A</u>	or <input checked="" type="checkbox"/> Undated at time of notarization
No. of Pages: <u>0</u>	Jurisdiction: First Circuit (in which notarial act is performed)
<u>[Signature]</u> Signature of Notary	<u>FEB. 4, 2010</u> Date of Notarization and Certification Statement
<u>MICHELLE C. L. CHING</u> Printed Name of Notary	(Official Stamp or Seal)

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[ASSIGNEE]

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 4 day of FEB., 2010, before me personally appeared NANCY WILLIAMSON, to me known or proven on the basis of satisfactory evidence to be such person, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: [Signature]
Name: MICHELLE C.L. CHING
Notary Public, State of Hawaii

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My commission expires: APRIL 27, 2012

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT	
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<input type="checkbox"/> Doc. Date: <u>N/A</u> or <input checked="" type="checkbox"/> Undated at time of notarization	
No. of Pages: <u>8</u>	Jurisdiction: First Circuit (in which notarial act is performed)
<u>[Signature]</u> Signature of Notary	<u>FEB. 4, 2010</u> Date of Notarization and Certification Statement
<u>MICHELLE C.L. CHING</u> Printed Name of Notary	(Official Stamp or Seal)

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[ASSIGNEE]

STATE OF HAWAII)
) SS.
COUNTY OF KAUAI)

On this 18 day of February, 2010, before me personally appeared **THOMAS B. WILLIAMSON**, to me known or proven on the basis of satisfactory evidence to be such person, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: Debra J. Orsatti
Name: Debra J Orsatti
Notary Public, State of Hawaii

L.S

My commission expires: 10/16/2011

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description: Limited Warranty Assignment of General Lease No. SP-0159, covering land situate at Waimea (Kona), Kauai, Hawaii, and identified by Tax Map Key No. (4) 1-4-003-013.	
<input type="checkbox"/> Doc. Date: <u>N/A</u> or <input checked="" type="checkbox"/> Undated at time of notarization	
No. of Pages: <u>0</u>	Jurisdiction: Fifth Circuit (in which notarial act is performed)
<u>Debra J Orsatti</u> Signature of Notary	<u>2/18/2011</u> Date of Notarization and Certification Statement
<u>Debra J Orsatti</u> Printed Name of Notary	(Official Stamp or Seal) <u>L.S</u>

ALL of that certain unrecorded General Lease No. SP-0159 dated October 29, 2008, made by and between the State of Hawaii, as Lessor, by its Board of Land and Natural Resources, the Board, and Harwood Williamson and Nancy Williamson, as Lessee, as the same is or may be amended from time to time, on file in the Office of the Board of Land and Natural Resources, covering LOT 15, containing an area of 1.82 acres, more or less, situate at Waimea (Kona), Island and County of Kauai, State of Hawaii, designated by Tax Map Key No. (4) 1-4-003-013.

SUBJECT, HOWEVER, to:

1. The reservations, covenants and agreements as contained in said General Lease.
2. All other encumbrances affecting the premises as of the date of this instrument.

Said General Lease being at the rents and on the conditions set forth therein;

And all of the estate, right, title and interest of the Assignors in the demised premises, and all buildings and improvements thereon.

EXHIBIT "A"