

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

September 24, 2021

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

GL 5468

OAHU

Consent to Sublease under General Lease No. S-5468, Hui Malama O Ke Kai Foundation, Lessee, to Malama Honua Public Charter School Foundation, Sublessee, Waimanalo, Koolauloko, Oahu, Tax Map Key: (1) 4-1-009:265.

APPLICANT:

Hui Malama O Ke Kai Foundation (HMOKK), as Sublessor, to Malama Honua Public Charter School Foundation (MHPCS), as Sublessee, both Hawaii non-profit corporations.

LEGAL REFERENCE:

Section 171-36(a)(6), Hawaii Revised Statutes, as amended.

“Revision to Sublease Rent Participation Policy” adopted by the Board of Land and Natural Resources (Board) on May 26, 2000, agenda item D-24, as amended by the Board on January 26, 2001, agenda item D-8, and further amended by the Board on August 24, 2012, agenda Item D-14.<sup>1</sup>

LOCATION:

Portion of Government lands situated at Waimanalo Koolauloko, Oahu, Tax Map Key: (1) 4-1-009:265 as shown on **Exhibits A1 to A2**.

AREA:

10.893 acres, more or less.

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<sup>1</sup> See submittal for Item D-14 on the Agenda for the August 24, 2012 Meeting of the Board of Land and Natural Resources, *available* at: <https://files.hawaii.gov/dlnr/meeting/submittals/120824/D-Land-Submittals-D14.pdf>

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

MASTER LEASE CHARACTER OF USE:

For multi-purpose community facility purposes.

SUBLEASE CHARACTER OF USE:

Public charter school and educational learning center in compliance with maximum capacity of facilities.

TERM OF MASTER LEASE:

65 years, commencing on May 1, 1996 and expiring on April 30, 2061; next rental reopening is scheduled for May 1, 2031.

TERM OF SUBLEASE:

Commencing on July 1, 2019 and running coterminous with General Lease No. 5468.  
See Remarks section.

MASTER LEASE ANNUAL RENTAL:

\$480.00.

Note: At its meeting of November 13, 2020, the Board authorized the annual rental of the master lease be reopened and redetermined based on the Board's then prevailing minimum rent policy for eleemosynary organizations.

SUBLEASE RENTAL:

Sublessee is required to pay \$1,000/month for the facilities maintenance and repair expenses, and \$1,000/month for its share of utilities charges.

RECOMMENDED ADJUSTMENT TO MASTER LEASER RENTAL

None as the subject sublease is for improved property and the monthly payment by the sublessee is to cover its share of the repair, maintenance and utilities charges relating to the subject premises.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR), and the

Exemption List for the Department of Land and Natural Resources, reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, Part 1, Item 40, which states the “Leases of state land involving negligible or no expansion or change of use beyond that previously existing”. See **Exhibit B**.

DCCA VERIFICATION (for both sublessor and sublessee):

Place of business registration confirmed:	YES <u>  x  </u>	NO <u>    </u>
Registered business name confirmed:	YES <u>  x  </u>	NO <u>    </u>
Good standing confirmed:	YES <u>  x  </u>	NO <u>    </u>

REMARKS:

The subject 65-year lease was issued to Waimanalo Teen Project (“WTP”) in 1990 for multi-purpose community facility. In 1999, the Board authorized the amendment of the lease to allowing sublease on the property subject to prior written approval. In 2014, the Board approved the merger of WTP and HMOKK in which the latter is the surviving entity.

MHPCS is a public charter school serving the Waimanalo community with “a rigorous learning environment guided by the Hawaiian cultural values that [they] share with [their] educational partner, the Polynesian Voyaging Society.” Pursuant to a Letter of Intent signed by HMOKK and MHPCS, both entities are “committed to working collaboratively as education partners to share physical space and complement their programmatic mission”.

Since July 1, 2019, agreements were reached between the parties allowing MHPCS to operate its charter school program in portions of the improvements.<sup>2</sup> When staff became aware of the situation, HMOKK was requested to seek the Board’s consent to the sublease.

HMOKK is in compliance with all lease terms and conditions (rent, insurance, performance bond, etc.), with the exception of the approval required for the subject sublease. MHPCS 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 believes the proposed use is appropriate under the subject lease. The consent, if given, will resolve the unauthorized presence of MHPCS on the premises. Therefore, staff recommends the Board give its consent to the proposed sublease subject to the terms and conditions cited above.

If the Board approves the subject request, both entities will provide a fully executed

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<sup>2</sup> Copies of Facility Use Agreement dated May 15, 2019 and July 1, 2020 signed by HMOKK and MHPCS covering the periods from July 1, 2019 to June 30, 2020 and July 1, 2020 to June 30, 2023 respectively were recently provided to the staff and they are kept in the file.

sublease agreement for the review and final approval by the Department of the Attorney General.

