

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

December 14, 2012

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

GL No. S-4436

Kauai

Amendment of General Lease No. S-4436, Tenrikyo Taiheiyo Kyokai, a non-profit corporation, Lessee, to Change the Performance Bond Requirement under the Lease to Two Times the Annual Rent, and Update the Liability Insurance and other Insurance Provisions, Lots 2 and 3, Block S, Kapaa Town Lots, First Series, Kapaa, Kawaihau, Kauai, Hawaii, Tax Map Key: (4) 4-5-08:008

APPLICANT:

Tenrikyo Taiheiyo Kyokai

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government Lands of Kauai, being Lots 2 and 3, Block S, Kapaa Town Lots, First Series, Kapaa, Kawaihau (Puna), Kauai, Hawaii, Tax Map Key: (4) 4-5-08:008, as shown on the attached map labeled Exhibit A.

AREA:

15,120 sq. ft., more or less.

ZONING:

State Land Use District: Urban  
County of Hawaii CZO: SFR6 (Single Family Residential)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by General Lease No. S-4436 to Tenrikyo Taiheiyo Kyokai

CHARACTER OF USE:

Church and allied purposes

DCCA VERIFICATION:

Place of business registration confirmed: YES X NO \_\_\_  
Registered business name confirmed: YES X NO \_\_\_  
Applicant in good standing confirmed: YES X NO \_\_\_

REMARKS:

General Lease No. S-4436 was originally issued to Tenrikyo Taiheiyo Kyokai on September 1, 1975 pursuant to the Board of Land and Natural Resources' action of March 23, 1973, Item F-15.

General Lease No. S-4436 provides for a lease term starting September 1<sup>st</sup> 1975 up to and including the 31<sup>st</sup> day of August 2040. Net annual rental for the first twenty (20) Years is the sum of \$1,680.00 per annum. A rental reopening scheduled under the lease increased the rent from \$1,680.00 per year to \$6,900.00 per year for the period from September 1, 2005 to August 31, 2015.<sup>1</sup> The Board approved Recommendation 2 (e) from the March 23, 1973 meeting required a "performance bond in an amount equal to two (2) times the annual rental...". However, on page 9 of the lease, item 18. "Bond, performance." The bond is specified to be: "in the sum of THREE THOUSAND THREE HUNDRED SIXTY AND NO/100 DOLLARS (\$3,360.00)."

By letter dated September 15, 2012, Lessee requested a withdrawal of excess funds in the

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<sup>1</sup> Under current Board policy, if the Lessee can establish that it is an Internal Revenue Code Section 501(c)(3) organization, it may qualify for nominal rent. Staff has provided a copy of the non-profit application to Lessee and asked it to provide supporting documents. Staff may return to the Board at a later date to seek nominal rent for the Lessee. Such rent changes are generally made effective at the time of the next rent reopening (September 1, 2015 under GL S-4436).

joint savings account for this Performance Bond. Lessee cites a balance of \$17,588.45 in the account and the Bond requirement of \$3,360.00 under the lease. See Exhibit B attached.

The lease was issued by direct negotiation instead of public auction so the Board has authority to amend the lease to change the performance bond provision and make other amendments.

Staff reviewed the file and can report that lease rent is currently over 60 days past due for a total due of \$451.00, liability insurance and fire insurance are current. In the past year, Lessee was issued four Notices of Default for delinquent Sewer Charges, required Liability Insurance Policy and Late Rental payments. The Lessee has cured their defaults in the past but continues to show pattern of delinquency.

A performance bond With Central Pacific Bank Savings is in place in the amount \$17,587.45 as of August 16, 2012.

Accordingly staff is recommending that the Board authorize the amendment of the lease to update the lease provisions titled "Bond, performance." (section 18 of the lease), with the current language for such provisions used by the Department of the Attorney General. This will result in Lessee having to post a performance bond of \$13,800 (based on two times to current annual rent of \$6,900), and any excess can be released to the Lessee.

Lessee 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.

Accordingly staff is recommending that the Board authorize the amendment of the lease (i) to change the performance bond provision to that used in the current general lease form, as well as (ii) to update the lease provisions titled "Liability insurance" (section 17), and "Insurance" (section 22) with the current language for such provisions used by the Department of the Attorney General.

**RECOMMENDATION:** That the Board:

- A. Authorize the amendment of General Lease No. S-4436 (i) to change the lease provision titled "Bond, performance." (section 18 of the lease) to that used in the current general lease form, and (ii) to update the lease provisions titled "Liability insurance" (section 17), and "Insurance" (section 22) with the current language for such provisions used by the Department of the Attorney General. The amendment of the lease shall further be subject to the following:
  1. The standard terms and conditions of the most current amendment of lease document 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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Milo Spindt  
District Land Agent

APPROVED FOR SUBMITTAL:



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William J. Aila, Jr., Chairperson



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September 15, 2012

Mr. Marvin Mikasa  
Acting District Land Agent  
STATE OF HAWAII  
Department of Land and Natural Resources  
3060 Eiwa Street, Room 208  
Lihue Hawaii

Dear Mr. Mikasa,

This letter is in regards to the Performance Bond for Tenrikyo Taiheiyo Kyokai, General Lease No. S-4436.

A recent letter received from the DLNR Land Division stated that the Bond requirement of the lease document is \$3,360.00. The joint savings account for this Performance Bond of Tenrikyo Taiheiyo Kyokai and the Department of Land and Natural Resources presently has a balance of \$17,588.45.

On behalf of The Tenrikyo Taiheiyo Kyokai, I am requesting for an authorization from the DLNR to withdraw the amount in excess of the required \$3,360.00 and deposited to the Tenrikyo Taiheiyo Kyokai Checking Account. Central Pacific Bank requires a written authorization from the DLNR Office before this transaction can be executed.

Thank you very much for your kind attention to this request.

Mrs. Francine Komine of CPB, McCully Branch, is assisting the church on this matter.

Sincerely,

*Rev. Clyde Mikuni*  
Rev. Clyde Mikuni

President, Tenrikyo Taiheiyo Kyokai

SEP 14 2012

SEP 14 2012

DLNR KELO PONO

**EXHIBIT "B"**