

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

December 11, 2015

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

Ref: GL5630

Oahu

Amendment of General Lease No. 5630 for Pier Purposes by Changing the Rent to Gratis; University of Hawaii, Lessee; Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-014:014.

APPLICANT:

University of Hawaii ("UH").

LEGAL REFERENCE:

Section 171-95(a)(2), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government submerged lands situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-014:014, as shown on the map attached as **Exhibit A**.

AREA:

1.645 acres, more or less.

ZONING:

State Land Use District: Conservation

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:

Construction, use, and maintenance of a pier and other facilities for berthing vessels, housing equipment to be used in marine science and ocean technology and research, and for the design, construction, testing and use of equipment and facilities to further marine science, ocean technology and undersea exploitation of aquatic and terrestrial resources.

LEASE TERM:

Fifty-five (55) years, commencing on May 1, 2001 and expiring on April 30, 2056.

ANNUAL RENT:

\$66,700.00, due semi-annually, which shall be adjusted to account for management and maintenance expenses. See Remarks Section below.

RENTAL REOPENINGS:

At the 15th, 25th, 35th, and 45th years of the lease term.

DCCA VERIFICATION:

Not applicable. Government agency.

BACKGROUND:

Pursuant to a public auction held in mid-1970s, a 63-year lease (GL 4407) was issued to Pierco, Inc. The lease allowed a pier and other facilities for berthing vessels, housing equipment to be used in marine science and ocean technology investigation and research, and for the design, construction, testing and use of equipment and facilities to further marine science, ocean technology and undersea exploitation of aquatic and terrestrial resources.

By 1993, Pierco, Inc. decided to terminate all of its investment in the State and requested the Board consent to the assignment of GL 4407 to the High Technology Development Corporation (“HTDC”), which was a State agency that assisted commercial enterprises to develop high technology operations in the State. The Board gave its consent to the assignment at its meeting of November 19, 1993 (item F-1-b).

In October 1995, the Board of Directors for HTDC asked for termination of the lease with the improvements on the premises being transferred over to the landlord, i.e. the State.¹

The Hawaii Undersea Research Laboratory program of UH wanted to continue its operation at the subject pier due to its proximity to the deep water of the channel between Molokai and Oahu.

Eventually, the Board, at its meeting of November 20, 1998 (D-10), authorized the issuance of a new lease to UH. The 1998 approval required an appraisal to determine the lease rent, but also allowed UH to deduct its expenses on “management, utilities,

¹ GL 4407 did not provide the current condition regarding the disposition of improvements upon expiration or early termination of the lease. Staff believes the mention of transfer of improvements described above was to document the termination of maintenance obligation by HTDC.

insurance, maintenance, and capital repair expenses to the pier and facilities” from the rent payable of the next rental period. The expenses would be provided in a report submitted by UH to the Department on a semi-annual basis. GL 5630 was eventually issued in 2001, with the rent (for land and improvements) appraised at \$66,700².

REMARKS:

Since the lease commenced in 2001, UH has provided expense statements for the rental periods, covering the utilities, repair and maintenance, security services, and other expenditures (e.g. waste collection). Repair and maintenance cost is always the biggest item on the expense account. None of these reported expenses statements was less than the six-month rental payable (\$33,350). As a result, there was no rent collected over the past 15 years, and the ledger shows there is a rental credit in an amount over \$200,000.

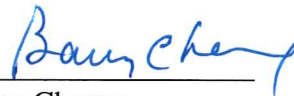
As part of the lease conditions, there will be a rental reopening effective on May 1, 2016. Upon review of the situation and discussions held in the Land Division, staff believes an amendment of GL 5630 to remove the rental obligation for UH is appropriate based on the justifications below.

Typically, any land disposition to a government agency would not trigger any rental obligation by the lessee/grantee. Also, there was no record of spending of State funds to build or acquire the improvements under the previous lease, i.e. GL 4407. In addition, the Division needs to pay for an appraisal for rental reopening. Lastly, both agencies were spending staff resources administratively to process the expenses statement from UH and subsequent notification to Fiscal Office to adjust the account.

Staff did not solicit comments from other agencies on the subject request since this is pertaining for housekeeping purposes, and staff recommends the Board authorize the amendment of GL 5630 by replacing the rental obligation to gratis and removing all references for appraisal and rental credit in the subject lease.

