

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

June 12, 2015

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

**Hawaii**

Amend Prior Board Action of September 27, 2013, item D-3, Consent to Extension of Lease Term Pursuant to Act 207, Session Laws of Hawaii 2011, General Lease No. S-3624, 69 Railroad, LLC, Lessee, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-12:26; and

Amend Prior Board Action September 27, 2013, item D-5, Consent to Lease Term Extension Pursuant to Act 207, Session Laws of Hawaii 2011, General Lease No. S-3603, Jieyu Shepard, Lessee; Amendment of Terms and Conditions Regarding Allowed Use, Assignment and Sublease Provisions for General Lease No. S-3603; Lot 41, Kanoelehua Industrial Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-049:015 & 016; and

Amend Prior Board Action March 14, 2014, item D-6, Consent to 10-Year Term Extension of General Lease No. S-3583; Yamada Consolidated, Inc., Lessee, Pursuant to Act 207, Session Laws of Hawaii 2011, Waiakea, South Hilo, Hawaii, Tax Map Key: 3rd/2-2-037:052, 092 & 093; and

Amend Prior Board Action March 14, 2014, item D-7, Request for Consent to Extension of Lease Term Pursuant to Act 207, Session Laws of Hawaii 2011, General Lease No. S-3599 Central Supply, Inc., Lessee; Amendment of Terms and Conditions Regarding Allowed Use, Assignment and Sublease Provisions for General Lease No. S-3599; Lot 22 Kanoelehua Industrial Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-50:90; and

Amend Prior Board Action April 25, 2014, item D-4, Approve a 10-year Extension of Lease Term Pursuant to Act 207, Session Laws of Hawaii 2011, General Lease No. S-3619, Mattos Electric, LLC, Lessee, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-049:013; and

Amend Prior Board Action May 9, 2014, item D-2, Approval of Term Extension of General Lease No. S-5187; Aloha Petroleum, Ltd., Lessee, Waiakea, South

Hilo, Hawaii, Tax Map Key: (3) 2-1-009:042; and

Amend Prior Board Action May 23, 2014, item D-4, Request for Consent to Extension of Lease Term Pursuant to Act 207, Session Laws of Hawaii 2011, General Lease No. S-3606, The Food Basket Inc., Waiakea, South Hilo, Hawaii Tax Map Key: (3) 2-2-50:96; and

Amend Prior Board Action August 22, 2014, item D-15, Consent to 10-Year Term Extension of General Lease No. S-3716, Hawaiian Fresh Products, Inc., Lessee, Pursuant to Act 207, Session Laws of Hawaii 2011; Amendment of Terms and Conditions Regarding Allowed Use, Kanoiehua Industrial Lots, Lot 1-A, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-050:015; and

Amend Prior Board Action September 26, 2014, item D-5, Consent to Lease Term Extension Pursuant to Act 207, Session Laws of Hawaii 2011, General Lease No. S-3598, Mauna Kea Infrared, LLC, Lessee; Amendment of Terms and Conditions Regarding Allowed Use, Assignment and Sublease Provisions for General Lease No. S-3598; Lot 17, Kanoiehua Industrial Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-050:085.

The purpose of these amendments is delete the statement regarding appraised rent to be determinative and not subject to arbitration.

#### BACKGROUND:

The above referenced approvals were the result of Act 207, Hawaii Session Laws of Hawaii 2011 which allowed for the fixed rental period of a lease to be extended; provided the aggregate term of the lease does not exceed 65 years and the extended period is to allow for amortization of substantial improvements to the premises.

#### REMARKS:

Staff believed that as a concession for the granting of an extension, the annual rent determination should not be negotiable. As a result, staff was instructed to insert the statement “appraised rent for the extension period will be determinative and not subject to arbitration.


Upon review by the Office of the Attorney General it was determined that this is in conflict with Hawaii Revised Statutes.

Therefore, staff is correcting this conflict by recommending that the statement be deleted from all the approvals where it appeared.

RECOMMENDATION: That the Board:

1. Amend its prior Board actions as referenced above by deleting the statement regarding appraised rent for the extension period being determinative and not subject to arbitration.
2. All other terms and conditions listed in the subject approvals to remain the same.

Respectfully Submitted,

  
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Candace Martin  
Land Agent

APPROVED FOR SUBMITTAL:

  
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Suzanne D. Case, Chairperson

