

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

September 8, 2017

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

Kaua'i

Forfeiture of General Lease No. SP0106, Maria K. Cox Revocable Trust, Lessee,
Kōke'e State Park, Waimea (Kona), Kaua'i, Tax Map Key: (4) 1-4-002:047.

PURPOSE:

Forfeiture of General Lease No.SP0106, Maria K. Cox Revocable Trust, Lessee

LEGAL REFERENCE:

Section 171-39 Hawaii Revised Statutes, as amended.

LOCATION:

Lot 12, Puu Ka Pele Lots, Kōke'e State Park, Waimea (Kona), Kaua'i, identified by Tax Map
Key: (4) 1-4-002 Parcel 047, as shown on the attached property description and map labeled
Exhibit A.

AREA:

.95 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 _X_

CURRENT USE STATUS:

Encumbered by General Lease No. SP0106 to Maria K. Cox revocable Trust, Lessee, and
encumbered by Governor's Executive Order No. 2209.

ITEM E-1

CHARACTER OF USE:

Recreation - residence.

LEASE TERM:

Twenty (20) years commencing on January 1, 2009 through December 31, 2029.

ANNUAL RENTAL:

\$3,800 per annum.

REMARKS:

The subject lease was issued to Maria K. Cox Revocable Trust as the Lessee of General Lease No. SP0106 effective January 1, 2009 covering Lot 12 in the Kokee State Park. The term of the lease is for 20 years, which will expire on December 31, 2029.

However, by way of a letter dated July 31, 2009, State Parks was informed that Duncan K. Seto was appointed as the Successor Trustee of the Maria K. Cox Revocable Trust effective July 2, 2007. (Exhibit B)

As the Successor Trustee of the Maria K. Cox Revocable Trust, Duncan Seto stated he was not interested in the use of the Kokee cabin and had allowed a relative, Laverne Cox utilize the cabin on numerous occasions.

On June 13, 2017, the Chairperson issued a Notice of Default as follows:

Pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980, and the breach provision contained in General Lease SP-0106. Maria K. Cox Revocable Trust, c/o Duncan K. Seto as well as Maria K. Cox, c/o Laverne Cox was served a Notice of Default dated June 13, 2017 by certified mail and regular mail for the following:

Failure to pay rent for 2017, due on January 1, 2017, which includes water charges as well as late fees. The total now due to the State for rent and late fees is **\$5,890.50**.

Failure to post required liability insurance certificate.

Sanitation

The Lessee shall keep the premises and improvements in a strictly clean, sanitary and orderly condition.

A recent on-site inspection of the property was conducted by State Parks staff and Laverne Cox on May 12, 2017, which revealed that the condition of the building and structures as well as the landscaping and overall condition of the property has not been maintained to a condition acceptable to State Parks standards. Also, any and all unregistered vehicles and debris, must be removed from the property as well.

Said notice dated June 13, 2017, was accepted by the Lessee and by Laverne Cox (unauthorized user), which provided Lessees a 30 day period to cure the default rent and a 60 day period to provide a liability insurance certificate and sanitation condition of the property. No response from the Lessee (Duncan K. Seto, Successor Trustee to the Maria K. Cox Revocable Trust) nor from Laverne Cox of any kind was received. Rent for 2017 including late fees and water charges is currently **\$5,890.50**, 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 continue to accrue as well as water charges of \$4.50 every quarter.

A copy of the Notice of Default letter was **NOT** posted on the dwelling by DOCARE, however, Certified signed receipt of the letter was received by Duncan K. Seto and Laverne Cox, who has been using the cabin on several occasions.

As mentioned above, the structures did not appear to be maintained and the landscaping was overgrown. Overall, Lot 12 displaced a general sense of neglect.

This cure period for the failure to pay rent expired on July 13, 2017 and the cure period for the failure to post the required liability insurance certificate and correct the sanitation violation expired on August 13, 2017, as of the date of this submittal, the breaches have not been cured and Duncan Seto, the Successor Trustee for trust had stated to staff that he was not interested in keeping the Kokee cabin. In addition to the above, as of the date of this submittal, Mr. Seto has **NOT** submitted any Assignment of Lease document to State Parks which would transfer the Lease from Maria K. Cox , Revocable Trust to Laverne Cox.

Staff is recommending the forfeiture of SP0106, Maria K. Cox Revocable Trust.

RECOMMENDATION: That the Board:

1. Authorize the cancellation of General Lease No. SP0106 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. SP0106 to be applied to any past due amounts;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of September 8, 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,

September 8, 2017

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. SP0106 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,

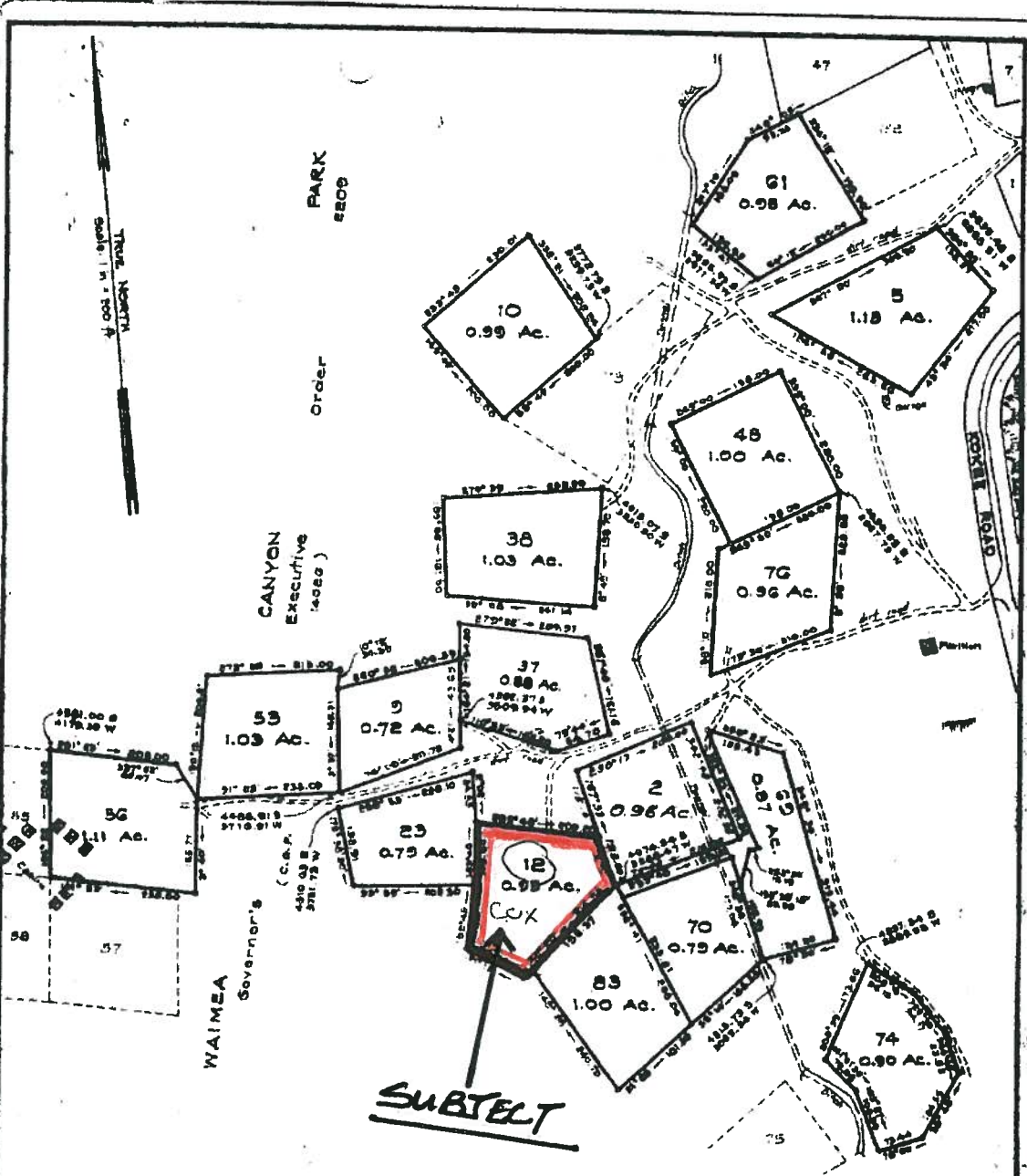


CURT A. COTTRELL
State Parks Administrator

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Attachment



(Revised November 1967)

PUU KA PELE PARK LOTS

**LOTS 5, 9, 10, 12, 23, 38, 48, 53,
56, 61, 69, 70, 74, 76, 83, 2 AND 37**
Waimea (Kona), Kauai, Hawaii
Scale: 1 inch = 200 feet

EXHIBIT "A"

JOB No. K-3711
C. B. K. (B.M. Folder) (10000)

Lot 37 added to plan by P. Nuha Jan 11, 1980 (Job K-422(79)) All lot corners marked with pipes
Lot 2 added to plan by A. Togo Feb. 25, 1969 (Job No. K-4341) October 1967, A.T. A.1 and 22.21
Coordinates referred to "MALS 8'2"

TAX MAP 1-4-08
Sheet 1 of 2 sheets
MAIL FILE FOLDER 8

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

C.S.O. Nov. 27, 1967

