

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

July 28, 2017

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

OAHU

Authorize the Chairperson to Extend the Cure Period of the Notice of Default for Failure to Keep Rental Payment Current and Entering an Installment Payment Plan for General Lease No. 4095 and Revocable Permit No. 7517, Olomana Golf Links, Inc., Lessee/Permittee, Waimanalo, Koolapuoko, Oahu, Tax Map Key: (1) 4-1-013:010 and 012.

APPLICANT:

Olomana Golf Links, Inc., Lessee/Permittee ("Lessee").

LEGAL REFERENCE:

Section 171-20, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolapuoko, Oahu, Tax Map Key: (1) 4-1-013:010 and 012, as shown on the maps attached as **Exhibit A1** and **A2**.

TOTAL AREA:

134.629 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CHARACTER OF USE:

GL 4095

For construction and operation of golf course and allied facilities. The allied facilities

may include but is not limited to club house purposes.

RP 7517

Golf Course nursery operations

TERM OF LEASE:

65 years, commencing on May 4, 1967 and expiring on May 3, 2032.

RENTAL:

GL 4095

\$140,000 per annum and payable by quarterly payments.

RP 7517

\$828.75 per month.

REMARKS:

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-4095, Olomana Golf Links, Inc., Lessee, was served a Notice of Default (NOD) by certified mail dated June 5, 2017 for failure to keep lease rental payments current. Similar notice was sent to the Lessee for RP 7517 for outstanding rental payment.

Said Notices, accepted by the Lessee, offered the Lessee a thirty-day cure period to correct the default. This cure period expired on July 7, 2017. The current status of all lease compliance items is as follows:

RENT:

Under GL 4095, the Lessee has a rental delinquency of \$128,783.33 for the time period from September 1, 2016 to May 31, 2017, as described in the NOD. An additional amount of \$35,050 [including 3-month rent of \$35,000 and \$50 late fee] has accrued since the issuance of the NOD. At the time of writing this submittal, there is an outstanding charge of \$163,833.33.

Under RP 7517, the Lessee has a total delinquency of \$9,408.75 as of July 1, 2017.

INSURANCE:

The Lessee has posted the required liability and fire insurance policy.

PERFORMANCE BOND/SECURITY DEPOSIT:

The Lessee has posted the required performance bond and security deposit.

Lessee Response:

The Lessee wrote a letter (**Exhibit B**) raising its concern regarding the impact caused by flooding on the golf course. According to its letter, the lack of stream maintenance over portions of Waimanalo Stream on the neighboring Bellows Field (a federal property) has major impact on the flooding conditions experienced by the lessee during the past 12 months. Due to the flooding, the Lessee had to close the course and reduce the work hours among its employees. The loss of business directly affected the Lessee's ability to fulfil its rental obligation.

The Lessee has approached the management of the Bellows Field, but the response was not satisfactory. By the letter, Lessee requests for a payment plan covering 60 months to clear the outstanding amount owed, in addition to any rental payable under the lease.

Division Response

Staff recommends the Board authorize an extension of the cure period for the NOD and allow an installment payment plan for the outstanding amount owed by the Lessee with no interest or late fees accrued. The Chairperson shall be authorized to enter into such payment plan subject to the terms and conditions that best serve the interest of the State.

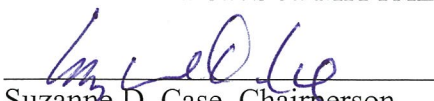
RECOMMENDATION: That the Board:

1. Authorize the Chairperson to extend the cure period of the Notice of Default mentioned above;
2. Authorize the Chairperson enter into an installment payment plan for the outstanding amount owed by the Lessee with no interest or late fees accrued

