

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

December 11, 2020

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

OAHU

Rescind Prior Action of December 12, 2014, D-32; *Consent to Reinstatement and Extension of Lease Term, and Setting of Rent for Extension of Lease Term, General Lease No. S-4298, Walter and Ann Liew, Lessee; Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-010:003 and Settlement of Lawsuit, Liew v. State of Hawaii, Civ. No. 07-1-0644-04 (JHC).*

The purpose of the request is to rescind the lease extension previously approved by the Board due to lessees' non-compliance with the terms imposed by the Board at its meeting of December 12, 2014 and authorize the issuance of a Notice to Vacate.

LESSEE:

Walter Tran-Chur Liew and Ann Swe-Sheng Liew, tenants by the entirety ("Lessees").

LEGAL REFERENCE:

Sections 171-6 and 20, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-1-010:003, as shown on the attached map labeled **Exhibit A**.

AREA:

15.587 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:

General agriculture which shall mean the cultivation of truck, orchard, flower or nursery crops and/or the pasturing, keeping, breeding, training and care of horses and cattle but not of swine, sheep and goats.

TERM OF LEASE:

Term of 43 years, as extended, commencing on March 12, 1970 and expiring on March 11, 2013.

ANNUAL RENTAL:

\$21,800, from February 10, 2012 to February 11, 2022, due annually on February 12.

REMARKS:

General Lease No. 4298 was sold at public auction on March 12, 1970 to Ambrose Rosehill and Frederick Titcomb for an original term of 20 years. In 1988, the Board authorized the extension for an additional 23 years expiring on March 11, 2013. The lease was assigned several times until 1999 when the Board consented to the assignment of the lease to the Lessee. The assignment to the Lessee was from the U.S. Department of Agriculture, which had acquired the lease as a result of the foreclosure of its loan to the prior tenant.

On April 10, 2007, Lessees filed a lawsuit against the State of Hawaii, Department of Land and Natural Resources, alleging that the State had known that the structures were not in compliance with City and County of Honolulu (City and County) ordinances and that the State failed to disclose the problems with the structures to the Lessee.

Around 2014, the State and Lessees' attorney discussed a possible settlement. By a letter dated November 21, 2014 from the deputy Attorney General to the Lessees' counsel (**Exhibit B**), the terms of the proposed settlement were as follows:

1. The Board shall approve the twelve (12) year extension of the lease term to run from March 12, 2013, to March 11, 2025.
2. Rent for the re-opening period of February 10, 2012 to February 11, 2022, shall be at the annual rental of \$21,800.00. A rental re-opening shall be held for the period of February 12, 2022, to March 11, 2025 according to the terms of the Lease and Hawaii Revised Statutes § 171-17, as amended.
3. Lessees will continue their efforts to correct the pre-existing City and County violations at their expense. In particular, the following shall be required:

- a. Removal of the 2<sup>nd</sup> house from the property by no later than 30 days from the date of the Board's approval. **[Status: Non-compliant]**
  - b. Either combine the 3<sup>rd</sup> and 4<sup>th</sup> houses or remove the 3<sup>rd</sup> house within 90 days from the Board's approval of the extension of the Lease. This includes obtaining all necessary permits and completing any necessary construction. **[Status: Non-compliant]**
  - c. Provide the DLNR with a copy of all building permits issued to the Lessees for any improvements on the property and a copy of all outstanding permit applications submitted by the Lessees for any improvements on the property within 30 days of the Board's approval of the extension of the Lease. **[Status: Non-compliant]**
  - d. The Lessees will provide DLNR with a letter or statement from the City and County stating that Notice of Violation No. 2004/NOV-04-141 (HC) and Notice of Violation No. 2004/NOV-04-143 (HC) have been resolved and that there are no outstanding violations, within 180 days of the Board's approval of the extension of the Lease. **[Status: See letter from DPP dated October 1, 2020 at Exhibit H described below.]**
4. The above-referenced lawsuit will be dismissed with prejudice within 30 days of the Board's approval of the extension of the Lease. **[Status: Non-compliant.]**
  5. The Lessees will cause the performance bond to be reinstated or renewed from the bond company within 10 days of the Board's approval of the extension of the Lease. **[Status: Non-compliant]**
  6. The Lessees will pay for the State's costs incurred in the prior rent re-opening arbitration proceeding. Currently, the State has paid costs in the amount of \$1,396.86 for the services of Craig Leong. In addition, the State anticipates being billed for the services of George Hao in connection with the arbitration. Reimbursement for Mr. Leong's services shall be due within 30 days of the Board's approval of the extension of Lease. Payment of amounts billed by George Hao for his services shall be due within 30 days of the Lessees' receipt of a copy of the State's invoice for Mr. Hao's services. **[Status: Non-compliant]**

At its meeting of December 12, 2014,<sup>1</sup> under agenda item, D-32, the Board approved the

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<sup>1</sup> See the submittal at the following link <https://files.hawaii.gov/dlnr/meeting/submittals/141212/D-32.pdf>

reinstatement and extension of the lease and setting the rent for the extension. It also approved the settlement subject to the conditions mentioned above. The Board also authorized staff to use its discretion in granting reasonable extensions of time from the various deadlines noted in the staff submittal, applicant requirements and the deadlines of the settlement terms and conditions.

Lessees have been paying the annual rent of \$21,800 since 2012 as described above until February 11, 2019. When staff inquired with Lessees about the progress of obtaining the permit(s) from all applicable governmental agencies, Mr. Liew responded that he was working on it. Staff continued to wait for Lessees' full compliance with the conditions required in the 2014 submittal described above.

On April 3, 2019, staff wrote a letter (**Exhibit C**) to Lessees inquiring about the delinquent rent of \$21,800 due on February 12, 2019 and other issues related to the lease, and invited Lessees to a meeting. Subsequently, Lessees met the staff in the office but were not able to report any progress on the permits. Lessees did not pay the delinquent rent and respond to other questions raised in Exhibit C. Lessees also indicated to the staff the rent of \$21,800 was wrong and they had never agreed to the rent.

Pursuant to complaint about illegal dumping, staff requested an inspection by the Department's Division of Conservation and Resources Enforcement (DOCARE). A report dated June 17, 2020 prepared by DOCARE indicated a pile of what appeared to be construction material being left on the premises (**Exhibit D**).

By a letter dated July 30, 2020 (**Exhibit E**) similar to the 2019 letter, Lessees were asked to respond to issues raised in the letter. At the same time, a Notice of Default dated July 30, 2020 was sent to Lessees for the defaults on rent, liability insurance, and performance bond.

On the morning of August 5, 2020, accompanied by Lessees' counsel, staff and a deputy Attorney General visited the premises. The inspection report is attached as **Exhibit F**.<sup>2</sup>

#### Lessees' Counsel's response

Since the issuance of the Notice of Default on July 30, 2020 and the site inspection on August 5, 2020, Lessees' counsel wrote multiple letters to the department making various allegations.<sup>3</sup> However, none of these allegations justifies Lessees' non-compliance with

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<sup>2</sup> One occupant of the premises admitted to the staff during the inspection that he is leasing from Mr. Liew. However, Lessees' counsel later sent a letter dated August 6, 2020 (**Exhibit G**) claiming that the person was illegally staying on the premises. There were a lot of materials and woodworking tools for making cabinets, furniture and similar items inside another warehouse. Staff observed other signs during the inspection possibly indicating unauthorized subleasing. However, unauthorized subleasing is not one of the grounds for the action recommended in today's submittal. The Board can refer to the inspection report (Exhibit F) for additional information.

<sup>3</sup> Lessee's counsel's allegations/accusations include the following:

the settlement conditions the Board approved in 2014.

### Staff position

At the time of writing this submittal, the rent is still in delinquent for \$44,100, including late fees, and the performance bond has expired. Insurance was provided for the period from August 5, 2020 for one year.

