

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

April 25, 2025

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

Hawaii

**After-the-Fact Consent to Sublease under General Lease No. S-4308, KAR Property, LLC, Lessee, to Keone Smith dba HK Landscaping Clearing, Sublessee, Lot 4, Hilo Industrial Development, Pohaku Street Section, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-058:002.**

APPLICANT:

KAR Property, LLC, a Hawaii Limited Liability Company, as Sublessor.  
Keone Smith dba HK Landscaping Clearing, as Sublessee.

LEGAL REFERENCE:

Section 171-36(a)(6), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waiakea situated at Lot 4, Hilo Industrial Development, Pohaku Street Section, Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-058:002, as shown on the attached map labeled **Exhibit A**.

AREA:

Lease: 24,007 square feet, more or less.  
Sublease: 242 square feet, more or less.

ZONING:

State Land Use District: Urban  
County of Hawaii CZO: MG-1a

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

LEASE AND SUBLEASE CHARACTER OF USE:

Lease: General industrial purposes.  
Sublease: To operate a landscaping business, meet clients, and store supplies.  
The County of Hawaii Planning Department has confirmed that said use is permissible in General Industrial zoning.

TERM OF LEASE:

Original term of 40 years, commencing on June 23, 1970, and expiring on June 22, 2010.

Lease extension of 15 years commencing on June 23, 2010, and expiring on June 22, 2025.

ANNUAL RENTAL:

Current annual rent is \$23,960, due in quarterly installments on the 23rd day of March, June, September and December of each year.

RENTAL REOPENINGS & RENTAL VALUATION:

Rental reopenings in the original term were at the end of the 20<sup>th</sup> and 30<sup>th</sup> years of the term; June 23, 1990, and June 23, 2000. Rental reopenings for the extended term were on May 13, 2010 and June 23, 2020.

The last Rental reopening for the final five-year period from June 23, 2020 to June 22, 2025 was determined by independent appraisal establishing an annual rent of \$23,960.

TERM OF SUBLEASE:

Original term of 1 year commencing on 11/01/2023 and ending 10/31/2024. The sublease was extended for another year commencing on 11/01/2024 and ending 10/31/2025. This extension of the sublease ends beyond the date of expiration of the general lease and should be revised to be coterminous with the general lease.

SUBLEASE TERM INCOME:

11/1/2023 to 10/31/2024 @ \$470/mo.	= \$5,640.00 per year
11/1/2024 to 06/22/2025 @ \$500/mo.	= \$4,000.00 total for the period

RECOMMENDED ADJUSTMENT TO LEASE RENTAL:

No adjustment is recommended, see Rent Participation Memo attached as **Exhibit B**.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 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 Type 1: "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing"; and Part 1, Item No. 40: "Leases of state land involving negligible or no expansion or change of use beyond that previously existing." The sublease 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:

SUBLESSOR:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Good standing confirmed:	YES

Keone Smith, as an individual or an individual dba is not required to register with the DCCA.

HISTORY:

On June 23, 1970, a 40-year lease covering the subject land was sold at public auction to L.H. Nishimoto Plumbing Contractor, Inc. (Nishimoto) as the highest bidder. Nishimoto and the State executed General Lease No. S-4308 (GLS-4308) in September 1970, and Nishimoto thereafter constructed a warehouse building on the property in accordance with plans approved by the Chairperson of the Board of Land and Natural Resources. Land Division files show that construction of the warehouse was completed as of August 31, 1971.

At its meeting of December 9, 1977, Item F-1, the Board approved Nishimoto's request for consent to the assignment of the lease to Hilo Sheet Metal, Inc.

At its meeting of May 13, 2010, Item D-5 as amended, the Board approved Hilo Sheet Metal, Inc.'s request for consent to the extension of lease term of 15 years, to amortize Lessee improvements, commencing on June 23, 2010 and expiring on June 22, 2025 for an aggregate term of 55 years.

At its meeting of August 10, 2012, Item D-2, the Board approved Hilo Sheet Metal, Inc.'s request for consent to the assignment of lease to Kalawe's Auto Repair, LLC, as Assignee and the mortgage between Kalawe's Auto Repair, LLC, as Mortgagor, and Bank of Hawaii, as Mortgage.

At its meeting of October 26, 2012, Item D-1, the Board amended the prior Board action of August 10, 2012, Item D-2 by changing the approved Assignee and Mortgagor to KAR Property, LLC.

#### DISCUSSION:

The subleasing provision of GL S-4308 #14 states as follows:

“That the Lessee shall not rent or sublet the whole or any portion of the demised premises, without the prior written approval of the Board; provided, however, that prior to such approval, the Board shall have the right to review and approve the rent to be charged to the proposed sublessee and, if necessary, revise the rent to the demised premises based upon the rental rate charged to the said sublessee; provided, further, that the rent may not be revised downward.”

