

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

June 12, 2020

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

PSF No.: 20HD-020

Hawaii

Sale of Lease at Public Auction for Industrial Purposes, Waiakea, South Hilo,
Hawaii, Tax Map Key: (3) 2-2-058:004.

REQUEST:

Sale of lease at public auction for industrial purposes as allowed under County zoning.

LEGAL REFERENCE:

Sections 171-6, -13, -14, -14.5, -16, -17 and other applicable sections of Chapter 171, Hawaii
Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waiakea Industrial Lots situated at Waiakea, South Hilo,
Hawaii, identified by Tax Map Key: (3) 2-2-058:004, as shown on the attached map labeled
Exhibit A.

AREA:

14,421 square feet, more or less
Subject to confirmation by the Department of Accounting and General Services, Survey
Division.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: MG-1a, general industrial

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Currently encumbered under General Lease No. S-4306 to Sears Roebuck and Company, for industrial purposes. Lease expires 6/29/2020.

CHARACTER OF USE:

Industrial purposes as allowed under County zoning.

LEASE TERM:

Forty-five (45) years from the commencement date of the lease.

COMMENCEMENT DATE:

Sixty (60) days after the date of sale; provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by independent appraisal, subject to review and approval by the Chairperson. The appraisal shall determine the upset rent for land and improvements for the first 10 years of the lease, as well as any percentage increase for the second 10-year period of the lease, if applicable, to provide the successful bidder with rent certainty for the first 20 years of the lease. Rent for the remaining period of the lease shall be determined every 10 years by independent appraisal. The appraiser procured to determine the upset rent shall also separately determine the fair market value of the existing improvements on the land.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

At the end of the 20th, 30th, and 40th year of the lease term, by independent appraisal.

PERFORMANCE BOND:

Twice the annual rental amount.

RENT WAIVER:

The rent may be waived for a maximum period of twelve (12) calendar months upon a completion of substantial improvements to the subject parcel¹. “Substantial improvements” for purposes of the lease will mean renovations or new construction with a value equal to at least 30% of the appraised value of the existing improvements. Plans shall be submitted and approved within one year of the execution date of the lease.

IMPROVEMENT BOND:

Amount of the cost of any improvements made to the premises.

PROPERTY CHARACTERISTICS:

- Utilities – Water, electricity, phone, sewer
- Existing improvements –warehouse structure. Fenced area on south side of property.
- Legal access to properties – Staff has verified that there is legal access to property from Pohaku Street.
- Subdivision – Staff has verified that the subject property to be auctioned is a legally subdivided lot.
- Encumbrances – Staff has verified that the parcel currently unencumbered.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-16 (a) (1) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on March 3, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 40 that states "Leases of State land involving negligible or no expansion or change of use beyond that previously existing."

REMARKS:

Background:

On June 30, 1970, a 40-year lease covering the subject land was sold at public auction to Hacker and Scheiderich, a partnership, as the highest bidder. The partnership and the State executed General Lease No. S-4306 in September 1970, and the partnership thereafter constructed a 4,512-sf warehouse building on the property in accordance with plans approved by the Chairperson of the Board of Land and Natural Resources. Land Division files show that construction of the warehouse was completed as of January 1973.

¹ HRS 171-6(7)

Through mesne assignments with Land Board consent, the lease was assigned to Sears, Roebuck and Co. pursuant to an assignment of lease dated May 10, 1993, and approved by the Board at its meeting of May 28, 1993, Item F-1-b. The Chairperson executed the consent to assignment on June 22, 1993. In accordance with plans approved by the Chairperson, Applicant renovated the interior of the building to meet its needs and added a covered carport with an area of 1,702 feet. From 1993, the lessee occupied and used the premises as Sears Service Center, which provided small engine repair services and parts.

At its meeting of May 13, 2010, under agenda item D-6, The Board approved lessees request for a 5-year extension of the lease to allow it to amortize the cost of the roof replacement completed in 2008 at a cost of \$26,200, and the proposed painting of the exterior of the warehouse and the addition of striping to the parking lot at a cost of \$12,500.

