

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

June 13, 2025

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

GLS-4312

Hawaii

After-the-Fact Consent to Sublease under General Lease No. S-4312, Gary J. and Karen Rubio, Lessee, to Western Integrated Technologies, LLC and Royden's Auto Service, LLC, Sublessees, Hilo Industrial Lots, Pohaku Street Section, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-058:026.

APPLICANT:

Gary J. and Karen Rubio, husband and wife, as sublessors to:
Western Integrated Technologies, LLC, a Delaware limited liability company; and
Royden's Auto Service, LLC, a Hawaii limited liability company, as sublessees.

LEGAL REFERENCE:

Sections 171-36(a)(6), Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Hilo Industrial Lots, Pohaku Street Section, situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-058:026, as shown on the attached map labeled Exhibit A.

AREA:

19,106 square feet, more or less.

ZONING:

State Land Use District: Urban

County of Hawaii CZO: *MG-1a (General Industrial – 1 acre min.)

*Lot was subdivided into current size prior to current County Zoning Code. Lot is legal but non-conforming to current Code.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1 that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," and Part 1, Item 40 that states, "Leases of State land involving negligible or no expansion or change of use beyond that previously existing." The proposed subleases constitute a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR.

DCCA VERIFICATION:

Sublessor: Gary J. and Karen Rubio:

As individual the sublessors are not required to register with the DCCA.

Sublessee: Western Integrated Technologies, LLC:

Place of business registration confirmed: YES

Registered business name confirmed: YES

Applicant in good standing confirmed: YES

Sublessee: Royden's Auto Service, LLC:

Place of business registration confirmed: YES

Registered business name confirmed: YES

Applicant in good standing confirmed: YES

LEASE CHARACTER OF USE AND TERM:

General industrial purposes.

Term of 40 years, commencing on June 30, 1970 and expiring June 29, 2010.

Lease was extended by 15-years with a new expiration date of June 29, 2025.

SUBLEASE CHARACTER OF USE AND TERM:

Unit C – 1,500 square feet (sf) for an industrial supply store and related activities.

Term: 06/01/2018 – 06/01/2026

Unit D – 1,500 sf for auto repair and related activities.

Term: 06/01/2018 – 06/01/2026

ANNUAL LEASE RENT:

\$16,200.00 for the period 06/30/2015 thru 06/29/2025 payable in four quarterly installments due the 30th day of March, June, September and December.

ANNUAL SUBLEASE RENTAL INCOME:

Unit C - \$24,000.00;

Unit D - \$25,200.00;

Refer to attached Exhibits B and B-1 for analysis.

RECOMMENDED ADJUSTMENT TO LEASE RENTAL:

Staff is recommending no adjustment to the lease rent is warranted.

Refer to attached Exhibits B and B-1 for analysis.

BACKGROUND:

General Lease No. S-4312 (GLS-4312) was initially sold to Hacker and Schneiderich by way of public auction. The lease was issued for a term of 40 years commencing on June 30, 1970 and expiring June 29, 2010.

At its meeting of April 13, 1973, agenda item F-1-h, the Board approved an assignment of GLS-4312 to R. Hiraе Painting, Inc.

At its meeting of June 12, 1987, agenda item F-1-b, the Board approved an assignment of GLS-4312 to Richard M. Hiraе and Corliss T. Hiraе.

At its meeting of August 26, 2005, agenda item D-3, the Board approved the

assignment of GLS-4312 to Gary J. and Karen Rubio (the Rubios). The Board approval included a consent to mortgage with a 15-year extension of the lease term and consents to various subleases. Royden Wong (now Royden's Auto Repair, LLC) was one of the subleases.

Upon acquiring the lease, the Rubios made substantial repairs and improvements to the property which included roof repair, construction of retaining wall, painting exterior of building, installing rain gutters, and installation of gate at property entrance.

At its meeting of February 14, 2014, agenda item D-3, the Board consented to a sublease of unit C to David Hepp for storage of semi-precious, non-ferrous metal commodities.

After staff analysis performed at the times indicated and under the applicable Board Rent Participation Policies, none of the above subleases met the threshold to warrant a lease rent increase.

DISCUSSION:

The Rubios have requested an extension of GLS-4312 pursuant to Act 149, Session Laws of Hawaii 2018 (which is also on this agenda). During the review process for the extension, it was discovered that the Board had not approved a sublease consent for Western Integrated Technologies, LLC and its last sublease consent for Royden Wong had expired.

