

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

June 22, 2018

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

Land Board Members:

SUBJECT: TERMINATION OF BOATING LEASE NO. B-11-01, DATED APRIL 1, 2011 BETWEEN THE STATE OF HAWAII, LESSOR, AND THE SANDBAR GROUP, INC., LESSEE; LOCATED AT HEEIA SMALL BOAT HARBOR, KANEOHE, ISLAND OF OAHU, HAWAII, TAX MAP KEY: (1) 4-6-006:067 (POR.)

At the Board of Land and Natural Resources (Board) meeting held on March 9, 2018, the Board, denied the Division of Boating and Ocean Recreation's (DOBOR) request to terminate Boating Lease No. B-11-01 (Lease), Item J-2, and requested the Division investigate the following issues:

1. Confirm the assignment of the lease and who the new owners are.
2. Confirm whether gas/diesel is available.
3. Confirm whether the fuel lines were installed according to code.
4. Confirm whether the store is being used for residential use.
5. Confirm whether ice is available and at what quantity.
6. Review the video tapes to see what they are pointing at.

FINDINGS OF INVESTIGATION:

1. Confirm the assignment of the lease and who the new owners are:

Pursuant to section 13. Assignments, etc. The Lessee shall not transfer, assign, or permit any other person to occupy or use the premises, either voluntarily or by operation of law, except by way of devise, bequest, or intestate succession, and any transfer or assignment made shall be null and void; provided that with the prior written approval of the Board...

If the Lessee is a partnership, joint venture or corporation, “the sale or transfer of 20% or more of ownership interest or stocks by dissolution, merger or any other means shall be deemed an assignment.”

Sandbar Group, Inc. (SGI) original ownership structure was based on stock ownership. According to SGI’s original application, SGI was set-up as a corporation and consisted of the following officers and percentage of ownership:

Nov 12, 2010

Investor Name	Position	# of Shares	% of Shares
Russ Inouye	President	250	25%
Lindsey Ozawa	Vice-President	250	25%
Kanoelani Sandefur	Secretary	250	25%
Mike Nagasawa	Treasurer	250	25%
Total:		1000	100%

On April 25, 2016 Louis Perez III sent DOBOR an email with attachments containing the transition of SGI shareholders “from inception through today (4/25/2016).” This transfer of ownership was not presented to DOBOR as a request for consent to assignment. The chart below depicts SGI’s transfer of stock ownership above 20% and is deemed an assignment. Furthermore, SGI’s ownership names and percentages depicted below differ from SGI Original approved application.

April 25, 2016

Investor Name	Position	# of Shares	Previous Ownership %	New Ownership
Russ Inouye	Unknown	320	32.00 %	6.15 %
Kanoelani Sandefur	Unknown	160	16.00 %	0 %
Mark Noguchi	Unknown	160	16.00 %	0 %
Blaine Tomita	Unknown	160	16.00 %	0 %
Fred Parr (non-voting)	Unknown	50	5.00%	9.62%
Stuart Sakoeki	Unknown	50	5.00%	9.62%
Candido Manatad III	Unknown	50	5.00%	9.62%
Mark Tallett (non-voting)	Unknown	50	5.00%	9.62%
AKAMAI Capital CDVC FUND II	Unknown	N/A	0 %	55.38 %
Total		1000	100 %	100 %

During the March 9, 2018 Board meeting, SGI presented an informational package to the Members of the Board. Within this package SGI stated the following: “As part of the effort to comply with the lease terms and improve service to the community, SGI has secured additional financing and new management. **This process resulted in the addition of new equity partners and crossing of the 20% change of control provision in the lease.**” The below chart depicts SGI transfer of stock ownership above 20% and is deemed an assignment. For a second time, SGI’s ownership names and percentages depicted below differ from SGI’s original approved application as well as the new ownership structure presented on April 25, 2016 to DOBOR.

According to SGI’s documentation presented on March 9th, 2018 the current ownership was as follows:

March 9, 2018

Investor Name	Position	# of Shares	Previous Ownership %	New Ownership
Russ Inouye	Unknown	Unknown	61.54%	4.00%
Fred Parr (non-voting)	Unknown	Unknown	9.62%	1.00%
Stuart Sakoeki	Unknown	Unknown	9.62%	1.00%
Candido Manatad III	Unknown	Unknown	9.62%	1.00%
Marc Tallett	Unknown	Unknown	9.62%	1.00%
Fred & Cheryl De Angelo	President	Unknown	0%	20.00%
AKAMAI Capital CDVC FUND II		Unknown	0%	72.00%
Total			100%	100%

Note: SGI presented the following newly added Shareholders below on June 12, 2018. For a third time, SGI’s ownership names and percentages depicted below differ from SGI’s original approved application.

June 12, 2018

New Shareholders	Ownership (%)	Consideration (\$)
AKAMAI Capital CDVC Fund II	55.38%	\$90.00
AKAMAI Foundation	22.63%	Unknown
Robert Howe	6.86%	---
Paul Komeiji	6.86%	---
Peter Tomozawa	12.18%	---
Ryan Yanagihara	6.86%	---

Summary: There has been an assignment of lease via transfer of stock ownership without Board consent. Mr. Inouye, the original lessee, is down to 0% ownership and there are five new investors (highlighted above) that have interest in SGI.

2. Confirm whether gas/diesel is available:

SGI informed DOBOR that fuel was being provided at the facility since 2017. On March 8, 2018, staff's site visit revealed the fuel pumps were not in working order causing individuals to purchase their fuel elsewhere. On March 24, 2018, SGI submitted the fuel sales report (FSR) for year 2017. The FSR shows that gasoline fuel was provided during the months of July through October and the month of December. There was no diesel fuel being sold for year 2017. The FSR shows the inconsistency of providing fuel services from 2017, and fuel sales remain sporadic. According to the Lease, under section C. Percentage of Rent, the State is entitled to 5% of the annual gross revenues from the premises. The failure of SGI to have a fully functioning fuel service limits the amount of gross revenues generated which results in the State not receiving the maximum revenue potential of the property.

DOBOR confirmed that SGI is currently providing both gasoline and diesel fuel. The Harbor Master will continue to monitor the availability of fuel.

3. Confirm whether the fuel lines were installed according to code:

SGI indicated on March 9, 2018 before the Board that the above and below ground fuel lines were replaced at a cost of approximately \$28,000.00. SGI has not provided plans or specifications indicating what repairs were actually conducted and whether proper permissions and permits were obtained.

DOBOR reached out to both the City & County of Honolulu and DLNR Engineering to verify if the newly installed fuel lines were installed to code. According to the Inspectors, the above ground fuel lines were installed to code and no further action is required. The lessee wasn't required to obtain a permit because they only replaced existing equipment above ground and no excavations were required.

According to the contractor, Neil Nakai, Inc, the below ground fuel lines were not replaced as indicated by SGI. (See EXHIBIT C). We currently do not know the condition of the below ground fuel lines.

Fuel Line Reimbursement: SGI is requesting reimbursement and/or credit for fuel line repairs in the amount of \$27,794.95. SGI submitted an invoice to DOBOR in the amount of \$27,794.95. (See EXHIBIT A). DOBOR verified the invoice with the contractor listed on the invoice and confirmed that the amount of the invoice was in fact only \$16,673.33 and the contractor is still owed \$15,469.77 (See EXHIBIT C). It appears that the invoice submitted by SGI has been falsified compared to the invoice supplied by the contractor (See EXHIBIT A & C).

4. Confirm whether the store is being used for residential use:

According to DOBOR's site visit, it appears SGI is not using the convenience store for residential use.

5. Confirm whether ice is available and at what quantity:

Ice is now only available in limited quantities (scoop ice) and not sufficient to service commercial fishing vessels, which was the intended purpose of requiring an ice house. SGI is proposing an ice equipment lease agreement with Ko'olau Ice Box to provide a unit that has a carrying capacity of 2,000 lbs. of ice.

6. Review the video tapes to see what they are pointing at.

SGI's response is the cameras are not working and they do not have any saved video footage.

