

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

November 12, 2021

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

Ref. No.: GLS-5435
PSF No.: 21HD-071

HAWAII

Consent to Assign General Lease No. S-5435, Shirley Kaiwalani Nash,
Assignor, to Jesse Kaawaloa, Jr., Assignee, Lot 35, Kalapana Section, Kikala-Keokea,
Puna, Hawaii, Tax Map Key: (3) 1-2-043:035.

APPLICANT:

Shirley Kaiwalani Nash, as Assignor, to Jesse Kaawaloa, Jr., married, husband of Janice
Pastrana Kaawaloa, Tenancy by the Entirety, as Assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Lot 35, Kalapana Section, Kikala-Keokea Residential
Subdivision situated at Kikala and Keokea, Puna, Hawaii, identified by Tax Map Key: (3)
1-2-043: 035, as shown on the attached maps labeled **Exhibit A**.

AREA:

1.080 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: NO

CHARACTER OF USE:

The lessee shall use or allow the premises leased, to be used solely for residential

purposes as the lessee's primary domicile, provided that the following additional uses shall be permitted:

1. Storage of boats, fish catch, fishing nets and other fishing related implements;
2. Raising and keeping of small livestock and poultry for subsistence purposes only, except that the raising of swine (also called hogs and pigs) on the leased premises shall be prohibited; and
3. Cultivation of farm and agricultural crops for subsistence purposes (for home consumption only and not for sale), including herbal plants.

TERM OF LEASE:

65 years, commencing on January 1, 1997 and expiring on December 31, 2061. First scheduled rental reopening is for January 1, 2022.

ANNUAL RENTAL:

\$132 per annum. Payable in advance, in semi-annual installments of \$66, on the First Day of January and July of each year.

CONSIDERATION:

Gratis.

RECOMMENDED PREMIUM:

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

DCCA VERIFICATION:

ASSIGNOR:

Not applicable. Assignor is an individual and as such, is not required to register with DCCA.

ASSIGNEE:

Not applicable. Assignor is an individual and as such, is not required to register with DCCA.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule (HAR) Sections 11-200.1-16 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated November 10, 2020, the subject request is exempt from

the preparation of an environmental assessment pursuant to General Exemptions Type 1, Part 1, Item No. 40, where Type 1 exemptions involve "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," and where Item No. 40 under Part 1 applies to "Leases of state land involving negligible or no expansion or change of use beyond that previously existing." The subject request is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-16, HAR.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Submit a basic homeowner's insurance or a Certificate of Liability Insurance for the property as required under the lease, within sixty (60) days of this approval;

REMARKS:

Pursuant to Act 314, Session Laws of Hawaii 1991, as amended by Act 172, Session Laws of Hawaii 1993 and Act 81, Session Laws of Hawaii 1994, the Legislature of the State of Hawaii authorized the Department to negotiate and enter into long term residential leases to persons living in Kalapana who were dispossessed or displaced as a result of the volcanic eruptions on the island of Hawaii, which began January 3, 1983 and persons who meet the qualifications of Section 13D-3(b), Hawaii Revised Statutes.

At its meeting of December 16, 1994, Item F-3, the Board of Land and Natural Resources (Board) authorized the awarding of direct residential leases, pursuant to Act 314 at Kikala-Keokea, Puna, Hawaii.

A drawing of lots was conducted on December 9, 1995, and Lei Mamo Kaapana Aken was awarded a 65-year residential lease under General Lease No. S-5435. Forty-seven other leases were also awarded at the drawing.

At its meeting of November 20, 1998, Item D-6, the Board authorized Land Division to instruct its Fiscal Office to stop rental billings of the 48 general leases and to amend the lease document to reflect a "new" commencement date.

At its meeting of September 8, 2006, Item D-5, the Board approved to amend the 48 general leases awarded for residential purposes by: 1) Authorizing Land Division to instruct its Fiscal Office to commence with billing of lease rents, effective January 1, 2007; and 2) Amend lease terms and conditions of the general leases awarded relating to revisions of rent, liability insurance, improvements, mortgage, construction requirement, and the Kikala-Keokea Residential Community Association.

At its meeting of April 11, 2008, Item D-2, the Board approved to amend the insurance requirement for the forty-eight Kikala-Keokea general leases awarded for residential purposes, by lowering the amount of coverage required from \$300,000 per occurrence and \$500,000 aggregate to \$100,000 per occurrence/aggregate.

The Amendment of General Lease No. S-5435 document was executed by Lei Aken and recorded with the Bureau of Conveyances under Document Number 2007-002462, on January 5, 2007.

