

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

January 13, 2011

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

Hawaii

After-the-Fact Consent to Assign General Lease No. S-3933, Roman Catholic Bishop of Honolulu, Assignor, to Roman Catholic Church in the State of Hawaii, Assignee, Lalamilo, Waimea, South Kohala, Hawaii, Tax Map Key: (3) 6-9-05:19.

APPLICANT:

Roman Catholic Bishop of Honolulu, a dissolved Hawaii corporation sole, as Assignor, to Roman Catholic Church in the State of Hawaii, a Hawaii non-profit corporation, as Assignee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Lalamilo situated at Waimea, South Kohala, Hawaii, identified by Tax Map Key: (3) 6-9-05:19, as shown on the attached map labeled Exhibit A.

AREA:

28,000 square feet, 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:

Church and allied purposes.

TERM OF LEASE:

Sixty-five years, commencing on October 18, 1965 and expiring on October 17, 2030.  
Last rental reopening occurred on October 18, 2000; next rental reopening is scheduled  
for October 18, 2015.

ANNUAL RENTAL:

\$11,200.

CONSIDERATION:

\$10 and other good and valuable consideration.

RECOMMENDED PREMIUM:

Not applicable as the lease does not allow for a premium.

DCCA VERIFICATION:

ASSIGNOR:\*

Place of business registration confirmed:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Registered business name confirmed:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Good standing confirmed:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

ASSIGNEE:

Place of business registration confirmed:	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Registered business name confirmed:	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Good standing confirmed:	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>

\*Assignor Roman Catholic Bishop of Honolulu is a dissolved Hawaii corporation sole. It was formed under Hawaii law in 1941 and dissolved in 1983, at which time the Bishop of Honolulu was appointed trustee for the creditors of the corporation sole. The Bishop of Honolulu purported to assign Assignor's interest in the subject lease to Assignee by Deed dated December 29, 1983.

REMARKS:

At its meeting of November 22, 1963, Item F-3, as amended by action taken at its meeting of January 10, 1964, Item F-2, the Board of Land and Natural Resources approved the sale of a lease at public auction for church and allied purposes covering the subject land. The Roman Catholic Bishop of Honolulu, a Hawaii corporation sole (RCBH), was the highest bidder at the auction, and General Lease No. S-3933 was thereafter issued to RCBH with an effective date of October 18, 1965 and a 65-year term.

The lease required RCBH to construct a church and rectory on the property at a cost of not less than \$50,000 within the first five years of the lease. The file shows that the building requirement was satisfied by September 29, 1969.

The RCBH was a "corporation sole", which was a form of corporate entity under prior Hawaii law that allowed for a single member, officer, and director, while standard corporations had to have at least three persons in such positions. In the case of RCBH, the Bishop of Honolulu was the sole member, officer and director of the non-profit corporation chartered by the Territory of Hawaii in 1941.

On September 27, 1983, RCBH was dissolved, and the Bishop of Honolulu was appointed as trustee for the creditors of RCBH, with full powers to settle its affairs. By Deed dated December 29, 1983, the Bishop of Honolulu conveyed all of RCBH's real property and other assets to the Roman Catholic Church in the State of Hawaii, a Hawaii non-profit corporation (RCC). The Tax Map Key for the subject lease premises is included in the list of properties covered by the conveyance. However, the lease requires the prior written consent of the Board for any assignment, even to a related or successor entity. RCC did not request consent to the assignment of the lease from RCBH to RCC until October 2010. Nor is there any indication in the file that the Board or Land Division had notice of RCBH's dissolution before 2009.

In any event, the purported assignment in 1983 was from RCBH to its corporate successor, RCC. The subject property continued to be used in compliance with the use restrictions in the lease. RCC owns or manages approximately 98 churches, schools, and related facilities in State of Hawaii, and is qualified to be the lessee under the subject lease and meet all lease obligations.

The lease is in compliance with respect to rent, insurance, and performance bond. Notices of default were previously issued for lapse of liability insurance on July 31, 2009 and August 26, 2010. Both defaults were timely cured.

RCC 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.

The next rental reopening is scheduled for October 18, 2015. There are no outstanding rental reopening issues.

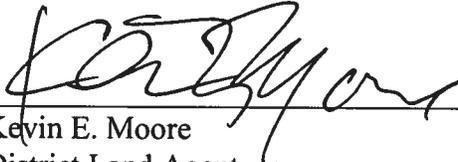
No agency or community comments were solicited since the request involves the assignment of an existing lease and not a new disposition.