Further, at its meeting of March 15, 2015, under agenda item D-6, the Board approved another 5-year lease extension to allow lessee to amortize the costs of the installation of a central air conditioning unit and the replacement of the sliding door entrance with a combined cost of \$59,161.00. With this extension, the lease expiration date was set at June 29, 2020. The lessee has indicated they will be surrendering the lease upon its expiration.

Lease at Public Auction:

Staff is recommending that the Board authorize the auction of a new 45-year industrial lease for the subject parcel and the improvements thereon. County zoning for this area is “General Industrial” (MG-1a) and is consistent with the intended purpose of this lease auction proposal. The proposed subject lease is described as follows:

The subject property is a 14,421 square foot pie-shaped lot with a 4,512-square foot office/warehouse structure situated on it. The warehouse, constructed in 1973, has been well maintained and is in good condition. A 1,512 square foot carport was added to the structure in 1991. The area fronting the warehouse is completely paved with several parking stalls marked off including 1 ADA compliant handicap stall. Recent major improvements include the roof replacement in 2008 and the air conditioning system replaced in 2015. (Photo Exhibit B)

The warehouse interior is clean and open for the most part. There are several non-load-bearing interior walls/partitions within the warehouse. There is also a kitchen area with sink and countertop along with two separate restrooms. The original building plans identify a cesspool located at the southern end of the property. Staff is recommending the successful bidder comply with current USEPA environmental requirements and install a septic tank in place of the current wastewater disposal system.

As a result of researching the various underwriting policies of local banking institutions, staff has found that the rent structure can significantly impact the terms and conditions of available financing. The most limiting policy is that both the amortization period and term of the loan will be restricted to the fixed rental period of the lease. As a result, staff is

recommending that the appraisal to determine the upset rent for the first 10 years of the lease also determine the percentage increase in rent for the second 10 years of the lease, thereby giving the successful bidder known rent for the first 20 years of the lease. The banks have indicated that the fixed increase is much more manageable in their lending policies since it is a known number and can be incorporated into the borrower's business plan. This would allow the lending institution to offer a more typical 20-year amortization loan with a balloon in 10 to 15 years which would result in a realistic financing package.

If the successful bidder(s) elects to make substantial improvements² to the premises, then it will be entitled to a rent waiver for the first 12 months of the lease. However, staff recognizes that the lessee should not be charged rent on the increased value of the improvements attributed to its investment in the property. Accordingly, the lease will contain a provision that the rental reopening at the end of the 20th year of the lease term shall exclude the value of any improvements made to the premises by the lessee.

A request for comments was distributed to various government agencies and their responses are included below.

County of Hawaii Agencies	Comments
Environmental Management	No Comments
Fire Department	No Objections
Planning	No Response
Police Department	No Comments
Public Works	No Response
Water Department	No Objections
State of Hawaii Agencies	Comments
DLNR-Historic Preservation	No Objections
DHHL	No Comments
DOH-Environmental Management	No Response
DOT-Highways Division	No Comments
Other Agencies	Comments
Office of Hawaiian Affairs	No Response
Corps of Engineers	No Response

Staff recommends that the public auction notice and lease expressly provide that the subject land and improvements will be leased "AS IS, WHERE IS", with all faults and defects whether latent or patent, and that it will be the lessee's obligation to maintain and repair any

² "Substantial improvements" mean renovations or new construction with a value equal to at least 30% of the appraised value of the existing improvements.

improvements now located or hereafter constructed on the premises at its sole cost and expense.

