

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

July 24, 2015

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

Hawai'i

**Forfeiture of General Lease No. S-3597, Sure Save Supermarket Ltd., Lessee,
Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-032:064.**

PURPOSE:

Forfeiture of General Lease No. S-3597, Sure Save Supermarket Ltd., Lessee.

LEGAL REFERENCE:

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

LOCATION:

Government Lot C-1 situated on south side of Kamehameha Avenue between Kalanikoa and Kanoelehua Avenues, Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-032:064, as shown on the attached map labeled Exhibit A.

AREA:

14,753 square feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Retail liquor and fountain service purposes.

TERM OF LEASE:

55 years, commencing on January 16, 1961 and expiring on January 15, 2016.

ANNUAL RENTAL:

\$17,760.00 due in semi-annual 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-3597, Sure Save Supermarket Ltd., Lessee, was served a Notice of Default by certified mail dated March 23, 2015 for:

Failure to keep lease rental payments current

Failure to post required performance bond

Failure to post required fire insurance policy

Failure to post required liability insurance policy

Other: _____

Said notice, accepted by the Lessee on April 1, 2015, offered the Lessee a sixty-day cure period to correct the default. This cure period expired on June 1, 2015. As of July 2, 2015, this breach has not been cured.

As of July 2, 2015, the current status of all lease compliance items is as follows:

RENT: The Lessee has a rental delinquency of \$4,880.00 (rent plus late fees) for the time period from January 16, 2015 to July 15, 2015.

INSURANCE: The Lessee has posted the required liability and fire insurance policies.

PERFORMANCE BOND:

The Lessee has posted the required performance bond.

\$22,718.00 Cash deposit

\$12,801.92 Standby Letter of Credit

BACKGROUND:

General Lease No. S-3597 was issued to William Aiona, Jr. dba Family Liquor Store for a term of fifty-five (55) years pursuant to Act 4, First Special Session of 1960, which authorized the direct issuance of leases to victims of a natural disaster (tsunami).

The lease, which began on January 16, 1961 and was set to expire on January 15, 2016, restricted the use of the 14,753 square foot property to retail liquor/fountain service purposes. A convenience store building comprising an area of some 1,755 square feet along with a paved parking lot was constructed in compliance with the building requirements of the lease in 1961.

At its meeting of December 10, 1976 the Board under agenda item F-1-b, consented to the assignment of lease from William Aiona, Jr. dba Family Liquor Store, as Assignor to Alberta Aiona, as Assignee.

At its meeting of March 28, 1980 the Board under agenda item F-1-a, consented to the assignment of lease from Alberta Dela Cruz, formerly Alberta Aiona, as Assignor to Josephine N. K. Kunewa as Assignee.

At its meeting of May 12, 1989 the Board under agenda item F-1-d, consented to the assignment of lease from Josephine N. K. Kunewa, wife of Joseph H. Kunewa as Assignor to Josephine N. K. Kunewa, Trustee under that certain unrecorded Revocable Trust of Josephine N. K. Kunewa dated February 3, 1987 as Assignee and, to Josephine N. K. Kunewa, Trustee under that certain unrecorded Revocable Trust of Josephine N. K. Kunewa, dated February 3, 1987 as Assignor to from Josephine N. K. Kunewa, wife of Joseph H. Kunewa as Assignee and, from Josephine N. K. Kunewa, wife of Joseph H. Kunewa as Assignor to Sure Save Supermarket, Ltd., a Hawaii corporation, as Assignee.

The Lessee, Sure Save Supermarket, Ltd. recently ceased operations of its convenience store on the subject property. The Lessee has made no attempt to cure the current rental default. There is an additional lease rent amount due July 15, 2015 in the amount of \$8,880.00 bringing the total amount due to \$13,760.00. To date, this amount has not been paid.

The Lessee has been issued the following notices of default during the past five years.

DATE	DEFAULT	RESULT
9/10/10	Rent	9/23/10 cured
11/08/11	Performance Bond	4/26/12 cured
3/01/13	Rent/insurance	3/11/13 cured
8/29/13	Rent	11/06/13 cured
9/09/14	Rent	12/01/14 cured

As a result of the current default in the lease rent, staff is recommending the Board authorize the cancellation of General Lease No. S-3597.

