

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

May 25, 2018

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

Land Board Members:

SUBJECT: AUTHORIZE THE APPROVAL FOR A RENTAL REOPENING COMMENCING RETROACTIVELY ON JULY 30, 2014 AND ENDING JULY 29, 2024; FOR BOATING LEASE B-99-1, WAIKIKI YACHT CLUB, SITUATED AT ALA WAI SMALL BOAT HARBOR, HONOLULU, OAHU, TAX MAP KEY: (1) 2-3-37: 6 AND 12 (POR.)

REQUEST:

The Division of Boating and Ocean Recreation (“DOBOR”) is requesting that the Board of Land and Natural Resources (“Board”) approve the negotiated Rental Reopening Annual Minimum Rent for Waikiki Yacht Club, under Harbor Lease B-99-1, for the ten-year period commencing retroactively on July 30, 2014 and ending July 29<sup>th</sup>, 2024. The current minimum rent of \$150,000 was established in July 2004. The new negotiated annual minimum rent is \$290,000. We also conclude no change to the percentage rents of five percent of gross receipts and 10 percent of mooring fees.

APPLICANT:

Waikiki Yacht Club, a Hawaii non-profit corporation, whose address is 1599 Ala Moana Boulevard, Honolulu, Hawaii 96814.

LEGAL REFERENCE:

Sections 171-53 Hawaii Revised Statutes (HRS), as amended.  
Sections 171-17 Hawaii Revised Statutes (HRS), as amended  
Sections 171-17(d) Hawaii Revised Statutes (HRS), as amended

LOCATION:

Portion of Government lands situated at Ala Wai Small Boat Harbor (AWSBH), Honolulu, Oahu, Tax Map Key: (1) 2-3-37: 6 and 12 (por.), hereinafter referred to as the “Premises” as shown on the map labeled EXHIBIT A and attached hereto.

AREA:

Approximately 53,770 sq. feet of fast land and 165,887 sq. feet of submerged land, more or less.

ZONING:

State Land Use District: Urban and Conservation Districts  
County of Honolulu CZO: P-2, General Preservation District

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act: YES

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by Executive Order 1330 and 1795 to DOBOR for AWSBH.

Premises currently leased to Waikiki Yacht Club (WYC).

CHARACTER OF USE:

The Governor and the Legislature provided the required approvals subject to a use restriction included in the Master Lease limiting the use of the Premises to “the same purposes for which they are presently used – the berthing and mooring of recreational sail and power boats and paddling canoes in conjunction with the operations of the respective yacht club facilities.”

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.

MONTHLY RENTAL:

Current Monthly Rent: \$12,500.00 or five percent of annual gross receipts and ten percent of annual mooring receipts, whichever is greater.

Negotiated Monthly Rent: \$24,166.66 or five percent of annual gross receipts and ten percent of annual mooring receipts, whichever is greater.

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:

DOBOR and WYC were unable to reach an agreement as to the negotiated annual minimum rent owing for the Premises under the master lease for the ten-year period commencing July 30, 2014 and ending July 29, 2024. DOBOR and WYC invoked the appraisal provisions and requirements under the Hawaii Revised Statutes (HRS), Chapter 171-17.

DOBOR initially hired Medusky & Co., Inc. to prepare an appraisal for the WYC Property for the period of July 30, 2014 to July 29, 2024. The draft appraisal concluded a yearly rent of \$219,000. During this time, the Property Manager that procured the appraisal transferred to a new position within the division. Due to the fact that there were concerns on how the appraisal was procured and what directions were given to the Appraiser, DOBOR was advised to not finalize the appraisal and reappraise the property to ensure proper procurement guidelines were followed. DOBOR commissioned an appraisal with CBRE for a retrospective market value of the WYC Lease for the period of July 30, 2014 to July 29, 2024. This study concluded the annual fair market rental estimated at \$415,000.

Waikiki Yacht Club disputed the new rent and requested to exercise their option to engage in mediation. WYC hired John Child & Company Appraisers & Consultants. They concluded the annual fair market rental for the WYC was estimated to range between \$212,200 and \$250,300 annually.

DOBOR contacted CBRE to request their opinion of the new appraisal conducted by John Child & Company Appraisers & Consultants. CBRE indicated that their appraisal took into consideration the lease that had been issued to Honey Bee USA for the development of the Ala Wai small boat harbor. However, since they went bankrupt, CBRE recalculated their appraisal and determined that the annual rent should be adjusted to \$340,000, attached as EXHIBIT B.

In mediation, both parties, DOBOR and WYC, agreed to an annual minimum rent of \$290,000. It was further agreed to no change in the percentage rents of five percent of annual gross receipts and 10 percent of annual mooring fees.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Approve the new annual minimum rent of \$290,000 for the ten-year period commencing July 30, 2014, and ending July 29, 2024.

Respectfully Submitted,



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

APPROVED FOR SUBMITTAL:



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

Attachments:

Exhibit A – Aerial Map of Waikiki Yacht Club

Exhibit B – CBRE Recalculated Appraisal



**Legend**

- Ala Wai Harbor
- Waikiki Yacht Club

**Waikiki Yacht Club**  
Ala Wai Small Boat Harbor



**EXHIBIT A**



September 20, 2017

Mr. Dana K. Yoshimura  
Planning and Development Manager  
Department of Land and Natural Resources  
Division of Boating and Ocean Recreation  
4 Sand Island Access Road  
Honolulu Hawaii 96819

**Subject: Waikiki Yacht Club Appraisal/Mediation**

Dear Mr. Yoshimura:

As discussed during our meeting on September 7, 2017, we have prepared this comparative analysis of the critical differences in methodology, assumptions, and rationale of our appraisal and that prepared for Waikiki Yacht Club (WYC) by John Child & Co., (JC). Our evaluation is presented in a bullet point summary format below:

Primary Differences in Appraisal Methodology

- We (CBRE) estimated market rent for fast land and submerged land employing two methodologies: 1) fee simple land value multiplied by a land rate of return, and 2) market comparison with other harbor/yacht club rents. JC utilized only market comparison with other harbor/yacht club rentals.
- In our market rent comparison, we gave priority to being as current as possible and selected only the two most recent rent indicators both of which occurred in 2014 comprised of Hawaii Yacht Club and Waikiki Landing (Honey Bee). JC's data set included the two we selected and four older yacht club/marina rents including the prior Waikiki Yacht Club rent (2004), La Mariana Sailing Club (2004), Keehi Marine Center (2006), and Honolulu Marine (2012).
- Our study estimated fee simple market value/market rent for the fast land and valued the submerged land at 50 percent of the fast land value/rent for which significant precedence exists in Hawaii and other state and port authority jurisdictions. The rationale is that submerged land gains value through its interdependence with the adjacent fast land. The greater the interdependence, the higher the submerged land percentage rate. A professional appraisal publication states that if the submerged land is being used for boat docks that derive income and the adjacent fast land is dependent on the boat dock operation (such as a yacht club), the submerged fee rate (percentage) will be placed at the higher end of the range. JC concluded that the fast land and submerged land should be valued separately so that the traditional inverse size-price relationship can be applied due to the large demised area covered by the submerged component. Since the subject fast land is significantly smaller than the submerged land, JC's position is that 50 percent of the fast land value would greatly overstate the submerged land value.

- The fee simple land value multiplied by the land rate of return and market comparison of other harbor/yacht club lease rents employed in our appraisal resulted in market rent conclusions of \$475,800 and \$410,100, respectively. Our correlation analysis gave greatest emphasis (approximately 90 percent) to the market comparison of other harbor/yacht club lease rents and concluded annual market rent effective July 30, 2014 of \$415,000. Employing a market comparison of other harbor/yacht club lease rents, the JC appraisal concluded annual rent of \$220,200 as of July 30, 2014.

