

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

July 9, 2021

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

GLS-5971

**HAWAII**

*Amend Prior Board Action of November 8, 2019, Agenda Item D-8, Amend General Lease No. S-5971, Makua Lani Christian Academy, Lessee, to Provide that the Annual Rental shall be Reopened and Redetermined Based on the Board's Then Prevailing Minimum Rent Policy for Eleemosynary Organizations, Ili of Papaakoko, Honokohau 2nd, North Kona, Hawaii, Tax Map Key: (3) 7-4-006:001.*

*Consent to Assign General Lease No. S-5971, from Makua Lani Christian Academy to Kona Vocational and Life Education Center, Papaakoko, Honokohau 2nd, North Kona, Hawaii, Tax Map Key: (3) 7-4-006:001.*

The purpose of this amendment is to change the language of lease paragraph 49 regarding licensure requirements applicable to lessee to enable Kona Vocational and Life Education Center (KVLEC) to qualify as a lessee under the lease so that staff may complete the assignment of lease to KVLEC.

BACKGROUND:

In its meeting of November 8, 2019, Item D-8, the Board of Land and Natural Resources, under Agenda Item D-8, authorized the amendment of General Lease No. S-5971 to allow for rent reopenings at the then prevailing minimum rent policy and consented to the assignment of the lease from Makua Lani Christian Academy, as Assignor, to Kona Vocational and Life Education Center, as Assignee (KVLEC). See Exhibit A. This is a direct lease at minimum rent to an eleemosynary organization.

REMARKS:

Upon review of the request to prepare the consent to assignment document, the Department of the Attorney General (AG) observed that under paragraph 49 of subject lease, KVLEC must have a license from the Department of Education (DOE) in order to qualify as an assignee of the lease. Paragraph 49 states:

The Lessee shall at all times be duly licensed by the State of Hawaii, Department of Education, to operate and maintain a school on the premises.

However, KVLEC's particular school does not require DOE licensure as confirmed by the DOE (Exhibit B). After discussion with the AG, staff is recommending that the Board authorize the further amendment of General Lease No. S-5971, paragraph 49, to read:

The Lessee shall at all times be duly licensed by all appropriate public agencies and private organizations as may be necessary to operate and maintain a school on the premises.

This amendment should allow KVLEC to become a bona fide lessee. Staff is also recommending the AG be authorized to modify the foregoing suggested language as AG deems to be in the best interests of the State.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of November 8, 2019, under agenda item D-8, by authorizing the further amendment of General Lease No. S-5971 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 amendment of lease document form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Confirm that, except as amended hereby, all terms and conditions listed in its November 8, 2019 approval shall remain the same.

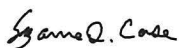
Respectfully Submitted,



Pua Ishibashi  
Land Agent

*gch*

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

RT

# EXHIBIT A



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

November 8, 2019

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

GLS-5971

Hawaii

Amend General Lease No. S-5971, Makua Lani Christian Academy, Lessee, to Provide that the Annual Rental shall be Reopened and Redetermined Based on the Board's Then Prevailing Minimum Rent Policy for Eleemosynary Organizations, Ili of Papaakoko, Honokohau 2nd, North Kona, Hawaii, Tax Map Key: (3) 7-4-006:001.

Consent to Assign General Lease No. S-5971, from Makua Lani Christian Academy, as Assignor, to Kona Vocational and Life Education Center, as Assignee, Ili of Papaakoko, Honokohau 2nd, North Kona, Hawaii, Tax Map Key: (3) 7-4-006:001.

APPLICANT:

Makua Lani Christian Academy, as Assignor, to Kona Vocational and Life Education Center (KVLEC), as Assignee. KVLEC is a Hawaii non-profit, 501 (c) (3) corporation.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.  
Section 171-43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Ili of Papaakoko, Honokohau 2nd, North Kona, Hawaii, identified by Tax Map Key: (3) 7-4-006:001, as shown on the attached map labeled Exhibit A.

