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

August 11, 2006

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

Subject: Request Approval for Issuance of Revocable Permits at Pu'u Ka Pele, Halemanu, and Köke'e Camp Lots, Köke'e and Waimea Canyon State Parks, Waimea, Kaua'i

Background

Approximately 100 leases are in effect in the three recreation residence areas referenced above. The existing leases were held over for one year per Board approval dated December 12, 2003 and are set to expire December 31, 2006. Upon expiration any improvements revert to the State along with the lot. Staff has been working on a method and means to auction the recreation residences under a new 20 year lease term to include land and improvements.

In April of 2006, lessees filed a lawsuit, claiming that the State is required to pay for the cabins and seeking Fifth Amendment "just compensation." The State filed a motion for summary judgment, arguing that, based on the unambiguous provisions of the leases, the lessees have no private property to be "taken" and are, therefore, not entitled to just compensation. In July 2006, the court denied the motion and stated that the issue must be resolved at trial. Regardless of whether the case now goes directly to appeal or whether it is tried, it will likely not be resolved before the end of the year. The auction has been postponed until 2007 at the earliest and no specific auction date has been set. These facts raise the question of what should be done with the lots after the leases expire but before the lawsuit is resolved or new leases auctioned.

RECOMMENDATION:

That the Board:

Approve issuance of revocable permits to current lessees pursuant to Haw. Rev. Stat. § 171-55.

1. Term to be month-to-month not to exceed one year.

2. Revocable permit to be generally subject to current lease terms

3. Issuance of the revocable permits to be without prejudice to any positions or arguments made in the pending lawsuit.

4. To qualify for the extension the current Lessee must be current with all lease terms and conditions.

5. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

6. Terms and issuance of the revocable permits subject to approval by the Attorney General.

Respectfully submitted,

Karen Motosue

Karen Motosue, Ass't. Administrator

APPROVED FOR SUBMITTAL:

Peter T. Young, Chairperson

Kokee State Park Lessee Extension List

Exhibit "A"

