

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

February 12, 2016

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

Ref. No.: GLS-3602
PSF No.: 15HD-001
HAWAII

Consent to an After-the-Fact 10-Year Term Extension of General Lease No. S-3602, Mar-Les Corporation, Lessee, Pursuant to Act 207, Session Laws of Hawaii 2011, Kanoelehua Industrial Lots, Lot 40, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-049:014.

APPLICANT AND REQUEST:

Mar-Les Corporation, a Hawaii corporation.

Improvements to leasehold property financed by lessee pursuant to Act 207, Session Laws of Hawaii 2011 and Section 171-36, Hawaii Revised Statutes in an amount of \$102,908.00.

In order for the Lessee to amortize this expenditure, they are requesting an extension of General Lease No. S-3602 of 10 years, commencing on January 16, 2016 and expiring on January 15, 2026 for an aggregate term of 65 years (initial 55 year term plus the 10 year extension).

LEGAL REFERENCE:

Sections 171-36, Hawaii Revised Statutes, as amended.
Act 207, Session Laws of Hawaii 2011

LOCATION:

Portion of Government lands, Lot 40, Kanoelehua Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-049:014, as shown on the attached map and photographs labeled Exhibit A.

AREA:

15,866 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:
YES ___ NO X

CHARACTER OF USE:

Pest Control and Janitorial Supplies

TERM OF LEASE:

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

Requested extension of 10 years commencing on January 16, 2016 and expiring on January 15, 2026 for an aggregate term (initial 55 year term plus extension) of 65 years.

ANNUAL RENTAL:

\$16,200.00 per annum, payable in advance, without notice or demand, in semi-annual installments on January 16th and July 16th of each and every year of the term of the lease.

RENTAL REOPENINGS:

Rental reopening in the original 55 year term were at the end of the 21st, 30th, 40th and 50th years of the term. The last rental reopening occurred on July 6, 2010, therefore, staff is recommending the rental reopening for the extended term be scheduled for January 16, 2016.

Rent for the extended term shall be determined by an immediate appraisal that will project rent for the period of January 16, 2016 through January 15, 2026.

IMPROVEMENTS:

Mar-Les Corporation plans to make substantial improvements to the warehouse currently existing on the leasehold property:

- Ivan Mochida Contracting Proposal: \$66,508.00
 - o Re-roof (approximately 7200 sq. ft.) including awning
 - o New rake flashing, ridge cap, pitch flashing
 - o Installation of new skylights
 - o 8 new spinner vents
 - o 2 new Zee purlin, galvanized
 - o Clean up, haul rubbish
- MK Painting, LLC Proposal: \$16,500.00
 - o Prime and two (2) coat finish paint new rooftop
 - o Prime and two (2) coat finish paint purlins/beams

- Key Painting, Inc. Proposal: \$19,900.00
 - o Pressure wash exterior walls
 - o Scrape, caulk and rust treat exterior walls
 - o Spot prime rust treated areas
 - o One (1) coat primer entire exterior walls
 - o Two (2) coats finish paint entire exterior walls

- TOTAL COST OF IMPROVEMENTS: \$102,908.00

By letter dated May 2, 2015, Mr. Robert G. Bloom, Jr., CGA-162, dba Bloom Appraisers Inc., provided a consulting letter regarding Economic Life of Improvements on the subject property. Mr. Boom estimates the total depreciated value of the improvements before a new roof and exterior painting is completed to be \$60,000.00 and after the installation of the new roof and exterior painting to be \$190,000.00. The after valuation estimated effective age will be 40 years with an economic life of 70 years.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u> x </u>	NO <u> </u>
Registered business name confirmed:	YES <u> x </u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u> x </u>	NO <u> </u>

APPLICANT REQUIREMENTS:

1. Applicant shall be required to complete all proposed improvements above within a year from the start of the extension. The Lessee shall also submit receipts of expenditures upon completion of said improvements. Otherwise, the lease extension shall be cancelled pursuant to HRS §171-36 (b)(3).

2. Applicant shall, at its own expense, remedy the existing environmental contamination to the satisfaction of the BLNR.

HISTORY:

On November 18, 1960, the subject lease was originally issued to E.G. Wence and Wallace C. Chow, Co-Partners, dba Hawaii Pest Control Company, in connection with Act 4, First Special Session 1960, authorizing the leasing or leasing with option to purchase of public lands to victims of natural disaster through direct negotiation for other than residential or agricultural purposes. The term of the lease was for fifty-five (55) years, commencing on January 16, 1961, and ending on January 15, 2016.

At its meeting on February 9, 1962, the BLNR approved the consent to assignment of GL S-3602 from E.G. Wence and Wallace C. Chow to Hawaii Pest Control, Ltd.

At its meeting on June 14, 1963, the BLNR approved the consent to assignment of the subject lease from Hawaii Pest Control, Ltd. to E.G. Wence and Wallace C. Chow, co-partners, dba Hawaii Pest Control Company.

At its meeting on June 27, 1969, the BLNR approved the consent to assignment of the subject lease from E.G. Wence and Wallace C. Chow, co-partners, dba Hawaii Pest Control Company to individual, E.G. Wence.

At its meeting on August 14, 1970, the BLNR approved the consent to assignment of the subject lease from E.G. Wence to Hawaii Pest Control, Inc.

According to Department of Taxation document, effective August 1, 1985, Hawaii Pest Control, Inc. changed its name to Mar-Les Corporation, withstanding all other terms and conditions of GL S-3602 remaining the same. Also, a DCCA Certificate of Amendment dated, June 18, 1985, authorized the name change. Both documents and two letters to DLNR dated August 5, 1985 and December 11, 1985 from Hawaii Pest Control, Inc., which confirm the name change, are in file.

At its meeting on August 23, 1996, under agenda item D-12, BLNR consented to the sublease of GL S-3602, Mar-Les Corporation, as Sublessor, to RNB Ventures, Inc. and C.W. Maintenance, Inc., as Sublessee.

The subject leasehold property is located on Wiwoole Street, surrounded by five State parcels of the Kanoelehua Industrial Area. These adjacent properties include the following Lessees:

- GL S-3619: Mattos Electric, LLC at 48 Wiwoole St., TMK (3) 2-2-049:013.
- GL S-3603: Jieyu Shepard at 64 Wiwoole St., TMK: (3) 2-2-049:016; and
68 Wiwoole St., TMK: (3) 2-2-049:015.
- GL S-3601: BCI Coca-Cola Bottling Co. at 45 Holomua St., TMK: (3) 2-2-049:007.
- GL S-3621: Crescent City Properties, Inc. at 55 Holomua St., TMK: (3) 2-2:049:006.

RECOGNIZED ENVIRONMENTAL CONDITION:

In October 1996, a Phase I Environmental Site Assessment (ESA), was done on the former Hawaii Pest Control Building (HPC) to identify "recognized environmental conditions" in accordance with the American Society for Testing and Materials (ASTM) Standard E1527-94. Ten (10) surface soil samples were taken on September 30, 1996 to quantify the concentrations of pesticides and polychlorinated biphenyls (PCBs) in on-site surface soils. The material that showed the highest concentrations in on-site surface soils is chlordane, which was present in all of the surface soil samples and ranged in concentration from 0.71 to 6,700 mg/kg (parts per million). Dieldrin was present in six (6) of the surface soil samples and ranged in concentration from 0.032 to 37 mg/kg. Aldrin was present in one surface soil sample at a concentration of 35 mg/kg. No PCBs were detected. According to this assessment, recognized environmental conditions are present which could affect the subject property and off-site properties.

In 1997, Frazier Environmental Services, Inc. performed additional site characterization which involved the installation of thirty-seven (37) soil borings. The three areas with chlordane above 500 ppm were identified as the unpaved open bay under the building's roof, the gravel area near the trash bin, and the northwest corner of the property where surface water drains to.

In February 1998, Dawson Environmental Services, Inc. assessed the mobility of the pesticides to determine the migration potential and exposure pathways.

In August 2006, as a result of recommendations made by HEER, a Site Investigation Work Plan (SI-WP) was conducted by EnviroServices & Training Center, LLC (ETC) for the former HI Pest Control building. The plan was later revised in June 2010 after further correspondence with DOH Hazard Evaluation and Emergency Response (HEER) Office advised further investigations. According to the SI-WP, the conclusion can be made that the entire site has been impacted by organochlorine pesticides at concentrations exceeding current Hawaii Department of Health (DOH) Tier 1 Environmental Action Levels (EALs). The general purpose of this investigation will be to address concerns raised by the HEER office, recommending additional characterization be done to underlying ground water samples, samples collected from beneath the on-site buildings, and off-site samples. Findings of the investigation will be used to determine the feasibility of future corrective actions, specifically exploring the possibility of placing a “cap” on contaminated portions of the property to eliminate direct exposure concerns to property users and potential migration of contaminated surface soil by storm water run-off.

On May 23, 2013, ETC provided a quote estimating the costs of implementing the recommended SI-WP to be in the range of \$38,440.00 - \$49,242.00.

HDLO staff was not aware of the recognized environmental conditions mentioned above until recently in 2015, after the Lessee’s request and application for the 10 year extension was submitted to the Hawaii District Land Office (HDLO). It was brought to our attention by the Lessee while discussing the feasibility of the granting the extension.

REMARKS:

Mar-Les Corporation is requesting a ten (10) year term extension of General Lease No. S-3602. The extension is being requested pursuant to Act 207, Session Laws of Hawaii 2011¹ and Section 171-36, Hawaii Revised Statutes. Proposals on file indicate that improvements, which involve the replacement of the warehouse roof and exterior painting of new roof and walls, were estimated at a cost of \$102,908.00.

HDLO’s discovery of the environmental contamination led to numerous discussions with the Lessee. Additionally, staff compiled and researched historical documents pertaining to the contamination. This was a time-consuming task that resulted in the lease extension request being presented to the Board “after-the-fact.”

The Lessee agrees to cure the environmental contamination issue to the satisfaction of the Board of Land and Natural Resources at its own expense, regardless of whether the extension is approved or disapproved. They are currently working with DOH’s HEER Office to address the issue. The process consists of the following steps:

¹ Act 207, Session Laws of Hawaii 2011 amends Section 171-36(b) of the Hawaii Revised Statutes by allowing the Lessee to extend or modify the fixed rental period of the lease: provided that the aggregate of the initial term and any extension granted shall not exceed sixty-five years.

- Review of previous environmental work
- Development of a preliminary Conceptual Site Model (CSM) and Site Investigation Work Plan (SI-WP)
- Site Investigation Report (SIR)
- Draft Removal or Remedial Action Report (Draft RAR)
- Solicitation of public comments on the Draft RAR
- Removal or Remedial Action Implementation Work Plan
- Implementation of the Selected RAR
- HEER Office Determination via letter
 - o No Further Action (NFA)
 - o Letter Of Completion (LOC) in accordance with Voluntary Response Program (VRP)
 - o Institutional Controls (ICs)...if contamination remains above EALs
 - o Long Term Environmental Hazard Management Plan (EHMP)

Although “capping” of the contaminated areas was discussed as one of the options in the SI-WP, it may not be the best option for DLNR. Capping the contaminated areas will require ongoing monitoring and maintenance. Although the costs of capping the contaminated areas would be covered by the Lessee (Mar-Les Corp.), the monitoring and maintenance would be at DLNR’s expense upon expiration of lease. Or, if monitoring and maintenance costs were added as a condition for the next lessee, it would be a liability, making the property potentially difficult to lease out.

The Lessee’s liability and fire insurance are current, with an expiration date of March 6, 2016. According to DLNR’s SLIMS database, a performance bond in the amount of \$20,070.00 was executed on August 20, 1996 via certificate of deposit by Bank of Hawaii and expires on January 15, 2016.

No agency comments were solicited on the request because it involves a lease extension; not a new disposition.

Due to the timing of this request, staff is recommending that a rental reopening be scheduled following the after-the-fact 10 year extension of the lease. The reopening will address the extended 10 year period of the lease. The Lessee shall continue to pay the current lease rent until such time new lease rent is set, at which time any necessary adjustment to rent will be made retroactive to the commencement date of the extension.

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling the Applicant requirements listed above, Authorize an after-the-fact 10-Year Term Extension of General Lease No. S-3602, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

- A. The standard terms and conditions of the most current lease extension form, as may be amended from time to time;
- B. Review and approval by the Department of the Attorney General; and
- C. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State.

Respectfully Submitted,



 Dan K. Gushiken
Land Agent

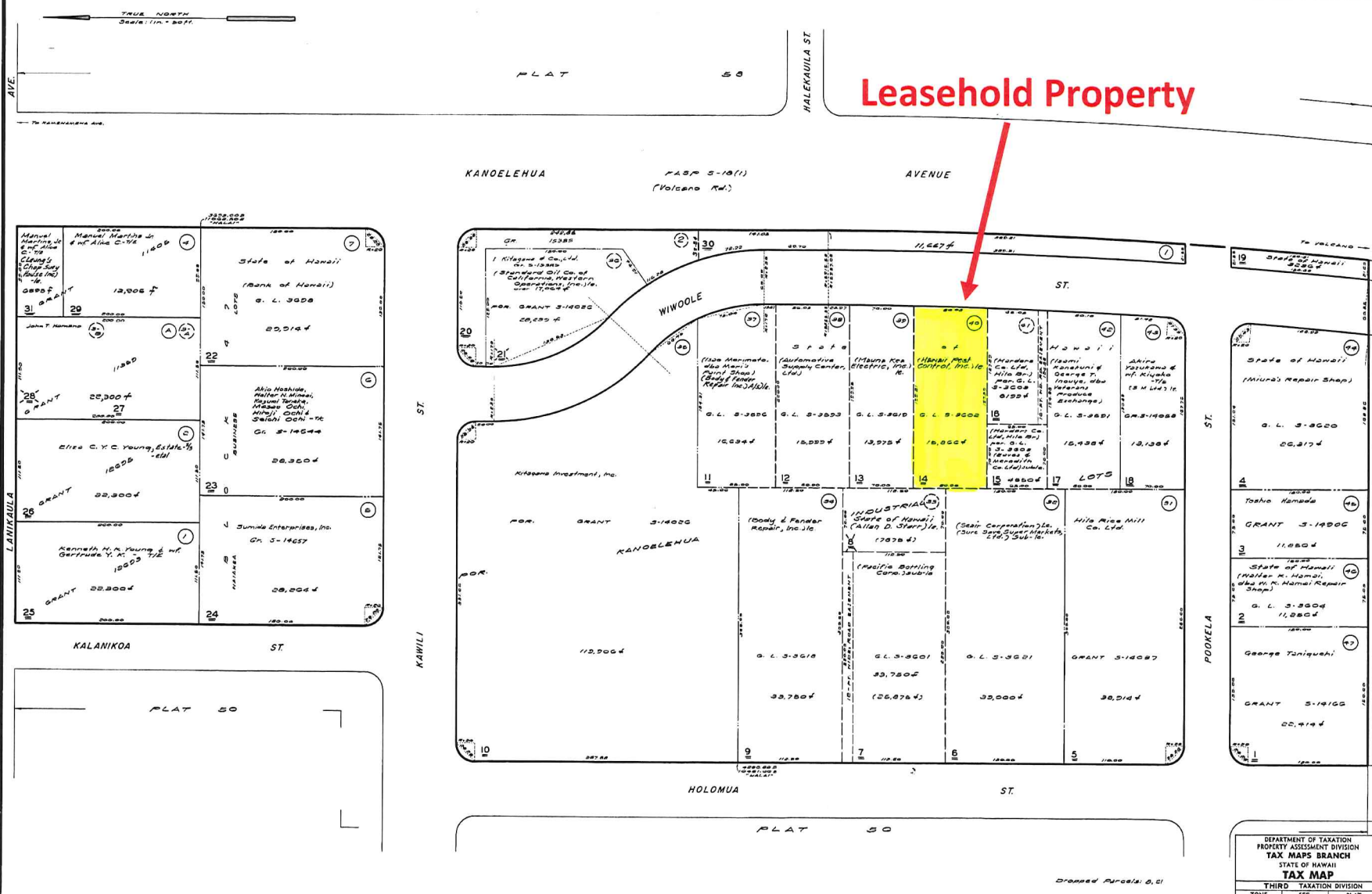
APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

EXHIBIT A

2 - 2 - 49 3RD DIV



Leasehold Property

DWG. NO. 3852 (REVISED) 4th AUGUST 31, 1958
 SOURCE: T.M.B.
 BY: H.C.H. DATE: APRIL 1958

POR. WAIKAEA HOUSELOTS EXTENSION, HILO, HAWAII

FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE

DEPARTMENT OF TAXATION
PROPERTY ASSESSMENT DIVISION
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP

THIRD TAXATION DIVISION		
ZONE	SEC.	PLAT
2	2	49

SCALE: 1 IN. = 50 FT.

GL S-3602: Mar-Les Corporation (Photos taken May 2015)







C.W. Maintenance portion of building



Old HI Pest Control portion of building



Old Hawaii Pest Control portion of building



C.W. Maintenance storage room