

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

February 27, 2015

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

PSF No.: 15HD-019

Hawai'i

Approve a One-Year Holdover and Subsequent Month-to-month Revocable Permit for General Lease No. 3269, Country Club-Hawaii, Inc., Lessee, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-005:020.

APPLICANT AND REQUEST:

The Lessee, Country Club-Hawaii, Inc. is requesting a one-year holdover of General Lease No. 3269 pursuant to HRS §171-40 and subsequent month-to-month revocable permit (HRS §171-40 & -55)

LEGAL REFERENCE:

Sections 171- 36(b), 171-40, 171-55, Hawaii Revised Statutes, as amended,

LOCATION:

Portion of Government lands situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-1-005:020, as shown on the attached map labeled Exhibit A.

AREA:

1.166 acres, more or less.

ZONING:

State Land Use District:	Urban
County of Hawaii CZO:	Hotel and Resort

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the issuance of a revocable permit upon expiration of the lease is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1. Refer to attached Exhibit B.

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>

CURRENT USE STATUS:

Encumbered by General Lease No. 3269, Country Club-Hawaii, Inc., Lessee, for resort-hotel purposes. Lease to expire on March 14, 2015. The last rental reopening occurred on May 25, 2002 and was for the remainder of the lease term.

LEASE CHARACTER OF USE:

Hotel, Apartment and Motel purposes.

TERM OF LEASE:

Original lease was for 21 years commencing on June 1, 1949 and expiring on May 31, 1970.

Extension of lease dated November 16, 1962 extended the term changing the expiration of lease to March 14, 2015. Last rental reopening for remaining lease period occurred on November 22, 2007.

LEASE ANNUAL RENTAL:

Current rent is \$49,000.00, due in semi-annual installments of \$24,500.00 on March 14 and September 14 of each year.

RENTAL REOPENINGS:

Reopenings established by the agreement for extension of lease were at the end of the 20th and 40th years of the term, on March 14. The last rental reopening occurred on December 17, 2005.

HOLDOVER LEASE COMMENCEMENT DATE:

March 15, 2015.

HOLDOVER LEASE ANNUAL RENT:

\$49,000.00 billed in two equal semi-annual installments.

REVOCABLE PERMIT COMMENCEMENT DATE:

March 15, 2016.

REVOCABLE PERMIT CHARACTER OF USE:

Hotel, Apartment and Motel purposes.

REVOCABLE PERMIT RENT:

Rent under the revocable permit shall be determined by independent appraisal paid for by the applicant.

APPLICANT REQUIREMENTS:

Applicant shall be required to pay for an independent appraisal to determine the rent payable under the revocable permit to be issued as of March 15, 2016.

BACKGROUND:

General Lease No. 3269 dated June 1, 1949 was sold at public auction to Mr. A.M.M. Osorio. The original term of the lease was for 21 years at the rate of \$500.00 per year, payable by equal semi-annual payments in advance. On December 18, 1953, the Board approved the assignment of lease from A.M.M. Osorio to Constantine Roumanis. As a result of damage caused by the tsunami on May 23, 1960, the lease qualified an extension under Section 87 of Act 32, Session Laws of Hawaii 1962. At its meeting of April 4, 1962 under agenda item F-16, the Board approved the extension of lease term through to March 14, 2015.

At its meeting of November 22, 1967 (supplemental), the Board approved the assignment of lease from Constantine Roumanis, Assignor, to M. & Associates, Inc., Assignee. The Assignee submitted plans for the construction of a hotel on the property. This brought

about a change in the use of the premises and resulted in the Board action of April 26, 1968, agenda item F-25, modifying the lease extension agreement by establishing a new annual rental rate of \$9,180.00. The same Board action also approved the gratis conveyance of a 10,890 square foot parcel of private property (Former Parcel 23) fronting the lease land from M. & Associates, Inc. to the State, subject to an estate of years up to and including March 14, 2015. This parcel is indicated as dropped parcel 23 on Exhibit A attached. The deed recorded with the Bureau of Conveyances on July 2, 1968, states in part that it is the intent of the Grantor "to continue to maintain complete control over the use and possession of the premises until March 14, 2015"¹. This parcel will now be included in the lease holdover and subsequent revocable permit.

Then, at its meeting of April 24, 1970 under agenda item F-1-b, the Board consented to the sublease of GL 3269 from M. & Associates, Inc., Sublessor, to Travelodge International, Inc., Sublessee.

At its meeting of February 10, 1984 under agenda item F-1-f, the Board consented to the assignment of lease from M. & Associates, Inc., Assignor to Richard M. Jitchaku, Assignee. Then at its meeting of February 13, 1987 under agenda item F-2, the Board consented to the assignment of lease from Richard M. Jitchaku, Assignor to Country Club Hawaii, Inc. Assignee. The submittal also included a provision for the formation of a Horizontal Property Regime allowing the individual units on the property to be converted into condominium apartments and created the Association of Apartment Owners of Country Club Hawaii, Inc. (AOAO).²

ONE YEAR HOLDOVER AND REVOCABLE PERMIT:

The current zoning and building codes drastically reduce the potential footprint making a demo-rebuild scenario undesirable and the costs associated with either a demo-rebuild or to revamp the existing structures are likely too large for the time-frame allowed to recoup prior to the expiration of any available extension.

An engineering report commissioned by the State and completed in June 2014 determined the remaining useful life of the buildings to be 5-8 years at the current usage. Among the findings, the report noted significant rust throughout the steel stairways, extensive concrete spalling, outdated electrical, air conditioning/water chilling and boiler systems, all of which are in need of significant maintenance and repair. All these findings and others indicate the building is approaching its maximum useful life. Land Division staff has procured the services of an architect to further evaluate the improvements on these leases to determine whether they can be renovated at a reasonable cost, or whether

¹ According to the Board submittal of April 26, 1968, as many as 30 (of 148) units of the building may be located on the private parcel. The submittal explains that the gratis conveyance with reservation of an estate was given in consideration of a 20-month abatement of the increased rent resulting from the change to hotel use of the property.

² 142 residential units and 6 commercial units. All condominium agreements are coterminous with the lease.

they should be torn down, and in the latter case, what the building envelope is on the site under current zoning and other land use restrictions. This will assist Land Division and the Board in the long-term planning for this area.

Country Club-Hawaii, Inc. is requesting a one-year holdover followed by a month-to-month revocable permit. This will provide an opportunity for the Lessee to continue its current operation until such time as a redevelopment plan for the Banyan Drive area is implemented. Due to the potential liability and attendant problems of illegal habitation of vacant property, staff believes it is in the best interest of the State to have the property remain occupied until such time that a redevelopment plan can be brought about.

For the reasons stated above, staff is recommending a one-year holdover (pursuant to HRS §171-40) and subsequent month-to-month revocable permit (HRS §171-40 & -55).

The Land Division contracted a certified appraiser to submit a summary appraisal report of the estimated fair market value and fair market rent of the various components that comprise the subject lease area. The intended use of the report is to provide the Department with research and analysis to assist in determining the potential usefulness of the property. A summary of that report is attached as Exhibit C.

Staff is recommending the annual rent for the holdover period to remain at the current annual rent of \$49,000.00. The lease stipulates that at the end of the lease term, all improvements shall become the property of the Lessor. However, staff is recommending that the Board allow Lessee to retain title to all improvements notwithstanding the expiration of the holdover period and issuance of a revocable permit. The rent payable under the revocable permit will be determined by independent appraisal contracted for by the Department but paid for by Lessee, and will be based on land value only. The performance bond will be twice the monthly rental under the permit.

The proposed use has continued since the late 1980's and will continue until the property is vacated or redeveloped. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

RECOMMENDATION: That the Board:

1. Authorize a one-year holdover of General Lease No. 3269 for the period of March 15, 2015 to March 14, 2016, 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 holdover of lease form, as may be amended from time to time;

- b. The annual rent for the one-year holdover period will be \$49,000.00, billed in two equal semi-annual amounts of \$24,500.00 each;
 - c. Review and approval by the Department of the Attorney General; and
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Declare that, after considering the potential effects of the proposed issuance of a revocable permit upon expiration of the lease, as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
3. Authorize the issuance of a revocable permit effective March 15, 2016 to Country Club-Hawaii, Inc. covering the subject area for resort and hotel purposes 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 revocable permit form, as may be amended from time to time;
 - b. Notwithstanding the expiration of the holdover period and the issuance of a revocable permit to Country Club-Hawaii, Inc., all existing improvements (excluding archaeological/historic sites, if any) shall remain the property of Country Club-Hawaii, Inc. until the expiration or earlier termination of the permit;
 - c. The initial monthly rental amount will be determined by appraisal and subject to annual review. The performance bond shall be equal to twice the monthly rent;
 - d. Review and approval by the Department of the Attorney General; and

