

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96813

September 22, 2017

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

Land Board Members:

SUBJECT: CONTINUATION OF REVOCABLE PERMITS TO ANELA KAI CATAMARANS, INC., ISLAND BEACH ACTIVITIES, INC., KEPOIKAI, LTD., KING PARSONS ENTERPRISES, LTD., WELKAHAO CATAMARAN, INC., WOODBRIDGE INC. TO EMBARK AND DISEMBARK PASSENGERS ON WAIKIKI BEACH, FOR THE PURPOSE OF PLACING PERMANENT ANCHORS IN THE BEACH IN ORDER TO SECURE THE VESSEL (SEE EXHIBIT A ATTACHED)

REQUEST:

Continuation of the Revocable Permits (RPs) listed in Exhibit A from October 1, 2017 through September 30, 2018.

LEGAL REFERENCE:

HRS §171-55: "Notwithstanding any other law to the contrary, the Board of Land and Natural Resources may issue permits for the temporary occupancy for state lands or an interest therein on a month-to-month basis by direct negotiation without public auction, under conditions and rent which will serve the best interests of the State, subject, however to those restrictions as may from time to time be expressly imposed by the Board. A permit on a month-to-month basis may continue for a period not to exceed one year from the date of its issuance; provided that the Board may allow the permit to continue on a month-to-month basis for additional one year periods."

HAR §13-251-53(a): "Each catamaran operator holding a commercial use permit or registration certificate authorizing operation in Waikiki nearshore waters or on Waikiki Beach shall maintain their beach moorings in the position and condition that they have established and maintained since January 1, 2013, provided: (a) Approval is obtained from the Board of Land and Natural Resources regarding the type and location of the mooring to be installed on Waikiki Beach or ocean waters for the purpose of securing the catamaran while conducting business. No additional fee shall be charged for said moorings beyond the amounts set forth in Section 13-253-1.1"

LOCATION:

Portion of Government lands situated at Waikiki Beach, Island of Oahu, hereinafter referred to as the "Premises" as shown on the map labeled EXHIBIT B and attached hereto.

AREA:

Each Permittee displaces approximately 64 square feet with the placement of an anchor.

ZONING:

Waikiki Special District

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 Revocable Permits as described in EXHIBIT A attached hereto.

CHARACTER OF USE:

Placing permanent anchors in the beach in order to secure the vessel and ensure safety of the passengers while embarking and disembarking.

COMMENCEMENT DATE:

October 1, 2017

MONTHLY RENTAL:

The monthly rental is included in the commercial permit fee of two hundred dollars (\$200.00) per month or 3% gross receipts, whichever is greater, as provided in Hawaii Administrative Rules Sections 13-253-1 through 13-253-4.

COLLATERAL SECURITY DEPOSIT:

Four Hundred Dollars (\$400.00) which is twice the minimum monthly rental.

DCCA VERIFICATION:

| | | |
|---|--------------|----|
| Place of business registration confirmed: | YES <u>X</u> | NO |
| Registered business name confirmed: | YES <u>X</u> | NO |
| Applicant in good standing confirmed: | YES <u>X</u> | NO |

REMARKS:

At the April 25, 2014 meeting of the Board of Land and Natural Resources (Board), the Board approved amendments to the Hawaii Administrative Rules (HAR) as they pertain to commercial activities occurring in the Division of Boating and Ocean Recreation (DOBOR) facilities as well as the navigable waters of the State. DOBOR worked closely with the Waikiki catamaran operators to address their concerns regarding the ability to secure the catamarans while they were on Waikiki Beach so the vessel would not break free and endanger others using the area. DOBOR indicated that there could be no use of state lands without a proper land disposition according to Hawaii Revised Statutes (HRS) Chapter 171. It was at this time that an agreement was reached that each operator would be issued a RP for the purpose of installing an anchoring system on the beach. The fee for the RP would be included in the commercial permit fee of \$200.00 per month or 3% of gross receipts, whichever is greater as provided in HAR Sections 13-253-1 through 13-253-4. These discussions as well as comments from the rule making process led to the promulgation of DOBOR regulations regarding the mooring of catamarans in Waikiki as stated in HAR Section 13-251-53, labeled EXHIBIT C and attached hereto.

At the October 24, 2014 Land Board Meeting, the Board approved the issuance of RPs to seven Waikiki Commercial Catamaran Operators for the purpose of installing anchoring systems on Waikiki Beach. Those seven Waikiki Commercial Catamaran Operators obtained RPs that are in effect from October 1, 2015 to September 30, 2016.

At the September 23, 2016 Land Board Meeting, the Board approved the continuation of RPs to those seven Waikiki commercial catamaran operators in effect from October 1, 2016 to September 30, 2017. Effective September 30, 2016, Waikiki Cruises, LLC. is no longer in business and has forfeited their RP.

