

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

January 13, 2012

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

Kauai

Forfeiture of General Lease No. S-5563, Stephen Sico, Lessee, Portion of Lot 173,  
Kapaa Homesteads, 3rd Series, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-6-8: 1

PURPOSE:

Forfeiture of General Lease No. S-5563, Stephen Sico, Lessee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kawaihau situated at Portion of Lot 173, Kapaa  
Homesteads, 3rd Series, Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-8: 1,  
as shown on the attached map labeled Exhibit A.

AREA:

21.40 acres, 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:

Intensive Agriculture and Pasture purposes.

TERM OF LEASE:

35 years, commencing on December 2, 1998 and expiring on December 1, 2033.

ANNUAL RENTAL:

\$4,480.00 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-5563, Stephen Sico, Lessee, was served a Notice of Default by certified mail dated January 31, 2011 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 February 19, 2011 offered the Lessee a sixty-day cure period to correct the default. This cure period expired on March 19, 2011. A payment of \$1,000.00 was received on June 7, 2011. Four (4) late fee payments of \$50.00 each was received on February 1<sup>st</sup>, March 1<sup>st</sup>, April 1<sup>st</sup>, and May 1<sup>st</sup>, 2011. As of November 30, 2011, this breach has not been cured.

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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-5563, Stephen Sico, Lessee, was served a Notice of Default by certified mail dated May 13, 2010 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 May 19, 2010 offered the Lessee a sixty-day cure period to correct the default. Due to a rent reopening, the performance bond amount increased from \$6,200 to \$8,960. A letter dated July 19, 2010 requesting an installment plan to pay \$2,760.00 towards the balance of the performance bond was accepted via letter dated August 31, 2010. (See attached labels Exhibit B & C) Lessee has made a initial payment of \$660.00 posted on October 26, 2010 and the first installment of \$700.00 posted on June 7, 2011. Lessee has not made another payment as per terms of the installment agreement. As of November 30, 2011, this breach has not been cured.

As of November 30, 2011, the current status of all lease compliance items is as follows:

RENT: The Lessee has a rental delinquency of \$4,080.00 for the time period from December 2, 2010 to November 30, 2011.

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

PERFORMANCE BOND:

The Lessee has posted only \$7,560.00 of the \$8,960.00 performance bond required.

The Lessee had three (3) previous forfeitures before the Board:

March 10, 2000, item D-3, to post required performance bond, remove all abandoned vehicles from property and use the property for pasture and intensive agriculture purpose. Board gave a thirty (30) day extension. All requirements were satisfied by the lessee.

May 25, 2001, item D-7, for rental default. Board gave a thirty (30) day extension to cure Default. Payment was made on June 21, 2001.

March 11, 2005, item D-9, for rental default, item was withdrawn, payment was received.

The Lessee were issued Notice of Default for:

<u>Rent:</u>	<u>Insurance:</u>	<u>Real Property Tax:</u>
December 21, 1999	June 28, 2000	February 3, 2001
February 14, 2001	October 21, 2002	February 4, 2004
December 30, 2002	March 9, 2004	
June 26, 2003	January 4, 2007	
January 28, 2004	April 29, 2011	
June 18, 2004		
January 14, 2005		
July 11, 2008		
December 30, 2009		
July 14, 2010		
January 31, 2011		

<u>Unauthorized Use:</u>	<u>Lease Bond:</u>
February 10, 2000	December 23, 1999
	December 4, 2009
	May 13, 2010

RECOMMENDATION: That the Board:

1. Authorize the cancellation of General Lease No. S-5563 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-5563 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 September 9, 2010, 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-5563 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



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Marvin Mikasa  
Land Agent

APPROVED FOR SUBMITTAL:



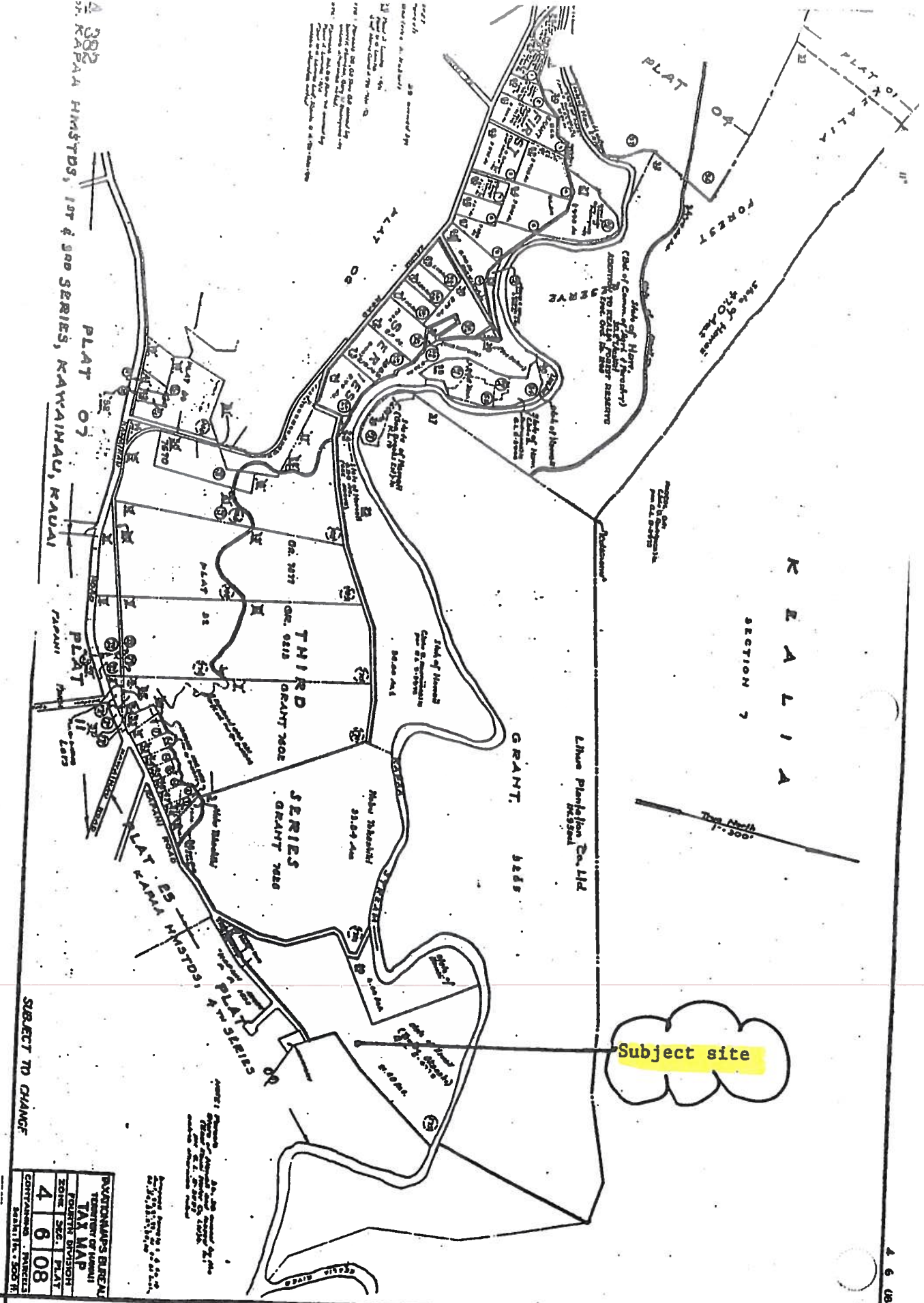
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William J. Aila, Jr., Chairperson

K E A L I A

SECTION 7

Subject site



A 3882  
KAWAIA HISTSOS, 1ST & 3RD SERIES, KAWAIA, KAUAI

PLAT 07

PLAT 08

PLAT 05  
KAMA HISTSOS & 1ST SERIES

SUBJECT TO CHANGE

PUNAHONUA BUREAU	
TERRITORY OF HAWAII	
TAX MAP	
FOURTH DIVISION	
ZONE	SEC.   PLAT
4	8   08
CONTAINED 1 PARCELS	
SCALE 1/8" = 200 FT.	

EXHIBIT "A"

7/19/10

At Laura A. Thiel

In Response to Certified mail (#  
 7008 1140 0001 9252), Ref KD 6L5563  
 my being late on the increase of  
 my performance bond on general lease  
 (S 5563) I'd like to make payment  
 to satisfy the balance. So far I  
 have paid \$6,200.00 toward the performance  
 bond, the increase being \$2,760.00. I can begin  
 to make payments within 30 days of \$700.00  
 and every 4 months thereafter.

Sincerely

Stephen Sico

DEPT. OF LAND &  
 NATURAL RESOURCES  
 STATE OF HAWAII

2010 JUL 26 P 1:36

RECEIVED  
 LAND DIVISION

EXHIBIT "B"

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

August 31, 2010

Laura H. Thielen  
Chairperson  
Board of Land and Natural Resources  
Commission on Water Resource Management  
  
Russell Y. Tsuji  
First Deputy  
  
Ken C. Kawahara  
Deputy Director - Water  
  
Aquatic Resources  
Boating and Ocean Recreation  
Bureau of Conveyances  
Commission on Water Resource Management  
Conservation and Coastal Lands  
Conservation and Resources Enforcement  
Engineering  
Forestry and Wildlife  
Historic Preservation  
Kahoolawe Island Reserve Commission  
Land  
State Parks

RECEIVED  
LAND DIVISION  
SEP - 1 P 1:33

Mr. Stephen Sico

Anahola, Hawaii 96703

Subject: General Lease No. S-5563

Dear Mr. Sico:

Thank you for your letter dated July 19, 2010 to Chairperson Laura Thielen requesting the \$2,760 balance owed on your performance bond be paid in installments. Due to a recent rent reopening, your performance bond amount has increased from \$6,200 to \$8,960. You are proposing to submit a check for \$660 within thirty (30) days and thereafter you will be submitting three (3) checks in the amount of \$700 every quarter. We have no objections.

I am enclosing our performance bond document for your use. This document should be submitted along with your quarterly payment for your performance bond. If you require the services of a notary public, please call our Kauai office at 274-3491.

Please be aware that if a quarterly payment is not made (missed), the Department can enforce the Breach provision and undertake the necessary steps to terminate your lease.

Should you have any questions, please feel free to call Charlene Unoki at 587-0426.  
Thank you.

Sincerely,

Morris M. Atta  
Acting Administrator

PK2:22:38

SEP 8 '10

DLNR Kolo Roud

EXHIBIT "c"