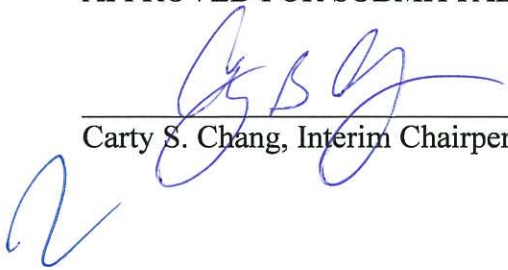
- e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



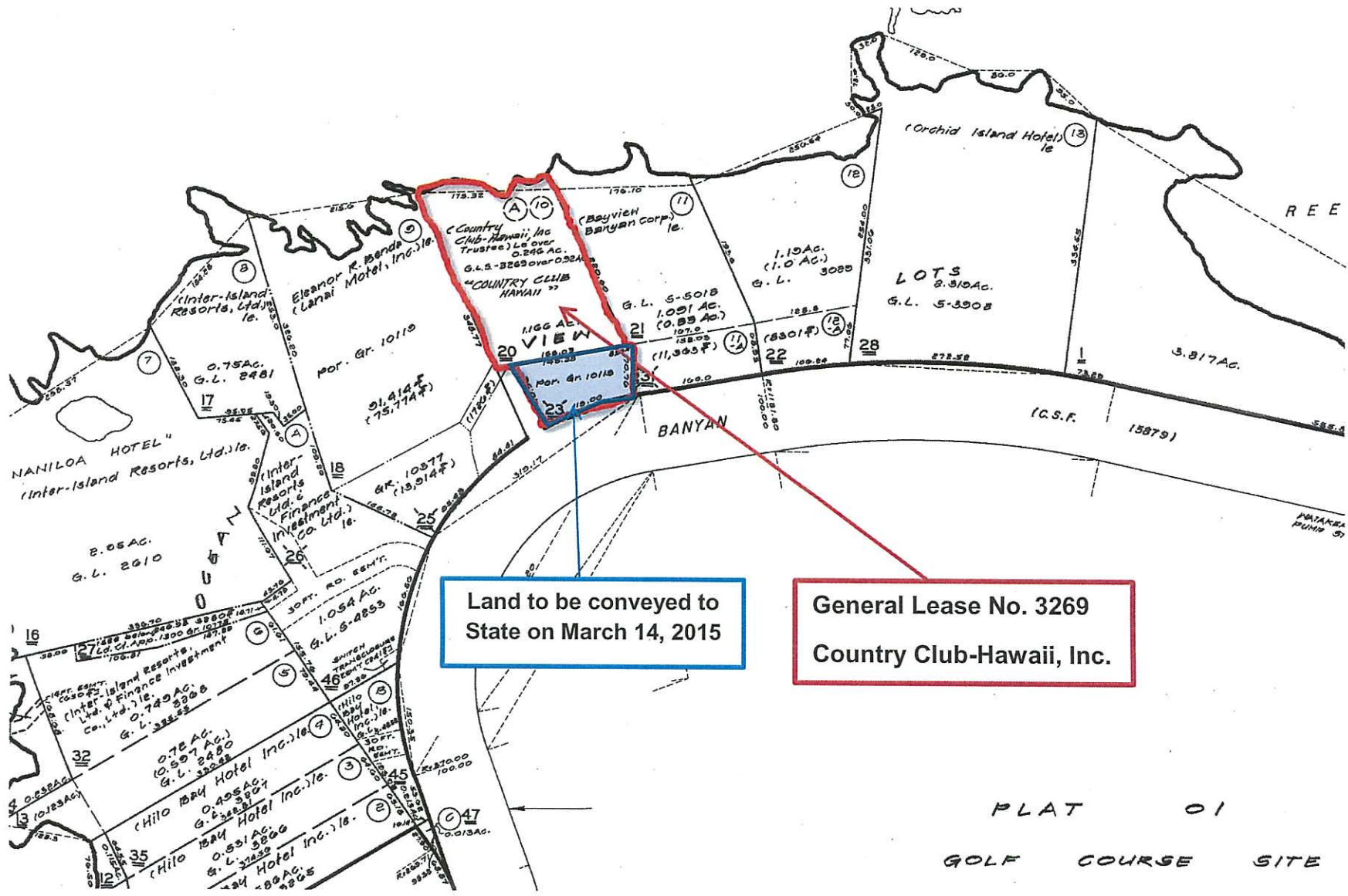
Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:



Carty S. Chang, Interim Chairperson

TMK: (3) 2-1-05:20



Land to be conveyed to State on March 14, 2015

General Lease No. 3269
Country Club-Hawaii, Inc.

