

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.: 14HD-187

Hawai'i

**Authorize a One-Year Holdover of General Lease Nos. 3265, 3266, 3267 and S-4252, Hilo Bay Hotel, Inc. to be Immediately Followed by the Issuance of a Month-to-Month Revocable Permit, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-005:033, 034, 035 and 045.**

APPLICANT AND REQUEST:

Hilo Bay Hotel, Inc., a Hawaii For-Profit Corporation.

LEGAL REFERENCE:

Sections 171-40 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-1-005:033, 034, 035 & 045, as shown on the attached map labeled Exhibit A.

AREA:

Parcel 033 = 25,526 square feet, more or less;  
Parcel 034 = 23,130 square feet, more or less;  
Parcel 035 = 21,562 square feet, more or less;  
Parcel 045 = 9,365 square feet, more or less;  
Total area = 79,583 square feet or 1.83 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:

Each parcel is encumbered by a general lease to Hilo Bay Hotel, Inc. for resort-hotel purposes. All four leases expire on March 14, 2015.

LEASE CHARACTER OF USE:

Resort-hotel purposes and uses accessory or incidental thereto and customarily conducted within resort-hotel areas.

TERM OF LEASES:

For General Lease Nos. 3265, 3266 & 3267, the original term was 21 years, commencing in June and August of 1949. All three of the leases were extended to March 14, 2015.

General Lease No. S-4252 commenced on August 14, 1969 with an expiration date of March 14, 2015.

Last rental reopening for remaining lease period occurred in January and April of 2005 and was for the remainder of the lease term.

LEASE ANNUAL RENTAL:

General Lease No. 3265	\$ 11,460.00
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General Lease No. 3266	10,380.00
General Lease No. 3267	9,660.00
General Lease No S-4252	<u>4,300.00</u>
Total Annual Lease Rent	\$ 35,800.00

RENTAL REOPENINGS:

Reopenings established by the agreement for extension of General Lease Nos. 3265, 3266 & 3267, were at the end of the 20<sup>th</sup> and 40<sup>th</sup> years of the extension.

General Lease No. S-4252 provided for rental reopenings in January 1985 and 2005 to run concurrently with the three other leases.

The last rental reopenings occurred in January and April of 2005.

HOLDOVER LEASE COMMENCEMENT DATE:

March 15, 2015.

HOLDOVER LEASE ANNUAL RENT:

General Lease No. 3265	\$ 11,460.00
General Lease No. 3266	10,380.00
General Lease No. 3267	9,660.00
General Lease No S-4252	4,300.00

Annual Lease Rents to be billed in two equal semi-annual installments.

REVOCABLE PERMIT COMMENCEMENT DATE:

March 15, 2016. All four of the leased properties will be consolidated under one permit.

REVOCABLE PERMIT CHARACTER OF USE:

Resort-hotel purposes and uses accessory or incidental thereto and customarily conducted within resort-hotel areas.

REVOCABLE PERMIT RENT:

Rent under the revocable permit shall be determined by independent appraisal paid for by the applicant. All four of the leased properties will be consolidated under one permit.

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 Nos. 3265 & 3266 (GL3265 & GL3266) were initially sold at public auction on June 15, 1948 to Bernard K. Chock for residential purposes. The initial terms were for twenty-one (21) years; commencing in 1949 and terminating in 1970.

General Lease No. 3267 (GL3267) was sold at public auction on June 15, 1948 to Frank M. Carr and Alice Carr for residential purposes. The initial term was for twenty-one (21) years; commencing in 1949 and terminating in 1970.

In 1962, the lessees qualified as disaster victims under Section 87 of Act 32, Session Laws of Hawaii 1962, by the Board of Land and Natural Resources and the leases were subsequently extended for a period of fifty-three (53) years, terminating on March 14, 2015. The extension agreement for GL3267 included an assignment of lease from Frank M. Carr and Alice Carr, as Assignors, to Mark Norman Olds and Norma B. Olds, as Assignees.

At its meeting of January 8, 1965, the Board consented to the assignment of GL3265 & GL3266 from Rose Haena Chock, widow of Bernard K. Chock (by Probate No. 2246 in Third Circuit Court), as Assignor, to William J. Kimi, Jr., as Assignee.

