

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

February 24, 2023

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

PSF No.: 23KD-005

KAUAI

Amend General Lease No. S-5522 to The Storybook Theatre of Hawaii for Youth Cultural and Educational Purposes, Waimea, Kauai, Tax Map Key: (4) 1-9-005:041.

The purpose of the amendment is to change the rent reopening provision of the lease to provide for determination of rent based on the Board's then prevailing policy on leasing to eleemosynary organizations.

APPLICANT:

The Storybook Theatre of Hawaii (STH), a Hawaii non-profit organization and an Internal Revenue Code Section 501(c)(3) qualified nonprofit entity.

LEGAL REFERENCE:

Sections 171-6 and 43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Hanapepe situated at Waimea, Kauai identified by Tax Map Key: (4) 1-9-005:041, as shown on the attached map labeled Exhibit A.

AREA:

6,432 square feet, more or less.

ZONING:

State Land Use District:	Urban
County of Kauai CZO:	General Commercial

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Encumbered by General Lease No. S-5522 to STH for youth cultural and educational purposes.

CHARACTER OF USE:

Youth cultural and educational purposes.

LEASE TERM:

Fifty-five (55) years commencing on February 14, 1997 and expiring on February 13, 2052.

ANNUAL RENT / REOPENINGS:

For the first 10 years of the lease, rent was set at \$860 per annum. The lease provides that reopenings shall be the annual rent for the previous 10-year period or 25% of the fair market value of the improved vacant lot at the time of reopening, whichever is higher.

In 2007, The Board of Land and natural resources, at its meeting held on March 23, 2007, approved an amendment to set the annual rent from February 14, 2007 to February 13, 2017 to be \$480 per annum. There was no provision made for the next rent reopening.

Staff is recommending rent reopenings for the remainder of the lease term be amended to provide that rent shall be based on the Board's prevailing policy on leasing to eleemosynary organizations.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-16 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, that states "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 Part 1, Item 40, which states, "Leases of state land involving negligible or no expansion or change of use beyond that

previously existed.” The proposed lease amendment 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 § 11-200.1-17, HAR.

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

APPLICANT REQUIREMENTS:

None

REMARKS:

The Applicant has been serving Kauai since 1979. Founded by Mark Jeffers in 1979, The Storybook Theatre of Hawaii (STH) has evolved from a touring children’s theater into a dynamic multimedia and youth education center. STH and The Spark M. Matsunaga International Garden for Peace crown historic Hanapepe’s Main Street. Their restored 85-year-old red wooden building features a professional theater, studio and classroom, media center, art co-op and local author’s bookshop. STH has been an active member of the touring performing arts community in the State for seventeen years, even before incorporation in 1986 as a tax-exempt non-profit organization. Every year that a touring production is performed, approximately 25,000 pre-school and school-age children directly benefit. Storybook has created more than 40 original touring productions from every major culture represented in the State, has toured extensively on every island, and is a recognized name in the world of good storytelling for children in Hawaii. Touring programs have also reached the Cook Islands in the South Pacific where on three separate tours more than half of the country’s population was reached (6000 people).

STH is also known for creating the Rainbow Arts Festival. In 2002 STH hosted its first Princess Kaiulani Children’s Festival. The event has been on-going for 15 years. In 2012, the Marine Eco statewide touring began and continues today with Evelyn Roth inflatable marine animals. In 2021, STH opened the Heritage Media Center (HMC) in Hanapepe with historic and cultural exhibits and oral history interviews. The HMC community programs include: a Bi-Monthly Talk Show titled ‘Sparky Would Go!’, guest speakers and performers representing a variety of island cultures, art and writing challenges for students, written historic essays and screenplays available for classroom use, and for younger children, reading and speaking challenges relating to resiliency and courage.

Visitors learn from interactive exhibits, printed materials, and guest presenters about the rich history of Hanapepe Valley, Hanapepe Town, West Kauai Plantation Life, and much more. STH is also the home of the Spark M. Matsunaga International Children’s Garden

for Peace, an interpretive garden at STH dedicated to the legacy of peace making by former U. S. Senator Sparky Matsunaga and others like him. Sparky was a Hanapepe hometown boy growing up and this garden contains the world's only statue of Sparky, among other features celebrating peace.

STH has developed programs around community needs for 42 years, including free local cultural festivals, indoor and outdoor theatre events, and educational school touring productions related to the arts, literacy, peace, and the environment. STH has produced the longest running Children's Educational Television show in the islands (23 yrs) that is still seen weekly on Kauai. STH also has a Facebook Page with more than 5,000 friends and has produced more than 150 children's program segments for YouTube at Russell's Hawaii Rainbow.

The subject property was inspected by a Kauai land agent on February 1, 2023. The theater was in very good condition and the outside of the building and landscape was well maintained. See attached pictures labeled Exhibit B.

Staff believes a nominal rent based on prevailing Board's policy on minimum rent for leasing to an eleemosynary organization is appropriate in view of its 501(c)(3) status (see attached EXHIBIT C) and the services it provides to the community. Currently, the minimum rent is \$480 per annum, but in this case, staff recommends the Board authorize the amendment of General Lease No. S-5522 by replacing the rent reopening provision with, "The annual rent to be reopened and redetermined based on minimum rent for leasing to an eleemosynary organizations."

Applicant is compliant with the terms and conditions of the subject lease and there are no other pertinent issues or concerns.

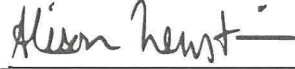
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Section 11-200.1-16, 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 activity.
2. Authorize the amendment of General Lease No. S-5522 by revising the rent reopening provision, subject to the terms and conditions cited above, and further subject to the following:
 - A. Most current amendment of lease form, as may be amended from time to time;
 - B. Replacing the entire rent reopening provision with "The annual rent to be reopened and redetermined based on the Board's then prevailing policy minimum rent for leasing to an eleemosynary organizations."

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- 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,



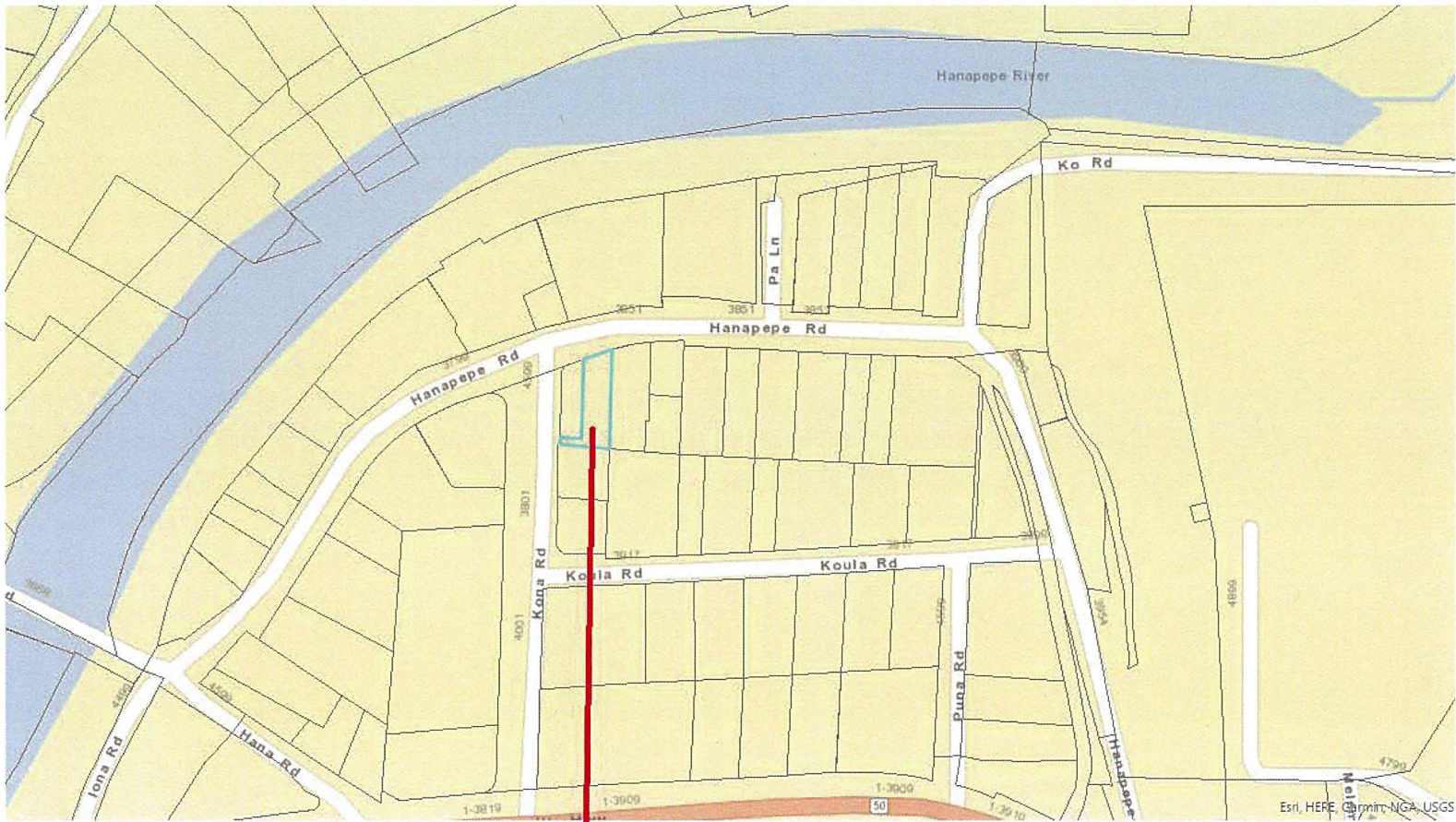
Alison Neustein
District Land Agent

APPROVED FOR SUBMITTAL:

RT



Dawn N.S. Chang, Chairperson



SUBJECT

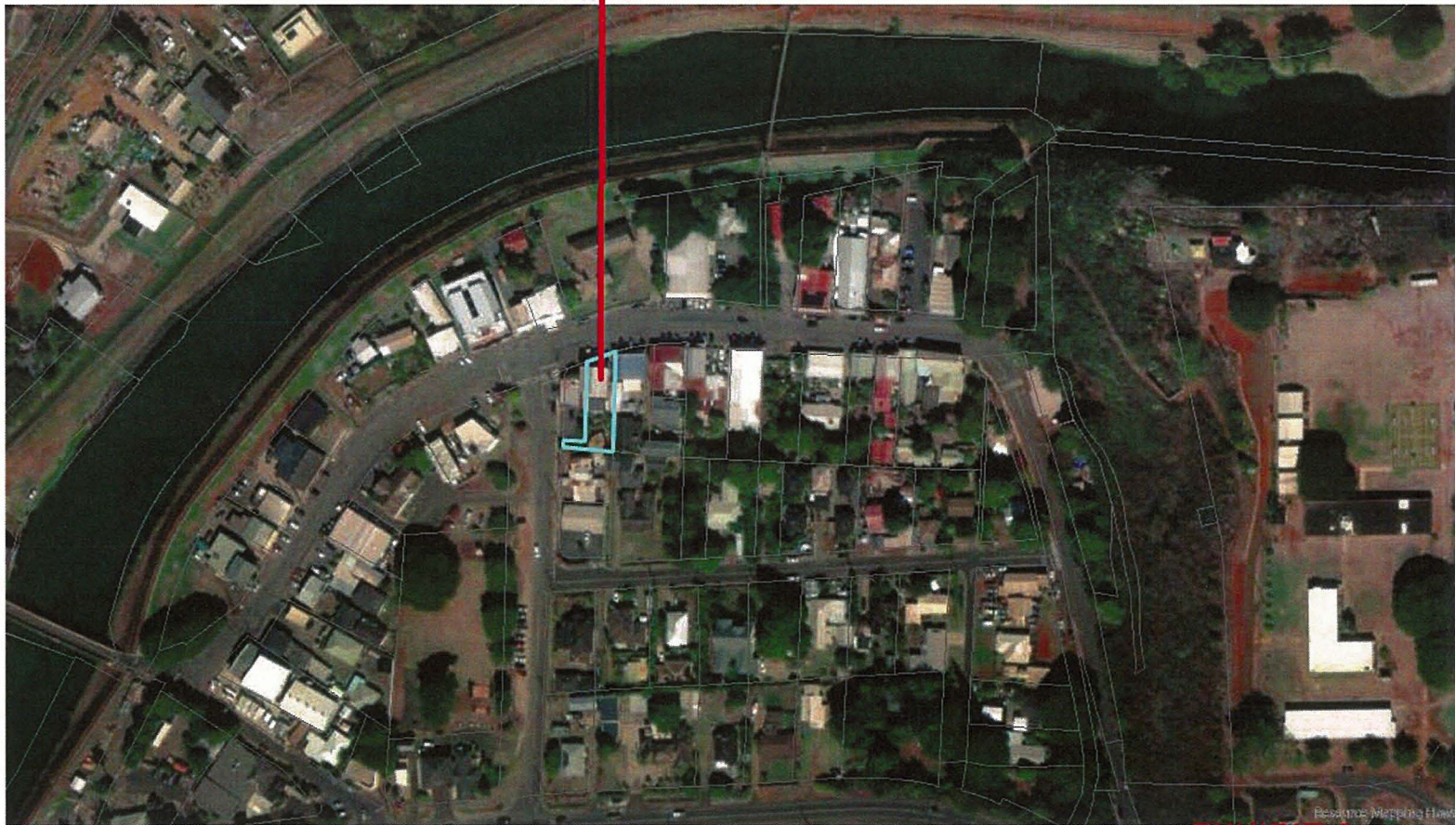


EXHIBIT A

[illegible]

PRINTED
EXHIBIT A

Parcel(s) Designated: 40, 53, 54
41, 44, 8, 54, 56

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH DIVISION		
ZONE	SEC.	PLAT
1	9	05
CONTAINING PARCELS		
SCALE: 1 in. = 50 Ft.		

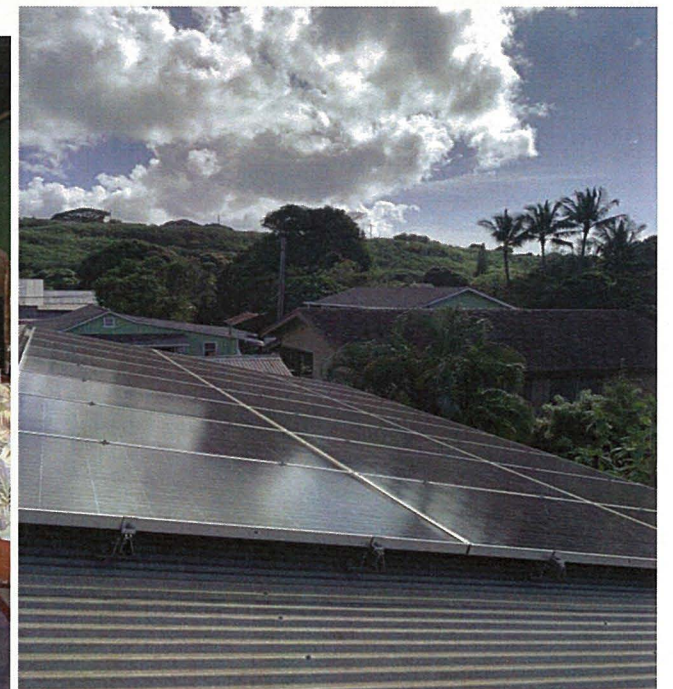


EXHIBIT B



Department of the Treasury
Internal Revenue Service

Cincinnati Service Center
CINCINNATI OH 45229-0038

In reply refer to: [REDACTED]
Dec. 11, 2019 LTR 4168C 0
[REDACTED]

BODC: TE

STORYBOOK THEATRE OF HAWAII
PO BOX 820
HANAPEPE HI 96716



025677

Employer ID number: [REDACTED]
Form 990 required: Y

Dear Taxpayer:

We're responding to your request dated Dec. 04, 2019, about your tax-exempt status.

We issued you a determination letter in 1/1985, recognizing you as tax-exempt under Internal Revenue Code (IRC) Section 501(c)(3).

We also show you're not a private foundation as defined under IRC Section 509(a) because you're described in IRC Section 509(a)(2).

Donors can deduct contributions they make to you as provided in IRC Section 170. You're also qualified to receive tax deductible bequests, legacies, devises, transfers, or gifts under IRC Sections 2055, 2106, and 2522.

In the heading of this letter, we indicated whether you must file an annual information return. If you're required to file a return, you must file one of the following by the 15th day of the 5th month after the end of your annual accounting period:

- Form 990, Return of Organization Exempt From Income Tax
- Form 990EZ, Short Form Return of Organization Exempt From Income Tax
- Form 990 N, Electronic Notice (e Postcard) for Tax Exempt Organizations Not Required to File Form 990 or Form 990-EF
- Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation

According to IRC Section 5033(j), if you don't file a required annual information return or notice for 3 consecutive years, we'll revoke your tax-exempt status on the due date of the 3rd required return or notice.

You can get IRS forms or publications you need from our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, call 877-829-5510 between 8 a.m. and 5 p.m., local time, Monday through Friday (Alaska and Hawaii follow Pacific

EXHIBIT C

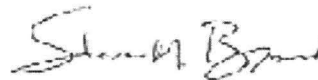
Dec. 11, 2019 LTR 61600 0

STORYBOOK THEATRE OF HAWAII
PO BOX 823
HANAPEPE HI 96716

time).

Thank you for your cooperation.

Sincerely yours,



Steve N. Brown, Operations Manager
Operations 3-CEN