The Board approval of December 12, 2014 was contingent on the settlement of the lawsuit between Walter Liew and the State and required the Lessees to meet certain requirements within a specified timeline. While the DPP's issues apparently are moot as DPP has indicated its satisfaction of the outstanding violations by its letter dated October 1, 2020 (**Exhibit H**), the 2<sup>nd</sup> house is still located on the premises.<sup>4</sup>

As to counsel's argument disputing the annual rent which was agreed to previously when Lessees were represented by another attorney. Land Division does not intend to start the mediation/arbitration again as the process was concluded many years ago.

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- That the department did not "supervise" the lease and even "covered up" the prior lessee's violations. **Staff response:** Lessees purchased the lease in foreclosure from DOA. There was no cover-up by DLNR. In addition, Lessee has been in possession of the property for over 20 years. Any defects should have already been corrected.
  - That the department used the Notice of Violation issued by the Department of Planning and Permitting to block the transfer of the lease to the Department of Agriculture (DOA). **Staff response:** any transfer pursuant to Act 90, Session laws of Hawaii 2003, requires the approval of both boards. In addition, DOA will only recommend transfer to its Board when the lessee is in compliance with the lease conditions.
  - That the current annual rent of \$21,800 was "wrongly and illegally imposed." Counsel demanded a refund estimated at \$81,000. **Staff response:** when the Board consented to reinstatement of the lease extension at its meeting of December 12, 2014, Lessees were represented by their prior counsel. In the submittal, \$21,800 was included as one of the terms of the proposed settlement. Neither Lessees nor their counsel objected to this term. Lessees paid that accepted lease rent for 5 years prior to raising any issues about the rent.
  - In addition to similar issues mentioned in prior letter, counsel also provided a copy of a receipt to remove one load of concrete cited by the Department of Health, and an application dated August 2, 2020 to become a cooperator in the Windward Oahu Soil and Water Conservation District. In the letter, the counsel argued that the installation of a septic tank on the premises appeared to have received the prior approval from the Board at its meeting of December 12, 2014. **Staff response:** staff understands the Department of Health has approved the installation, and while Land Division encourages closure of cesspools by lessees to bring leases into compliance with applicable State and federal law, staff is not aware of any application signed by the State as fee owner of the premises for the septic tank installation as the lease requires. Department of Agriculture has some existing improvements for its waterline and it recently indicated its agreement to the installation of the septic tank. There had been no consideration of, or approval for, a septic tank installation in 2014.

<sup>4</sup> In addition, other than the building permit numbers described in DPP's letter, the department was not provided with relevant documentation regarding the building permits and their pertinent structures. Though DPP cited certain building permits, a quick check on the DPP website no final inspections for the building permits have been conducted.

Staff recommends the Board rescind its December 12, 2014 approval for lease extension due to the lack of compliance with the conditions described in the submittal. Upon approval of today's request, a notice to vacate will be prepared and enforced.

RECOMMENDATION: That the Board:

1. Rescind its December 12, 2014 approval for lease extension;
2. Authorize the Chairperson to issue a Notice to Vacate on the Lessees demanding their removal from the premises within 30 days of the Notice;
3. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-4298 to be applied to any past due amounts; and
4. 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-4298 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,

*Barry Cheung*

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Barry Cheung  
District Land Agent

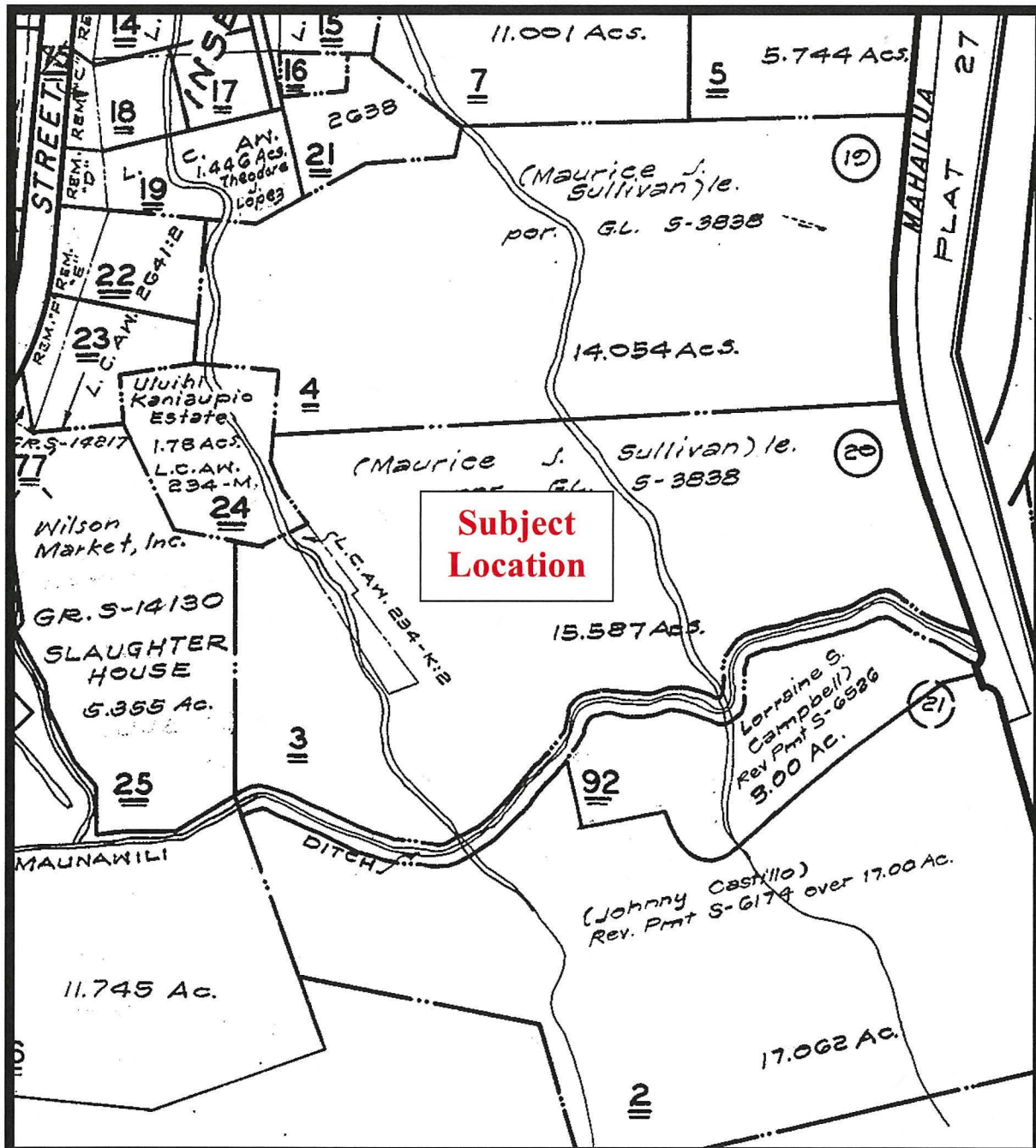
APPROVED FOR SUBMITTAL:

*Suzanne D. Case*

RT

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Suzanne D. Case, Chairperson



TMK (1) 4-1-010:003

# EXHIBIT A

NEIL ABERCROMBIE  
GOVERNOR



DAVID M. LOUIE  
ATTORNEY GENERAL

RUSSELL A. SUZUKI  
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII  
DEPARTMENT OF THE ATTORNEY GENERAL  
LAND TRANSPORTATION DIVISION  
ROOM 300, KEKUANAO'A BUILDING  
465 South King Street  
HONOLULU, HAWAII 96813  
(808) 587-2992

WRITER'S DIRECT LINE:  
(808) 587-2988  
WRITER'S E MAIL:  
Linda.L.Chow@hawaii.gov

November 21, 2014

Enver W. Painter, Jr.  
1188 Bishop Street, Suite 2505  
Honolulu, Hawaii 96813

Re: *Liew v. State of Hawaii, Dept. of Land and Natural Resources*, Civ. No. 07-1-0644

Dear Enver:

I am writing in response to your letter dated October 7, 2014 in which you offered, on behalf of your clients, to resolve all issues between our respective clients regarding extension of the subject lease, bringing the property into compliance with all lease requirements, and resolving the issues of the rent for the extended lease term. This correspondence is made pursuant to Rule 408 of the Hawaii Rules of Evidence. Finalization of any of the settlement terms set forth in this letter is subject to approval by the Board of Land and Natural Resources (Board), which approval will be requested but is not presumed.

As I understood your letter, the terms of your client's offer is as follows:

1. The Board shall re-approve the twelve (12) year extension of the lease term to run from March 12, 2013, to March 11, 2025.
2. Rent for the current rental re-opening period shall be at the annual rental of \$21,800.00.
3. The Liews will continue their efforts to correct the pre-existing lease violations at their expense.
4. The above referenced lawsuit will be dismissed.

The Dept. of Land and Natural Resources (DLNR) is in general agreement with the above terms, but would like to include additional clarification and terms as indicated below:

1. The Board shall re-approve the twelve (12) year extension of the lease term to run from March 12, 2013, to March 11, 2025.

**EXHIBIT "B"**

2. Rent for the re-opening period of January 27, 2012 to February 11, 2022, shall be at the annual rental of \$21,800.00. A rental re-opening shall be held for the period of February 12, 2022, to March 11, 2025 according to the terms of the Lease and Hawaii Revised Statutes § 171-17, as amended.
3. The Liewes will continue their efforts to correct the pre-existing City and County of Honolulu (City and County) violations at their expense. In particular, the following shall be required:
  - a. Removal of the 2<sup>nd</sup> house from the property by no later than 30 days from the date of this letter.
  - b. Either combine the 3<sup>rd</sup> and 4<sup>th</sup> houses or remove the 3<sup>rd</sup> house within 90 days from the Board's approval of the extension of the Lease. This includes obtaining all necessary permits and completing any necessary construction.
  - c. Provide the DLNR with a copy of all building permits issued to the Liewes for any improvements on the property and a copy of all outstanding permit applications submitted by the Liewes for any improvements on the property within 30 days of the Board's approval of the extension of the Lease.
  - d. The Liewes will provide DLNR with a letter or statement from the City and County stating that Notice of Violation No. 2004/NOV-04-141 (HC) and Notice of Violation No. 2004/NOV-04-143 (HC) have been resolved and that there are no outstanding violations, within 180 days of the Board's approval of the extension of the Lease.
4. The above referenced lawsuit will be dismissed with prejudice within 30 days of the Board's approval of the extension of the Lease.
5. The Liewes will cause the performance bond to be reinstated or renewed from the bond company within 10 days of the Board's approval of the extension of the Lease.
6. The Liewes will pay for the State's costs incurred in the prior rent re-opening arbitration proceeding. Currently, the State has paid costs in the amount of \$1,396.86 for the services of Craig Leong. In addition, the State anticipates being billed for the services of George Hao in connection with the arbitration. Reimbursement for Mr. Leong's services shall be due within 30 days of the Board's approval of the extension of Lease. Payment of amounts billed by George Hao for his services shall be due within 30 days of the Liewes' receipt of a copy of the State's invoice for Mr. Hao's services.

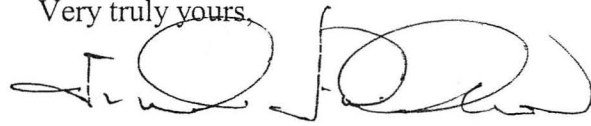
Enver W. Painter, Jr.  
November 21, 2014  
Page 3

Please let me know within ten (10) days if these terms are acceptable to your clients. Thereafter, if the terms are acceptable, we will have to present the proposed settlement offer to the Board for its approval.

We may also want to enter into a stipulation to continue the hearing, and associated deadlines, on the Motion to Enforce Settlement Agreement. There is only one Board meeting in December. If an agreement is reached pending the Board's approval, we may need continue or stay the hearing so neither party has to do unnecessary preparation while we seek the Board's approval.

Please feel free to call me if you would like to discuss this further.

Very truly yours,

A handwritten signature in black ink, appearing to be "Linda L.W. Chow", written in a cursive style.

Linda L.W. Chow  
Deputy Attorney General

cc: Land Division, DLNR

DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

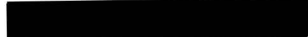
STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

April 3, 2019

Ref: 12OD-021

Mr. & Mrs. Walter Liew



Waimanalo, Hawaii 96795

Dear Mr. & Mrs. Liew:

Subject: Lease Extension for General Lease No, 4298, Walter and Ann Liew,  
Lessees; Waimanalo, Koolaupoko, Oahu, TMK (1) 4-1-010:003

We write to follow-up the outstanding actions as described in the Board action at its meeting of December 12, 2014, under agenda item D-32 (copy enclosed).

We will appreciate your prompt responses to the following items:

1. Annual rent for \$21,800 due on February 12, 2019 is delinquent;
2. Last performance bond on file expired on October 15, 2016.
3. Response to the warning letter dated March 20, 2019 from the State of Hawaii Department of Health, Solid and Hazardous Waste Branch (copy enclosed) regarding the accumulation of concrete rubble on the subject property.
4. We noticed there were pigs kept on the premises during our last visit in December 2018, and you were told to remove the pigs from the premises. Please advise us on the status.
5. During the same visit, we noticed multiple vehicles were left on the premises. We believed that they were abandoned on the premises. Please advise if you have removed those vehicles.
6. We did not notice any signs of active agricultural activities on the premises. Please provide us with your plan toward compliant with the character of use of the lease.

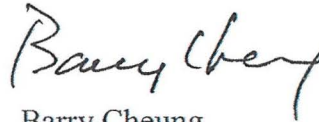
Please note that before we request the Department of the Attorney General for any lease extension document, a full compliance with the terms and conditions of the lease is required. Therefore, your full cooperation toward your compliance is significant in issuing any lease extension.

EXHIBIT "C"

We would like to discuss with you further on the above-mentioned issues and any other questions that you have for the lease in our office at **2:00 p.m. on April 17, 2019, Tuesday**. Please call Patti Miyashiro of our office at [REDACTED] to advise us of your availability.

We look forward to seeing you at our forthcoming meeting. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Cheung". The signature is fluid and cursive, with the first name "Barry" and last name "Cheung" clearly distinguishable.

Barry Cheung  
District Land Agent

Enclosures



State of Hawaii | Department of Land and Natural Resources | Division Conservation and Resources Enforcement

Log Number 20-0902-OA	District NORTHERN	Lead Investigator Kamaau, Preston K - KAMAP
Date/Time Reported 06/17/2020 0952	Location SAME AS ABOVE	Classification
Status PEND PENDING FURTHER ACTION	Activity Code Land Management	

Incident and Report Control

A. COMPLAINT

Taken By: Kamaau, Preston K

Reported Date/Time: 6/17/2020 9:52:00 AM

How Taken: OTHER

Location: SAME AS ABOVE

Occurred From: 6/17/2020  
Occurred To: 6/17/2020

TO: Control  
FROM: CLO  
Date: 9LS-4298

B. REPORT CONTROL

Branch: OAHU

District: ODIV

Lead Investigator: Kamaau, Preston K *[Signature]*

C. NOTES/DISPOSITION/OTHER INFO

Disposition: PENDING FURTHER ACTION

RECEIVED  
LAND DIVISION  
2020 AUG 13 AM 11:09  
DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

EXHIBIT "D"



## State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

Log Number 20-0902-OA	District DISTRICT IV (OAHU)	Lead Investigator Kamaau, Preston K - KAMAP
Date/Time Reported 06/17/2020 0952	Location SAME AS ABOVE	Classification LAND DIVISION
Status PEND PENDING FURTHER ACTION	Activity Code Land Management	