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL [] PICK-UP [x]

McCorriston Miller et al. (DKOW)
500 Ala Moana Boulevard, #5-400
Honolulu, Hawaii 96813
Phone Number: 529-7300
(22170/56796)

This Document
Contains 3 Pages

ACCEPTANCE OF APPOINTMENT BY DUNCAN K. SETO AS TRUSTEE

WHEREAS, Maria K. Cox (the "Settlor") executed that certain Declaration of Revocable Trust (the "Trust") on June 13, 1988; and

WHEREAS, the Settlor died on September 12, 1990; and

WHEREAS, Herbert H. Cox ("Herbert") became the Trustee on October 19, 2006, pursuant to the terms of the trust providing for the election of a successor trustee (Article 8.10) when all named trustees have died; and

WHEREAS, Herbert died on February 18, 2007; and

WHEREAS, pursuant to the terms of said Article 8.10, upon the death of the acting trustee, a majority in number of the beneficiaries of the Trust shall designate a successor Trustee; and

WHEREAS, a majority of the beneficiaries of the Trust has designated and nominated Duncan K. Seto as the Successor Trustee of the Trust;

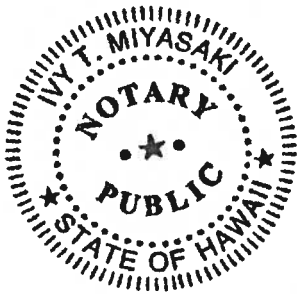
NOW, THEREFORE, in consideration of the foregoing, Duncan K. Seto (the "Successor Trustee") hereby accepts appointment as Successor Trustee of said Trust effective as of the date of this instrument. By his acceptance, the Successor Trustee accepts the terms of said Trust, acknowledges receipt of the trust property described therein, and agrees to perform all the duties therein imposed on the terms and conditions set forth therein.

DATED: July 2, 2007

Duncan K. Seto
DUNCAN K. SETO, as Successor Trustee

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 2nd day of July, 2007, before me personally appeared DUNCAN K. SETO, as Successor Trustee, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.



Ivy T. Miyasaki
Name: Ivy T. Miyasaki
Notary Public, State of Hawaii

My commission expires: 10/6/07