RECOMMENDATION: That the Board:

1. Authorize the cancellation of General Lease No. S-3597 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-3597 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 July 24, 2015, 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-3597 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:

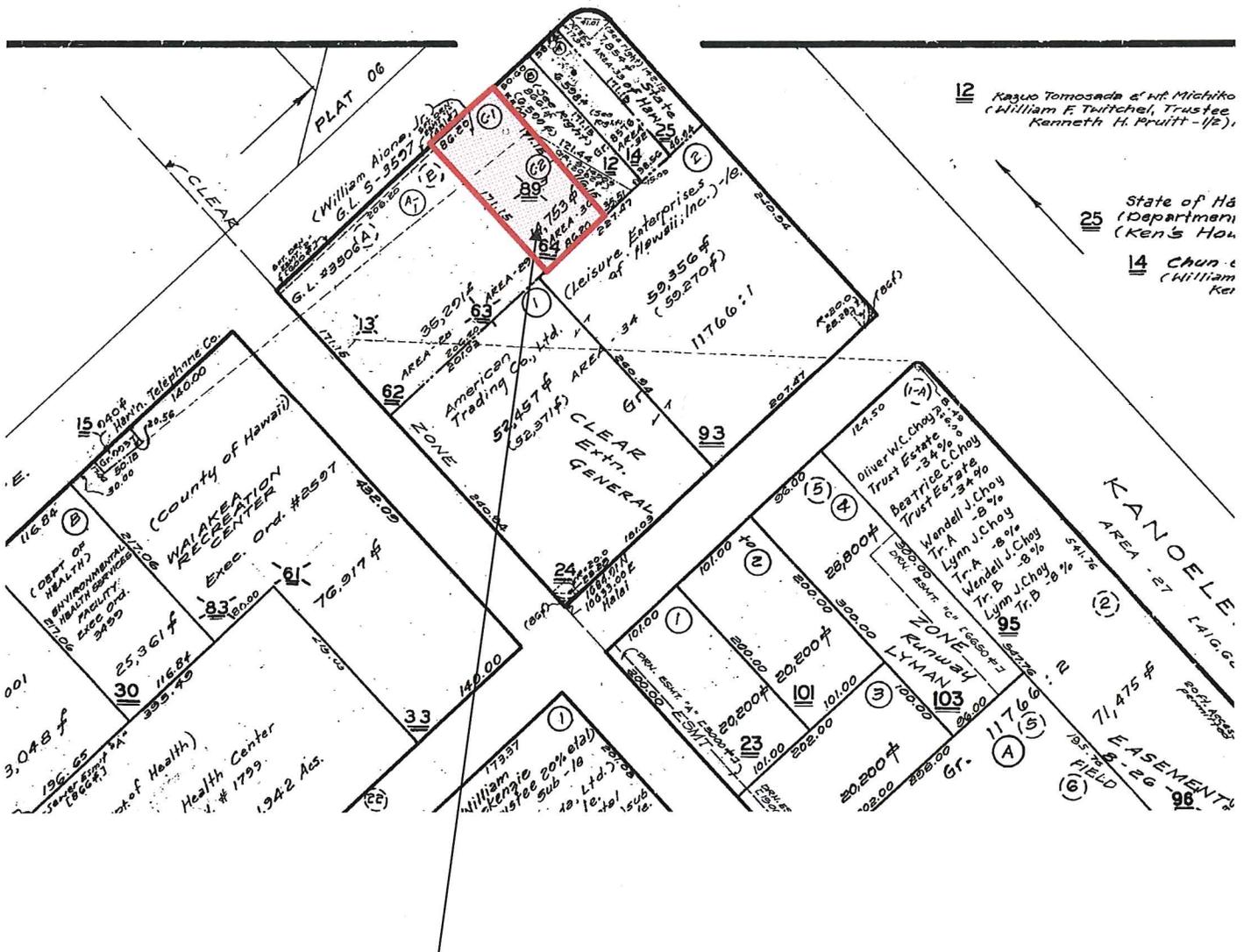


Suzanne D. Case, Chairperson



EXHIBIT A

TMK: 3RD/2-2-32:64



SUBJECT PROPERTY

General Lease No. S-3597