DocNo.	LesseeName	TMK	LeaseFrom	LeaseTo	LsedArea(AC)	AnnualRent
GL 4970	CAVASSO, JOEL	(4) 1-4-003:014-0000	4/1/1986	12/31/2006	1.05	2,520.00
GL 4971	FRANCES, SYBIL BALDWIN	(4) 1-4-003:016-0000	1/1/1986	12/31/2006	0.98	2,520.00
GL 4972	JACINTHO, WAYNE & DEBORAH	(4) 1-4-003:004-0000	1/1/1986	12/31/2006	0.96	2,040.00
GL 4973	KOCHER TRUST	(4) 1-4-003:005-0000	1/1/1986	12/31/2006	0.81	2,040.00
GL 4974	LEALANI CORPORATION	(4) 1-4-004:014-0000	1/1/1986	12/31/2006	1.2	2,520.00
GL 4975	ZALOPANY, ALMA B.	(4) 1-4-003:006-0000	1/1/1986	12/31/2006	0.79	2,040.00
GL 4976	GIVENS (TRUST), MICHAEL A.	(4) 1-4-003:009-0000	1/1/1986	12/31/2006	1.42	2,040.00
GL 4977	HANSEN, ANNA JOSEPHINE	(4) 1-4-003:007-0000	1/1/1986	12/31/2006	1.47	2,040.00
GL 4978	TAUBMAN ET AL, RICHARD	(4) 1-4-003:010-0000	1/1/1986	12/31/2006	2	2,160.00
GL 4979	SHEEHAN FAMILY LIMITED	(4) 1-4-003:008-0000	1/1/1986	12/31/2006	1.12	2,040.00
GL 4980	KIKIAOLA LAND CO LTD	(4) 1-4-003:012-0000	1/1/1986	12/31/2006	2.01	2,160.00
GL 4981	WILLIAMSON, HARWOOD	(4) 1-4-003:013-0000	1/1/1986	12/31/2006	1.82	2,520.00
GL 4982	BALDWIN, GARY	(4) 1-4-004:038-0000	4/1/1986	12/31/2006	1.66	2,040.00
GL 4983	HOEME, RODNEY AND DEBBIE	(4) 1-4-004:035-0000	1/1/1986	12/31/2006	0.93	1,920.00
GL 4984	PUTZIER, BARBARA	(4) 1-4-004:013-0000	1/1/1986	12/31/2006	0.51	2,400.00
GL 4985	ORNELLAS, DWIGHT	(4) 1-4-004:030-0000	4/1/1986	12/31/2006	0.65	2,160.00
GL 4986	COOPERSMITH, ERIK PAUL	(4) 1-4-004:021-0000	1/1/1986	12/31/2006	0.71	2,520.00
GL 4987	KUMUWELA, INC.	(4) 1-4-004:020-0000	1/1/1986	12/31/2006	0.84	2,640.00
GL 4988	RALSTON ET AL (KOKEE), RICK	(4) 1-4-004:019-0000	1/1/1986	12/31/2006	1.9	2,760.00
GL 4989	WICHMAN, FREDERICK B.	(4) 1-4-004:018-0000	1/1/1986	12/31/2006	0.68	2,520.00
GL 4990	WICHMAN TRUST	(4) 1-4-004:017-0000	1/1/1986	12/31/2006	1.01	2,640.00
GL 4991	PLEWS, JOHN H.R.	(4) 1-4-004:016-0000	1/1/1986	12/31/2006	1.46	2,760.00
GL 4992	HAY, JR., FRANK O.	(4) 1-4-004:043-0000	1/1/1986	12/31/2006	0.9	2,520.00
GL 4994	DEPPE, ARDEL H.	(4) 1-4-004:005-0000	4/1/1986	12/31/2006	1.11	1,980.00
GL 4995	TAYLOR MAILE M LOT 41	(4) 1-4-004:007-0000	1/1/1986	12/31/2006	0.62	1,860.00
GL 4996	MILLER ROBERT L LOT 42, 44	(4) 1-4-004:004-0000	1/1/1986	12/31/2005	1.44	1,980.00
GL 4997	WILSON, JAMES E. & CYNTHIA E.	(4) 1-4-004:008-0000	4/1/1986	3/31/2006	0.69	1,860.00
GL 4998	KOCH, DAVID	(4) 1-4-004:009-0000	1/1/1986	12/31/2006	1.32	1,980.00
GL 4999	HARDING, KENNETH & CATHERINE	(4) 1-4-004:010-0000	1/1/1986	12/31/2005	1.11	1,980.00
GL 5021	DUNFORD, WILLIAM S. & ELIZABETH	(4) 1-4-004:003-0000	1/1/1986	12/31/2006	1.21	1,980.00
GL 5022	RAMIREZ, KARL L.	(4) 1-4-003:011-0000	1/1/1986	12/31/2006	0.8	2,040.00
GL 5023	SCHIMMELFENNIG ET AL, EDWARD	(4) 1-4-003:017-0000	1/1/1986	12/31/2006	0.58	4,620.00
GL 5024	TOULON, A.J. & ELIZABETH	(4) 1-4-003:003-0000	1/1/1986	12/31/2006	0.96	2,040.00
GL 5026	WILCOX, GAYLORD & CAROL	(4) 1-4-004:012-0000	1/1/1986	12/31/2006	0.4	1,860.00
GL 5028	WAIMEA GARAGE LTD LOT 58	(4) 1-4-004:024-0000	1/1/1986	12/31/2006	1.03	2,760.00
GL 5029	SPROAT, DAVID K. & LINDA A.	(4) 1-4-004:001-0000	1/1/1986	12/31/2006	0.66	1,860.00

