

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

February 9, 2018

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

Land Board Members:

SUBJECT: REQUEST FOR REDUCED RENT; REVOCABLE PERMIT NO. 6;  
HAWAII BIG GAME FISHING CLUB, INC.; HONOKŌHAU SMALL  
BOAT HARBOR, NORTH KONA, ISLAND OF HAWAII, HAWAII;  
TAX MAP KEY: (3) 7-4-008:003 (PORTION).

APPLICANT:

Hawai'i Big Game Fishing Club, Inc. (HBGFC), a Hawai'i, 501(c)(4) nonprofit corporation, whose mailing address is Post Office Box 3106, Kailua-Kona, Hawai'i 96740, hereinafter referred to as the "Permittee".

LEGAL REFERENCE:

Sections 171-43.1<sup>1</sup> and 171-55<sup>2</sup>, Hawai'i Revised Statutes ("HRS"), as amended.

LOCATION:

HSBH, North Kona, Island of Hawai'i, Hawai'i. Tax Map Key: (3) 7-4-008:003 (portion), as shown on the attached map labeled EXHIBIT A, hereinafter referred to as the "Premises".

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<sup>1</sup> HRS §171-43.1 Lease to eleemosynary organizations, provides that, "The board may lease, at a nominal consideration, by direct negotiation and without recourse to public auction, public lands to an eleemosynary organization which has been certified to be tax exempt under sections 501(c)(1) or 501(c)(3) of the Internal Revenue Code of 1986, as amended. The lands shall be used by such eleemosynary organizations for the purposes for which their charter was issued and for which they were certified by the Internal Revenue Service."

<sup>2</sup> HRS §171-55 Permits, provides that, "Notwithstanding any other law to the contrary, the board may issue permits for the temporary occupancy of state lands or an interest therein on a month-to-month basis by direct negotiation without public auction, under condition 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 the Board may allow the permit to continue on a month-to-month basis for additional one year periods."

Request for Reduced Rent;  
Revocable Permit No. 6;  
Hawai'i Big Game Fishing Club, Inc.

February 9, 2018  
Item J-10

LAND AREA:

Approximately .229 acres, more or less.

ZONING:

State Land Use District: Urban

County of Hawai'i CZO: Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawai'i Admission Act: Yes

DHHL 30% entitlement lands pursuant to the Hawai'i State Constitution: NO

CURRENT USE STATUS:

Currently encumbered by Revocable Permit No. 6, to Permittee, expiring June 30, 2018.

Set Aside for Public Use of Land, under Governor's Executive Order No. 4334, for small boat harbor and related purposes.

CHARACTER OF USE:

The Permittee shall occupy and use the Premises for the specified purposes only: Occupy and use a portion of open unpaved land in support of fishing and boating activities, public meetings, tournaments, harbor meetings and continued support of youth groups.

The Permittee may also occupy and use the Premises for any other use permitted under applicable county zoning, subject to the prior approval of the Chairperson of the Board and the Permittee's compliance with Chapter 343, Hawai'i Revised Statutes.

COMMENCEMENT DATE:

January 1, 2017.

MONTHLY RENTAL:

One thousand eighty and no/100 dollars (\$1,080.00) per month, payable in advance by the first of each and every month.

COLLATERAL SECURITY DEPOSIT:

Twice the 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

BACKGROUND:

At its meeting of January 27, 2017, under agenda Item J-1, the Board of Land and Natural Resources ("Board") approved and amended the submittal for the continuation of eight (8), Revocable Permits ("RPs"), located in the HSBH, for an additional six (6) month period, retroactively from January 1, 2017, to June 30, 2017, with rent set at fair market value, established by an independent appraisal report prepared by CBRE, Inc., dated October 31, 2016.

With respect to the 501(c)(3) non-profit permittees, the Board amended staff's submittal to provide that, the affected non-profit organizations be afforded the opportunity to request discounted rent for consideration by the Board, by submission of a written request, to the Division of Boating and Ocean Recreation, ("DOBOR") within ninety (90) days of notification.

On February 17, 2017, DOBOR notified the HSBH non-profit permittees of the opportunity to request discounted rent. They were advised to submit a written request, with documentation in support of the request, as follows:

- 1) Internal Revenue Service ("IRS"), certification of tax exempt status under 501(c)(3);
- 2) Organizational Charter (or Articles of Incorporation) which explains the mission and purpose for the organization's existence;
- 3) Bylaws or rules and regulations that the organization must abide by;
- 4) Income Statement (prior tax year, income and expense including payroll), and enumerating any income from rentals or fees for use of the property that is the subject of the Revocable Permit; and
- 5) A description of how, and to what extent, the charitable organization benefits the community and the public at large, beyond benefits to the membership of the organization.

The non-profit permittees were advised to submit their request for discounted rent, along with the above supporting documents, no later than ninety (90) calendar days after notification. Upon receipt of the completed documentation, DOBOR would review the request for submittal to the Board for consideration.

On March 9, 2017, DOBOR received a letter from the Permittee requesting discounted rent for the Premises, with most recent copies of their non-profit status, original Articles of Incorporation, original Bylaws, 2016 Profit and Loss Statement and a description relating how the Permittee benefits the community.

In April 2017, Chairperson Case requested that a staff committee (“Committee”), review the Department of Land and Natural Resources’ (“DLNR”), policy for determining whether reduced rent should be offered to a 501(c)(1) or 501(c)(3) eleemosynary organization according to Hawaii Revised Statute §171-43.1. The Committee was tasked to make recommendations to the Board to ensure the process serves the public trust and is implemented consistently throughout the Department.

- 1) The following DLNR staff members served on the Committee:
  - Ms. Pua Aiu, Chair’s Office
  - Mr. Barry Cheung, Land Division
  - Mr. Sang Kim, Division of State Parks
  - Mr. Steve Lau, Division of State Parks
  - Mr. Dana Yoshimura, Division of Boating and Ocean Recreation
- 2) The Committee’s areas of focus were to examine:
  - Purpose for non-profit discounted value.
  - Pricing, including identification and establishment of high value assets.
  - Review of past and current practices.
  - Recommendations for proposed practice and protocol.
- 3) The expected outcomes were to:
  - Identify best practices and articulate principles to be applied.
  - Update the review protocol and Board submittal process.
  - Present specific items for reconsideration by the Board for discounted value.
  - Have new practices in place at the Department of Land and Natural Resources.

To fulfill its mandate, the Committee met April through September of 2017, with these findings:

- 1) Existing practices:
  - When considering leases to non-profit charitable organizations, the Board issues leases by public auction at fair market rent, or by direct negotiation at fair market rent, an amount below fair market rent, or minimum rent.
  - On May 13, 2005, the Board established a “Minimum Rent Policy” that stated, among other things, that the minimum rent for lease be no less than \$480 per year.
  - Land Division generally issues leases at fair market value, as determined by an appraiser via public auction, or "nominal consideration" under Section 171-43-1; set anywhere between fair market value, or lower, but not lower than the minimum rent of \$480 per year.
  - A review of the records indicates that the DLNR has never established written protocol or specific rates for discounting the valuation of land dispositions.

2) Conclusions:

- Written applications should be evaluated on a case by case basis.
- Staff should carefully and consistently review the documentation required by HRS 171-43.1, and any other applicable statutes and/or rules.
- “Nominal consideration” or “Minimum Rent” should cover all administrative costs related staff review and annual updates of any discounted lease or permit.
- High value properties should not be discounted.
- DOBOR staff produced a review process flow chart, attached as EXHIBIT A.

REMARKS:

The documentation submitted by the HBGFC showed that they were registered as a 501(c)(3) but their federal tax exemption was changed to a 501(c)(4) according to Ms. Amber Hudnall, Secretary/Treasurer for HBGFC. DOBOR attempted to confirm the status 501(c)(4) on the IRS website; however, the search results stated there were no tax-exempt organizations found matching the search values, see EXHIBIT B. DOBOR was able to find information on the website “Melissa” that showed HBGFC was a 501(c)(4), a civic league or social welfare organization, see EXHIBIT C. The IRS defines a 501(c)(4) as follows, “To be tax-exempt as a social welfare organization described in Internal Revenue Code (IRC) section 501(c)(4), an organization must not be organized for profit and must be operated exclusively to promote social welfare.”

According to Ms. Hudnall, the HBGFC puts on approximately a dozen fishing tournaments each year, provides a convenient and safe place for public groups to meet at an affordable cost, the club house is used for parties, weddings, funerals, graduations, etc. They provide private security to ensure peace, see EXHIBIT D.

