

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

July 22, 2009

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

OAHU

Request for Extension of Notice of Default, General Lease
No. S-5261, Sand Island Business Association, Lessee, Sand
Island, Honolulu, Oahu, Tax Map Key: (1) 1-5-041:various

APPLICANT:

Sand Island Business Association (SIBA)

LEGAL AUTHORITY:

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

LOCATION AND AREA:

Portion of Government lands situated at Sand Island, Honolulu,
Oahu, identified by Tax Map Key: (1) 1-5-041: various, consisting
of approximately 73.131 acres, as shown on the attached map
labeled Exhibit A.

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

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

CHARACTER OF USE:

For improvement and management of Sand Island Industrial Park.

TERM OF LEASE:

55 years, commencing on 7/1/1992 and expiring on 6/30/2047.

REMARKS:

The department received a letter dated May 21, 2009 from the
Department of Health (DOH) relating to alleged violations
regarding hazardous wastes on the premises. The location in
question is not occupied by any sublessee of SIBA, but by persons
and entities that SIBA does not consider they have any right to
occupy the lot.

Pursuant to the authority granted the Chairperson by the Board of

Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in General Lease S-5261, SIBA, Lessee, a Notice of Default (NOD) dated June 8, 2009 regarding the DOH's violation was delivered to SIBA on June 9, 2009 for:

Failure to comply with Condition No. 14 "Sanitation, etc" which states "That the lessee shall occupy and keep the demised premises and improvements in a clean, sanitary and orderly condition, and shall observe, perform and comply with all laws, ordinances, rules and regulations or orders of the health or other government authorities respecting or in any way affecting said land and improvements."

The NOD offered the lessee a 60-day cure period to correct the default and it will expire on August 8, 2009.

SIBA is currently engaged in litigations with the party occupying the lot, and it is unlikely the legal issues will be resolved before the expiry of the 60-day cure period. A copy of SIBA's letter dated July 6, 2009 is attached as Exhibit B.

Staff agrees with SIBA that the issue needs more time to resolve, and SIBA is actively involved in trying to find solution to the problem. Staff recommends the Board authorize the extension of the cure period in the NOD dated June 8, 2009 for six (6) additional months, and authorize the Chairperson to grant further extension for good cause.

RECOMMENDATION: That the Board:

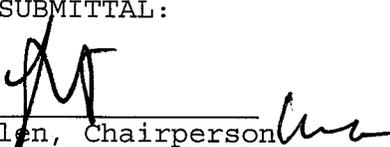
1. Authorize extending the cure period of the Notice of Default dated June 8, 2009 for an additional six (6) months;
2. Authorize the Chairperson further extend the cure period of the Notice of Default beyond the six (6) months additional period for good cause; and
3. Such other terms and conditions as prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



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July 6, 2009

Laura Thielen, Chairperson
Department of Land & Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809

Re: General Lease No. 5261

Dear Chairperson Thielen:

By this letter, the Sand Island Business Association acknowledges receipt of your Notice of Default dated June 8, 2009.

As you may be aware, the subject lot in the Sand Island Industrial Park is not occupied by any sublessee of SIBA, but rather by persons and entities considered by SIBA to be without any right to occupy the lot. SIBA has been engaged in protracted and multiple litigations with the occupants since 2002 and is seeking ejectment of these persons and entities from the lot.

SIBA is optimistic and confident that it will ultimately prevail in these litigations, will reclaim the lot and will effect the actions necessary to bring the lot in full compliance with the laws. However, it is unlikely that SIBA will be able to accomplish these matters within the next 60 days. Your understanding and cooperation will be greatly appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rodney Kim", is written over a faint, larger version of the signature.

Rodney Kim
Secretary & Executive Director

cc: E. Ebisui, Esq.; SIBA Board; S. Lim (FHB);
M. Atta (DLNR); and R. Tsuji (DLNR)