There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Consent to the sublease under General Lease No. 5468 between Hui Malama O Ke Kai Foundation, as Sublessor, and Malama Honua Public Charter School Foundation, as Sublessee, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following terms and conditions:
  - A. The standard terms and conditions of the most current consent to sublease 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,

*Barry Cheung*

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Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

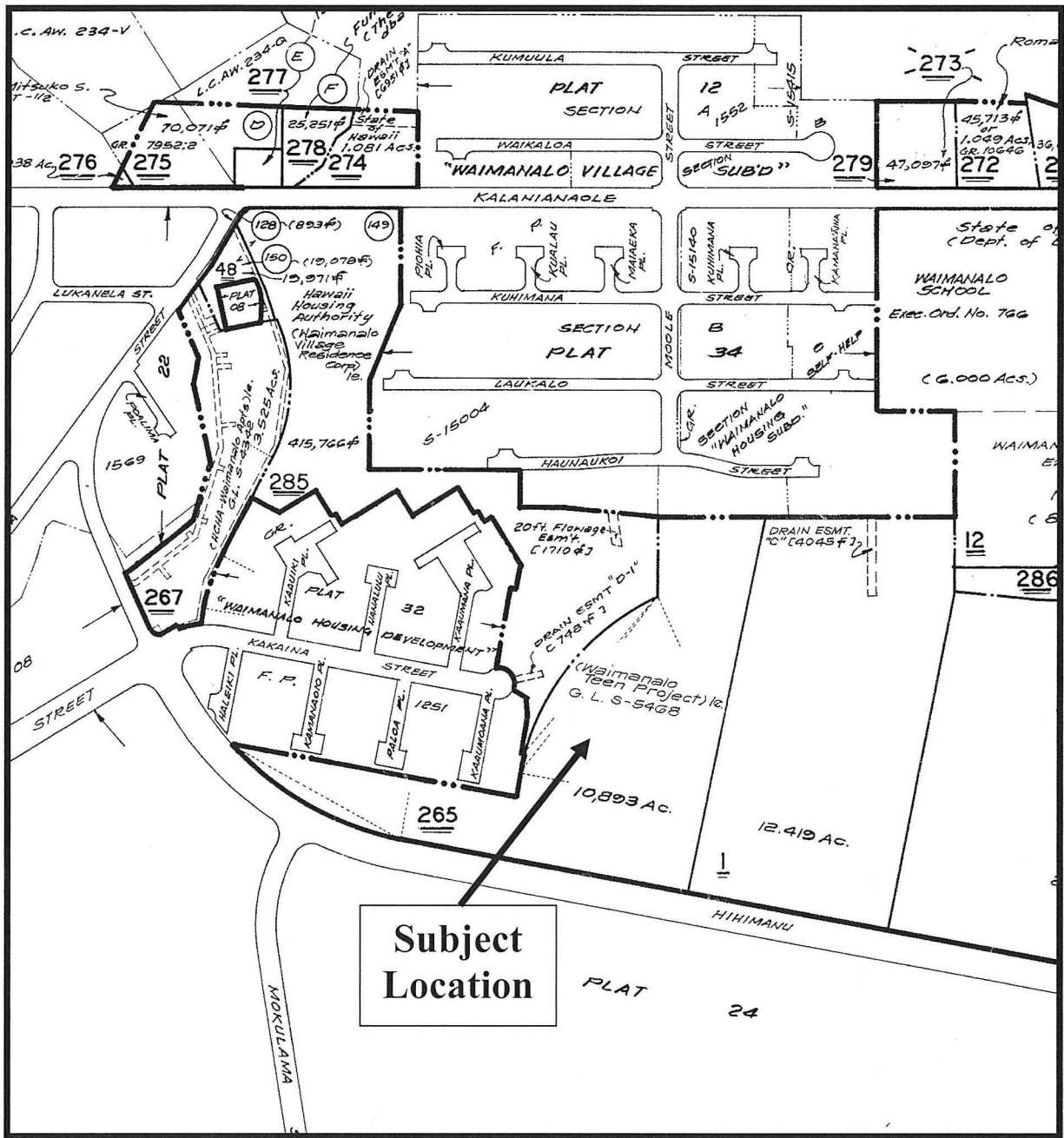
*Suzanne D. Case*

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Suzanne D. Case, Chairperson