AREA:

1.501 acres, more or less.

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON

November 8, 2019 Go.

**ZONING:**

State Land Use District: Agriculture  
Hawaii County Zoning: A-1a

**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:**

Operation of a school and related educational purpose, see attached photos labeled Exhibit B.

**TERM OF LEASE:**

40 years commencing on April 1, 2009 and expiring on March 31, 2049.

**ANNUAL RENTAL:**

For the first ten (10) years, the sum of \$480 per annum.

**RENTAL REOPENINGS:**

Annual rental will be reopened and redetermined on the tenth (10<sup>th</sup>), twentieth (20<sup>th</sup>), and thirtieth (30<sup>th</sup>) years of the lease (being April 1, 2019, 2029, and 2039).

**CONSIDERATION:**

Parties report no consideration for assignment of lease.

**RECOMMENDED PREMIUM:**

Not applicable, as there is no consideration for assignment of lease.

**ENVIRONMENTAL ASSESSMENT EXEMPTION:**

See Environmental Assessment Notification of Exemption attached as Exhibit C.

DCCA VERIFICATION:

ASSIGNOR: MAKUA LANI CHRISTIAN ACADEMY

Place of business registration confirmed: YES  
Registered business name confirmed: YES  
Good standing confirmed: YES

ASSIGNEE: KONA VOCATIONAL AND LIFE EDUCATION CENTER

Place of business registration confirmed: YES  
Registered business name confirmed: YES  
Good standing confirmed: YES

REMARKS:

Lease Amendment:

As a non-profit public charity, Makua Lani Christian Academy (MLCA) is recognized as an eleemosynary organization and eligible for a direct lease at a nominal consideration.<sup>1</sup> The current lease requires the reopening of annual rental and determination, with an appraisal, every ten years, and the cost of the reopening appraisal must be borne by the State.<sup>2</sup> Staff believes it is not economically prudent for the State to procure costly appraisals when the annual rent will be limited to a nominal amount. As such, to reduce staff time and administrative costs, it is the recommendation of staff that annual rental be reopened and redetermined based on the Board's then prevailing Minimum Rent Policy for eleemosynary organizations.

Lease Assignment:

The subject premises were previously encumbered by General Lease No. S-5640 (a 10-year lease), to Kona Christian Academy (KCA) for educational purposes. The premises were used by KCA's sister school, MLCA, for educational purposes. On October 2, 2008, KCA requested early lease termination and issuance of a 40-year direct lease to MLCA, which the Board approved on December 12, 2008.<sup>3</sup> Subsequently, General Lease No. S-5971 was issued to MLCA for a term of 40 years, April 1, 2009 to March 31, 2049, for educational purposes.

MLCA's educational program experienced significant growth over the years. It soon became apparent to MLCA that subject premises would not be adequate for projected growth and services to the community. In 2014 MLCA acquired a site with larger and more modern facilities at a location closer to its market. MLCA began to transition

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<sup>1</sup> Haw. Rev. Stat. § 171-43.1, as amended

<sup>2</sup> Haw. Rev. Stat. § 171-17, as amended

<sup>3</sup> Board meeting, December 12, 2008, Item D-12

operations from subject premises to new location in May of 2018. Transition to new facilities was completed by March 2019. MLCA continues to maintain and secure the subject premises.

MLCA supports and promotes continuing education and the importance of acquiring life skills for enhanced employment opportunities. Accordingly, MLCA would like to assign lease to Kona Vocational and Life Education Center (KVLEC). An Assignment Application was submitted to staff on 7/9/2019. KVLEC provided staff with an IRS letter of non-profit determination on 9/6/2019, and a copy of the IRS determination letter is attached as Exhibit D.

#### General Info.:

The purpose of KVLEC is to provide trade and vocational programs to interested individuals in the community. The mission of KVLEC is to help individuals learn vocational and life skills that will not only help them secure employment, but also help them be successful in life. This will include learning ethics, morals, being a good citizen, and making positive contributions to the community.

The KVLEC program consists of 3-Phases: Phase I – Gaining Trade Knowledge; Phase II – Turning Trade Knowledge into Trade Skills; and Phase III – Finding a Job.

Phase I – Gaining Trade Knowledge. This includes: Summer camps, month long workshops, and courses accredited by the National Center for Construction, Education, and Research.

Phase II – Turning Trade Knowledge into Trade Skills. KVLEC will offer student trade services to the community for free. KVLEC will assist individuals and organizations, including senior citizens, with limited financial resources. Those being assisted will be responsible for the cost of materials and KVLEC will provide the labor for available trade services, including carpentry. All work will be supervised by qualified instructors and include building permits as required. This will be a win-win program, assisting those in need in the community while providing students with the experience and skills they need to be successful.

Phase III – Finding a Job. KVLEC will work closely with employment agencies, trade unions, trade associations, as well as a network of mentors to place students into the workforce as soon as possible.

KVLEC will also work to improve subject property. Projects here will include, but not be limited to, updating light fixtures, renovating rooms, adding needed stairs, replacing wood flooring, and fixing dry rot, water, and termite damage throughout the premises.



It is estimated that the labor and material cost for these projects will exceed \$60,000. KVLEC has \$30,000 set-aside for this purpose and will be raising funds to take care of the balance. When appropriate, KVLEC will utilize student help to do the work, which will not only help to keep costs down, but also give students an opportunity to apply what is being learned and gain important experience and skills.

KVLEC's founder and president, Spencer Baker, is an ordained pastor of Big Island Baptist Church. Mr. Baker has over twelve years of experience in the construction field and has a long history of working with at risk youth, organizing and running youth camps and retreats, speaking to and working with youth, and acting as Chaplain for the Youth Correctional Center on Oahu.

KVLEC is a grass roots community centered initiative that is being supported by a number of people, groups, and organizations such as the Rotary Club, churches, and small businesses in the community. The KVLEC board includes individuals experienced in the areas of education, construction, working with at-risk youth, finance, and record-keeping.

KVLEC 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.

KVLEC will continue to use subject lease for the operation of a school and related educational purpose, there will be no change in character of use. Accordingly, staff has determined that it would not be necessary to request comments from County and State agencies regarding this lease assignment due to same character of use.

MLCA has been compliant to the terms and conditions of the lease. There are no defaults or outstanding conditions that need to be met.

RECOMMENDATION:


That the Board:

- (1) Amend General Lease No. S-5971, to provide that annual rental shall be reopened and redetermined based on the Board's then prevailing Minimum Rent Policy for eleemosynary organizations.
- (2) Authorize the assignment of General Lease No. S-5971 from Makua Lani Christian Academy, as Assignor, to Kona Vocational and Life Education Center, as Assignee, covering the subject area for operation of a school and related educational purpose 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 consent to assignment form, as may be amended from time to time;
- B. Review and approval by the Department of the Attorney General; and
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

