

Commercial Committee Report of Its Recommendations to the
Kaneohe Bay Regional Council
July 28, 2016
Windward Community College, Hale Akoakoa #113
Kaneohe, HI

During its meeting of October 15, 2015, the Kaneohe Bay Regional Council (Council) approved the forming of the Commercial Committee and tasked them to do the following:

- 1) Have further discussions on the operations of Kama'aina Kids and their related businesses (Holokai Tours);
- 2) Discuss if these operations are in accordance with the intents and purposes of the commercial and educational provisions of the Kaneohe Bay Master Plan;
- 3) Develop recommendations; and
- 4) Report these recommendations to the Council.

The Commercial Committee convened between December 2015 and April 2016 to have in-depth discussions on the matter of Holokai Tours and its operations in the bay. After these deliberations, the Commercial Committee developed a set of recommendations to be presented to the KBRC for its consideration. This report is a summary of those discussions and recommendations.

Recommendations

- 1) Holokai Tours should be considered a commercial entity within the context of the master plan;
- 2) A majority believed that Holokai Tours does not qualify as an educational entity but a minority did believe that they were;
- 3) The Council should form another committee to specifically define the terms “commercial” and “educational” in the context of the master plan; and
- 4) The Council should also task this new committee to make recommendations on how the master plan should be amended or updated to add in these definitions and may include any new types of commercial activities that are being conducted in the bay that were not previously considered in the 1990s when the Kaneohe Bay Task Force created the master plan.

Is Holokai Tours a Commercial Business?

The Commercial Committee concluded that Holokai Tours was a commercial business, within the committee's understanding of the context of the master plan. Holokai Tours is a commercial business for the following reasons:

- 1) They appear to be a separate entity from Kama'aina Kids;
- 2) They are marketing their activities in Waikiki to adult tourists;
- 3) They changed their targeted clientele to include tourist adults and not just local kids; and
- 4) They have included new commercial activities, such as snorkeling and stand-up paddleboards.

The Commercial Committee, having determined that Holokai Tours is a commercial entity, then considered if these new activities constituted an expansion over the existing commercial activities within the bay. While the Commercial Committee determined that these new activities are an expansion, they noted that a further discussion on whether Holokai Tours was eligible for the educational permit exemption was also needed.

Is Holokai Tours an Educational Entity?

The Commercial Committee could not agree on a consensus response to this question and have provided both viewpoints for the Council's consideration. A majority of the Commercial Committee felt that the format of the self-guided tours did not qualify as educational. The self-guided format means that the client is given information, then left to their own abilities to remember what information was provided during the training session, while on the water. This was especially difficult to justify as being educational. The majority also questioned the educational value of the information provided, given that the information is provided during a very short session, not all of the information may be given to each group, and it is unclear how much the client actually uses this information. The majority also felt that while the curriculum information was informative, it did not meet the level that would qualify Holokai Tours as educational. Given that they are not educational, they would also not qualify for the educational exemption provided for in Hawaii Administrative Rules 13-256-73(q).

A minority of the Commercial Committee felt that the information content provided the clients was more important than when the information was provided (pre-, during, or post on-the-water event). Based on the curriculum provided, the minority felt that the informational content was extensive and detailed enough to warrant being called educational.

Discussions on Needed Changes to the Master Plan

The Commercial Committee discussed that the question of whether an entity is or is not a commercial business will continue to be raised for any entity wanting to start operations in the bay. To address this, the master plan needs to be amended or updated to more clearly define the terms "commercial" and "educational," and what criteria would be used to determine this. The entity would also need access to the water through some property.

The Commercial Committee noted that Hawaiian oral traditions passed from kupuna to keiki do not necessarily nor easily fall under a Western curriculum format but the educational value is still recognized and valid. Identifying and developing the criteria for how this qualifies as "educational" for a commercial entity may be difficult.

The Commercial Committee also discussed the difficulties in determining how many entities should be on the bay and what level of impacts should be allowed. Should fewer entities with higher impacts or more entities with lower impacts each, be the preferred mix? These types of questions need to be discussed in preparation for a Kaneohe Bay Master Plan revision.