

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

July 14, 2017

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

Ref: GL 5708

OAHU

Forfeiture of General Lease No. 5708, Landscape Hawaii, Inc., Lessee,
Waimanalo, Koolauapoko, Oahu, Tax Map Key: (1) 4-1-027:016

BACKGROUND:

At its meeting of July 13, 2012, under agenda item D-13, the Board deferred the request titled, "Deny the Request for Rent Reduction and Consider Request for Mutual Cancellation of General Lease No. 5708, if appropriate; Landscape Hawaii, Inc., Lessee, Waimanalo, Koolauapoko, Oahu, Tax Map Key: (1) 4-1-027:016". A copy of the 2012 submittal is now attached as **Exhibit 1**.

As noted from the minutes attached as **Exhibit 2**, the lessee, Landscape Hawaii, Inc. ("LHI"), through its attorney, alleged that a lot of relevant information was not included in the 2012 submittal. Eventually, the 2012 Board deferred the item and hoped the matter would be resolved with LHI, together with the assistance of the Department of the Attorney General ("AG").¹

Summary of Major Events²

Staff provides a brief account of the major events regarding this request.

1. Public auction for a 30-year lease was planned to be held in June 2004. Due to reluctance of the former lessee (Candy Lake) to allow an unguided tour or inspection, the Division conducted a "guided inspection" of the property for prospective bidders, in which the lessee was one of the participants.
2. Auction was conducted in June 2004, and the lessee was the highest bidder.
3. Former lessee was on the property until she was evicted in March 2005.
4. After the eviction, the Division agreed to clean up the premises, including

¹ 4th full paragraph on page 9 on Exhibit 2.

² For a more detailed description of events, please refer to the Remarks Section of the 2012 submittal.

cleaning the dwelling (\$3,600), installation of fencing (\$106,000), towing of vehicles (\$1,100), demolition of the club-house structure (\$24,000), removal of vegetation (\$11,000), and disposal fee of debris (\$5,400+). The total cost is over \$150,000.³

5. On March 10, 2006 the Chairperson issued a right-of-entry due to the reported vandalism occurring at the premises. The right-of-entry allowed LHI to enter and occupy the premises.
6. The lease was signed on March 23, 2006 with a 30-year term commencing from April 1, 2006. LHI paid the first 6 months' rent (\$18,250) plus other costs associated with the auction.
7. Since the payment of the last semi-annual rent payment made by LHI in or around February 2007, LHI has written on numerous occasions to the Department demanding the State honor an agreement to clean up the property for LHI's operation, re-installation of an electric meter box, and reducing the rent by 20% until the issues are resolved.
8. In attempting to resolve the matter with the new lessee, LHI, on June 1, 2009, a former staffer at the Land Division informed the Fiscal Office to change the commencement of billing date to April 1, 2008, instead of April 1, 2006 which was the commencement date of the lease (see bullet 6 above). In effect, the staffer was providing a rent free period of two (2) years.
9. As of June 2017, the rental delinquency amounts to \$310,250, late fees (\$1,450), and interest of 1% per month (\$155,125), which represents a total of \$466,825.

After the 2012 Board meeting noted above, LHI and its counsel provided the Department its documents via a letter dated August 6, 2012 (**Exhibit 3**),⁴ and met with then Chairperson Aila, Land Division, and the assigned deputy Attorney General sometime in August 2012, to discuss possible settlement.

A settlement proposal was submitted by LHI in November 2012, demanding a \$1.5M payment from the State for repair costs and legal fees. In the same letter, LHI indicated that another \$1.78M of business loss was not included in the settlement.

Upon consultation with then Chairperson Aila and the assigned deputy Attorney General,

³ The costs mentioned in bullet 4 do not include the staff costs of the Department's Land Maintenance Crew in cleaning up the property. In addition, the Department has done work, e.g. fencing, in addition to the "As is" condition of the property.

⁴ All exhibits mentioned in LHI's letter dated August 6, 2012 are provided to the Board members under a separate binder. However, for the purposes of economy, staff is circulating only the covering letter (herein Exhibit 3) and the exhibits are available for review upon request.

the Department countered the demand with an agreement to pay \$5,850 for the electric meter⁵, and indicated that the previous change of the commencement of billing for rent from 2006 to 2008 effectively gave a 2-year rent free period amounting to \$73,000. (**Exhibit 4**) The State's counteroffer was rejected by LHI.

The Department has maintained its position as explained in the Staff Response section in the 2012 submittal.

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-5708, a Notice of Default was sent to the counsel representing LHI by certified mail dated December 29, 2014 for failure to keep lease rental payments current.

The Notice of Default was signed receipt on December 31, 2014, which offered LHI a thirty-day cure period to correct the default. As of the date of writing this submittal, this breach has not been cured.

In January 2016, Assistant Administrator and staff visited the subject premises in the presence of the owner of LHI and his employee. During the site visit, LHI indicated that they plan to turn two sections of the leased premises into orchard and office, while the remaining area is mainly used for nursery with an employee residence. As noted from the inspection report and photos attached as **Exhibit 5**, the shade house and its surrounding area are utilized for various plants for LHI's business. Renovation works were still required for the barn and the building on the lowest section of the premises. In addition, staff noted the surrounding of the employee residence was reasonably maintained. In short, the subject State land is utilized for the purposes in accordance to the conditions of the lease. Nevertheless, State did not receive any rent under this lease since the last payment more than 10 years ago, around February 2007.

For the Board's reference, a recent rental reopening effective April 1, 2016 was conducted. Upon notification of the new rent, the tenant refused to engage in the rent reopening process set in the subject lease. The Division is currently seeking advice from the Department of the Attorney General.

Staff has consulted with current Chairperson Case and the Department of the Attorney General. Staff now comes forward and asks the Board to terminate the lease for failure to pay rent.

RECOMMENDATION: That the Board:

1. Deny the request for 20% rent reduction retroactive to the commencement date of General Lease No. 5708;
2. Authorize the cancellation of General Lease No. S-5708 in the manner specified

⁵ Based on the cost claimed by LHI in the letter.

by law;

3. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-5708 to be applied to any past due amounts;
4. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of Board date, 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
5. 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-5708 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:

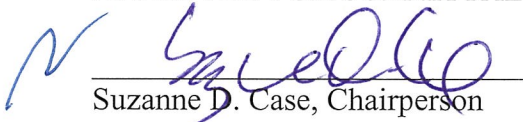

Suzanne D. Case, Chairperson

EXHIBIT 1

2-73

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

DEFERRED

July 13, 2012

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

OAHU

Deny the Request for Rent Reduction and Consider Request for Mutual Cancellation of General Lease No. 5708, if appropriate; Landscape Hawaii, Inc., Lessee, Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-027:016

APPLICANT:

Landscape Hawaii, Inc., a domestic corporation.

LEGAL REFERENCE:

Section 171-6, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-027:016 as shown on the map attached as **Exhibit A**.

AREA:

19.961 acres, more or less.

ZONING:

State Land Use District: Agricultural
City & County of Honolulu LUO: A-1

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

Deferred
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES *DN*
AT ITS MEETING HELD ON
July 13, 2012

EXHIBIT " 1 "

D-13

CHARACTER OF USE:

Intensive Agriculture or Pasture Purposes.

LEASE TERM:

Thirty (30) year lease commencing from April 1, 2006.

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>

REMARKS:

The subject parcel was previously leased to Christian Meunier and Candy Lake under GL 3861 until the lease expired on August 9, 2004. Ms. Lake operated an animal shelter under the name of Sylvester Foundation on the parcel until she was evicted from the parcel on March 3, 2005.

Prior to the above-referenced eviction, the Department solicited application for a 30-year lease in June 2004. Due to reluctance of Ms. Lake allowing prospective bidders to inspect the parcel, the Department decided to conduct a guided site inspection for the prospective applicants. The inspection party included the current lessee, Landscape Hawaii, Inc. ("LHI") and staff from the division.

Staff understands that after the eviction, the Department agreed to demolish some structures, remove the debris left by the former lessee, hire a professional cleaner to clean the remaining dwelling, and install fencing around the property fence before handing over the property to LHI.

On March 10, 2006, the Chairperson issued a right of entry after learning about the vandalism on the parcel¹. The Chairperson waived the rent for the right-of-entry period, which covered from March 10, 2006 to September 10, 2006, or at an earlier date upon the sole discretion of the Chairperson."

The lease was eventually signed on March 23, 2006 commencing from April 1, 2006. The first 6-month rent (\$18,250), document and map fees (\$55), and advertising costs (\$544.28) were paid by LHI on June 30, 2004, i.e. the date of auction.

¹ Opening paragraph of the right-of-entry as in Exhibit B states, "[i]n order to prevent [vandalism] from happening again, we are issuing this maintenance right-of-entry."

The Department received another payment of 6-month rent (\$18,250) around February 2007. At the same time, LHI submitted a letter dated February 21, 2007 to the Chairperson (**Exhibit B**) seeking resolution of the billings and requesting the State to honor its agreement to clean up the parcel for LHI's operation. In addition, LHI requested a 20% rent reduction retroactive to the beginning of the lease until the matter is resolved.

By its letter dated January 11, 2008 (**Exhibit C**), LHI reiterated its immediate concerns "are: lease rent amounts do not correspond to the Lease payment schedule and therefore generate unwarranted delinquency notices, the matter of a missing meter box, and the incorrect fencing of the property."

On June 1, 2009, Land Division informed Fiscal Office to change the billing date to April 1, 2008 because "billing date should be April 1, 2008 when State completed moving the location of fence line in the back of the property, installed fencing along ditch, and removed abandoned container/trash from property".

Since the last payment received in February 2007, the Department did not receive any rent payment from LHI.

Due to the staff turn-over, LHI's request for a Board hearing was not processed until today. The current amount owed is \$127,750, equivalent to 3.5 years rent payable.

STAFF RESPONSES:

For discussion purposes, staff summarizes LHI's request as "the State has not fulfilled its obligation in delivering the property to LHI on time. Such delay and other incident caused unnecessary delays and jeopardized the plan by LHI to utilize the parcel." Staff will respond (in *italics*) to the allegations by LHI separately in the following paragraphs:

1. LHI alleged that the condition of the parcel at the time of the pre-auction site inspection provided a condition of the parcel, which was different from the actual condition when the parcel was delivered to LHI two years later.

Staff notes that the 2004 public auction bid packet for the parcel, under paragraph 13, Condition of the Property states, "... all parcels shall be leased in an "AS IS" condition..." The condition on the parcel is better than that in the pre-auction site inspection because the Department had taken extra steps by installing fence, cleaning the former dwelling, and removing trash from the parcel. Staff is not aware of any similar cleanup efforts for other auction parcel on Oahu.

2. LHI complained that the Department failed to fence a portion of the parcel with an area of about four (4) acres, which meant that LHI could not use the said area.

Staff notes the bid packet did not provide any provision regarding fencing off the parcel, including this four-acre portion. In addition, staff understands this four-acre parcel was not used by anyone since eviction in 2005. Therefore, staff cannot agree that the lack of fencing jeopardized the plan of LHI.

3. LHI complained that DLNR should have processed the demolition permit earlier so the City and County of Honolulu would be able to remove two dwellings from the assessment. In short, LHI was paying real property taxes based on three dwellings instead of only one on the ground.

Staff notes that the issue of dwellings relating to real property tax assessment falls under the jurisdiction of the City and County of Honolulu. LHI should approach the City for any appropriate adjustment.

4. LHI complained about the missing meter box previously seen in the pre-auction site inspection. The lack of meter box requires LHI to install a new one subject to the current requirement of the utility company. It involves extra cost and makes the LHI's plan of utilizing the dwelling not feasible.

Staff has checked with the department maintenance crew and note that there is no record of any electric box being removed from the parcel. Both the staff and the crew understand that the meter box is the property of the utility company. It is the lessee's responsibility to secure the utility services. Staff cannot agree that the State is responsible for providing a replacement meter.

CURRENT SITUATION:

At the time of writing this submittal, the amount owed is \$127,750. Staff believes that the previous administration had done everything possible in utmost good faith trying to help a successful bidder establish a new operation. The condition of the parcel and the vandalism that happened on the property are something beyond the department's control. However, the State should by no means be held responsible for those incidents and/or replacement works. Upon review the situation, staff maintains that LHI does have a valid obligation to pay the outstanding rent.

Another option is both the Board and LHI agree to mutually terminate lease, provided that LHI removes all the improvements installed by LHI during its occupancy, and the State keeps the rental payment and other fees and costs paid to date.

RECOMMENDATION: That the Board:

1. Deny the request for 20% rent reduction retroactive to the commencement date of General Lease No. 5708; and choose either option 2 or 3 provided below:
2. Agree with the staff position as mentioned above and require Landscape Hawaii,

Inc. pay all the delinquent rent within 30 days of the Board date.


