

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

December 10, 2021

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

Ref. No.: GLS-5235

HAWAII

Consent to Assign General Lease No. S-5235, Orasa Kaiulani Fernandez, Assignor, to Wayne N. Dacalio, Don F. Dacalio, Morgan K. Dacalio Sr., and Morgan K. Dacalio Jr., Assignees, Milolii-Hoopuloa, South Kona, Hawaii, Tax Map Key: (3) 8-9-014:053.

APPLICANTS:

Orasa Fernandez, Assignor, to Wayne Nahinu Dacalio, Don Francisco Dacalio, Morgan Kapono Dacalio Sr., and Morgan Kapono Dacalio Jr., Joint Tenants, as Assignees.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Milolii-Hoopuloa Houselots, Phase III, Lot 12, situated at Milolii and Hoopuloa, South Kona, Hawaii, identified by Tax Map Key: (3) 8-9-014: 053, as shown on the attached maps and photo labeled **Exhibit A**.

AREA:

0.2296 acre (10,000 s.f.), 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:

Solely for residential purposes as the Lessee's principal domicile.

TERM OF LEASE:

65-years, commencing on March 3, 1994 and expiring on March 2, 2059,

RENTAL REOPENINGS:

Rental reopening and redetermination at the expiration of the twenty-fifth (25th) and forty-fifth (45th) years of said term. The first reopening was scheduled for March 2, 2019, see REMARKS for reopening status.

CURRENT ANNUAL RENTAL:

\$480.00. Due in semi-annual installments of \$240.00 on the First Day of January and July of each year.¹

CONSIDERATION:

\$ 10.00.

RECOMMENDED PREMIUM:

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

DCCA VERIFICATION:

ASSIGNOR:

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

ASSIGNEES:

Not applicable. Assignees are individuals and are 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 Exemption 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

¹ Land Board meeting of January 12, 2018, Item D-7

environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-16, HAR.

APPLICANTS REQUIREMENT:

Applicants 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:

Act 62, Session Laws of Hawaii 1982, as amended by Act 83, Session Laws of Hawaii 1984, authorized the Department of Land and Natural Resources to negotiate and enter into long term leases to persons residing in Milolii who were dispossessed or displaced as a result of the 1926 volcanic eruption of Mauna Loa on the Island of Hawaii. Act 362, Session Laws of Hawaii 1987, as amended by Act 68, Session Laws of Hawaii 1989, and Act 86, Session Laws of Hawaii 1991, extended the sunset date to January 1, 1989, providing sufficient time to process Phase III of the Milolii-Hoopulua Lots.

At its meeting of July 22, 1988, Item F-3, the Board approved the direct lease for residential purposes at Milolii-Hoopulua Lots, Phase III, Hoopulua, South Kona, Hawaii. On December 18, 1992, Sally Kahikinaokala Dacalio was issued a direct residential lease encumbered under General Lease Number S-5235.

At its meeting of September 15, 1995, Item F-10, the Land Board approved to amend its prior Board action of July 22, 1988 (Item F-3), to change the commencement date of General Lease No. S-5235 from December 1, 1992 to March 3, 1994 and expiration date from November 30, 2057 to March 2, 2059.

At its meeting of September 9, 2011, Item D-5, the Land Board approved consent to assignment of General Lease No. S-5235, Sally Kahikinaokala Dacalio (also known as Sally K. Dacalio), Lessee/Assignor, to Kaialii Kahele, as Assignee.

At its meeting of July 22, 2016, Item D-7, the Land Board approved consent to assignment of General Lease No. S-5235, Kaialii Kahele, Lessee/Assignor, to Orasa Fernandez, as Assignee.

At its meeting of January 12, 2018, Item D-7, the Land Board approved the rental-reopening rate amount of \$480 per year for five (5) Milolii-Hoopulua Phase III leases, including General Lease No. S-5235.

The Land Board's current minimum rent policy of \$480 is currently applied to most of the Milolii-Hoopulua leases in Phase I, II and III, the only exception being larger properties. Although the Land Board could establish a higher rent, the Land Board's current minimum rent policy is to only cover the administrative cost in managing a lease

on an annual basis, which is \$480 per year or \$40 a month.²

Orasa Fernandez has requested consent to assignment of subject lease to family members who are qualified applicants for a Milolii lease. Orasa Fernandez, the granddaughter of Sally K. Dacalio, the original lessee on subject lease, would like to assign the lease to 3-grandsons and a great-grandson of Sally K. Dacalio. Assignees intend to reside on the leasehold property in Milolii, as joint tenants.

