

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

April 22, 2022

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

Hawai'i

*Amend Prior Board Action of April 13, 2017, Item D-2, Consent to Assign General Lease No. S-4201, David S. De Luz, Sr., Assignor, to Stephen Harold Frank, Trustee of The Stephen Harold Frank Living Trust dated March 27, 2014, also known as Stephen Harold Frank Revocable Trust, Assignee, Waiakea, South Hilo, Hawai'i, Tax Map Key: (3) 2-2-058:033.*

The purpose of the amendment is to change the assignor from David S. De Luz, Sr. to Jan K. De Luz, as Personal Representative of the Estate of David Stanley De Luz, Sr., also known as David S. De Luz, Sr., and David S. De Luz, Deceased. In this capacity, Jan K. De Luz is also known as Jan K. DeLuz, Personal Representative for David S. DeLuz, Sr.

BACKGROUND:

The Board approved the consent to assign General Lease No. S-4201, David S. De Luz, Sr., Assignor, to Stephen Harold Frank, Trustee of The Stephen Harold Frank Living Trust dated March 27, 2014, also known as Stephen Harold Frank Revocable Trust, Assignee, on April 13, 2017 (Exhibit A). However, prior to the execution of the Consent to Assignment of Lease document, Mr. David S. De Luz, Sr. passed away.

REMARKS:

The Consent to Assignment of Lease document was held up while the probate of the estate of David S. De Luz, Sr. was being resolved. The Department of the Attorney General requested that the parties provide an assignment of lease document identifying Jan K. De Luz as personal representative of the estate of David S. De Luz, Sr., as assignor, and that staff return to the Land Board to amend the original assignment of lease request. A copy of the Letters Testamentary issued on December 26, 2019 to Jan K. De Luz in the Matter of the Estate of David Stanley De Luz, Sr., also known as David S. De Luz, Sr., and David S. De Luz, Deceased, is attached hereto as Exhibit B.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of April 13, 2017, under agenda item D-2, by changing the assignor from David S. De Luz, Sr. to Jan K. De Luz, as Personal Representative of the Estate of David Stanley De Luz, Sr., also known as David S. De Luz, Sr., and David S. De Luz, Deceased. In this capacity, Jan K. De Luz is also known as Jan K. DeLuz, Personal Representative for David S. DeLuz, Sr.
2. Except as amended hereby, all terms and conditions listed in its April 13, 2017 approval shall remain the same.

Respectfully Submitted,

*Gordon C. Heit*

*for*

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Gordon C. Heit  
District Land Agent

APPROVED FOR SUBMITTAL:

*Suzanne D. Case*

*RT*

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Suzanne D. Case, Chairperson

# EXHIBIT A

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

April 13, 2017

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

Hawai'i

Consent to Assign General Lease No. S-4201, David S. De Luz, Sr., Assignor, to Stephen Harold Frank, Trustee of The Stephen Harold Frank Living Trust dated March 27, 2014, also known as Stephen Harold Frank Revocable Trust, Assignee, Waiakea, South Hilo, Hawai'i, Tax Map Key: (3) 2-2-058:033.

APPLICANT:

David S. De Luz, Sr., as Assignor, to Stephen Harold Frank, Trustee of The Stephen Harold Frank Living Trust dated March 27, 2014, also known as Stephen Harold Frank Revocable Trust, as Assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Lot 5, Hilo Industrial Development, Pohaku Street Section, situated at Waiakea, South Hilo, Hawai'i, identified by Tax Map Key: (3) 2-2-058:033, as shown on the attached map labeled Exhibit A.

AREA:

20,648 square feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

April 13, 2017 40

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Light industrial purposes.

TERM OF LEASE:

55 years, commencing on September 26, 1968 and expiring on September 25, 2023. Last rental reopening occurred on September 26, 2013; there are no further rental re-openings.

ANNUAL RENTAL:

\$17,978.72.

CONSIDERATION:

\$ 200,000.00.

RECOMMENDED PREMIUM:

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

DCCA VERIFICATION:

Both the Assignor and Assignee are individuals and, as such, are not required to register with DCCA.

