

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

March 9, 2012

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

PSF No.: 12HD-023

HAWAII

Reconsideration of Rent for Milolii-Hoopuloa Residential Leases, Phase II, Consisting of Twenty two (22) General Leases for Residential Purposes at Milolii and Hoopuloa, South Kona, Hawaii, Tax Map Key: (3) 8-9-014: 014-035.

APPLICANT:

Milolii Hoopuloa Fishing Village Association (MHFVA), a Hawaii non-profit corporation, representing Lessees in Phase II, of the Milolii-Hoopuloa Residential Leases.

LEGAL REFERENCE:

Act 62, Session Laws of Hawaii 1982, as amended by Act 83, Session Laws of Hawaii 1984, and Chapter 171, Hawaii Revised Statutes.

LOCATION:

Portion of Government lands of Milolii-Hoopuloa Houselots, Phase II, situated at Milolii and Hoopuloa, South Kona, Hawaii, identified by Tax Map Keys: (3) 8-9-014: 014-035, as shown on the attached map labeled **Exhibit A**.

AREA:

5.0640 acres, or 220,589 square feet, more or less.

ZONING:

State Land Use District: Conservation (Milolii Village Special Subzone)
County of Hawaii CZO: Open

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

CURRENT USE STATUS:

TAX MAP KEY NO.	GENERAL LEASE NO.	LESSEE	AREA (Square Feet)
(3) 8-9-014: 014	S-5128	ARQUETTE, Rochelle	10,000
(3) 8-9-014: 015	S-5129	CASUGA, Ben B.	10,000
(3) 8-9-014: 016	S-5130	PAULO, Madeline M.K.	10,001
(3) 8-9-014: 017	S- 5131	KUAHUIA, Cheyenne	10,588
(3) 8-9-014: 018	S-5132	CASUGA, Pearline L.K.	10,000
(3) 8-9-014: 019	S-5133	CASUGA, Jack Toribio Sr.	10,000
(3) 8-9-014: 020	S-5134	YOUNG, Kristy N.	10,000
(3) 8-9-014: 021	S-5135	KUAHUIA, Louis Sr. (deceased)	10,000
(3) 8-9-014: 022	S-5136	KANIHO, Felisa S.	10,000
(3) 8-9-014: 023	S-5137	KUAHUIA, Raymond K. Jr.	10,000
(3) 8-9-014: 024	S-5138	CASUGA, Mildred, L.K.	10,000
(3) 8-9-014: 025	S-5139	REYES, Priscilla Gouveia	10,000
(3) 8-9-014: 026	S-5140	GRACE, Samuel Waha (deceased)	10,000
(3) 8-9-014: 027	S-5141	NABOA, Leonard Jr.	10,000
(3) 8-9-014: 028	S-5142	BAEZA, Cynthia, L.K.	10,000
(3) 8-9-014: 029	S-5143	KAUPU, Levi Haina	10,000
(3) 8-9-014: 030	S-5144	HUA, Lisa Ann M.	10,000
(3) 8-9-014: 031	S-5145	TAETUNA, Elizabeth K.K.	10,000
(3) 8-9-014: 032	S-5146	GRACE, Charles (cancelled)	10,000
(3) 8-9-014: 033	S-5147	KAHIWA, Mabel (deceased)	10,000
(3) 8-9-014: 034	S-5148	VICENTE, Rebecca K. (deceased)	10,000
(3) 8-9-014: 035	S-5239	KAHELE, Nelson H. Jr. (cancelled)	10,000
		Total:	220,589

CHARACTER OF USE:

Residential purposes as the lessee's principal domicile purposes.

LEASE TERM:

Sixty-five (65) years, commencing on December 31, 1986 and expiring on December 30, 2051. First rental reopening was scheduled for December 31, 2011.

ANNUAL RENTAL:

Current:

\$132.00 per annum, payable in advance, in semi annual installments of \$66.00, due on the 1st of January and July of each and every year.

Proposed:

\$480.00 per annum (Minimum Rent Policy for New Dispositions, May 13, 2005), payable in advance, in semi annual installments of \$240.00, due on the 1st of January and July of each and every year.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

At the 25th and 45th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Not applicable.

DCCA VERIFICATION:

Not applicable. Applicants as individuals are not required to register with DCCA.