## Investigation Report

☐ Fishing ☐ Hunting ☐ Boating ☐ Drug Rel. ☐ Forestry ☐ NOAA ☐ JEA ☐ Land - OCCL ☐ CWRM ☐ Historic ☐ State Parks ☐ KAIC ☐ Other

## BASIC

Classification LAND DIVISION	Source OTHER
Location of Incident / Intersecting Street [REDACTED] WAIMANALO HI 96795 X-Street:	Island OAHU Branch OAHU
Date / Time Occurred From 6/17/2020	Date / Time Occurred to 6/17/2020
Category	Weather CLEAR

WEAPONS USED:

## PERSONS

Name (Last, First, Middle) LIU, WALTER	Juvenile <input type="checkbox"/>	Sex MALE	Race ASIAN	Age	Date of Birth
Address [REDACTED] WAIMANALO HI 96795					
Category SUSPECT	CODE: SUSP	Home Phone	Other Phone		

## RESPONDING / INVOLVED UNITS, OFFICERS, AND TIMES

Division	Supervisor
Unit Number	Officer / ID (Ofcr 1 / Ofcr 2)
	Kamaau, Preston K
	KAMAP
	Officer / ID (Ofcr 3 / Ofcr 4)

## LEASE LAND VIOLATION

Narrative Created By / Created On Kamaau, Preston K	Approved By / On 06/18/2020
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**Synopsis:** on the above 6-17-20, a reported State lease land violation occurred at [REDACTED] street.

**Assignment/Arrival:**

On 6-17-20, at about 1030 hrs., while assigned as a DLNR Enforcement Officer, I was sent, via Control, to the above location to investigate a possible State lease violation. I arrived at about 1100 hours.

**Observations:**

Upon arrival, I drove through the State leased property and observed a large pile of trash located on the far end of the alleged property. The trash appeared to be of construction material such as, wood, metal, etc. The height and diameter of the trash pile observed to be approximately 8' in height with 40'-50' ft. in width. (Refer to photos attached for clearer depiction).

**Lessee:** Walter LIU adult male of [REDACTED] Street, Waimanalo, Hi 96795

**Land Management notified:**

At about 1230 hours., I notified Barry CHEUNG (DLNR Land Manager) regarding my findings. Mr. CHEUNG related that he will take over and seek resolve in this case.

Written By: Kamaau, Preston K  
6/17/2020

Approved By: [Signature]  
T.A.J. LEE 06-17-20 1430hrs.

PAGE 1



Log Number 20-0902-OA	District DISTRICT IV (OAHU)	Lead Investigator Kamaau, Preston K - KAMAP
Date/Time Reported 06/17/2020 0952	Location SAME AS ABOVE	Classification LAND DIVISION
Status PEND PENDING FURTHER ACTION	Activity Code Land Management	

**Disposition:**

Case referred to DLNR Land Management Division for final resolve and disposition.



Log Number  
20-0902-OA

District  
DISTRICT IV (OAHU)

Lead Investigator  
Kamaau, Preston K - KAMAP

Date/Time Reported  
06/17/2020 0952

Location  
SAME AS ABOVE

Classification  
LAND DIVISION

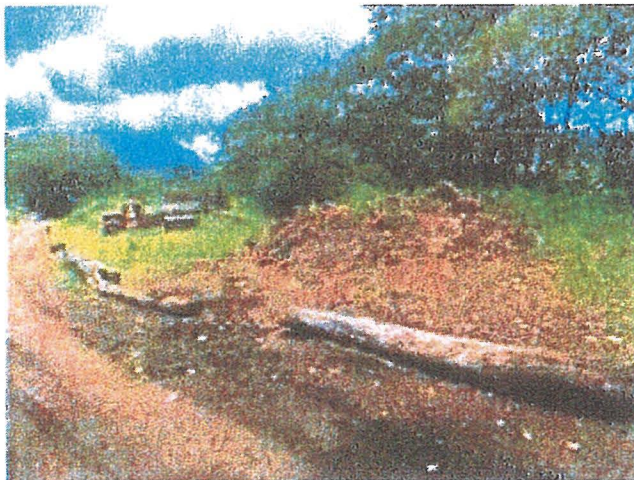
Status PENDING  
PENDING FURTHER ACTION

Activity Code  
Land Management

IMAGES



Street property



Street property



property

Written By: Kamaau, Preston K  
6/17/2020

Approved By:  
TAT. LEE 0711-201420/KRS



State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

Log Number 20-0902-OA	District DISTRICT IV (OAHU)	Lead Investigator <u>Kamaau, Preston K - KAMAP</u>
Date/Time Reported 06/17/2020 0952	Location SAME AS ABOVE	Classification LAND DIVISION
Status PEND PENDING FURTHER ACTION	Activity Code Land Management	

IMAGES



Street



Street

*Handwritten notes:*  
T/A JLE 233  
07-11-2014 301125

DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

July 30, 2020

Ref: GL4298

Mr. & Mrs. Walter Liew  
[REDACTED]  
Waimanalo, Hawaii 96795

Dear Mr. & Mrs. Liew:

Subject: Lease Extension for General Lease No, 4298, Walter and Ann Liew,  
Lessees; Waimanalo, Koolaupoko, Oahu, TMK (1) 4-1-010:003

We write to follow-up on our letter dated April 3, 2019 (copy enclosed) regarding the outstanding items referred to in the Board action of December 12, 2014, under agenda item D-32 (copy enclosed) and other issues as listed below.

1. Annual rent and late fees in an amount of \$44,100 (invoice enclosed) covering the two rental periods from February 12, 2019 to February 11, 2020 and from February 12, 2020 to February 11, 2021 are delinquent.
2. Last performance bond on file expired on October 15, 2016.
3. Last liability insurance on file expired on April 8, 2017.
4. We do not have any response from you to the warning letter dated March 20, 2019 sent to you by the State of Hawaii Department of Health, Solid and Hazardous Waste Branch (copy enclosed) regarding the accumulation of concrete rubble on the subject property. We also received complaints regarding unauthorized dumping by a third party on the premises.
5. We noticed there were pigs kept on the premises during our last visit in December 2018, and you were told to remove the pigs from the premises. Please advise us on the status.
6. During the 2018 visit, we noticed multiple vehicles were left on the premises and that they appeared to have been abandoned. Please advise if you have removed the vehicles.
7. We did not notice any signs of active agricultural operations on the premises. Please provide us with your plan toward compliance with the character of use of the lease.
8. We noticed there were other people apparently living on the premises. In the past, you indicated to us that they were employees working for you in exchange for accommodations. Please provide the names of your employees under this arrangement.

**EXHIBIT "E"**

Today, under separate cover, we sent out a Notice of Default to you regarding the rent, performance bond, and liability insurance. Please note the respective cure periods for the respective breach described in the Notice of Default.

We understand that you are planning to install a septic tank on the premises, which is required by the building permit issued by the Department of Planning and Permitting. It is also our understanding that the Department of Agriculture has indicated its agreement to the latest design of your septic system. Nevertheless, please be advised that any improvements to the lease premises require the prior approval of the Chairperson. Please do not start any installation work until we review the situation after the site inspection and meeting mentioned in the following paragraph.

We would like to set up a site inspection and meeting with you on August 5, 2020 Wednesday @ 10:00 am to go through the above-mentioned issues. We also plan to invite representatives from the Department of the Attorney General, Department of Health, and Department of Planning and Permitting to join our site inspection and meeting.

Please confirm your availability for the scheduled date with my staff, Barry Cheung, at [REDACTED] Thank you.

Sincerely,

*Suzanne D. Case*

RT

Suzanne D. Case  
Chairperson

Enclosures

DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

April 3, 2019

Ref: 12OD-021

Mr. & Mrs. Walter Liew

Waimanalo, Hawaii 96795

Dear Mr. & Mrs. Liew:

Subject: Lease Extension for General Lease No, 4298, Walter and Ann Liew,  
Lessees; Waimanalo, Koolaupoko, Oahu, TMK (1) 4-1-010:003

We write to follow-up the outstanding actions as described in the Board action at its meeting of December 12, 2014, under agenda item D-32 (copy enclosed).

We will appreciate your prompt responses to the following items:

1. Annual rent for \$21,800 due on February 12, 2019 is delinquent;
2. Last performance bond on file expired on October 15, 2016.
3. Response to the warning letter dated March 20, 2019 from the State of Hawaii Department of Health, Solid and Hazardous Waste Branch (copy enclosed) regarding the accumulation of concrete rubble on the subject property.
4. We noticed there were pigs kept on the premises during our last visit in December 2018, and you were told to remove the pigs from the premises. Please advise us on the status.
5. During the same visit, we noticed multiple vehicles were left on the premises. We believed that they were abandoned on the premises. Please advise if you have removed those vehicles.
6. We did not notice any signs of active agricultural activities on the premises. Please provide us with your plan toward compliant with the character of use of the lease.

Please note that before we request the Department of the Attorney General for any lease extension document, a full compliance with the terms and conditions of the lease is required. Therefore, your full cooperation toward your compliance is significant in issuing any lease extension.

We would like to discuss with you further on the above-mentioned issues and any other questions that you have for the lease in our office at **2:00 p.m. on April 17, 2019, Tuesday**. Please call Patti Miyashiro of our office at [REDACTED] to advise us of your availability.

We look forward to seeing you at our forthcoming meeting. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Cheung". The signature is fluid and cursive, with the first name "Barry" and last name "Cheung" clearly distinguishable.

Barry Cheung  
District Land Agent

Enclosures

gl4298

AMOUNT PAID: \_\_\_\_\_

Date	Description	Charges	Payments	Balance
	<b>Balance Forward</b>			44,100.00

Please excuse the delay in billing, we are currently transitioning to a new accounting system. Each charge represents the allocation of your lease payment. If your invoice contains what you believe to be a discrepancy, please notify us through email at [dlnr.landtenant@hawaii.gov](mailto:dlnr.landtenant@hawaii.gov) for our review. Thank you.

DAVID Y. IGE  
GOVERNOR OF HAWAII

RECEIVED  
LAND DIVISION



BRUCE S. ANDERSON, Ph.D.  
DIRECTOR OF HEALTH

2019 MAR 20 AM 10:36

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HI 96801-3378

In reply, please refer to:  
File:

March 20, 2019

S0312TN

**CERTIFIED MAIL NO. 7018 0680 0001 5534 4064**  
**RETURN RECEIPT REQUESTED**

**WARNING LETTER**

Mr. Walter Liew  
Ms. Ann Liew

[REDACTED]  
Waimanalo, Hawaii 96795

Dear Mr. and Ms. Liew:

SUBJECT: Accumulation of Concrete Rubble  
[REDACTED] Waimanalo, Hawaii  
TMK: 410100030000

On March 11, 2019, in response to a complaint, the Department of Health (DOH), Solid Waste Section (SWS) visited the subject property and observed approximately 5-10 cubic yards of concrete rubble that was greater than eight (8) inches in diameter and had exposed reinforcing steel. It is our understanding that the rubble had been imported to the subject property. Additionally, it is our understanding that you have been importing soil to the property.

Hawaii Revised Statutes (HRS) Chapter 342H-30 provides:

- (a) *No person, including any public body, shall engage in the operation of an open dump.*
- (b) *No person, including any public body, shall operate a solid waste management system without first securing approval in writing from the director.*
- (c) *No person, including any public body, shall discard, dispose of, deposit, discharge, or dump solid waste, or by contract or otherwise arrange directly or indirectly for the disposal of solid waste in an amount equal to or greater than one cubic yard in volume anywhere other than a permitted solid waste management system without the prior written approval of the director. Each day of violation shall constitute a separate offense. This prohibition shall not be deemed to supersede any other disposal prohibitions established under federal, state, or county law, regulation, rule, or ordinance.*

Mr. Walter Liew  
Ms. Ann Liew  
March 20, 2019  
Page 2

Additionally, as the property owner and/or operator, you have the responsibility to properly manage and dispose of accumulated solid wastes. This responsibility is stated in the Hawaii Administrative Rules, Title 11, Chapter 58.1, which provides:

- (a) *The aesthetic, nonhazardous, and sanitary storage of solid waste is the responsibility of the person owning, operating, or managing the property, premises, business establishment, or industry where the solid waste is accumulated.*
- (b) *Any person not exempted in section 11-58.1-04 (b) owning, operating, or managing a property, premise, business establishment, or industry has the responsibility of removing accumulated solid waste to an approved solid waste disposal facility. Contractual or other arrangements for the removal of accumulated solid waste shall not relieve a person of this primary responsibility as stated above. Solid waste shall be removed to an approved solid waste disposal facility, prior to creating a nuisance condition, health, or safety hazard.*

You also need to ensure the soil you import to the subject site is safe, and not a waste. That determination can be made by evaluating the historical use of the property where the soil was generated and/or collecting analytical data to confirm the soil is uncontaminated. For more information on these requirements, here is the link to the 2017 Clean Fill Guidance:

<http://eha-web.doh.hawaii.gov/eha-cma/documents/ee9cfe45-347c-4258-863f-2eebbaadc75f>.

You are required to correct the above-mentioned areas of noncompliance and provide documentation of your corrective actions to the DOH-SWS as outlined below. Corrective actions shall include:

1. Immediately cease and desist bringing solid waste onto the subject property.
2. Remove all solid waste, including concrete rubble greater than eight (8) inches in diameter, from the property within thirty (30) calendar days of your receipt of this letter. All solid waste removed from the property shall be taken to DOH-permitted disposal or recycling facilities.
3. Submit copies of disposal receipts to the DOH-SWS within thirty (30) days of receipt of this letter.
4. Contact Mr. Todd Nichols of the DOH, Solid and Hazardous Waste Branch at (808) [REDACTED] within thirty (30) calendar days of your receipt of this letter to schedule a follow-up inspection of the subject site.

Mr. Walter Liew  
Ms. Ann Liew  
March 20, 2019  
Page 3

The DOH-SWS reserves the right to take enforcement actions on past and current solid waste violations. Please be aware that violations of state solid waste regulations could result in formal enforcement, which would carry a monetary penalty of up to ten thousand dollars (\$10,000) for each separate offense, for each separate day of the offense, in accordance with HRS 342H-9. For the illegal dumping of solid waste, HRS 342H-39 provides criminal penalties of up to twenty-five thousand dollars (\$25,000) for each separate offense; up to thirty (30) days imprisonment for each offense; or revocation or suspension by court order of any contractor's license to operate as a contractor or any applicable certificate of authorization from the public utilities commission.

Any deficiencies, which may be noted in this letter, are not necessarily inclusive, and any omissions shall not be construed as a determination of compliance with any applicable laws. Also, any omission to cite other violations is not intended to nor shall be binding upon the DOH. Please mail a response within thirty (30) calendar days of your receipt of this letter.

Should you have any questions regarding this letter, please contact Mr. Todd Nichols of our Solid Waste Section at [REDACTED].

Sincerely,



LENE ICHINOTSUBO, P.E., ACTING CHIEF  
Solid and Hazardous Waste Branch

c: DOH, Department of Land and Natural Resources

**AMENDED**

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

December 12, 2014

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

OAHU

Consent to Reinstatement and Extension of Lease Term, and Setting of Rent for Extension of Lease Term, General Lease No. S-4298, Walter and Ann Liew, Lessee; Waimanalo, Koolauapoko, Oahu, Tax Map Key: (1) 4-1-010:003 and Settlement of Lawsuit, *Liew v. State of Hawaii*, Civ. No. 07-1-0644-04 (JHC).

APPLICANT AND REQUEST:

Walter & Ann Liew to make improvements to the property in an amount not to exceed \$100,000.

For Mortgagor to amortize the cost of the improvements, Mortgagee requires an extension of General Lease No. S-4298 of twelve (12) years, commencing on March 12, 2013 and expiring on March 11, 2025, for an aggregate term (initial term plus all extensions) of fifty-five years.

LEGAL REFERENCE:

Sections 171-22 and 36(b), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolauapoko, Oahu, identified by Tax Map Key: (1) 4-1-010:003, as shown on the attached map labeled Exhibit A.

AREA:

15.587 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

<sup>as amended</sup>  
APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
December 12, 2014 4:10

D-32

CHARACTER OF USE:

General agriculture purposes.

TERM OF LEASE:

Original term of 43 years, commencing on March 12, 1970 and expiring on March 11, 2013.

Requested extension of twelve (12) years commencing on March 12, 2013 and expiring on March 11, 2025.

ANNUAL RENTAL:

Current rent is \$15,000, due on February 12 of each year.

RENTAL REOPENINGS:

An immediate rent reopening for the extended term was conducted by an independent appraiser. In July 2012, staff notified the Lessee that the annual rental for the first ten (10) years of the extended term would be \$21,800. The Lessee has agreed to this rental amount.

USE OF LOAN PROCEEDS:

The Mortgagor intends to use the loan proceeds to make changes necessary to bring the improvements on the subject premises into compliance with the relevant county ordinances.

DCCA VERIFICATION:

Not applicable.

APPLICANT REQUIREMENTS:

The Lessees will continue their efforts to correct the pre-existing City and County of Honolulu (City and County) violations at their expense. In particular, the following shall be required:

- a. Removal of the 2nd house from the property by no later than 30 days from the date of the Board's approval.
- b. Either combine the 3rd and 4th houses or remove the 3rd house within 90 days from the Board's approval of the extension of the Lease. This includes obtaining

all necessary permits and completing any necessary construction.

- c. Provide the DLNR with a copy of all building permits issued to the Lessees for any improvements on the property and a copy of all outstanding permit applications submitted by the Lessees for any improvements on the property within 30 days of the Board's approval of the extension of the Lease.
- d. The Lessees will provide DLNR with a letter or statement from the City and County stating that Notice of Violation No. 2004/NOV-04-141 (HC) and Notice of Violation No. 2004/NOV-04-143 (HC) have been resolved and that there are no outstanding violations, within 180 days of the Board's approval of the extension of the Lease.

REMARKS:

General Lease No. 4298 was sold at public auction on March 12, 1970 to Ambrose Rosehill and Frederick Titcomb for an original term of 20 years. The lease was assigned several times until 1999 when the Board consented to the assignment of the subject lease to Walter and Ann Liew (Lessee). The assignment to the Liews was from the U.S. Department of Agriculture (USDA) which had received the lease as a result of the foreclosure of its loan to the prior tenant. It appears that the USDA was aware of the problems with the improvements not being in compliance, but that it did not disclose such problems to the Liews prior to the lease being assigned.

In March 2005, the Department received a Notice of Violation (NOV) issued by the Department of Planning and Permitting of the City and County of Honolulu. The subject of the NOV was unauthorized structures on the premises. The Notice of Default (NOD) was served and the Board extended the cure period of the NOD to allow the Lessee more time to address the problem. At the time of writing this submittal, the breach has not been corrected.

On April 10, 2007, Lessee filed a lawsuit against the State of Hawaii, Department of Land and Natural Resources, alleging that the State had known that the structures were not in compliance with County ordinances and that it failed to disclose the problems with the structures to the Lessee.

On February 10, 2012, the Board was asked to consent to the Liews' mortgage of the leasehold interest and an extension of the Lease to allow the Liews to repay the mortgage. The mortgage proceeds were required to be used to make any changes necessary to bring the improvements on the subject premises into compliance with the relevant county ordinances.

The written submittal conditioned the consent to mortgage and extension of the Lease on the Liews' satisfaction of 3 conditions: removal of the second house from the property within 90 days from the date of the Board approval; either combining the third and fourth

houses or to remove the third house within 180 days from the date of the Board approval; and payment of the appraisal fee for the immediate rental reopening (Applicant Requirements). The submittal provided that failure to comply [with] the Applicant Requirement[s] within the time stipulated therein shall result in automatic revocation of this approval.

On May 9, 2012, DLNR staff received an email from the Liews' son confirming that the second house had been removed from the property. Subsequent to May 9, 2012, DLNR staff did go to the property to verify that the second house had been removed and to investigate complaints regarding activity on the property. DLNR staff verified that the second house was no longer in its location near the front entrance to the property.

On January 25, 2013, DLNR staff again took the Lease to the Board to request a 60 day holdover of the Lease to allow the Liews to fulfill the last Applicant Requirement, to combine the third and fourth houses or to remove the third house. The Board granted the 6 month holdover of the Lease, until September 11, 2013, and delegated authority for the Chairperson of the Board to grant further extensions of the time for completion of the Applicant Requirements for good cause.

On October 29, 2013, the Liews, DLNR staff and attorneys conducted a site visit of the subject property in connection with a rent arbitration proceeding. While on the site visit, DLNR staff and attorneys discovered that the second house, which was represented as having been removed from the property on May 9, 2012, was still on the property and had merely been relocated within the property. As a result of this finding, the Board, at its meeting of December 13, 2013, Item D-27, authorized the issuance of a 60 day Notice to Vacate to the Liews as the Liews had failed to fulfill one of the requirements for the extension of the Lease and, by the terms of the Board's consent, failure to remove the second house within the time provided would result in automatic revocation of the Board's consent to the extension of the Lease. Such Notice to Vacate was never issued as the Liews filed a petition for contested case hearing a week after the Board meeting. The Board denied the request for contested case hearing at its meeting on April 16, 2014, (Item D-15).

Although the lease extension was revoked, the lawsuit filed by the Lessee is ongoing. Recently, staff understands that the State and the Lessee's attorney are working on a settlement regarding the lawsuit mentioned above. The terms of the proposed settlement are as follows:

1. The Board shall approve the twelve (12) year extension of the lease term to run from March 12, 2013, to March 11, 2025.
2. Rent for the re-opening period of February 10, 2012 to February 11, 2022, shall be at the annual rental of \$21,800.00. A rental re-opening shall be held for the period of February 12, 2022, to March 11, 2025 according to the terms of the Lease and Hawaii Revised Statutes § 171-17, as amended.

3. The Lessees will continue their efforts to correct the pre-existing City and County of Honolulu (City and County) violations at their expense. In particular, the following shall be required:
  - a. Removal of the 2nd house from the property by no later than 30 days from the date of the Board's approval
  - b. Either combine the 3rd and 4th houses or remove the 3rd house within 90 days from the Board's approval of the extension of the Lease. This includes obtaining all necessary permits and completing any necessary construction.
  - c. Provide the DLNR with a copy of all building permits issued to the Lessees for any improvements on the property and a copy of all outstanding permit applications submitted by the Lessees for any improvements on the property within 30 days of the Board's approval of the extension of the Lease.
  - d. The Lessees will provide DLNR with a letter or statement from the City and County stating that Notice of Violation No. 2004/NOV-04-141 (HC) and Notice of Violation No. 2004/NOV-04-143 (HC) have been resolved and that there are no outstanding violations, within 180 days of the Board's approval of the extension of the Lease.
4. The above referenced lawsuit will be dismissed with prejudice within 30 days of the Board's approval of the extension of the Lease.
5. The Lessees will cause the performance bond to be reinstated or renewed from the bond company within 10 days of the Board's approval of the extension of the Lease.
6. The Lessees will pay for the State's costs incurred in the prior rent re-opening arbitration proceeding. Currently, the State has paid costs in the amount of \$1,396.86 for the services of Craig Leong. In addition, the State anticipates being billed for the services of George Hao in connection with the arbitration. Reimbursement for Mr. Leong's services shall be due within 30 days of the Board's approval of the extension of Lease. Payment of amounts billed by George Hao for his services shall be due within 30 days of the Lessees' receipt of a copy of the State's invoice for Mr. Hao's services.

The parties understand that the settlement was subject to approval by the Board for the lease extension request and the other settlement terms notwithstanding that the lessee is

not in compliance with the lease terms and conditions.

Staff recommends the Board consent to the mortgage and authorize the lease extension in view of the proposed settlement.

There are no other pertinent issues or concerns.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant requirement listed above:

1. Authorize the extension of General Lease No. S-4298 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 lease extension form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve the settlement of the above referenced lawsuit on the terms set forth above.

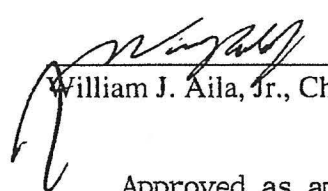
Respectfully Submitted,



Barry Cheung  
District Land Agent

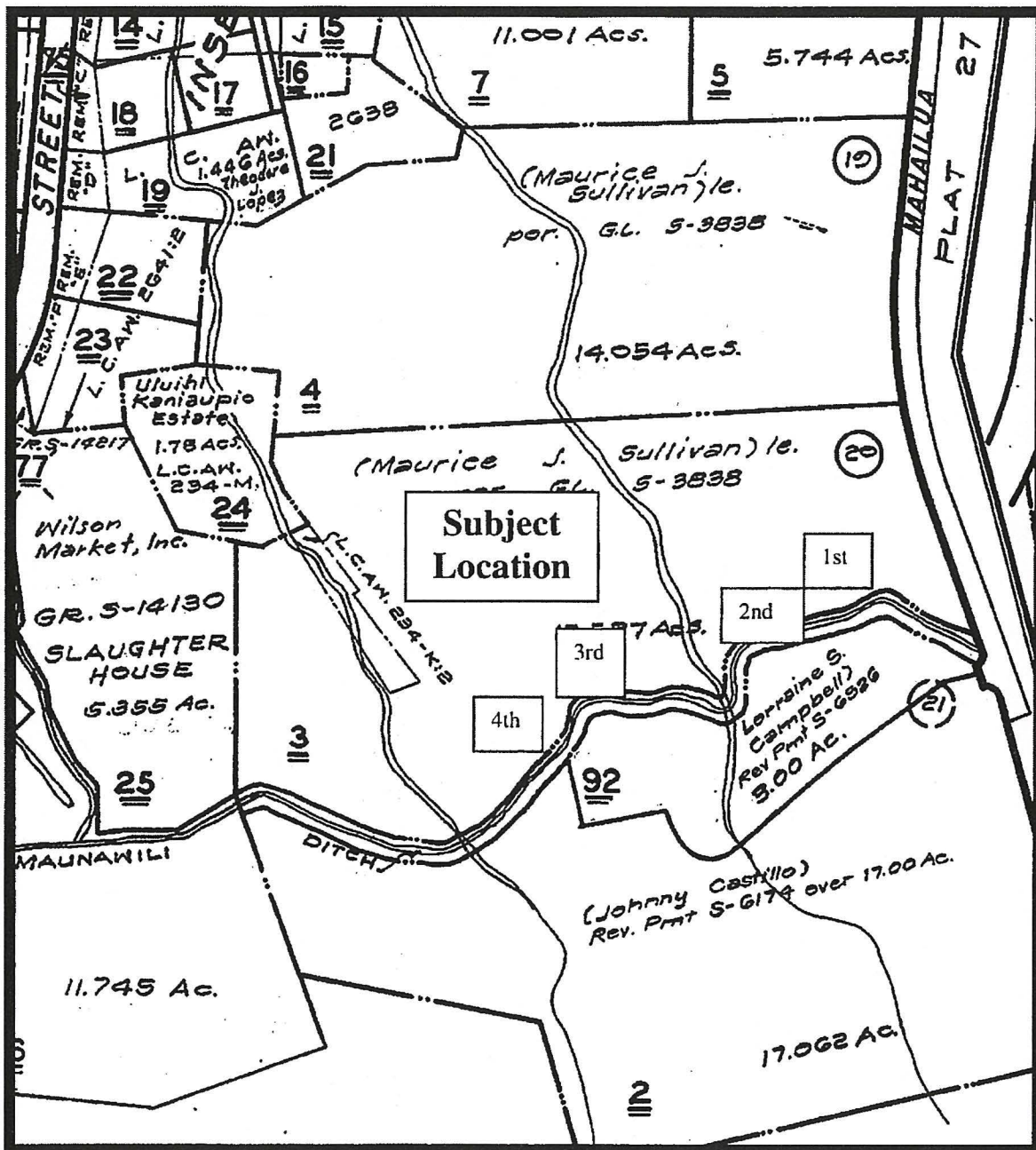
APPROVED FOR SUBMITTAL:

Land Board Meeting: December 12, 2014;  
D-32: Approved as amended.



William J. Aila, Jr., Chairperson

Approved as amended. The Board amended the recommendation section of staffs' submittal by adding a third (3rd) recommendation that authorizes staff to use its discretion in granting reasonable extensions of time from the various deadlines noted in the staff submittal, applicant requirements and the deadlines of the settlement terms and conditions.



TMK (1) 4-1-010:003

Note: Map above indicates the approximate location of the four houses mentioned in the submittal.

# EXHIBIT A

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

**General Information**

Document Number: GLS 4298 or RPS \_\_\_\_\_ Character of Use General Agriculture

Inspection Date: 8/5/2020 Inspection Time: 10:00 am

Land Agent: Barry Cheung, Patti Miyashiro, Darlene Bryant-Takamatsu

**TENANT INFORMATION**

Name: Walter & Ann Liew Home Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Business Phone: \_\_\_\_\_

Waimanalo, Hawaii 96795 Fax: \_\_\_\_\_

Contact Person: Joe Ryan, attorney Contact Phone: \_\_\_\_\_

**SITE INFORMATION**

TMK: (1) 4-1-010:003 Area: 15.587 Acres

Site Address: \_\_\_\_\_ Waimanalo, Hawaii 96795

**FISCAL INFORMATION**

ITEM	NOT APPLICABLE	CURRENT = COMPLIANCE	DEFAULT = NON-COMPLIANCE
Rent			X NOD issued on 7/30/2020
Liability Insurance		X	
Fire Insurance	X		
Bond			X NOD issued on 7/30/2020
Mortgage	X		

**EXHIBIT "F"**

**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 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	<p>Based on observations during the site visit, multiple illegal sublettings were suspected. People encountered by the staff during the site visit claimed they were working on the premises in return for accommodation including a male who was seen making some cement structures and claimed they were for bonsai purposes. [Site A]</p> <p>Another female who was sitting on the porch told the staff that she was working for Liew in return for accommodation. She was working on some plants in front of the porch and said they're her works. When she was asked what kind of tress they are, she said she did not know. [Site B]</p> <p>Staff also ran into a male with his family [wife &amp; daughter] on the premises. He admitted to staff that he was leasing from Liew to raise pig and breed duck on the premises. Counsel representing the lessee sent a letter to the staff on the following day saying that the individual was being evicted by the lessee due to a breach of "share-farming agreement" and "profit-sharing agreement" and claiming no rental agreement. [Site C]</p> <p>There was another structure where the counsel claimed that it was being used for bonsai purposes. Staff believed some tools and equipment seen inside the improvement might be too big for making any display stand for bonsai. There was also a substantial amount of other material stored in the same structure for cabinet making. Again, the counsel claimed they were for bonsai purposes. [Site D]</p> <p>Close to the main entrance to the premises was a A-frame house. Door was locked and nobody was seen around, other than a vehicle. In the past, Liew told the staff that whoever living inside the house worked for him in return of accommodation. [Site E]</p>