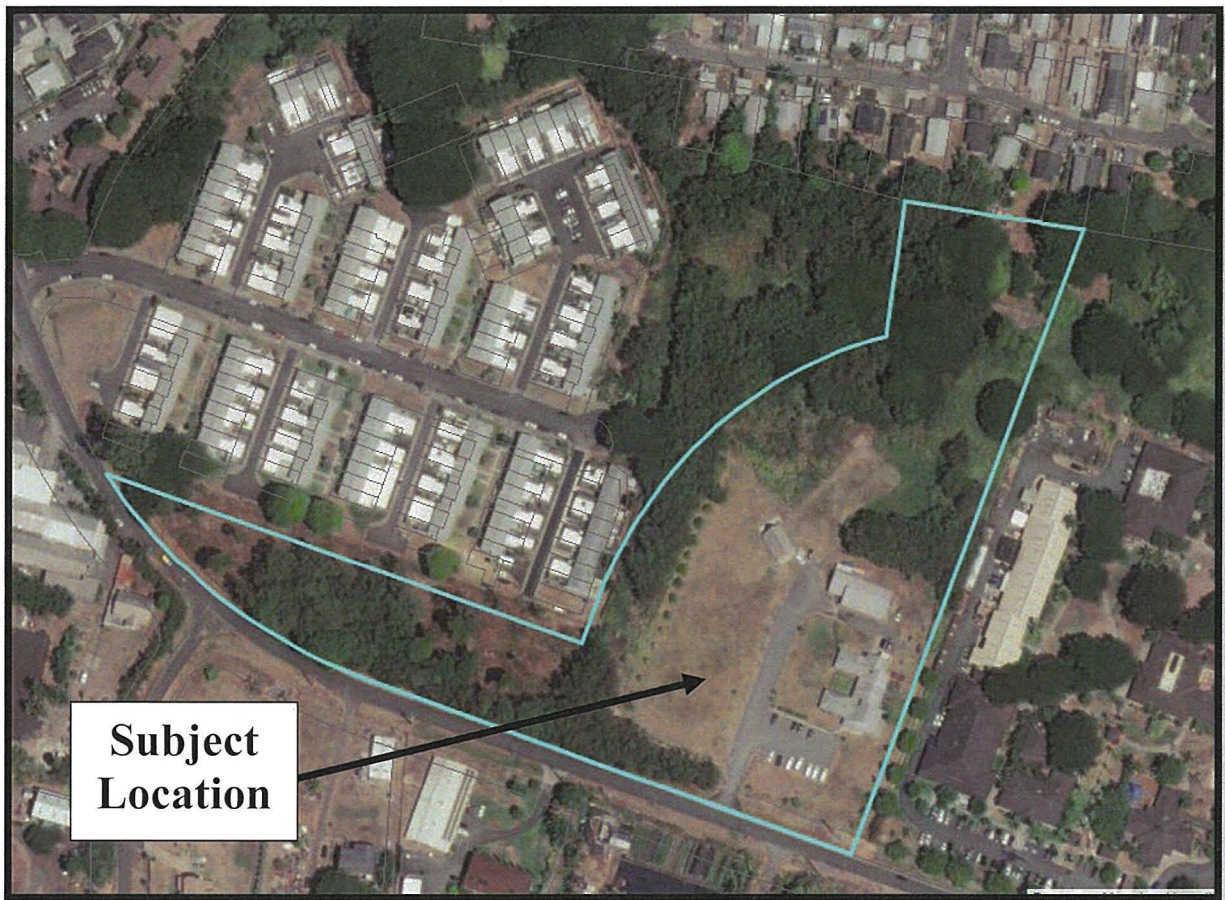
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TMK (1) 4-1-009:265

EXHIBIT A-1



**TMK (1) 4-1-009:265**

**EXHIBIT A-2**

### EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1-15, HAR

Project Title:	Consent to Sublease between Hui Malama O Ke Kai Foundation, as Sublessor, and Malama Honua Public Charter School Foundation, as Sublessee.
Reference No.:	GL 5468
Project Locations:	Waimanalo, Koolauapoko, Oahu, Tax Map Key: (1) 4-1-009:265
Project Description:	Consent to sublease for the sublessee's utilization of the improvements on the subject premises for the operation of a public charter school.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with Section 11-200.1-15, HAR, and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, Part 1, Item 40, which states the "Leases of state land involving negligible or no expansion or change of use beyond that previously existing".
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No, the proposed use by the sublessee is not different from the utilization of the subject premises by the sublessor.
Action May Have Significant Impact on Particularly Sensitive Environment?	Staff is not aware of any sensitive environmental or ecological receptors in the vicinity.
Consulted Parties:	Division of Boating and Ocean Recreation.
Analysis:	Staff believes that the requested consent to sublease would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

**EXHIBIT B**

Recommendation:

It is recommended that the Board find that 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.