EXHIBIT A

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



EXHIBIT B

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DANIEL S. QUINN
INTERIM FIRST DEPUTY

W. ROY HARDY
ACTING 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

February 10, 2015

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Authorize a One-Year Holdover of General Lease No. 3269, Country Club-Hawaii, Inc., Lessee, to be Immediately Followed by the Issuance of a Revocable Permit to Country Club-Hawaii, Inc., for Hotel/Apartment Purposes

Project / Reference No.: PSF 15HD-019

Project Location: Ocean View Lease Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-005:020

Project Description: Lessee is requesting a one-year holdover (pursuant to HRS §171-40) and subsequent month-to-month revocable permit (HRS §171-40 & -55). This would provide an opportunity for the Lessee to continue its operations until such time that a redevelopment plan for the Banyan Drive area can be implemented.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing".

Consulted Parties: Not applicable

Recommendation:

That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



Carty S. Chang, Interim Chairperson



Date

2/13/15

SUMMARY APPRAISAL REPORT OF THE
COUNTRY CLUB-HAWAII CONDO HOTEL

121 Banyan Drive, Waiakea,
South Hilo, Island and State of Hawaii

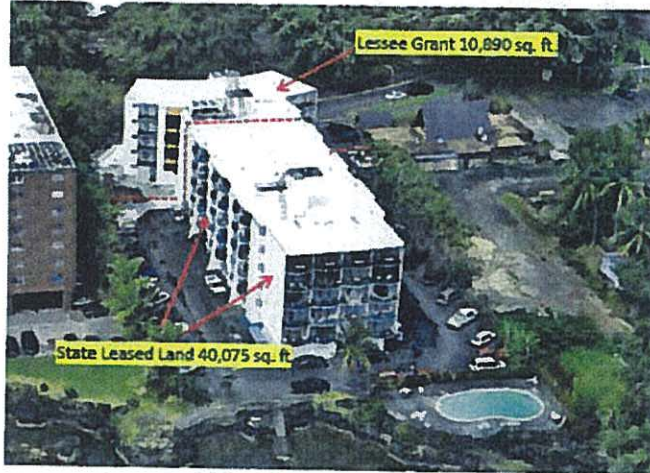


Photo: Wizard Publications, Inc.

Appraisal Report Date: April 18, 2014
Effective and Appraisal Dates: November 26, 2013 and March 15, 2015

Mr. Russell Y. Tsuji
Land Division Administrator
DEPARTMENT OF LAND AND NATURAL RESOURCES
P.O. Box 621
Honolulu, Hawaii 96809

APPRAISAL HAWAII INC.
Real Estate Appraisers & Consultants
3757 Kaimuki Avenue
Honolulu, Hawaii 96816
Tel (808) 735-4100 Fax (808) 735-9469
E-Mail: YUSA @ hawaii. rr. com

EXHIBIT C

APPRAISAL HAWAII INC.

Real Estate Appraisers & Consultants

Craig K.W. Leong, MAI
3757 Kaimuki Avenue, Honolulu, Hawaii 96816
Tel (808) 735-4100; Fax (808) 735-9469
E-Mail: YUSA @ hawaii . rr. com

April 18, 2014

Mr. Russell Y. Tsuji
Land Division Administrator
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Tsuji:

The following is a summary appraisal report of the estimated annual fair market value and fair market rent of various property components that comprise the Country Club-Hawaii Condo Hotel. The property is located at 121 Banyan Drive, Waiakea, South Hilo, Island and State of Hawaii. It is identified on state tax maps as 2-1-05: Parcel 20 of the Third Tax Division.

The intended use of the report is to provide the Department of Land and Natural Resources, State of Hawaii, with objective research, analysis, and conclusions that may assist it to conduct internal decision making purposes. The appraisal report date is April 18, 2014. The effective and date of appraisal is November 26, 2013 and March 15, 2015.

Selected appraisal findings include:

- As of April 26, 1968, DLNR agreed to and approved a modification to the lease agreement which allowed Lessee to immediately plan for and to construct a new hotel. The state land area that was encumbered with GL S-3269 totaled 40,095 sq. ft. (hereinafter, "state leased land").
- Lessee gifted Grant No. 10119 to the State of Hawaii. Grant 10119 consisted of "Parcel Second" that contained 10,890 sq. ft. (hereinafter, "lessee grant land").
- Characteristics of the "state leased land" and the "lessee grant land" are summarized as follows:

Country Club Hawaii Land Components			
No.	Component	Sq. Ft.	Acres
1	Original Master Lease	40,075	0.920
2	Lessee Grant to State	<u>10,890</u>	<u>0.250</u>
3	Total Assembled Land	<u>50,965</u>	<u>1.170</u>