RECOMMENDATION:

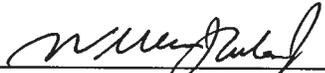
That the Board consent after-the-fact to the assignment of General Lease No. S-3933 from the Roman Catholic Bishop of Honolulu, Assignor, to Roman Catholic Church in the State of Hawaii, Assignee, subject to the following:

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,

  
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Kevin E. Moore  
District Land Agent

APPROVED FOR SUBMITTAL:

  
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William J. Aila, Jr., Interim Chairperson

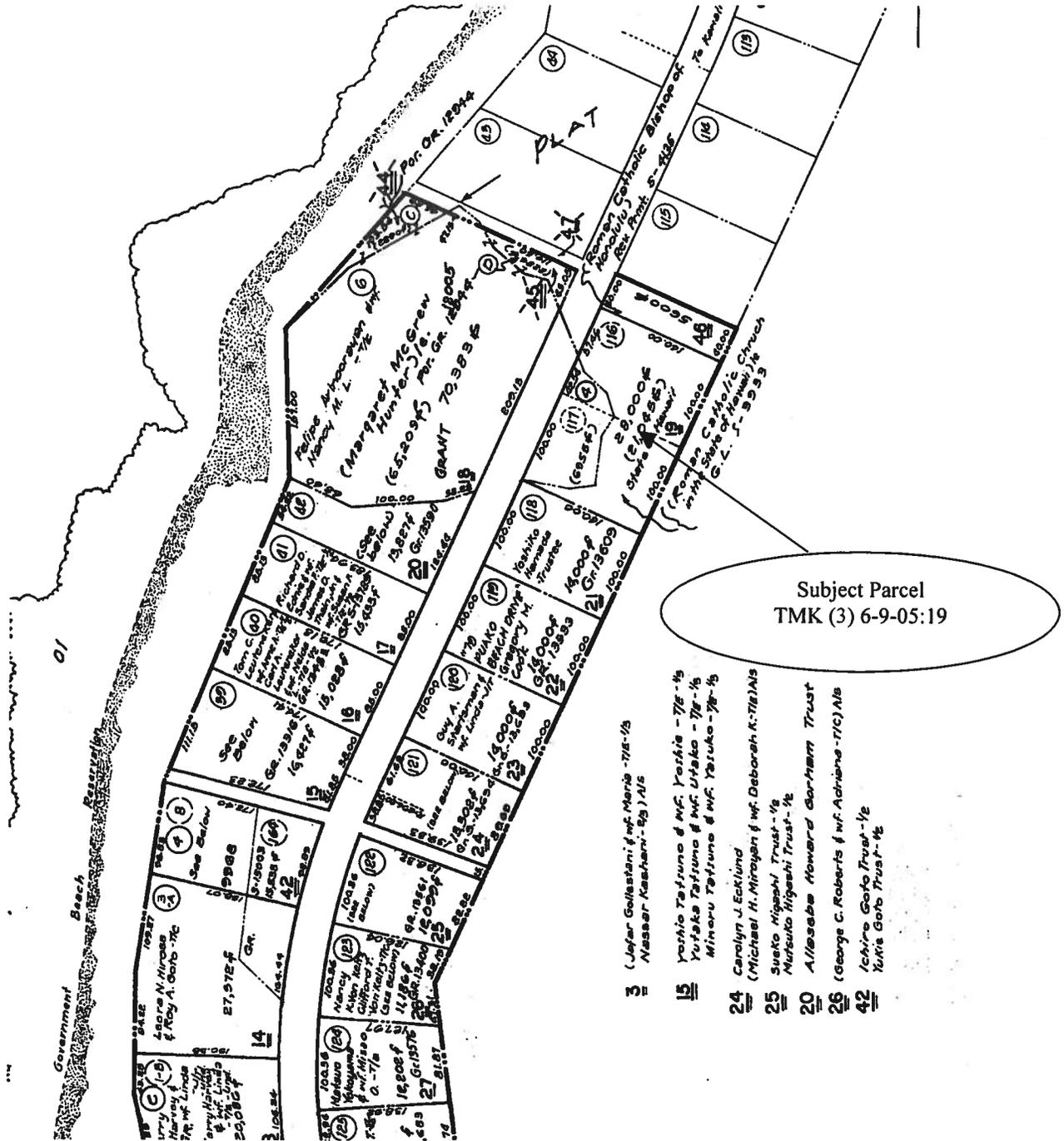


EXHIBIT A