#### Evaluation of Appraisal Methodology, Assumptions, and Rationale

- To best represent the relevant market conditions, both of our appraisal methodologies employed the most recent transactions available. JC used three, eight- to ten-year old rent indicators and relied on the difference between the former and renegotiated annual rent of a single transaction (Hawaii Yacht Club) to derive a significant 30 to 35 percent market conditions adjustment.
- Our appraisal methodology of valuing the fast land value/rent by market comparison and applying a submerged land rate (percentage) to estimate the submerged land value/rent is an established practice in Hawaii and other jurisdictions. This approach recognizes the interdependence of the fast and submerged lands for yacht club, marina, and pier facilities. JC's rationale is WYC's fast land area is much smaller than the submerged land area and valuing the submerged land as a percentage of the fast land value would overstate the former (in their opinion) so they valued the components separately. In fast land applications, it is a commonly accepted real estate principle that price per square foot increases with smaller parcel sizes and decreases with larger parcel sizes. This relationship exists because the market recognizes that in most cases the value of the square footage beyond the building pad has marginal contributory value. However, we believe the JC rationale is questionable for two reasons: 1) The approach fails to recognize the interdependence of the fast and submerged lands and treats the components as separate from each other; and 2) the inverse size-price principle should not apply as the submerged land is fully improved with boat docks that are generating slip rental and membership dues income for WYC. Therefore, it appears that having a large submerged land area filled with floating and fixed mooring facilities is an advantage for a yacht club business plan. Unlike normal real estate with limited street frontage, access and exposure, it is all useable.

#### Revised Analyses to Encourage Mediation or Settlement Discussions

- After completion of our appraisal, the Waikiki Landing lease (our highest indicator) was terminated and could be excluded from consideration by a mediator or arbitration panel claiming that it was not proved to be viable. Therefore, as a test we have excluded this indicator from our market rent comparison analysis resulting in a single indicator, the Hawaii Yacht Club renegotiation as of January 29, 2014. The adjusted rent per square foot for Hawaii Yacht Club is \$2.42 per square foot per year. In this scenario, the indicated market rent for the submerged land area is 50 percent of the fast land area or \$1.21 per square foot per year. The revised annual rent by market comparison with other yacht club rents is \$330,000, rounded. Correlating with the land value and land rate of return indicator of \$475,800 per annum by again giving greatest emphasis to the market rent analysis (90%/10%) results in a revised concluded annual rent as of July 30, 2014 of \$340,000.

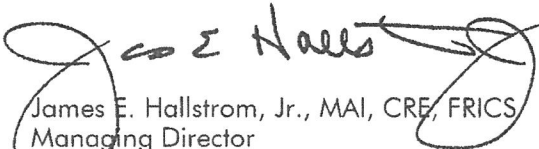
- We have also taken the reported JC concluded point estimate fast land annual rent of \$2.40 per square foot per year and estimated the submerged land rent at 50 percent or \$1.20 per square foot per year. This results in an indicated annual rent for WYC effective July 30, 2014, of \$328,000, rounded. This revision of the JC approach includes the Waikiki Landing transaction which we excluded from our analysis. JC uses a weighting process in their market rent estimation process. We have not excluded the Waikiki Landing indicator in our revised analysis of the JC work as it would require a re-weighting that imputes our judgement into their analysis and could be questioned.


As shown above, the "revised" analyses quantify the impact on annual rent of questionable areas of both appraisal reports. This was undertaken in the interest of encouraging advancement of mediation or possible settlement. The revised annual rent conclusions of \$340,000 (CBRE) and \$328,000 (JC) now display a much smaller differential.

We trust this letter will be beneficial to the negotiation or mediation process.

Respectfully submitted,

CBRE - VALUATION & ADVISORY SERVICES

  
James E. Hallstrom, Jr., MAI, CRE, FRICS  
Managing Director

  
Brian S. Goto, MAI, SRA  
Director

CBRE