RECOMMENDATION: That the Board:

1. Find the area to be an economic unit in terms of the intended use.
2. Find that the subject area is not suitable for hunting, nor will it become so during the term of the lease.
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the sale of a lease at public auction covering the subject areas for business, commercial or industrial purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current business, commercial or industrial general lease form, as may be amended from time to time;
 - b. The public auction notice and lease shall expressly provide that the subject land and improvements will be leased “AS IS, WHERE IS”, with all faults and defects whether latent or patent, and that it will be the lessee’s obligation to maintain and repair any improvements now located or hereafter constructed on the premises at its sole cost and expense;
 - c. The successful bidder shall comply with current USEPA environmental requirements and install a septic tank in place of the current wastewater disposal system;
 - d. Review and approval by the Department of the Attorney General; and
 - e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Gordon C. Heit

KEM

Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case

RT

Suzanne D. Case, Chairperson

PLAT. 97



50 POHAKU ST. - TMK: (3) 2-2-058:004

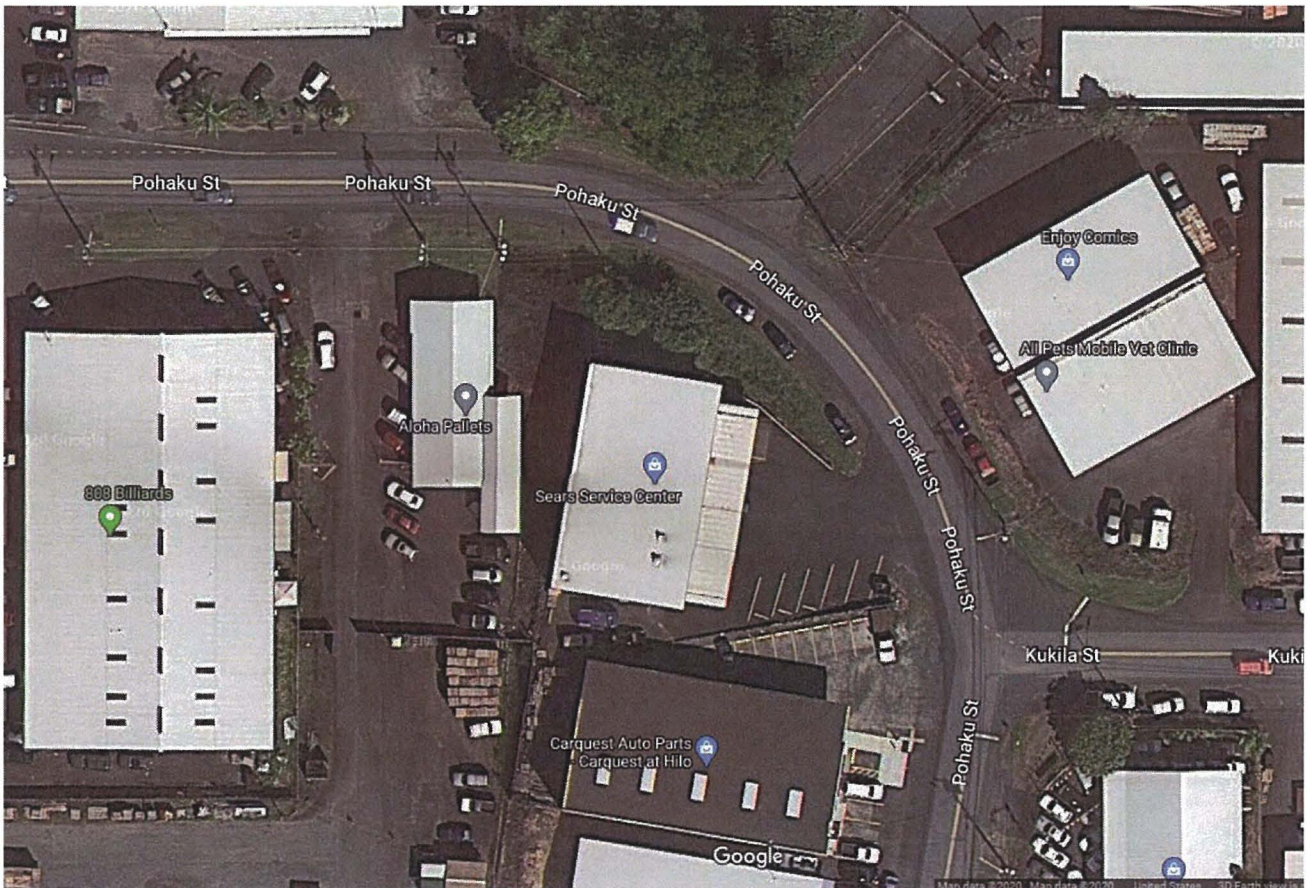


EXHIBIT A

50 POHAKU ST. - TMK: (3) 2-2-058:004

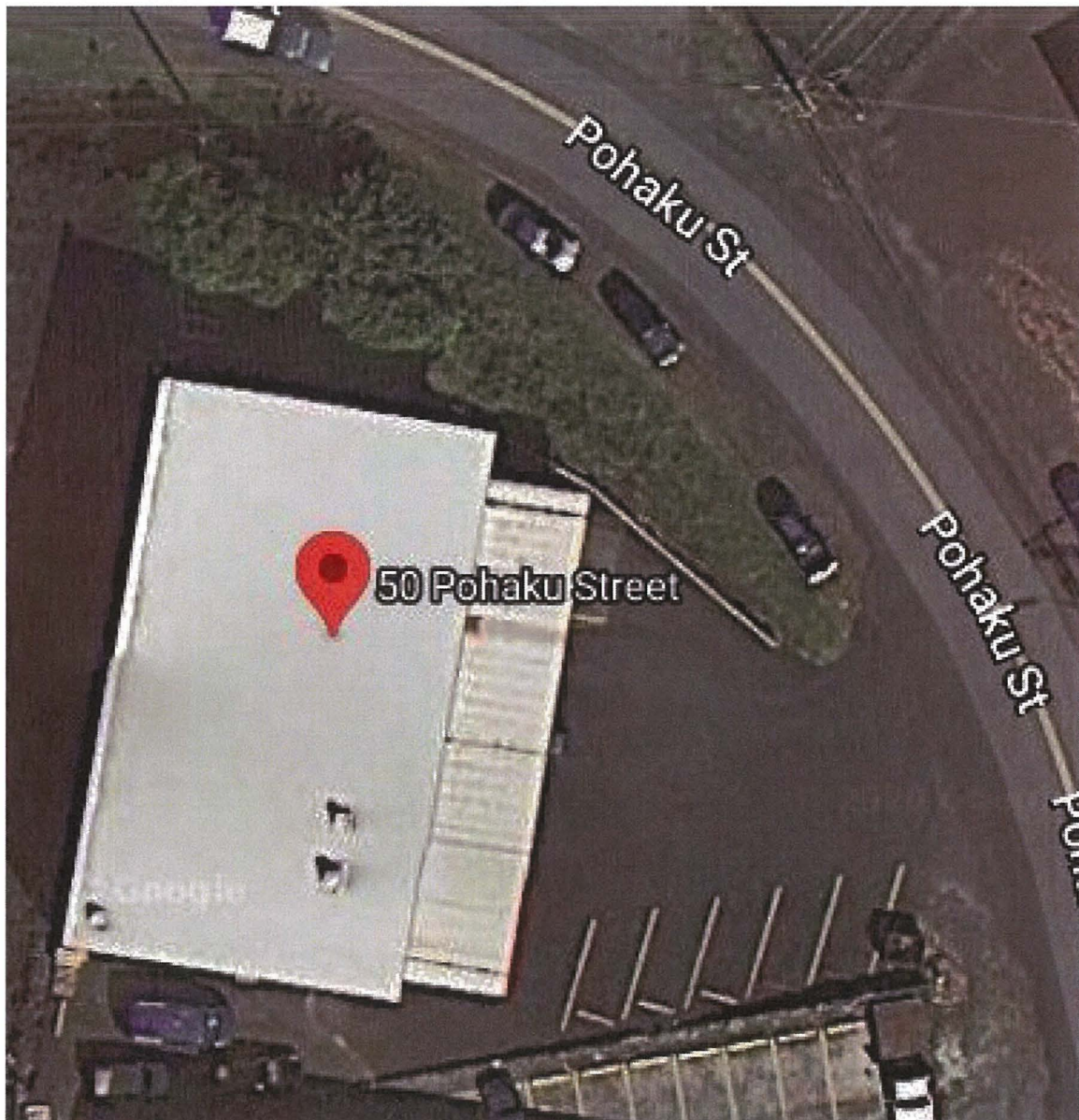


EXHIBIT A

50 POHAKU ST. - TMK: (3) 2-2-058:004

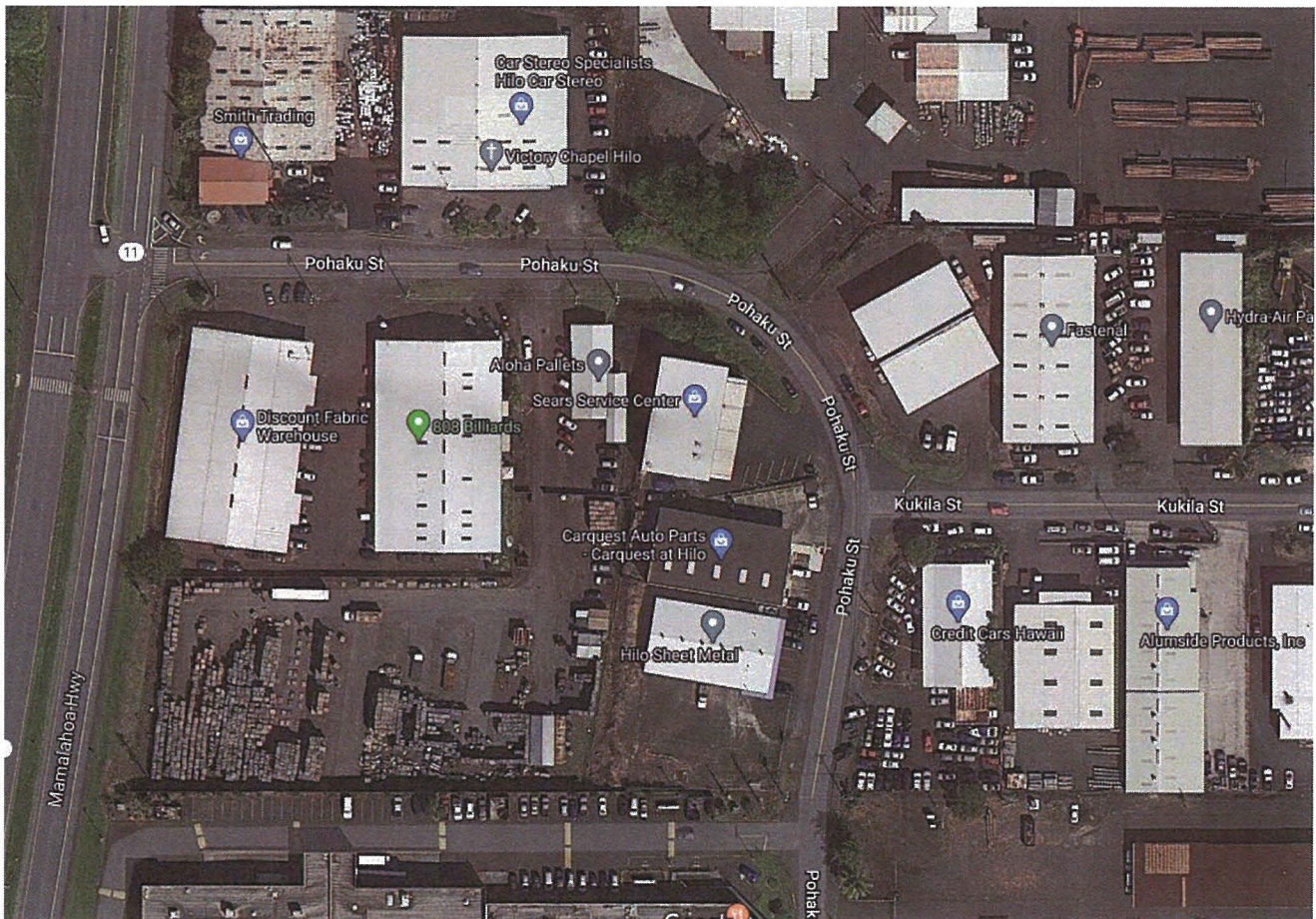


