

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

February 14, 2020

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

Ref. No.: GLS-5579

KAUAI

Rescind Prior Board Action of July 12, 2019, Item D-2, *Consent to Assign General Lease No. S-5579, John Contrades, III, Assignor, to Adam Asquith, Assignee*; Authorize the Mutual Cancellation of General Lease No. S-5579 to John Contrades, III, Lessee, and Waiver of Its Level One (1) Hazardous Waste Evaluation Requirement; Kapaa, Kawaihau, Kauai, Hawaii; Tax Map Keys: (4) 4-6-005: 007 & 008.

APPLICANT:

John Contrades, III, as Lessee.

LEGAL REFERENCE:

Section 171-6, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kapaa Homesteads, First Series situated at Kapaa, Kawaihau, Kauai, identified by Tax Map Keys: (4) 4-6-05: 007 & 008, as shown on the attached map labeled Exhibit A.

AREA:

5.11 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

CHARACTER OF USE:

For intensive agricultural use purposes.

TERM OF LEASE:

30 years, commencing on May 27, 1999 and expiring on May 26, 2029. Last rental reopening occurred on May 27, 2019.

ANNUAL RENTAL:

\$5,965.00

APPLICANT REQUIREMENTS:

None.

REMARKS:

The subject property was originally leased to John Contrades, III, under General Lease No. S-5579. The 30-year lease commenced on May 27, 1999, for intensive agricultural use purposes at an annual rate of \$1,235.00.

In October 2018 the annual rental was reopened as per the terms of the original lease. An appraisal was prepared and determined the ground rent under the subject lease to be \$5,965.00 per annum for the final ten-year period from May 27, 2019 to May 26, 2029. On December 21, 2018, Mr. Contrades informed the Kauai District Land Office (KDLO) that he wanted to cancel his lease as he could no longer maintain the lease due to his age and increase in the rent. However, on April 8, 2019, Mr. Contrades had a change of mind and requested that the lease be assigned to Adam Asquith. Agents visited the parcel in May 2019 and found that there was some overgrowth, but the property was otherwise left in acceptable condition. A final inspection was completed on June 19, 2019 and the property was found to be in acceptable condition, although it is becoming overgrown with Guinea grass and Albezia trees. See Exhibit C.

The Board approved the lease assignment at its meeting on July 12, 2019, under agenda item D-2. Adam Asquith is qualified as a farmer, but he was unable to obtain the required bond and as such, is unable to proceed with the assignment of the lease. Mr. Asquith acted in good faith by paying \$3,032.50 in July 2019 for the rent and late fee owed on the account from May 27, 2019 through November 26, 2019 on behalf of Mr. Contrades while the paperwork for the assignment was being processed. Mr. Asquith had contacted the KDLO several times stating that he had been in communication with several banks and insurance agencies, and was attempting to obtain the necessary bond, but on December 23, 2019 he informed KDLO that he had exhausted all of his resources and although he had already

invested much time and money, he had to cancel his effort to assume the lease. As a result, Mr. Contrades is once again requesting early termination of the lease. Paragraph 53 of the lease provides as follows:

53. Level one (1) hazardous waste evaluation. Prior to the termination of the subject general lease or the assignment of the leasehold, Lessee shall conduct a Level One (1) Hazardous Waste Evaluation and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency and the Department of Land and Natural Resources. The termination will not be approved by the Board of Land and Natural Resources unless this evaluation and abatement provision has been executed.

During staff's site inspections earlier this year, staff observed no evidence of the use of hazardous materials on the premises. The property consists of a lo'i being used to grow taro using traditional Hawaiian practices. Staff is therefore recommending waiver of the Level One (1) Hazardous Waste Evaluation requirement.

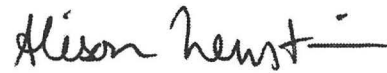
There are no outstanding rental reopening issues.

No government agency or community comments were solicited as there will be no new disposition or change in land use.

