

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

March 23, 2012

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

Hawai'i

Forfeiture of General Lease No. S-4786, Hilo Trading Co., Ltd., Lessee, Waiakea,
South Hilo, Hawai'i, Tax Map Key:3rd/2-1-03:08.

PURPOSE:

Forfeiture of General Lease No. S-4786 Hilo Trading Co., Ltd., Lessee.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Waiakea, South Hilo, Hawaii, identified by Tax Map Key:
3rd 2-1-03:08, as shown on the attached map labeled Exhibit A.

AREA:

.970 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:

Restaurant purposes.

TERM OF LEASE:

55 years, commencing on 3/23/1982 and expiring on 3/22/2037.

ANNUAL RENTAL:

\$20,580.00 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-4786, Hilo Trading Company, Ltd., Lessee, was served a Notice of Default by certified mail dated 1/19/2012 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 1/20/2012, offered the Lessee a thirty-day cure period to correct the default. This cure period expired on 2/19/2012. As of 3/5/12, this breach has not been cured.

Lessee was also served a Notice of Default by certified mail dated 1/19/2012 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: Failure to keep payments current of Special Installment Agreement No. S-4786**

Said notice, accepted by the Lessee on 1/20/2012, offered the Lessee a thirty-day cure period to correct the default. This cure period expired on 2/19/2012. As of 3/5/2012, this breach has not been cured.

As of 3/5/12, the current status of all lease compliance items is as follows:

RENT: The Lessee has a rental delinquency of \$5,145.00 for the time period from 12/23/2011 to 3/22/2012.

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

PERFORMANCE BOND:

The Lessee has posted the required performance bond. This bond is in the form of a certificate of deposit account.

OTHER:

The Lessee is delinquent with the Special Installment Agreement in the amount of \$1,453.27 for the time period from 12/1/2011 to 12/31/2011.

General Lease No. S-4786 was sold at public auction on 3/23/1982 at the upset price of \$16,000.00 per annum to Hilo Trading Company, Ltd. for restaurant purposes. On 4/14/1997, the Lessee entered into a Special Installment Agreement (SIA) for retroactive rent in the amount of \$271,846.21 resulting from a prolonged rental reopening arbitration. The Lessee agreed to make monthly payments of \$1,453.27 over a period of 360 months at 5% interest.

In addition to the above default notifications, the Lessee has been issued the following notices during the past three years.

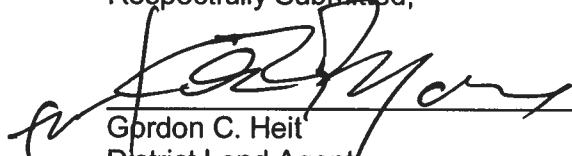
DEFAULT	DATE	CURED
Rent	8/26/2010	10/11/2010
Performance Bond	11/9/2010	11/23/2010
Special Installment Agreement (SIA)	7/11/2011	8/16/2011
Rent	8/2/2011	9/13/2011
SIA	8/12/2011	9/30/2011
SIA	9/14/2011	10/26/2011
Performance Bond	10/3/2011	2/3/2012
SIA	10/13/2011	11/17/2011
SIA	11/10/2011	12/29/2011
Rent	11/18/2011	12/29/2011
SIA	12/9/2011	1/31/2012

RECOMMENDATION: That the Board:

1. Authorize the cancellation of General Lease No. S-4786 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-4786 to be applied to any past due amounts;

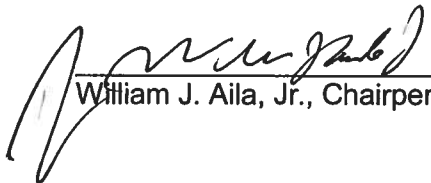
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of March 23, 2012, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination 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-4786 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

EXHIBIT A

TMK: 3rd/2-1-03:08

