

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

December 9, 2016

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

Maui

Issuance of a Revocable Permit (“RP”) to A&K Ventures LLC, for Purposes of Landscaping, Maintenance, Storage of Small Boats and Trailers and Other Activities at Mala Wharf and Surrounding Areas, Alamihi, Lahaina, Maui, Hawaii, Identified by Tax Map Key: (2) 4-5-005: Parcel 19.

APPLICANT:

A&K Ventures, LLC, a Domestic Limited Liability Company whose business and mailing address is 2191 Kolepa Street, Lahaina, Hawaii 96761, hereinafter referred to as the “Applicant”.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Mala Wharf and Surrounding Areas, Alamihi, Lahaina, Maui, Hawaii, identified by Tax Map Key: (2) 4-5-005: Parcel 19, as shown on the attached map labeled Exhibit A. 1

AREA:

Approximate area of 0.428 acre, which parcel is hereinafter referred to as the “Premises”.

ZONING:

State Land Use District:	Urban
County of Maui CZO:	R-1 Residential

1 The RP No. 33 identifies the subject as being Tax Map Key: (2) 4-5-005: portion of 001. Since the original commencement date of the RP, Parcel 1 has been subdivided and the Premises is now identified as Second Division (2) 4-5-005. Parcel 19.

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 by RP No. 33, to Wilson Keahi, ("Permittee") for purposes of landscaping, maintenance and storage of small boats and trailers. With the approval of the Board, RP No. 33 shall be revoked upon written notice to the permittee at least thirty (30) calendar days prior to revocation.

CHARACTER OF USE:

Occupy and use the Premises for the following specified purposes only: for purposes of landscaping, maintenance and storage of small boats and trailers. 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:

Base rent of \$3,614.00 per month, percentage rent of ten percent (10%) of gross sales against base rent as determined by CBRE independent appraisal, dated October 31, 2016.

Rent charged is fair under the circumstances based upon said appraisal, current use, proposed use, market demand and prevailing economic conditions. Rent subject to review and approval by the Chairperson.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly Base Rent.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council, dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 47, that states

"leases of state land involving negligible or no expansion or change of use beyond that previously existing." See attached Exhibit B.

DCCA VERIFICATION:

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

BACKGROUND:

On September 1, 1981, the Board of Land and Natural Resources ("Board"), issued RP No. S-5867 (currently referred to as RP No. 33, continuation of a RP No. S-5867), to the Permittee.

On June 24, 2016, Item D-7, the Board approved recommendations made by the Revocable Permit Task Force, which included, but was not limited to, the recommendation that staff, "Review and update, as appropriate, revocable permit rental amounts and provide justification for rental amount."

On July 24, 2015, Item J-3, the Board authorized the Division of Boating and Ocean Recreation ("DOBOR") to continue of RP No. 33, on a month-to-month basis for a one-year period, retroactively from July 1, 2015 through June 30, 2016, subject to full compliance of the RP. The Board delegated to the Chairperson the authority to adjust the rent for any RP in accordance with the terms of the RP and authorized DOBOR to procure the services of one or more licensed appraisers to assist in establishing fair market rents as necessary or prudent to facilitate said rent adjustment.

On August 12, 2016, Item J-1, the Board authorized continuance of RP No. 33, on a month-to-month basis for four months, retroactively from July 1, 2016 through October 31, 2016, subject to full compliance with the RP. The Board affirmed delegation to the Chairperson the authority to adjust the rent for any RP in accordance with the rents determined by independent appraisal and the terms of the RP. Further, Item J-1 was amended for DOBOR to report back to the Board in November 2016 to report on the status of RP No. 33 and adjustment of rent.

In letters dated October 19, 2014, DOBOR informed the Permittee and other parties expressing interest in rental of the Premises, that the projected rent pursuant to the anticipated appraisal would be approximately \$40,000.00 per year, attached Exhibit C.

In a letter dated October 24, 2016, the Applicant proposed a rent of \$42,000.00 per year, attached Exhibit D.

In a letter dated October 27, 2016, Lawrence Ing, Attorney for Permittee, proposed a rent of \$10,200.00 per year, attached Exhibit E.

Consequently, DOBOR received the draft appraisal report, dated October 31, 2016. The draft was approved by DOBOR for finalization as submitted, on November 9, 2016.

The report indicated that the market rent for the Premises is at a base rent of \$43,360.00 per year (or \$3,614.00 per month, rounded) and that a percentage rent of ten percent (10%) of gross sales against the base rent is supported.

REMARKS:

The Applicant has agreed to the pay appraised market rent for the Premises of \$43,360.00 per year, 10% of gross sales against base rent.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

In addition to the conditional use as mentioned above, DOBOR is in process of analyzing the feasibility of offering the property for long term lease at public auction. Therefore, as an interim measure, staff believes the requested month-to-month tenancy is more appropriate than a long-term disposition.

There are no other pertinent issues or concerns.

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 A&K Ventures LLC for purposes of landscaping, maintenance and storage of small boats and trailers. 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, at Mala Harbor, Lahaina, Maui. Tax Map Key: (2) 4-5-005: 001 Parcel 19, 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;
 - c. The Applicant 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.

Respectfully submitted,



Edward R. Underwood
Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case
Chairperson

Attachments

Parcel Detail for (2) 4-5-005:019



Data reported by DLNR-LD

County: Maui
 Island: Maui
 Fee Owner: DLNR
 Parcel Acreage: 0.4280
 Updated: 4/24/2015

Data from Statewide GIS Program

State Land Use District: Urban

Data from Maui County sources

Owner(s): STATE OF HAWAII
 County Zoning (Draft): R-2 Residential

Trust Land Status

Trust Land Status	Status Acreage	Determination Method
5(b)	0.4280	

Encumbrances reported by DLNR-LD

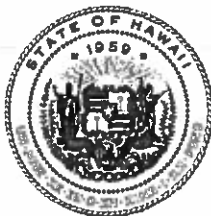
The following grid contains information regarding the encumbrances that DLNR LD has issued over this parcel. These encumbrances may have been issued over multiple parcels, so it is important to note that the data within the grid, including the acreage and annual rent, pertain specifically to the encumbrances themselves, and not exclusively to this parcel which may be one of many parcels over which the encumbrances have been issued. Please review the encumbrance details for more information including a list of all parcels over which the encumbrance has been issued.

Identifier	Lessor Agency	Lessee	Area (ac)	Subtype	Character of Use	Annual Rent	Rent Notes
ea4315	DLNR-LD	DLNR	24.5300	Executive Order		\$0.00	

The content within the PLTIS, including maps and data, has been collected from multiple city, county, and state sources and may not have been prepared for legal, engineering, or surveying purposes. Users of this content should consult the primary data sources to ascertain the accuracy and usability of the data. Data shall not be sent to third parties without consulting with the source agency(s).

Exhibit A

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 9, 2016

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKO KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200, Hawaii Administrative Rules (HAR).

Project Title:	Issuance of a Revocable Permit to A&K Ventures LLC
Project Number:	To be determined.
Project Description:	Issuance of a revocable permit for purposes of landscaping, maintenance and storage of small boats and trailers. 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.
Chapter 343 Trigger(s)	Use of State Lands.
Exemption Class & Description:	Exemption Class 1: 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.
Exemption Item Number and Description:	47. Leases of state land involving negligible or no expansion or change of use beyond that previously existing.
Consultation:	Office of Conservation and Coastal Lands Land Division Both agencies concurred with the proposed exemption notification.
Recommendation:	It is anticipated this project will have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

Suzanne D. Case, Chairperson

Date



SUZANNE D. CASE
CHAIRPERSON
HAWAII LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
DIRECTOR

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

EDWARD R. UNDERWOOD
ADMINISTRATIVE
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION
4 SAND ISLAND ACCESS ROAD
HONOLULU, HAWAII 96819

October 19, 2016

BOR

Wilson Keahi
P.O. Box 956
Lahaina, Maui, Hawaii 96761

Dear Mr. Keahi:

On August 12, 2016, we went before the Board of Land and Natural Resources (Board), Item J-1, to request to continue the Revocable Permits (RP) issued by the Division of Boating and Ocean Recreation (Division). The Board authorized the continuance of the RP's; however, they only authorized the continuance of the RP issued to you for four months and directed the Division to report back to them in three months with the status of the RP as well as inform them of the new appraised rent for the property.

The current rent for RP No. 33 issued to you is \$709.54 per month which is approximately \$8,514.48 per year. We expect to receive the new appraised rent for the property by the end of this month and the new rent is expected to be approximately \$40,000 per year.

We have received a request from other interested parties to lease the property. In order to stay in compliance with the new Board directives for issuing RP's, we will be requesting proposals from you as well as the other interested parties to operate a boat storage and dry dock facility meeting EPA standards.

The minimum upset rent will be based on the new appraised rent for the property but for planning purposes you can use \$40,000 per year as the base rent. The primary factor for selecting the new lessee will be the amount of proposed annual rent to be paid on a monthly basis. We will notify you of the final appraised rent once we receive it. If you are still interested in leasing the property, please provide us with your new proposal by October 31, 2016. We will notify you whether your proposal was selected or not.

Sincerely,

Edward R. Underwood
Administrator

Exhibit C

DAVID IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

KEEOA KALUHWA
PRESIDENT

JEFFREY T. PEARSON, D.E.
DEPUTY DIRECTOR WATER

EDWARD R. UNDERWOOD
ADMINISTRATOR
HONOLULU BOARD AND HONOLULU CITY

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION
4 SAND ISLAND ACCESS ROAD
HONOLULU, HAWAII 96819

October 19, 2016

BOR

Al Pelayo
A & K Ventures, LLC
2191 Kolepa Street
Lahaina, Hawaii 96761

Dear Mr. Pelayo:

Thank you for your interest in leasing the property located at Mala Wharf, Maui, that is currently under a Revocable Permit to another individual. In order to stay in compliance with the new Board directives for issuing RP's, we will be requesting proposals from you as well as the other interested parties to operate a boat storage and dry dock facility meeting EPA standards.

The minimum upset rent will be based on the new appraised rent for the property but for planning purposes you can use \$40,000 per year as the base rent. We will notify you of the final appraised rent once we receive it. The primary factor for selecting the new lessee will be the amount of proposed annual rent to be paid on a monthly basis. Please provide us with your proposal by October 31, 2016. We will notify you whether your proposal was selected or not.

Sincerely,

Edward R. Underwood
Administrator

C. Maui Land Board Member

Exhibit C

**A & K Ventures LLC
2191 Kolepa Street
Lahaina, HI 96761**

**Edward Underwood
DOBAR Administrator
Dept. of Land and Natural Resources
Division of Boating and Ocean Recreation
4 Sand Island Access Road
Honolulu, HI 96819**

October 24, 2016

Dear Mr. Underwood,

Thank you for your time this afternoon to speak to Lisa and I regarding this great venture.

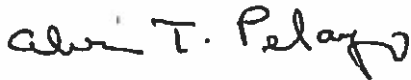
The following is A&K Ventures LLC's proposal to manage the Mala Wharf at Mala, Lahaina, Maui.

A&K Ventures LLC is a Domestic Limited Liability Company whose business and mailing address is 2191 Kolepa Street, Lahaina, Hawaii 96761.

A&K Ventures LLC is proposing to manage the boat storage, public boat trailer parking and other activities at Mala Harbor, Lahaina.

A&K Ventures LLC is proposing to pay \$42,000 per year as a base rent or \$3,500.00 per month.

Respectfully Submitted,



**Alvin T. Pelayo
President
A & K Ventures LLC**

Exhibit D

LAWRENCE N. C. ING
BRADFORD R. ING

2145 WELLS STREET, SUITE 204
WELLS STREET PROFESSIONAL CENTER
WAILUKU, MAUI, HI 96793-2225
(808) 242-4555 • FAX (808) 244-6964
office@theinglawfirm.com

THE ING LAW FIRM

October 27, 2016

Edward R. Underwood, Administrator
Department of Land and Natural Resources
Division of Boating and Ocean Recreation
4 Sand Island Access Road
Honolulu, Hawaii 96818

Re: Revocable Permit No. 33

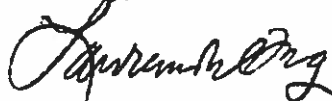
Dear Mr. Underwood:

This is in response to your letter dated October 19, 2016 to my client Wilson Keahi which was received on October 24, 2016.

It is our position that to request a proposal by October 31, 2016 is unreasonable. However, assuming your statement that a new appraisal will be made by the end of this month please provide to me a copy as soon as possible. In the meantime my client proposes a rent of \$850.00 a month for a term of five (5) years and \$1,000.00 a month for a second 5-year term..

Please note that the subject property is zoned residential district and the County of Maui ordinances prohibits the leasing of an unsubdivided lot. My client has spent almost \$1,000,000.00 in improving the property. Provision #6 on page 5 allows the permittee to remove all of his improvements.

Sincerely,



LAWRENCE N. C. ING

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cc: Wilson Keahi

OCT31 11:58AM 2016