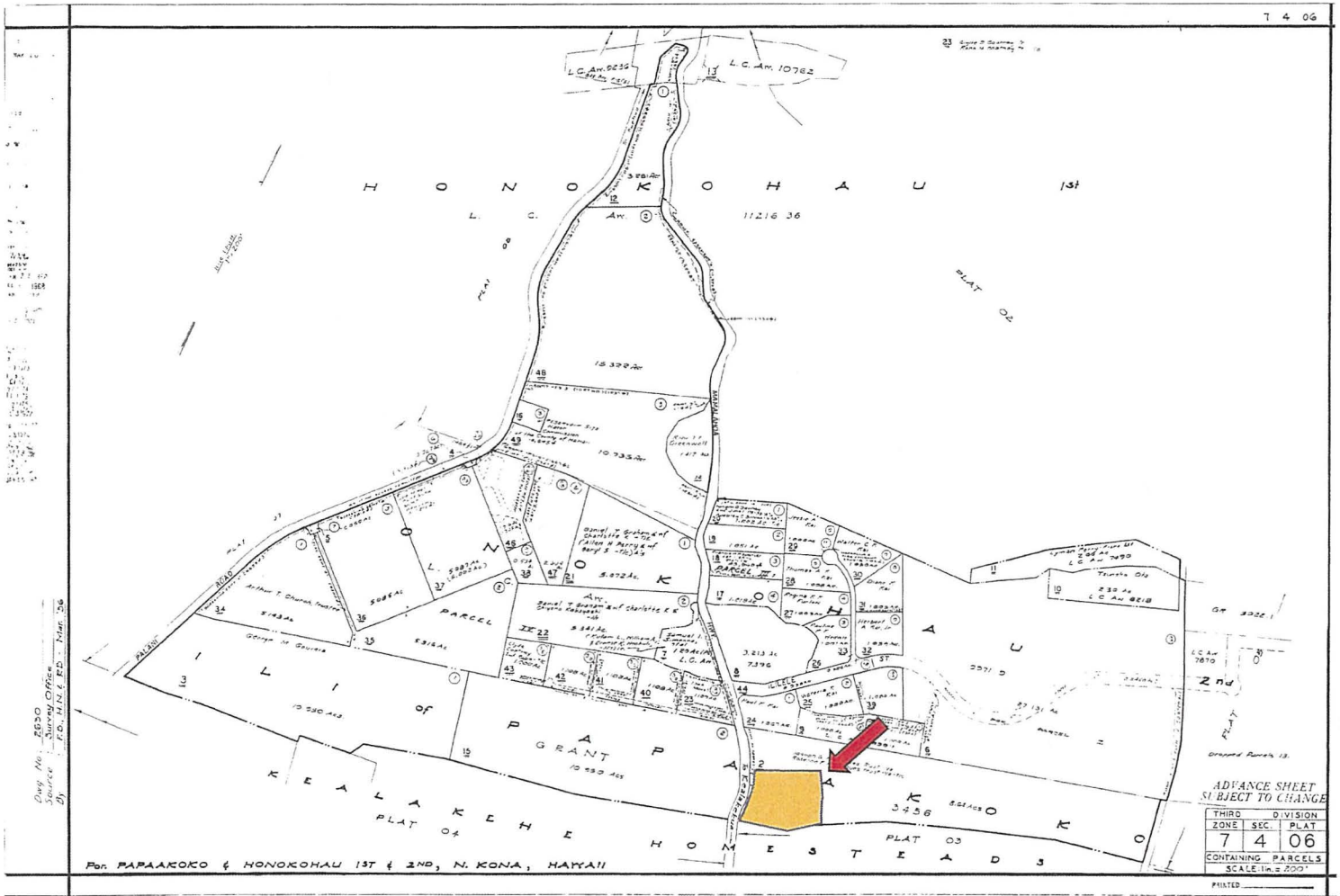
Respectfully Submitted,

  
\_\_\_\_\_  
Pua Ishibashi  
Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Suzanne D. Case, Chairperson

# EXHIBIT A



Tax Map Key: (3) 7-4-006:001

## EXHIBIT B



Front of premises facing mauka.



Eastern side of building facing makai.



## EXHIBIT B



Portion of back of building.



View from Eastern corner of building.



## EXHIBIT B



View of basketball court from Eastern side of building facing makai.



