

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

May 26, 2017

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

Ref: 17OD-014

OAHU

Consent to Assign General Lease No. S-5493, Gavin T. Yamada and Janice G.M. Yamada, Assignor, to Scot M. Mitamura and Karen M. Mitamura, Assignee, Extension of Lease Term, Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-018:052.

APPLICANTS and REQUESTS:

1. Request for Consent to Assign: Gavin T. Yamada and Janice G.M. Yamada, as Assignor, to Scot M. Mitamura and Karen M. Mitamura, husband and wife, tenants by the entirety, as Assignee.
2. Request for Lease Extension: Improvements financed by the Assignee, in the amount of not less than \$350,000, and the Assignee requests a lease extension for an additional 30 years to amortize the improvements costs.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-018:052, as shown on the maps attached as **Exhibit A1 to A4**.

AREA:

2.740 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: No

CHARACTER OF USE:

Diversified agriculture purposes.

TERM OF LEASE:

35 years, commencing on June 15, 1996 and expiring on June 14, 2031. Last rental reopening occurred on June 15, 2016; next rental reopening is scheduled for June 15, 2026.

Requested extension of 30 years commencing on June 15, 2031 and expiring on June 14, 2061 for an aggregate term of 65 years.

ANNUAL RENTAL:

Current rent is \$20,000, due in semi-annual installments of \$10,000 on 15th on June and December of each year.

CONSIDERATION:

\$10,000.

RECOMMENDED PREMIUM:

The lease is subject to the Assignment of Lease Evaluation Policy which requires a payment by the Lessee of a premium based on the amount by which the consideration for the assignment, whether by cash, credit or otherwise, exceeds the straight-line depreciated cost of improvements and trade fixture being transferred.

The subject assignment falls between the 21st and 25th year of the original lease term, which requires a 30% of the consideration for the assignment, according to the policy

According to the purchase agreement filed with the Land Division, the purchase price is \$10,000 with no inventory or improvements of any value. Therefore, staff recommends the Board authorize the collection of \$3,000 as the premium pertaining to the subject assignment.

DCCA VERIFICATION:

Not applicable. Individuals.

RENTAL REOPENINGS:

Reopening in the original term were at the end of the 10th, 20th, and 30th years of the term with the most recent rental reopening effective on June 15, 2016.

Staff recommends the Board waive the requirement for an immediate rental reopening¹ for the subject lease extension request and use \$20,000 as the annual rent for the 10-year period commencing from June 15, 2016. Since the recent reopening was only nine (9) months ago and represents the fair market rent of the subject land, staff believes the requested waiver is prudent.

IMPROVEMENTS COSTS:

The subject lease allows an employee dwelling to be placed on the premises. The Assignee intends to build a 3-bedroom and 2-bathroom dwelling with a floor area of about 1,244 square feet on the premises. The quote obtained by the Assignee is about \$320,000 not including sewer connection, driveway, and front gate.

In addition, the Assignee intends to use about \$50,000 to improve the existing greenhouses including electrical, security, irrigation, repairs to shade cloth, and bench, etc.

APPLICANT REQUIREMENTS:

Assignee shall complete the improvements to the property as described and submit receipts verifying payment for the improvements in an amount not less than \$350,000 and not later than September 30, 2018, or the lease extension shall be subject to cancellation.

REMARKS:

GL 5493 was issued pursuant to Act 237, Session Laws of Hawaii 1988, as amended by ensuing acts. The Act allowed the Board of Land and Natural Resources (Board) to issue a direct negotiated lease with the holders of a revocable permit, further subject to certain restrictions. Mr. Yamada was the original lessee of GL 5493, and the Board gave its consent to the assignment of the same lease to Mr. & Mrs. Yamada in 1997 (Assignors). The Assignors intend to give up the leasehold interest due to other personal commitments.

Staff visited the subject premises in February 2017 and noted that the shade houses on the nursery were not being utilized and the Assignors are selling the plants and other material still left on the premises. There are no signs of violation as observed during the inspection and the subject parcel is well maintained. Photos taken in the inspection attached as **Exhibit B1** and **B2**.

Scot Mitamura, one of the Assignees, is an orchid horticulturalist for the Honolulu Botanical Gardens. He has been involved in orchid industry for over 30 years, including growing, selling, managing shows, and collection and conservatory operations. Mr. Mitamura also shares his experience and tips with other orchid hobbyists by posting

¹ For a typical lease extension request, staff would recommend the Board authorize an immediate rental reopening as of the date of the Board meeting, and such new rent shall be the rental payable for the next 10 years.

articles on the internet and participates in orchid hobbyist societies. Staff believes Mr. Mitamura's credentials adequately meet the qualifications for a State lessee.

Mr. Mitamura plans to self-finance the improvements described in the Improvements Costs section above.

Mr. Mitamura provided a consulting letter (**Exhibit C**) from a Certified General Appraiser estimating that the proposed dwelling², at an estimated cost of \$320,000 excluding sewer line, driveway and front gate, will have an economic life of 55 years. Based on the opinion from the appraiser, staff believes a lease extension for 30 years is appropriate.

Nevertheless, staff includes an applicant requirement that Mr. Mitamura complete the improvements and submit receipts for expenditures to staff not later than November 30, 2018 [i.e. about 18 months from the Board date], in an amount not less than \$350,000 or the lease extension shall be subject to cancellation.

There are no lease compliance issues regarding rent and performance bond. The liability insurance for the Yamadas expired in December 2016, and Mr. Mitamura intends to provide the required insurance with the State as soon as the subject request is approved.

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.

Staff discussed the subject request with the Department of Agriculture, which does not have any objections to the subject request.

RECOMMENDATION: That the Board:

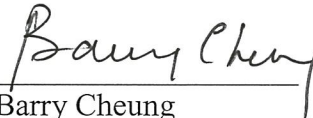
1. Consent to the assignment of General Lease No. S-5493 from Gavin T. Yamada and Janice G.M. Yamada, as Assignor, to Scot M. Mitamura and Karen M. Mitamura, as Assignee, subject to the following:
 - A. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General;
 - C. Payment of \$3,000 as the assignment premium; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

² The proposed dwelling would be 1,244-square feet, with wood frame, plywood exterior walls, composition shingle roofing, at an estimated construction cost of \$320,000 excluding sewer, driveway, and front gate.

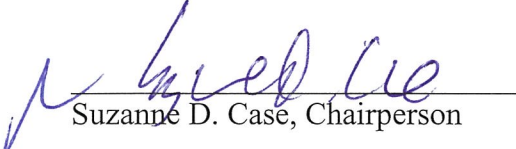
May 26, 2017

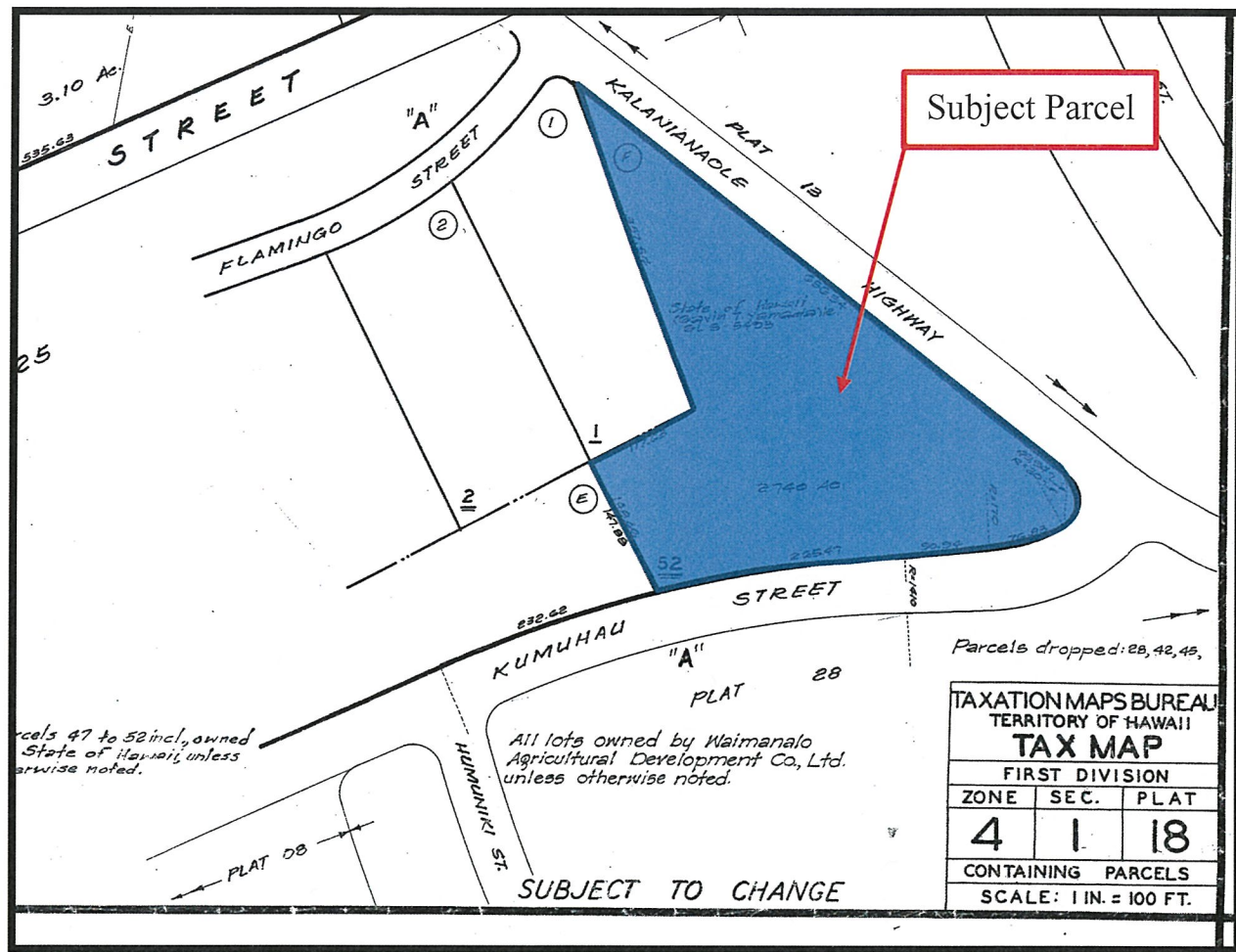
2. Authorize the extension of General Lease No. S-5493 under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current lease extension form, as may be amended from time to time;
 - B. Assignee shall complete the improvements to the property as described about and submit receipts verifying payment for the improvements to staff in an amount not less than \$350,000 and not later than November 30, 2018. Failure to comply will result in automatic rescission of the approval for lease extension;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State .

Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



TMK (1) 4-1-018:052

EXHIBIT A1



TMK (1) 4-1-018:052

EXHIBIT A2



Green House



Green House

EXHIBIT B1



Storage Shed



Proposed Site for Dwelling

May 26, 2017

PINNACLE APPRAISAL GROUP, INC

925 Bethel Street, Suite 311 Honolulu, Hawaii 96813

Phone (808) 550-0848 Fax (808) 550-0765

E-mail: pinnacleappraisal@gmail.com

April 10, 2017

Suzanne D. Case
Chairperson
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

RE: Consulting letter-Estimated Economic Life for improvements proposed for 41-1660 Kalanianaʻole Highway, Waimanalo, HI 96795 and further identified as Tax Map Key: (1) 4-1-018-052.

Dear Ms. Case;

This letter addresses your request for a consulting letter estimating an opinion of the economic life of the improvements proposed for the above mentioned property. Please note this is not considered an appraisal as only an estimate of the remaining economic life for the proposed improvements is included. The purpose of this consulting assignment is for the use of the Lessee in obtaining an extension of the current ground lease (Yamada Lease S-5493), encumbering subject property to June 14, 2061. The current lease expires June 14, 2031. The proposed extension would allow for Lessee to amortize this improvement over the required period for the lender.

Pursuant to the information provided, the proposed improvements are to be a 1,244 sf new Employee Dwelling. Construction of this dwelling is to be wood frame, plywood exterior walls, composition shingle roofing. The cost estimate to complete this structure was quoted by Akagi Builders to be \$320,000 which does not include the sewer line, driveway and front gate.

Therefore, as of the effective date of this consulting letter of April 7, 2017, based on the Marshall & Swift State of Hawaii Cost Manual, Life Expectancy Guidelines, as subject is to be a new dwelling, we have estimated the remaining economic life of the proposed improvements to be 55 years.

The client is identified as Scot Mitamura. The Intended users of this consulting letter include the Lessee and include the Lessor, State of Hawaii Department of Land and Natural Resources. The undersigned appraiser has not performed any appraisal or other services on subject property over the past 3 year period prior to the effective date of the appraisal: April 7, 2017.

EXHIBIT C

May 26, 2017

PINNACLE APPRAISAL GROUP, INC

925 Bethel Street, Suite 311 Honolulu, Hawaii 96813

Phone (808) 550-0848 Fax (808) 550-0765

E-mail: pinnacleappraisal@gmail.com

If you have any additional questions, please feel free to call me. Thank you.

Sincerely



Cynthia Nohara
Certified General Appraiser, CGA-98
Expiration Date: 12/31/17