REMARKS:

In addition to the items listed above, DOBOR issued a notice of default (NOD) letter on April 11, 2018, (See EXHIBIT B). The NOD contained the following:

I. Failure to Comply with Section 13. Assignments, etc.:

Pursuant to section 13. Assignments, etc. provides that lessee shall not transfer or assign the lease without prior Board approval. "Sale or transfer of 20% or more of ownership interest . . . shall be deemed an assignment."

SGI indicated to staff that ownership of SGI had not changed and there was no need to request an assignment of Lease. Subsequently, SGI provided staff with a spreadsheet that indicated that more than 20% of the ownership interest had changed. SGI failed to inform staff that ownership had changed, SGI failed to seek the Board's consent to the assignment of the Lease, and SGI failed to pay any assignment premium that may be due in connection with the transfer.

DOBOR found that SGI did transfer 20% or more of ownership interest without prior Board approval.

II. Failure to Comply with Section 12. Character of Use, Ice House:

On March 9, 2018, the Board of Land and Natural Resources (Board) requested staff to verify the amount of ice available and being sold. According to the Character of Use section, SGI is required to provide an ice house. The term ice house is defined as a building-like structure where ice is made or stored. Staff conducted a site visit and found that SGI had removed the previous ice house to expand seating and instead installed a small ice making unit. Ice is now only available in limited quantities and not sufficient to service commercial fishing vessels, which was the intended purpose of requiring an ice house.

DOBOR found that SGI was only offering ice in limited quantities (scoop ice). SGI has proposed to enter into an equipment lease agreement with a vendor to provide larger quantities of ice in the near future.

III. Failure to Comply with Section 12, Character of Use, Convenience Store:

The term convenience store is defined as a small retail business that stocks items such as groceries, snack foods, confectionery, soft drinks, tobacco products, toiletries, newspapers and magazines. SGI's convenience store lacks the selection of basic items, such as packaged foods, candies, snacks, over the counter drugstore items etc. Currently SGI has shelves that sells hats, shirts, towels, candies, a showcase that consist of local handmade jewelry, a crate that contains a net and fishing poles and one cold two-door slide refrigerator which carries a limited stock of soft drinks.

Ship chandlery is defined as a shop selling nautical items for ships and boats. Upon inspection, it appears the SGI provides no supplies or equipment for ships and has a very limited inventory of goods for sale.

According to the Lease, under section C. Percentage of Rent, the State is entitled to 5% of the annual gross revenues from the premises. The failure of SGI to have a fully functioning convenience store and ship chandlery limits the amount of gross revenues generated which results in the State not receiving the maximum revenue potential of the property.

DOBOR found that SGI added several more items to their convenience store compared to DOBOR last inspection, but SGI still has limited supplies and products based on BLNR definition of a convenience store.

IV. Failure to comply with Section 12, Character of Use, Fuel Service:

SGI informed DOBOR that fuel was being provided at HKSBH since 2017. On March 8, 2018, staff's site visit at HKSBH revealed the fuel pumps were not in working order causing individuals to purchase their diesel fuel elsewhere. On March 24, 2018, SGI submitted the fuel sales report (FSR) for year 2017. The FSR shows the gasoline fuel was provided during the months of July through October and the month of December. There was no diesel fuel being sold for year 2017. The FSR shows the inconsistency of providing fuel services from 2017, and fuel sales remain sporadic. According to the Lease, under section C. Percentage of Rent, the State is entitled to 5% of the annual gross revenues from the premises. The failure of SGI to have a fully functioning fuel service limits the amount of gross revenues generated which results in the State not receiving the maximum revenue potential of the property.

SGI indicated on March 9, 2018 before the Board that the fuel lines and underground lines were replaced at a cost of approximately \$28,000.00. SGI has not provided plans or specifications indicating what repairs were actually conducted and whether proper permissions and permits were obtained.

DOBOR found that while some repairs have been made to the above ground fuel lines, the underground lines still need to be addressed. Also, it appears that the invoice submitted by SGI for fuel line repairs has been falsified. (See EXHIBIT A & C)

V. Failure to comply with Section 43, Fire and extended insurance:

Pursuant to The Special Conditions, Item No. 43. Fire and extended coverage insurance, states in part, “the Lessee, at its cost and expense, shall procure and maintain at all times during the term of this lease, fire and extended coverage insurance with an insurance company (s) licensed to do business in the State of Hawaii.”

