

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

February 28, 2020

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

ISLAND of HAWAII

Rescind Prior Board Action of June 14, 2013, Agenda Item D-7, *Consent to Approval of Self-financed Improvements and Extension of Lease Term, General Lease No. S-5373 Harold F. Rice, Jr. dba FR Cattle Co., Lessee*; and Cancel the Extension of General Lease No. S-5373 dated February 15, 2015, Lalamilo, Lihue, Koaliula and Waiaka 1, South Kohala, Hawaii Tax Map Key:3rd/6-6-01:02 and 77.

BACKGROUND:

In order to finance the proposed improvements to the lease property, the previous lessee, Harold F. Rice, Jr.(aka Freddy Rice) requested an extension of lease for twenty (20) years beyond the original lease period.¹ The improvements included a corral, holding pen for the cattle operation as well as employee housing. An Extension of General Lease No. S-5373 dated February 15, 2015 was signed by the State and Mr. Rice. The extension agreement required the lessee to complete its construction of the employee housing, relocation of the main corral and holding pens and provide Land Division staff receipts verifying payment for the improvements by November 1, 2019, at a cost of at least \$640,000.00 for employee housing, \$33,000.00 for the corral and \$10,000.00 for the holding pen. The combined total cost was \$683,000.00.

REMARKS:

Due to declining health, Mr. Rice was in the process of negotiating the sale of his cattle operation to the Assignee when he suddenly passed away in January 2018. Because the DLNR lease was not included in the decedent's estate, its management was determined by probate court. Upon determination, Bonnie Rice, the daughter of Mr. Rice, was appointed personal representative of his estate and subsequently requested that the sale of the cattle operation, including the transfer of GL S-5373 continue to proceed. The cattle operation was sold and the

¹ At its meeting of June 14, 2013 under agenda item D-7, the Board approved the extension of GL S-5373 for an additional twenty (20) years.

lease was subsequently assigned to the current lessees, Gregory Jay Kaleolani Garcia and Kristen Louise Kuykendall Garcia, as tenants by the entirety.²

By letter dated October 4, 2019 (Exhibit A), the current lessees wrote to inform staff that they are unable to fulfill the conditions of the lease extension that were required to be completed by November 1, 2019. Dr. and Mrs. Garcia understand the lease extension will be cancelled and the original lease end date of October 31, 2029 will be in effect.

RECOMMENDATION: That the Board:

1. Rescind the prior Board action of June 14, 2013, under Agenda Item D-7, consent to approval of self-financed improvements and extension of lease term, General Lease No. S-5373.
2. Authorize the cancellation of Extension of General Lease No. S-5373 dated February 15, 2015 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 cancellation of lease extension document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

² The Board approved the assignment at its meeting of January 11, 2019 under agenda item D-9.

October 4, 2019

Department of Land and Natural Resources

Gordon C. Heit – District Land Agent

75 Aupuni St. Rm # 204

Hilo, Hawaii 96720

2019 OCT 22 P 12:51

RECEIVED
LAND DIVISION
HILLO, HAWAII

General Lease No. S-5373

Dear Mr. Heit;

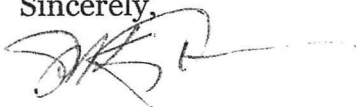
We are writing to inform you that we are unable to fulfil the conditions of the lease extension that is required by November 1, 2019.

DLNR granted the lease extension with the following conditions: completion of employee housing and relocation of the main corral and holding pens by November 1, 2019: of a cost of at least \$640,000 for employee housing, \$30,000 for the corral and \$10,000 for the holding pen, for a combined total of \$680,000. This is impossible for us to successfully complete given the few months that we have had the lease finalized and officially in our names.

It is our understanding that the lease extension would be cancelled and the original cancellation date of October 31, 2029 would be in effect. Under no circumstance do we want our actions to negatively affect our relationship with your agency nor negate consideration for a more realistic plan for future improvements on this lease ground.

Thank you for your consideration and understanding in this matter. We look forward to working closely with you in the future.

Sincerely,



Gregory Jay Kaleolani Garcia

KRISTEN L. K. GARCIA

Kristen Louise Kuykendall Garcia

EXHIBIT A