REMARKS:

General Lease No. S-4201 was awarded to Norona, Inc., a Hawaii corporation, the highest bidder at a public auction sale of government leases held on September 26, 1968.

From the onset, Norona Inc. incurred financial difficulties. As a result, at its meeting of November 6, 1981 under agenda item F-1-c, the Board of Land and Natural Resources (Board) consented to the assignment of lease to Great Hawaiian Financial Corporation (GHFC), a Hawaii corporation.

Further, GHFC also experienced financial difficulties and filed for reorganization under Chapter 11 of the Bankruptcy Code (Bankruptcy No. 83-00078) in the U. S. Bankruptcy Court for the District of Hawaii. Subsequently, pursuant to the Order Confirming Modified Plan entered October 11, 1985, the Board, at its meeting of January 10, 1986, under agenda item F-1-c, consented to the assignment of lease from GHFC to Thrift Guaranty Corporation of Hawaii, a Hawaii nonprofit corporation.

At its meeting of March 8, 1991, under agenda item F-1-f, the Board consented to the



assignment of GL S-4201 from Thrift Guaranty Corporation of Hawaii as Assignor to Pacific Realty Exchange, Ltd., a Hawaii corporation, as Intermediary Assignee, and Pacific Realty Exchange, Ltd., Intermediary Assignor, to David S. De Luz, Sr., husband of Josephine De Luz (40% interest) and David S. De Luz, Sr., husband of Josephine De Luz (60% interest), as Assignee.

The Assignee, Stephen Harold Frank, Trustee of The Stephen Harold Frank Living Trust dated March 27, 2014, also known as Stephen Harold Frank Revocable Trust, has been operating a pre-owned vehicle sales business (Credit Cars Hawaii) on this site for the past 15 years. Because the Lessee/Assignor's primary businesses involve several automobile dealerships, it was presumed they were utilizing the lease property to sell used cars under one of the subsidiary businesses.

The 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.

Last rental reopening occurred on September 26, 2013. There are no further rental reopenings.

RECOMMENDATION:

That the Board consent to the assignment of General Lease No. S-4201 David S. De Luz, Sr., as Assignor, to Stephen Harold Frank, Trustee of The Stephen Harold Frank Living Trust dated March 27, 2014, also known as Stephen Harold Frank Revocable Trust, 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,

  
Gordon C. Heit  
District Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson

Land Board Meeting: April 13, 2017;  
D-2: Approved as submitted.

Approved as submitted. See attached  
page.

Land Board Meeting: April 13, 2017; D-2: Approved as submitted.

**Approved as submitted.<sup>1</sup>**

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<sup>1</sup> There was a lot of discussion of whether the assignee should really be the corporate entity that operates the used car lot and has the auto sales license or whether the Trustee of Mr. Frank's Trust. Mr. Frank will consult with his lawyer but if it is the Trustee to be the assignee/lessee, then a sublease and a consent to sublease to the corporate operator may be necessary, and the Board could participate in the sublease rent.

GL S-4201

TMK: (3) 2-2-058:033

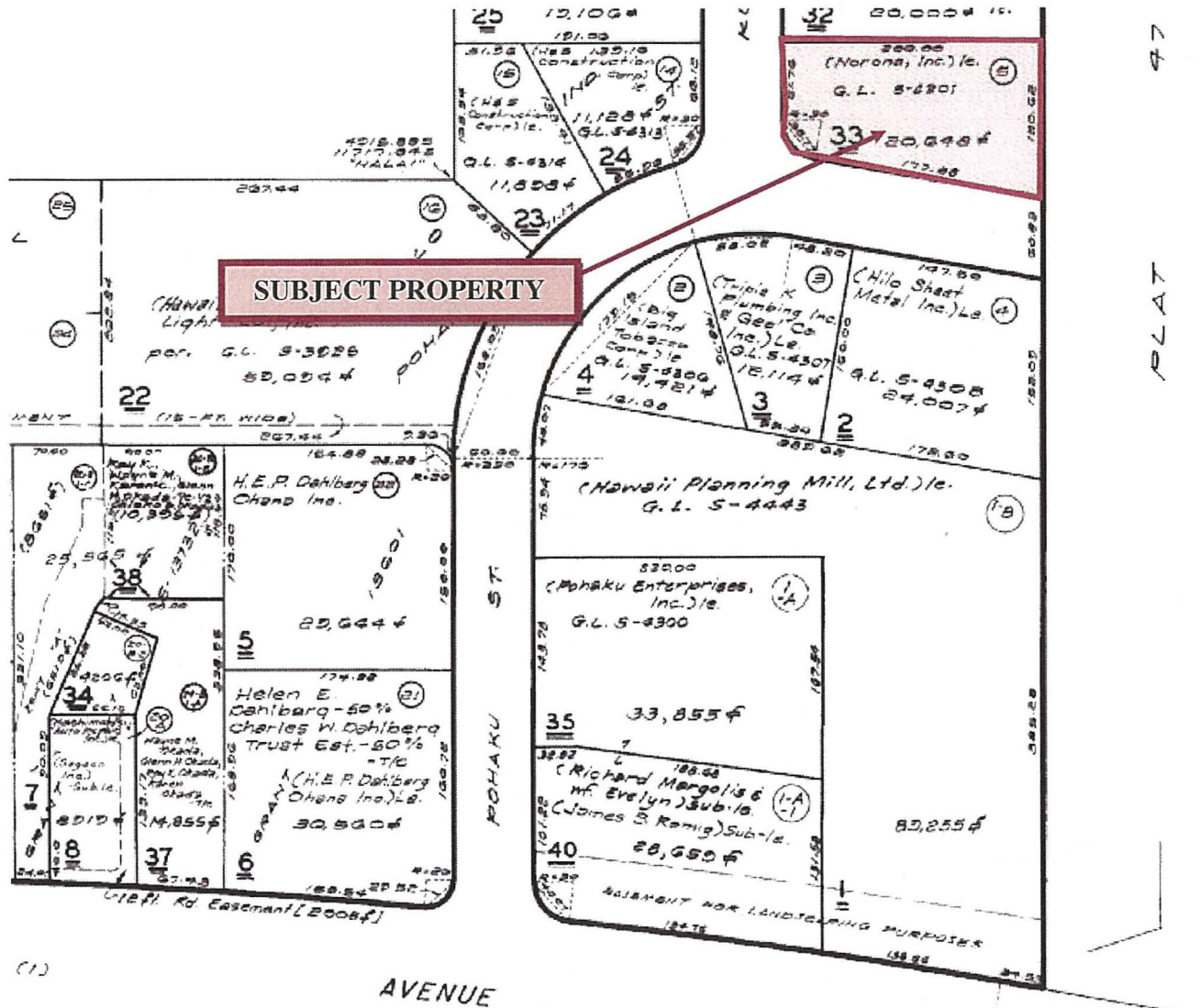


EXHIBIT A



**GENERAL LEASE No. S-4201**



**EXHIBIT B**



## GENERAL LEASE No. S-4201





# EXHIBIT B

EXHIBIT "B"

LAW OFFICE OF MICHELLE S. K. OISHI LLLC

MICHELLE S. K. OISHI

Hilo, HI 96720

Attorney for Personal Representative

Electronically Filed  
THIRD CIRCUIT  
3CLP-19-0000074  
26-DEC-2019  
12:53 PM

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

IN THE MATTER OF THE ESTATE

OF

DAVID STANLEY DE LUZ, SR., also known as  
DAVID S. DE LUZ, SR., and DAVID S. DE  
LUZ,

DECEASED.

P. NO. 3CLP-19-74

(HILO - INFORMAL)

LETTERS TESTAMENTARY

LETTERS TESTAMENTARY

The Last Will and Testament of the decedent having been duly admitted to informal probate by the Registrar of this Court, JAN K. DE LUZ, named therein as Personal Representative, is authorized to perform the duties of Personal Representative and to administer the estate according to law.

Limitations on powers: None.

These Letters Testamentary shall expire three (3) years from the date hereof, unless renewed by the Court for good cause.

DATED: Hilo, Hawaii, DEC 26 2019.



Clerk of the Above-Entitled Court

LESTER D. OSHIRO

Letters

