

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

February 28, 2014

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

Kauai

Reaffirm Board Action of January 13, 2012, Item D-5, Forfeiture of General Lease No. S-5563, Stephen Sico, Lessee; Assess Additional Rent and Late Charges of \$10,210 Against Stephen Sico, Portion of Lot 173, Kapaa Homesteads, 3rd Series, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-6-008:001

BACKGROUND:

At its meeting on January 13, 2012, under Agenda Item D-5 (copy attached as Exhibit 1), the Board of Land and Natural Resources approved the forfeiture of the above-referenced direct lease. The forfeiture was based on lessee Stephen Sico's uncured defaults for rent and performance bond.

In December 2013, staff learned that Mr. Sico was still occupying the property. A review of the file showed that Mr. Sico was not provided with proper notice of the Board's January 13, 2012 meeting. Accordingly, staff brings this matter back to the Board to reaffirm the lease forfeiture.

DISCUSSION:

The file shows that on November 30, 2011, Kauai District Land Office (KDLO) staff sent Mr. Sico a draft of a Board submittal seeking forfeiture of his lease. The letter stated that the matter was tentatively scheduled before the Board at its December 23, 2011 meeting. See Exhibit 2 attached. As it turned out, the submittal was placed on the following Board agenda (January 13, 2012). However, the file contains no letter to Mr. Sico advising him of the January 13, 2012 meeting date. Mr. Sico did not attend the January 13, 2012 meeting.

Generally, after the Board approves the forfeiture of a lease, the normal procedure is for staff to prepare a forfeiture notice signed by the Land Division Administrator, which is then mailed to the lessee and posted on the premises. Although KDLO staff prepared the forfeiture notice, it appears to have been lost in transit to the central office and never signed. As a result, Mr. Sico was not notified of the Board's action approving the forfeiture of his lease.

Additionally, normal procedures provide that a cancellation of lease is to be prepared by the Department of the Attorney General and signed by the Chairperson. However, KDLO staff did not request the preparation of a cancellation document. Nevertheless, KDLO staff processed the necessary paperwork to stop billing on the account effective as of January 31, 2012, with the result that invoices for rent and late charges due were no longer sent to Mr. Sico.

On December 9, 2013, Mr. Sico called KDLO to complain about clearing of private land that allegedly involved the dumping of debris and cleared vegetation on unencumbered State land adjoining the subject lease premises and designated as TMK: (4) 4-6-009:027. Staff notified him that the Division of Conservation and Resources Enforcement would investigate. Staff then told Mr. Sico that a close-out inspection of his terminated lease needed to be scheduled. Mr. Sico responded that he had no knowledge that his lease had been terminated.

After the above anomalies were discovered, staff was directed to bring this matter back to the Board.

At the time the lease was cancelled, Mr. Sico owed \$5,920 in rent and late fees and had posted only \$6,860 of the required performance bond of \$8,960 (two times the annual rent). These defaults were established through the correct notice of default procedures. As required by the lease, Mr. Sico was sent a notice of default dated January 31, 2011 for failure to keep lease rental payments current. The notice explained that Mr. Sico was delinquent in rent and late fees in the amount of \$2,340 for the period December 2, 2010 to June 21, 2011. The notice was sent by certified mail, return receipt requested, and signed for by Mr. Sico on February 15, 2011. A copy of the notice of default and signed return receipt is attached as Exhibit 3.

By letter dated May 4, 2011, KDLO staff advised Mr. Sico that a recent payment received from him cured a prior default, but that the January 31, 2011 Notice of Default remained uncured. The letter advised Mr. Sico to cure the default as soon as possible or staff would begin the forfeiture process. A copy of this letter is attached as Exhibit 4.

Subsequently, Mr. Sico made a payment of \$1,000 on June 7, 2011, and a \$500 payment on January 4, 2012. But when all the payments and accruing late charges are accounted for, Mr. Sico still owed \$1,440¹ on the January 31, 2011 Notice of Default at the time the Board took this matter up for forfeiture on January 13, 2012.

The lease required Mr. Sico to post a performance bond in the amount of two times the annual rent. As of May 13, 2010, Mr. Sico had posted cash in the amount of \$6,200, leaving a shortage

¹ This figure represents only the amount unpaid on the January 31, 2011 notice of default. Additional rent had become due between that date and the date of the Board action in the amount of \$4,480, so that the total amount outstanding as of January 13, 2012 was \$5,920. However, no separate notice of default was issued for the unpaid interim rent charges (and they did not form the basis of the forfeiture request).

of \$2,760. On that date, Mr. Sico was sent a notice of default for failure to post the required performance bond. A copy of that notice and the return receipt signed by Mr. Sico is attached as Exhibit 5. On October 26, 2010, Mr. Sico deposited \$660 as an addition to the performance bond, decreasing the shortage to \$2,100 as of the date of the Board action on January 13, 2012.