At its meeting of April 23, 1965, the Board consented to the assignment of GL3267 from Mark Norman Olds and Norma B. Olds, as Assignors, to William J. Kimi, Jr., as Assignee.

Under the terms of the extension agreements, when a use other than the original intended residential use is contemplated, an immediate renegotiation of the rent for the ensuing 20-year period is required. Since Mr. Kimi intended to construct a hotel on the parcels, an appraisal was conducted and the rent was established at \$8,949.00 per annum.

The hotel was operated as a sole proprietorship until October 1967 when Mr. Kimi incorporated the business as Hilo Bay Hotel, Inc. As a result of this action, the Board, at its meeting of June 27, 1969 (supplemental agenda), consented to the assignment of lease from William J. Kimi, Jr., as Assignor, to Hilo Bay Hotel, Inc., as Assignee.

On August 14, 1969, General Lease No. S-4252 was sold at public auction to Hilo Bay Hotel, Inc. for parking and landscaping purposes. The lease was devised to run concurrently with the other three leases; all sharing the expiration date of March 14, 2015.

For the past forty-five years the lessee, Hilo Bay Hotel, Inc., has operated a hotel business known locally as “Uncle Billy’s Hilo Bay Hotel” on the properties. There are five buildings connected by covered hallways. Three of the buildings are four stories in height and house the 145 available hotel rooms. These three buildings are connected by an open-air lobby building with an abutting restaurant building. The layout includes a

small swimming pool located between two of the structures at the ocean end of the property.

REQUEST:

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 too large for the time-frame allowed to recoup prior to the expiration of any available extension.

An engineering report completed in June 2014 determined the remaining useful life of the buildings to be 5-10 years at the current usage. The report noted termite damage, concrete spalling, an outdated electrical system and fire escape stairways in need of maintenance and repair; all of which indicates the buildings are approaching their maximum useful life. Land Division staff has procured the services of an architect to evaluate the improvements on these leases to determine whether they can be renovated at a reasonable cost, or whether 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.

In the meantime, Hilo Bay Hotel, Inc. is requesting a one-year holdover followed by a month-to-month revocable permit. This will provide an opportunity for the Lessee to wind-up its hotel operations or continue until such time as a redevelopment plan for the Banyan Drive area is implemented.

The nature of a profitable hotel business requires some stability into the future in order to accept advance reservations. The Lessee is hesitant to continue operations indefinitely under a month-to-month revocable permit as it may be cancelled with 30 days' notice.

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 a Banyan Drive redevelopment plan can be implemented or at least as long as practical.

Staff is recommending the annual rent for the holdover period to remain at the current annual rent of \$35,800.00. 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 1960'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. Declare that, after considering the potential effects of the proposed dispositions 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.
2. Authorize a one-year holdover of General Lease Nos. 3265, 3266, 3267 & S-4252 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 \$35,800.00, billed in two equal semi-annual amounts of \$17,900.00 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.
3. Authorize the issuance of a revocable permit effective March 15, 2016 to Hilo Bay Hotel, Inc. covering the subject area of the four previous leases 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 Hilo Bay Hotel, Inc., all existing improvements (excluding archaeological/historic sites, if any) shall remain the property of Hilo Bay Hotel, 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.

