

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

January 27, 2017

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

Kaua'i

Amendment of General Lease No. SP0125, Robert Miller, Lessee, Waimea Canyon State Park, Lots 42 and 44, Koke'e Camp Site Lots, Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-004:004. The Purpose of the Amendment is to Correct the Termination Date to Read December 31, 2028 and to Correct the Rent Reopening Date to Read the end of December 2018;

Consent to Assign General Lease No. SP-0125, Robert Miller, Assignor, to Matthew Guard, Assignee, Waimea Canyon State Park, Lots 42 and 44, Koke'e Camp Site Lots, Waimea (Kona), Kaua'i, Hawai'i, TMK: (4) 1-4-004:004.

APPLICANT:

Robert Miller, Assignor, to Matthew Guard, Assignee. sole proprietor.

LEGAL REFERENCE:

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

LOCATION:

Lots 42 and 44, Koke'e Camp Site Lots, Waimea (Kona), Kaua'i, TMK: (4)1-4-004:004, as shown on the attached legal description and survey map labeled Exhibit A.

AREA:

1.44 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:

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

ANNUAL RENTAL:

\$5,450.

CONSIDERATION:

None

RECOMMENDED PREMIUM:

\$0.00.

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS:

Applicant/Assignee shall prepare and submit fully executed assignment of lease and meet other requirements as described herein.

REMARKS:

Robert Miller, entered in to a lease under General Lease No. SP0125 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. Robert Miller held the previous lease covering the property and a revocable permit immediately prior to the new lease being issued.

By way of a letter dated September 7, 2016, Robert Miller had informed State Parks that he has enjoyed spending many years at the Kokee cabin , however, both he and his daughter now reside on the mainland, but wishes to keep the use of the cabin in the family by transferring the lease over to his great nephew Matthew Guard.

Lessee is in compliance with the rent as well as the liability insurance required pursuant to the terms of the lease.

Staff inspected the subject property on January 10, 2017 and found it to be in substantially the same order, condition and repair as upon the commencement of the lease.

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 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. SP-0125, Robert Miller, Assignor, to Matthew Guard, 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.

Respectfully submitted,

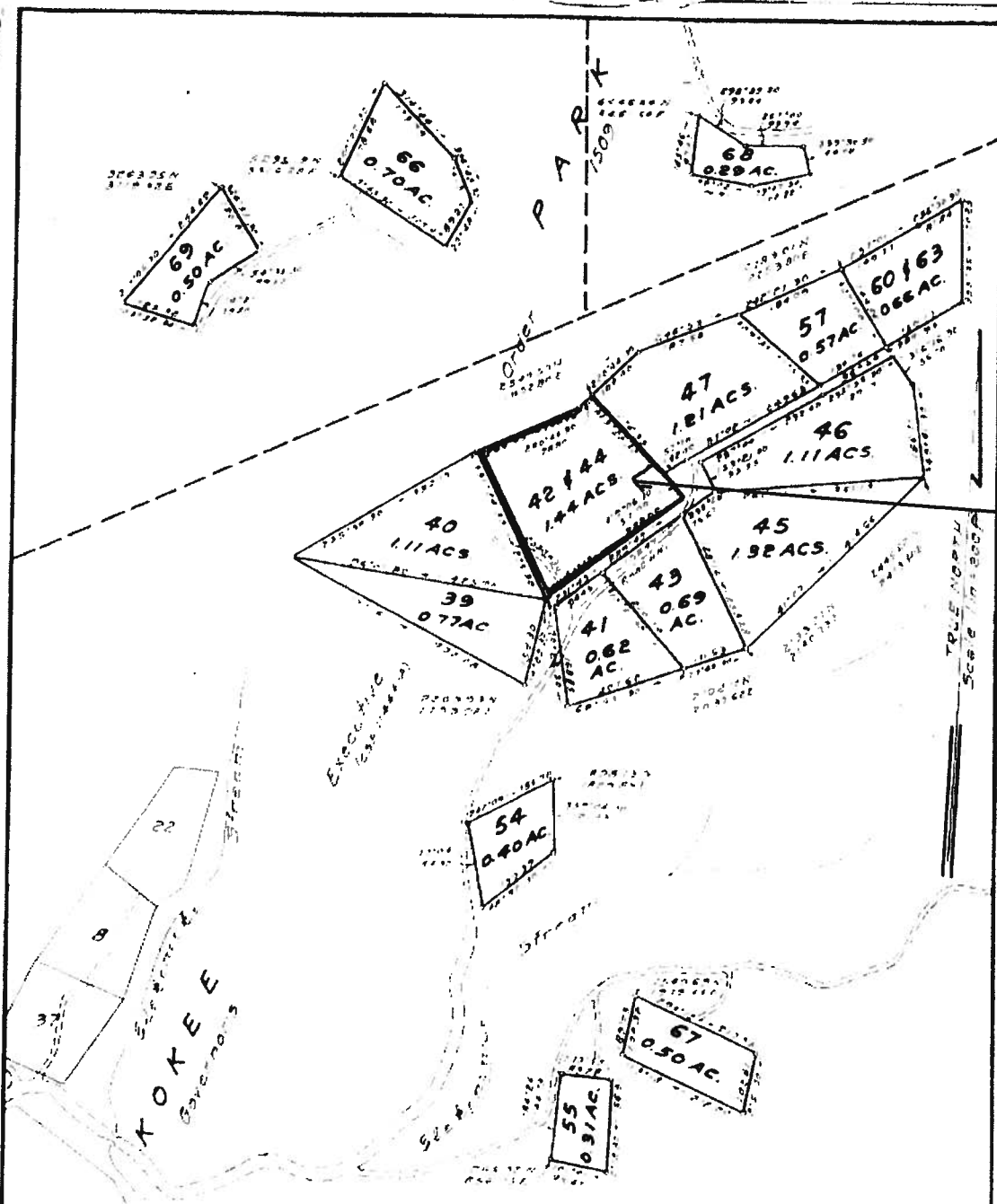


CURT A. COTTRELL
State Parks Administrator

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson



SUBJECT

KOKEE CAMP SITE LOTS
LOTS 39, 40, 41, 42, 43, 45, 46, 47,
54, 55, 57, 60/63, 66, 67, 68 AND 69

Waimea, (Kona) Kauai, Hawaii

Scale: 1 inch = 200 feet

EXHIBIT "A"

JOB # 4672
 C. BK

All corners marked with pipes
 Coordinates referred to KOKEE "A"

TAX MAP # 4 04
 KAUI FILE
 FOLDER 3

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

Sheet 2 of 7 sheets

A.T. Nov. 2, 1966