All six Waikiki commercial catamaran operators are in compliance with the existing RPs and all other requirements of the department. These are no other parties eligible to receive an RP for this use because it is concurrent with the issuance of a Waikiki Catamaran Registration from the department to operate catamarans from Waikiki Beach. The permittees listed herein are the only companies possessing such a registration. The placement of anchors in the beach is an essential safety measure for the Waikiki Catamaran Operators to conduct their tours and activities without endangering other beach users in a popular and crowded area.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Authorize the continuance of Revocable Permits to the seven Waikiki Commercial Catamaran Operators on Waikiki Beach covering the subject area for the purposes of installing anchoring systems on the beach to aid in embarking and disembarking passengers 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; and
 - b. Review and approval by the Department of the Attorney General.
 - c. 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
Division of Boating & Ocean Recreation

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Attachment:

- A. Waikiki Commercial Catamaran Operators List
- B. Waikiki Beach Catamaran Anchor Sites
- C. HAR §13-251-53

DIVISION OF BOATING AND OCEAN RECREATION
Continuation of Revocable Permits for Waikiki Commercial Catamaran Operators
From 10/1/17 - 9/30/18

| No. | Permittee Name | RP No. | Location | Effective Date | RP | | | | | Character of Use |
|-----|--------------------------------|--------|---------------|----------------|----------------|-------|------------|----------|---|---|
| | | | | | Area (Sq. Ft.) | | RP Rent | | | |
| | | | | | Fast | Total | Annual | Monthly | % | |
| 1 | Anela Kai Catamarans, Inc. | 30 | Waikiki Beach | 10/1/2015 | | | \$2,400.00 | \$200.00 | 3 | Embarking and disembarking passengers and placing permanent anchors in the beach. |
| 2 | Islands Beach Activities, Inc. | 29 | Waikiki Beach | 10/1/2015 | | | \$2,400.00 | \$200.00 | 3 | Embarking and disembarking passengers and placing permanent anchors in the beach. |
| 3 | Kepoikai, Ltd. | 28 | Waikiki Beach | 10/1/2015 | | | \$2,400.00 | \$200.00 | 3 | Embarking and disembarking passengers and placing permanent anchors in the beach. |
| 4 | King Parsons Enterprises, Ltd. | 27 | Waikiki Beach | 10/1/2015 | | | \$2,400.00 | \$200.00 | 3 | Embarking and disembarking passengers and placing permanent anchors in the beach. |
| 5 | Welakahao Catamaran, Inc. | 26 | Waikiki Beach | 10/1/2015 | | | \$2,400.00 | \$200.00 | 3 | Embarking and disembarking passengers and placing permanent anchors in the beach. |
| 6 | Woodbridge, Inc. | 31 | Waikiki Beach | 10/1/2015 | | | \$2,400.00 | \$200.00 | 3 | Embarking and disembarking passengers and placing permanent anchors in the beach. |

Exhibit A



§13-251-53 Waikiki catamarans; mooring of.

Each catamaran operator holding a commercial use permit or registration certificate authorizing operation in Waikiki nearshore waters or on Waikiki beach shall maintain their beach moorings in the position and condition that they have established and maintained since January 1, 2013, provided:

- (a) Approval is obtained from the board of land and natural resources regarding the type and location of the mooring to be installed on Waikiki beach or ocean waters for the purpose of securing the catamaran while conducting business. No additional fee shall be charged for said moorings beyond the amounts set forth in section 13-253-1.1;
- (b) Operators shall assume all responsibility and liability for their moorings and operations, indemnify and defend the State, and carry general liability insurance in accordance with section 13-231-65;
- (c) Operators shall obtain all applicable permits required to install moorings on Waikiki beach or ocean waters;
- (d) Operators shall lower the catamarans' sails to prevent obstructing the view from lifeguard stations upon the request of a Honolulu city and county lifeguard;
- (e) Operators may apply to the department for temporary variance to its assigned mooring, as described in the attendant revocable permit, to accommodate governmental, natural or environmental conditions that make the regularly assigned moorings inaccessible or a danger to any of the catamarans operating in Waikiki. Such variance shall terminate upon the resolution of said dangerous condition. Such variance shall not encroach upon or adversely affect the operations of the other catamarans without the express written consent of the affected catamarans;
- (f) Catamaran ingress and egress through the transit channel referred to as "Canoes" channel shall be limited to the four Waikiki catamaran registration holders presently moored and operating closest to the "Canoes" channel as more specifically described in the Waikiki beach mooring revocable permit;
- (g) Catamaran ingress and egress through the transit channel referred to as "Sheraton" channel shall be limited to the three Waikiki catamaran registration holders presently moored and operating closest to the "Sheraton" channel as more specifically described in the Waikiki beach mooring revocable permit; and
- (h) Any violation of this section shall be cause for fines, suspensions, or where repeated violations of this section are found, revocation of the registration certificate or commercial use permit of the catamaran owner. [Eff 9/25/14] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)