

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

December 14, 2012

Ref. No.: GLS-5231

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

HAWAII

Consent to Assign General Lease No. S-5231, Moanikeala Kaupiko, Assignor, to Malia Wainuhea Wheeler, Assignee, Milolii-Hoopuloa, South Kona, Hawaii, Tax Map Key: (3) 8-9-014:057.

APPLICANT:

Moanikeala Kaupiko, as Assignor, to Malia Wainuhea Wheeler, as Assignee.

LEGAL REFERENCE:

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

LOCATION AND AREA:

Portion of Government lands of Milolii-Hoopuloa, Lot 8, Phase III, situated at, Hoopuloa, South Kona, Hawaii, identified by Tax Map Key: 3rd/ 8-9-14: 57, consisting of approximately .2296 acres, as shown on the attached map labeled **Exhibit A**.

AREA:

.2296 acres, or 10,000 s.f., 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:

Residential purposes.

TERM OF LEASE:

65-years, commencing on June 1, 1992 and expiring on May 31, 2057. First rental reopening is scheduled for June 1, 2017.

ANNUAL RENTAL:

\$132.00.

CONSIDERATION:

\$ 50,000.00.

RECOMMENDED PREMIUM:

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

DCCA VERIFICATION:

ASSIGNOR:

Not applicable, assignor is an individual and, as such, is not required to register with DCCA.

ASSIGNEE:

Not applicable, assignee is an individual and, as such, is not required to register with DCCA.

REMARKS:

Act 62, Session Laws of Hawaii 1982, as amended by Act 83, Session Laws of Hawaii 1984, authorized the Department of Land and Natural Resources to negotiate and enter into long term leases to persons residing in Milolii who were dispossessed or displaced as a result of the 1926 volcanic eruption of Mauna Loa on the Island of Hawaii. Act 362, Session Laws of Hawaii 1987, as amended by Act 68, Session Laws of Hawaii 1989, and Act 86, Session Laws of Hawaii 1991, extended the sunset date to January 1, 1989, providing sufficient time to process Phase III of the Milolii-Hoopulua Lots.

At its meeting of July 22, 1988, Item F-3, the Board approved the direct lease for residential purposes at Milolii-Hoopulua Lots, Phase III, Hoopulua, South Kona, Hawaii. On August 14, 1992, Lynelle Kuulei Paulo was issued a direct residential lease encumbered under General Lease Number S-5231.

Due to financial hardships experienced, Ms. Lynelle Paulo fell delinquent on her mortgage payments. Unable to bring current the mortgage payments, the Housing and Community Development Corporation of Hawaii (HCDCH), on behalf of First Hawaiian Bank, filed for foreclosure. On August 30, 2004, the Honorable Judge Ronald Ibarra, under Civil No. 03-1-0130K, in the Circuit Court of the Third Circuit, granted Plaintiff, HCDCH's Motion for Confirmation of Sale, Distribution of Proceeds, and For Writ of Possession of General Lease No. S-5231. A foreclosure auction for the subject Milolii property was held on June 7, 2004 at 12 o'clock noon, at the flagpole on the grounds fronting Hale Kahawai Park, Alii Drive, Kailua-Kona, Hawaii. Moanikeala Kaupiko was the successful bidder of General Lease No. S-5231 at the public auction. The Commissioner's Assignment of Lease, between Susan M. Kim, Commissioner, as Assignor, to Moanikeala Kaupiko, as Assignee, was recorded with the Bureau of Conveyances on September 29, 2004.

By letter dated November 13, 2012, Ms. Moanikeala Kaupiko, requested the consent to assignment of General Lease No. S-5231 to her cousin, Malia Wainuhea Wheeler. The reason for the assignment of the lease is that Ms. Kaupiko no longer intends to reside in Milolii, and as a result, would like to assign the lease to someone wanting to reside in Milolii. Staff received a completed Milolii Residential Lease Application, executed Assignment of Lease document, Birth Certificate, and Tax Clearances for Malia Wainuhea Wheeler.

Upon review of Malia Wheeler's application, it was determined that Ms. Wheeler is a qualified applicant for a Milolii residential lease as evidenced by her Certificate of Birth.

Malia Wainuhea Wheeler 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.

No government agencies or interest groups we solicited for comments as the assignment of this lease will not involve a new disposition or change in land use.

Staff reviewed the file and can report that for the past two (2) years, annual rent has been current. A notice of default was sent on 10/03/11 for liability insurance, but, it was cured within the required 30 days. Records indicate that the liability insurance is current with an expiration of August 19, 2013. A cash bond in the amount of \$264 is deposited with Budget and Finance. The Lessee has never been cited for any other illegal or unlawful activity on the State property.

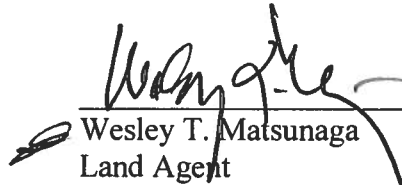
The first rental reopening is scheduled for 6/01/2017. There is no outstanding rental reopening issues.

RECOMMENDATION:

That the Board consent to the assignment of General Lease No. S-5231 from Moanikeala Kaupiko, as Assignor, to Malia Wainuhea Wheeler, as Assignee, subject to the following:

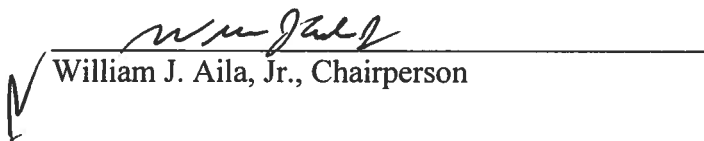
1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

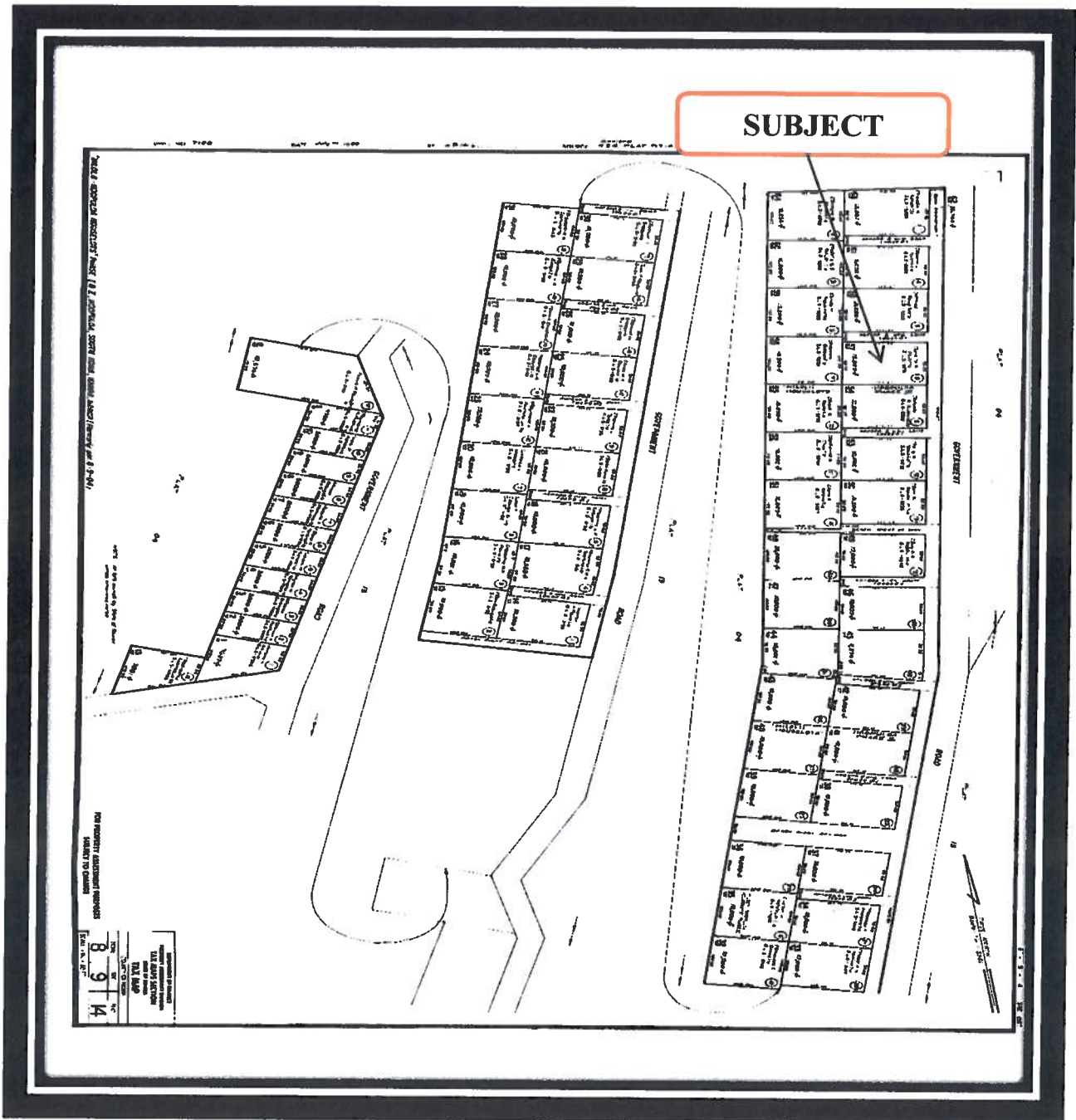


EXHIBIT A