

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

July 22, 2009

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

(Kauai)

Consent to Assign General Lease No. SP-184, Smith-Waterhouse Family of Koloa, Assignor, to Bert S. Agor, Sr. and Vickie E. Agor, Assignee

APPLICANT:

Smith-Waterhouse Family of Koloa, Assignor, to Bert S. Agor, Sr. and Vickie E. Agor, Assignee.

LEGAL REFERENCE:

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

LOCATION:

Lot 67, Waimea (Kona), Kauai, Tax Map Key: (4) 1-4-004:041, as shown on the attached map labeled Exhibit A.

AREA:

.50 acres, 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: YES _____ NO X

CHARACTER OF USE:

Recreation - residence.

ITEM E9

TERM OF LEASE:

20 years, commencing January 1, 2009, and expiring on December 31, 2029. There is one rental reopening scheduled after ten years.

ANNUAL RENTAL:

\$5450.00.

CONSIDERATION:

\$0.00.

RECOMMENDED PREMIUM:

None.

DCCA VERIFICATION:

N/A because all persons involved are individuals and not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant/assignee shall prepare and submit fully executed assignment of lease.

REMARKS:

Smith-Waterhouse Family of Koloa held the previous lease covering the property.

Act 223 (2008) and board action directed staff to negotiate new leases with existing permit holders so the new lease was issued to Smith-Waterhouse Family of Koloa who now wishes to assign to Bert S. Agor, Sr. and Vickie E. Agor.

Lessee is in compliance with all lease terms and conditions. There have been no prior defaults.

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.

Rent re-opening is not scheduled until after the first ten years of the lease. There are no outstanding rental reopening issues.

RECOMMENDATION:

That the Board consent to the assignment of General Lease No. SP-184 from Smith-Waterhouse Family of Koloa, Assignor, to Bert S. Agor, Sr. and Vickie E. Agor, Assignee, subject to the following:

1. No premium to be charged;
2. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
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,

