

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

December 13, 2013

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

Kaua'i

Consent to Assign General Lease No. SP0136 Barbara Putzier, Assignor, to the Barbara Clare Childers Trust, Assignee, Lot 22, Kōke'e Campsites Lots, Waimea (Kona), Kaua'i, Hawai'i, TMK: (4) 1-4-004:013

APPLICANT:

Barbara Putzier, Assignor, to Barbara Clare Childers Trust, Assignee.

LEGAL REFERENCE:

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

LOCATION:

Lot 22, Kōke'e Campsites Lots, Waimea (Kona), Kaua'i, Tax Map Key: (4)1-4-004:013, as shown on the attached legal description and survey map labeled Exhibit A.

AREA:

.51 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:

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

ANNUAL RENTAL:

\$5,950.00.

CONSIDERATION:

\$10,000.

RECOMMENDED PREMIUM:

\$5,000.

DCCA VERIFICATION:

Not required. Applicant is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant/Assignee shall prepare and submit a performance bond as described in the lease or post the cash equivalent and meet other requirements as described herein.

REMARKS:

Ms. Putzier entered in to the lease cited above effective January 6, 2009 as a result of direct negotiations with the Department of Land and Natural Resources (DLNR) pursuant to Act 223 SLH 2008 and held the previous lease covering the property. She desires to assign the lease to Ms. Childer's trust for a total consideration of \$10,000. Pursuant to the Board's Assignment of Lease Evaluation Policy effective May 24, 1989 (and attached to the lease as Exhibit C), a premium of fifty percent or \$5,000 is due in accordance with the Premium Percentages listed in Schedule C.

Lessee is in compliance with the lease terms and conditions of the lease with one exception. Pursuant to paragraph 18 of the lease, lessee is required to post a performance bond in the amount equal the annual rent of \$5,950. Although the file indicates a document labeled "Surety Bond" and is signed by two personal sureties, there is no documentation as to the justification for the sureties pursuant to paragraph 28 of the lease. Therefore, staff recommends that any assignment be conditioned upon the lessee providing proper security pursuant to paragraph 28, or in the alternative, lessee may post a cash bond pursuant to paragraph 18.

Staff also notes that the term of the lease is for a period of 20 years commencing January 1, 2009. On the first page of the lease, however, the termination date is listed as December 31, 2029 in error. This would indicate a 21 year lease and is inconsistent with Act 223. Upon consultation with the Department of the Attorney General, staff recommends a simple amendment can be made to the lease correcting the termination date to read December 31, 2028. Staff recommends this be completed simultaneously with the other documents and/or payments necessary for the assignment.

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.

RECOMMENDATION:

That the Board consent to the Assignment of General Lease No. SP0136, from Barbara Putzier, Assignor, to the Barbara Clare Childers Trust, Assignee, subject to the terms and conditions herein, which are hereby incorporated by this reference and further subject to the following:

1. That the lessee or assignee deliver a surety bond with adequate security pursuant to paragraphs 18 and 28 of the lease prior to the completion of the consent agreement;
2. That the lease be amended to correct the termination date to read December 31, 2028;
3. The payment of the assignment premium of \$5,000.00;
4. The standard terms and conditions of the most current consent and/or amendment to lease forms, as may be amended from time to time;
5. Review and approval by the Department of the Attorney General; and,
6. 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

Exhibit A – Legal Description and Survey Map



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

~~C.S.P. No.~~ KAUAI FILE
FOLDER 3

November 2, 1966

KOKEE CAMP SITE LOTS

LOT 22

Wainea (Kona), Kauai, Hawaii

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

Beginning at a pipe at the southwest corner of this lot, the northwest corner of Lot 8 of Kokee Camp Site Lots, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KOKEE" being 1721.08 feet North and 1086.28 feet East, as shown on H.S.S. Plat 3096, thence running by azimuths measured clockwise from True South:-

- 1. 215° 33' 104.79 feet along the remainder of Kokee Park (Governor's Executive Order 1509) to a pipe;
- 2. 206° 19' 30" 94.70 feet along the remainder of Kokee Park (Governor's Executive Order 1509) to a pipe;
- 3. 272° 16' 74.61 feet along the remainder of Kokee Park (Governor's Executive Order 1509) to a pipe;
- 4. 13° 22' 211.81 feet along the remainder of Kokee Park (Governor's Executive Order 1509) to a pipe;
- 5. 56° 48' 46.24 feet along the remainder of Kokee Park (Governor's Executive Order 1509) to a pipe;
- 6. 125° 33' 30" 110.39 feet along Lot 8 of Kokee Camp Site Lots to the point of beginning and containing an Area of 0.51 Acre.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Atsira Taga
Atsira Taga
Land Surveyor

by

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

IBM Cl: (g. 22) Area Cord Chr

EXHIBIT "A"