The lessee provided sublease documents and cost information which were analyzed and staff was guided by the formula approved by the Land Board on January 26, 2001, agenda item D-8, and modified by the Board at its meeting on August 24, 2012, agenda item D-14, comprising of the Rent Participation Policy which states:

"If the lessee subleases improvements not owned by the State, the Board shall not receive any portion of sublease rents from subleasing improved space unless: (i) that right and method of calculation are specifically stated in the lease, or (ii) participation in sublease rents is warranted considering the age of the improvements (including but not limited to the extent to which the improvements have been depreciated or amortized), lessee's expenditures to maintain the same in relation to sublease revenues, and the extent to which the lessee actually occupies and uses the lease premises for its own business."

The lessee pays fair market rent and the improvements are not owned by the State. The lease does not specifically layout a method for calculating a share of the sublease rents. However, these subleases are occurring in the last five years

of the lease and no substantial improvements have been made in the previous 10 years, so the associated building costs have been fully amortized/depreciated. The Lessee uses a substantial portion of the property and improvements for its own business operations.

Staff analysis of the income derived from the subleases reveals that the income generates a small profit using the minimum credit for expenses. The Sublease Profit Calculation Worksheet (Exhibit B-1) shows that the income generated by the subleases has been steadily decreasing over the period as costs increase and the Lessee has not increased the rent charged to the sublessees.

Based on the analysis, staff is recommending that the Board approve the sublease consents without an increase to the annual rent.

The lessee is in compliance with the terms and conditions of the lease. Real property taxes are in arrears, however, lessee has provided staff with a signed written agreement for payment of the back taxes and the County of Hawaii has confirmed adherence to the agreement.

RECOMMENDATION:

That the Board:

1. Declare that, after considering the potential effects of the proposed dispositions 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 as a de minimis activity.
2. Approve an After-the-Fact Consent to Sublease under General Lease No. S-4312, Gary J. and Karen Rubio, Lessee, to Western Integrated Technologies, LLC and Royden's Auto Service, LLC, Sublessees, 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 consent to sublease 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,

Candace Martin

Candace Martin
Acting District Land Agent

APPROVED FOR SUBMITTAL:



Dawn N.S. Chang, Chairperson

EXHIBIT A



JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



EXHIBIT B

DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

P.O. BOX 621
HONOLULU, HAWAII 96809

May 22, 2025

MEMORANDUM

TO: Dawn N.S. Chang, Chairperson

THROUGH: Ian Hirokawa, Acting Assistant Administrator

FROM: Candace Martin, Acting District Land Agent *CM*

SUBJECT: In-House Recommendation – Sublease Participation Calculation

GL No.:	S-4312
Lessee/Sublessor:	Gary J. and Karen Rubio
Sublessee:	Western Integrated Technologies, LLC; and Royden's Auto Repair, LLC
Location:	Hilo Industrial Lots, South Hilo, Hawai'i
Lease area:	19,106 square feet more or less
Sublease Area:	3,000 square feet
Tax Map Key:	(3) 2-2-058:026
Character of Use:	General Industrial purposes

We have been requested to provide an in-house evaluation of a potential ground rent increase due to subleasing of General Lease No. S-4312 (GLS-4312), by Gary J. and Karen Rubio, Lessee/Sublessor to Western Integrated Technologies, LLC (WIT) and Royden's Auto Repair, LLC (Roydens), Sublessees. The sublease documents and information provided by Lessee were analyzed and staff was guided by the formula approved by the Land Board on January 26, 2001, agenda item D-8, and modified by the Board at its meeting on August 24, 2012, agenda item D-14, comprising of the Rent Participation Policy.

The commencement date of GLS-4312 was June 30, 1970 for a term of 40 years, expiring on June 29, 2010. A 15-year extension was granted moving the expiration date to June 29, 2025. Lessee is currently requesting a 25-year extension of the lease.

The subleasing provision of GLS-4312 states as follows:

"Subletting. That the Lessee shall not rent or sublet the whole or any portion of the demised premises, without the prior written approval of the Board; provided, however, that prior to such approval, the Board shall have the right to review and approve the rent to be charged to the proposed sublessee and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the said sublessee; provided, further, that the rent may not be revised downward."

The annual lease rent for the period 06/30/2010 through 06/29/2025 was determined by independent appraisal to be \$16,200.00.

Improvements to the property include an ~6,000 sf warehouse completed in 1973. The warehouse is split into three sections with one-half of the building being utilized for the lessee's business operation, one-quarter of the building is subleased to Western Integrated Technologies, LLC (WIT) as an industrial supply store and the remaining quarter of the building is subleased to Royden's Auto Service, LLC operating as an automotive repair shop. The balance of the property is paved and used for vehicle parking. Each unit has a separate electrical meter and the sublessees are responsible for their own electric bills. Water service, property maintenance and GE Taxes are included in the rent and paid by the lessee. Improvements are owned by the lessee until expiration of the lease in 2025.