KAR Property, LLC, has not previously requested consent on subject sublease. Lessee entered into a sublease with Keone Smith dba HK Landscaping Clearing for a term of 1 year commencing on 11/01/2023 and ending 10/31/2024. The sublease was extended for another year commencing on 11/01/2024 and ending 10/31/2025. Staff is recommending the Board consent to the sublease only through the expiration of GLS-4308 on 06/22/2025. The lessee has applied for an extension of GLS-4308 which will be presented to the Board at a later date. If the Board approves the extension of GLS-4308 and the lessee wants to continue the sublease, the lessee will need to submit a request for a new sublease.

KAR Property, LLC pays fair market rent, and the improvements are not owned by the State. The lease does not specifically layout a method for calculating a share of the sublease rents. The sublease is occurring in the last three years of the lease and no substantial improvements have been made in the previous 10 years, so associated building costs have been fully amortized/depreciated. Lessee uses the majority of improvements and premises for their own business, subleasing less than 1% of its space. Therefore, staff is not recommending that DLNR revise the annual lease rent.


KAR Property, LLC, is compliant with all terms and conditions of lease including liability and fire insurances, performance bond, lease rental payments, and real property tax.

RECOMMENDATION:


That the Board:

- A. 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 de minimis action.
- B. Approve after-the-fact consent to sublease under General Lease No. S-4308, KAR Property, LLC, Lessee, to Keone Smith dba HK Landscaping Clearing, Sublessee, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following terms and conditions:
  1. The standard terms and conditions of the most current consent to sublease form, as may be amended from time to time;
  2. Approve the consent to sublease to be coterminous with the general lease expiration date of June 22, 2025;
  3. Review and approval by the Department of the Attorney General; and
  4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
\_\_\_\_\_  
*KEH* Pua Ishibashi  
Land Agent  
*CNM*

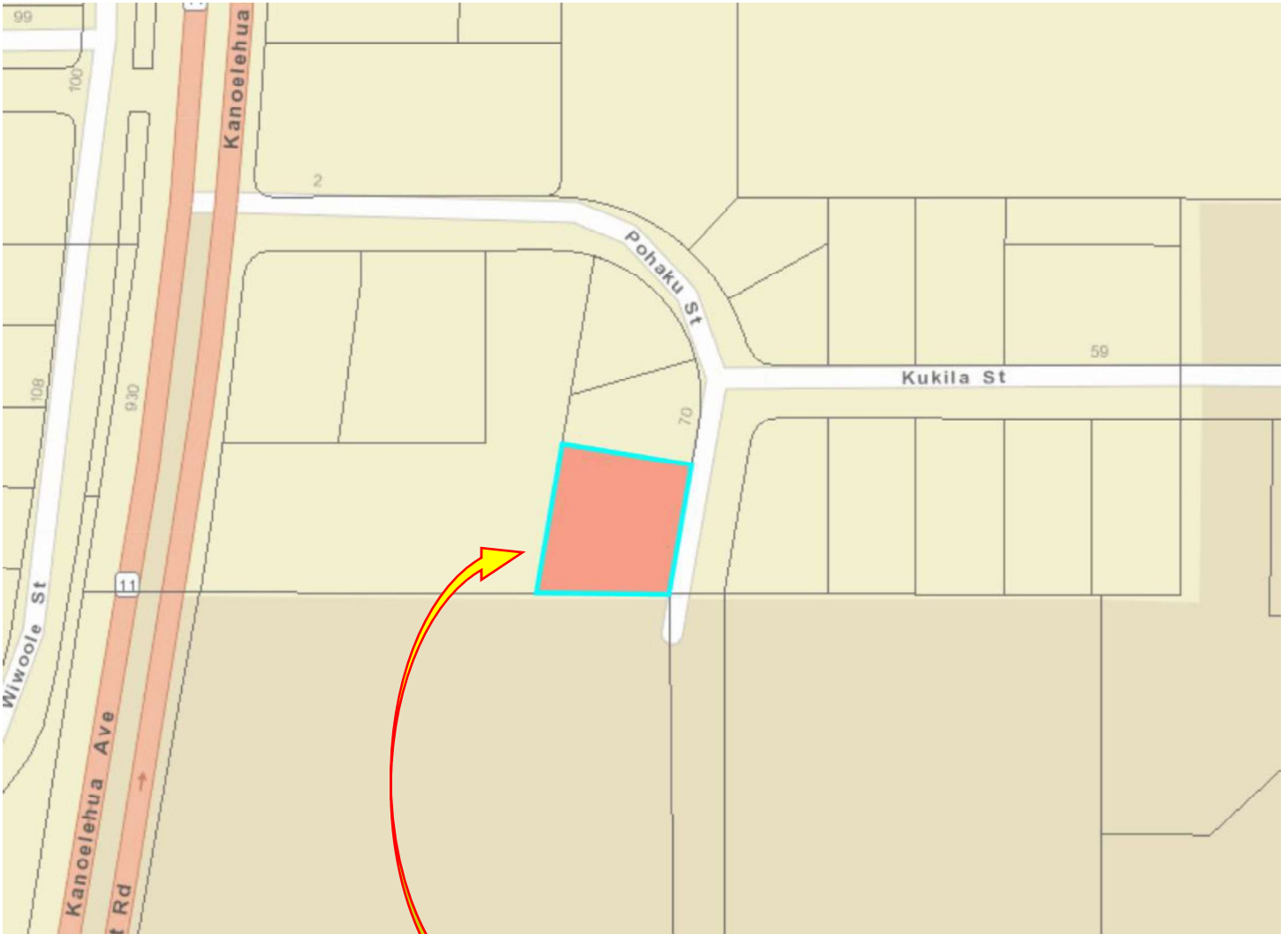
APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
*KEH* Dawn N.S. Chang  
Chairperson