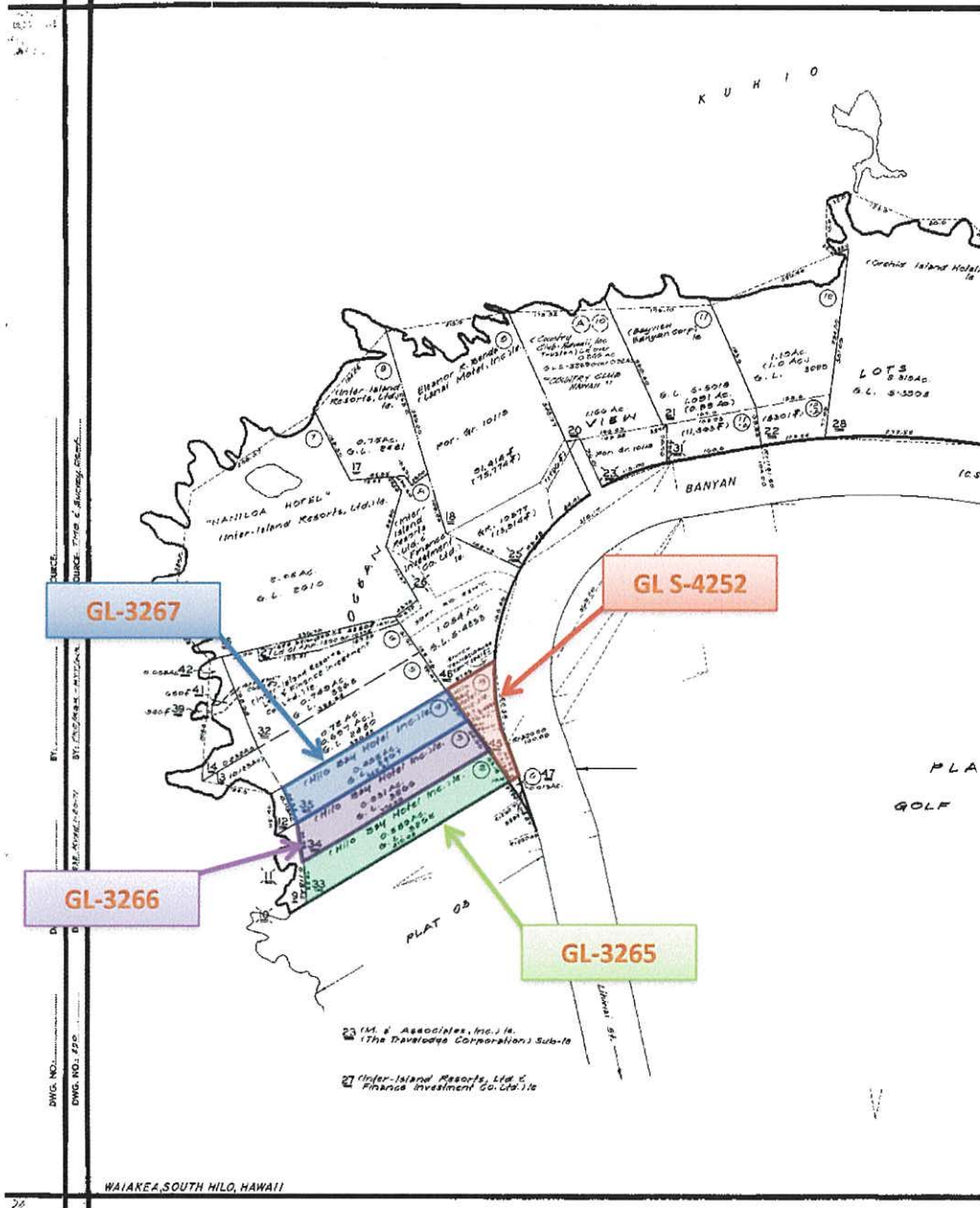
Respectfully Submitted,

  
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Candace Martin  
Land Agent

APPROVED FOR SUBMITTAL:

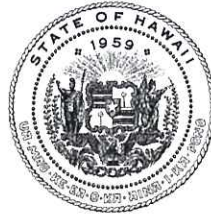
  
\_\_\_\_\_  
Carty S. Chang, Interim Chairperson







DAVID Y. IGE  
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 12, 2015

### EXEMPTION NOTIFICATION

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

Project Title: Issuance of a Revocable Permit to Hilo Bay Hotel, Inc., for Hotel/Resort Purposes

Project / Reference No.: PSF 14HD-187

Project Location: Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-005:033, 034, 035 & 045.

Project Description: Hilo Bay Hotel, Inc. is requesting a one-year holdover followed by a month-to-month revocable permit. This will provide an opportunity for the Lessee to wind-up its hotel operations or continue 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 a Banyan Drive redevelopment plan can be implemented or at least as long as practical.

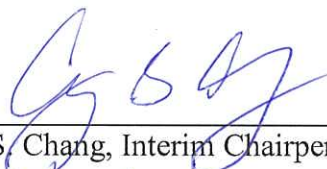
The proposed use has continued since the late 1960's and will continue until the property is vacated or redeveloped. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.


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

Exemption Class No.: 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, 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 the issuance of a revocable permit for the continued hotel/resort use of the property will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

  
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Cary S. Chang, Interim Chairperson

  
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Date 2/12/15