These defaults remain outstanding as of the current date and remain an appropriate and sufficient grounds for terminating the lease. It should be noted that since January 4, 2012 until the present time, Mr. Sico has not tendered a lease payment, kept his liability insurance policy up-to-date or offered to bring his performance bond up to current amount.

Moreover, Mr. Sico has continued to occupy and utilize the premises. Pursuant to the Board's authority under HRS Section 171-6(12), in such cases the Board may:

Set, charge, and collect additional rentals for the unauthorized use of public lands by a lessee, licensee, grantee, or permittee who is in violation of any term or condition of a lease, license, easement, or revocable permit, retroactive to the date of the occurrence of the violation. Such amounts shall be considered delinquent payments and shall be subject to interest and service charges as provided in paragraph (13).

Accordingly, while staff believes the lease termination should stand, Mr. Sico should also pay for his continued use of the property after the Board action of January 13, 2012 to the date of this Board action. Pursuant to HRS Section 171-6(12), the accrued rent and late charges are as follows:

Month	Rent	Late fee	Subtotal
February 2012		\$ 50	\$ 50
March 2012		50	50
April 2012		50	50
May 2012		50	50
June 2012	2,240	50	2,290
July 2012		50	50
August 2012		50	50
September 2012		50	50
October 2012		50	50
November 2012		50	50
December 2012	2,240	50	2,290
January 2013		50	50
February 2013		50	50
March 2013		50	50
April 2013		50	50
May 2013		50	50
June 2013	2,240	50	2,290

July 2013		50	50
August 2013		50	50
September 2013		50	50
October 2013		50	50
November 2013		50	50
December 2013	2,240	50	50
January 2014		50	50
February 2014		50	50
Totals:	\$8,960	\$1,250	\$10,210

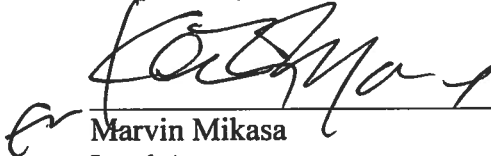
Mr. Sico should therefore be assessed \$10,210 for rent and late fees from January 2012 to present, in addition to the \$5,920 he owed as of January 2012, for a grand total of \$16,130.

RECOMMENDATION:

That the Board:

1. Reaffirm its decision of January 13, 2012, under agenda item D-5, regarding the forfeiture of the lease under the terms and conditions stated in the earlier action.
2. Assess Stephen Sico \$10,210 for rent and late fees for his continued use and occupancy of the premises under General Lease No. S-5563 from January 2012 to present, in addition to the \$5,920 he owed as of January 2012, for a grand total due of \$16,130.

Respectfully Submitted,



Marvin Mikasa
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



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.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
January 13, 2012 *DM*

EXHIBIT 1

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 1st, March 1st, April 1st, and May 1st, 2011. As of November 30, 2011, this breach has not been cured.