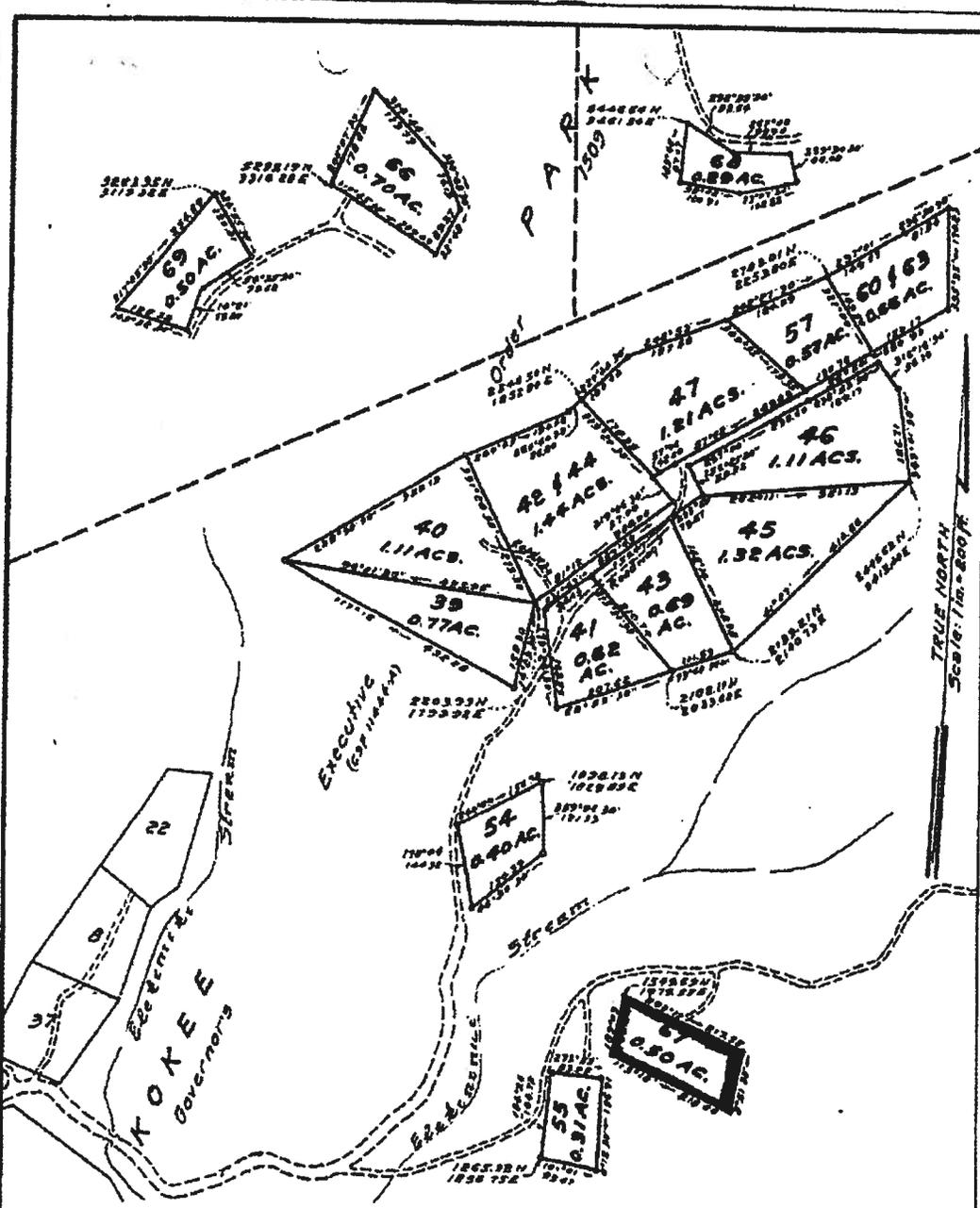


Daniel S. Quinn
State Parks Administrator

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



KOKEE CAMP SITE LOTS
LOTS 39, 40, 41, 42 & 44, 43, 45, 46, 47,
54, 55, 57, 60 & 63, 66, 67, 68 AND 69

Naimea, (Kona) Kauai, Hawaii

Scale: 1 inch = 200 feet

EXHIBIT A

JOB K-2628
 C. BK

*All corners marked with pipes
 Coordinates referred to KOKEE "A"*

TAX MAP 1-4-04
 KAUA I FILE
 FOLDER 5

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

Sheet 0 of 7 sheets

A.T. Nov. 2, 1966

WC

Smith-Waterhouse Family of Koloa
PO Box 57
Koloa, HI 96756

May 4, 2009

RECEIVED
STATE PARKS DIV

Ms. Laura Thielen, Chairperson
Department of Land and Natural Resources
Division of State Parks
PO Box 621
Honolulu, HI 96809

'09 MAY 20 P12:38

DEPT OF LAND &
NATURAL RESOURCES

RE: Kokee Lease-Lot 67-TMK: 1-4-004:0041
Request to assign Lease No. SP-0184

Dear Ms Thielen,

My name is Louie Abrams and I am the property manager for the present Lessee, Smith - Waterhouse Family of Koloa, who currently has General Lease No. SP-0184 from the DLNR.

The family has decided that they wish to assign their interest to a close friend of the family as interest has substantially reduced as the result of the passing of family member Peter Dease.

We wish to assign the lease to Bert S. Agor Sr. and Vicki E. Agor, husband and wife whose mailing address is PO Box 328, Kekaha, HI 96752.

No money or consideration of any kind is being paid for the transfer.

Attached is a copy of the proposed assignment of lease.

By signature below, Mr. Kendall Watts, managing member of the Smith -Waterhouse Family of Koloa acknowledges that the assignment to Mr/Mrs Bert Agor is the intent of the family and that he authorizes and directs me to send this letter.

If there is anything you further require or questions you may have, please contact me at 808-742-9537 (office) or 808-742-9540 (Fax).

Sincerely, .


Louie Abrams, Principal Broker
Charlee & Associates, Ltd
Garden Island Rentals

ACKNOWLEDGEMENT:


by Kendall Watts, Managing Member
Smith-Waterhouse Family of Koloa

ASSIGNMENT OF GENERAL LEASE NO. SP-0184

THIS ASSIGNMENT OF GENERAL LEASE NO. SP-0184 is made this _____ day of _____, 20____, by and between SMITH-WATERHOUSE FAMILY OF KOLOA – BEACH HOMES –LLC, a Hawaii limited liability company, whose mailing address is c/o Garden Island Rentals, P. O. Box 57, Koloa, Kauai, Hawaii 96756, hereinafter called the "Assignor", and BERT S. AGOR, SR. and VICKI E. AGOR, husband and wife, whose mailing address is P. O. Box 328, Kekaha, Kauai, Hawaii 96752, hereinafter called the "Assignee",

W I T N E S S E T H:

WHEREAS, General Lease No. SP-0184 dated January 6, 2009, was made and entered into by and between Smith-Waterhouse Family of Koloa, as Lessee, and the State of Hawaii, as Lessor, for the lease of those certain premises identified as Lot 67, Waimea (Kona), Kauai, Hawaii, Tax Key No.: (4) 1-4-004:041, containing an area of .50 acre, more or less, hereinafter "Lease"; and

WHEREAS, there is no entity known as Smith-Waterhouse Family of Koloa, and Lessee should have been identified as Smith-Waterhouse Family of Koloa – Beach Homes – LLC, a Hawaii limited liability company; and

WHEREAS, Smith-Waterhouse Family of Koloa – Beach Homes – LLC, as Lessee under the aforesaid Lease, wishes to sell, assign, transfer, set over and deliver unto Assignee the aforesaid Lease,

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other valuable consideration paid by the Assignee to the Assignor, the receipt of which is hereby acknowledged, and of the covenants and agreements of the Assignee hereinafter contained on its part to be faithfully kept and performed, the Assignor does hereby sell, assign, transfer, set over and deliver unto the Assignee, and their successors and assigns, all of the Assignor's right, title and interest in and to that certain General Lease No. SP-0184 dated January 6, 2009, by and between the State of Hawaii, by its Board of Land and Natural Resources ("Land Board"), as Grantor, and the Assignor, as Grantee, for the lease of all of that certain parcel of land, being Lot 67, Waimea (Kona), Kauai, Hawaii, Tax Key No.: (4) 1-4-004:041 containing an area of .50 acre, more or less.

TO HAVE AND TO HOLD the same, together with all improvements, rights, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed in connection therewith unto said Assignee and their successors, heirs and permitted assigns.

SUBJECT, HOWEVER, to the observance and performance by the Assignee of all of the covenants contained in the said General Lease No. SP-0184, which, according to the terms thereof, are or ought to be observed and performed by the Lessee named therein.

The Assignor does hereby covenant and agree to and with the Assignee as follows: that the Assignor is the lawful owner of said General Lease No. SP-0184; that the same is in full force and effect and not in default; that the Assignor has good right to sell and assign the said General Lease No. SP-0184, subject to the consent and approval of the Land Board; that the Assignor will warrant and defend the same to the Assignee against the lawful claims and demands of all persons.

The Assignee does hereby promise, covenant and agree to and with the Assignor and to and with the State of Hawaii, by its Board of Land and Natural Resources, in consideration of its consent to the foregoing Assignment, that the Assignee will faithfully observe and perform all of the covenants and conditions contained in the said General Lease No. SP-0184 which are or ought to be observed and performed by the Grantee named therein and will at all times hereafter indemnify and hold the Assignor harmless from and against the non-payment of rents and the non-observance of the covenants and conditions contained in the said General Lease No. SP-0184.

This Assignment of General Lease No. SP-0184 may be executed in counterparts. Each counterpart shall be executed by one or more of the parties hereinbefore named and the several counterparts shall constitute one instrument to the same effect as though the signatures of all the parties are upon the same document.

IN WITNESS WHEREOF, the Assignor and the Assignee have executed these presents as of the day and year first above written.

ASSIGNOR:

SMITH-WATERHOUSE FAMILY OF KOLOA -
BEACH HOMES – LLC, a Hawaii limited liability
company

By _____
KENDALL P. WATTS
Its Managing Member

STATE OF MASSACHUSETTS)
) SS.
COUNTY OF SUFFOLK)

On this _____ day of _____, 20_____, before me appeared KENDALL P. WATTS, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing ASSIGNMENT OF GENERAL LEASE NO. SP-0184 dated _____, 20_____, which document consists of _____ page(s), as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires: _____
Commission No.: _____

ASSIGNEE:

BERT S. AGOR, SR.

VICKI E. AGOR

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this _____ day of _____, 20_____, before me appeared BERT S. AGOR, SR., to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing ASSIGNMENT OF GENERAL LEASE NO. SP-0184 dated _____, 20_____, which document consists of _____ page(s), as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, Fifth Judicial Circuit,
State of Hawaii.

My commission expires: _____
Commission No.: _____

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this _____ day of _____, 20____, before me appeared VICKI E. AGOR., to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing ASSIGNMENT OF GENERAL LEASE NO. SP-0184 dated _____, 20____, which document consists of _____ page(s), as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, Fifth Judicial Circuit,
State of Hawaii.

My commission expires: _____
Commission No.: _____