Synopsis of subleases:

Unit C: Western Integrated Technologies, LLC

Rent area: 1,500sf

Sublease term: 06/01/2018 – 06/01/2026

Sublease monthly rent rate: \$2,000.00

Unit D: Royden's Auto Repair, LLC

Rent area: 1,500sf

Sublease term: 06/01/2018 - 06/01/2026

Sublease monthly rent rate: \$2,100.00

AGGREGATE ANNUAL CALCULATIONS: GL No. S-4312

For more detailed analysis see sublease profit calculation worksheet attached as Exhibit B-1.

	<u>2018-2024</u>	<u>01-06/2025</u>
	Period Averages	
Annual Sublease Income	\$ 49,200.00	\$ 24,600.00
LESS Annual Expenses	<u>\$ 37,502.43</u>	<u>\$ 16,334.00*</u>
Annual Net Sublease Profit:	\$ 11,697.57	\$ 8,266.00

*Does not include real property tax costs as they have not yet been assessed.

Staff was guided by the approved Rent Participation Policy item 1(c) for lessees paying fair market rent which states:

“If the lessee subleases improvements not owned by the State, the Board shall not receive any portion of sublease rents from subleasing improved space unless: (i) that right and method of calculation are specifically stated in the lease, or (ii) participation in sublease rents is warranted considering the age of the improvements (including but not limited to the extent to which the improvements have been depreciated or amortized), lessee’s expenditures to maintain the same in relation to sublease revenues, and the extent to which the lessee actually occupies and uses the lease premises for its own business.”

The lessee pays fair market rent and the improvements are not owned by the State. The lease does not specifically layout a method for calculating a share of the sublease rents. However, these subleases are occurring in the last five years of the lease and no substantial improvements have been made in the previous 10 years, so the associated building costs have been fully amortized/depreciated. The Lessee uses a substantial portion of the property and improvements for its own business operations.

As illustrated in the above synopsis of subleases and the attached Sublease Profit Calculation Worksheet (Exhibit B-1), the income derived from the subleases generates a small profit using the minimum credit for expenses. The sublease profit has been steadily decreasing over the period as costs increase and the Lessee has not increased the rent charged to the sublessees. Further, no vacancy allowance has been allowed as this is an after-the-fact request with full tenant capacity for the period and No return on investment has been provided for in the calculations.

Based on the analysis above and the attached sublease profit calculation worksheet, staff is recommending that DLNR not share in the profits and an increase to the annual lease rent is not warranted.

Annual Retroactive Lease Rent Adjustment for GLS-4312 = \$0.00

EXHIBIT B-1**Sublease Profit Calculation Worksheet****GL-4312 Gary J. and Karen Rubio**

	2018	2019	2020	2021	2022	2023	2024	2025*
Base Rent Income	\$49,200.00	\$49,200.00	\$49,200.00	\$49,200.00	\$49,200.00	\$49,200.00	\$49,200.00	\$24,600.00
CAM Income	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
GE Tax	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Sublease Income	\$49,200.00	\$49,200.00	\$49,200.00	\$49,200.00	\$49,200.00	\$49,200.00	\$49,200.00	\$24,600.00
LESS Annual Lease Rent	\$16,200.00	\$16,200.00	\$16,200.00	\$16,200.00	\$16,200.00	\$16,200.00	\$16,200.00	\$8,100.00
LESS Property Tax	\$6,028.38	\$6,086.16	\$6,150.36	\$6,318.35	\$9,398.88	\$9,881.45	\$9,881.45	\$0.00**
LESS Insurance	\$4,300.00	\$4,300.00	\$6,071.00	\$6,071.00	\$6,654.00	\$8,500.00	\$8,500.00	\$4,250.00
LESS GE Tax	\$1,968.00	\$1,968.00	\$1,968.00	\$1,968.00	\$1,968.00	\$1,968.00	\$1,968.00	\$984.00
LESS R&M & Water	\$4,800.00	\$4,800.00	\$4,800.00	\$5,400.00	\$5,400.00	\$6,000.00	\$6,000.00	\$3,000.00
Total Allowable Expenses	\$33,296.38	\$33,354.16	\$35,189.36	\$35,957.35	\$39,620.88	\$42,549.45	\$42,549.45	\$16,334.00
Sublease Profit	\$15,903.62	\$15,845.84	\$14,010.64	\$13,242.65	\$9,579.12	\$6,650.55	\$6,650.55	\$8,266.00
Recommended Rent Increase	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

* The 2025 column is calculated for January thru June.

** Taxes for this period were paid in the previous year.