OR

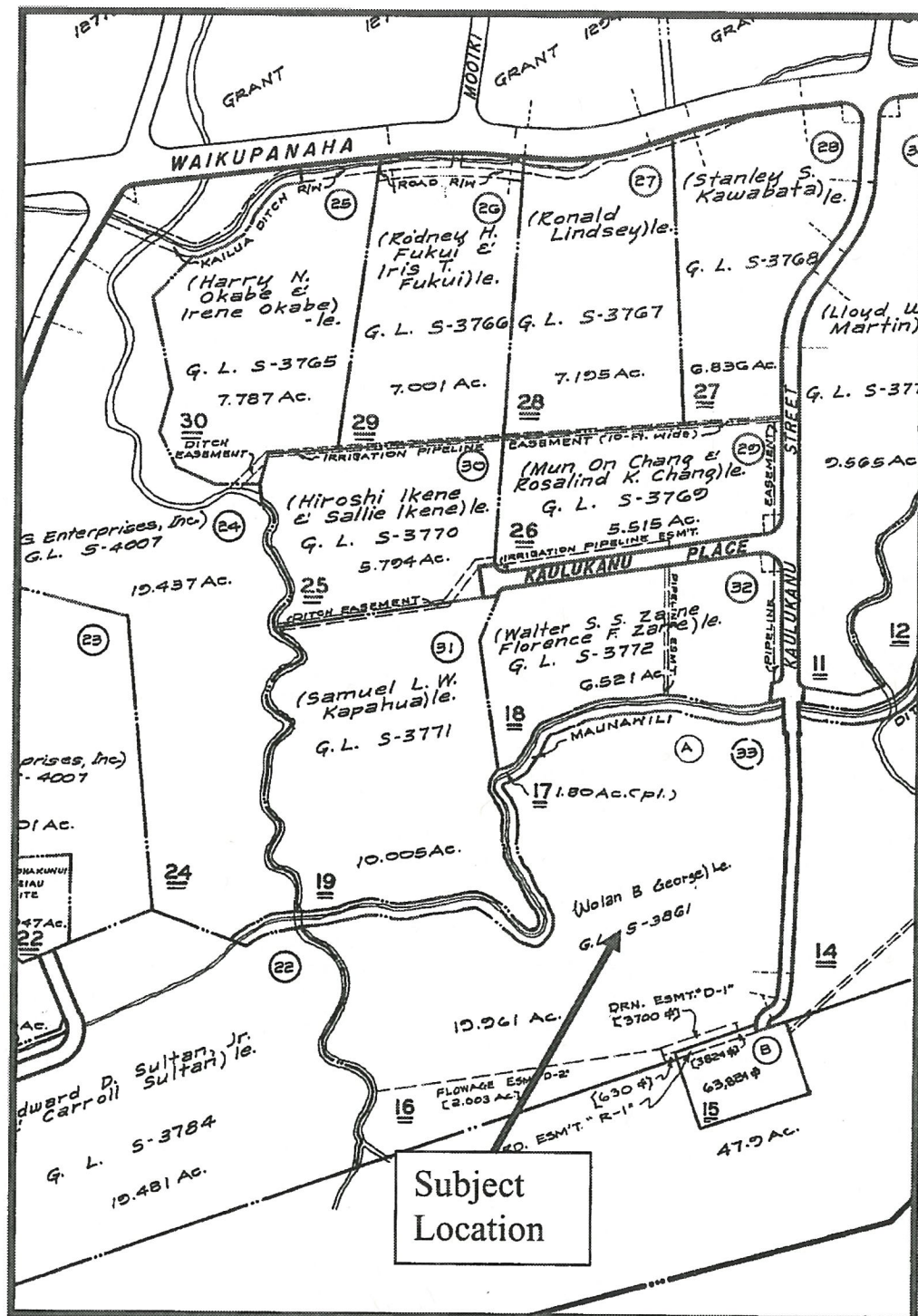
3. Authorize the mutual cancellation of General Lease No. 5708 covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current mutual cancellation document form, as may be amended from time to time;
 - B. Landscape Hawaii, Inc. shall remove all improvements installed during its occupancy of the subject parcel;
 - 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.

Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson



TMK (1) 4-1-027:016

EXHIBIT A

February 21, 2007

Mr. Peter T. Young
Chairperson,
State of Hawaii
Department of Land and Natural Resources
Post Office Box 621
Honolulu, Hi 96809

Dear Mr. Young,

Subject: Lease payment and issues remaining per State land, Waimanalo, Oahu,
Tax Map Key 4-1-27:016.

I have made payment to the Fiscal Office, payment date 2/16/07, for the above leased land for period, 10/01/06 thru 3/31/07. There still remains confusion with regards to the billing period for which this applies and I would like to clear up this matter. While I was at the District Office advising Cecile Santos of the payment, I was told that I am to be notified by Charlene Enoki as to when to make payments and that the District Office was not aware that I had been sent a Notice of Default.

I received a Right-of-Entry Permit commencing on March 10, 2006 and ending on September 10, 2006, with a waiver of rent authorized by you pursuant to the Land Board's delegation of authority to issue Rights-of-Entry. I complied with all applicable laws, statutes and government regulations subject to the terms and conditions stated in the permit. Somehow, the Attorney's General office was not advised of the agreed upon waiver of rent as stated in Section 14 of the permit and has since flagged me as a delinquent lessee. I trust that this confusion can be cleared up once the proper documents are available to all parties?

If I may briefly review the history of this property with you and outstanding issues with regards to parties concerned:

May /June 2004

Preliminary walkthroughs of property with Charlene Enoki and other DLNR representatives. Walkthroughs include individuals interested in bidding on the property. During walkthroughs, discussion includes cleanup and restoration of property to acceptable condition to future lessee.

June 18, 2004

The Sylvester Foundation is denied a Request for Waiver at a DLNR Board meeting.

EXHIBIT " B "

illegally return to the A-frame property during the day/evening to feed animals.

The office domicile is vandalized resulting in the removal of the entrance porch, screens, windows, and doors. The wind, rain, and animals can now enter the domicile as the windows and screens are gone. The weather degrades the interior and exterior of the domicile beyond the normal wear and tear and the floor, carpet, walls, and ceiling are damaged.

June 2005

All necessary bids are in for the agreed upon provisions offered by the State to transfer the property to Landscape Hawaii in a clean and orderly condition, pay for the costs and expenses for disposal, removal, or storage of the personal property of the prior lessee.

Provisions:

Demolish and dispose of Club House, designated facilities and stockpiles.

Clean and renovate A-frame

Clean and renovate Office area

Clean up possible dumped toxic materials

Remove Matson container

Choice Fencing is assigned Chain-link front fence area and Sun Systems is contracted for the balance of the perimeter fence area.

July 2005

Per Charlene Enoki: No renovation on A-frame.

A Contractor has been hired by the State to demolish the Club House which is the third domicile noted on the lease. Contractor is also to demolish and remove two horse stall areas, miscellaneous debris, and remove the Matson container.

August 2005

State workers trim and clear the front of the property in anticipation of Choice Fencing putting up Chain-link fence. Work to begin the last week of October 2005.

November 2005

State workers again trim and clear the front of the property in anticipation of the Chain-link fence being installed as work was not done in October.

December 2005

Chain-link fence fronting the property is finalized.

The day after the fence is in and gates installed, the gate fronting the A-frame is rammed and the concrete plug holding the gatepost upright is dislodged. Choice Fencing is immediately called in to replace the gatepost. Two days later it happens again and vandals enter the property, paint the inside of the garage walls with red paint and leave disparaging remarks re: the DLNR and fencing

property. This time the gatepost is not repaired but heavy chains and combination locks hold the fence gates closed.

End of 2005:

Still lacking the balance of the fencing (perimeter) that was to have been completed in 2005.

Clean up of property still incomplete.

Transfer of property is incomplete and lease still not signed.

February 2006

Perimeter fence is partially completed.

March 2006

Right-of-Entry Permit is issued to Landscape Hawaii, Inc. for maintenance of State land to decrease the amount of vandalism on the property. Effective date: March 10, 2006 and ending September 10, 2006. (See Attachment, Right-of-Entry Permit) However, walkthroughs by Landscape Hawaii representatives reflect that the fencing is not according to the area designated in the lease as the boundary of the property. Calls made to the office of the DLNR requests correction to the fencing error. Also, the work order was to also include approximately 50' of chain link fence abutting the property's entrance gatepost and front chain link fence thereby providing security at the gate area fronting Kaulukānu Street.

General Lease no. S-5708 signed, dated: March 23, 2006 with effective dates: April 1, 2006 and terminating March 31, 2036. Please note that the lot is now not as described in General Lease no. S-5708 and the DAGS survey of the property with regards to Section 11 and its relationship to "Lot 22 of Waimanalo Agricultural Subdivision, the direct azimuth and distance being..." being approximately 648.50 feet and subsequently, sections 12, 13, and 14 of the survey "...to the point of beginning and containing an area of 19.961 Acres, More Or Less."... as the fencing has removed 4 (four) acres, MOL, from use by Landscape Hawaii.

June 2006

This is the third and final walkthrough with DLNR personnel since April of 2006, to clarify the situation regarding the mistake in fencing the perimeter of the property. In attendance: Bob Medeiros, Cecile Santos, 2 reps from Sun Systems and three reps from Landscape Hawaii.

The Sun Systems rep., Gary Bianco, site supervisor of the crew that installed the perimeter fence was asked why they did not follow the marked, tagged, and cleared perimeter area for the fence. His response was that Cecile Santos had told them to move the fence back and away from the marked property boundary. Cecile Santos was there and acknowledged that yes he had told

them to move the fence line. The group walked the area and there was consensus that the area in question was incorrectly fenced. Cecile measured the area fenced off from Landscape Hawaii and established that approximately 4 (four) useable acres were not included within the property line.

Sun Systems recommends enclosing the additional 4 (four) acres along side the already established fence line, rather than removing the already installed fence line, and joining the two areas with a livestock gate. The area in question requires approximately 190 T-posts with a 10-foot run, corner posts every 100 feet, and four-strand wire. At this time, no gate is available along this fence line area thereby disallowing Landscape Hawaii's use and/or access to the 4 (four) acres. The Sun Systems' engineer there that day estimated that approximately 6 weeks would be needed to have manpower and materials available to complete the job. In addition, the extra 50' of chain link fence abutting the front gate area is included in the work order.

Several calls have been made to the DLNR office to find out about the status of the pending work. No answers are available.

A question remains that if the RFP was for the correct linear run of fencing as stated by the State from both surveys and walking the area, what happened to the balance of materials that should have gone up on the property when the work order was changed to less than requested? Did the State pay for and not receive the amount of fencing contracted for?

Another question: If the contract was not executed properly, why is the lessee being penalized? In other words, why is the present lease rent for the entire 19.961 acres when it was demonstrated that since February 2006, 4 (four) useable acres were removed from use to Landscape Hawaii (approximately 20%). And when will the balance of the land be returned as is stated in the TMK and be able to be utilized fully by Landscape Hawaii, the lessee to the land?

June 14, 2006

Landscape Hawaii, Inc. signs a Cooperative Agreement with the Windward Oahu Soil and Water Conservation District.

September 2006

Right-of-Entry Permit expires. General Lease No. S-5708 to commence effective immediately as Right of Entry Permit expires.

State already holds payment for lease as Landscape Hawaii had paid for the first 6 (six) months of the lease on the day following the auction date, July 1, 2004. Payment was to have been applied for period July 1, 2004 through December 31, 2004, but transfer of

property did not occur as contracted in original agreement. (See Attachment 2, Facsimile Transmittal)

Landscape Hawaii begins work on the property to clean up A-Frame and establish a nursery, plant areas.

October 2006

The City assesses property taxes for three domiciles for the property when in actuality there are only two – the Club House was torn down by the State in 2005 although it is still reflected in City records. When will the State notify the City of the change?

December 2006

The AG's office sends out a delinquency notice for period 10/01/06 through 3/31/07.
Kyle Ushijima calls Charlene Enoki and is told not to pay the lease rent until she straightens out the matter with the AG's office.

End of 2006

Fencing is still not completed (perimeter and front gate areas).
Matson container still on property.
Stockpiles of dumped material of prior lessee still on the property.

January 2007

Kyle Ushijima receives another notice and a letter stating that he is delinquent with regards to paying the lease rent.
Charlene Enoki specifically tells Kyle Ushijima not to pay until the lease dates are clarified and on file correctly.

February 2007

This month Landscape Hawaii is faced with A Notice of Default. (See Attachment, Notice of Default)
Also, Cecile Santos submits Demolition Plan to Planning and Permitting Dept. that should have been processed in 2005. Is the City assessment correct now for property taxes? Two and not three domiciles? Cecile also advises Kyle Ushijima that the property perimeter fence is to remain as is and will not be corrected by the State. An error by the State?

Current Status:

- *the AG's office shows Landscape Hawaii in arrears for 6 months lease rent
- *City still seeking taxes for 3 (three) rather than 2 (two) domiciles
- *Landscape Hawaii is in the process of cleaning the areas that the State said it would clean, i.e. the stockpile areas, removing the Matson container, etc. and starting up the nursery business on property which has 'gone to weed' for two years

*fencing is still not done according to the perimeter boundary as designated by the State Survey and front gate area is still unsecured

*unfenced area and unmarked area of this TMK is open to squatters and parties entering the area from the Mahailua Street side – patrolling and restricting access is difficult without proper boundary lines as reflected in a fence line

*lease amount reflects the lease fee on 19.961 Acres, MOL and does not take into account the unavailable 4 (four) acres incorrectly fenced off by the State in February 2006

*unanticipated expenses and work involved with cleaning and renovating domiciles that have been abandoned and vandalized for almost two years (from eviction date of Candy Lake)

*the delay in transferring the property (approx. 2 years) to Landscape Hawaii allowed the property to deteriorate; not securing the property and domiciles allowed vandalism, break-ins, stealing the meter box, stealing the roofing, breaking windows, removing doors and porches, etc. to go unchecked. The result is that now more serious renovations are needed which require authorization from the Building and Permit Dept.

**what we have today is not what we were led to believe we would assume two years ago, i.e. condition of property and size of property.

Mr. Young, as you can see by the above, it has been a frustrating and epic journey for all parties. You were in the private sector and understand that time represents both money and opportunity; I felt that I have lost both with regards to this situation. Working with the State has been frustrating, to say the least. I have discussed the above problems with Charlene Enoki and Cecile Santos only to find that their hands are either tied or their time is unavailable to work out these problems. Often it seems that the authority does not go with the responsibility to get things done.

Clarification of the lease rent billing periods and amount due are priorities at this time as I am not a delinquent lessee. Also, I would hope that the State sees the inequity of charging me for the entire parcel when I cannot access all the land nor secure the land from outsiders. I would ask for a lease reduction of 20% retroactive to the beginning of my lease until the matter is reconciled.

As the fencing matter impacts us both, I would ask that the State work with Sun Systems and complete the perimeter and front gate areas. I would also ask the State to honor its agreement to clear the land of the stockpiles that pose a hazard to my employees and areas for nursery and pasture use and to also remove the Matson container.

If it is beyond your delegation of authority to authorize the above, I would request that I be placed on the agenda for a DLNR meeting to discuss the issues. It would serve both

our interest to have all of this behind us.

If you would like further insight into these matters, please feel free to call me at 836-5332 ext. 24 or my cell,

Sincerely,

A handwritten signature in black ink, appearing to be 'K. Ushijima', written over a horizontal line.

Kyle Ushijima,
President
Landscape Hawaii Inc.

cc: Charlene Enoki
Mark Bennett
Cecile Santos



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

MAR 10 2006

Mr. Kyle Ushijima, President
Landscape Hawaii, Inc.
2621 Waiwai Loop
Honolulu, Hawaii 96819

Dear Mr. Ushijima:

Subject: Right-of-Entry Permit to Landscape Hawaii, Inc. for Maintenance of
State land, Waimanalo, Oahu, Tax Map Key 4-1-27:016.

We have completed the installation of the fencing along the front of the leasehold and are processing the final execution of the lease for the site. We have been informed that after the installation of the front fencing, the lot has been vandalized. In order to prevent this from happening again, we are issuing this maintenance right-of-entry.

We are processing the execution of the lease (General Lease No. S-5708). This right-of-entry will enable you to maintain the site until the lease is fully executed.

Pursuant to the authority granted by the Board of Land and Natural Resources at its meeting of September 28, 2001, (Item D-4), Landscape Hawaii, Inc. is hereby granted a maintenance right-of-entry permit to occupy, secure, and maintain the premises shown on the attached map in an orderly manner in compliance with all applicable laws, statutes and government regulations and subject to the following terms and conditions:

1. The permit shall commence on March 10, 2006, and end on September 10, 2006, or at an earlier date upon the sole discretion of the Chairperson of the Board of Land and Natural Resources.
2. Landscape Hawaii, Inc. shall procure at its own expense, and maintain during the entire period of this right-of-entry, from an insurance company or companies licensed to do business in the State of Hawaii, a policy or policies of comprehensive public liability insurance in an amount acceptable to the Department (\$300,000 per incident/\$500,000 aggregate) insuring the State of Hawaii against all claims for personal injury, death, and property damage;

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSIONER FOR WATER RESOURCES MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
LYMBERLAND WATER RESOURCES MANAGEMENT
CONSERVATION AND COASTAL LAND
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOLOAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

that said policy shall cover the entire right-of-entry area, including all improvements and grounds and all roadways or sidewalks on or adjacent to the said right-of-entry area in the control or use of Landscape Hawaii, Inc. Landscape Hawaii, Inc. shall furnish the Department with a Certificate showing the policy to be initially in force and shall furnish a like Certificate upon each renewal of the policy, each Certificate to contain or be accompanied by an assurance of the insurer to notify the Department of any intention to cancel any policy sixty (60) calendar days prior to actual cancellation. The procuring of this policy shall not release or relieve Landscape Hawaii, Inc. of its responsibility under this right-of-entry as set forth herein or limit the amount of its liability under this right-of-entry.

3. Landscape Hawaii, Inc. shall be responsible for cleaning and restoring the area to a condition satisfactory to the Department of Land and Natural Resources upon completion of the permit.
4. Landscape Hawaii, Inc. shall comply with all laws, statutes, ordinances, rules and regulations of the Federal, State, and County governments relative to the use of the subject area including those relating to public health.
5. Landscape Hawaii, Inc. shall indemnify, defend and hold harmless the State of Hawaii, Department of Land and Natural Resources from and against any loss, liability, claim or demand for property damage, personal injury, and death arising out of any act or omission of Landscape Hawaii, Inc. under this approval or relating to or connected with the granting of this approval.
6. Landscape Hawaii, Inc. and its consultants, contractors and/or persons acting for or on its behalf shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. Landscape Hawaii, Inc. and his consultants, contractors and/or persons acting for or on its behalf shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the right-of-entry area any such materials except to use in the ordinary course of the maintenance.

7. Landscape Hawaii, Inc. and its consultants, contractors and/or persons acting for or on its behalf agree to indemnify, defend and hold the State harmless, from any damages and claims resulting from the release of hazardous materials on the right-of-entry area occurring while Landscape Hawaii, Inc. and its consultants, contractors and/or persons acting for or on its behalf is/are in possession or elsewhere if caused by Landscape Hawaii, Inc., its consultants, contractors and/or persons acting for or on its behalf. These covenants shall survive the expiration or earlier termination of this right-of-entry.
8. For purposes of this right-of-entry, "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous substance, or oil as defined in pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, whether existing as of the date hereof, previously enforced, or subsequently enacted.
9. Landscape Hawaii, Inc. and its consultants, contractors and/or persons acting for or on its behalf in the exercise of this right-of-entry shall use appropriate precautions and measures to minimize inconveniences to surrounding residents, landowners, and the public in general.
10. Landscape Hawaii, Inc. and its consultants, contractors and/or persons acting for or on its behalf shall not store any personal belongings at the subject property during the effective period of this right-of-entry.
11. All costs associated with the maintenance within the right-of-entry area shall be the sole responsibility of Landscape Hawaii, Inc. and its consultants, contractors and/or persons acting for or on its behalf.
12. In the event any unanticipated sites or remains such as bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls are encountered, Landscape Hawaii, Inc. and its consultants, contractors and/or persons acting for or on its behalf in the exercise of this right-of-entry shall stop work and contact the State Historic Preservation Division in Kapolei at (808) 692-8015 immediately.
13. The Department of Land and Natural Resources reserves the right to impose additional, but responsible terms and conditions as it deems necessary while this right-of-entry is in force.

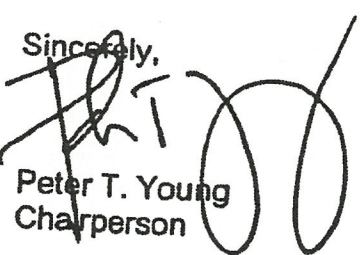
14. Pursuant to the Land Board's delegation of authority to me to issue rights-of-entry, I am authorized to waive rent for rights-of-entry for any government-related project. As your project meets this requirement, I hereby waive rent.

Should you have no objections to the above-mentioned items, kindly sign in the space provided below and submit the following to the Land Division no later than March 10, 2006:

1. Copy of signed concurrence;
2. Copy of your liability insurance policy.

Should you have any questions, please contact Cecil Santos at our Land Division Office, at (808) 587-0433 or fax at (808) 587-0455.

Sincerely,


Peter T. Young
Chairperson

I CONCUR:

Landscape Hawaii, Inc., a Hawaii corporation

By



Kyle K. Ushijima

March 16, _____, 2006

Its: President

c: Land Board Member
OCCL
Central Files
District Files



LANDSCAPE HAWAII INC.

2621 Waiwai Loop • Honolulu, Hawaii 96819 • Phone (808) 836-5332 • Fax (808) 836-5336

FACSIMILE TRANSMITTAL

Date : October 13, 2006

To : Charlene

DNLR

From : Kyle Ushijima

Phone Number : _____

Fax Number : 587-0455

Project : _____

Subject : Payments

Number Of Pages Including This Sheet : 3

Message : Please refer to the attached billing which indicates payment being due for the period of 10/01/06 -- 03/31/07. Per our agreement, the lease was supposed to start on September 1, 2006. Our right of way was the only request we had initially to get on to the property. We are still in the process of cleaning the area in which we have discovered debris, such as, barbed wire, tires, corrugated metal, etc. The State was supposed to have removed all of the debris mentioned above. We are trying to keep a good relationship with the State as being our Landlord but they are not keeping up with the agreement. Evidently, the various departments are not communicating with each other. I have already lost a big sum of money without any profits. Any assistance you can give us will be greatly appreciated. I have been excessively patient in this matter. Please respond to this problem and have it addressed by October 19, 2006. We are looking forward to your continued support in our efforts to remedy this situation so we can go on with our efforts to excel in our Nursery business.

Aloha. Kyle Ushijima



DEPARTMENT OF LAND AND NATURAL RESOURCES

FISCAL OFFICE
P.O. BOX 621
HONOLULU, HAWAII 96809-0621
(808) 587-0353
10/10/06

DOCUMENT NUMBER

gl5708

COST CENTER: 0520
LANDSCAPE HAWAII INC.
2621 WAIWAI LOOP
HONOLULU, HI 96819

SOURCE: 1720

TOTAL DUE: \$18,250.00

PLEASE DISREGARD THIS BILL IF PAYMENT HAS
BEEN MADE

AMOUNT PAID: _____

PLEASE DETACH AND RETURN ABOVE PORTION WITH YOUR PAYMENT FOR PROPER CREDIT

REFERENCE		APPTO	BILLING PERIOD	DESCRIPTION	AMOUNT
DATE	NUMBER				
10/01/2006	C-107683	Balance Due	10/01/2006 - 03/31/2007	RENTALS, LEASED LANDS (10/2006)	18,250.00

Please Make Check Payable To: "Land & Natural Resources"
PAST DUE AMOUNTS MAY BE SUBJECT TO A 1% PER MONTH FINANCE CHARGE AND A LATE FEE
THE STATUS OF YOUR ACCOUNT IS AS FOLLOWS:

CURRENT	10/01/2006 - 03/31/2007	0.00	0.00	TOTAL DUE
0.00	18,250.00	0.00	0.00	\$ 18,250.00

DOCUMENT
NUMBER

gl5708

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
P.O. Box 621
HONOLULU, HAWAII 96809

January 26, 2007

PETER T. I
CHAIRMAN
COMMISSION ON LAND AND NATURAL RESOURCES
ROBERT K. M
DEPUTY CHAIR
DEAN NAK
ACTING DEPUTY CHAIR
APRIL K. K
MANAGEMENT AND PLANNING
IN THEATRE/STAGE
COMMISSION ON WATER RESOURCES
CONSERVATION AND RESTORATION
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAWAHAU ISLAND RESERVATION
STATE PARKS

Ref.:OD-GL5708

Certified Mail: 1682 8091

LANDSCAPE HAWAII INC.
2621 WAIWAI LOOP
HONOLULU, HI 96819

Dear Lessee:

Received
1/27/07

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-5708 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 in the amount of \$ 18,250.00 covering the period October 01, 2006 to March 31, 2007.

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

1/27 2/23

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

1. Cancellation of General Lease S-5708.
2. Retention of all sums heretofore paid under General Lease S-5708 as liquidated damages.
3. Termination of all your rights and obligations under General Lease No. S-5708.
4. Initiation of legal action to collect the delinquent lease rental owing the State of Hawaii under General Lease S-5708.
5. Forfeiture of your lease performance bond.

We therefore urge your fullest cooperation. Should you have any questions, please contact our Oahu District Land Branch at (808) 587-0433.

Very truly yours,



PETER T. YOUNG
Chairperson

cc: Land Board Member
Central Office
Fiscal Office
Bond Holder (First Insurance Co. of Hawaii)
District Office
✕



DEPARTMENT OF LAND AND NATURAL RESOURCES

FISCAL OFFICE
P.O. BOX 621
HONOLULU, HAWAII 96809-0621
(808) 587-0353
02/11/07

DOCUMENT NUMBER

gl5708

COST CENTER: 0520
LANDSCAPE HAWAII INC.
2621 WAIWAI LOOP
HONOLULU, HI 96819

SOURCE: 1720

TOTAL DUE: \$18,250.00

PLEASE DISREGARD THIS BILL IF PAYMENT HAS BEEN MADE

AMOUNT PAID: _____

PLEASE DETACH AND RETURN ABOVE PORTION WITH YOUR PAYMENT FOR PROPER CREDIT

REFERENCE		APPTO	BILLING PERIOD	DESCRIPTION	AMOUNT
DATE	NUMBER				
10/01/2006	C-107683	Balance Due	10/01/2006 - 03/31/2007	RENTALS, LEASED LANDS (10/2006)	18,250.00

7/1/07

Please Make Check Payable To: "Land & Natural Resources"
PAST DUE AMOUNTS MAY BE SUBJECT TO A 1% PER MONTH FINANCE CHARGE AND A LATE FEE
THE STATUS OF YOUR ACCOUNT IS AS FOLLOWS:

CURRENT	PAST DUE	FINANCE CHARGE	LATE FEE	TOTAL DUE
0.00	0.00	0.00	18,250.00	\$ 18,250.00

DOCUMENT
NUMBER

gl5708

LANDSCAPE HAWAII, INC.
2621 WAIWAI LOOP
HONOLULU, HI 96819
836-5332

NO. 353

59-101
1213

Date.

FEB 2 2007

Pay To The Order of STATE OF HAWAII

The sum of 18,250 and 00/100ths

\$

18,250.00

Dollars



First Hawaiian Bank

MAIN BANKING REGION
HONOLULU, HAWAII

[Signature]
Kirta



LANDSCAPE HAWAII INC.

2621 Waiwai Loop • Honolulu, Hawaii 96819 • Phone (808) 836-5332 • Fax (808) 836-5336

January 11, 2008

Ms. Charlene Enoki
Dept. of Land and Natural Resources
Post Office Box 621
Honolulu, HI 96809

Dear Charlene,

Subject: Lease payment and issues remaining per State Land, Waimanalo, Oahu,
Tax Map Key 4-1-27-016.

After our discussion on Tuesday, December 18, 2007, I thought it would be best if I summarized our predicament regarding Landscape Hawaii's Lease land in Waimanalo.

At this time, the immediate concerns are: the Lease rent amounts do not correspond to the Lease payment schedule and therefore generate unwarranted delinquency notices, the matter of a missing meter box, and the incorrect fencing of the property.

The State's billing and scheduled payments are incorrect with regards to one another and the actual date that we assumed the property. Charlene, as you know, I signed the Lease at your request and urging with an incorrect commencement date, with the understanding that a correction would be forthcoming with both sides performing as requested in the Lease agreement. Please advise the Fiscal Office of the correct dates and amounts as Landscape Hawaii continues to receive unwarranted delinquency notices that have impacted Landscape Hawaii's credibility with its Bond and insurance companies.

The State voluntarily allowed Candy Lake and the Sylvester Foundation to remain on the property unsupervised six months beyond her given eviction date of June 2004. A raid ultimately removed her in March 2005. At the time of the auction and eviction action, Landscape Hawaii received numerous phone calls and threats regarding the impropriety of removing the animal sanctuary. I took many of the calls myself and explained the reality of the situation at the sanctuary with regards to drugs being sold there, discovering drug paraphernalia in the domiciles, and finding fighting chickens 'housed' there for a fee. In fact today we are still plagued by individuals who either try to buy or sell drugs in what they believe is a safe haven for drug business, the former animal sanctuary.

After the eviction, the State virtually abandoned the property for over a year and did nothing to facilitate the transfer of the property to Landscape Hawaii. Instead, the State

EXHIBIT "C"

issued a Right-of-Entry permit in March 2006: the Right-of-Entry permit not issued for the sake of Landscape Hawaii but in response to the vandalism and further damage to the property and buildings while the State remained in control of the property. The property was finally transferred to Landscape Hawaii in September 2006. Why the original transfer did not occur two years earlier in September 2004 is still unclear and the question still remains unanswered. Nevertheless, due to the fault of the State in not upholding the conditions of the auction agreement and Lease agreement and not transferring the property in 2004, Landscape Hawaii has now incurred additional and unexpected expenses along with lost revenues of approximately \$420,000 for the last three years. In the meantime, in good faith from Landscape Hawaii, the State has received a payment for deposit (6 months lease rent in 2004) as well as an additional 6 months of Lease rent (February 2007) for an approximate total of \$36,500.00. Along with those payments, Landscape Hawaii paid fees for the cost of documents, the conveyance tax, and advertising costs related to the Notice of Sale document. Landscape Hawaii continues to hold a Bond on the property, pay for insurance, and also pays City taxes for the domiciles on the property.

The removal of the meter box that occurred again while the State was in control of the property and Candy Lake was still there is another major obstacle for Landscape Hawaii's business operation. The domicile on the first level had the meter box and electricity – this was noted during walkthroughs prior to the auction. Also noted during the walkthroughs was the fact that there was a family living in the domicile, indicating that the building was in a livable condition in 2004. When Landscape Hawaii was finally given access to the property in 2006, the condition of the buildings was no longer what was viewed during the walkthroughs and not what we were led to believe we were bidding on at auction. Through no fault of Landscape Hawaii, the domicile now sits in an abandoned condition, i.e. without a meter box and electricity, vandalized, missing windows and screens, and needing major renovation. The State must act responsibly and fairly and return the property to the condition observed during the walkthroughs. Without a meter box and electricity, an effective business operation cannot proceed.

The incorrectly installed perimeter fence that virtually obstructs access to four useable acres has still not been addressed. At a meeting at Rep. Ito's office on May 9, 2007, you suggested that we correct the fence issue ourselves. We would agree to that, however, before work begins, we would like to receive a written agreement that stipulates that Landscape Hawaii will be compensated by way of lease credit for the material and work expenses. Also, there should be credit given for the portion and time that the area (approximately 20%) remains unavailable to Landscape Hawaii due to the incorrect fencing of February 2006.

Also, in addition to the incorrect fencing of the four acres, there is the issue of the missing 50' chain-link return fence abutting the lower gate. We would prefer that the State remedy that portion of the fence as soon as possible.

There was some State activity on the property in June and July 2007, as State workers demolished and removed abandoned sheds and construction material from the property.

We look forward to more activity from the State in 2008. Aside from that, little else was done to correct the remaining problems. Along with the immediate concerns already mentioned, the Matson container is still parked on the first level awaiting removal and other additional junk is scattered throughout the property.

Charlene, before we went to auction, I was advised by an agent of the State that to get action on the property after the auction, it would be necessary to sue the State. I decided not to proceed via a lawsuit but instead I gave the State the benefit of the doubt and assumed that the State would live up to its obligations and promises. I have been patient but financial losses are prompting me to reconsider. The corrected billing amount and scheduling to the Fiscal Department should also take into consideration the added expenses incurred by Landscape Hawaii to get the property up and running while we address these issues with the State.

I thank you for your attention and help in these matters and I await hearing from you. Please feel free to e-mail me at kyle@landscapehi.com or or office 836-5332 ext-24.



Kyle Ushijima, President
Landscape Hawaii, Inc.

cc: Gov. Linda Lingle
Lt. Gov. Duke Aiona
Laura Thielen, Chairperson
Rep. Ken Ito
Sen. Fred Hemmings
Rep. Tommy Waters
Waimanalo Ag. Association

WHAT THE STATE AGREED TO DO

- Tear down one domicile that was beyond repair or renovation
- Tear down barn/stall structure deemed dangerous and unstable
- Fence property perimeter; in addition, install 6' high, 50' chain-link return fence on the first level. The original fencing was removed to allow State contractors access to the property.
- Clean up and make available two buildings on the property for assumption by Landscape Hawaii (these two buildings were lived in at the time of the initial walkthroughs and after the auction was finalized)
- Remove stockpiles (2) of dumped items from prior lessees
- Remove Matson container
- Clean up and remove debris in areas and remove junk, i.e. barbed wire, 50-gal. drums, old tires, discarded lumber and telephone poles from the four levels of the property

WHAT THE STATE HAS DONE

- Tear down one domicile that was beyond repair or renovation
- Tear down barn/stall structure deemed dangerous and unstable
- Incorrectly fence a portion of the property disallowing access to approximately 4 (four) acres of useable area; ignored chain-link return fencing on first level.
- Abdicate responsibility for the two remaining buildings on the property
- Ignore the stockpiles and allow grass and shrubbery to grow over the stockpiles making it more difficult to identify and remove the rubble
- Ignore the Matson container on the property
- Ignore the junk that still remains scattered throughout property

WHAT LANDSCAPE HAWAII HAS DONE

- Pay the entire Lease rent amount for the use of the property despite not having access to the entire parcel (less 4 useable acres)
- Pay Lease rent amounts that do not correspond to the Lease payment schedule
- Receive multiple Delinquency notices without reason.
- Waited almost two years and then assumed unexpected expenses and downtime to get the property up and running due to the fact that the property had "gone to weed" from the more than two years that it was neglected by the State.
- Assume the A-frame structure and reconstruct the domicile to make it livable, i.e., new roof, clean and gutting the inside to remove the mold, flooring, and walls that had deteriorated due to abandonment, neglect, and constant vandalism.

WHAT NEEDS TO BE DONE

- Renovate and repair the two-story building i.e., replacing the broken windows, stolen screens, missing doors and deal with the malicious vandalism and general deterioration of the building. Also deal with the meter box issue – a meter was seen and was in working order during the walkthroughs and up to and after the bidding was conducted and finalized. The family living in the two-story house vacated at the end of August 2004, at which time the meter was still in the building. The meter box disappeared while the former Lessee was allowed to remain on the property during the 9 extensions given to her (evicted late March 2005). The meter box is a major obstacle for Landscape Hawaii as HECO considers the property abandoned and does not 'grandfather' the structure for electricity. The result is that now authorization may be required from the Building and Permitting Dept. to bring the building to Code as a functional facility office for Landscape Hawaii.
- Correct the fencing and include the surveyed area to make the entire property accessible to Landscape Hawaii. As suggested by Sun Systems representative - add an additional enclosed area to the already established fence line rather than removing the existing fence line. Join the two areas with a livestock gate.
- Add the agreed upon 50' chain-link return fence abutting the lower gate area. Repair the A-Frame chain-link fence front gate post
- Straighten out the agreed upon date for Lease commencement taking into consideration the Right-of-Entry permit dates and lease payment exemption for said period.
- Immediately remove Delinquency notices on file for Landscape Hawaii.
- Within two working days, send a letter to Landscape Hawaii stating that the Delinquency notices were incorrectly sent; Landscape Hawaii can then forward this letter to necessary parties.
- Advise the City of the fact that there are two domiciles on the property rather than three as Landscape Hawaii is still being taxed for three.
- Remove the Matson container.
- Remove the stockpiles and additional junk/rubble scattered on the property.

ADDITIONAL INFORMATION

- During the initial walkthroughs, those interested in bidding on the property were not allowed to walkthrough the A-frame or view the entire upper level as the Lessee would not agree to a walkthrough. Viewers were prohibited from viewing the perimeter of the property. An abandoned shed not viewed at the time now remains on the property.
- What Landscape Hawaii ultimately received in 2006 is not what was seen during the initial walkthroughs of 2004.
- Although without merit and good reason, Default Notices were sent out by the State to Landscape Hawaii. These Default Notices, now on record for Landscape Hawaii have affected the credit history and worthiness of Landscape Hawaii; this

has negatively impacted the ability of Landscape Hawaii to lease State property at Kapalama Military Reservation, State Harbors Division. The Default Notices have also jeopardized the credibility of Landscape Hawaii with its Bond Company, First Insurance.

EXHIBIT 2

**MINUTES FOR THE
MEETING OF THE
BOARD OF LAND OF NATURAL RESOURCES**

DATE: FRIDAY, JULY 13, 2012
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 9:07a.m. The following were in attendance:

MEMBERS

William Aila, Jr.
Dr. Sam Gon

Jerry Edlao
Rob Pacheco

STAFF

Russell Tsuji/LAND
Barry Cheung/LAND
Paul Conry/DOFAW
Carty Chang/ENG

Sam Lemmo/OCCL
Dr. Bob Nishimoto/DAR
Curt Cottrell/PARKS

OTHER

Cindy Young, Deputy Attorney General (AG)
William Yuen, D-3
Ross Smith: M-1, M-2, M-3
Peter Young, D-2
Wray Kondo, D-13
Cindy Cower, D-13
Jeff Overton, D-9
Don Kitaoka, D-9
Nicole Ferguson, F-2

Michael Tom, D-11
Philip Leas, D-10
Jack Lockwood, K-1
Randall Ishikawa, D-16
Kyle Ushijima, D-13
Alethea Rebman, D-9
Peter Schall, D-9
Eric James, D-15
Keith Avery, D-14

{NOTE: Language for deletion is [bracketed], new/added is underlined.}

Item A-1 June 8, 2011 Minutes

EXHIBIT“ 2 ”

**United States of America, Federal Aviation Administration's
Haleakala Peripheral Hi Site and the University of Hawaii's
Haleakala High Altitude Observatory site, Kula, Makawao, Maui,
Tax Map Key: (2) 2-2-007:008**

Mr. Tsuji indicated that item D-16 is a request to amend the easement area on the ground to 2 Executive Orders (EO) and noted that Randall Ishikawa from the U.H. General Counsel's office was here.

Unanimously approved as submitted (Edlao, Gon)

Item D-13 Deny the Request for Rent Reduction and Consider Request for Mutual Cancellation of General Lease No. 5708, if appropriate; Landscape Hawaii, Inc., Lessee, Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-027:016

Mr. Tsuji conveyed some background on item D-13 regarding the eviction of Candy Lake from the State property, needing to clean the property and there was some agreement entered into that allowing for a portion of the rent to be reduced for the Lessee because of the condition of the site. Staff has worked with the Lessee over the years and there are disputes that can't be resolved. Their complaint or request is in the submittal. Staff's recommendation is to deny the request for the rent reduction that the Lessee currently has and consider a request for a mutual cancellation of the lease. It doesn't appear that they can come to terms that would be appropriate for an auction lease. Normally it doesn't allow any modification of anything. Not even the rent according to the AG's office.

Member Gon asked what procedure for a mutual cancellation would be to take it up to auction again. Mr. Tsuji confirmed that they would have to evaluate and will come back to the Board noting that the Lessee and counsel was here.

Wray Kondo introduced himself as the attorney for Landscape Hawaii, Inc. and introduced CEO, Kyle Ushijima and Cindy Comer the resident care taker at Waimanalo. He testified that their position is what is in staff's submittal does not fully and accurately state the summary of the facts and they want an opportunity to talk to the AG's office to review the situation since 2004 when the bid auction was consummated up to the present time. His client still desires to consummate the lease in accordance with the terms of the bid auction packet, but he has not been provided with what was represented to him in that bid auction packet up to the present time. They want to avoid any contested case hearing, but he requested a contested case hearing to preserve that right. Before that they want to present their side of the facts and have the opportunity to discuss with the AG's office to come to some kind of resolution to prevent a contested case hearing.

Member Pacheco asked whether they had a different timeline from that presented in the submittal. Mr. Kondo confirmed that.

Kyle Ushijima testified that staff's response was to cancel the lease as is the condition noting that they had a meter box for electricity for their office on the first level which they wanted to

develop, but can't without it. When they did the walk through there was electricity and he was promised that the meter box would be restored. All his actions or non-actions were the instructions by the DLNR land agents. He just followed directions and was told not to pay until the electricity was restored and to talk to the AG's office. Mr. Ushijima kept meeting with them and every time he got a bill they told him not pay it. He was just followed instructions not knowing what else to do. The fence is not an issue; the reduction of the lease (the 20%) is not an issue because he was told 20% of his property was cut off by fencing that he didn't ask for fencing. It was put up by DLNR due to vandalism because they hadn't occupied the property for 2 years. The hazardous material, contamination to the soil is a liability issue and they were going to remove the 65 gallon drums and that was ok. They told him 20% was cut off by the fencing that they didn't follow the marked lines and they said to put it in there and they will offer him a reduction and that was fine.