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,

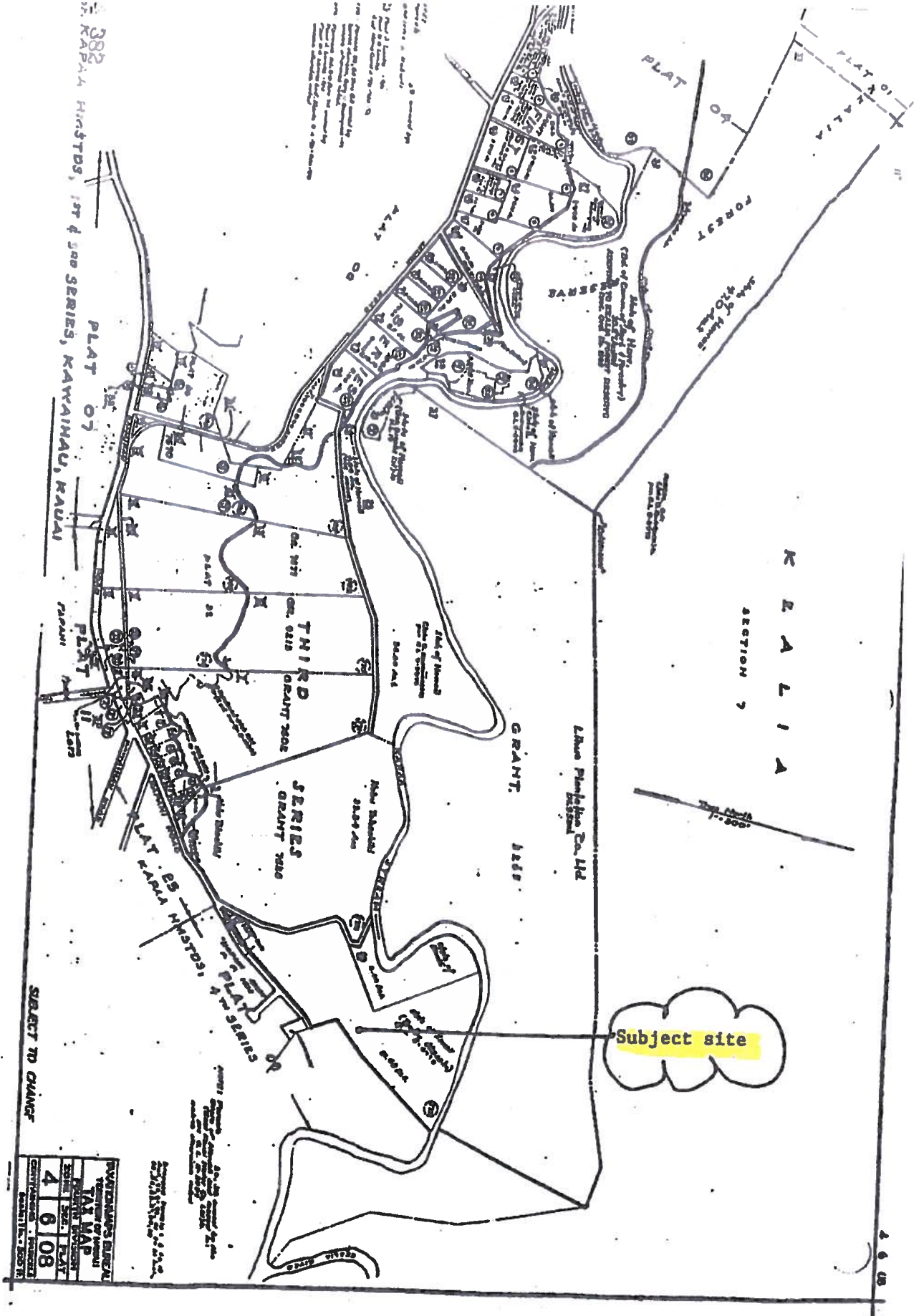


Marvin Mikasa
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



382
 KALIA HINDS, 1ST & 2ND SERIES, KAWAIAU, KAUAI

SUBJECT TO CHANGE

TAX MAP	
4	6 08

EXHIBIT "A"

7/19/10

Att Laura A. Thielken

In Response to Cert. L.A. 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

RECEIVED
 LAND DIVISION
 2010 JUL 26 P 1:36
 DEPT OF LAND &
 NATURAL RESOURCES
 STATE OF IDAHO

EXHIBIT "B"

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII - 1 . 33
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

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,

A handwritten signature in black ink, appearing to read "Morris M. Atta".

Morris M. Atta
Acting Administrator

EXHIBIT "c"

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

3060 Eiwa Street, Room 208
Lihue, Hawaii 96766
PHONE: (808) 274-3491
FAX: (808) 241-3535

November 30, 2011

TO: ~~Central~~
FROM: KDLO
Ref. No.: GL S-5563
No.: _____

Stephen Sico

Anahola, Hawaii 96703

Dear Lessee:

Subject: 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

Enclosed is a draft Land Board submittal for the above referenced request, tentatively scheduled for the December 23, 2011 Board meeting.

Please submit any comments or objections you may have regarding the enclosed submittal and standard terms and conditions to us by December 6, 2011. If we do not hear from you by this date, we will assume you are in agreement with its content.

If you have any questions, please feel free to contact me at 274-3491. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Marvin Mikasa".

Marvin Mikasa
Land Agent

Enclosures

cc: Land Board Member
Central Files

EXHIBIT 2

KEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
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



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 31, 2011

Ref.: KD-GL5563

CERTIFIED MAIL: 7009 0820 0001 6775 1667

STEPHEN SICO

ANAHOLA, HI 96703

Dear Lessee:

NOTICE OF DEFAULT

Pursuant to the authority granted me 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, you are hereby served a Notice of Default on said lease for failure to do the following:

- Keep lease rental payments current**
- Post required Performance Bond
- Post required Fire Insurance Policy
- Post required Liability Insurance Policy
- Other

Our Fiscal Office informs us that you are in arrears in lease rental payments and late fees in the amount of \$ 2,340.00 covering the period December 2, 2010 to June 21, 2011.

You are hereby given thirty (30) days from the date of receipt of this letter to cure the above-described breach.