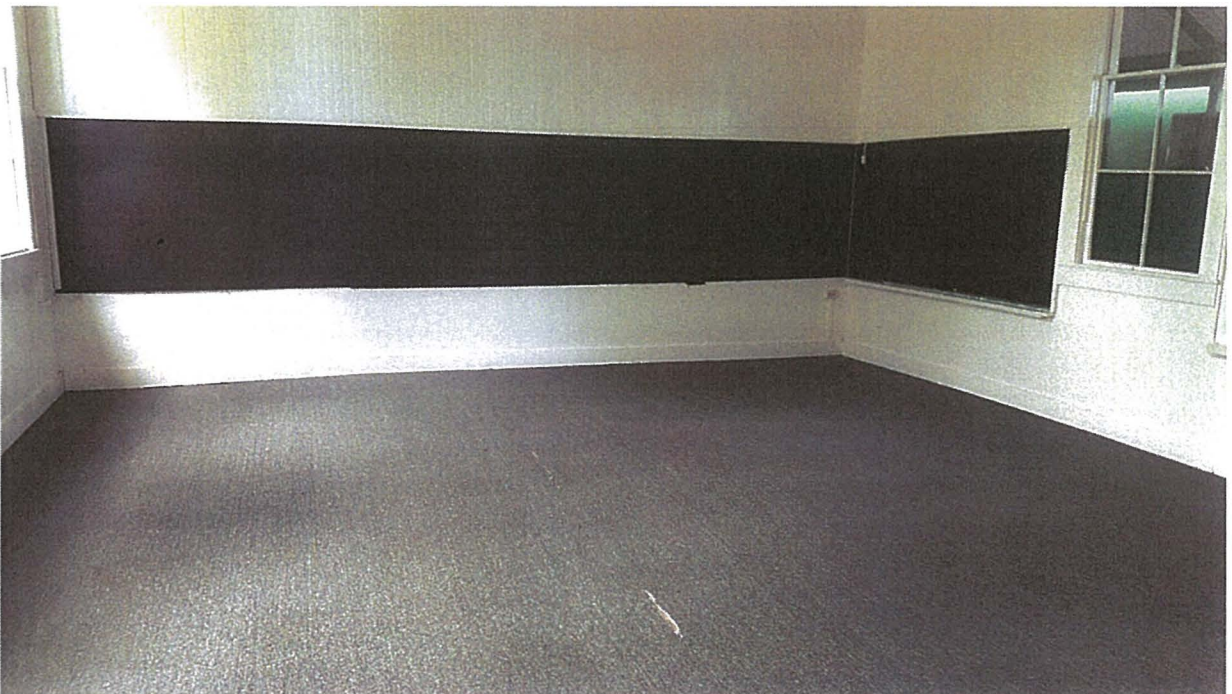
View of parking area from Eastern side of building facing makai.



## EXHIBIT B



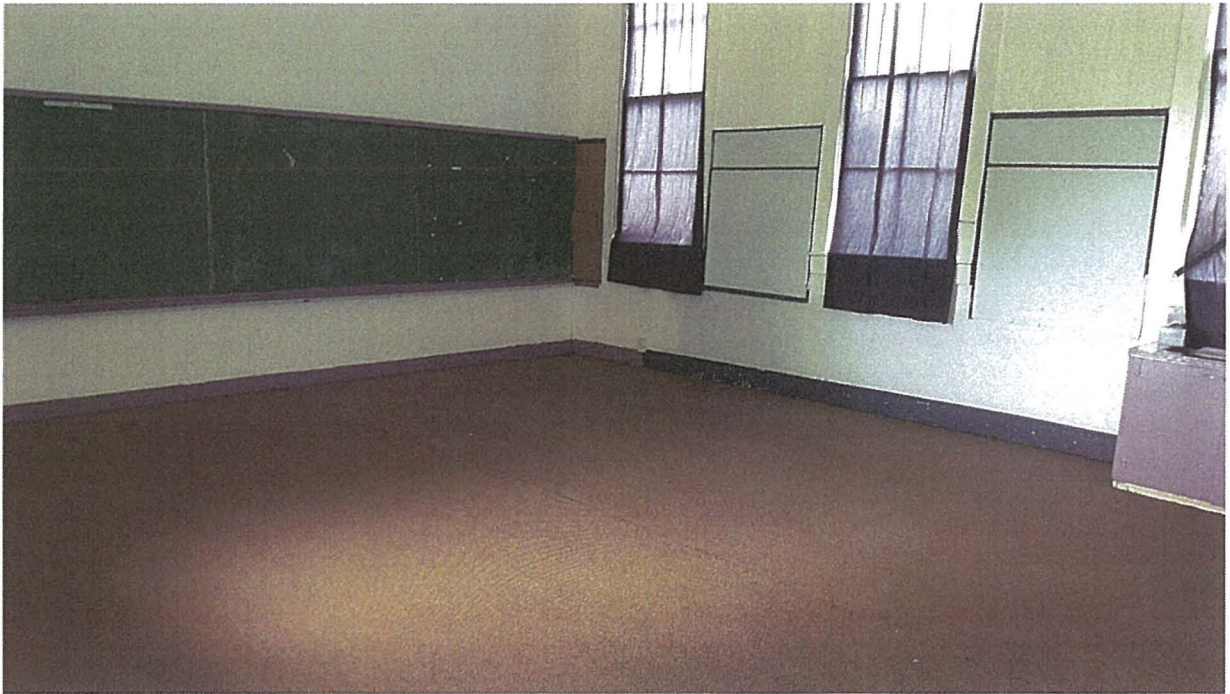
Stairs from top of administrative building



One of many class rooms.



## EXHIBIT B



Another Classroom.



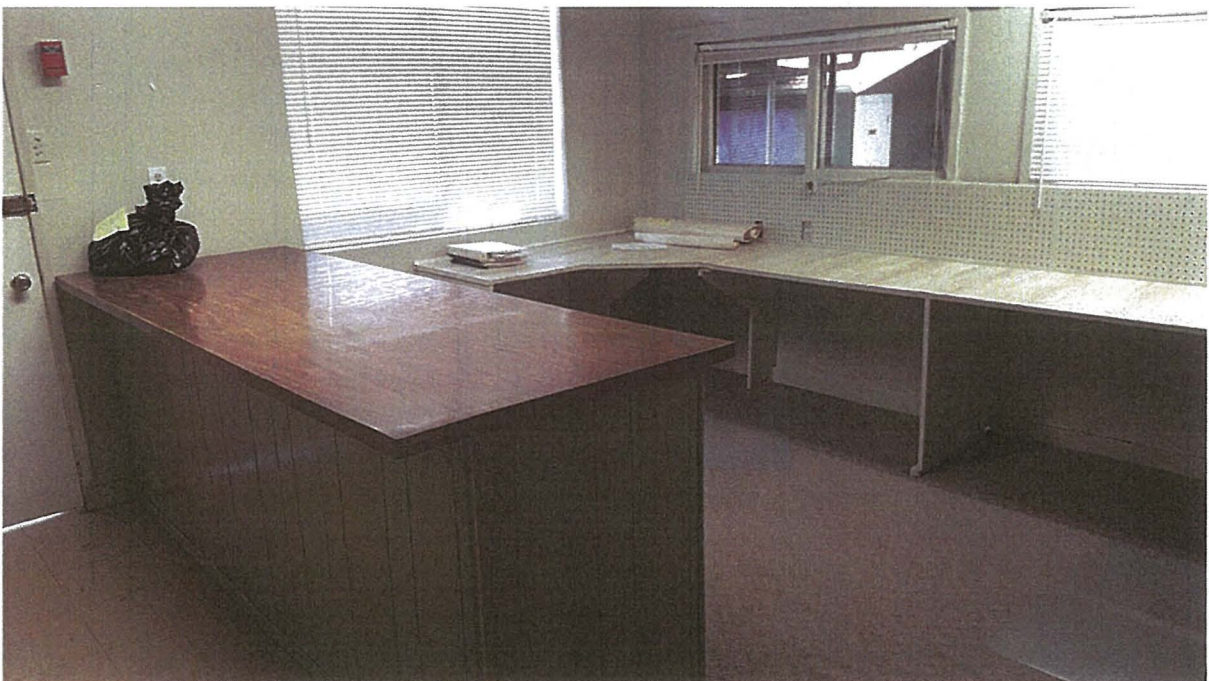
Kitchen area.



## EXHIBIT B



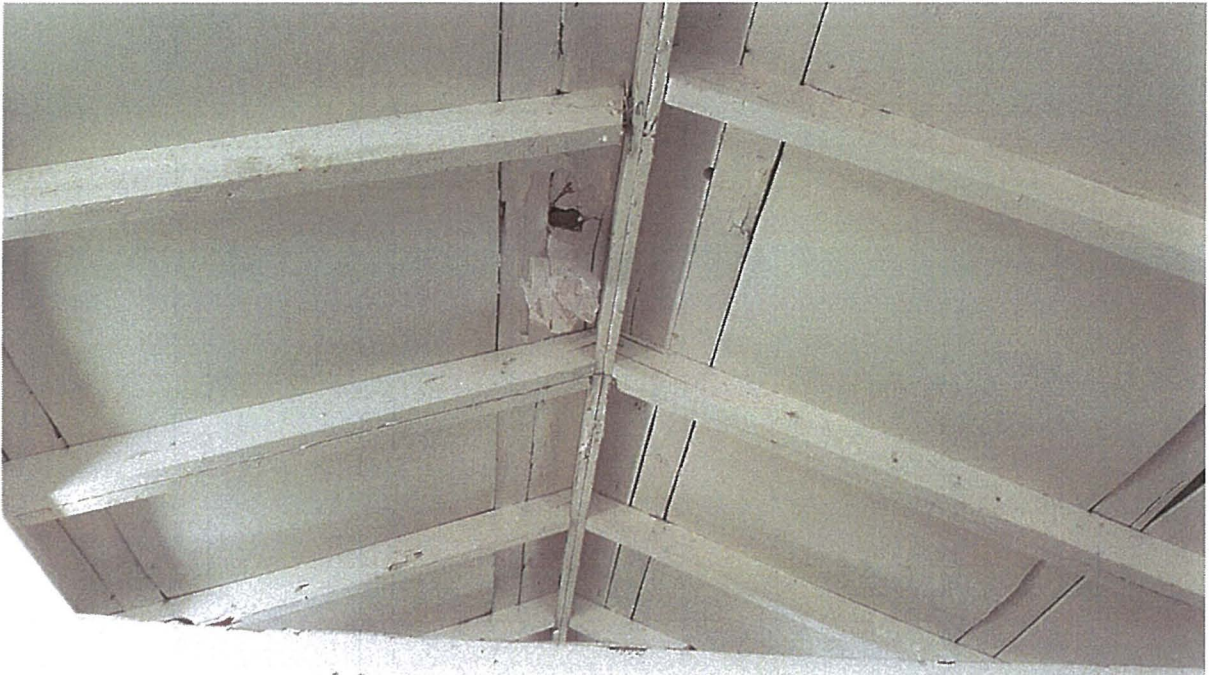
Auditorium with stage.



Admin Office Area.



## EXHIBIT B



Some of the Roof Damage.



Some Floor Damage.



DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

October 4, 2019

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1, Hawaii Administrative Rules (HAR):

**Project Title:** Assignment and amendment of General Lease No. S-5971.

**Project / Reference No.:** GLS-5971.

**Project Location:** Portion of Government lands situated at Ili of Papaakoko, Honokohau 2nd, North Kona, Hawaii, identified by Tax Map Key: (3) 7-4-006:001.

**Project Description:** Assignment of General Lease No. S-5971, from Makua Lani Christian Academy, Assignor, to Kona Vocational and Life Education Center, Assignee. Also, amendment of Lease to set annual rent to the nominal amount of \$480 per annum.

**Chap. 343 Trigger(s):** Use of State Land.

**Exemption Class No. and Description:** In accordance with HAR § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 47 that states "Leases of state land involving negligible or no expansion of change of use beyond that previously existing".

**EXHIBIT C**

**Cumulative Impact of  
Planned Successive  
Actions in Same Place  
Significant?:**

No. Assignee will continue to use premises for the operation of a school and related educational purpose, there will be no change in character of use. Accordingly, staff has determined that there are no cumulative impacts involved.