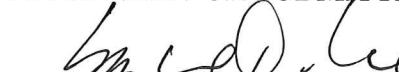
RECOMMENDATION: That the Board authorize the amendment of General Lease No. 5630 by changing the rental provision to gratis, and removing all references for appraisal and rental credit in the subject lease.

Respectfully Submitted,



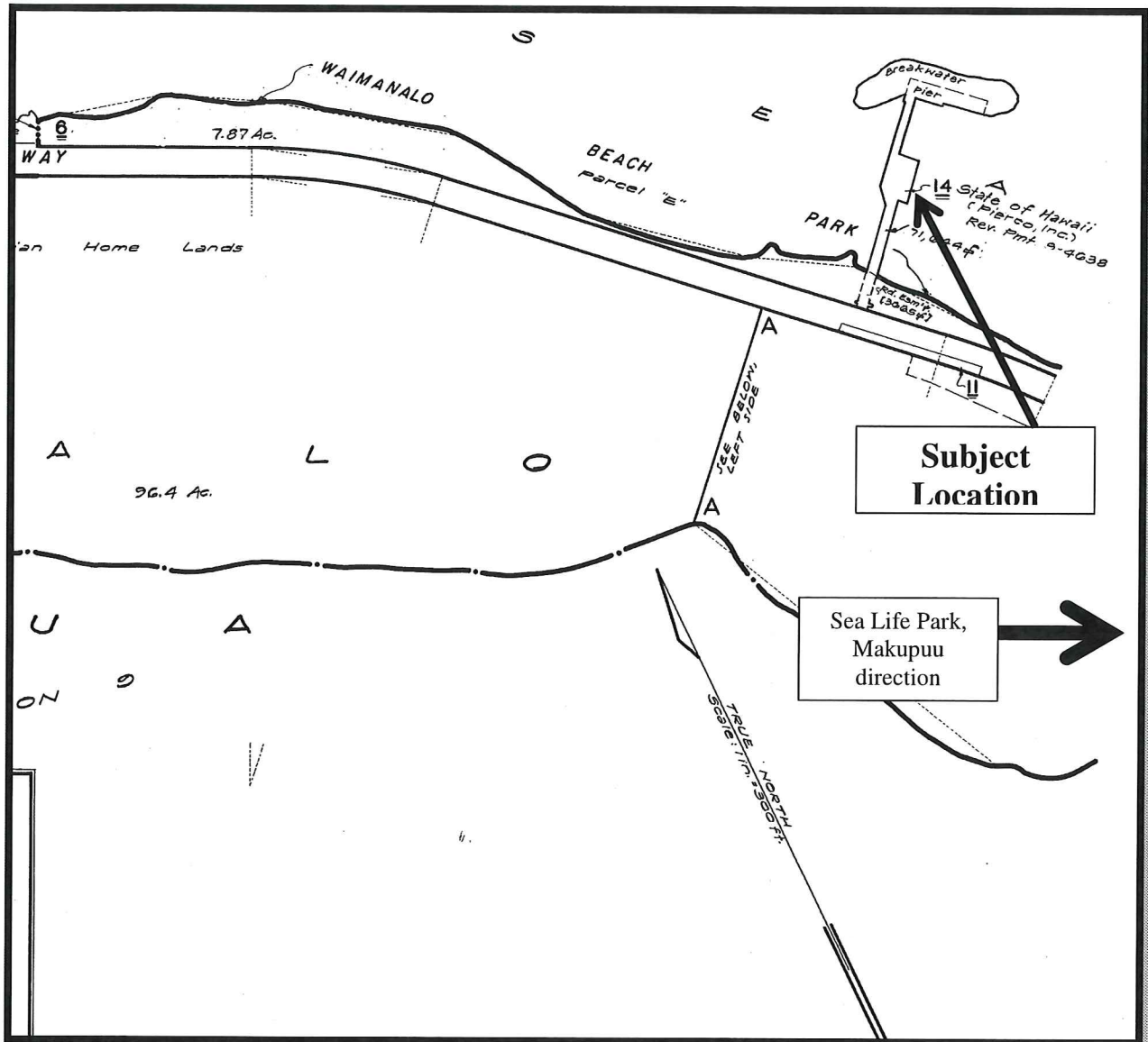
Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

² On December 15, 1999, the Chairperson, as recommended by the staff appraiser, approved \$5,700 and \$61,000 for land and improvement rent respectively.



TMK (1) 4-1-014:014

EXHIBIT A