- The appraisal assignment included the following:

Appraisal Assignment	
Fair Market Rent	1 Unimproved land under lease
	2 Land and improvements under lease
Fair Market Value	3 Unimproved land under lease and land conveyed to state
	4 Land and improvements under lease with land conveyed to state

- The effective appraisal dates included:
 1. Items 1 and 2 above Date of Inspection (November 26, 2013).
 2. Items 3 and 4 Prospective Date of March 15, 2015.
- The property consists of a six (6) story building that was completed in 1969. Building age is about 45 years. The hotel building was converted to a condominium project as of May 1988 (26 years previously).
- The building appeared in fair to poor condition. Lessee's representative reported that the building, however, was structurally sound.
- The existing building improvements straddle both the "state leased land" and the "lessee grant land."
- The value of various property components may be equal to the sum of the separate parts, or it may also be greater than or less than the sum of such parts. The appraisal of the two property components as requested by DLNR is qualified because of the following factors:
 1. The existing building improvements straddle both the "state leased" and "lessee granted" property components.
 2. The physical partition of the existing building improvements along the boundaries of the "state leased" and "lessee granted" property boundaries is not physically possible or reasonable.
 3. Building plans of a prospective division between the two property components were not provided to the appraiser.

Given the above property and appraisal assignment characteristics, the value division of the building improvements that are located upon the "state land" land area is based on the proportionate share of the land that comprise the total whole assembled land area.

Based upon the methodology findings, and analysis as set forth in this report, and subject to the limiting conditions and assumptions contained herein, fair market value and fair market rent estimates for the various property components that comprise the Country Club-Hawaii Condo Hotel are estimated as follows:

Fair market value:	Total whole and assembled property
	Unimproved land, exclusive of existing building improvements
	\$1.172 million , as of March 15, 2015 (Table 2.0)
	Unit price: \$23 psf land area (50,965 sq. ft.)
Fair market value:	"State Leased Land"
	Unimproved land, exclusive of existing building improvements
	\$922,000 , as of November 26, 2013 (Table 2.3)
	Unit price: \$23 psf land area (40,075 sq. ft.)
Fair market value:	Total whole and assembled property
	"Existing As-Is" building improvements and land
	\$3.130 million (Table 3.0)
	Unit price: \$62 psf of saleable building area (50,965 sq. ft.)
Fair market value:	"State Leased Land"
	"Existing As-Is" building improvements and land
	\$2.560 million (Table 3.3)
	Unit price: \$64 psf of saleable building area (40,000 sq. ft.)

Fair market rent: Total whole and assembled property (50,965 sq. ft.)
 Unimproved land, exclusive of existing building improvements

ANNUAL MARKET RENT ESTIMATE	
Market Land Value	\$1,172,000
Return to Land Value:	8.00%
Annual Market Rent (rounded):	\$93,760

As of March 15, 2015

Fair market rent: "State Leased Land" (40,075 sq. ft.)
 Unimproved land, exclusive of existing building improvements

ANNUAL MARKET RENT ESTIMATE	
Market Land Value	\$922,000
Return to Land Value:	8.00%
Annual Market Rent (rounded):	\$73,760

As of November 26, 2013

Fair market rent: Total whole and assembled property
 "Existing As-Is" building improvements and land.
 Total market rent is either the minimum annual property rent of \$125,000 per annum or the total percentage rental income, whichever is higher. (Table 4.0)

Percentage Rents and Gross Revenue Amounts	
Gross Revenue Amount	Percent Rent
Less than or equal to \$3.0 million	5.00%
Greater than \$3.0 to less than or equal to \$3.5 million	4.00%
Greater than \$3.5 to less than or equal to \$4.0 million	3.00%
Greater than \$4.0 million	2.00%

Fair market value: "State Leased Land"
 "Existing As-Is" building improvements and land

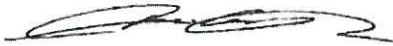
Total market rent is either the minimum annual property rent of \$98,300 per annum or the total percentage rental income, whichever is higher.

Percentage Rents and Gross Revenue Amounts	
Gross Revenue Amount	Percent Rent
Less than or equal to \$2.36 million	5.00%
Greater than \$2.36 to less than or equal to \$2.75 million	4.00%
Greater than \$2.75 to less than or equal to \$3.15 million	3.00%
Greater than \$3.15 million	2.00%

Thank you for the opportunity to assist you. If questions arise, please feel free to call us.

Sincerely,

APPRAISAL HAWAII INC.



Craig K.W. Leong, MAI
License No. CGA-19
Certified General Appraiser
State of Hawaii