**Action May Have  
Significant Impact on  
Particularly Sensitive  
Environment?:**

No. There are no particular sensitive environmental issues involved with the proposed use of the property.

**Analysis:**

The subject premises were previously encumbered by General Lease No. S-5640, to Kona Christian Academy for educational purposes. Lessee subleased premises to Makua Lani Christian School (MLCS), a Hawaii non-profit, 501 (c) (3) corporation, that used premises for educational purposes. On October 2, 2008 Kona Christian Academy requested early lease termination with request to issue a direct lease to MLCS. On December 12, 2008 the Board approved Kona Christian Academy's request, for early lease termination and issuance of a direct lease to MLCS. Subsequently, General Lease No. S-5971 was executed to MLCS for a term of 40 years, April 1, 2009 to March 31, 2049, for educational purposes. The provisions of lease included nominal rent of \$480, per annum, with rent reopened and redetermined beginning April 1, 2019.

Lessee's educational program experienced significant growth over the years. It soon became apparent to Lessee that subject premises would not be adequate for projected growth and services to the community. In 2014 Lessee acquired premises with larger and more modern facilities at a location closer to its market. Lessee began to transition operations from subject premises to new location in May of 2018. Transition to new facilities were completed by March 2019. Lessee continues to maintain and secure subject premises.

Lessee supports and promotes continuing education and the importance of acquiring life skills for enhanced employment opportunities. Accordingly, Lessee would like to assign lease to Kona Vocational and Life Education Center (KVLEC).

The proposed use will involve negligible or no expansion or change of use beyond that previously existing Various government agencies. Responses are included in the submittal to the Land Board.

**Consulted Parties:**

Assignee will continue to use subject lease for the operation of a school and related educational purpose, there will be no change in character of use. Accordingly, staff has determined that it would not be necessary to request comments from County and State agencies regarding subject lease assignment due to same character of use.

**Recommendation:**

That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



EXHIBIT D

000012H0065F000E000L

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **AUG 21 2019**

KONA VOCATIONAL AND LIFE EDUCATION  
CENTER  
79-7197 HOOPER RD  
HOLUALOA, HI 96725-0000

Employer Identification Number:  
83-3460600  
DIN:  
26053576005169  
Contact Person:  
JOAN C KISER ID# 31217  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
February 28  
Public Charity Status:  
170(b)(1)(A)(vi)  
Form 990/990-EZ/990-N Required:  
Yes  
Effective Date of Exemption:  
February 14, 2019  
Contribution Deductibility:  
Yes  
Addendum Applies:  
No

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to [www.irs.gov/charities](http://www.irs.gov/charities). Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Letter 947

# EXHIBIT B



STATE OF HAWAII  
DEPARTMENT OF EDUCATION

P.O. BOX 2360  
HONOLULU, HAWAII 96804

OFFICE OF STRATEGY, INNOVATION AND PERFORMANCE

December 2, 2020

Pastor Spencer Baker  
Big Island Baptist Church  
74-4947 Mamalahoa Highway  
Holualoa, HI 96725

Dear Pastor Baker,

The Hawaii State Department of Education currently does not license private schools or afterschool programs. The Hawaii Council of Private Schools issues licenses for private schools. The Hawaii State Department of Human Services issues licenses for afterschool child care, which may or may not apply to Kona Vocational and Life Education Center. Please contact the appropriate organization for more information.

If you have further questions regarding the Department of Education, please contact Wanelle Kaneshiro of our Policy, Innovation, Planning, and Evaluation Branch via email at [wanelle.kaneshiro@k12.hi.us](mailto:wanelle.kaneshiro@k12.hi.us) or phone at (808) 586-3800.

Thank you for your commitment to Hawaii's youth.

Sincerely,

A handwritten signature in black ink, appearing to be "Rodney Luke", written over a horizontal line.

Rodney Luke  
Assistant Superintendent