GL 5030	CARSWELL, DONN A.	(4) 1-4-004:028-0000	1/1/1986	12/31/2006	1	2,280.00
GL 5031	HAGINO, DAVID M.	(4) 1-4-004:040-0000	1/1/1986	12/31/2006	1.07	2,040.00
GL 5032	R. ELECTRIC, INC	(4) 1-4-004:036-0000	1/1/1986	12/31/2006	0.83	2,040.00
GL 5033	SMITH-WATERHOUSE FAMILY OF KOLOA	(4) 1-4-004:041-0000	1/1/1986	12/31/2006	0.5	1,980.00
GL 5034	SUMMERS, MARY C.	(4) 1-4-004:062-0000	1/1/1986	12/31/2006	0.53	5,190.00
GL 5035	OLSON, WILLIAM & CAROL	(4) 1-4-004:068-0000	1/1/1986	12/31/2006	0.56	2,400.00
GL 5036	LOFSTEDT ET AL, CURTIS & BONNIE	(4) 1-4-004:069-0000	1/1/1986	12/31/2006	0.56	2,400.00
GL 5037	BACK TO EDEN, INC. LOT 79	(4) 1-4-004:063-0000	1/1/1986	12/31/2006	0.54	2,400.00
GL 5038	RIKER, DENNIS	(4) 1-4-004:060-0000	1/1/1986	12/31/2006	0.55	2,400.00
GL 5039	SMYTHE, DONALD K. AND ROSEMARY K.	(4) 1-4-004:055-0000	1/1/1986	12/31/2006	0.67	2,400.00
GL 5040	TAYLOR, EDWARD JAMES	(4) 1-4-004:058-0000	1/1/1986	12/31/2006	0.79	2,520.00
GL 5041	JONES, RICHARD M. & CRYSTAL S.	(4) 1-4-004:059-0000	1/1/1986	12/31/2006	0.58	2,400.00
GL 5044	KOKEE MOUNTAIN HOUSE, INC.	(4) 1-4-004:054-0000	4/1/1986	12/31/2006	0.47	2,400.00
GL 5045	CAMP KOKEE CORP, C/O ROY YEMPUKU, ESQ.	(4) 1-4-004:047-0000	1/1/1986	12/31/2006	0.44	2,400.00
GL 5046	HACKETT, JAMES F.	(4) 1-4-004:048-0000	1/1/1986	12/31/2006	0.58	2,400.00
GL 5047	PEETERS, RITA	(4) 1-4-004:049-0000	1/1/1986	12/31/2006	0.53	2,400.00
GL 5048	SMITH, MALCOLM S.	(4) 1-4-004:050-0000	4/1/1986	12/31/2006	0.42	2,400.00
GL 5049	MORAGNE, LOT 1, WILLIAM & JEAN	(4) 1-4-002:031-0000	1/1/1986	12/31/2006	0.97	2,520.00
GL 5051	DANA, NED T. & HOLLIS H.	(4) 1-4-002:018-0000	1/1/1986	12/31/2006	0.97	2,520.00
GL 5052	PHASE THREE LLC	(4) 1-4-002:030-0000	1/1/1986	12/31/2006	0.73	5,630.00
GL 5053	WATANABE, RICKY	(4) 1-4-002:032-0000	1/1/1986	12/31/2006	1.13	2,520.00
GL 5054	BLACK ET AL, LUCY A.	(4) 1-4-002:028-0000	1/1/1986	12/31/2006	0.92	2,520.00
GL 5055	PRATT, DAVID W.	(4) 1-4-002:029-0000	1/1/1986	12/31/2006	1.02	2,520.00
GL 5056	KAUAI CHRISTIAN FELLOWSHIP	(4) 1-4-002:041-0000	1/1/1986	12/31/2006	0.99	2,520.00
GL 5057	HURLEY, PAUL S. & MAILE F.	(4) 1-4-002:012-0000	1/1/1986	12/31/2006	0.84	2,760.00
GL 5058	COX ET AL, FRANK W. N.	(4) 1-4-002:047-0000	1/1/1986	12/31/2006	0.95	2,520.00
GL 5059	KA IMI NAAUAO O HAWAII #13	(4) 1-4-002:020-0000	1/1/1986	12/31/2006	1	2,520.00
GL 5060	CABRINHA, TRUSTEE, LAWRENCE C.	(4) 1-4-002:023-0000	1/1/1986	12/31/2006	1.02	2,520.00
GL 5061	SNYDER, ELEANOR	(4) 1-4-002:021-0000	1/1/1986	12/31/2006	0.9	2,520.00
GL 5062	CASSEL, KATHRYN M.	(4) 1-4-002:025-0000	4/1/1986	12/31/2006	1.05	2,520.00
GL 5063	WOOD, KENNETH R.	(4) 1-4-002:026-0000	1/1/1986	12/31/2005	1.03	2,520.00
GL 5064	TENUTO ET AL, JOHN	(4) 1-4-002:027-0000	1/1/1986	12/31/2006	0.82	2,520.00
GL 5065	SAMFORD, JUDITH	(4) 1-4-002:046-0000	1/1/1986	12/31/2006	0.79	2,520.00
GL 5066	THOMAS, RUTH	(4) 1-4-002:013-0000	1/1/1986	12/31/2006	0.99	2,760.00
GL 5067	NITTA ET AL, AILEEN S.	(4) 1-4-002:014-0000	1/1/1986	12/31/2006	0.89	2,520.00
GL 5068	MATTHEWS, JUDITH L.	(4) 1-4-002:010-0000	1/1/1986	12/31/2006	1	2,520.00
GL 5069	STAYTON ET AL, SUSAN	(4) 1-4-002:022-0000	1/1/1986	12/31/2006	0.91	2,520.00