RECOMMENDATION: That the Board:

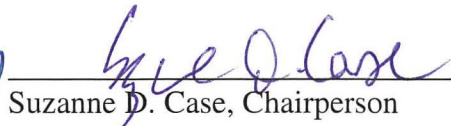
1. Rescind the prior Board action of July 12, 2019, under agenda item D-2; and
2. Authorize the mutual cancellation of General Lease No. S-5579 John Contrades, III, Lessee, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following;
 - A. The standard terms and conditions of the most current cancellation of lease document form, as may be amended from time to time;
 - B. Effective date of cancellation shall be November 26, 2019;
 - C. The Level One (1) Hazardous Waste Evaluation required under section 53 of the lease shall be waived;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Alison Neustein
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

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

July 12, 2019

Ref. No.: GLS-5579

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

Kauai

Consent to Assign General Lease No. S-5579, John Contrades, III, Assignor, to Adam Asquith, Assignee, Kapaa, Kawaihau, Kauai, Hawaii; Tax Map Keys: (4) 4-6-005: 007 & 008.

APPLICANT:

John Contrades, III, as Assignor, to Adam Asquith, a married man, Tenant in Severalty, as Assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kapaa Homesteads, First Series situated at Kapaa, Kawaihau, Kauai, identified by Tax Map Keys: (4) 4-6-05: 007 & 008, as shown on the attached map labeled Exhibit A.

AREA:

5.11 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

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
July 12, 2019. Co.

EXHIBIT " 1 "

CHARACTER OF USE:

For intensive agricultural use purposes.

TERM OF LEASE:

30 years, commencing on May 27, 1999 and expiring on May 26, 2029. Last rental reopening occurred on May 27, 2019; next rental reopening is scheduled for May 27, 2029.

ANNUAL RENTAL:

\$5,965.00

CONSIDERATION:

\$1.00

RECOMMENDED PREMIUM:

Based on the Assignment of Lease Premium Calculation attached as Exhibit B, there is no premium due to the State for the assignment of lease.

DCCA VERIFICATION:

ASSIGNOR:

Not applicable.

The assignor is a sole proprietor and is not required to register with DCCA.

ASSIGNEE:

Not applicable.

The assignor is a sole proprietor and is not required to register with DCCA.

REMARKS:

The subject property was originally leased to John Contrades, III, under General Lease No. S-5579. The 30-year lease commenced on May 27, 1999, for intensive agricultural use purposes at an annual rate of \$1,235.00.

In October 2018 the annual rental was reopened as per the terms of the original lease. An appraisal was prepared and determined the ground rent under the subject lease to be \$5,965.00 per annum for the final ten-year period from May 27, 2019 to May 26, 2029. On December 21, 2018, Mr. Contrades informed the Kauai District Land Office that he wanted to cancel his lease as he could no longer maintain the lease due to his age and increase in the rent. However, on April 8, 2019, the Mr. Contrades had a change of mind and requested that the lease be assigned to Adam Asquith. Agents visited the parcel in May 2019 and found that there was some overgrowth, but the property was otherwise left in acceptable

condition. A final inspection was completed on 6/19/19 and the property was found to be in acceptable condition, although it is becoming overgrown with Guinea grass and albezia trees. See Exhibit C.

Adam Asquith is qualified as a farmer capable of successfully acquiring and maintaining the subject land for agriculture and farming purposes. Mr. Asquith has a Ph.D. in biology and has worked for different government agencies in Hawaii and while managing the wildlife refuges for the Fish and Wildlife Service, he began working with taro. For the past 10 years, he has managed the Kealia Farm Market, where he also operates a 30-acre taro farm.

Adam Asquith 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.

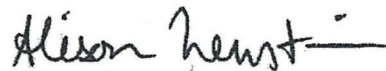
There are no outstanding rental reopening issues.

No government agency or community comments were solicited as there will be no new disposition or change in land use.

RECOMMENDATION: That the Board:

- A. Consent to the assignment of General Lease No. S-5579 from John Contrades, III, as Assignor, to Adam Asquith, as Assignee, subject to the following:
1. The standard terms and conditions of the most current consent to assignment 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.

Respectfully Submitted,



Alison Neustein
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

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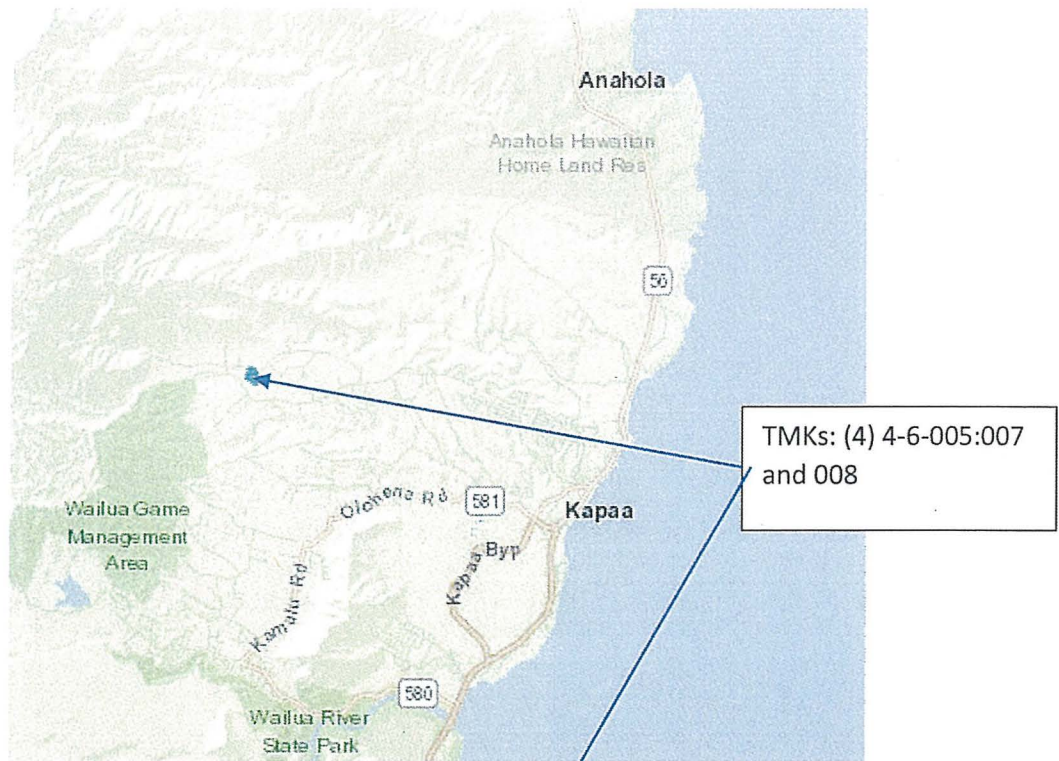
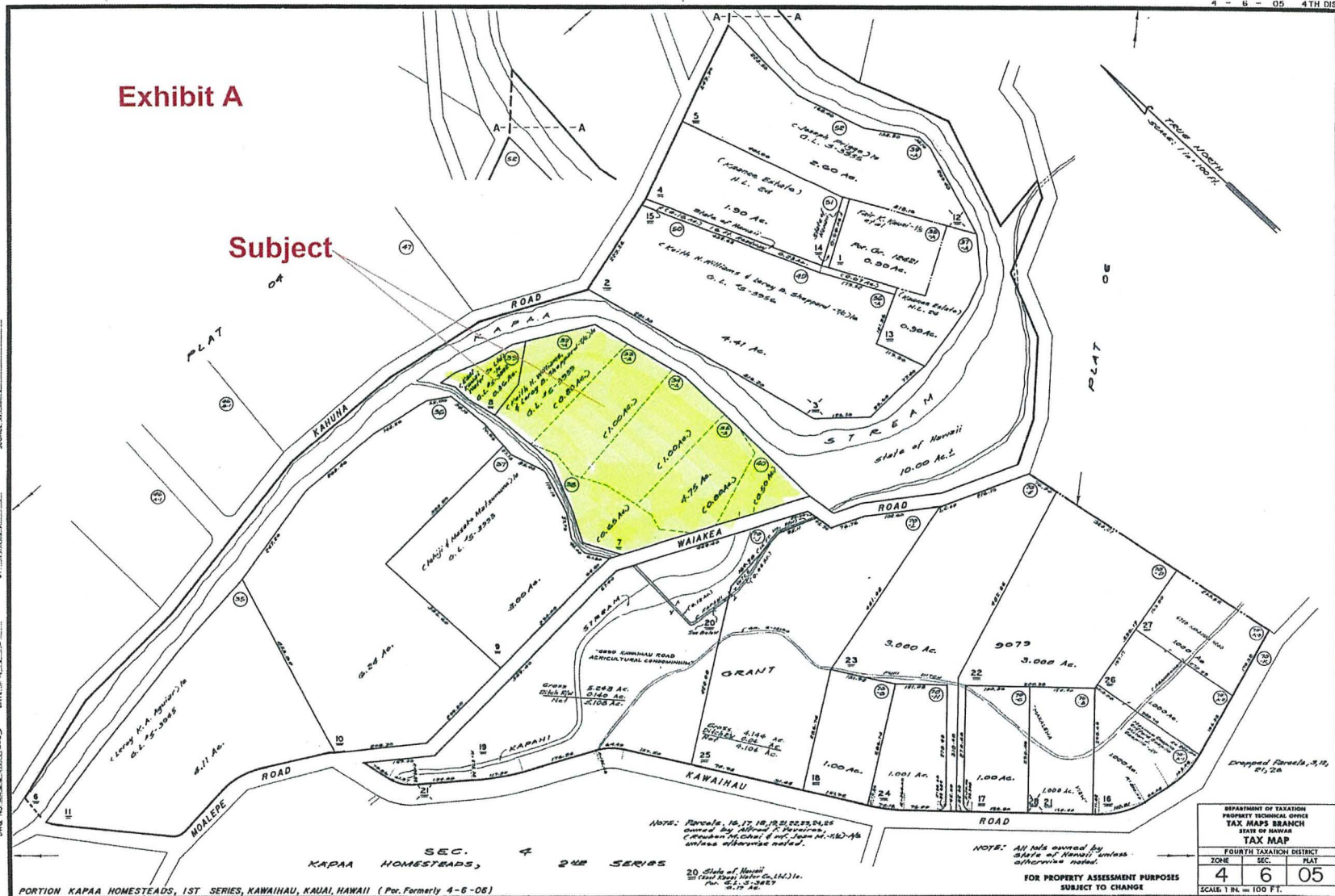
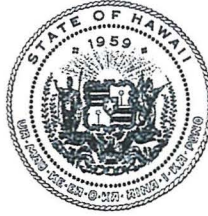


EXHIBIT A

Exhibit A

Subject





STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 12, 2019

MEMORANDUM

TO: Suzanne D. Case., Chairperson

THROUGH: Russell Y. Tsuji, Land Division Administrator 

FROM: Alison Neustein, Kauai Land Agent

SUBJECT: Assignment Premium Calculation

GL No.: S-5579
Lessee/Assignor: John Contrades, III
Assignee: Adam Asquith
Location: Kapaa, Kauai
Lease Area: 5.11 acres
Tax Map Keys: (4) 4-6-05: 007 & 008

Based on a review of the lease and information regarding the parties' purchase agreement, staff has applied the assignment of lease evaluation policy attached to the lease as follows.

Consideration for Transaction:	\$1.00
LESS Cost of Inventory:	\$0.00
Net Consideration Received:	\$1.00
Value of Improvements:	\$0.00
Value of Trade Fixtures:	\$0.00
Net Consideration:	\$1.00
LESS Adjusted Depreciated Improvement Cost:	\$0.00
LESS Adjusted Depreciated Trade Fixture Cost:	\$0.00 ¹
Excess:	\$1.00

¹ John Contrades, III did not report any trade fixtures on the property. However, the reporting of trade fixtures would only result in a smaller (and possibly negative) excess than shown in this analysis.

EXHIBIT B

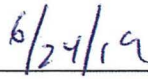
Assignment Premium x .35:

\$0.35

Approved/Disapproved:



Suzanne D. Case, Chairperson



Date

cc: District Branch Files
Central Files

Exhibit C



EXHIBIT C

Exhibit C