At its meeting of March 27, 2009, Item D-4, the Board approved the assignment of General Lease No. S-5435, Lei Mamo Kaapana Aken, Assignor, to Jake Kaawaloa, Assignee. However, in the processing of the assignment, Mr. Kaawaloa could not provide the required tax clearances and liability insurance, as such, the assignment of the lease could not be completed. As a result, Ms. Aken requested that the assignment be rescinded.

At its meeting of June 27, 2014, D-2, the Board approved to rescind its prior actions of March 27, 2009, Item D-4, approving the assignment of GLS-5435, Lei Mamo Kaapana Aken to Jake Kaawaloa.

In addition, at its meeting of June 27, 2014, D-2, the Board approved the assignment of GLS-5435, Lei Mamo Kaapana Aken, Assignor, to Beverly Keoneone Amaral, Assignee. However, in the processing of the assignment, Ms. Amaral could not provide the required tax clearances, as such, the assignment of the lease could not be completed. As a result, Ms. Aken requested that the assignment be rescinded.

At its meeting of June 24, 2016, D-2, the Board approved to rescind its prior actions of June 27, 2014, approving the assignment of GLS-5435, Lei Mamo Kaapana Aken to Beverly Keoneone Amaral, and consent to the assignment of GLS-5435, Lei Mamo Kaapana Aken, Assignor, to Shirley Kaiwalani Nash, Assignee.

Shirley Kaiwalani Nash, Assignor, is now requesting consent to assign subject property to Jesse Kaawaloa, Jr., Assignee. Jesse Kaawaloa, Jr. is a qualified Assignee under Act 314 for a Kikala-Keokea residential lease as a descendent of a survivor/displaced resident of Kalapana from the volcanic eruptions beginning January 3, 1983.

Shirley Kaiwalani Nash is current on lease payments. Certificate of Liability Insurance is also current, scheduled to expire on August 22, 2022. There is no bond requirement for this lease. The Lessee has never been cited for any illegal or unlawful activity on subject property.

Jesse Kaawaloa, Jr., as 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.

The first rental reopening is scheduled for 1/01/2022. There are no outstanding rental reopening issues.

No government agencies were solicited for comments as this is not a new disposition or change in use.

RECOMMENDATION: That the Board:

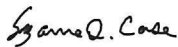
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis action.
2. Consent to the assignment of General Lease No. S-5435 from Shirley Kaiwalani Nash, as Assignor, to Jesse Kaawaloa, Jr., as Assignee, 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. Assignee shall provide acceptable evidence of insurance to Land Division prior to execution of the Assignment;
 - C. Review and approval by the Department of the Attorney General; and
 - D. 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