Respectfully Submitted,


Barry Cheung
District Land Agent

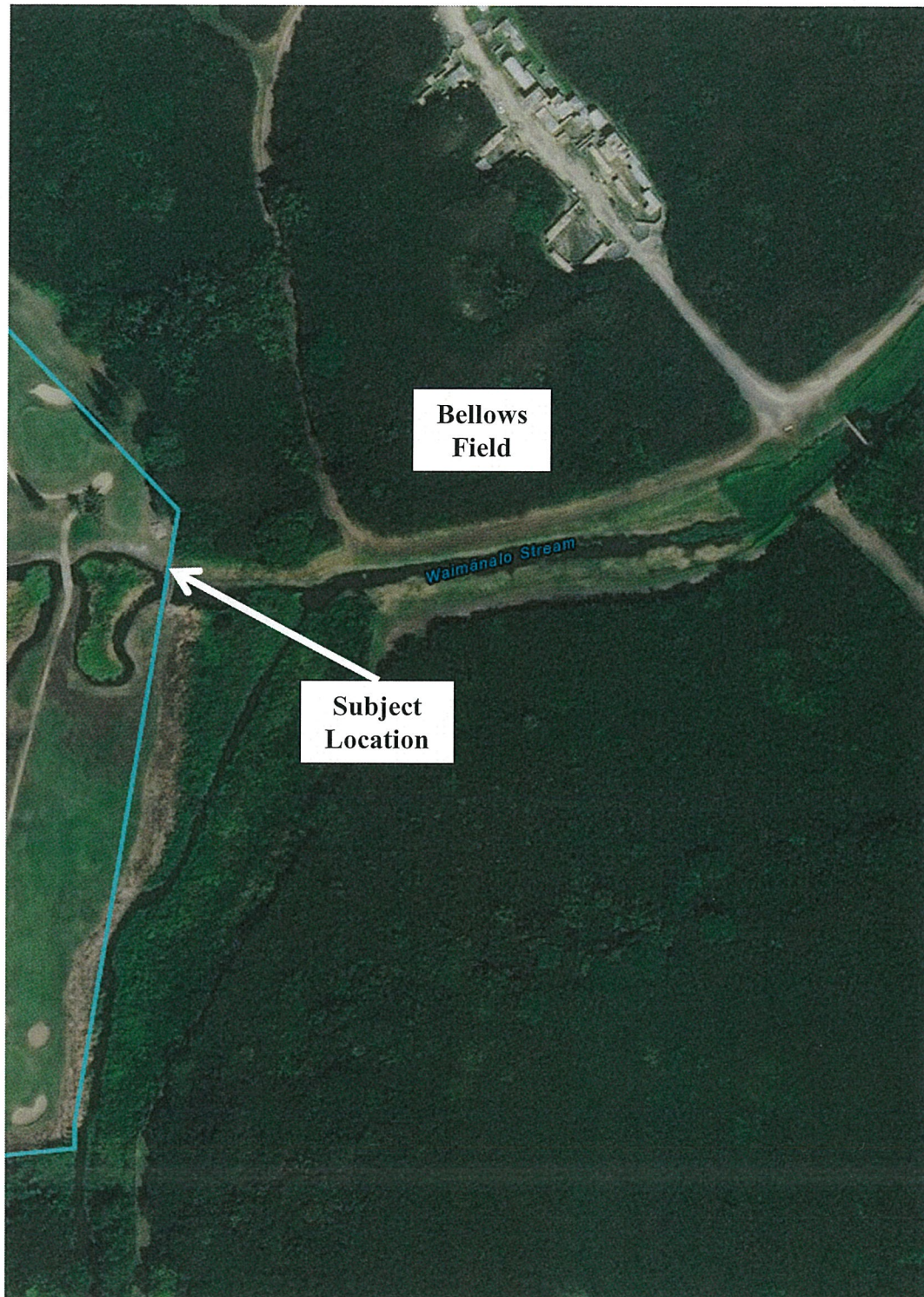
APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



TMK (1) 4-1-013:010

EXHIBIT A1



TMK (1) 4-1-013:010

EXHIBIT A2



TO: Central
FROM: ODLO
RECEIVED
LAND DIVISION No.: GL 4095

2017 JUL -3 AM 11:02

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Mr. Barry Cheung
Oahu District Land Office
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

June 28, 2017

Aloha Barry,

This letter is in response to the letter Olomana Golf Links ("Olomana") received from Chair Case dated June 5, 2017, regarding a "Notice of Default" for General Lease S-4095 and Revocable Permit No. S-7517

As you know, on July 24th, 2016, TS Darby passed by the islands. Then a second weather system on Tuesday, Aug 23, 2016 passed by. According to our records, we received about 3" of rain from Darby and about 1" on the night of August 23rd, which are amounts that can normally be absorbed and contained by the golf course. However, the severe flooding we experienced on July 24-25, 2016 (Darby) and Aug 23, 2016 was not due to such normal rainfall but was instead the result of a blockage of the canal on the Bellows property and an obstruction in the Waimanalo Stream both of which were caused through negligent stream/canal maintenance. The end result of the blockage at the mouth of the canal on the Bellows property is that the water in the canal is unable to freely flow downstream and exit to the ocean. This problem is compounded by the overgrowth of vegetation in the canal and although Bellows apparently retains a contractor to keep it free from vegetation overgrowth, this work clearly has not been maintained..

As a result of such blockage and negligent canal maintenance, as rainwater flows through the streams adjacent to Olomana's property, the water backs up onto our property, floods the golf course and renders it unplayable forcing us to shut down operations and cancel future business. In the case of TS Darby, the rainwater caused additional damage due to a large amount of mud from upstream being deposited onto the golf course. The depth of the mud in many areas was 8-10" deep.

We have suffered great economic hardship. Immediately after Darby, Olomana was forced to shut down or nearly shut down operations for 16 days resulting in a reduction of **95% in green fee revenue** during that term. We were able to limp along and have all 18 holes open for play from August 8th to August 23rd albeit under muddy conditions until we experienced the August 23rd flooding which forced us to shut down operations once again. The August 23rd flooding resulted in a **68% reduction in green fee revenue**, as compared to normalized business from July until we were able to fully open the course on August 29th.

Needless to say, protecting the golf course from unnecessary flooding is critical to the sustainability of Olomana Golf Links, the employment of our local people and our ability to serve our community and the general public. The inability to consistently open the golf course affects not only green fee revenue but also total facility revenue including the driving range, golf lessons, retail sales, food & beverage revenue and Casey Nakama's junior golf program. With the lack of golfers and revenue, we were forced to reduce work hours, which has created an economic hardship for our employees and their families. We estimate the total economic impact of the flooding incidents at nearly \$400,000 due to lost revenue, and amounts spent specifically for

EXHIBIT "B"

clean up and special materials needed. Additional repair work is still required due to the soil being contaminated by the flooding and mud as grass will not grow on much of the golf course. To date, we still have bare spots on the fairway and we are required to expend more labor hours and expense to sod the areas with new turf.

The damage that cannot be measured by monetary damages is the damage to our reputation and loss of consumer confidence. We are now known as a golf course that floods. When parts of the island gets rain, customers call asking if we're open or they simply don't show up as they assume we're flooded and closed. Many customers have expressed to us that they don't want to book future golf business at Olomana because of the unreliability of course drainage and the possibility that their event can be canceled. Group, club play and tournaments are an essential part of our business and nearly all of them reserve 6-18 months in advance. As a result of the flooding damage due to the negligent maintenance of the stream and canals, clubs and organizations do not want to book future golf business at Olomana.

While the overall negative economic impact may in fact be immeasurable and require years to repair, at a minimum, it would seem that we have suffered damages well into the hundreds of thousands of dollars through no fault of our own and through factors over which we have no control.

Subsequent to TS Darby and the August 23rd weather system, we have closed all or part of the course or were forced to modify the course for 68 straight days which again severely impacting our ability to generate revenue. Note: Olomana Golf received only 0.6" of rain on September 13, 2016, which the golf course can absorb but again, due to the blockage of the Bellows canal, flooding occurred once again forcing us to close part of the golf course for three (3) more consecutive days. Flooding and golf course closures or course modifications took place on February 10, 2017 through February 23, 2017, March 1-6, 2017 and April 28-May 4, 2017.

Considering the substantial amounts of lost revenue due to flooding and the excessive expenses we incurred in order to recover from TS Darby, we are asking for consideration of a payment plan to pay back the past due lease rent amount over time.

We propose lease rents going forward to include an additional prorated amount over the next 60 months to pay back the balance due contingent upon the scheduled dredging work being complete at Bellows.

Mahalo in advance of your consideration.



Ed Kageyama, PGA
Olomana Golf Links, Inc.

Encl: Photos





