

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

November 8, 2013

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

Kauai

Forfeiture of General Lease No. S-4436, Tenrikyo Taiheiyo Kyokai, Kapaa, Kawaihau, Kauai, Tax Map Key(4) 4-5-008:008

PURPOSE:

Forfeiture of General Lease No. S-4436, Tenrikyo Taiheiyo Kyokai, Lessee.

LEGAL REFERENCE:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kapaa situated at Kapaa, Kawaihau (Puna), Kauai, identified by Tax Map Key:(4) 4-5-008:008, as shown on the attached map labeled Exhibit A.

AREA:

0.3471 acres, more or less.

TRUST LAND STATUS:

Section 5b 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:

65 years, commencing on September 1, 1975 and expiring on August 31, 2040.

ANNUAL RENTAL:

\$1,725.00 due in quarterly payments.

REMARKS:

Pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in General Lease S-4436, Tenrikyo Taiheiyo Kyokai, Lessee, was served a Notice of Default by certified mail dated June 28, 2013 for: Failure to keep lease rental payments current. Said notice, accepted by the Lessee on June 29, 2013, offered the Lessee a 60 day cure period to correct the default. This Cure period expired on August 29, 2013. As of October 8, 2013 this breach has not been cured.

The Lessee was also served a Notice of Default by certified mail dated August 21, 2013 for: Failure to pay sewer charges. Said notice, accepted by the Lessee on September 5, 2013, offered the Lessee a 30 day cure period to correct the default. This Cure period expired on October 5, 2013. As of October 8, 2013 this breach has not been cured.

The Lessee was also served a Notice of Default by certified mail dated September 8, 2013 for: Failure to comply with Section 5. Sanitation, etc. 10. Repairs and improvements. 13 Subletting. Said notice, accepted by the Lessee on September 8, 2013, offered the Lessee a 60 day cure period to correct the default. This Cure period will expire on November 8, 2013. As of October 8, 2013 this breach has not been cured.

As of October 8, 2013, the current status of all lease compliance items is as follows:

RENT: The Lessee has a rental delinquency of \$3450.00 for the time period from June 1, 2013 to November 30, 2013.

INSURANCE: The Lessee has posted the required liability/fire insurance policy.

PERFORMANCE BOND: The Lessee has posted the required performance bond. This bond is in the form of a joint savings account with Central Pacific Bank Savings.

OTHER: The Lessee is in violation of:
Section 5. Sanitation, etc. That the Lessee shall keep premises and improvements in a strictly clean, sanitary and orderly condition and free from trash, inflammable matter and other objectionable matter.

Section 10. Repairs to improvements. That the Lessee shall, at its own expense, keep, repair and maintain all buildings and improvements now existing or hereafter constructed or install on the premises in good order, condition and repair, reasonable wear and tear excepted.

Section 13. Subletting. That the Lessee shall not rent or sublet the whole or any portion of the premises, without the prior written approval of the Board;

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 a consistent pattern of delinquency.

An inspection of the property was conducted on September 5, 2013. The inspection was requested by a concerned community member who had observed unusually activity in and around one of the homes on the property. During the inspection, the older home on the property was found to be in poor and unsanitary condition. The power meter was removed and it appeared that power was being used from the adjacent building by way of an extension cord. The Lessee's representative was unable to tell staff who was living in the home and claimed that people were living in the home without their permission.

A portion of the main building is being used for Church purposes. It appears that the primary use of the two structures is for residential use.

RECOMMENDATION: That the Board:

1. Authorize the cancellation of General Lease No. S-4436 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-4436 to be applied to any past due amounts;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of November 8, 2013, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under General Lease No. S-4436 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



Mike Spindt
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

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