

STATE OF HAWAII
Department of Land and Natural Resources
Division of State Parks
Honolulu, Hawai'i

February 10, 2006

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Subject: Request Approval for Disposition of Recreation Residence Leases at Pu'u Ka Pele, Halemanu, and Kōke'e Camp Lots through Direct Negotiations and Drawing, Kōke'e and Waimea Canyon State Parks, Waimea, Kaua'i

Background

The three recreation residence areas referenced above contain 103 leases comprised of improvements and lots, plus another 7 vacant camp lots, that staff is recommending be relet or in the case of the vacant lots, leased each for a 20 year term. The existing leases for house and lot expire December 31, 2006. Until lease expiration, the lessee owns the improvements. Upon expiration the improvements revert to the State along with the lot. This submittal covers the method of disposition, in accordance with HRS Chapter 171. The exact lease terms and conditions will be addressed in another Board submittal.

On September 9, 2005, amended Recommendations from the Board concerning the disposition of the recreation residences were as follows:

Amended Board Recommendations to Board – September 9, 2005 Board Meeting

1. That the Board approves entering into direct negotiations for the lease of recreation residences at Kōke'e and Waimea Canyon State Parks that are of high historical value (Categories 4 and 5) and in accordance with the "historic preservation and restoration project" provision allowed under § 171-36.2, HRS, and, subject to final approval, the amended Chapter 13-223, HRS.
2. That the Board approves entering into direct negotiations at nominal rent for the lease of recreation residences to [*religious and eleemosynary organizations*] nonprofit organizations holding current leases in accordance with § 171-43 and 171-43.1, HRS.
3. Deleted
4. That the Board approves use of [*drawings*] an auction as described in this submittal and as authorized in § 171-15 and 171-16, HRS, to select lessees for those structures and lots not disposed through direct negotiations, the RFQ/RFP bid process, or retained for use by DLNR Divisions.

a. "An existing Lessee has the opportunity to match the highest bidder in order to retain his/her cabin."

b. "Any new lessee through the auction shall pay the former lessee the assessed value of the improvements."

5. All disposition processes are subject to review and approval of the Department of the Attorney General.

Current Status

Based upon the advice of the Attorney General that is privileged and confidential, the Board will need to change its decision because that decision did not comply with certain laws. Staff recommendations below are consistent with the advice of the Attorney General. Additionally, the Attorney General's office has re-evaluated its earlier interpretation of HRS §171-44, and has advised the Department that the Land Board has the option to issue recreation residence leases under that section.

The Board has the option to issue leases through direct negotiation as authorized by HRS §171-36.2 and HRS §171-44. Either can be used, and in all cases, historic design standards and a design review process will be included in the leases.

In accordance with the State's historic preservation law (Sections 6E-7 and 6E-8, HRS; Chapter 275, HAR), all leases will include conditions requiring lessees to follow design standards and a design review process when repairing, altering, rehabilitating, or restoring any of the recreation residences or when constructing new residences. The recreation residences and camp lots have been deemed significant, collectively, as a historic district and could be eligible for listing in the State and National Register of Historic Places. These design standards and the review process provides State Parks with a mechanism to preserve the character of the historic recreation residences individually and the historic integrity of the district as it has evolved over the last 88 years.

As HRS §171-44 applies to, and was drafted for this particular area, it is most logical to proceed under that section. As there may be a large number of people interested in these leases, we are recommending that the Board consider an informal drawing process to establish a priority list of interested persons, and proceed with negotiations based upon the appraised rent of the property (improved or vacant). In keeping with the intent of the September 9, 2005 Board approval, the initial informal drawing will be for Kaua'i residents, a second informal drawing for State of Hawai'i residents, and, if any leases are still available, a third open drawing will be conducted.

At the end of the current lease period, all leasehold improvements revert to the ownership of the State, and there will be no compensation to the prior lessees for those improvements remaining on the lots.

RECOMMENDATION:

That the Board:

Rescind their approval of Item E-1 from the Land Board meeting of September 9, 2005, and,

Approve the disposition of the recreation residence leases at Kōke'e and Waimea Canyon State Parks as follows:

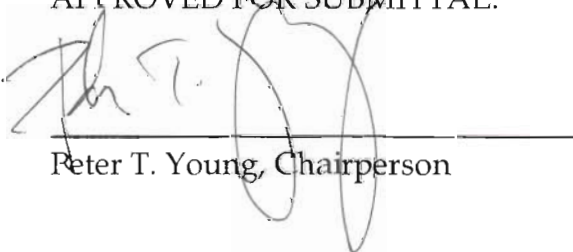
1. The Board approves entering into direct negotiation for disposition of the recreation residence in accordance with HRS §171-44 following two informal drawings, one for island of Kaua'i residents, and one for State of Hawai'i residents. Approximately 50% of the recreation residences and seven vacant lot leases will be made available for the first (Kaua'i) drawing, the balance of the recreation residences and any lot leases not selected during the initial process will be made available for the statewide drawing.
2. The Board approves entering into direct negotiations at a nominal rent for the lease of recreation residences to nonprofit organizations holding current leases, in accordance with HRS §171-43, or 171-43.1.
3. The Board approves a third open informal drawing and negotiation process for any leases not disposed during the process outlined in 1, above.
4. That the Board approves such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
5. All disposition processes are subject to review and approval of the Department of the Attorney General.

Respectfully submitted,



Daniel S. Quinn, Administrator

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson