

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96819

June 24, 2016

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

Hawai'i

Issuance of a Revocable Permit (RP) to Atlantis Adventures, LLC, DBA Atlantis Submarines, Hawaiian Ocean Tours, Inc., and Bill Busters Charters, Inc., to Operate Boat Tours and Other Maritime Related Activities at the Honokohau Small Boat Harbor, Island of Hawaii, Hawaii Tax Map Key: (3) 7-4-008-003.

APPLICANT:

Atlantis Adventures, LLC, DBA(s) Atlantis Submarines, Hawaiian Ocean Tours, Inc., and Bill Busters Charters, Inc. Mooring permits are for: Hawaiian Ocean Tours, Inc. account 00004655 and Bill Busters Charters, Inc. account 00004464.

LEGAL REFERENCE:

Sections 171-13 and 171-55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of the Honokohau Small Boat Harbor (Honokohau SBH) situated at Honokohau, Island of Hawaii identified by Tax Map Key: (3) 7-4-008-003 as shown on the attached map labeled Exhibit A.

AREA:

Approximate measurement of 60' x 55' hereinafter referred to as the "Premises".

ZONING:

State Land Use District: Conservation, Urban
County of Hawaii CZO: Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act. YES X NO ___

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

CURRENT USE STATUS:

Encumbered to the Division of Boating and Ocean Recreation (DOBOR).

CHARACTER OF USE:

Occupancy and use the Premises for the following specified purposes: Maritime related activities to support submarine tour operations. The Permittee may also occupy and use the Premises for any other uses permitted under applicable county zoning, subject to the prior approval of the Chairperson of the Board and the Permittee's compliance with Chapter 343, Hawaii Revised Statutes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

\$3,000.00 per month.

The monthly rental was determined by obtaining rental information from comparable subleases by Gentry Kona Marine (GKM) in Honokohau Harbor.

Using recent leases as a comparison the average rental rate per square foot is \$1.29. The subject Premises, not including dock space, amounts to 3,300 sf. The following are examples of comparable rents in the area:

- GKM Sublessee Far West Marine/Engineering, Inc. DBA Kona Marine Supply rents 2,240 sf and pays \$3,038.50.
- GKM Sublessee The Kona Boat Club, Inc., rents 1,152 sf in Honokohau SBH and pays \$1,670.00 month.
- GKM Sublessee Douglas Armfield, rents a 3,000 sf space in Honokohau SBH and pays \$3,150 per month.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Department of Land and Natural Resources Environmental Impact Statement Exemption List", concurred by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 53, that states, "Granting to a person the privilege to conduct operations involving the provision of goods, wares, merchandise, or services to the general public including, but not limited to, tours, food and beverage operations, retail operations, rental operations, or communications and telecommunications services in or on an existing building, facility, or area." We consulted with three agencies regarding HRS Chapter 343. Kimberly Mills, Office of Conservation and Coastal Lands (OCCL), Everette Ohta, Office of Hawaiian Affairs (OHA), and Phil Fernandez, Marine and Coastal Zone Advocacy Council (MACZAC). They concurred that this RP met our Chapter 343 exemption.

DCCA VERIFICATION:

Place of business registration confirmed: YES X
Registered business name confirmed: YES X
Applicant in good standing confirmed: YES X

REMARKS:

Atlantis Adventures, LLC has been conducting business in the Honokohau SBH for many years. They have been issued two mooring permits for the harbor and have expanded their operations onto the surrounding fast lands. However, there is no agreement currently in place for the use of the fast lands. The proposed revocable permit area directly fronts the two berths used by Atlantis Adventures, LLC. This particular area is not highly sought after and has no access to the water other than through the two berths issued to Atlantis Adventures, LLC.

There are four small structures and a container on the Premises at Honokohau SBH occupied by Atlantis Adventures, LLC. The structures form a covered work area/breezeway. There is also a private driveway to the structures. Additionally, there is an unattached shipping container on the Premises. The structures are directly behind or South of the slips, as noted on Exhibit B attached hereto. Photos of the structures are attached hereto as Exhibit C.

The Division would like to issue a revocable permit for Atlantis Adventures LLC's use of the Premises until such time as approval can be obtained for issuance of a lease.

RECOMMENDATIONS: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition 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.
2. Authorize the issuance of a revocable permit to Atlantis Adventures, DBA Atlantis Submarines, Hawaiian Ocean Tours, Inc., and Bill Busters Charters, Inc., covering the subject area for submarine tour operations 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 revocable permit form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Subject to the prior approval of the Chairperson of the Board to best serve the interests of the State.

Respectfully submitted,



Edward R. Underwood
Administrator

APPROVED FOR SUBMITTAL:



Susanne D. Case
Chairperson

Attachments

Exhibit A

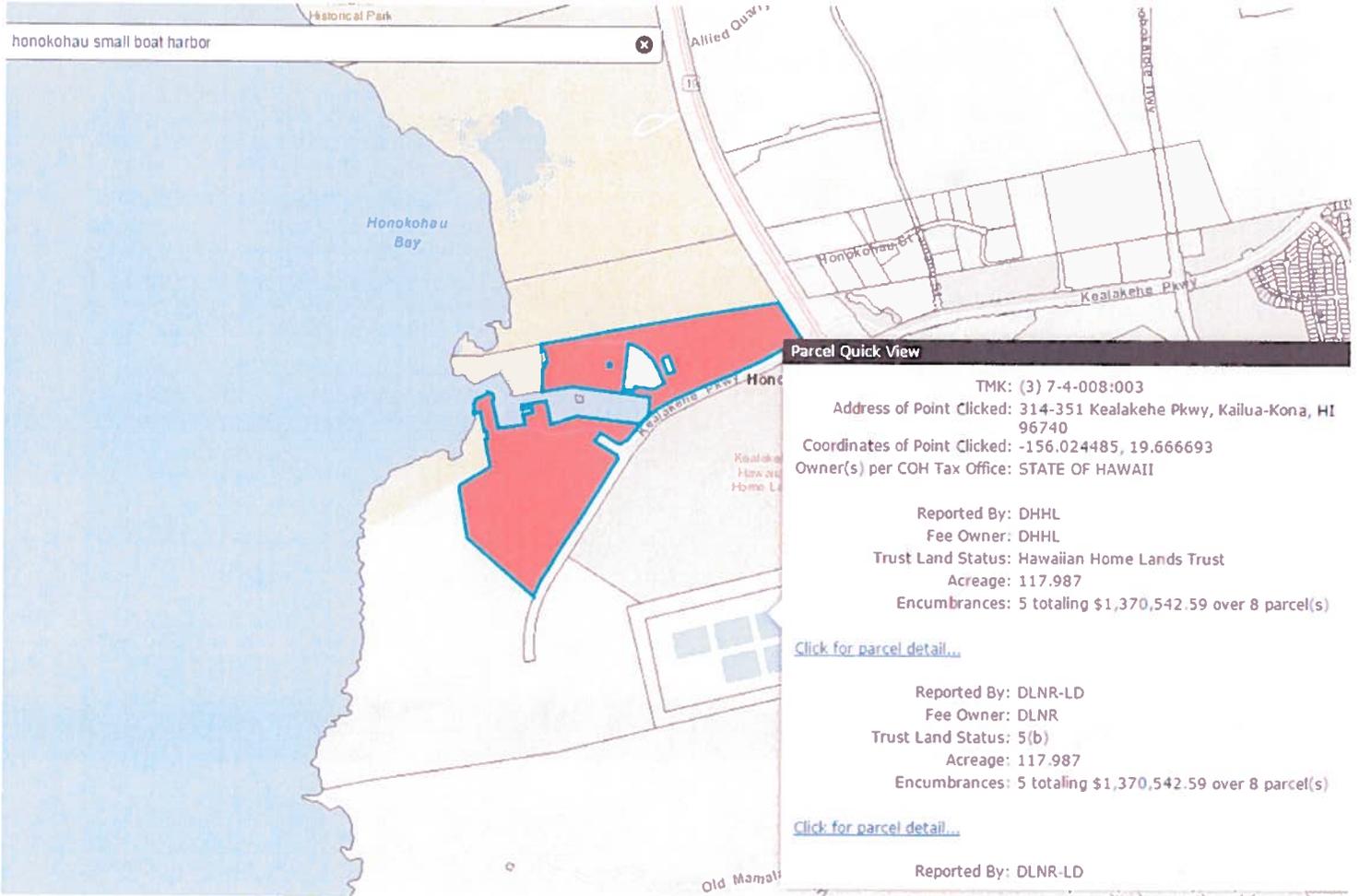
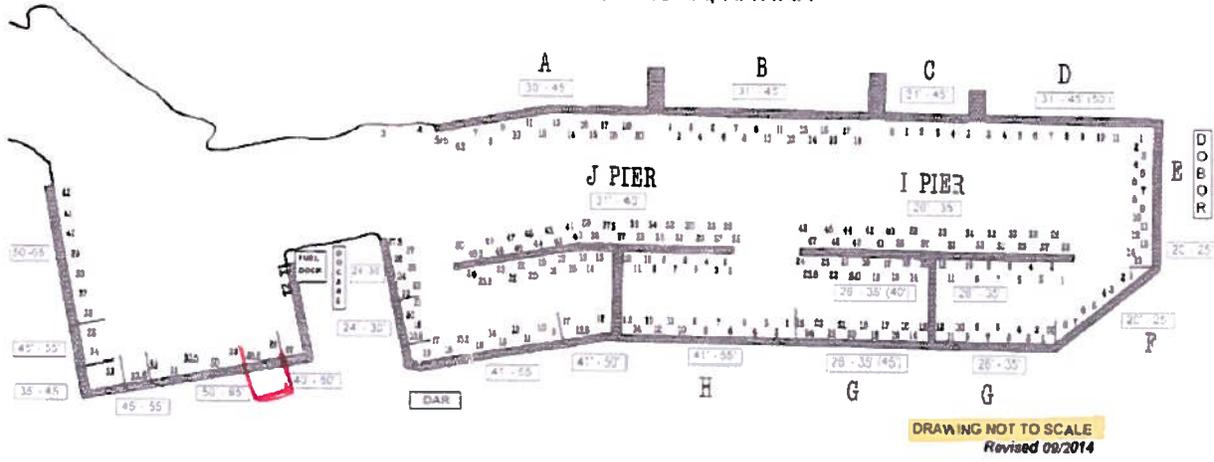


Exhibit B

HONOKŌHAU SMALL BOAT HARBOR

KAILUA-KONA, HAWAII



Berth 28 Bill Busters Charters, Inc. "Malama Kai"
Berth 28.5 Hawaiian Ocean Tours, Inc. "Atlantis X."



Approximate location of slips and structures

Exhibit C

Photos of the Premises