RT

EXHIBIT A

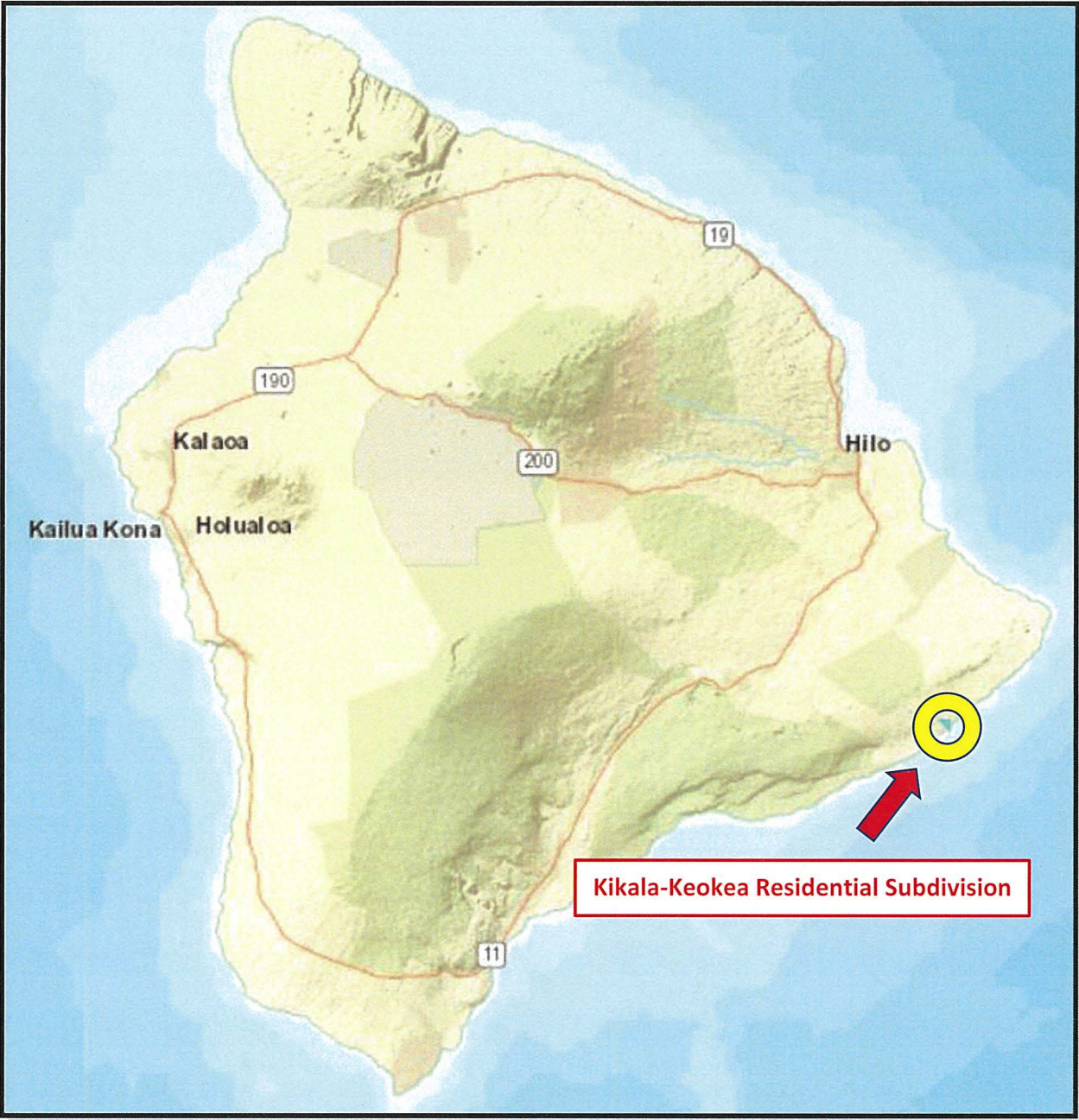
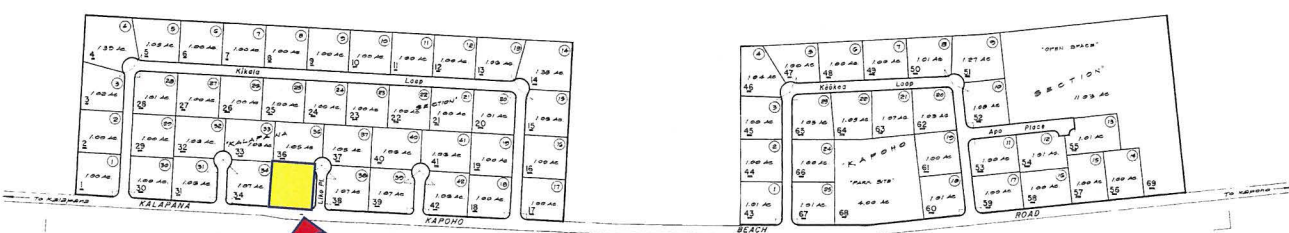


EXHIBIT A

DATE: 10/1/2019 BY: [illegible]