Cindy Comer testified reiterating that the auction occurred in 2004, but 2006 was when Landscape Hawaii assumed the property. There was a letter sent that they would assume soon, but no response to the letters they sent for months during that time. Because of the vandalism staff gave Landscape Hawaii a 6 month right-of entry permit to the property and could not take or leave any personal items on the property which is hard to set up a business. She related the damage done in 2 years while under the State's control.

Mr. Ushijima said Candy Lake accused Bob Medeiros from DLNR of stealing the (power) box and Bob was irate with Candy Lake. HECO records show they have electricity there. Mr. Ushijima worked with Charlene Unoki and Caesar Santos who instructed not to pay.

Ms. Comer said during their meetings with DLNR they were assured to get electricity restored. Mr. Ushijima related dates where that were discussed the Chairperson and a representative. Ms. Comer said they were told to hold on until everything was reconciled. Mr. Ushijima said he is not looking for rent reduction. He just wants it the way it is with electricity.

Chair Aila asked what would be resolution for you. Mr. Ushijima said electricity and as is.

Chair Aila asked your impression way back when the bid was done as is included the electricity and water. Mr. Ushijima said yes based on the walk through with Charlene Unoki. Ms. Comer said the bid included utilities and assumed electricity.

Member Pacheco asked what it would take to get electricity there now. Mr. Ushijima explained that HECO has a new code that the run is too long and they would need another pole. Ms. Comer said once the electricity was cut off for 2 years the building is considered abandoned and the building would have to be brought up to code.

Member Pacheco asked whether they were using the property since then. Mr. Ushijima said they are trying to grow some plants on one of the levels using potable water by hand. After Member Edlao inquiry Ms. Comer said there is water. Member Edlao said you just need electricity and Mr. Ushijima said for the office, security and a warehouse.

Member Edlao asked whether they feel the State should be installing the utilities and Mr. Ushijima said yes that they said they were going to do that.

Member Pacheco asked the back rent that the Department is claiming the \$127,750 and you quit paying rent because you were told by the Department not to pay rent until what was resolved. The billing date and that seemed to be resolved. The electricity is the only thing. Mr. Ushijima acknowledged that. Member Pacheco asked it's been 5 years to get electricity and have you considered that once you have the electricity in that some kind of reckoning on the back lease on this property or are you claiming you don't know anything for those interim years because you weren't able to use it. Are you prepared to pay the back rent? Mr. Ushijima said they were told not to pay by Charlene Unoki.

Member Gon queried whether there was anything written stating that or was it all verbal. Mr. Ushijima confirmed everything on the phone he wrote down following up with letters after their meetings. Member Edlao asked whether he had copies of those letters to Charlene saying he is not to pay rent. Mr. Ushijima said yes, but it is not in the submittal. A lot of things are not in the submittal. Mr. Kondo confirmed a lot a correspondence is not included in the packet. Where Ms. Comer questioned wouldn't staff have it here in their office.

Chair Aila asked you're asking us to defer this item until the evidence you have is presented to the AG's office. Mr. Kondo confirmed that they want to try to resolve it without going to a contested case hearing because there is no request for a mutual cancellation of the lease. They want what was promised to them.

Member Edlao said he would be inclined to defer this item and have them work it out with the AG's office and the Department and hope to resolve this. He is concerned with the past rent and wants to resolve that.

Chair Aila asked when did they occupy the property or start growing plaMr. Ushijima and Ms. Comer said 2007. There was some discussion that Mr. Ushijima paid for the bid and another payment of \$18,000 when they occupied the property.

Member Edlao asked if he had another property and Mr. Ushijima described where his warehouse is.

Mr. Tsuji said he doesn't think he ever met with them. What bothers him is they normally go to auction and it's done, sign the lease and take it as is and they make no promises other than what is on the documents. It is their understanding what was documented in letters to them by certain staff and not knowing whether responses claiming to that was true. Mr. Ushijima and Ms. Comer showed their letters. Mr. Tsuji does know that they claimed certain allegations of promises were made and he couldn't understand how that could have happened. It's clear in the law that when you do a public auction, here it is and that is it. Take it where it is. You can't change anything, not even the rent.

Member Pacheco asked why has it taken 5 years and \$127, 250 in back rent for this to come before the Board. Mr. Tsuji said Barry Cheung (Land Division staff) inherited this upon Charlene (Unoki's) retirement and Mr. Tsuji doesn't think she has the authority to promise

certain things inconsistent with the terms of the package. Perhaps this matter should be litigated because he can't believe it. Once you go to auction that is it and we've had instances that if you don't want to take it you don't have to sign it.

Member Pacheco asked are you disputing that it wasn't the State's responsibility that it was 2 years before the people could take the property. Mr. Tsuji said he couldn't understand why that would happen. If it was him if you don't want the lease, cancel it. Member Pacheco referred to the submittal and the documentation from their letters looks bonafide from the time they got the lease that the State didn't give them permission to get into it because they got that right-of-entry and that speaks volumes. If we already gave them permission to take the property, why would we give them a right-of-entry 18 months into it? Mr. Tsuji said some people notwithstanding the terms and conditions of the bid package agreed to use State resources to do certain things and he doesn't know how that was done. Normally, that is not allowed in the bid package.

Chair Aila asked if in the bid package we indicate it comes with electricity and they signed based upon that subsequently, the electricity is not there are we responsible for putting the electricity in. Mr. Tsuji said if you make that representation.

Member Pacheco said yes you say the property as is ok, but and described going out into the market place for a place to live signed a lease with the landlord and the landlord says come back in 2 years and it has substantially changed. There is something wrong there. Why is it taking 5 years for this back rent to come forward? Was it sitting on Charlene's desk? Mr. Tsuji said apparently. Member Pacheco said that tells him that something is not right and if they weren't paying the rent it would be brought to us as a default. Is it characteristic of your division to have arrears go that far before bringing before the Board? Mr. Tsuji said they have 3 years default and they do have a list of delinquencies come out every month with comments of working with the tenant. If staff cannot work with the tenant any more, then they go to the next step which is penalty and notice of default. If nothing is resolved it goes to the Board for action. Unfortunately, Barry Cheung who now runs the Oahu District picked up this file and was not involved in the alleged discussions and meetings. If those occurred that is not standard practice and cannot do that.

Member Pacheco said what he is asking is staff has this situation what communications has gone on between the Lessees and Division. Mr. Tsuji asked since after Charlene left and Member Pacheco confirmed that. Barry Cheung said he sent them a draft submittal for comments and he didn't receive any further comments for today's agenda about a month or 2 ago.

After Member Edlao's inquiry if that was the first communication. Mr. Cheung said he received this case about a year ago, started looking into the old files and that he was part of the eviction committee prior to the auction and knew the condition of the property. He was the one that walked through the property with them. Mr. Cheung asked Bob Medeiros about the allegations and staff met that they couldn't afford to waive the rent where they decided to bring this to the Board for disposition. Member Edlao asked when they did the actual walk through there was no electrical box. Mr. Cheung said a year ago, no that he did look at the location of it. He even referred to his old file from the 2005 eviction and couldn't find any conclusive evidence of the photos they took on whether there was a box or not.

Member Pacheco noted that the lady that was there before did have electricity. Mr. Cheung said there are 3 levels and the box they want on the lowest level. The lady was on the upper level. There was some discussion about a structure and electricity.

Member Pacheco said we don't have enough information here and encourage staff to sit down with the Lessees and look at their documentation and try to get a better picture of this. Find out if there were insertions made from our Department where appropriate or not. If they were made we have some responsibility toward those...we have legal responsibilities. Mr. Tsuji said to check with the AGs on whether they can make concessions here. Chair Aila pointed out that is not the question here. We don't even have enough information to ask that question. He would recommend we defer this matter to get the rest of the information to make a determination. He would like more information of what happened in the past. With your indulgence I would ask for a deferral of this recommendation to get the rest of the information on what is really out there. Mr. Tsuji said it's what we have in the files that it is hard when people are no longer with us.

Member Edlao said he agrees with Russell, but there are other things coming into play that we want what's fair. What has happened so they can make a better decision? Mr. Tsuji related another issue where the Deputy AG said they couldn't do any of those changes and not to sign it. Chair Aila said because of extenuating circumstances and we will bring documents to the AG's office if we have to.

Member Pacheco said he wants to know what happened during that 2 year gap when the lease was approved. Mr. Tsuji asked when did they sign it. Mr. Kondo described what happened and the problems of getting the tenant out. Mr. Tsuji asked they auctioned the property while the tenant was there. Mr. Kondo confirmed that which is why the right-of-entry due to the vandalism. Mr. Tsuji shook his head in disapproval.

Deferred (Edlao, Gon)

Item D-9 Denial of Request for Contested Case Hearing by Alethea Rebman; Amend Prior Board Action of March 9, 2012, Item D-7 by Adding the Completion of the Environmental Assessment regarding Quitclaim of State's Interest, if any, in Kalia Road to the City and County of Honolulu, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-6-008:adjacent to 001

Mr. Tsuji reminded the Board of the previous Board meeting and related some background regarding the Highways Act which is public roads under the County's jurisdiction. This one was laid out on a map, but not really on the ground. This is the disposal of the remnant to get the proceeds from it. What staff brought the last time was to consummate the County's plan which was always under the County's jurisdiction by operation of law and pursuant to the Act. Alethea Rebman contested because we had claimed an exemption and an EA was required. After talking to counsel a full EIS was done and included the road site that was being disposed by the City once they were done with the quit claim deed and ultimately purchased by Hilton. The EIS was filed at the Office of Environmental Quality Control, public noticed, public meeting and is a valid EIS. Staff wrote back with advice from the AG's office explaining that situation with Ms.

EXHIBIT 3

August 6, 2012

VIA HAND DELIVERY

Ref. No.: GL 5708

William J. Aila, Jr.
Chairperson
Board of Land and Natural Resources
Department of Land and Natural Resources
Land Division
1151 Punchbowl Street, Room 220
Honolulu, Hawaii 96813

Re: July 13, 2012 Agenda Item D-13
Deny the Request for Rent Reduction and Consider Request for Mutual
Cancellation of General Lease No. 5708, if appropriate, Landscape
Hawaii, Inc., Lessee, Waimanalo, Koolauoko, Oahu, Tax Map Key: (1)
4-1-027:016

RECEIVED
LAND DIVISION
2012 AUG - 7
AUG 13 10:33
DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

Chairperson William J. Aila, Jr.:

Thank you for the opportunity to submit this position statement on behalf of LandScape Hawaii, Inc. ("LHI"), the lessee of General Lease No. S-5708, relating to that certain State property identified as Lot 33, Waimanalo Agricultural Subdivision, Waimanalo, Koolauoko, Oahu, Tax Map Key: (1) 4-1-027:016; Area 19.61 acres, more or less (hereinafter referred to as "**the Subject Property**").

This matter was listed as Item D-13 on the BLNR July 13, 2012 Agenda and was considered at the July 13, 2012 Board Meeting. At the end of the presentation, questions remained and this matter was deferred. In his July 16, 2012 letter, Barry Cheung, District Land Agent, informed Kyle Ushijima, President and CEO of LandScape Hawaii, Inc. that the matter was deferred and he will write again at a later date regarding the review of the case by the Department of the Attorney General. See attached **Exhibit A-1**.

Most of the information being provided in this position statement were previously submitted to the DLNR and were attached to Item D-13 to the BLNR July 13, 2012 Agenda as Exhibit B [February 21, 2007 to Peter T. Young and exhibits] and Exhibit C [January 11, 2008 letter to Charlene Enoki and exhibits]. Additional back up documents include notes prepared by Cindy Comer and Kyle Ushijima when the events occurred and letters and memos prepared by third parties when the documents are dated.

EXHIBIT "3"

I. Background

A. Prior Tenant: Ms. Candy Lake and her daughter, Ms. Tiffany Fortin.

As background, in relevant part, the Subject Property was previously leased to Ms. Candy Lake and her daughter, Ms. Tiffany Fortin. Ms. Candy Lake resided on the Subject Property and her daughter, Ms. Fortin lived on the mainland. The lease term was to expire on August 9, 2004 and in a June 2, 2003 letter to Barry Cheung, Ms. Candy Lake requested a new lease to be issued to her organization, the Sylvester Foundation for animal shelter purposes. See attached **Exhibit 1**, which is the August 8, 2003 DLNR Staff Recommendation to the Board to deny Ms. Candy Lake's request and approve the public auction of the Subject Property for agricultural purposes. The following entry appears under Property Characteristics – "Utilities – Yes". **Exhibit 1 at 2.**

B. Bid Auction June 30, 2004 and General Lease No. S-5708

1. On April 16, 2004, Chairperson Peter T. Young signed the Notice of Sale [**Exhibit 2**] and Public Auction Bid Packet [**Exhibit 3**] for four (4) properties, including the Subject Property.

2. The Notice of Sale set the upset minimum annual lease rental at \$4,764.00 per annum. See Item III. of **Exhibit 2**.

3. Cindy Comer recalls she had 3 walkthroughs of the Subject Property, May 24, 2004, May 28, 2004 and June 25, 2004.

4. Kyle Ushijima recalls he was on the latter two walkthroughs on May 28, 2004 and June 25, 2004.

5. During the walkthroughs, there were three (3) dwellings, the A-frame¹ on the top level that was occupied by Ms. Candy Lake, the Clubhouse² on the middle level which was used as an animal shelter, and a house on the first level that was rented to a tenant.

6. During the walkthroughs, both Ms. Comer and Mr. Ushijima recall seeing electric wires, telephone lines and water being provided to the house on the first level.

* 7. **Only the house on the first level is involved with the claim of the missing meter box and lack of electricity.**

¹ It is believed that the A-Frame house was moved onto the Subject property by Ronald Rewald, and his parents lived in the dwelling, at a time when Nolan George was the lessee.

² It is believed that the Clubhouse was built by Ronald Rewald, who also built a polo field on the middle level of the Subject Property.

8. LHI timely hand delivered and filed its Application.

9. At the auction held on June 30, 2004. LHI submitted an annual bid of \$36,500.00, payable in semi-annual installments of \$18,250.00, was the winning bidder and paid the amount of \$4,764.00 per annum. See ¶ 10. 3. at page 6 of **Exhibit 3**.

10. On July 1, 2004, LHI complied with the terms of payment and paid the balance of the semi-annual payment of \$18,750.00. See ¶ 10. 4. at page 6 of **Exhibit 3**.

* 11. LHI understood the Subject Property was to be leased "AS IS" and understood that to mean as observed during the walk through inspections on the Subject Property before the public auction held on June 30, 2004. See ¶ 5 at page 5 and ¶ 13 at page 7 of **Exhibit 3**.

* 12. LHI understood "AS IS" to mean the three (3) dwellings in habitable condition, meter box with electricity, telephone line and water provided to the house on the first level, vegetation reasonably maintained, all light fixtures and off-on switches and outlets intact, plumbing and plumbing fixtures intact.

* 13. The commencement date for General Lease No. S-5708 for the Subject Property was to be sixty (60) days after the date of the sale on June 30, 2004, which was September 1, 2004, with the proviso that the Chairperson may amend the commencement date for good cause. See ¶ 11 at page 7 of **Exhibit 3**.

* 14. In a letter dated August 27, 2004, LHI submitted General Lease No. S-5708 to the DLNR. See attached **Exhibit 4** Transmittal Letter.

* 15. General Lease No. S-5708 contains the signatures of Kyle K. Ushijima signed on August 24, 2004 on behalf of LHI, Chairperson Peter T. Young on behalf of BLNR and Approval As To Form signed by a Deputy Attorney General on July 30, 2004. See attached **Exhibit 4** which are the relevant pages of General Lease No. S-5708.

* 16. Although General Lease No. S-5708 was signed in August 2004, the start date, term of the lease and the dates payment were due on page 1 were not filled in and it is assumed that was because Ms. Candy Lake was still in possession of the property. See attached **Exhibit 4** which are the relevant pages showing the filled in dates in 2006.³

II. General Lease No. S-5708 and Efforts to Gain Possession

³ The start date, term of the lease and the dates payment were due was subsequently filled in on or about March 23, 2006 and LHI was provided a copy of General Lease No. S-5708 filled in with the handwritten terms.

A. Ms. Candy Lake and the Sylvester Foundation Remained a Hold over Tenant Until Being Evicted on March 3, 2005.

1. LHI communicated the urgency of taking possession of the Subject Property [See attached **Exhibit 4** Transmittal Letter], however, due to the holdover by Ms. Candy Lake and the Sylvester Foundation and communications from her influential supporters, DLNR did not allow LHI to move onto the Subject Property on September 1, 2004.

2. In his October 12, 2004 letter, Mr. Ushijima asked Governor Linda Lingle for assistance to enable LHI to move onto the Subject Property and pointing out that in June 2004, the Board told Ms. Candy Lake she would have to leave the property when her lease expired in August 2004. See attached **Exhibit 5**.

3. On November 5, 2004, Governor Linda Lingle responded to LHI advising that her staff are working with the Sylvester Foundation to vacate the Subject Property. See attached **Exhibit 6**.

4. On or about February 24, 2005, former Representative Eve Anderson, a member of the Waimanalo Agricultural Association sent an email to Sally Harper of Governor Lingle's staff explaining that she had been referred to Ms. Harper by Ms. Linda Smith also of Governor Lingle's staff and Ms. Anderson explained the situation involving Mr. Ushijima and his business, Mr. Ushijima and the DLNR, and problems caused by Ms. Candy Lake's holdover tenant status.

5. On March 3, 2005, about 30 DLNR personnel, police and others evicted Ms. Candy Lake and the Sylvester from the Subject Property, which was reported in the March 4, 2005 Honolulu Advertiser. See attached **Exhibit 7**.

* 6. At this point on March 4, 2005, after the eviction:

- a. the Subject Property was not what Mr. Ushijima bid on and what he understood he was going to get "AS IS".
- b. The three (3) dwellings were vandalized, trashed and not in habitable condition, the meter box may have been removed, there was no electricity, telephone line or water provided to the house on the first level, vegetation was overgrown and not reasonably maintained.
- c. There were large amounts of trash, construction material, stockpiles of debris, tires, barbed wire, corrugated metal, a Matson container that was too rusty to be moved and created a hazard, broken bottles from drinking, missing windows, screens and damage to walls caused by vandalism, condoms, needles and syringes from drug activity on the Subject Property.

* 7. As a result, Charlene Enoki, DLNR Land Manger said the DLNR would clean up the Subject Property before it was turned over to LHI and LHI could move onto the Subject Property.

*** 8. According to Allison at HECO [548-7311], regarding the house on the first level, the electricity was turned off in July 2004 by Ms. Candy Lake's tenant and HECO removed the electric lines in December 2004.

B. After Eviction on March 3, 2005 Until February 2007 DLNR Did Not Clean Up, Remove and Renovate as Promised.

1 During the remainder of 2005, DLNR spent time getting bids for roofing, house renovation, cleaning up, doors, windows, ceilings walls and installing fencing based on discussions with Cecil Santos and Charlene Enoki as detailed in notes prepared by Cindy Comer between June 18, 2004 to June 19, 2006. See attached **Exhibit 8**.

2. Sometime in late 2005, the Clubhouse on the middle level, one of the three (3) dwellings observed during the earlier walk throughs was demolished and removed. The clubhouse was a large [30' X 60' ?]building with a large observation deck overlooking the polo fields and constructed with Koa posts and cabinets.

* 3. Clean up and fix up was slow and on March 10, 2006 Chairperson Peter T. Young sent LHI a Right-of-Entry Permit for Maintenance of State Land for a term of March 10, 2006 to September 10, 2006 and waived the rent for the term. See attached **Exhibit 9** at ¶ 1 and ¶ 14.

4. The Maintenance Right of Entry was intended to prevent further damage from vandalism. See attached **Exhibit 9** first paragraph.

5. LHI was not able to use the Subject Property during the term of the Right-of-Entry Permit for its business due to the were large amounts of trash, construction material, stockpiles of debris, barbed wire, corrugated metal, a Matson container that was too rusty to be moved and created a hazard, broken bottles from drinking, vandalism resulting in missing windows, screens, damage to walls and could not store its equipment or personal property at the Subject Property. See **Exhibit 9** at ¶ 10.

* 6. Clean up and the installation of fencing continued between October 1 2006 to February 17, 2007 and DLNR was contacted several times as noted in a log prepared by Cindy Comer. See attached **Exhibit 10**.

* 7. On October 13, 2006 Mr. Ushijima sent a facsimile memo to Charlene Enoki discussing the DLNR billing for the period Oct 1, 2006 to March 31, 2007. While the lease was to start on September 1, 2006, while LHI was continuing clean up, LHI discovered that the State failed to clean up and remove the stockpiles of debris, barbed wire, corrugated metal, tires, corrugated metal, etc, and LHI asked Charlene Enoki and the DLNR for assistance in the clean up and removal of the above. See attached **Exhibit 11**.

* 8. On February 2, 2007, LHI made its second payment of \$18,250.00 with the expectation that the DLNR would expedite its clean up and give its attention LHI's situation. See attached **Exhibit 12**.

C. February 2007 to December 2007 Assistance From Chairperson Peter T. Young and Representative Ken Ito

* 1. On February 21, 2007, Mr. Ushijima sent a letter to Chairperson Peter T. Young summarizing the situation from May/June 2004 to February 2007, which provides more detail than this position statement. See attached **Exhibit 13**.

2. In the December 2006 entry of **Exhibit 13** at page 6, Mr. Ushijima noted that, Charlene Enoki told Mr. Ushijima not to pay the lease rent until she straightens the matter with the AG's office and again in January 2007, Ms. Enoki advises not to pay the rent.

3. At page 7 of **Exhibit 13**, Mr. Ushijima notes the stolen meter box and notes "*** what we have today is not what we were led to believe we would assume two years ago, i.e. condition of property and size of property.".

4. Between February 22, 2007 and May 9, 2007, four meetings are held with DLNR, Representative Ken Ito's office and Mr. Ushijima and Cindy Comer to discuss the problems. See attached **Exhibit 14**.

5. On March 27, 2007, a meeting was held with Chairperson Peter T. Young, Representative Ken Ito and George Okuda and **Chairperson Peter T. Young states he is surprised by the problems as he has not received any information with regards to the Subject Property**. See attached **Exhibit 14**.

** 6. **Chairperson Peter T. Young and Charlene Enoki advise Mr. Ushijima not to pay until the issues are resolved**. See attached **Exhibit 14 and 15**.

7. Even after the March 27, 2007 meeting and being advised by Ms. Enoki and Chairperson Peter T. Young not to pay, on April 20, 2007, a Notice of Default is sent to LHI. See attached **Exhibit 15**.

8. On May 1, 2007, Chairperson Peter T. Young is replaced by Interim Director Allan Smith and on July 25, 2007, Mr. Smith is replaced by Laura Thielen as the interim Chairperson.

9. In June and July 2007, State workers demolished and removed abandoned sheds and construction material from the property. See **Exhibit 17** at page 2.

10. On December 18, 2007 Mr. Ushijima and Charlene Enoki discuss the status and Charlene Enoki advises Mr. Ushijima no further payments need to be made until a list of items are completed by the DLNR.

11. Charlene Enoki agreed to call back in 2 weeks to report on progress [See attached **Exhibit 16**], but no call back was received.

D. January 2008 to December 2008 Communications with DLNR

1. On January 11, 2008 Mr. Ushijima sent a letter to Charlene Enoki summarizing the history of the Subject Property, the status and, among other things, requests that the meter box and electricity be restored. See **Exhibit 17**.

- a. "At this time, the immediate concerns are: the Lease rent amounts do not correspond to the Lease payment schedule and therefore generate unwarranted delinquency notices, the matter of a missing meter box, and the incorrect fencing of the property."
- b. After the eviction, the State virtually abandoned the property for over a year and did nothing to facilitate the transfer of the property to Landscape Hawaii.
- c. Instead, the State issued a Right-of-Entry permit in March 2006: the Right-of-Entry permit not issued for the sake of Landscape Hawaii but in response to the vandalism and further damage to the property and buildings while the State remained in control of the property.
- d. The property was finally transferred to Landscape Hawaii in September 2006.
- e. **The removal of the meter box that occurred again while the State was in control of the property and Candy Lake was still there is another major obstacle for Landscape Hawaii's business operation.**
- f. The domicile on the first level had the meter box and electricity – this was noted during walkthroughs prior to the auction.
- g. Also noted during the walkthroughs was the fact that there was a family living in the domicile, indicating that the building was in a livable condition in 2004.
- h. **When Landscape Hawaii was finally given access to the property in 2006, the condition of the buildings was no longer what was viewed during the walkthroughs and not what we were led to believe we were bidding on at auction.**

- i. Through no fault of Landscape Hawaii, the domicile now sits in an abandoned condition, i.e. without a meter box and electricity, vandalized, missing windows and screens, and needing major renovation.
- j. The State must act responsibly and fairly and return the property to the condition observed during the walkthroughs.
- k. **Without a meter box and electricity, an effective business operation cannot proceed.**

2. This January 11, 2008 letter was sent Certified Mail, Return Receipt Requested to Charlene Enoki, Laura Thielen, DLNR Chairperson, Governor Linda Lingle, Lt. Governor Duke Aiona, Senator Fred Hemmings, Representative Ken Ito, Representative Tommy Waters and the Waimanalo Ag Association. See Certified Mail, Return Receipt with **Exhibit 17**.

3. On February 6, 2008, Mr. Ushijima spoke with Charlene Enoki on the phone regarding the electric meter, return fence and container removal to get the lease going and until this happens, the lease will not start as noted in Mr. Ushijima's notes. See attached **Exhibit 18**.

4. On June 18, 2008, Barry Cheung called and advised the January 11, 2008 letter was lost, requested it be re-sent and it was re-sent on June 23, 2008 and DLNR confirmed the letter was logged as received on June 24, 2008. See Cindy Comer handwritten notes with **Exhibit 17**.

5. In July 2008, the DLNR completed 50 feet of chain link fence, removed piles of debris, demolished and removed a Matson container. See Cindy Comer notes attached as **Exhibit 14**.

6. During October 2008, Mr. Ushijima called and left messages for Charlene Enoki to schedule another meeting, but did not receive any call back or letters from the DLNR.

7. In November 2008, the DLNR secures and finalizes the perimeter fence that LHI had been waiting since November 2005 to be completed. See Cindy Comer notes attached as **Exhibit 14 and Exhibit 22**.

8. On Monday, November 3, 2008, Barry Cheung called and said the file was lost again and requested another copy. See Cindy Comer handwritten notes with **Exhibit 17**.

9. On Friday, November 7, 2008, Barry Cheung went to the Subject Property and Cindy Comer hand delivered a copy of the January 11, 2008 letter to Mr. Cheung who was accompanied by Steven Lau of the DLNR. See Cindy Comer handwritten notes with **Exhibit 17**.

10. On Monday, November 10, 2008, Barry Cheung sent an email to Cindy Comer, caretaker at LHI, in which he acknowledges reading the January 11, 2008 and noting that page 2 of the February 21, 2007 letter to Peter Young was missing [Barry Cheung November 10, 2008 email is attached as **Exhibit 18**], which was subsequently re-sent to him by Cindy Comer.

E. January 2009 to January 2010 Assistance from Representative Gene Ward

1. On February 19, 2009, Representative Gene Ward sends a letter to Charlene Enoki asking about the Subject Property and asking for her urgent assistance. See attached **Exhibit 20**.

2. DLNR did not respond and in June 2009, Representative Gene Ward calls and Charlene Enoki returns his call to discuss issues regarding the Subject Property. See Cindy Comer notes attached as **Exhibit 21**.

3. Cindy Comer prepares notes for meeting with Representative Gene Ward. See Cindy Comer notes attached as **Exhibit 22**.

4. On August 29, 2009, Representative Gene Ward sends letter to Charlene Enoki regarding the missing meter box and resulting lack of electricity and asks Ms. Enoki to respond by September 18, 2009. See Representative Gene Ward letter attached as **Exhibit 23**.

4. DLNR did not respond and on October 22, 2009, Mr. Ushijima sends a letter to Charlene Enoki to follow up with Representative Gene Ward August 29, 2009 letter. See LHI letter attached as **Exhibit 24**.

5. DLNR did not respond and on January 28, 2010, Representative Gene Ward sends a letter to Charlene Enoki to follow up with his August 29, 2009 letter. See Representative Gene Ward letter attached as **Exhibit 25**.

6. DLNR did not respond and there are no communications between January 28, 2010 and May 2011.

F. January 2010 to August 2012 As of the Present Time

1. After January 28, 2010, there are no communications between LHI and DLNR until May 2011 when Cindy Comer met with William Tam, Deputy Director, DLNR, at a Waimanalo Agricultural Association meeting and advised Ms. Comer to call Charlene Enoki. See LHI June 16, 2011, letter attached as **Exhibit 26**.

2. On June 16, 2011, Mr. Ushijima sent a letter to William Tam, Deputy Director, which among other things, stated the following:

- a. "You advised her to have Landscape Hawaii give Charlene Enoki a call. I have done that and requested an update for the property in question. I placed the call

weeks ago, and to date, have received no response. Moving forward, I am asking for someone at the DLNR to again review the situation and provide some remedy - we need our electricity.

- b. "I am sending you a packet (under separate cover) with a history of the property, which at the time of the walkthroughs and after the auction date in 2004, had the available utilities of water, electricity, and telephone. Presently, the nursery and office domicile have no electricity as the meter box was stolen almost 7 years ago during the period that the State was in possession of the property and before transfer to us, the new Lessee. Since then, we have sat in discussion with former Director Peter Young, Charlene Enoki, and others, and been assured that the State would resolve the problem and give us our electricity. We are still waiting."
- c. "At one time, we were willing to install the electricity ourselves with the understanding that the DLNR would give us credit against future lease fees. We awaited confirmation from the DLNR to begin the work, requesting in writing numerous times with specific start dates. So far there has been no response from the State or acknowledgment of our request. Much time has passed and we, like the State, have limited resources and monies. Our offer was time sensitive as we are treading water and - surviving and not thriving in this economy."

[Emphasis supplied.]

See LHI June 16, 2011, letter attached as **Exhibit 26**.

3. On July 4, 2011, Cindy Comer sent a packet of documents to William Tam, Deputy Director which consisted of the same 27 pages submitted with the January 11, 2008 letter to Charlene Enoki. See Cindy Comer letter attached as **Exhibit 27** and **Exhibit 17**.

4. In early August, 2011, Barry Cheung called and scheduled a meeting with Kyle Ushijima and Cindy Comer that was held at the Subject Property on August 11, 2011. See Cindy Comer notes attached as **Exhibit 28**.

4. Barry Cheung and Bob Medeiros attended the meeting on behalf of the DLNR and discussed the issues, primarily the problems due to the lack of electricity and Kyle Ushijima asked about renegotiating the lease rent. See Cindy Comer notes attached as **Exhibit 28**.

5. At the end of the meeting, Barry Cheung said he would email or communicate with LHI in about two weeks. See Cindy Comer notes attached as **Exhibit 28**.

6. There was no response and the next contact from DLNR was the June 1, 2012 letter from Russell Tsuji with a draft submittal of the DLNR July 13, 2012 Agenda. See attached **Exhibit A-2**.

7. On July 6, 2012, Barry Cheung sent a letter to Kyle Ushijima enclosing the July 13, 2012 Agenda Item D-13 with the following Reference:

Deny the Request for Rent Reduction and Consider Request for Mutual Cancellation of General Lease No. 5708, if appropriate; Landscape Hawaii, Inc., Lessee, Waimanalo, Koolauloko, Oahu, Tax Map Key: (1) 4-1-027:016
See attached **Exhibit A-3**.

8. Barry Cheung's July 6, 2012 letter, attached as **Exhibit A-3** and the draft and final of the July 13, 2012 Agenda for Item D-13 was the first time DLNR had noted a "denial of rent reduction" and " Consider Request for Mutual Cancellation of General Lease No. 5708."

9. Up until Barry Cheung's July 6, 2012 letter, Kyle Ushijima had been told and relied on statements by Charlene Enoki and former Chairperson Peter T. Young that LHI did not have to pay lease rent until the DLNR completed what it said it would do and provide electricity to the dwelling on level one of the Subject Property.

10. In reliance that the DLNR would honor General Lease No. 5708, LHI has invested \$317,000.00 as follows:

- a. \$167,000.00 for clearing one level, prepping the ground and installing a one (1) acre Shade House with concrete block, weed cloth, gravel entire level, and nursery plant benches.
 - b. \$150,000.00 in the Care Takers domicile to help monitor and have a presence on the property to deter vandalism and theft.
 - c. Kyle Ushijima and Cindy Comer have spent countless hours meeting with DLNR at their office, meeting with legislators at the Capitol Building, numerous phone calls, and writing letters to get the electricity installed and dealing with the lease payment billings that I was told not to pay until electricity is put back to the domicile/office property by DLNR. The hours of frustration and stress could have been put to better use towards running Landscape Hawaii, Inc.
11. The following are additional amounts to renovate the level one dwelling to a comparable "AS IS" condition that was observed during the May-June 2004 walkthroughs.
- a. Undetermined amounts for termite damage to floors, walls, beams, etc. Damage could have been minimized if LHI had electricity to fix the domicile/office in 2004.

- b. According to Allison at HECO installation Dept. (548-7311 the following has to be done to re-hook the electricity up to the dwelling on level 1.
 - a). Hire an Electrician who gets the a Permit for the electricity from the City & County.
 - b). The Electrician is to call HECO for a request for permanent service.
 - c). HECO will do a field check and answer any questions from Electrician and parties to the property.
 - d). A new pole is required due to newest code, cannot be more than a 90' feet run from pole to structure. HECO could not give us a cost until they go out to the property.
 - e). The Electrician will need to rewire domicile/office up to code.
 - f). The Electrician is to call HECO and City & County for inspection.
 - g). Once everything is done, HECO will need another 3 weeks to schedule and turn on electricity.
 - h). **Allison from HECO could not give us a time estimate to beginning to end for the whole thing nor a dollar estimate to install new line and pole.**
 - i). The cost for the Electrician to install a new meter box(stolen), electrical breaker box(stolen), outlets(stolen) and wires were cut too short(need to cut wall), GFI(stolen), light switches(stolen), light fixtures(stolen). The Electrical Contractor estimate to rewire and install all of the above except HECO's work is \$ 9,550.00 plus tax (J.A. ELECTRIC SERVICE, INC.
 - j). Plumbing work to connect to the water meter and though out the house where copper pipes and a basin fixture were removed.
- 12. The removal of the electricity has prevented Landscape Hawaii, Inc. from taking advantage of opportunities and therefore losing money - these cannot be recovered after 8 years.
- 13. The following are the reasons what electricity has prevented Landscape Hawaii, Inc. to develop this property what it was meant to do.
 - a). Develop an Office to run the Nursery effectively and efficiently.
 - b). Security cameras and sensor lights for the property. Our nursery and others have been vandalized and burglarized as other nurseries in Waimanalo.
 - c). Build a warehouse for equipment and material.

- d). Build a Covered soil mixing area.
- e). Two (2) Greenhouses with Grow Lights to grow our plants from cuttings and seeds so we won't need to buy most of our plant material at other nursery's price.
- f). Six (6) Heated Benches with four (4) Water Heaters to decrease the rooting time by 60% on our cutting and geminating our seeds faster by 70%. This will Save 50% of plant cost compared to purchasing plant material for projects, wholesale, and retail.
- g). Install an Automatic irrigation Controllor to control all watering and build a Misting system for larger and other type of plant material to grow from cuttings.
- h). Two Water catchments (a 75,000 and a 50,000 gallon). Save on cost of potable water.
- i). Develop a Tissue Culture Lab to grow plants from plant tissue.
- j). Landscape Hawaii, Inc. has been operating the nursery at 25% effective and efficiency rate.
- k). Landscape Hawaii's Business Plan has been literally thrown out the window as it shows LHI would have turned a profit on the nursery in year four (4) and would have generated at least \$2M (2) million in 2012.
- l). Plants is the main commodity of Landscape Hawaii, Inc. or any other company in the landscape business. Our cost on plants would have been reduced by 60% (\$104,400 per year).
- m). Cost of plants from year 2008 to 2011 = \$696,000.00.
$$\$696,000.00/4 \text{ years} = \$ 174,000.00 \times .60 = \$104,000.00.$$

This does not include this year 2012.
- n). Landscape Hawaii, Inc. has and still adding wasted cost to trim the trees and keep the weeds down on the undeveloped area where we would have built all of the above.
- o). Another plan for the nursery was to make another company doing landscape/irrigation installation and the nursery providing the plants and housing our equipment. The Landscape Company would be operating from the nursery and office. This Company would be generating \$2M - \$3M (\$2-3 million) a year. Without a fully operating nursery a Landscape/irrigation installation company cannot be competitive in bidding projects.

III. Conclusion

Color photos of the Subject property will be available at our August 8, 2012 meeting.

The foregoing represents a brief summary of LHI's experience with the Subject Property since it was the successful bidder at the June 30, 2004 auction.

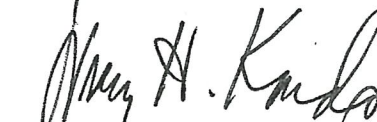
LHI respectfully submits that the terms of General Lease No. S-5708 needs to be revised to take into account the fact that LHI did not get the property it expected to get in the "AS IS" condition that it observed during the walkthroughs in May-June 2004.

LHI respectfully submits that the revisions must take into account the following:

1. LHI's lost opportunities and prejudice caused by the failure to provide the Subject Property as agreed on September 1, 2004 with electricity.
2. LHI's attorneys' fees and costs which are estimated to total about \$10,000.00 to \$15,000.00 date.
3. Waiver of lease rent until the DLNR pays for and installs an electric meter and connects the electricity through HECO and for electrical work, currently estimated to cost \$9,550.00 plus tax (J.A. ELECTRIC SERVICE, INC.).
4. DLNR pays for and installs plumbing for the dwelling on level one.

Very truly yours,

WATANABE ING LLP



WRAY H. KONDO

C: Russell Tsuji
Barry Cheung
Deputy Attorney General

**LHI POSITION STATEMENT
AUGUST 6, 2012**

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A.	Prior Tenant: Ms. Candy Lake and her daughter, Ms. Tiffany Fortin.....	2
B.	Bid Auction June 30, 2004 and General Lease No. S-5708.....	2
II.	General Lease No. S-5708 and Efforts to Gain Possession.....	3
A.	Ms. Candy Lake and the Sylvester Foundation Remained a Hold over Tenant Until Being Evicted on March 3, 2005.....	4
B.	After Eviction on March 3, 2005 Until February 2007 DLNR Did Not Clean Up, Remove and Renovate as Promised.....	5
C.	February 2007 to December 2007 Assistance From Chairperson Peter T. Young and Representative Ken Ito.....	6
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EXHIBIT 4



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 28, 2012

Ref: GL 5708

Mr. Wray H. Kondo, Esq.
Watanabe Ing, LLLP
First Hawaiian Center
999 Bishop Street, 23rd Floor
Honolulu, Hawaii 96813

Dear Mr. Kondo:

Subject: Preliminary Compensatory Claim, General Lease No. 5708, Landscape Hawaii, Inc. Lessee, Waimanalo, Koolaupoko, Oahu; TMK (1) 4-1-027:016

Thank you for taking the time to prepare the above-referenced claim enclosed with your letter dated November 29, 2012.

Upon review of the material you provided, we write to advise you that we cannot accept the claim. The property was leased via the public auction process in its "as is, where is" condition, with no representations or warranties. For the purposes of settlement, however, we are willing to consider a claim for the installation of the electric meter box in early September 2012 by J.A. Electrical Service in the amount of \$5,850.

Since possession of the property was delivered to your client in September 2006¹, the commencement date of the subject lease would be October 1, 2006. The rent from October 1, 2006 to April 30, 2013 would be \$36,500 (annual rent) x 6.5 years less \$36,500 (previous payment) = \$200,750. In addition, the Department previously had changed the lease effective date from April 2006 to April 2008 for accounting purposes, which basically removed two (2) years rent payable under the lease. Accordingly, the latest rental amount owed to the State is \$200,750 - \$73,000 = \$127,750 (not including interest and late fees).

The above proposal, in our view is worth \$78,850 (\$5,850 electrical and \$73,000 rental adjustment). We believe this is a very fair proposal by the Department.

¹ Noted on page 2 of your letter dated November 29, 2012.


EXHIBIT "4"

Please note that any proposed settlement requires the approval from the Land Board and the Department of the Attorney General. If you have any questions, please contact Mr. Russell Y. Tsuji, Land Administrator at 587-0422.

Very truly yours,



William J. Aila, Jr.



