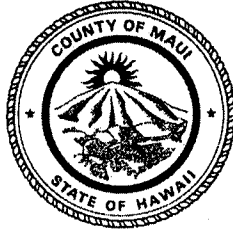


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June 12, 2018

Honorable Stacy Crivello, Chair
Housing, Human Services, and Transportation Committee
Maui County Council
200 S. High Street
Wailuku, HI 96793

Dear Chair Crivello,

**SUBJECT: COUNTY-OWNED PARCEL ON NORTH PAPA AVENUE
(KAHULUI) (HHT-14)**

In response to your memo dated May 30, 2018, the Corporation Counsel responds as follows:

1. Please confirm the County has the right to terminate the Lease, as amended, in accordance with page 3, Paragraph E, and provide a brief explanation as to how soon the Lease could be terminated.

Paragraph E provides two ways in which the lease can be terminated. The first is failure to perform the terms and conditions of the Lease by the Lessee, and the second is if the Lessee abandons the premises.

Paragraph E.3. provides that the Lessee "shall, at its own expense, keep and maintain all buildings and improvements of every nature whatsoever now or hereafter erected, constructed or installed on the demised premises in good order, condition or repair, reasonable wear and tear excepted."

On May 23, 2016, the County and UHMC entered into a "First Amendment To Lease", which allowed the college to use the premises as a hospitality learning center, and to also allow it to be used for transient accommodations as part of

the education experience. The only other amendments to the Lease were to Paragraph E, conditions 2 (Observance of Laws); 4 (Use of premises); and 7 (Indemnity), none of which affect the issues raised here.

On March 28, 2018, Professional Real Estate Inspectors conducted a Property Condition Report ("Report") of the buildings that were constructed by UHMC on the premises. The Report details the poor condition of the buildings, due to long-term neglect and lack of regular maintenance and upkeep. The current condition of the buildings supports demolishing them completely. The cost of renovation is too high to consider.

It is unknown at this point how long it has been since UHMC utilized the buildings. They appear to have been empty for many years. The Report supports this. It is clear they have not been maintained in good condition and are completely uninhabitable.

Based on the above, the County would have grounds to terminate the lease under either condition. If the County chooses to elect the "abandoned use" condition, it must provide UHMC with 90 day's notice of the intent to terminate on that condition.

2. If the County wishes to have the structures removed because of their poor and uninhabitable condition, what would be the optimal way to coordinate with UHMC both the termination of the Lease and the UHMC's demolition of the structures so that the two events take the least possible time?

Section 9 of the Lease provides that "the Lessee shall . . . peaceably and quietly surrender and deliver possession of the demised premises to the Lessor, in good order and condition. Upon such surrender, the Lessee may remove all buildings and improvements, erected by the Lessee on the demised premises, promptly repairing and making good all damage caused by such removal." (emphasis added).

In a letter dated May 15, 2017, addressed to Ms. Reimann, UHMC Vice Chancellor David S. Tamanaha indicated that if the County's Feasibility Report (which could be construed as the appraisal recently done) concludes that demolition of the buildings is the best course, the college would demolish the old buildings unless the County agrees to continue to lease the premises to UHMC.

Based on UHMC's commitment to demolish the buildings if that is the recommended course, it appears the fastest route to moving forward would be

Stacy Crivello, Chair
HHT Committee
June 12, 2018
Page 3

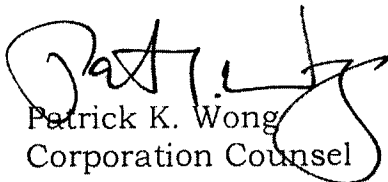
to share the Report with UHMC (if it has not done so already) and discuss a time schedule for the demolition of the buildings and restoration of the premises to the condition they were in when UHMC commenced the lease in 1980. The timetable on moving forward depends on how quickly the County and UHMC can come together and coordinate a plan.

3. What actions should the County take to expedite termination of the Lease and, if warranted, demolition of the structures?

According to the letter from Vice Chancellor Tamanaha, UHMC is waiting for the results from the Report in order to determine what the next step should be. It is recommended that a meeting take place between Housing and UHMC, as soon as practicable, in order to discuss the Report, Vice Chancellor Tamanaha's May 15, 2017 commitment to demolishing the buildings, and termination of the Lease.

Should you have any questions, please contact me at Ext. 7924 or Mimi Desjardin at Ext. 7582

Sincerely,



Patrick K. Wong
Corporation Counsel

MDJ:lv

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HHT-14 2018-06-12 Letter to Chair