

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawai'i 96819

June 9, 2017

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Kaua'i

Authorize Public Auction of a Lease for Maritime Related Purposes, situated on Nawiliwili Small Boat Harbor, Island of Kaua'i, Hawaii, Tax Map Key: (4) 3-2-03:043 (Portion).

REQUEST:

Authorize Public Auction of a Lease for maritime related purposes.

LEGAL REFERENCE:

Hawaii Revised Statutes ("HRS"), Sections 171-14, 16, 17, as amended, and HRS Section 200-2.5, as amended.¹

LOCATION:

Portion of Government lands of the Nawiliwili Small Boat Harbor, Island of Kaua'i, identified by Tax Map Key ("TMK") No.: (4) 3-2-03:043 (portion), as shown on the attached maps labeled Exhibit "A" and Exhibit "B", hereinafter referred to as the "Premises."

AREA:

The Premises consists of 8,698 square feet, more or less, of fast lands, improved with a two-story masonry, wood and steel frame building of approximately 2,475 square feet, subject to confirmation by the Department of Accounting and General Services, Survey Division.

¹ HRS section 200-2.5(a), states that, "...the board may lease fast lands and submerged lands within an existing state boating facility by public auction, a request for proposals, or by direct negotiation...for private development, management, and operation;" and (b): "...Permissible uses ... shall be consistent with the purpose for which the land was set aside ... [and] may include any use that will complement or support the ocean-recreation or maritime activities of state boating facilities."

BLNR – Authorize Public Auction of a Lease
For Maritime Related Purposes,
Nawiliwili Small Boat Harbor, Kauai,
TMK: (4) 3-2-03:043 (por.)

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ZONING:

State Land Use District: Urban
County of Kaua‘i CZO: General Industrial

TRUST LAND STATUS:

Section 5(b) lands of the Hawai‘i Admission Act
DHHL 30% entitlement lands pursuant to the Hawai‘i Constitution: NO

CURRENT USE STATUS:

Encumbered by Holdover Boating Lease No. B-00-3, Nawiliwili Yacht Club (“NYC”), a Hawai‘i non-profit corporation, which built, operates and maintains a recreational boating and ocean activities facility. Their lease expired on September 1, 2016. The Division of Boating and Ocean Recreation (“DOBOR”) requested and received Board approval for a holdover lease to be issued until September 1, 2017.

CHARACTER OF USE:

For maritime related purposes.

LEASE TERM:

Thirty (30) years

COMMENCEMENT DATE:

Sixty (60) days after the date of auction; provided if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; furthermore, the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

PERCENTAGE ANNUAL RENT:

Percentage of gross revenue from all sources within the leased premises, excluding State excise tax. Percentage to be determined by independent appraisal establishing fair market rent, subject to approval by the Chairperson.

EFFECTIVE RENTAL:

The amount of the successful bid at public auction or a percentage of the gross revenue (upset bid and percentage as determined by independent appraisal), whichever is greater.

METHOD OF PAYMENT:

Payable in advance, without notice or demand, in equal monthly installments on the first (1st) day of each and every month.

RENTAL REOPENINGS:

At the end of the 10th and 20th years of the initial lease term, rent to be determined by independent appraisal.

PERFORMANCE BOND:

Twice the annual rental amount.

PROPERTY CHARACTERISTICS:

Utilities: Electricity, water and telephone are available. Services shall be the sole responsibility of the new Lessee and the Lessee shall bear all costs for any connection and installation, subject to approval by DOBOR, and all subsequent monthly charges for usage. The existing utilities are electricity, water and individual wastewater.

Water is on a sub-meter that was installed by DOBOR. A new approved Kauai County Water Department water meter will be required of the new Lessee who will bear the costs for such installation, and monthly usage charges thereafter.

There is an existing individual wastewater system consisting of a septic tank and soil absorption bed.

Slope: Level to street grade.

Elevation: Approximately one (1) to five (5) feet above mean sea level.

Legal Access: Regular access off the main road of the Nawiliwili Small Boat Harbor access.

Subdivision: The Premises is not a legally subdivided lot. Lessee may be required to initiate and complete the process of subdivision for the Premises, as deemed feasible by the Chairperson. Subdivision shall be within compliance with the Kauai County Subdivision Ordinance.

Approximately one year will be given for the subdivision process. DOBOR reserves the right to cancel the agreement if the subdivision is not done in a timely manner. If an extension is required, approval from the Chairperson will be necessary. The cost of the subdivision will be paid for by the Lessee.

Encumbrances: The parcel is encumbered by Hawaii Executive Order (“EO”) No. 3134 which states it is for small boat harbor purposes; and, also encumbered by EO No. 3411 which states it is for the development and operation of harbor facilities.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Exemption List for the Department of Land and Natural Resources," approved 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, "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." Item No. 47, that states, "Leases of State land involving negligible or no expansion or change of use beyond that previously existing.", and Item No. 48, that states, "Subdivision or consolidation of lots not previously subdivided." Refer to attached Exhibit "C".

REMARKS:

On April 14, 2000, DOBOR awarded Boating Lease No. B-00-3 between the State of Hawai‘i and the Nawiliwili Yacht Club, a Hawai‘i non-profit corporation, for the purpose of building, operating and maintaining a recreational boating and ocean activities facility (Yacht Club). The lease commenced on September 2, 2001 and expired on September 1, 2016.

Current Lessee has continued occupancy and was approved for a holdover lease retroactively from September 2, 2016 to September 1, 2017. Current Lessee is aware that DOBOR intends to sell Premises at auction for a long-term lease.

RECOMMENDATION:

That the Board:

1. Find the area to be an economic unit in terms of the intended use.
2. 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.

3. Authorization for Public Auction of a Lease covering the subject area for maritime purposes 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 boating general lease form, as may be amended from time to time;
 - b. Within the first year of the lease term, the land under lease may be required to be subdivided for the purposes for which the lease is sold, all in accordance with a feasibility assessment and preliminary subdivision plan approved by the Chairperson;
 - c. Residential use shall not be allowed on the Premises;
 - d. Review and approval by the Department of the Attorney General; and
 - e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Edward R. Underwood
Administrator

APPROVED FOR SUBMITTAL:



Suzanne B. Case
Chairperson

**BLNR – Authorize Public Auction of a Lease
For Maritime Related Purposes,
Nawiliwili Small Boat Harbor, Kauai,
TMK: (4) 3-2-03:043 (por.)**

**June 9, 2017
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Attachments:

Exhibit “A” – TMK Map: (4) 3-2-03:43 (por.)

Exhibit “B” – Aerial Site View of TMK: (4) 3-2-03:043 (por.)

Exhibit “C” – Chapter 343, Exemption Notice

Public Land Trust Information System Cathy Brecht | Admin - 8 new message(s) | Change

Map Data Help About the PLTIS

ID Search

Enter an Alternate ID, tax map key (TMK), portion of TMK or range of 9 digit TMKs
 Ex: (1) 2-1-033-025 or 121033025

(4) 3-2-003-043

Or enter an Encumbrance ID

Encumbrance ID

Polygon Search

Basic Query

Advanced Query

Layers and Rendering

Print and Bookmark

Map Legend

Search for an address or location

Parcel Quick View

TMK: (4) 3-2-003-043
 Address of Point Clicked: 3661 Hawaii Small Boat Harbor, Lihue, HI 96766
 Coordinates of Point Clicked: -159.360162, 21.950361
 Owner(s) per COA Tax Office: STATE OF HAWAII

Reported By: DLNR-LD
 Fee Owner: DLNR
 Trust Land Status: 5(b)
 Acreage: 7.855
 Encumbrances: 2 totaling \$311,492.91 over 7 parcel(s)

[Click for parcel detail...](#)

Reported By: DLNR-LD
 Fee Owner: DLNR
 DLNR-LD Identifier: (4) 3-2-003-043-A (Seaward of parcel)
 Trust Land Status: 5(b)
 Acreage: 0
 Encumbrances: 1 totaling \$0.00 over 7 parcel(s)

[Click for parcel detail...](#)

Enter an Alternate ID, tax map key (TMK), portion of TMK or range of 9 digit TMKs
 Ex: (1) 2-1-033-025 or 121033025

(4) 3-2-003-043

Or enter an Encumbrance ID

Encumbrance ID

Polygon Search

Basic Query

Advanced Query

Layers and Rendering

Print and Bookmark

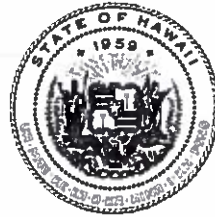
Map Legend

Subject DOBOR Property



Exhibit B

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 9, 2017

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

KEKOA 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:	Sale of Lease at Public Auction for Maritime Related Purposes, Nawiliwili Boat Harbor, Island of Kaua'i, Hawaii, Tax Map Key: (4) 3-2-03:043 (Portion).
Project Number:	None
Project Description:	Sale of lease at public auction for maritime purposes.
Chapter 343 Trigger(s)	Use of State Lands
Exemption Class & Description:	Exemption Authority: Exemption List for the Department of Land and Natural Resources approved by the Environmental Council on June 5, 2015. Scope of Work: Sale of lease. Exemption Class No. 1: Leases of state land.
Exemption Item Number and Description:	In accordance with the "Exemption List for the Department of Land and Natural Resources," approved 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. 47 that states "Leases of State land involving negligible or no expansion or change of use beyond that previously existing.", and Item No. 48, that states, "Subdivision or consolidation of lots not previously subdivided."
Consultation:	The following agencies/entities were consulted, see attached records of consultation. <ul style="list-style-type: none"> DLNR – Office of Conservation and Coastal Lands
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