GL 5070	NITTA ET AL, NORMAN	(4) 1-4-002:008-0000	1/1/1986	12/31/2006	0.85	2,520.00
GL 5071	HONTZ, GLEN	(4) 1-4-002:015-0000	4/1/1986	12/31/2006	1.03	2,520.00
GL 5072	SUTTON, RICHARD & ANNE	(4) 1-4-002:044-0000	1/1/1986	12/31/2006	0.88	2,520.00
GL 5073	RUIZ, JR., MR. & MRS. DAMASCIO	(4) 1-4-002:043-0000	1/1/1986	12/31/2006	1.03	2,520.00
GL 5075	TENBRUGGENCATE ET AL, JAN	(4) 1-4-002:040-0000	1/1/1986	12/31/2006	1	2,430.00
GL 5076	EPHAN, LARRY & MARY	(4) 1-4-002:036-0000	1/1/1986	12/31/2006	1.12	2,520.00
GL 5079	MCCRACKEN, SABRA KAUKA	(4) 1-4-002:035-0000	1/1/1986	12/31/2005	1.01	2,520.00
GL 5080	NAKAYA, KIYOSHI & JULIA	(4) 1-4-002:051-0000	1/1/1986	12/31/2006	1.05	2,520.00
GL 5081	BURTNER, PAULETTE	(4) 1-4-002:052-0000	1/1/1986	12/31/2006	1.03	2,520.00
GL 5082	WOOD, LISA	(4) 1-4-002:053-0000	4/1/1986	12/31/2006	1.03	2,520.00
GL 5083	WILCOX MEMORIAL HOSPITAL	(4) 1-4-002:054-0000	1/1/1986	12/31/2005	1.05	2,520.00
GL 5084	UNIVERSITY OF HAWAII	(4) 1-4-002:059-0000	4/1/1986	3/31/2006	1.01	2,520.00
GL 5086	KAWAKAMI ET AL, RICHARD	(4) 1-4-002:061-0000	1/1/1986	12/31/2006	0.95	2,520.00
GL 5087	CASSIDY, THOMAS & ANNETTE	(4) 1-4-002:062-0000	1/1/1986	12/31/2006	1.05	2,520.00
GL 5088	MATSUNAGA, PAUL & ARLINE	(4) 1-4-002:063-0000	1/1/1986	12/31/2006	0.9	2,520.00
GL 5090	ONISHI ET AL, WARREN H.	(4) 1-4-002:067-0000	4/1/1986	12/31/2006	0.79	2,520.00
GL 5091	SWENEY, ROBERT T.	(4) 1-4-002:068-0000	1/1/1986	12/31/2006	1.12	2,520.00
GL 5092	TOKITA, CALVIN & PHYLLIS	(4) 1-4-002:069-0000	1/1/1986	12/31/2006	1.08	2,520.00
GL 5095	ING, PHILIP & MYRNA	(4) 1-4-002:075-0000	1/1/1986	12/31/2006	0.98	2,520.00
GL 5097	LOCRICCHIO ET AL #82, ANTHONY	(4) 1-4-002:079-0000	4/1/1986	3/31/2006	1.11	2,520.00
GL 5098	NEERINGS, JILL HANA	(4) 1-4-002:081-0000	4/1/1996	12/31/2006	1	2,520.00
GL 5099	THUENTE, DENNIS & ANNA	(4) 1-4-002:086-0000	1/1/1986	12/31/2006	0.82	2,760.00
GL 5100	MORINAKA, STANLEY H.	(4) 1-4-002:085-0000	1/1/1986	12/31/2006	0.99	2,520.00
GL 5101	UNITED CHURCH OF CHRIST	(4) 1-4-004:027-0000	1/1/1986	12/31/2006	0.5	132
GL 5102	HAWAII METHODIST UNION	(4) 1-4-002:024-0000	1/1/1986	12/31/2006	3.05	132
GL 5103	SEVENTH-DAY ADVENTIST # 55	(4) 1-4-002:055-0000	1/1/1986	12/31/2006	4.06	132
GL 5126	HUI O LAKA	(4) 1-4-002:045-0000	1/1/1986	12/31/2006	0.757	264
					108.034	250,471.00