EXHIBIT A



KUKILA STREET VIEW



POHAKU STREET VIEW

EXHIBIT B



SIDE VIEW POHAKU STREET



REAR VIEW OF WAREHOUSE

EXHIBIT B



SIDE VIEW OF WAREHOUSE



CUSTOMER ENTRANCE TO WAREHOUSE

EXHIBIT B



INTERIOR VIEW OF WAREHOUSE – RETAIL AREA



INTERIOR VIEW OF WAREHOUSE – RETAIL AREA

EXHIBIT B



INTERIOR VIEW OF WAREHOUSE – STORAGE AREA



INTERIOR VIEW OF WAREHOUSE – STORAGE AREA

EXHIBIT B

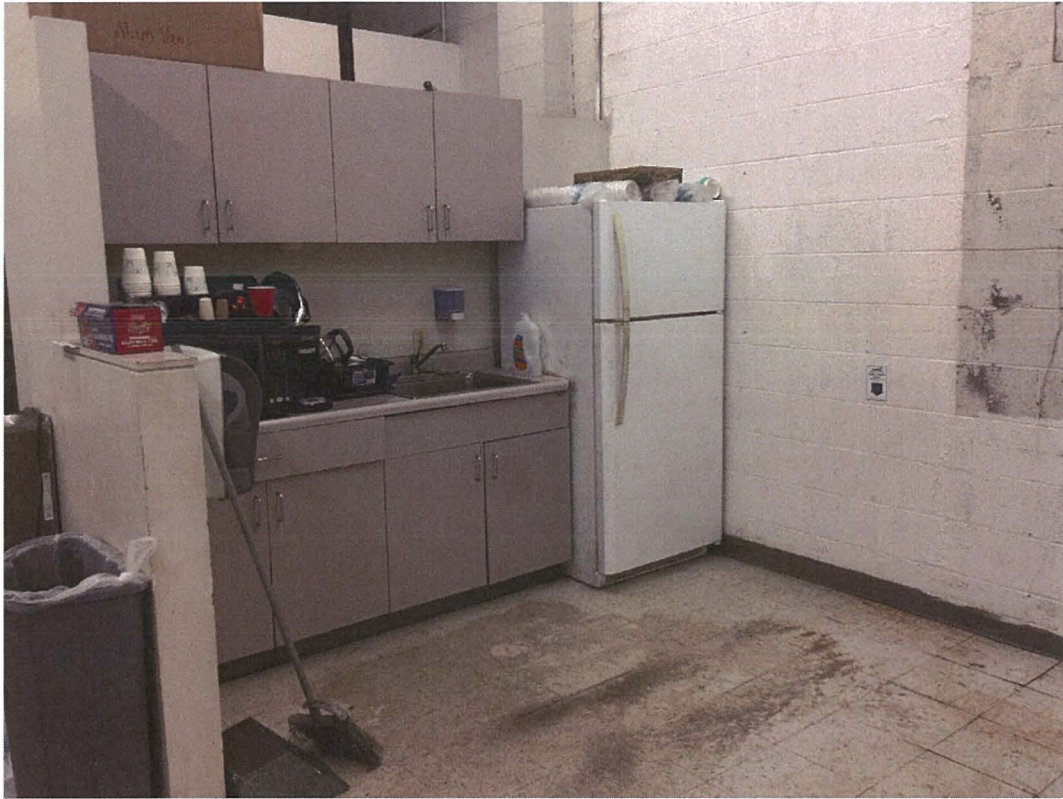


EMPLOYEE WORKSTATION



MANAGERS OFFICE

EXHIBIT B



KITCHEN AREA



BATHROOM

EXHIBIT B