

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

October 27, 2023

Ref. No.: GLS-4649

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

Kauai

Consent to Assign General Lease No. S-4649, Ficker & Hunt, a Hawaii Partnership, Assignor, to Chester Wayne Hunt, Trustee of the Hunt Family Revocable Living Trust, Assignee, Kekaha, Waimea, Kauai, Hawaii; Tax Map Key: (4) 1-3-008:003.

APPLICANT:

Ficker & Hunt, a Hawaii Partnership, Assignor, to Chester Wayne Hunt, Trustee of the Hunt Family Revocable Living Trust, Assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kapaa Homesteads, First Series situated at Kekaha, Waimea, Kauai, identified by Tax Map Keys: (4) 1-3-008:003, as shown on the attached map labeled **Exhibit A**.

AREA:

0.5521 acre, 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:

For Business Purposes.

TERM OF LEASE:

58 years, commencing on May 16, 1980, and expiring on May 15, 2038.

ANNUAL RENTAL:

\$25,200.00 annual

CONSIDERATION FOR ASSIGNMENT:

\$1.00

RECOMMENDED PREMIUM:

None. Only nominal consideration paid for assignment from partnership to a trust established by the sole remaining partner.

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 Exemption Class No. 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 Item 40, which states, "Leases of state land involving negligible or no expansion or change of use beyond that previously existed." The proposed lease assignment 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:

ASSIGNOR:

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

ASSIGNEE: N/A. As a trust, assignee is not required to register with the DCCA.

REMARKS:

At its meeting of August 10, 1979, under agenda item F-15, the Board of Land and Natural Resources (Board) approved the sale of a lease at public auction for commercial purposes. Chester Wayne Hunt was the highest bidder, and he was thereafter issued General Lease

S-4649 (GL-4649) for a term of 25 years commencing May 16, 1980, and expiring May 15, 2005.

At its meeting of September 10, 1982, under agenda item F-1, the Board approved the assignment of GL-4649 to Ficker & Hunt, a Hawaii Partnership on September 7, 1982. At its meeting of May 27, 1994, under agenda item F-4, the Board approved the extension of the lease for 13 years through May 15, 2018, for mortgage refinancing purposes in conjunction with improvements needed to the premises.

Ficker & Hunt issued a sublease to the United States Postal Service (USPS) on July 25, 1983. The sublease was extended on July 1, 2013, and again on May 11, 2018, with after-the-fact consent of the Board given at its meeting of May 11, 2018, under agenda Item D-1.

Through a series of Board approvals, including those given at its meeting of July 28, 2017, under agenda item D-10, its meeting of May 11, 2018, under agenda item D-1, its meeting of August 23, 2019, under agenda Item D-1, and its meeting of January 24, 2020, under agenda Item D-1, the Board consented to the assignment of GL-4649 (by mesne assignments) from Ficker & Hunt, a Hawaii Partnership formed on September 8, 1982 (and designated by DCCA file number 8909 G5) (Ficker & Hunt No. 1), to Ficker & Hunt, a Hawaii Partnership formed on May 23, 2018 (designated by DCCA file number 53418 G5) (Ficker & Hunt No. 2).

The Board's May 11, 2018, action additionally consented to the sublease to USPS and approved a 20-year extension of GL-4649 pursuant to section 17 1-36, HRS, to amortize the cost of planned improvements to the property, including: (1) roof replacement, (2) reconstruction of a portion of the building walls, and (3) reconstruction of the concrete apron connecting the parking lot to the road. At its meeting of August 23, 2019, Item D-1, at lessee's request the Board extended the deadline for the completion of the proposed improvements required for the lease extension.

At its meeting of January 24, 2020, under agenda Item D-1, the Board amended its prior action of May 11, 2018, Item D-1, by ratifying the consent to sublease with the clarification that Ficker & Hunt No. 2 is the sublessor and USPS is the sublessee. The Board additionally ratified the 20-year extension of lease with the clarification that Ficker & Hunt No. 2 is the lessee in the extension period. Finally, the Board authorized a change to the improvements required for the lease extension and found that lessee's expenditure of \$114,393.15 for improvements to the premises was sufficient for the lease extension.

Chester Wayne Hunt, the sole partner of Ficker & Hunt No. 2, submitted an application on June 15, 2023, for consent to assign to GL-4649 to a trust he established for his family. The assignment is being made for estate planning purposes and only nominal consideration is being paid by the Trust to the partnership. Accordingly, no assignment premium is due to the State.

This GL could potentially qualify for additional extensions under Act 236, Session Laws

of Hawaii 2021. The terms of the extension under Act 236 were discussed with Mr. Hunt since any extension under Act 236 requires the lessee to have been a tenant for at least ten consecutive years before applying for extension under that act. Mr. Hunt expressed that he was getting old and would most likely not be around for another extension and if the Trust wishes to extend at a later date, there would still be still ample time left on the lease to allow for the Trust to qualify for an extension.

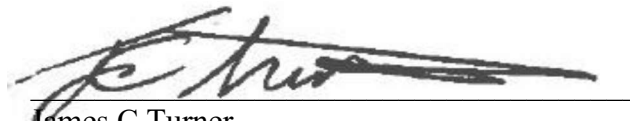
There are no outstanding rental reopening issues.

No government agency or community comments were solicited as there will be no new disposition or change in land use.

RECOMMENDATION: That the Board:

- A. 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 action.
- B. Consent to the assignment of General Lease No. S-4649 from Ficker & Hunt, a Hawaii Partnership, as Assignor, to Chester Wayne Hunt, Trustee of the Hunt Family Revocable Living 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,



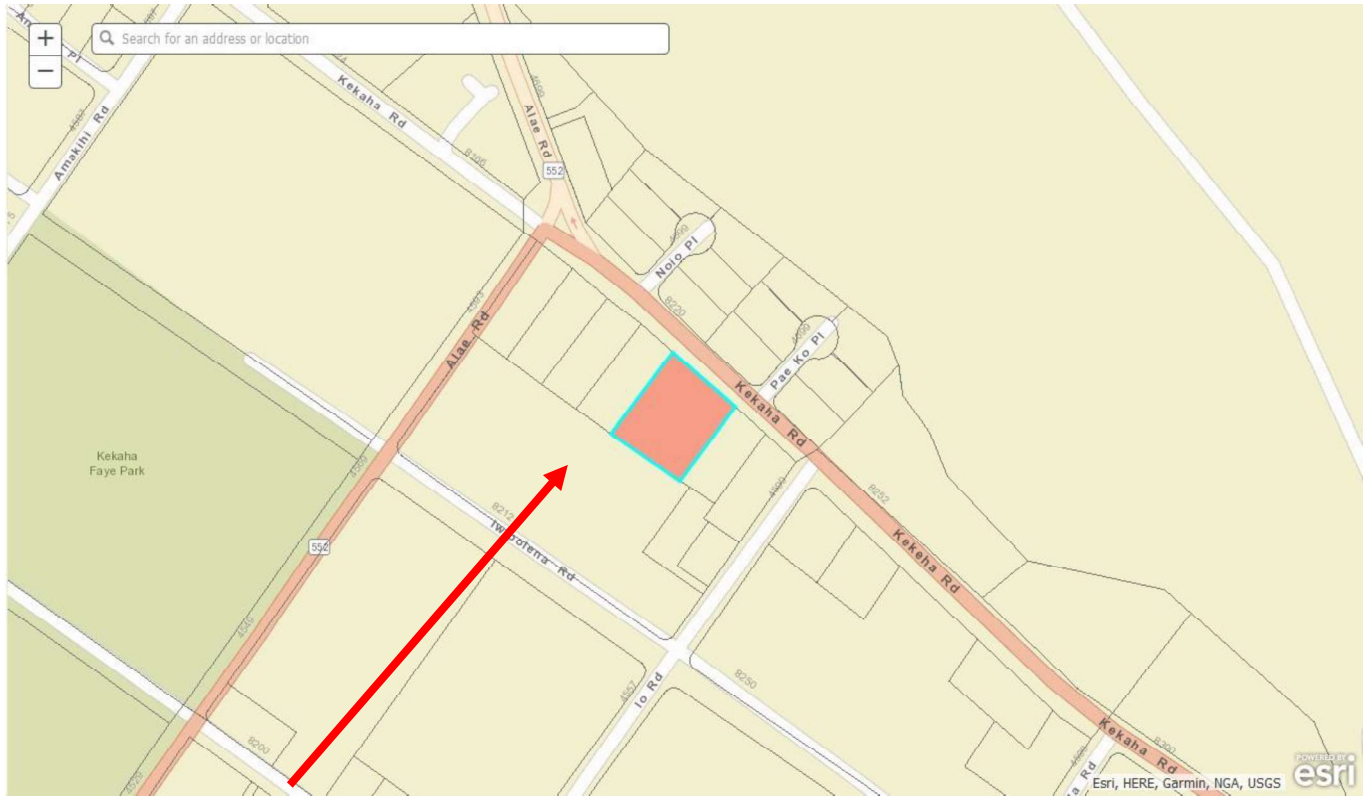
James C Turner
Land Agent

APPROVED FOR SUBMITTAL:



Dawn N.S. Chang, Chairperson

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SUBJECT PARCEL

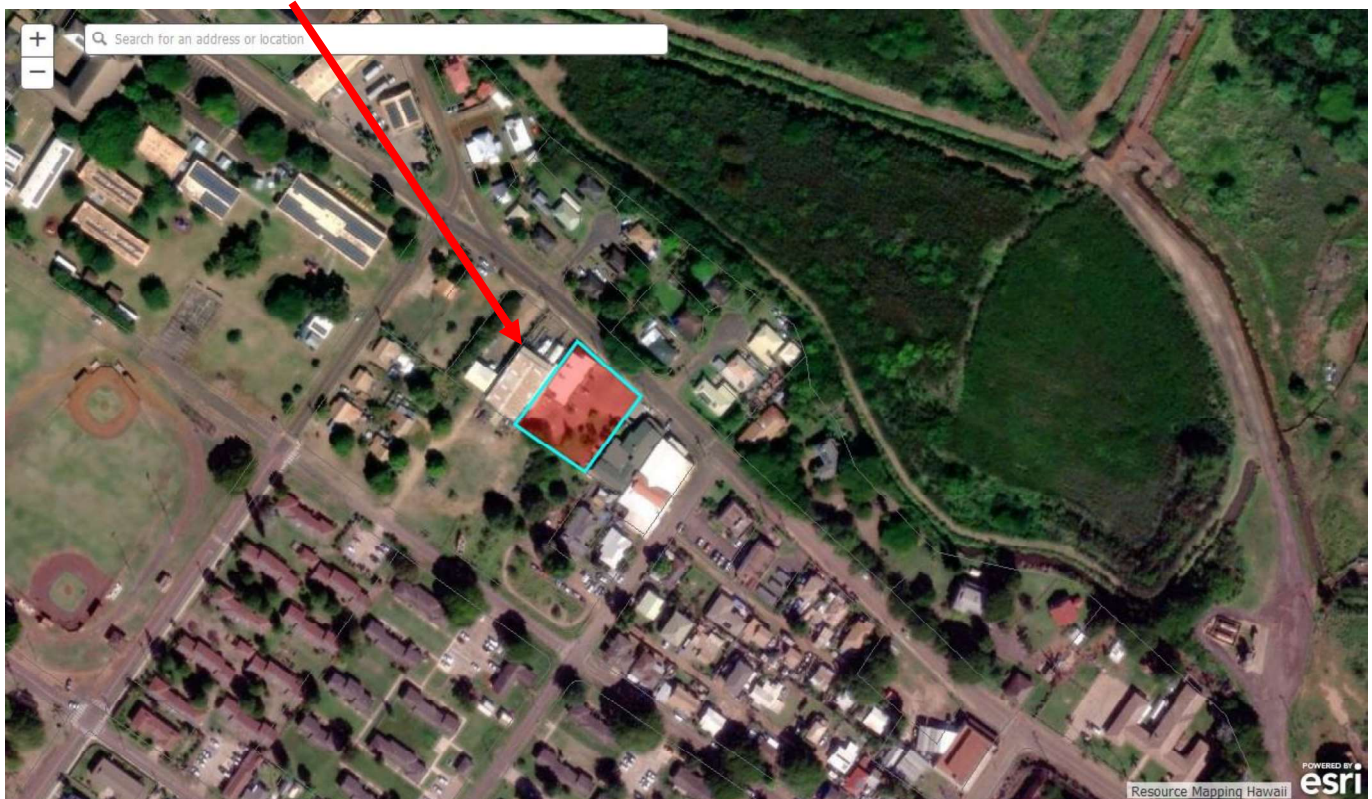
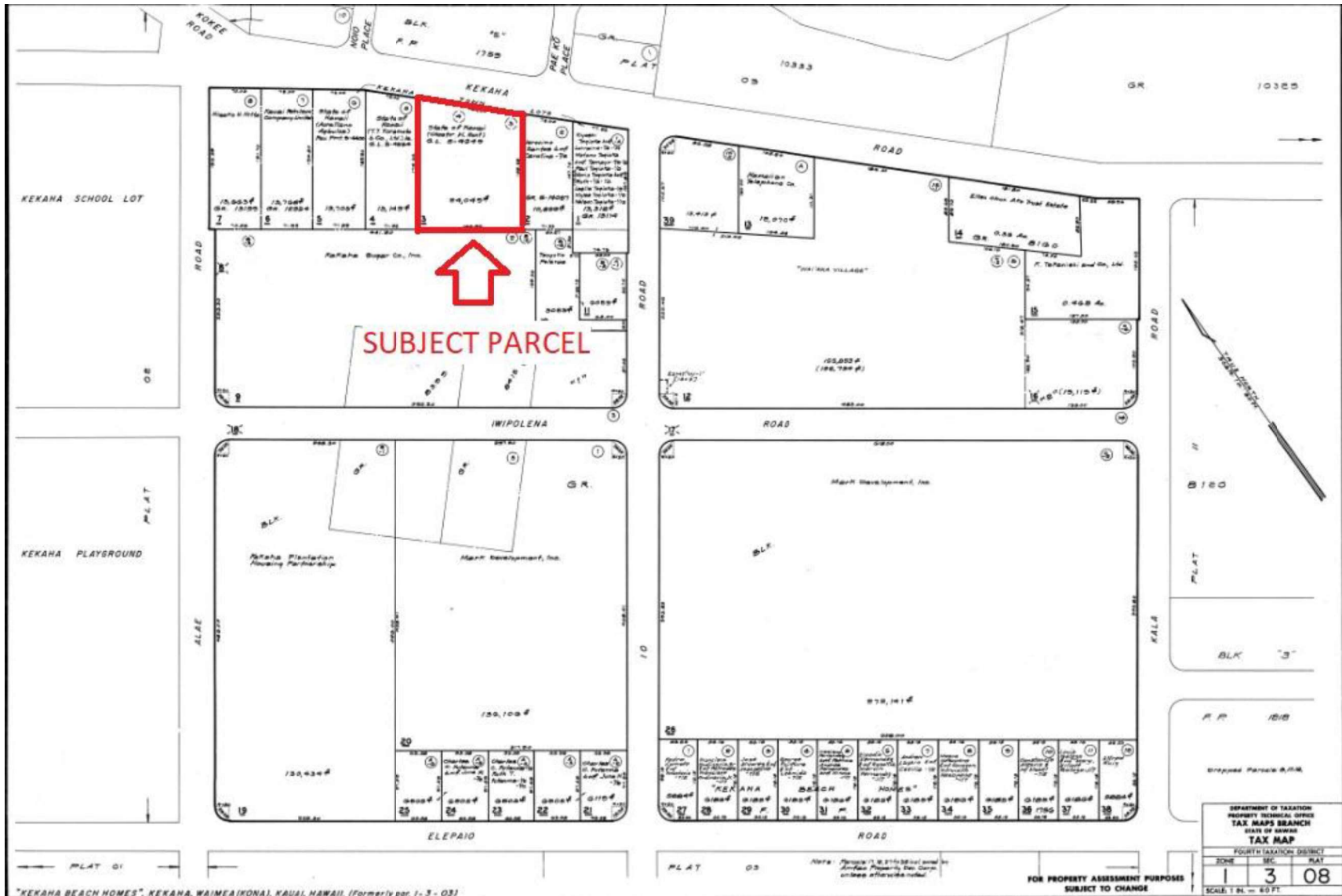


EXHIBIT A



"KEKAHA BEACH HOMES", KEKAHA, WAIMEA (KONA), KAUAI, HAWAII. (Formerly par. 1-3-03)