Chairperson

cc: Donna H. Kalama/Linda L.W. Chow, Department of the Attorney General

EXHIBIT 5

INSPECTION REPORT
Intensive Ag/Special Livestock/Pasture/Commercial Timber

General Information

Document Number: GLS 5708 or RPS _____

Character of Use Intensive Agriculture

Inspection Date: January 12, 2016 Inspection Time: 10:00 am

Staff: Barry Cheung

TENANT INFORMATION

Name: Landscape Hawaii Inc.

Home Phone: _____

Address: 41-919 Kaulukanu Street

Business Phone: 836-5332 x-104

Waimanalo, Hawaii 96795

Fax: _____

Contact Person: Kyle Ushijima

Contact Phone: _____

SITE INFORMATION

TMK: (1) 4-1-027:016

Area: 20.056 acres

Site Address: 41-919 Kaulukanu Street

Waimanalo, Hawaii 96795

FISCAL INFORMATION

ITEM	NOT APPLICABLE	CURRENT = COMPLIANCE	DEFAULT = NON-COMPLIANCE
Rent			X
Liability Insurance		X	
Fire Insurance	X		
Bond			X
Mortgage	X		

EXHIBIT " 5 "

ANNUAL INSPECTION REPORT
Intensive Ag/Special Livestock/Pasture/Commercial Timber

File Review

LICENSES/PERMITS/CONSENTS

ITEM	DLNR Approval Docs in File			COMMENTS/NOTES/LISTS
	N/A	YES	NO	
Removal of Minerals/Waters	X			
Prehistoric/Historic Remains	X			
Cutting/Removal of Trees	X			
Hazardous Material Storage/Use	X			
Subletting	X			attach list or map if applicable
Improvement Construction Buildings	X			note deadlines for % completion
Improvement Construction Other structures	X			note deadlines for % completion
Conservation Plan	X			review plan and schedule; make copy of plan map and text table for use during inspection

Field Inspection

ITEM	CRITERIA FOR COMPLIANCE	MEETS COMPLIANCE			COMMENTS/NOTES
		N/A	YES	NO	
Subletting	consents approved use adheres to lease purpose	X			
Buildings/ Residence roof, paint, exterior, interior	clean, sanitary, orderly suitable & well maintained DLNR construction consent adheres to completion schedule *check for hazardous materials		X		prior improvements need to be maintained by current tenant
Structures: roads, walkways, fences, lines, pipelines, others	cross check w/ conservation plan clean sanitary, orderly well maintained adheres to completion schedule *check for hazardous materials		X		prior improvements need to be maintained by current tenant
Conservation Plan: conservation structures and plantings	adheres to plan map & schedule well maintained	X			refer to SWCD if plan application & maintenance not in compliance

ITEM	CRITERIA FOR COMPLIANCE	MEETS COMPLIANCE			COMMENTS/NOTES
		N/A	YES	NO	
Premises	clean, sanitary, orderly		X		
Hazardous Material Storage/ Use	controlled and adheres to consent	X			
Character of Use	adheres to lease purpose		X		
Other					<p>The subject parcel comprises of 4 sections:</p> <ul style="list-style-type: none"> • 1st section - 2-story structure and limited plants • 2nd section – shade house and majority of the plants currently grown on the premises. • 3rd section – barn which is under repair and a horse • 4th section – employee residence



EMPLOYEE RESIDENCE



BARN



OUTSIDE EMPLOYEE RESIDENCE



BARN



BARN



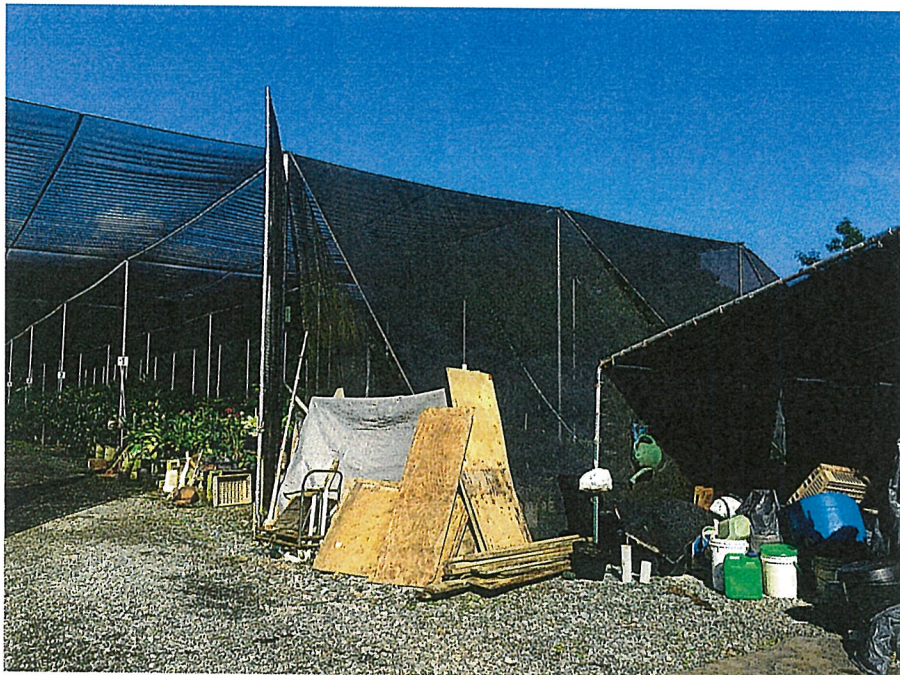
BARN



BARN



BARN



SHADEHOUSE



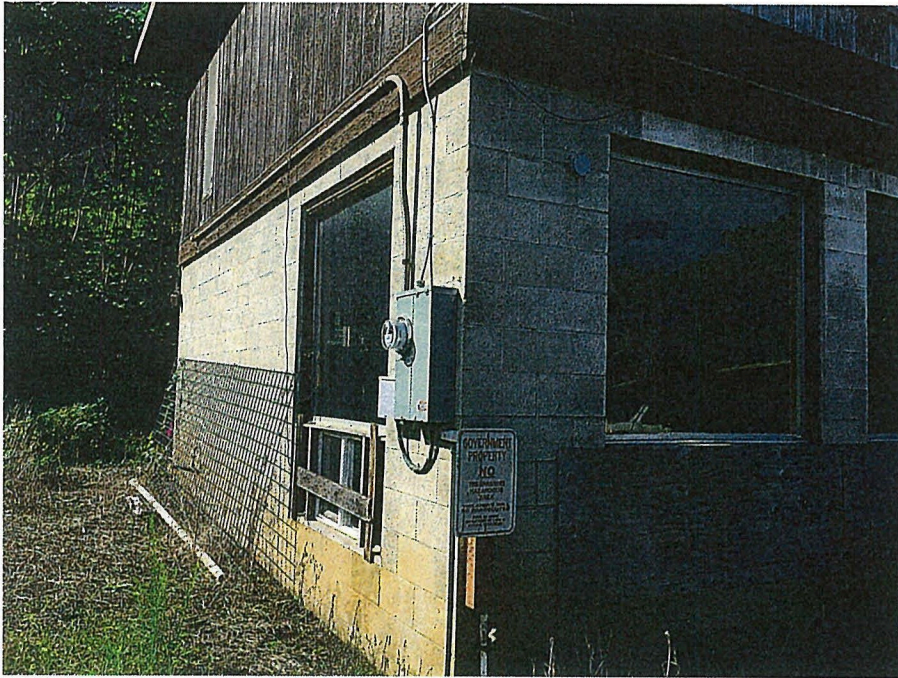
SHADEHOUSE



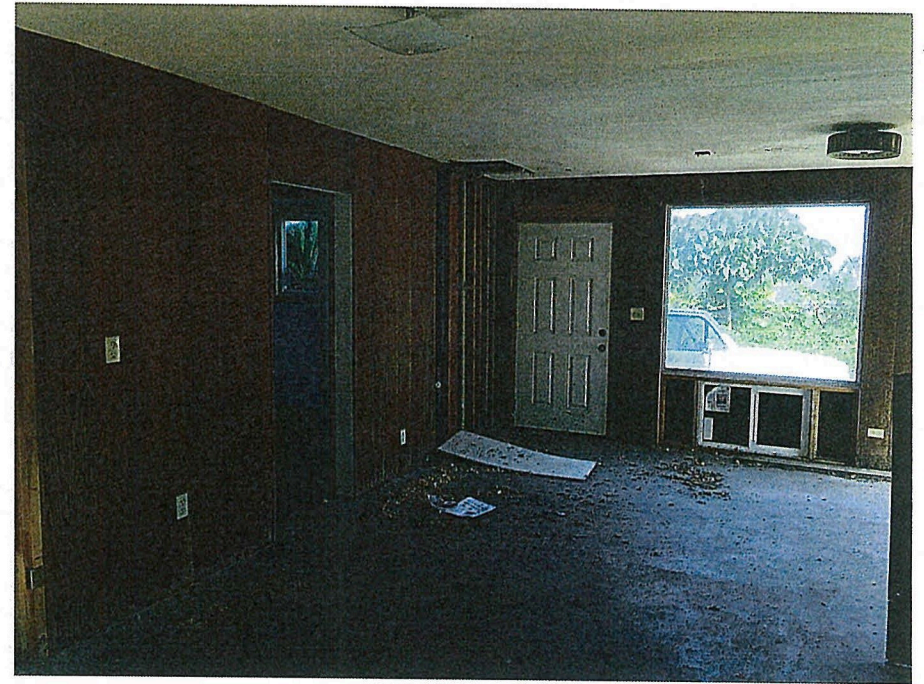
SHADEHOUSE

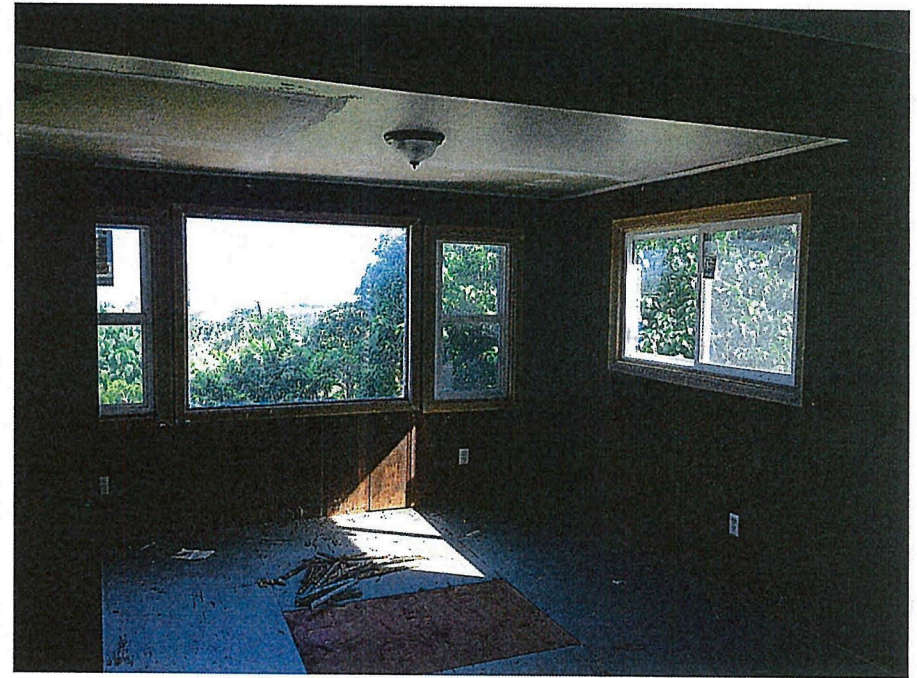
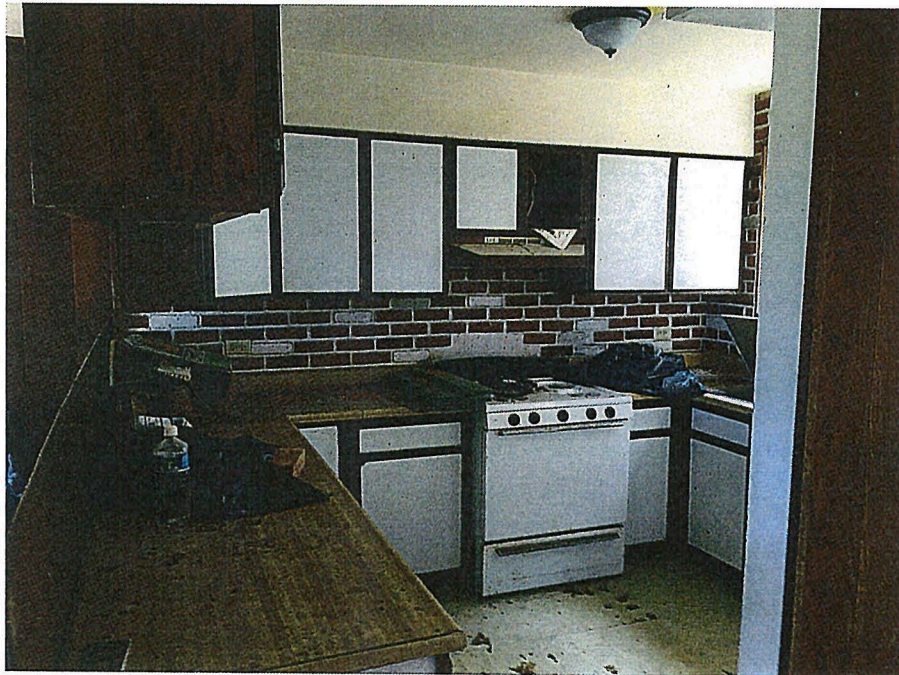


ORGA OUTSIDE SHADEHOUSE



BUILDING - LOWEST LEVEL





INSIDE BUILDING ON THE LOWEST LEVEL

