

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

February 09, 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 FOR REVOCABLE PERMIT NO. 22
TO NĀ KĀLAI WA'A; SOUTH KAWAIHAE SMALL BOAT HARBOR,
ISLAND OF HAWAII, HAWAII; TAX MAP KEY: (3) 6-1-003:022
(PORTION)

APPLICANT:

Nā Kālai Wa'a (NKW), a Hawai'i, 501(c)(3) non-profit corporation, whose mailing address is
65-1206 Māmalahoa Highway, Kamuela, Hawai'i 96745.

LEGAL REFERENCE:

Sections 171-13, 171-55 and 171-43.1, Hawai'i Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at South Kawaihae Small Boat Harbor (KSBH), Island of
Hawai'i, Hawai'i. Tax Map Key: (3) 6-1-003:022 (portion), as shown on the attached map
labeled EXHIBIT A; hereinafter referred to as the Premises.

LAND AREA:

Approximately .51 acre, more or less.

ZONING:

State Land Use District: Urban
County of Hawai'i CZO: MG-1a, 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. 22, to NKW, expiring June 30, 2018.

Set Aside for Public Use of Land, under Governor’s Executive Order No. 1759, for the Kawaihae Harbor project.

CHARACTER OF USE:

NKW shall occupy and use the Premises for the specified purposes only: vessel storage, general storage, maintenance of improvements, youth programs, educational programs, and affiliated community programs.

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:

February 1, 2017.

CURRENT MONTHLY RENTAL:

\$1,373.33 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 on 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 the established appraised market value, to commence on February 1, 2017.

With respect to the 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 providing such request and documentation in support of the submission of a written request, to the Division of Boating and Ocean Recreation, (DOBOR) within ninety (90) days of notification.

On or about 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 will review the request for submittal to the Board for consideration.

On March 3, 2017, DOBOR received a letter from NKW requesting discounted rent from the current rate of \$1,373.33 to \$206.45 per month for the Premises, attached hereto as EXHIBIT B.

In April 2017, Chairperson Case requested that a staff committee (Committee), review the Department of Land and Natural Resources' (DLNR), non-profit lease, revocable permit and permit, discounted value determination practice and protocol. The Committee was tasked to make recommended changes to the Board to ensure the process serves the public trust and provides equitable inclusiveness and consistency.

- 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, 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 to 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 C.

REMARKS:

Hawaii Revised Statutes (HRS), §171-43.1, Lease to eleemosynary organizations, states, “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.”

NKW is described as an education-based, 501(c)(3) non-profit organization dedicated to the cultural values, knowledge and practices of deep sea voyaging utilizing the double-hulled sailing canoe. The organization continues to honor the indigenous Hawaiian traditions and practices of wa‘a culture through the Makali‘i voyaging canoe programs for the past, present and future generations. NKW has found that the canoe is the perfect educational platform to engage learners in basic academics like math and science. These Stem programs are perfectly matched to the cultural aspects through the teachings and applications of non-instrument navigation and open-ocean voyaging.

NKW has been a growing organization and is affiliated with various groups throughout Hawaii which include grade schools, university's, youths, paddling, sailing and community groups which participate in its educational programs, or activities hosted at the harbor site.

NKW has requested a rent reduction from \$1,373.33 to \$206.45 per month based on the fact that 85% of their activities benefit the general public beyond their membership. Upon staff's analysis, 50% would be a more conservative estimate of the general public benefiting from their activities.

NKW's "Profit and Loss Standard" statement, dated January 22, 2018, for January through December 2017, shows that the Net income totaled \$55,585; attached hereto as EXHIBIT D. Although, NKW has sufficient funding to pay the appraised rent, should the Board decide to offer reduced rent, DOBOR recommends a 50% rent reduction from the current rate of \$1,373.33 to \$686.66 per month.

The 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.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Should the Board agree with the above analysis, authorize Nā Kālai Wa'a request for a reduction in rent according to HRS, §171-43.1 in the amount of \$686.66 per month.
2. 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

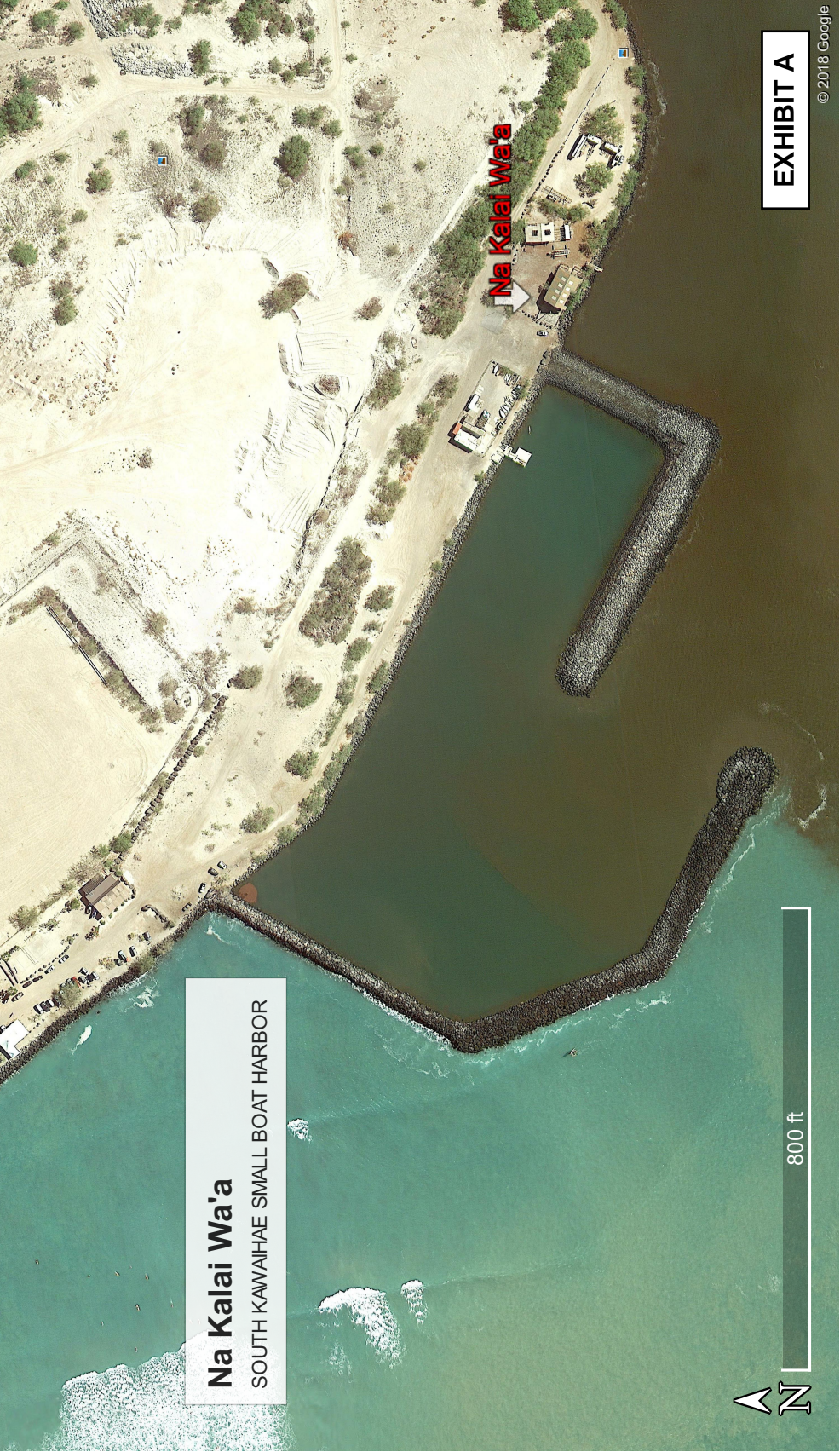
APPROVED FOR SUBMITTAL:



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

Attachment:

- A. Aerial Map of South Kawaihae Small Boat Harbor
- B. Nā Kālai Wa'a Letter Requesting Discounted Rent
- C. DLNR:DOBOR Review Process for Discounted Rent – Existing Revocable Permits



Na Kalai Wa'a

SOUTH KAWAIHAE SMALL BOAT HARBOR

Na Kalai Wa'a

800 ft

EXHIBIT A



Testimony to the State of Hawai'i

Board of Land and Natural Resources, Chairperson Suzanne Case

on Behalf of Nā Kālai Wa'a

Milton "Shorty" Bertelmann, Master Navigator

Chadd Onohi Paishon, Master Navigator



Request for Discounted Revocable Permit Rent

28 February 2017



Request Summary

Permit: Revocable Permit No. H-08-001

Permittee: Nā Kālai Wa'a

Location: South Kawaihae Small Boat Harbor, Island of Hawaii
TMK No. (3)-06-01-003: portion (.51 acres)

Purpose: Storage & Cultural Education Programs for the Community Including Youth

Issue: Rent Increase to **\$1,373.33** Commencing Feb 1, 2017 from **\$206.45**

Response: Request for Rent Reduction to \$206.45

Introduction

We are Nā Kālai Wa‘a, an education-based, non-profit organization dedicated to the cultural values, knowledge and practices of deep sea voyaging utilizing the double-hulled sailing canoe Makali‘i. Founded in 1993, our approach is a voyaging canoe is the maritime parallel of a village and the success of a voyage is a function of the participation of its members. Voyaging improves individual skills and decision-making, teaches sustainability, and brings the community together for a common purpose. In the 1970s, brothers Clay and Shorty Bertelmann fell in love with a voyaging canoe and spent the next 20 years training with Micronesian Master Navigator Mau Piailug on the voyaging canoe Hōkūle‘a. In the early 1990s, Clay had a dream about a canoe that would strengthen his community and provide a continuous platform for learning. In 1994, the 54-foot voyaging canoe Makali‘i was born and his dream was realized. In explaining the holistic nature of voyaging, Clay stated, He wa‘a he moku, he moku he wa‘a which means, a canoe is an island, an island is a canoe. Historically, foreign intervention in the islands resulted in cultural loss, our cultural identity suffered and we began to lose our way.¹ Nā Kālai Wa‘a Master Navigators Shorty Bertelmann and Chadd Paishon continue to train and pass on voyaging knowledge and practices to Hawaiian trainees to help navigate back to our cultural identity, and during the course of this journey, improving our health and well-being.

Mission Statement and Organization Background

Our Mission Statement is "to protect, perpetuate and honor the indigenous Hawaiian traditions and practices of wa‘a (canoe) culture through the Makali‘i voyaging canoe programs,

¹ Kekuewa Kikiloi, in *Rebirth of an Archipelago: Sustaining a Hawaiian Cultural Identity for People and Homeland in Hūlili: Research on Hawaiian Well-Being* Vol 6 (2010): "As Native Hawaiians, each of us has the ability to tap into a preconscious reservoir of past experiences and to access all that exists in a storehouse of knowledge called ancestral memories. Our ancestors left us these ancient traditions as a legacy, a prescribed map of reference points, to help us navigate our lives and steer us through the uncharted waters that lie ahead in our future. Stories and traditions about our islands give us a sense of place and belonging."

for the past, present and future generations." We support a living and thriving Hawaiian culture by 1) perpetuating the art of building and maintaining canoes; 2) perpetuating and advancing Hawaiian navigational knowledge and skills; 3) encouraging interdependent connections between land, ocean and people; 4) sharing values, perspectives and skills that engender kuleana (responsibility, duty, privilege) in individuals and communities; and 5) promoting a healthy Hawaiian 'ohana (family) system in all activities. We serve the communities of Moku o Keawe (island of Hawai'i) the community which supports and sustains us and Makali'i on a daily basis; 2) Hawai'i Nei, the Hawaiian Island Chain, linking our voyaging canoe communities by the channels between the islands, the traditional seaways upon which our ancestors voyaged daily providing trade and cultural continuance; and 3) Moananuiākea - the greater Pacific Ocean community of Polynesians and Natives linked to us through our common ancestries and cultures of voyaging.

In 2012, we adopted a 5 Year Strategic Plan that was developed in consultation with the 5 organizations that helped establish Nā Kālai Wa'a.² Our place in the voyaging community is that we are the cultural foundation dedicated to the practice and perpetuation of Hawaiian voyaging through non-instrument navigation.

With the foundation of our organization explained, the following identifies our Education Experiences and Programs that we offer and have conducted for the past 20 years. Nā Kālai Wa'a has been offering educational experiences to our community since the birth of Makali'i in 1995. Programs range from a wide variety of sails to dry dock experiences and service to communities from Hawai'i Island and the larger Pacific. Our pedagogy, our programs, reflects our vision statement. Our curriculum is holistic and focuses on the relationship of all elements from our most fertile upland slopes to the deepest parts of our ocean. Through this pedagogy,

² See 2012-2017 Nā Kālai Wa'a Strategic Plan.

programs are also able to focus on the individual's development and contribution to their own communities. As kumu (teacher) and crew, our job is to recognize the strengths of each haumāna (student) in order to help them develop those strengths both as an individual and as part of the community. The second most important component to our educational pedagogy is family learning. We build canoes and programs that build communities, but the core of our communities lies with our individual families. When families can engage in a program together, we have found that their learning also continues after they have left our physical presence to return home. Family learning also contributes towards the healthy social development of our communities and our people.

Through the years Nā Kālai Wa'a has found that the canoe is the perfect educational platform to engage learners in basic academics, especially math and sciences. These STEM programs are perfectly married to the cultural aspects of voyaging so well that often students don't realize that they are performing tasks from simple measurements and conversions of units to complicated physics formulas that determine speed. Program curriculum have been designed to best suit each group and program that visit us. When our learners see direct application of STEM and other academic skills in a cultural setting, it is easier to see the relevance to their everyday lives.

Our Programs include Sailing, Dry Dock, Professional and Personal Development Workshops, School Visits, and Navigation Workshops and Presentations (for more information on these programs see our website at <http://www.nakalaiwaa.org/programs>). Our current Projects include Hanauna Ola (a Federal grant from the Administration for Native Americans to train 30 voyagers in advance voyaging techniques, to train 300 community members to provide support, and to send to the remote islands of Nihoa and Mokumanamana to apply the knowledge and practices learned) and Hō'ea Moku which provides 1) Community Workshops on Kanu Wa'a

and Voyaging Applications; 2) Service Learning Opportunities; 3) Educational Kanu Wa'a Gardens; 4) Kanu Wa'a Processing Areas; and 5) Community Workshop Space. The project also educates community on the production of these materials which will in turn help to sustain community through healthy cultivation practices and production of Hawaiian materials and resources that can be used to create livelihoods for our communities while raising awareness of environmental kinship. Our third project is Kūikawa'a, whose main objective is to grow more well-rounded and highly qualified canoe practitioners within our communities by exposing them to practitioners, mentors and experiences so that these leaders can own their practice through applied knowledge; whose main goal is to produce highly qualified leaders from within our crew and organization to help promote the legacy of Nā Kālai Wa'a within our communities; and whose main outcome is to produce proficient wa'a practitioners with a place to hō'ike or apply their learned knowledge. The focal activity for this project is the refitting of Makali'i with a target completion date of June 2016. Other programs include E Lauhoe Wa'a which provides culturally founded experiences and curriculum grounded in voyaging practices for teachers and community leaders that can be used in their individual classrooms and learning spaces and Holokai, a summer enrichment program for middle school aged students that provide three 10 day learning sessions with the goal of developing student's individual and communal sense of self, community, and environment and provides a strong and enduring STEAM (Science, Technology, Engineering, Art, and Math) foundation. Students learn from Pwo Navigators Chadd Paishon and Shorty Bertelmann, as well as Makali'i captains, crewmembers and 'ohana while interacting with Nā Kālai Wa'a vessels, Mauloa, and Makali'i.

Over the past 20 years, an estimated 9,000 students have been educated through our programs, projects, school visits and workshops the majority of whom are of Hawaiian ancestry

with the total funding amounts to exceed 1.5 million dollars. Our deep-sea voyages include Makali'i's maiden trip to Tahiti in 1995 (stopping at the Marquesas before returning to Hawai'i, along with the voyaging canoes Hōkūle'a, Hawai'i Loa, Te Aurere, and Te Au O Tonga) and Micronesia (twice, a distance of approx. 3,500 nautical miles). **An estimated 85% of activities by the organization benefit the general public beyond our membership.**

In 1995, Nā Kālai Wa'a adopted By-Laws that helped to establish the organization. These same by-laws were revised on September 22, 2014. This foundational document outlines the purpose of the organization, and delineates the powers and authorities that govern its management by officers (including the duties of these officers), designates committees, the fiscal year, and meetings, provides for indemnification, non-discrimination, conflicts of interest, revisions, amendments and proxies. It also includes a Conflict of Interest Policy.

In addition, on October 10, 2012, Nā Kālai Wa'a adopted Administrative Policies and Procedures to help provide consistency in its administration and program delivery. It was implemented to address changes in Federal and State laws impacting non-profit organizations and to provide a single source of administrative guidance. It was not intended to supersede the current Articles of Incorporation or By-Law of the Corporation. Pursuant to Sections F and G of these Administrative Policies and Procedures, financial management is provided for including budgets, cash receipts, disbursements, procurement, gift acceptance policy, regular purchases and equipment. These financial policies and procedures provide a framework to ensure (1) financial accountability in accordance with generally accepted accounting principles; (2) an effective system of internal controls; (3) compliance with Federal and State laws and regulations, and fulfillment of the mission of the organization and maintaining of its 501(c)3 status. Our

Board of Directors role is to ensure the organization is properly operated and that fiscal operations are efficient and compliant with best accounting principles that govern non-profits.

Request for Revocable Permit Rent Reduction

Based upon our status as a non-profit organization who is tax exempt under IRS section 501(c)3, our mission statement, the fact that 85% of our activities benefit the general public beyond our membership, and the attached income statement (which includes cash on hand that is needed for future years operations), Nā Kālai Wa'a respectfully requests the Chairperson and the members of the Board of Land and Natural Resources to reduce our revocable permit rent from \$1,373.33 to our prior lease rent of \$206.45. We serve our community through education and humbly request BLNR to support us in these efforts.

Respectfully Submitted:



Milton (Shorty) Bertelmann

Pwo Master Navigator

Board President



Chadd Onohi Paishon

Pwo Master Navigator

Senior Captain

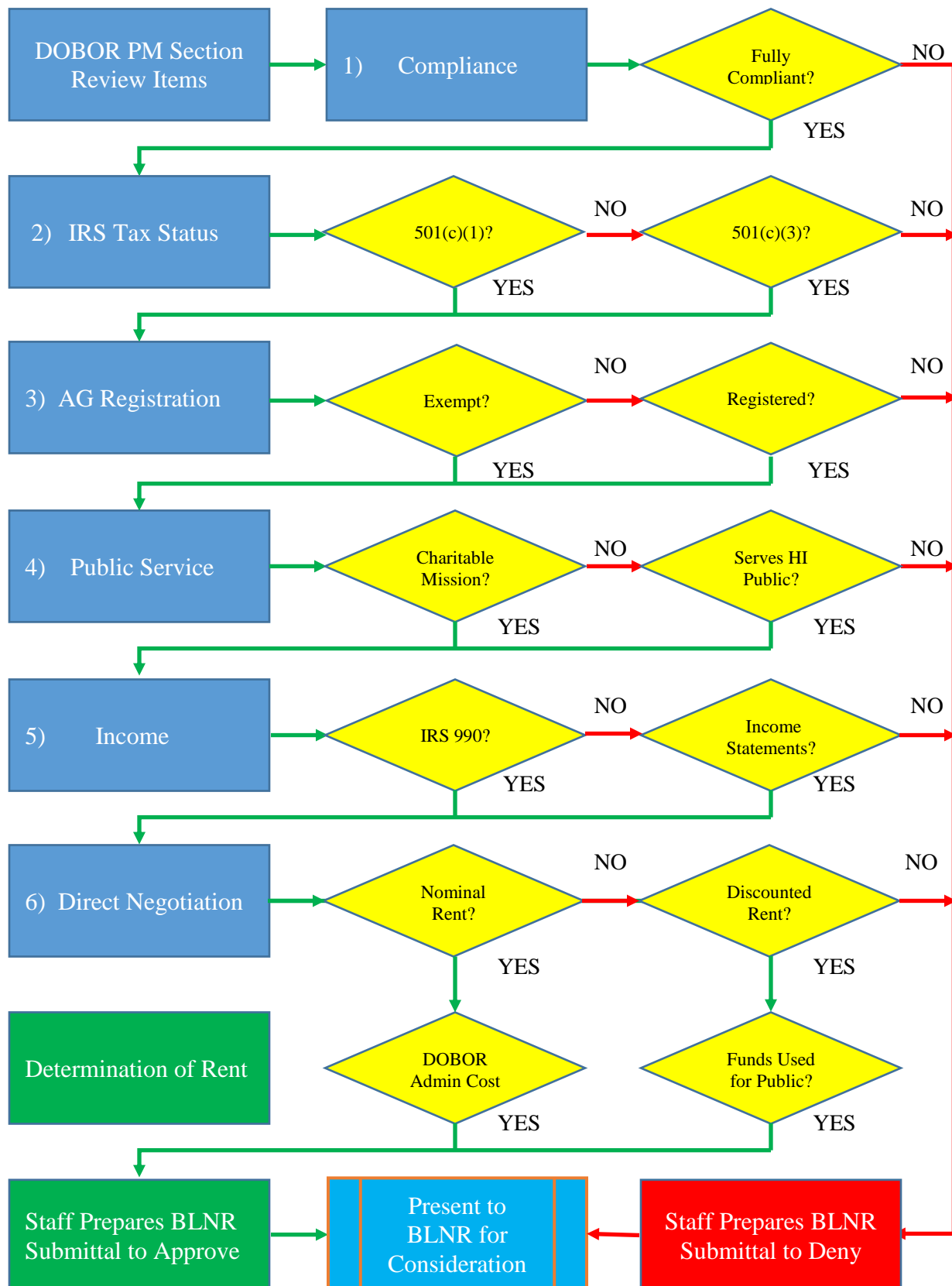


Keomailani Case

Executive Director

Nā Kālai Wa'a

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



Na Kalai Wa'a

Profit and Loss Standard

January through December 2017

2:30 PM

01/22/18

Jan - Dec '17

Income	
421 — Individual Contributions	24,442.20
423 — Corporate Contributions	58,710.00
425 — Foundation Contributions	23,500.00
431 — ANA Grant	330,549.70
432 — HTA Grant	45,000.00
433 — County Grant	18,250.00
435 — 2006 Bakken Charitable Trust	1,455.54
451 — Interest Income	45.48
455 — Revenue T-Shirts, etc.	3,401.68
460 — Other Revenue	25.00
462 — Fee - Vessel Use	43,650.00
472 — Fee Edu Programs General	362,156.00
476 — Fee - Use of Hoea - Ed Program	300.00
Total Income	911,485.60

Expense	
500 — T Shirt Printing	3,697.40
600 — SrCapt/Mastr Nav/Comm Train Dir	58,788.23
601 — Master Nav/Canoe Crew Train Dir	25,384.59
602 — Executive Director	41,540.00
603 — Admin Assistant	3,621.50
604 — Project Director	52,761.00
605 — Programs Coordinator	16,791.00
606 — Project Leader / Hoea Moku	28,428.25
607 — Makali'i Captain	41,357.25
608 — Project Leader / Holokai	32,220.00
609 — Other Salaries	75,528.75
610 — Health Benefits	45,527.00
611 — Payroll Fees	71,906.95
612 — Accounting Consultation	5,417.50
616 — Background Check	248.75
617 — Misc. Contract Labor/Consultant	95,027.40
620 — Administrative Fees	0.00
631 — Office Supplies	6,179.05
632 — Techonology and Software	4,429.56
633 — Office Equipment	7,253.21
634 — Postage & Shipping	1,038.37
635 — Telephone	1,454.60
636 — Cell Phone	(183.99)
638 — Equipment Maint & Repair	370.53
641 — Office Rental	10,035.00
642 — Electricity	1,155.74
643 — Water & Sewer	2,247.97
645 — Insurance	50,341.68
649 — Hale Lua Rental	1,370.40
701 — Halau Kukui	15,279.35
703 — Hoea Facility	2,732.72
704 — Vessel Expense Fees	0.00
705 — Ala Ka'i Maintenance	21,569.52
706 — Alakai Operating Expense	1,915.48
710 — Makali'i Maintenance	15,754.23
713 — Other Vessels	20.81
714 — Vehicle Expense	6,522.36
715 — Equipment & Tools	245.42
718 — Schools Canoe Gardens	10,000.00
720 — Program Supplies	7,265.48
721 — Crew Training Session	27,136.43
722 — Suport Crew Training Workshops	20,848.79
725 — Educational Materials Printing	2,427.29
726 — Ed Programs, Support Costs	2,838.16
745 — Meeting & Events Costs	1,441.19
750 — Other Travel Costs	8,945.19
755 — Housing	0.00
758 — Food	25,808.76
779 — Voided checks	0.00
790 — Miscellaneous	607.09
795 — Fundraising Expense	195.00
797 — Property Tax	150.00
798 — General Excise Tax	260.08
Total Expense	855,901.04
Net Income	55,584.56

EXHIBIT D