The Milolii-Hoopuloo Fishing Village Association, a Domestic Non-profit Corporation, registered with DCCA on June 17, 2011.

REMARKS:

Milolii-Hoopuloo Residential State Lease:

Phase II, General Lease Nos. S-5128 to S-5148, excluding cancelled leases S-5146 and S-5239.

Act 62, Session Law of Hawaii 1982 was enacted into law by then Governor Ariyoshi on May 10, 1982. The law was enacted to provide lands to relocate village residents or descendents of the Milolii-Hoopuloo community, which was destroyed as a result of the 1926 Mauna Loa eruption. Act 62 authorizes the Department of Land and Natural Resources to award long-term residential leases to residents of Milolii and provides criteria whereby residency can be established for those who were actually displaced by the 1926 lava flow.

During the 1984 Legislative session, an amendment to Act 62 was passed, giving the Milolii Development exemption from “all statutes, ordinances, charter provisions, and rules of any government agency relating to zoning of land, and the construction of units thereon.”

At its meeting of June 22, 1984, Item H-2, the Board of Land and Natural Resources approved Amendment to Administrative Rules, Title 13, Chapter 2 and Conservation District Use Application for establishment of the Milolii Village Special Subzone, Subzone Boundary Amendment, and Subdivision for Residential Purposes at Milolii-Hoopuloa, Hawaii.

At its meeting of December 28, 1984, Item F-3, the Land Board approved the issuance of direct leases for residential purposes, Milolii and Hoopuloa, South Kona, Hawaii.

At its meeting of April 26, 1985, Item F-2, the Land Board awarded twelve (12) grandfathered residences residential leases at Milolii, Phase I, pursuant to Act 62, Session Laws of Hawaii 1982, as amended by Act 83, Session Laws of Hawaii 1984.

A Milolii-Hoopuloa community association was originally formed under the name of Paa Pono Milolii. For over 20 years, Paa Pono Milolii served as a representative of the community association. Most recently, Paa Pono Milolii experienced some internal problems and was involuntarily dissolved. In February 2003, a Paa Pono Milolii was reestablished, but research indicated that its purpose was not the same as originally created or intended as a representative of the Milolii residential lessees. As a result, by letter dated June 30, 2011, staff was notified of the formation of a “new” association to represent the lessees of the Milolii-Hoopuloa community under the name of the Milolii-Hoopuloa Fishing Village Association (MHFVA), a domestic non-profit corporation, which registered with DCCA on June 17, 2011.

No government agencies or community interest groups were solicited for comments, as there will be no new dispositions or change in land use.

Although the Land Board could establish a higher rent, the Land Board’s current minimum rent policy that was established to cover the administrative cost in managing a lease on an annual basis is \$480 per year or \$40 per month.

At its meeting of January 13, 2012, under agenda D-12, the Land Board approved the reconsideration of rent over eleven (11) State residential leases under Phase I of the same development, using the minimum rent policy at \$480 per year, or \$40 per month.

ANALYSIS:

On May 13, 2005, the Land Board established a Minimum Rent Policy that stated, among other things, that the Minimum Rent for New Dispositions shall be \$480 per year for

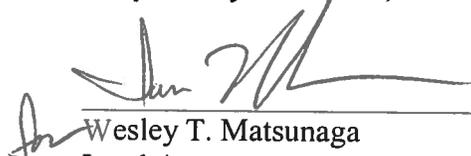
leases. Leases are typically issued via public auction to for profit organizations or directly to non-profits. The subject leases were issued directly as a result of Act 62, Session Laws of Hawaii 1982, and all other laws to the contrary notwithstanding, including Chapter 171, Hawaii Revised Statutes.

Staff recommends the Land Board establish the rental-reopening rate at the minimum amount of \$480 per year for Phase II, based on the Land Board's current minimum rent policy. Staff believes the minimum rent of \$480 per year for Phase II is fair and equitable, especially in light of the Land Board's reaffirmation of the Board's minimum rent policy on those Lessees of the Phase I reopening, Item D-12, January 13, 2012.

RECOMMENDATION: That the Board:

- A. Determine that the lease rent commencing December 31, 2011, under General Lease Nos. S-5128 to S-5148, except for cancelled leases S-5146 and S-5239, shall be:
1. \$480 per year, in advance, in semi-annual installments of \$240, due on the First of January and July of each and every year;
 2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

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