Orasa Fernandez is current with all terms and conditions of the lease including rent and insurance requirements.

Wayne, Don, Morgan Sr., and Morgan Jr. Dacalio, as Assignees, have 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.

No government agencies or interest groups were solicited for comments as the assignment of this lease will not involve a new disposition or change in land 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-5235 from Orasa Kaiulani Fernandez, Lessee/Assignor, to Wayne Nahinu Dacalio, Don Francisco Dacalio, Morgan Kaponu Dacalio Sr., and Morgan Kaponu Dacalio Jr., as Assignees, 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.

² Land Board meeting of January 12, 2018, Item D-7

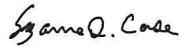
Respectfully Submitted,



gch

Pua Ishibashi
Land Agent

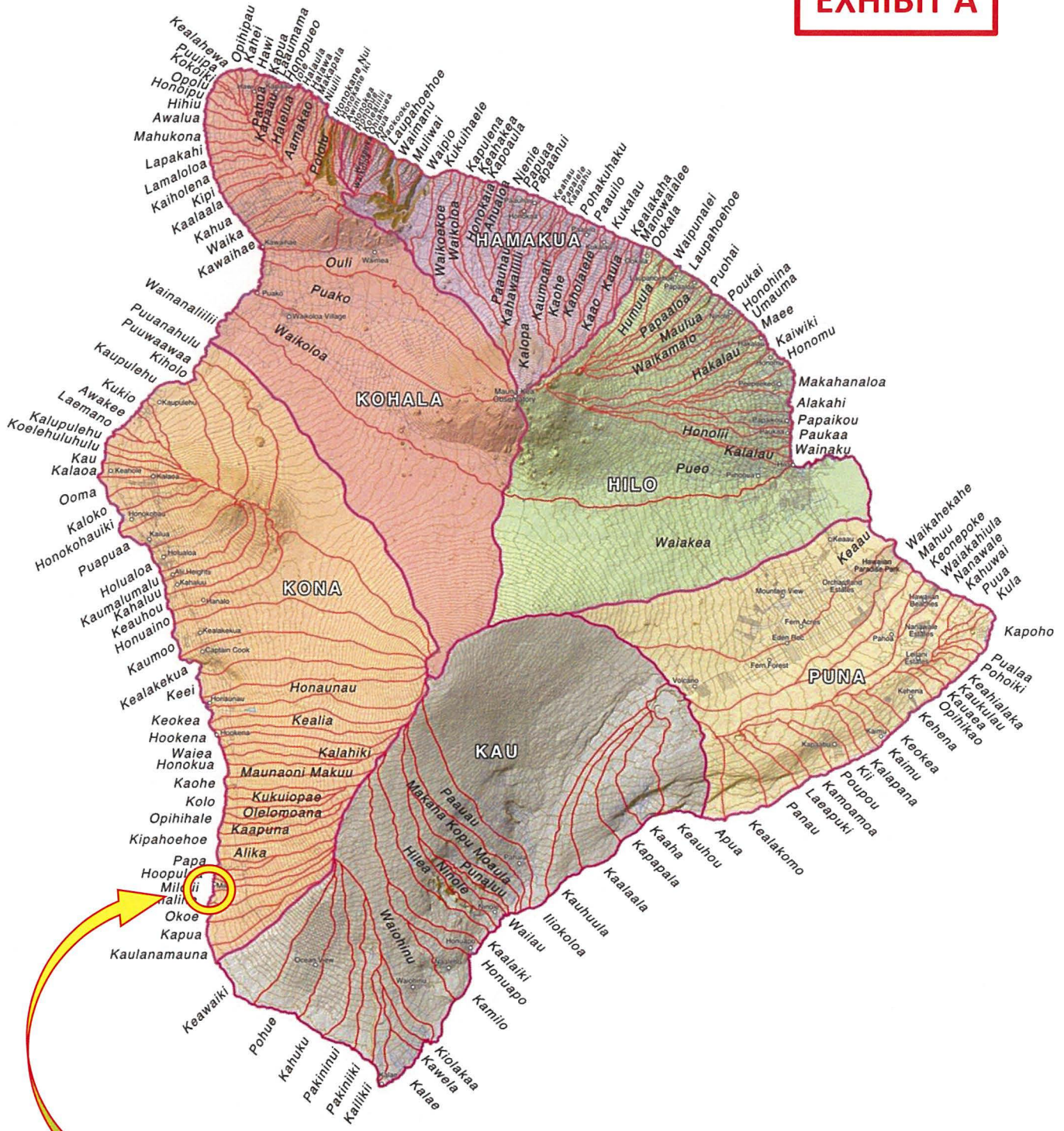
APPROVED FOR SUBMITTAL:



RT

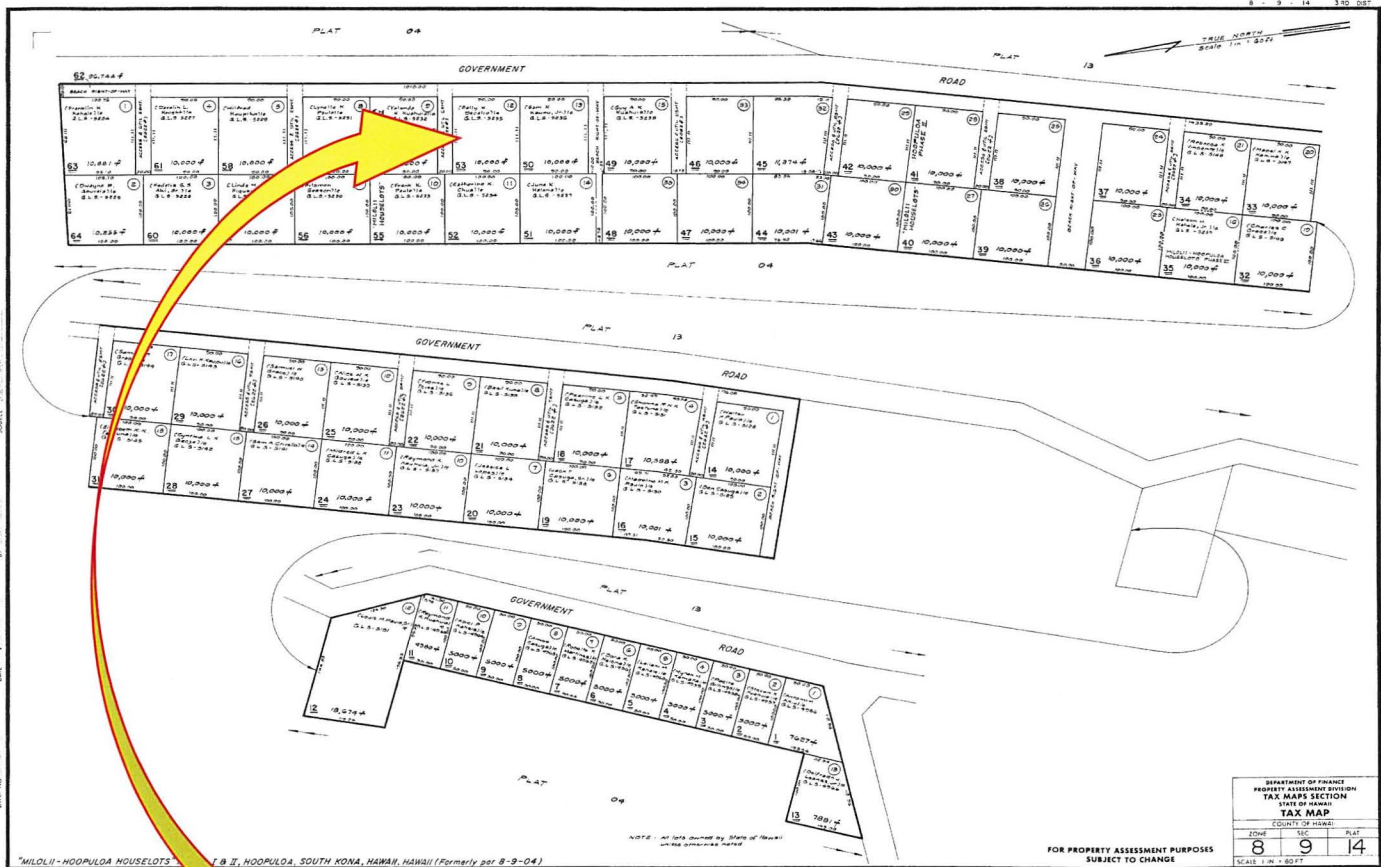
Suzanne D. Case, Chairperson

EXHIBIT A



Tax Map Key: (3) 8-9-014:053

EXHIBIT A



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EXHIBIT A



Residence - Tax Map Key: (3) 8-9-014:053