As of the writing of this submittal, the HBGFC is in arrears for rent in the amount of approximately \$7,790.00. HBGFC has attempted to pay rent but claims it can't afford the rent of \$1,076 per month that was set by appraisal.

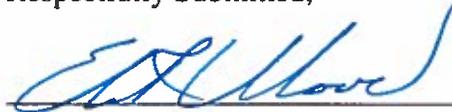
After review of the information, DOBOR does not recommend a reduction in rent due to the fact that HBGFC is not a 501 (c)(1) or 501(c)(3) and does not meet the requirements of Hawaii Revised Statutes, §171-43.1. Also, HBGFC has stated that they charge for use of the facilities and have the ability to generate income.

RECOMMENDATION:

That the Board of Land and Natural Resources:

Deny the request for reduced rent by Hawai'i Big Game Fishing Club, Inc. according to HRS, § 171-43.1 due to the fact that they are not registered with the IRS as either a 501(c)(1) or 501(c)(3).

Respectfully Submitted,



EDWARD R. UNDERWOOD, Administrator  
Division of Boating & Ocean Recreation

APPROVED FOR SUBMITTAL:

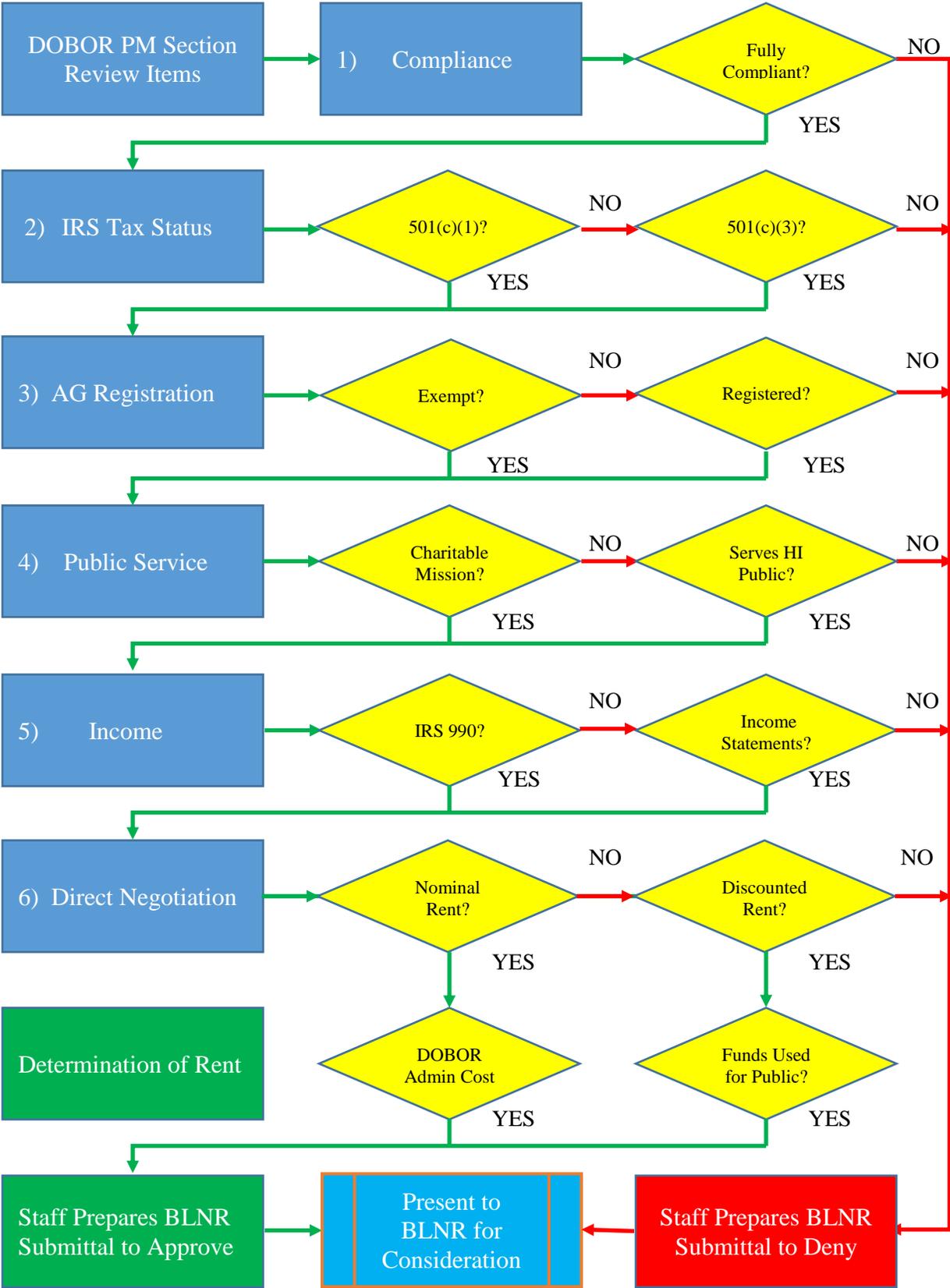


SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

Attachment:

- A. DLNR:DOBOR Review Process for Discounted Rent – Existing Revocable Permits
- B. IRS Exempt Organizations Select Check
- C. Melissa Data Nonprofit Organization Lookup
- D. Letter from Amber Hudnall, HBGFC Secretary/Treasurer

Department of Land and Natural Resources, Division of Boating and Ocean Recreation  
 REVIEW PROCESS FOR DISCOUNTED RENT - EXISTING REVOCABLE PERMITS





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## Exempt Organizations Select Check

[Exempt Organizations Select Check Home](#)

Organizations Eligible to Receive Tax-Deductible Charitable Contributions (Pub. 78 data)

There were no tax-exempt organizations found matching the search values you entered. Please refine your search and try again. See [Search Tips](#) for help in reformulating your search request.

Note: The organization you are searching for may not currently be eligible to receive tax-deductible charitable contributions. See [Deductibility Status](#) for a description of the limitations on deductibility of contributions to different types of tax-exempt organizations.

[Return to Search Page](#)



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## Hawaii Big Game Fishing Club

74-872 Paihi St  
Address Kailua Kona, HI [96740-9629](#)  
[Map](#)

IRS Subsection **501(c)(4) - A civic league or social welfare organization.**

Type of Organization **Corporation**

Deductibility **Contributions are NOT deductible**

Tax I.D. Number **990317614**

Exempt Since **09-2014**

Form 990 Requirement **Not required to file (income less than \$50,000)**

Last 990 Form Filed **12-2016**

Form 990 Amount **\$0**

Activity #1 **Hunting or fishing club**

Classification **Fishing, Hunting Clubs**

**Hawaii Big Game Fishing Club, Inc.  
74-872 Paihi Street  
Kailua-Kona, Hawaii 96740**

**Public Benefits of the Hawaii Big Game Fishing Club**

The Hawaii Big Game Fishing Club was formed for the preservation and conservation of marine resources through public education, research, and the promotion of sportsmanship among the youth of the community, and through participation in club activities. Our greatest goal has been and will always be, to sponsor fishing tournaments for the less privileged children on our island. We welcome the kids from various youth groups, send them out on boats with captain and deckhand volunteers and teach them how to fish. After, we provide dinner and prizes for each child at the clubhouse. In the beginning, businesses would provide us with enough monetary donations to accomplish this goal. When money became tighter, we opened the facility to the public for a usage fee.

We truly believe the clubhouse has become an asset to our community. It provides the means for various public groups to have a convenient and safe place to meet at an affordable cost. Narcotics anonymous, alcoholics anonymous, church groups, Rotary Club of Kona, the Fisheries Council, etc. have their meetings. Various local businesses and companies have occupational training sessions. The Hospice of Kona has their annual charity fishing tournament and silent auction. DLNR-BOR and the USCG have public outreach meetings.

The club house is also a popular place for parties, weddings, funerals, graduations, etc. on the weekends. We provide private security for these functions to ensure peace.

About a dozen fishing tournaments hold their briefings and awards banquets at the clubhouse each summer. Many of the participants are captains, deckhands, boat owners and visitors who appreciate these functions being held in the harbor at the clubhouse.

The clubhouse is also a much-needed work site for the Judiciary's Community Service Sentencing Program. Offenders clean and maintain our area while completing their volunteer work hours.

We do not feel these users can afford to pay too much more than they are for using the clubhouse. Please consider a smaller increase in our rent so we may continue serving the community of Kona.

Sincerely,

Amber Hudnall  
HBGFC Secretary/Treasurer  
808-987-4912