ITEM	CRITERIA FOR COMPLIANCE	MEETS COMPLIANCE			COMMENTS/NOTES
		N/A	YES	NO	
Buildings/ Residence roof, paint, exterior, interior	clean, sanitary, orderly suitable & well maintained DLNR construction consent adheres to completion schedule *check for hazardous materials			X	The improvements seen during the site visit apparently have been cleared. Before staff entered the site for the inspection, staff noticed that trash and abandoned vehicles have been left on Mahailua Street. According to DOA, since DLNR fixed the date of the site inspection, trash and abandoned vehicles started appearing on the street. Photos taken on the abandoned vehicles and the trash on the street were provided by DOA. [Site F]
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		<p>There were two houses and three warehouse type structures. A few smaller improvements [apparently for storage] were found here and there. Fencing and gate appeared to be in functional condition. Internal roads/driveways on this premises were typical similar improvements found on a farm.</p> <p>There was an open area at the back of the premises. Inside an abandoned structure, lot of items were left. It did not look like this area was used for agricultural activities. [Site G]</p> <p>There were two other areas where they were occupied by storage structure where it was filled by non-agricultural items. In one of the areas there were also a few buckets of small mosaic tiles, like the one used in swimming pool, while the other storage area was mainly for household items. [Site H and I]</p> <p>Lessee kept a place in the center for his bonsai plants. The counsel mentioned about some theft and vandalism happened to the plants. [Site J]</p>
Conservation Plan: conservation structures and plantings	adheres to plan map & schedule well maintained	X			There is no soil conservation plan for this lease. Staff understands the counsel is trying to contact the respective soil and water conservation district as his client is trying to enroll as a member.
Premises	clean, sanitary, orderly		X		As mentioned above, staff believes the premises was cleared before the site visit.
Hazardous Material Storage/ Use	controlled and adheres to consent		X		Staff did not come across any hazardous material stored on the premises.

ITEM	CRITERIA FOR COMPLIANCE	MEETS COMPLIANCE			COMMENTS/NOTES
		N/A	YES	NO	
Character of Use	adheres to lease purpose			X	<p>The premises is not being used for farming though the counsel said more than once during the site visit that his client has plan to develop the premises into a farm. There is an open area by the road which has not been utilized at least for the past two years. The counsel mentioned that his client has plans to turn the open area into a 2,000+ planting area. [Site K]</p> <p>People encountered during the site visit claimed they work for Liew in the farm. However, there were no sign of active farming.</p>
Other					<p>The tenant plans to install a septic tank on the premises. He received the approval from DOH to install the IWS [septic] in April 2013. The contractor also talked to DOA and obtained their approval on the design and location of the septic. DOA has a flowage easement on the leased premises for its reservoir at the back. DOA has to provide us with the easement map before we can process the easement document to DOA. Board approved the easement already.</p> <p>The installation of septic tank is pending DLNR approval pursuant to the lease condition.</p> <p>Defaults for performance bond and rent [2019 and 2020] have not been cured yet. The 30-day cure period for rent has expired while that of performance bond is not expired yet.</p> <p>There was an open area in the front where there are no agricultural activities. However, piles of material and some construction equipment were seen at the spot. In the past, the tenant claimed that he needed the dirt for his property. However, it is staff's understanding that there was no grading permit. Staff stopped a truck who wanted to unload material at this area. It was suspected that unauthorized dumping occurred at this spot. There was a sign at the gate with the tenant's telephone number for rolloff services. Further investigation of the nature of material at this spot is believed to be necessary. [Site L]</p>



JOSEPH RYAN, JR.,  
Attorney At Law, LLC.  
41-430 Waikupanaha Street  
Post Office Box 562  
Waimanalo, Hawaii 96795  
Phone/fax (808) 259 6870

August 6, 2020

DLNR LAND DIVISION  
ATTN: BARRY CHEUNG  
P.O. BOX 621  
HONOLULU, HAWAII 96809

Re: Gen Lease # No 4298, Walter and Ann Liew,  
Lessees, Waimanalo, Koolaupoko, Oahu, TMK (1) 4-1-010:003.

Dear Barry Cheung:

I have met with Walter Liew about the person who owned the pig.

Walter Liew entered a share-farming agreement with Kongo Fujii on January 1, 2013. Mr. Fujii was to profit share the growing of organic herbs on about ¼ acre.

Mr. Fujii violated the profit-sharing agreement by building a part-time residence and repairing autos. Mr. Liew filed an eviction case on November 18, 2016, District Court, Koolaupoko Division. Case # 1RC16-1-8076. The case was settled on February 26, 2017 by a renewed share-farming agreement.

Mr. Fujii agreed to clean up the area, pay some of the back profit-share agreement and refrain from "all illegal activities" including using a structure as a part-time residence. Fujii is only permitted to grow organic herbs and taros on the property. There is no rental agreement for the area.

In January of last year, Mr. Liew discovered Fujii was again staying at the property in violation of the agreement. Mr. Liew began to evict by giving notice but was injured in a motor vehicle collision.

Mr. Fujii, because of admissions he made during your interview, cannot deny he is improperly residing on the property, Mr. Liew has given notice of cancellation of the share-farming agreement and, if necessary, will begin eviction procedures immediately.

Sincerely,


  
Joseph Ryan, Jr.

EXHIBIT "G"

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honolulu.gov](http://www.honolulu.gov) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

KIRK CALDWELL  
MAYOR



KATHY K. SOKUGAWA  
ACTING DIRECTOR

TIMOTHY F. T. HIU  
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI  
DEPUTY DIRECTOR

(CI)

October 1, 2020

Joseph Ryan, Jr., Esq.  
Attorney at Law, LLLC  
41-430 Waikupanaha Street  
Post Office Box 562  
Waimanalo, Hawaii 96795

Dear Mr. Ryan:

Thank you for your letter dated September 11, 2020, requesting investigation and relief for Mr. Walter Liew of 41-909 Mahailua Street in Waimanalo.

On April 19, 2004, the Department of Planning and Permitting (DPP) issued Notice of Violation (NOV) Nos. 2004/NOV-04-141 and 2004/NOV-04-143 to the fee owner, the State Department of Land and Natural Resources (DLNR), and to the lessees, Walter and Ann Liew.

NOV No. 2004/NOV-04-141 was issued for greenhouses, workshops, an office building, three dwelling units, a bonsai studio, and a six-foot chain link fence on the property that were constructed without building permits. On August 8, 2018, the NOV was corrected when an inspection revealed the workshops, office building and one dwelling was demolished; Building Permit Nos. 718954, 768318, and 754105 were obtained for the bonsai studio, farm dwelling, and the fence; and Act 203 was amended by the State Legislature to exempt agricultural buildings from County permit requirements, thus the greenhouses did not require permits.

NOV No. 2004/NOV-04-143 was issued for agribusiness activities being conducted on this AG-1 Agricultural zoned property without a Conditional Use Permit. The activities included the growing of bonsai, water lilies, and orchids for sale to stores and private buyers, as well as charging for a viewing area of the plants. Also, instructional classes about the cultivation and care of bonsai were being conducted by the Liewes and the University of Hawaii's Horticulture Department.

**EXHIBIT "H"**

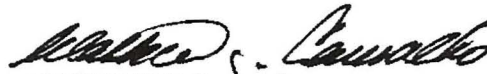
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On March 17, 2005, an inspection revealed the activities ceased and the NOV was corrected.

The DPP considers these matters closed. Any dispute between the Liews, the DLNR, and the United States Department of Agriculture is a civil matter between these parties.

Should you have any questions, please contact Catherine Weinhardt, Chief of our Residential Code Enforcement Branch, at [REDACTED].

Very truly yours,

A handwritten signature in black ink, appearing to read "Wallace J. Carvalho", is written over the typed name.

Wallace J. Carvalho  
Program Administrator  
Customer Service Division