**EXHIBIT A**



**EXHIBIT A**



**Tax Map Key: (3) 2-2-058:002**



**EXHIBIT A**



**Subject Property – Street View**



JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION**

180 Kalanikoa Street  
Hilo, Hawaii 96720  
PHONE: (808) 961-9590

April 7, 2025

**MEMORANDUM**

TO: Dawn N.S. Chang, Chairperson

THROUGH: Russell Y. Tsuji, Division Admin. *RT*

FROM: Pua Ishibashi, Land Agent *PI*

SUBJECT: In-House Recommendation – Sublease Participation Calculation

GL No.:	S-4308
Lessee/Sublessor:	KAR Property, LLC, Lessee
Sublessee:	Keone Smith dba HK Landscaping Clearing
Location:	80 Pohaku Street, Hilo, Hawaii
Lease area:	24,007 sf
Sublease Area:	242 sf. more or less
Tax Map Key:	(3) 2-2-058:002
Character of Use:	General Industrial purposes

We have been requested to provide an in-house evaluation of a potential ground rent increase due to subleasing of General Lease No. S-4308 (GLS-4308), KAR Property, LLC, Lessee/Sublessor to Keone Smith dba HK Landscaping Clearing, Sublessee. The sublease documents and information provided by Lessee were analyzed and staff was guided by the formula approved by the Land Board on January 26, 2001, agenda item D-8, and modified by the Board at its meeting on August 24, 2012, agenda item D-14, comprising the Sublease Rent Participation Policy.

The commencement date of GLS-4308 was June 23, 1970 for a term of 40 years and expiring on June 22, 2010. The lease was extended for 15 years commencing on June 23, 2010, and expiring on June 22, 2025. There are approximately 2 months remaining in the term.

**Subleasing Provision of GL S-4308 states as follows:**

“That the Lessee shall not rent or sublet the whole or any portion of the demised premises, without the prior written approval of the Board; provided, however, that prior to such approval, the Board shall have the right to review and approve the rent to be charged to the proposed sublessee and, if necessary, revise the rent to the demised premises based upon the rental rate charged to the said sublessee; provided, further, that the rent may not be revised downward.”

The final lease reopening occurred on January 10, 2020. An independent appraisal established the annual rent for the remaining 5 years of lease at \$23,960.

All improvements that have been made to the property are owned by the Lessee.

The Lessee is requesting an After-the-Fact consent of sublease in effect from 2023 to the present.

The original sublease term of 1 year commencing on 11/01/2023 and ending 10/31/2024. The sublease was extended for another year commencing on 11/01/2024 and ending 10/31/2025. This extension of the sublease ends beyond the date of expiration of the general lease and should be revised to be coterminous with the general lease.

**Synopsis of Sublease:**

**2023-2024**

Sublessee: Keone Smith dba HK Landscaping Clearing  
Lease area: 242 sf. more or less  
Sublease term: 11/1/2023 to 10/31/2024 (12-months)  
Monthly base rent: \$470, no additional fees  
Total term rent: \$5,640

**2024-2025**

Sublessee: Keone Smith dba HK Landscaping Clearing  
Lease area: 242 sf. more or less  
Sublease term: 11/1/2024 to 4/3/2025 (5-months)  
Monthly base rent: \$500, no additional fees  
Total term rent: \$2,500

**Aggregate Annual Calculations:**

Term	2023-2024	2024-2025 (5-months)
Annual Sublease Income	\$5,640	\$2,500
LESS Annual Lease Rent	\$23,960	\$9,983
<b>Annual Net Sublease Profit:</b>	<b>\$-0-</b>	<b>\$-0-</b>

### **Sublease Rent Participation Policy Assessment:**

Staff was guided by the approved Rent Participation Policy item 1(c) for lessees paying fair market rent which states:

“If the Lessee subleases improvements not owned by the State, the Board shall not receive any portion of sublease rents from subleasing improved space unless: (i) that right and method of calculation are specifically stated in the lease, or (ii) participation in sublease rents is warranted considering the age of the improvements (including but not limited to the extent to which the improvements have been depreciated or amortized), lessee’s expenditures to maintain the same in relation to sublease revenues, and the extent to which the lessee actually occupies and uses the lease premises for its own business.”

The Lessee pays fair market rent, and the improvements are not owned by the State. The lease does not specifically layout a method for calculating a share of the sublease rents. The sublease is occurring in the last three years of the lease and no substantial improvements have been made in the previous 10 years, so associated building costs have been fully amortized/depreciated. Lessee uses the majority of improvements and premises for their own business, subleasing less than 1% of its space.

Based on the analysis above, staff is recommending that DLNR does not receive a share of sublease rents under the sublease rent participation policy.