

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

March 10, 2017

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

Kaua'i

Forfeiture of General Lease No. SP0140, Dennis Riker and Paul Kyno, Lessees, Kōke'e State Park, Waimea (Kona), Kaua'i, Tax Map Key: 4th/1-4-004:060

REQUEST:

Forfeiture of General Lease No. SP0140, Dennis Riker and Paul Kyno, Lessees.

LEGAL REFERENCE:

Section 171-39 Hawaii Revised Statutes, as amended.

LOCATION:

Lot 81, Kōke'e Campsites Lots, Kōke'e State Park, Waimea (Kona), Kaua'i, identified by Tax Map Key: (4) 1-4-004 Parcel 060, as shown on the attached property description and map labeled Exhibit A.

AREA:

.55 acres, more or less, subject to confirmation by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Conservation
The property is zoned CN, Neighborhood Commercial.

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-1

CURRENT USE STATUS:

Encumbered by General Lease No. SP0140 to Dennis Riker and Paul Kyno, Lessees, and encumbered by Governor's Executive Order No. 2209.

CHARACTER OF USE:

Recreation - residence.

LEASE TERM:

Twenty (20) years commencing on the first day of January 2009, up to and including the 31st day of December, 2028.

ANNUAL RENTAL:

For the first ten (10) years, the sum of FOUR THOUSAND FIVE HUNDRED AND NO/DOLLARS (\$4,500) per annum.

REMARKS:

Lessee's Dennis Riker and Paul Kyno are lessees of General Lease No. SP0140 effective January 6, 2009 covering Lot 81 in Kōke'e State Park. The term of the lease is for 20 years, which will expire on December 31, 2028

On November 17, 2016, State Parks issued a Notice of Default as follows:

Pursuant to the breach provision (Par. 21) contained in General Lease SP-0140. Dennis Riker and Paul Kyno, Lessees, were served a Notice of Default dated November 17, 2016 by certified mail and regular mail. A copy of the Notice of Default letter was also posted on the dwelling by DOCARE on January 4, 2017 for the following:

- x Failure to pay rent for 2017, due on January 1, 2017 as well as water charges and late fees. The total now due to the State for rent and fees is \$19,786.30.
- x Failure to post required liability insurance certificate (Par. 17).

Said Notice of Default, dated November 17, 2016, was not accepted by Lessees. DOCARE posted a copy of the Notice of Default on January 4, 2017 which provided Lessee a 30 day period to cure the default in rent and a 60 day period to provide a liability insurance certificate. No response from Lessees was received. Rent for 2017, late fees and water charges (currently \$19,786.30), have not been received, and no other evidence of insurance pursuant to the lease has been received by the State. Late fees of \$50.00 per month and water service charges continue to accrue.

Lot 81 was inspected by both State Park and DOCARE staff on October 14, 2016 and was found to

be in disrepair and not up to the standards as described in the Kokee Design Guidelines. Specifically, the structures did not appear to be maintained and the landscaping was overgrown. The lot displaced a general sense of neglect.

The cure period for the failure to pay rent expired on February 2, 2017 and the cure period for the failure to post required liability insurance certificate expired on March 5, 2017 and as of the date of this submittal, the breaches have not been cured.

RECOMMENDATION: That the Board:

1. Authorize the cancellation of General Lease No. SP0140 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. SP0140 to be applied to any past due amounts;
3. Terminate the lease and all rights of Lessees and all obligations of the Lessors effective as of March 10, 2017, provided that any and all obligations of the Lessee which have accrued to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law; and,
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawai'i under General Lease No. SP0140 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



CURT A. COTTRELL
State Parks Administrator

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Attachment

Exhibit A Property Description and Map



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

c.s. no. KAUAI FILE
FOLDER 3

November 3, 1966

KOKEE CAMP SITE LOTS

LOT 81

Waimea (Kona), Kauai, Hawaii

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

Beginning at a pipe at the westerly corner of this lot, the northerly corner of Lot 86 and the northeast corner of Lot 85 of Kokee Camp Site Lots, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KOKEE" being 1458.40 feet North and 1030.36 feet West, as shown on H.S.S. Plat 3096, thence running by azimuths measured clockwise from True South:-

1. 251° 50' 30" 117.07 feet along the remainder of Kokee Park (Governor's Executive Order 1509) to a pipe;
2. 305° 34' 30" 167.40 feet along the remainder of Kokee Park (Governor's Executive Order 1509) to a pipe;
3. 45° 09' 144.70 feet along Lot 80 of Kokee Camp Site Lots to a pipe;
4. 137° 54' 30" 148.97 feet along Lot 86 of Kokee Camp Site Lots to a pipe;
5. 139° 23' 30" 69.05 feet along Lot 86 of Kokee Camp Site Lots to the point of beginning and containing an Area of 0.55 Acre.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: *Akira Taga*
Akira Taga
Land Surveyor bys

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

EXHIBIT "A"

24

