

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

May 13, 2016

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

SP0152

Kaua'i

Amendment of General Lease No. SP0152, Anna Thuente, widow, Miles Kawamoto, husband of Kareen Kawamoto, Michael Zins , husband of Barbara Zins and Gary Miller, husband of Carol Miller, Lessees, Waimea Canyon State Park, Lot 84, Pu'u KaPele , Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-002:086, The Purpose of the Amendment is to Correct the Termination Date to Read December 31, 2028;

Consent to Assign General Lease No. SP-0152, Anna Thuente, widow, Miles Kawamoto, husband of Kareen Kawamoto, Michael Zins , husband of Barbara Zins and Gary Miller, husband of Carol Miller, Assignors, to Anna Thuente, widow, Assignee, Waimea Canyon State Park, Lot 84, Pu'u KaPele , Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-002:086.

APPLICANT:

Anna Thuente, widow, Miles Kawamoto, husband of Kareen Kawamoto, Michael Zins , husband of Barbara Zins and Gary Miller, husband of Carol Miller, Assignors, to Anna Thuente, widow, Assignee,

LEGAL REFERENCE:

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

LOCATION:

Lot 84, Pu'u Ka Pele, Waimea (Kona), Kauai, Tax Map Key: (4) 1-4-002-086, as shown on the attached legal description and survey map labeled Exhibit A.

AREA:

.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

CHARACTER OF USE:

Recreation - residence.

TERM OF LEASE:

20 years, commencing January 1, 2009, and expiring on December 31, 2028. There is one rental reopening scheduled after ten years.

ANNUAL RENTAL:

\$6,500.00.

CONSIDERATION:

\$10.00.

RECOMMENDED PREMIUM:

None.

DCCA VERIFICATION:

Not applicable. Applicants are individuals and not required to register with DCCA.

APPLICANT REQUIREMENTS:

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

REMARKS:

Anna Thuente had initially held the lease covering the subject property under SP0152 effective January 6, 2009 as a result of direct negotiations with the Department of Land and Natural Resources (DLNR) pursuant to Act 223 (SLH2008). Anna held the previous lease covering the property and a revocable permit immediately prior to the new lease being issued.

Subsequently, the Board at its meeting on July 22, 2009, under item E-11 approved the request to assign lease from Anna Thuente to Anna Thuente, Miles Kawamoto, Michael Zins and Gary Miller. Staff recommends that no premium be charged for the assignment.

By way of a letter along with a copy of the Assignment of Lease Document from the Applicants attorney dated March 10, 2016, State Parks was informed that the Applicants are again requesting the Board's approval to assign the lease from Anna Thuente, Miles Kawamoto, Michael Zins and Gary Miller, Assignors to Anna Thuente, widow, Assignee.

In reviewing the proposed assignment, staff 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, a simple amendment can be made to the lease by correcting the termination date to read December 31, 2028. Staff recommends this be completed simultaneously with the other documents 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.

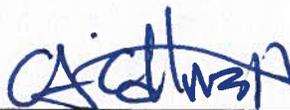
No comments have been solicited or received from any agency or the community.

Staff has no objections to this request

RECOMMENDATION:

That the Board consent to the Assignment of General Lease No. SP0152, Anna Thuente, widow, Miles Kawamoto, husband of Kareen Kawamoto, Michael Zins , husband of Barbara Zins and Gary Miller, husband of Carol Miller, Assignors, to Anna Thuente, widow, Assignee, subject to the terms above which are hereby incorporated by reference and further subject to the following:

- a. That the lease be amended to correct the termination date to read December 31, 2028;
- b. The standard terms and conditions of the most current consent and/or amendment to lease forms, as may be amended from time to time;
- c. Review and approval by the Department of the Attorney General; and,
- d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.



CURT A. COTTRELL
State Parks Administrator

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson

