

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

June 14, 2024

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

HAWAII

Lessee's Request for Early Termination of General Lease No. S-5455, Teddy Pau, Lessee, Kikala and Keokea, Puna, Hawaii, Tax Map Key: (3) 1-2-043:055.

APPLICANT:

Teddy Pau

LEGAL REFERENCE:

Section 171-6, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Lot 13, Kalapana Section, situated at Kikala-Keokea, Puna, Hawaii, identified by Tax Map Key: (3) 1-2-043:055, as shown on the attached map labeled Exhibit A.

AREA:

1.010 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Hawaii CZO: A-3a

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-5455, Teddy Pau for residential purposes as the Lessee's principal domicile.

TERM OF LEASE:

Original term of 65 years, commencing on January 1, 1997 and expiring on December 31, 2061.

CURRENT ANNUAL RENT:

\$623.00 per annum. The Lessee paid rent through December 31, 2022.

REMARKS:

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

At its meeting of December 16, 1994, Item F-3, the 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 Teddy Pau was awarded a 65-year residential lease under General Lease No. S-5455. For the first 25 years of the lease, the rent was set at One Hundred Thirty-two dollars (\$132) per annum. Effective January 1, 2022, the annual rent was increased to Six Hundred Twenty-three dollars (\$623) for the next 20 years.¹

¹ Page 2, par. C. - 20% of fair market rental value at time of reopening. Absent express legislative authorization in the enabling legislation, the Board must follow established statutory authority to set lease rents. The controlling lease rent statute is Section 171-17(b), Hawaii Revised Statutes, which states lease rents must be set at fair market value as determined by appraisal. Acts 314, 172 and 81 do not expressly authorize the Board to set rents below fair market value. Furthermore, Section 171-87, HRS, provides the guidelines for victims of natural disaster. HRS §171-87(2) requires the lease of lands to be set at "...fair market rental determined by the board, based on appraisals by at least one but not more than three disinterested appraisers..."

Although the lease included a requirement to construct a dwelling on the premises within five years of the lease commencement date, Mr. Pau did not construct a dwelling and the premises remains unimproved.

In a letter dated December 22, 2022 (Exhibit B), Mr. Pau indicated that he is no longer interested in developing the property and does not wish to continue with the obligation requirements of the lease.² In addition, Mr. Pau related to staff that his son, who was named as successor to the lease³ is no longer interested in taking possession of it. Staff neglected to bring this matter to the Board for consideration promptly after receipt of Mr. Pau's December 22, 2022 due to other work in the district office. Because Mr. Pau paid rent through December 31, 2022, staff is recommending that the termination be made effective as of January 1, 2023 and that any rent, late fees or interest that may have accrued from January 1, 2023 to the present be waived.

Staff is recommending the Board authorize the cancellation of General Lease No. S-5455, Teddy Pau, Lessee.

RECOMMENDATION: That the Board:

1. Authorize the mutual cancellation of General Lease No. S-5455, Teddy Pau, Lessee, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current mutual cancellation lease document form, as may be amended from time to time;
 - B. The effective date of cancellation shall be January 1, 2023 and any rent, late fees or interest that may have accrued from January 1, 2023 to the present shall be waived;
 - 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.

2 Staff confirmed with Mr. Pau that it was not the rent increase that induced to request surrender of the lease, but was instead the real property tax, insurance premiums, and personal reasons stated in Exhibit B.

3 The proposed Assignee or Transferee shall meet the requirements set forth in Act 314, Session Laws of Hawaii 1991, as amended; or is a designated successor to the lease on a form approved by the Lessor; provided that the designated successor is the spouse, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson, or granddaughter of the Lessee; or is a descendant of the Lessee.

Respectfully Submitted,

Gordon Heit

KCM

Gordon C. Heit
District Land Agent

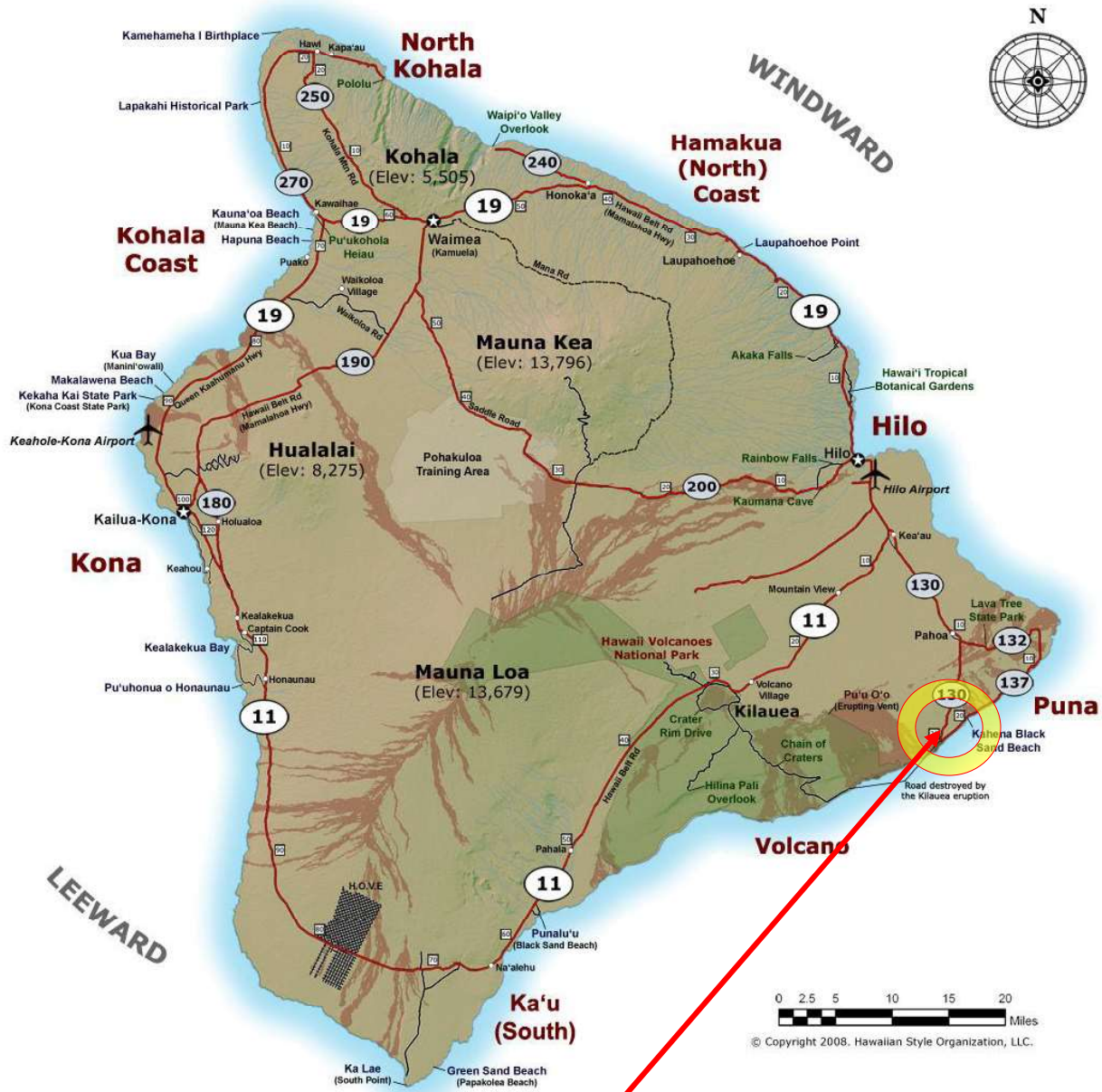
APPROVED FOR SUBMITTAL:



RT

Dawn N. S. Chang, Chairperson

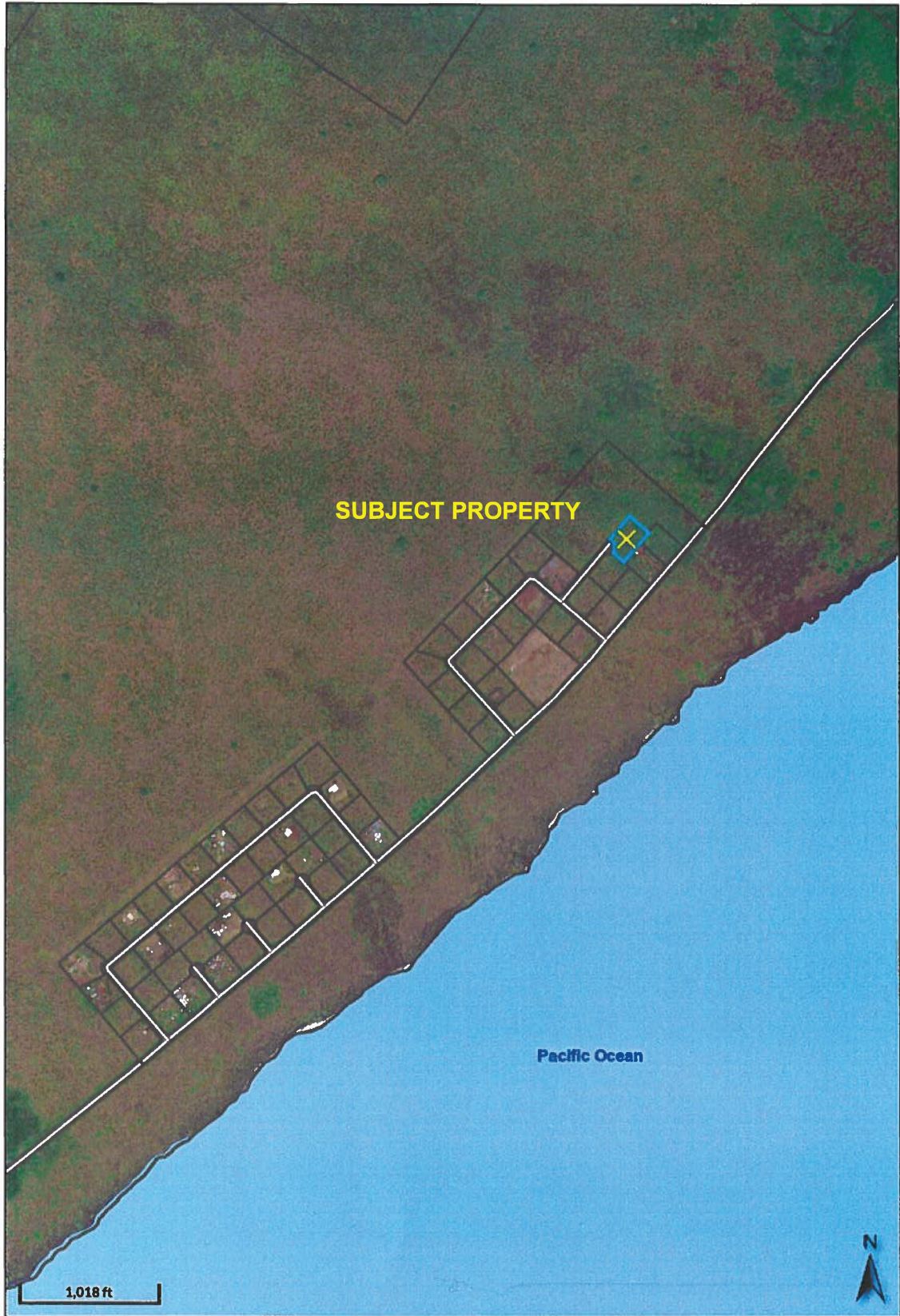
EXHIBIT A



**GL S-5455 ,
Kikala Keokea, Puna, Hawaii**

Kikala Keokea Subdivision

General Lease No. S-5455



Overview



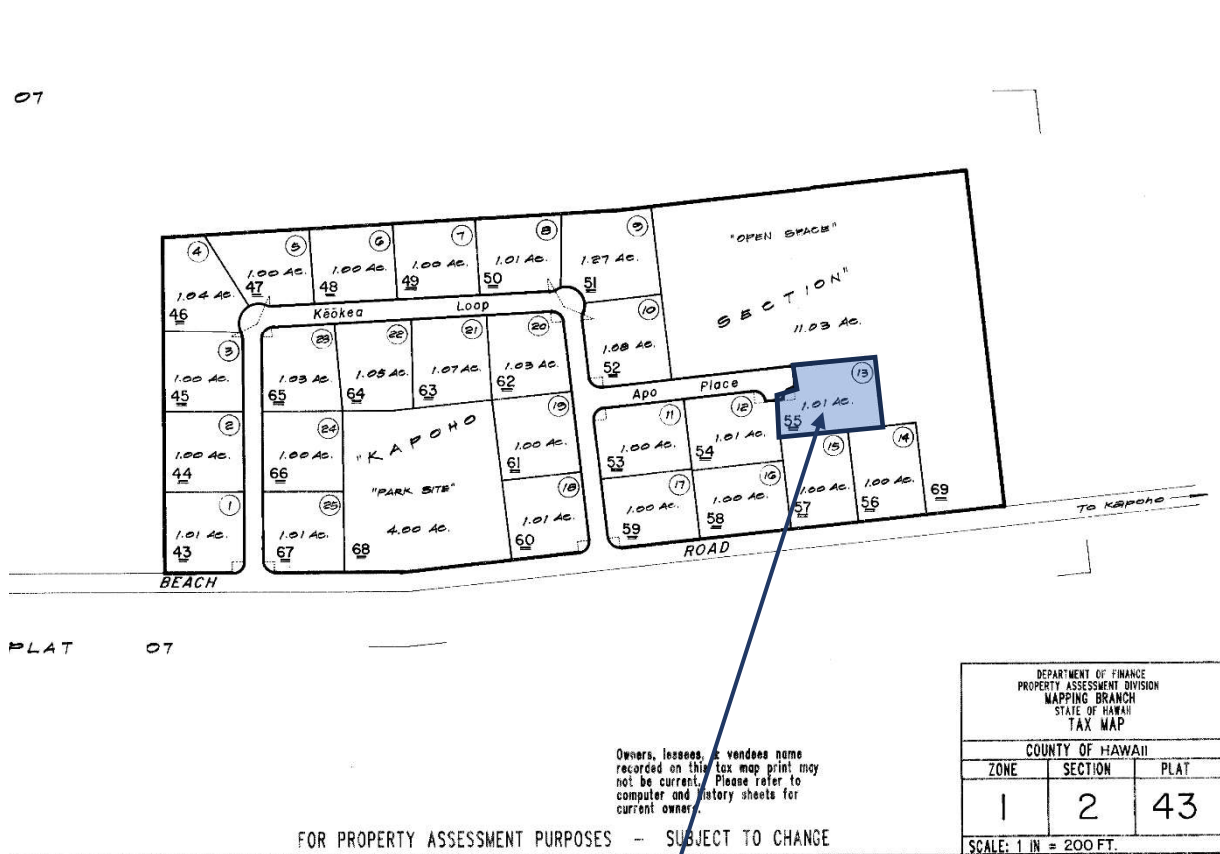
EXHIBIT A

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GL S-5455

(3) 1-2-043:055

07



PLAT 07

Owners, lessees, or vendees name recorded on this tax map print may not be current. Please refer to computer and history sheets for current owners.

FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

DEPARTMENT OF FINANCE PROPERTY ASSESSMENT DIVISION MAPPING BRANCH STATE OF HAWAII TAX MAP		
COUNTY OF HAWAII		
ZONE	SECTION	PLAT
1	2	43
SCALE: 1 IN = 200 FT.		

PRINTED: _____

SUBJECT PROPERTY

12.29.22

KIKALA / KEOKEA LEASE TERMINATION RE: LEASE CODE g15455

Dear Sir/ Ms.,

I TEDDY PAU would like to terminate my lease to the property located at KEOKEA lease code: g15455, as I and others in my ohana have no interest in this property. I am current with all lease payments and land taxation.

I was raised in Kalapana, but because of the lava flows that over ran my ohana's property along with famous landmarks years ago, I will not return to live there. I have since moved on, only to reminisce the many fond memories of my childhood years growing up in Kalapana raised by my grandparents and all the Kupuna's that one by one have been laid to rest and left for a better place.

Mahalo for the awesome opportunity and the chance to build a home and be involved in a viable Hawaiian community. Regretfully I return this property, only to pass on the opportunity to other qualified Hawaiian Ohana...

My Regards and Sincere Aloha,

Teddy Pau



date: 12.29.22