EXHIBIT 3

MB
2-02-11

Your failure to act on the above matter may result in the following:

1. Cancellation of General Lease S-5563.
2. Retention of all sums heretofore paid under General Lease S-5563 as liquidated damages.
3. Termination of all your rights and obligations under General Lease No. S-5563.
4. Initiation of legal action to collect the delinquent lease rental owing the State of Hawaii under General Lease S-5563.
5. Forfeiture of your lease performance bond.

We therefore urge your fullest cooperation. Should you have any questions, please contact Marvin Mikasa at our Kauai District Land Office at (808) 274-3491.

Sincerely,



WILLIAM J. AILA, JR.
Chairperson

c: Land Board Member
Central Office
Fiscal Office

①

7009 0820 0001 6775 1667

U.S. Postal Service TM
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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

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Here

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Street, Apt. No., or PO Box No.	
City, State, ZIP+4	Anahola, HI 96701

PS Form 3800, August 2006

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Stephen Sico

Anahola, HI 96704

KD-GL5563 NOD kck

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery
2-19-11

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

Stephen Sico

3. Service Type

Certified Mail Express Mail

Registered Return Receipt for Merchandise

Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
(Transfer from service label)

7009 0820 0001 6775 1667

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

3060 Eiwa Street, Room 208
Lihue, Hawaii 96766
PHONE: (808) 274-3492
FAX: (808) 241-3535

May 4, 2011

NO: _____
TO: Central
FROM: KDLO

TO: Central
FROM: KDLO

No.: GL-5563

STEPHEN SICO

ANAHOLA, HI 96703

Subject: General Lease No S-5563

Dear Lessee:

On November 3, 2010 we received a payment of \$2,340.00 for your rental delinquency for the period of June 2, 2010 – December 1, 2010. On January 31, 2011 we sent you another Notice of Default for the rental delinquency of \$2,340.00 covering the period of December 2, 2010 to June 21, 2011. You are now delinquent in the amount of \$2,490.00. This includes late fees applied to your delinquent rent. This letter hereby **rescinds** the Notice of Default Letter to you dated July 14, 2010, and is a reminder to make a payment of \$2,490.00 as soon as possible to cure the Default letter sent to you on January 31, 2011. The cure period for the January 31, 2011 Default letter was March 19, 2011. Please call us as soon as possible regarding this delinquency and when the payment will be made. If we don't hear from you by May 20, 2011 we will begin the forfeiture process.

If you have any questions, please call us at the Kauai District Land Office at 274-3491. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Wesley Matsunaga".

Wesley Matsunaga,
Acting Kauai District Land Agent

Cc: Land Board Member
Central
District

EXHIBIT 4

5/11/11
D

645563

LINDA LINGLE
GOVERNOR OF HAWAII



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
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HISTORIC PRESERVATION
KAIHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

May 13, 2010

Ref.: KD-GL5563

CERTIFIED MAIL: 7008 1140 0001 0732 9252

STEPHEN SICO

ANAHOLA, HI 96703

Dear Lessee:

NOTICE OF DEFAULT

Pursuant to the authority granted me 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, you are hereby served a Notice of Default on said lease for failure to do the following:

- Keep lease rental payments current
- Post required Performance Bond**
(Required: \$8,960.00; Obtained: \$6,200.00; Short: \$2,760.00)
- Post required Fire Insurance Policy
- Post required Liability Insurance Policy
- Other

You are hereby given sixty (60) days from the date of receipt of this letter to cure the above-described breach.

EXHIBIT 5

MB
5.13.10

Your failure to act on the above matter may result in one or more of the following:

1. Cancellation of General Lease S-5563.
2. Retention of all sums heretofore paid under General Lease S-5563 as liquidated damages.
3. Termination of all your rights and obligations under General Lease No. S-5563.
4. Forfeiture of your lease performance bond.

We therefore urge your fullest cooperation. Should you have any questions, please contact Mr. Thomas Oi at our Kauai District Land Office at (808) 274-3491.

Sincerely,



LAURA H. THIELEN
Chairperson

c: Land Board Member
Central Office
District Office



7008 1140 0001 0732 9252

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	Postmark Here
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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To Stephen Sico	
Street, Apt. No.; or PO Box No.	
City, State, ZIP+4 Anahola, HI 96703	
PS Form 3800, August 2006 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION <ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. <p>1. Article Addressed to:</p> <p style="margin-left: 20px;">Stephen Sico</p> <p style="margin-left: 20px;">Anahola, HI 96703</p> <p style="margin-left: 20px;">KD-G15563 NOD kck</p> <p>2. Article Number (Transfer from service label)</p>	COMPLETE THIS SECTION ON DELIVERY <p>A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) Stephen Sico</p> <p>C. Date of Delivery 5/19/10</p> <p>D. Is delivery address different from item 1? If YES, enter delivery address below: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
7008 1140 0001 0732 9252	
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540	