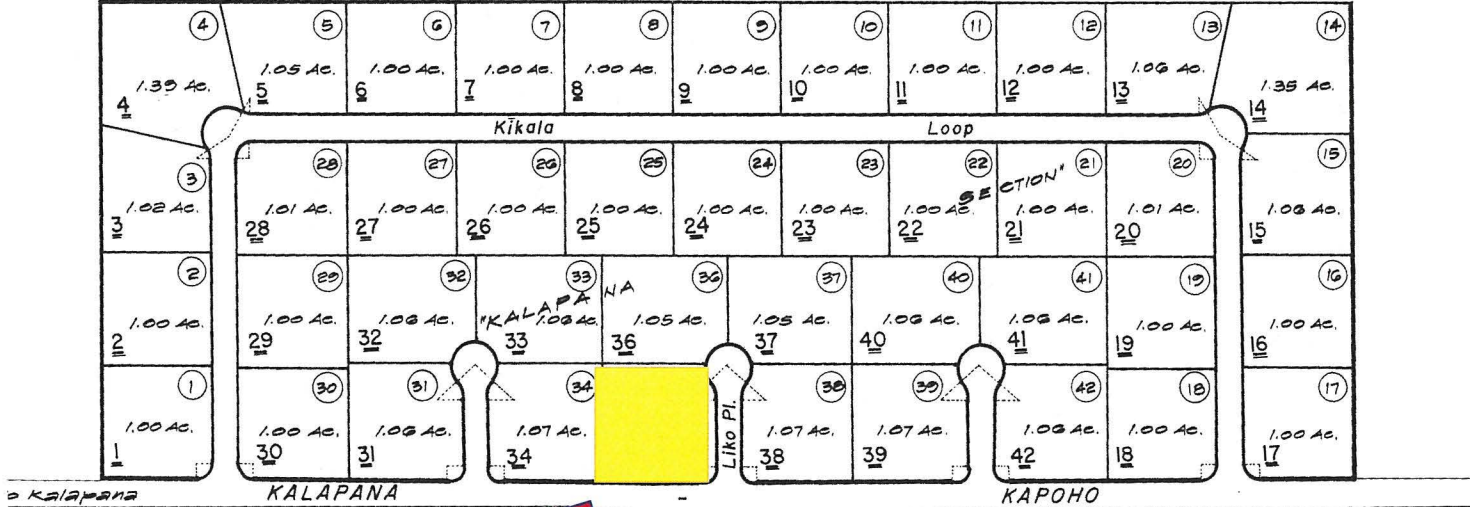


"KIKALA - KEOKEA RESIDENTIAL SUBD.", KIKALA AND KEOKEA, PUNAHU, HAWAII (Formerly Sub. 2-37)

FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

COUNTY OF HAWAII		
TAX MAP		
ZONE	SECTION	PLAT
1	2	43
SCALE: 1" = 200 FT		
PRINTED: 10/1/2019		

**Lot 35, Kalapana Section,
Kikala-Keokea Residential Subdivision, TMK: (3) 1-2-043:035.**



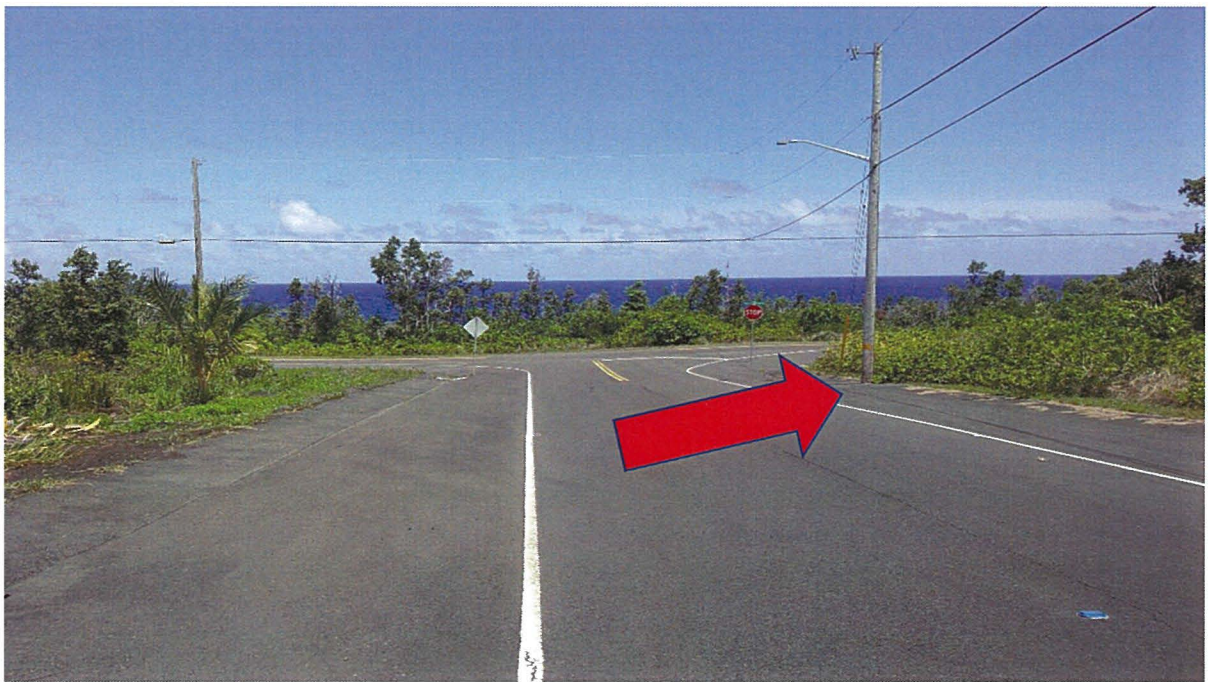
**Lot 35, Kalapana Section,
Kikala-Keokea Residential Subdivision,
TMK: (3) 1-2-043:035.**

EXHIBIT A

Photos of subject property, property is untouched and remains in its natural state.



Subject property corner of Kalapana-Kapoho Beach Rd. and Liko Pl.



On Liko Pl., facing makai, subject property on right.



Front of property from Liko Pl.