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

Kauai


PURPOSE:


LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kapaa River Remnant B, Kapaa Homesteads, 4th Series situated at Kapaa, Kawaihau (Puna), Kauai, identified by Tax Map Key: (4) 4-6-009:050., as shown on the attached map labeled Exhibit A.

AREA:

3.40 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:

Pasture purposes.

TERM OF LEASE:

15 years, commencing on May 27, 1999 and expiring on May 26, 2014.

ANNUAL RENTAL:

$156.00 due in semi-annual payments.

REMARKS:

At its meeting of June 13, 1996, Item D-20, the Board of Land and Natural Resources approved the sale of nine (9) Fifteen Year (15) pasture leases at public auction. One of these pasture leases was awarded to Patrick Lopez, Sr. and Rosaline Lopez, husband and wife, as tenants in entirety under General Lease No. S-5585. Mr. Lopez passed away on March 23, 2012. Upon his death, Rosaline Lopez succeeded to the entire leasehold interest under General Lease No. S-5585 as a tenant by the entirety with right of survivorship.

On February 7, 2014 the Kauai District Land office received a request from Rosaline Lopez to mutually cancel General Lease No. S-5585, labeled as Exhibit ‘B’. The basis of the request is financial hardship. Staff notified the tenant of condition no. 58 of the lease requiring that a Level One (1) Hazardous Waste Evaluation and complete abatement and disposal (if necessary) be performed prior to lease termination. Ms. Lopez responded that she could not afford the extremely high cost to conduct a Level One (1) Hazardous Waste Evaluation and also stated that the property has only been used for pasture purposes and at no time did her husband use or allow any heavy equipment or chemicals on the property.

A final inspection of the property was conducted on February 12, 2014 at which time the premises was found to be clean with no trash or abandoned property. Refer to Exhibit ‘C’, inspection report.

Therefore, based on the pasture character of use in the general lease, the statements of the lessee, and the findings at the time of the final inspection, staff agrees that the Level One (1) Hazard Waste Evaluation should be waived.

Staff is requesting the cancellation of the general lease be effective February 28, 2014, which is within 30 days of the date of Ms. Lopez’s termination request.
RECOMMENDATION: That the Board:

1. Authorize the cancellation of General Lease No. S-5585 in the manner specified by law;

2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-5585 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 February 28, 2014, 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-5585 and to pursue all other rights and remedies as appropriate.


Respectfully Submitted,

Marvin Mikasa
Acting District Land Agent

APPROVED FOR SUBMITTAL:

William J. Aila, Jr., Chairperson
KAPAA RIVER REMNANT B
Kapaa Homesteads, Fourth Series
Kapaa, Kawaihau (Puna), Kauai, Hawaii
Scale: 1 inch = 300 feet
State of Hawaii  
Department of Land and Natural Resources  
Division of Land Management  
3060 Eiwa Street, Rm 4208  
Lihue, Hawaii 96766-1875

To whom it may concern:

Re: Kapaa River Remnant B, tax map 4-6-09-50

I, Rosalina T. Lopez would like to ask to discontinue my lease for the property located at Kapaa River Remnant B, tax map 4-6-09-50 due to hardship. Currently I am having a hard time meeting my expenses due to the loss of my husband Patrick Lopez Sr., on March 23, 2012. I am also unable to care for the property due to a chronic injury to my Achilles Tendon. I would like to cease my lease as soon as possible.

Thank you

Rosalina T. Lopez

Kapaa, Hawaii 96746

EXHIBIT“B”
INSPECTION REPORT
Intensive Ag/Special Livestock/Pasture/Commercial Timber

FINAL INSPECTION

General Information

Document Number: Gl. S-5585
Inspection Date: February 10, 2014
Inspection Time: 12:30am
Character of Use: pasture purposes
Land Agent: Marvin Mikasa

TENANT INFORMATION

Name: Patrick Lopez, Sr. (deceased) & Rosealine Lopez
Address:
Kapaa, Hawaii 96746
Contact Person: Rosealine Lopez

SITE INFORMATION

TMK: (4) 4-6-009:050
Site Address: off Hauula Road
Kapaa, Kauai
Area: 3.40 acres more or less

FISCAL INFORMATION

<table>
<thead>
<tr>
<th>ITEM</th>
<th>NOT APPLICABLE</th>
<th>CURRENT = COMPLIANCE</th>
<th>DEFAULT = NON-COMPLIANCE</th>
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</thead>
<tbody>
<tr>
<td>Rent</td>
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<td>X</td>
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</tr>
<tr>
<td>Liability Insurance</td>
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<td>X</td>
<td></td>
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<td>Fire Insurance</td>
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<tr>
<td>Bond</td>
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<td>Mortgage</td>
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<td>X</td>
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</table>

EXHIBIT "C"
## File Review

<table>
<thead>
<tr>
<th>LICENSES/PERMITS/CONSENTS</th>
<th>DLNR Approval Docs in File</th>
<th>COMMENTS/NOTES/LISTS</th>
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</thead>
<tbody>
<tr>
<td>Item</td>
<td>N/A</td>
<td>YES</td>
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<tr>
<td>Removal of Minerals/Waters</td>
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<tr>
<td>Prehistoric/Historic Remains</td>
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<td>Cutting/Removal of Trees</td>
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<tr>
<td>Hazardous Material Storage/Use</td>
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<tr>
<td>Subletting</td>
<td>X</td>
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<tr>
<td>Improvement Construction Buildings</td>
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<tr>
<td>Improvement Construction Other structures</td>
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<tr>
<td>Conservation Plan</td>
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## Field Inspection

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<tr>
<th>ITEM</th>
<th>CRITERIA FOR COMPLIANCE</th>
<th>MEETS COMPLIANCE</th>
<th>COMMENTS/NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subletting</td>
<td>consents approved&lt;br&gt;use adheres to lease purpose</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Buildings/ Residence roof, paint, exterior, interior</td>
<td>clean, sanitary, orderly&lt;br&gt;well maintained&lt;br&gt;DLNR construction consent&lt;br&gt;adheres to completion schedule&lt;br&gt;*check for hazardous materials</td>
<td>X</td>
<td>No fence line along Kapaa River, last flood eroded posts. Other parts fenced in.</td>
</tr>
<tr>
<td>Structures roads, walkways, fences, pipelines, others</td>
<td>cross check w/ conservation plan clean&lt;br&gt;sanitary, orderly&lt;br&gt;well maintained&lt;br&gt;adheres to completion schedule&lt;br&gt;*check for hazardous materials</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Conservation Plan: conservation structure and plantings</td>
<td>adheres to plan map &amp; schedule&lt;br&gt;well maintained</td>
<td>X</td>
<td></td>
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<td>ITEM</td>
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<td>MEETS COMPLIANCE</td>
<td>COMMENTS/NOTES</td>
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<td>-----------------------------------------</td>
<td>--------------------------</td>
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<tr>
<td>Premises</td>
<td>clean, sanitary, orderly</td>
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<td>Hazardous Material Storage/Use</td>
<td>controlled and adheres to consent</td>
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<td>Character of Use</td>
<td>adheres to lease purpose</td>
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<td></td>
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<tr>
<td>Phase 1 Environmental Site Inspection</td>
<td>as required in General Lease or Revocable Permit</td>
<td></td>
<td>No equipment was stored on property and no storage buildings, etc. on-site. No fertilizers or pesticides were used. GMO free cattle.</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
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</tbody>
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