

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

July 28, 2017

Ref No.: GLS-4649

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

KAUAI

Consent to Assignment of Fifty Percent (50%) Interest in Ficker & Hunt, a Hawaii Partnership, also known as Ficker & Hunt Partnership, Lessee under General Lease No. S-4649, from Albert Ficker, Assignor, to Chester Hunt, Assignee; Acknowledgment that Lessee under General Lease No. S-4649 Will Thereby Become Chester Hunt, as Tenant in Severalty; Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-3-008:003.

APPLICANT(S):

Albert Ficker, as assignor, and Chester Hunt, as assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Waimea situated at Kekaha Town Lots, Lots 3 and 4 (combined), Kekaha, Kauai, identified by Tax Map Key: (4) 1-3-008:003, as shown on the attached map labeled Exhibit A.

AREA:

24,049 square feet, more or less.

ZONING:

State Land Use:	Urban
County of Kauai CZO:	Neighborhood Commercial (C-N)

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:

General commercial use.

TERM OF LEASE:

Original term of 25 years, commencing on May 16, 1980 and expiring on May 15, 2005.

A 13-year extension, which commenced on May 16, 2005, was scheduled to expire on May 15, 2018. An initial 25 years, plus 13 year extension for an aggregate of 38 years.

Lessee requested a 20-year extension, which staff is currently reviewing and working on. The proposed extension would change the aggregate term of the lease to 58 years.

ANNUAL RENTAL:

\$16,800.00, Due in semi-annual installments of \$8,400.00 on the 16th day of May and November of every year.

CONSIDERATION:

Chester Hunt exchanged a Mississippi property for Albert Ficker's 50% interest in Ficker & Hunt, a Hawaii Partnership, also known as Ficker & Hunt Partnership. The tax assessed value of the Mississippi property is \$113,344.

RECOMMENDED PREMIUM:

Not applicable, as the lease does not allow for a premium.

DCCA VERIFICATION:

Assignor Albert Ficker and Assignee Chester Hunt, as natural persons, are not required to register with DCCA.

REMARKS:

General Lease S-4649 was issued to Chester Wayne Hunt for twenty-five years commencing on May 16, 1980 to May 15, 2005. The rent was set at \$3,900.00, which was paid semi-annually on the 16th of May and November of each year.

On July 10, 1981, under Item F-20, the Board of Land and Natural Resources approved, as amended, the consent to sublease of General Lease No. S-4649, Chester Hunt, sublessor, and the U.S. Postal Service and Fely Hashitate dba Hidden Treasure, sublessees. The amendment was to include a consent to mortgage of \$116,000.00 from Bank of Hawaii.

On July 24, 1981, under Item F-19, the Board approved to amend previous Board Action of July 10, 1981 Item F-20, by:

- a. Consenting to the sublease between Chester Hunt and the U.S. Postal Service, subject to (1) revising the annual rent from \$3,900.00 to \$5,420.00.
- b. Consenting to a \$150,000.00 mortgage in favor of Honolulu Mortgage Company, Inc., solely for the purpose of constructing the U.S. Post Office facility on the subject premises.

On September 10, 1982 under Item F-1-a, the Board consented to the assignment of lease from Chester Hunt, Assignor, to Ficker & Hunt, a Hawaii Partnership (FHHP), as Assignee.

On May 27, 1994 under Item F-4 the Board approved the extension of lease term for 13-years to meet the lending requirements of Bank of Hawaii, and also consented to the refinancing of an \$116,000.00 mortgage with Bank of Hawaii.

An immediate rental reopening was required, increasing the annual rent increased to \$6,120.00 for the reopening period May 27, 1994 to May 15, 2004.

Records of the Department of Commerce and Consumer Affairs (DCCA) shows the FHHP was canceled involuntarily on October 6, 1995 for failure to file annual statements with DCCA.¹

On April 16, 2004, FHHP notified Land Division Administration that it accepted the new rent determination of \$8,400 paid semi-annually for the time period May 16, 2004 to May 15, 2018.

By instrument dated April 21, 2017, Albert Ficker, as assignor, assigned his 50% interest in FHHP, also known as Ficker & Hunt Partnership, to Chester Hunt, assignee, resulting in Mr. Hunt remaining as the “sole partner.” In light of the DCCA cancellation of the partnership in 1995 and the requirement that a partnership involve more than one partner, the lessee under the subject lease has essentially become Chester Hunt as tenant in severalty by operation of law (assuming the Board consents to the assignment of Mr. Ficker’s partnership interest to Mr. Hunt). Staff is including a recommendation below that the Department of the Attorney General be authorized to prepare the consent to assignment of partnership interest and any other document requiring the Chairperson’s signature that may be needed to establish Mr. Hunt as lessee under the lease, as tenant in severalty.

¹ Staff understands that a canceled partnership may continue to wind up its affairs after cancellation. The assignment of the 50% partnership interest from Albert Ficker to Chester Hunt is in conjunction with the winding up of the partnership business.

The State parcel, identified by Tax Map Key (4) 1-3-008:003, contains a 3,059 square foot building, a U.S. Post Office, and a 9,159 square feet concrete parking lot (Exhibit B).

As General Lease S-4649 is set to expire on May 18, 2018, Mr. Hunt has also requested a twenty (20) year lease extension, which staff is currently reviewing and working on. The proposed extension would change the aggregate term of the lease to 58 years.

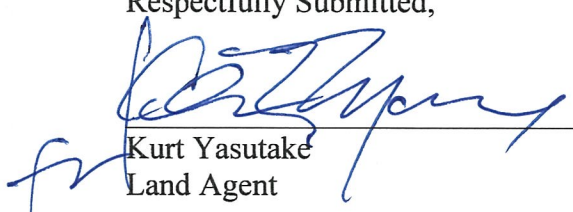
The assignee has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION:

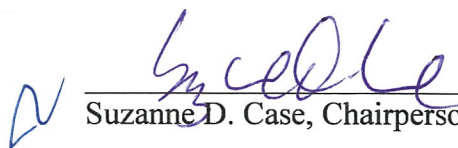
That the Board:

- A. Consent to the assignment of a fifty percent (50%) interest in Ficker & Hunt, a Hawaii Partnership, also known as Ficker & Hunt Partnership, Lessee under General Lease No. S-4649, from Albert Ficker, as assignor, to Chester Hunt, as Assignee, subject to the following:
 - 1. The standard terms and conditions of the most current consent to assignment of partnership interest form, as may be amended from time to time;
 - 2. Review and approval by the Department of the Attorney General; and
 - 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Acknowledge that as a result of the consent given in Recommendation A above, the lessee under General Lease No. S-4649 will thereby become Chester Hunt as tenant in severalty. The Department of the Attorney General is authorized to prepare any other document for execution by the Chairperson that may be required to establish Chester Hunt as the lessee under the lease, as tenant in severalty.

Respectfully Submitted,


Kurt Yasutake
Land Agent

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson