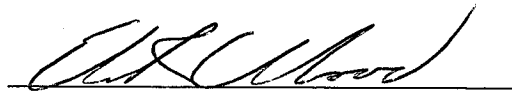
On June 12, 2018, SGI submitted proof of insurance for Fire and extended coverage (FEC) and is now compliant with the special conditions of the Lease agreement.

RECOMMENDATION:

That the Board of Land and Natural Resources:

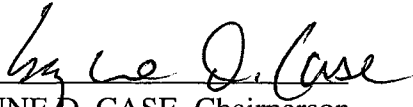
1. Authorize the termination of General Lease No. B-11-01 in the manner specified by law.
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. B-11-01 be applied to any past due amounts.
3. Terminate the lease and all rights of the Lessee and all obligations of the Lessor, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law.
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawai'i under General Lease No. B-11-01 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



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

APPROVED FOR SUBMITTAL:

A handwritten signature in black ink, appearing to read "Suzanne D. Case", is written over a horizontal line.

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

Attachment:

- A. SGI Presentation to the Board on March 9, 2018
- B. Notice of Default dated 4-11-18
- C. Invoices by Neil Nakai Inc.

Sandbar Group, Inc.

46-499 KAMEHAMEHA HIGHWAY | KANE OHE 96744 | 808.469.5383

March 9, 2018

Ms. Suzanne D. Case, Chairperson
State of Hawaii
Department of Land & Natural Resources
Kalanimoku Building
1151 Punchbowl Street, Room 132
Honolulu, Hawaii 96813

Re: Proposal Regarding Boating Lease No. B-11-01

Aloha Chairperson Case and Members of the Board,

This letter is in response to the letter from the DLNR Division of Boating and Ocean Recreation ("DOBOR") regarding Notice of Default ("NOD") and termination of boating lease B-11-0 at the Heeia Small Boat Harbor on Oahu, to the Sandbar Group, Inc. ("SGI") for the following reasons:

- Rental balance of \$9,453.15
- Late fee balance of \$150.00
- Remaining interest fees, of \$16,751.33, remain outstanding. On July 22, 2016, Item J-I, the Board authorized the waiver of the interest fees of \$16,751.33 with the condition that it be applied to the commitment of the Lessee to purchase a fuel truck and have it operational by the end of 2016.
- Regular gas sales remain sporadic and no diesel fuel is available.

Rental Balance and Late Fee Balance

David Rodriguez, the President and Registered Agent for SGI, received a courtesy call from DOBOR on 2/20/18 notifying him that the NOD letter was mailed. During that call, Mr. Rodriguez arranged to hand-deliver a check for the full amount including late fees, on the following day. On 2/20/18 Mr. Rodriguez hand-delivered check #3128 in the amount of \$9,603.15 as payment in full for the rental balance and late fee balance. Mr. Rodriguez has also initiated ACH auto-payment from the SGI bank account to DOBOR to prevent any future delays in rent payment. See [Appendix A](#) for copy of check.

Remaining Interest Fees of \$16,751.33

SGI has invested over \$28,000 into the replacement of gasoline and diesel underground fuel lines, as well as inspection, clean-out and restocking of the fuel tanks, as a better long-term solution for restoration of consistent dockside fueling operations. See [Appendix B](#) for copies of invoices.

Sporadic Fuel Sales

All fueling system-related inspections, repairs, replacement, construction, and restocking was completed on 2/14/18 for ethanol-free gasoline and 2/22/18 for ultra-low sulfur diesel. There has been no disruption in fueling service since completion, and none are expected for several years when Phase II of the proposed renovation plans occur wherein the tanks and pumps will be replaced and brought up to code allowing Dealer Tank Wagon pricing on the purchase of fuel, and 24-hour self-service sales of fuel to customers.

Sandbar Group, Inc.

46-499 KAMEHAMEHA HIGHWAY | KANEHOE 96744 | 808.469.5383

Request for Consent to Assignment

As part of the effort to comply with the lease terms and improve service to the community, SGI has secured additional financing and new management. This process resulted in the addition of new equity partners and crossing of the 20% "change of control" provision in the lease.

- **Catch-22** – Due to the condition of the facilities, SGI was in a catch-22 position, where in present form, the facilities are unable to generate sufficient cash flow to attract debt capital, but capital is needed to make improvements necessary to improve cash flow.
- **Low Change of Control Threshold** - Small, privately-held companies often have very low valuations, a condition exacerbated under circumstances financial distress. The combination of the need for significant capital improvements and a low change of control threshold may trigger a change of control for even small capital infusions such as was necessary for the payment of \$60,000 of back rent, or \$28,000 for fueling system repairs, or posting of the \$37,000 performance bond, among other things. A 20% change of control threshold will ensure the need to revisit the investor slate vis-a-vis change of control during the renovation of the pier unless all investors continued to invest additional capital in exactly the same proportion for every additional round of financing – which is rarely ever the case.

SGI is more than happy to meet with DOBOR and the BOT to request consent to assignment before each additional capital raise related to the planned renovation at the pier, detailing the proposed improvements, cost, timing and impact on capital structure. SGI is finalizing a plan for the proposed addition of a "Mo'olelo Observation Deck" to the chandlery building, which should significantly improve operating cash flow. Upon completion of draft plan and estimates from our architect and engineers, SGI plans to present said plans to DOBOR officials to seek input and formal approval to commence the design, engineering, and permitting process. See Appendix C for a copy of the architectural renderings of the Mo'olelo Observation Deck.

The addition of capital and committed management driving our request for consent to assignment is a critical next-step in the restructuring and revitalizing operations the He'eia Kea Pier.

We understand the severity of the situation, and greatly appreciate your consideration of our proposal, and the opportunity to continue the great progress we have made to improve our ability to better serve the Ko'olau Poko community.

If you have any questions, please contact me at 469-5383 or on my mobile phone at 408-661-6297. I may also be reached by email at drodadtapier@gmail.com.

Mahalo,


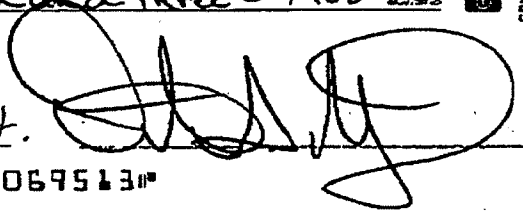
David Rodriguez, *President*
Sandbar Group, Inc.

Cc: Johnny Chankhamany, *President*, The AKAMAI Foundation
Louis F. Perez III, *Managing Director*, AKAMAI Capital

Sandbar Group, Inc.

46-499 KAMEHAMEHA HIGHWAY | KANEHOE 96744 | 808.469.5383

APPENDIX A

SANDBAR GROUP INC DBA HE'EIA KEA PIER GENERAL STORE 46-499 KAMEHAMEHA HWY KANEHOE, HAWAII 96744		3128 59-101/1213
<i>Pay to the Order of</i> <u>DOBA DLNR</u>		<u>2/20/18</u> <i>date</i>
<u>Ninety Six Hundred and Three & 15/100</u>		<u>\$ 9603¹⁵</u>
 First Hawaiian Bank HALEIWA BRANCH 66-135 KAMEHAMEHA HIGHWAY HALEIWA, HAWAII 96712		
<i>for</i> <u>BOB-150-1101 Rent.</u>		
⑆121301015⑆3128 26⑈069513⑈		

Sandbar Group, Inc.

46-499 KAMEHAMEHA HIGHWAY | KANEHOE 96744 | 808.469.5383

APPENDIX B



**Neil
Nakai
Inc.**

INSTALLATION, MAINTENANCE & EMERGENCY SERVICE

- Gasoline Dispensing & Lubrication Equipment
- Underground / Aboveground Fuel Storage Tanks
- Hydraulic Hoses
- Electrode Fueling Systems
- Compressors
- Precision Tank and Line Testing

1640 KAHAI STREET HONOLULU HAWAII 96819 PHONE: (808) 848-

1496 FAX: (808) 848-6501

INVOICE

THE DELI
46-499 KAMEHAMEHA HWY
KANEHOE, HI 96744

DATE 4/28/2017
INVOICE NO. 38039
P.O. NO.
REQ. NO.
JOBSITE Heeia
PAGE 1

3/20/17 through 3/24/17, 3/29/17 through 3/31/17 Furnish labor, material and equipment to troubleshoot and repair problem of gasoline pump not drawing fuel from the AST after a long period of inactivity. Tried to prime the fuel pump, but could not get the pump to prime. Disassembled the fuel pumping unit, disassembled and cleaned the by-pass and regulator valves and replaced the v-belt. Got the pumping unit to pull a strong vacuum at this point, but still could not draw fuel from the AST. Removed the metal shrouds that protect the piping and found severely corroded fitting with holes in it. Inspected the remainder of the aboveground steel piping and found more holes. Showed the existing conditions to Dave of Heeia Pie and he agreed to replace the entire runs for the gasoline and diesel fuel piping along the wood beams and specific portions within the concrete containment area where the AST's are located.

NOTE: Discount on the labor rate.

Part Number	Description	Quantity	Price	Extension
	Material / Equipment	1.00	2933.04	2933.04
	Labor ST	213.50	110.00	23485.00
	Labor OT	2.00	90.00	180.00

Please pay from Invoice
Thank you!

SUBTOTAL \$26598.04 SALES TAX \$1196.91 PLEASE PAY THIS AMOUNT

\$27794.95

TERMS: 20 Days Net Cash

A Finance Charge of 1 1/2% per month (10% per annum) will be charged on past due accounts.

Sandbar Group, Inc.

46-499 KAMEHAMEHA HIGHWAY | KANEHOE 96744 | 808.469.5383

APPENDIX B (continued)



**Neil
Nakai
Inc.**

INSTALLATION, MAINTENANCE & EMERGENCY SERVICE

- Gasoline Dispensing & Lubrication Equipment
- Electronic Fueling Systems
- Underground / Aboveground Fuel Storage Tanks
- Air Compressors
- Hydraulic Hoists
- Excavation Work
- Precision Tank and Line Testing

1640 KAHAI STREET HONOLULU HAWAII 96819 PHONE: (808) 848-1496 FAX: (808) 848-8501

INVOICE

HEEIA PIER
THE DELI
46-499 KAM HWY
KANEHOE, HI 96744

DATE 4/28/2017
INVOICE NO. 38309
P.O. NO.
REQ. NO. RB
JOBSITE
PAGE 1

4/27/17 Furnished labor to find cause of leak on top cover on pumping unit and pump to labor when picking up prime on the regular gas pump. Found a valve on the vent line of the pumping unit was clogged. Remove cover on pumping unit and inspect gasket. Found it was okay. Test pump and it functions properly.

PartNumber	Description	Quantity	Price	Extension
	Labor	2.00	80.00	160.00

Please pay from Invoice
Thank you!

SUBTOTAL \$160.00 SALES TAX \$7.54 PLEASE PAY THIS AMOUNT **\$167.54**

TERMS: 30 Days Net Cash A Finance Charge of 1 1/2% per month (18% per annum) will be charged on past due accounts

Sandbar Group, Inc.

46-499 KAMEHAMEHA HIGHWAY | KANEOHE 96744 | 808.469.5383

APPENDIX B (continued)



PACIFIC COMMERCIAL SERVICES, LLC.
www.pcsllc.com
808-545-4599 Fax 808-845-9773
PO Box 235117, Honolulu, HI 96823

Invoice

DATE	INVOICE #
1/22/2018	302551-01

BILL TO
He'eia Kea Pier General Store He'eia Pier Kaneohe, Hawaii

P.O. NO.	TERMS	DUE DATE	PROJECT	P.O.C.
	COD	1/22/2018	302551-01	David Rodriguez

DATE SERVICED	DESCRIPTION	QUANTITY	PRICE	AMOUNT
1/9/2018	Provide labor, materials, and equipment to pump and properly dispose of residual diesel from (1) diesel storage tank	1	725.00	725.00T
			0.00%	0.00
Please pay within term to avoid a 18% annual finance charge.			Total	\$725.00

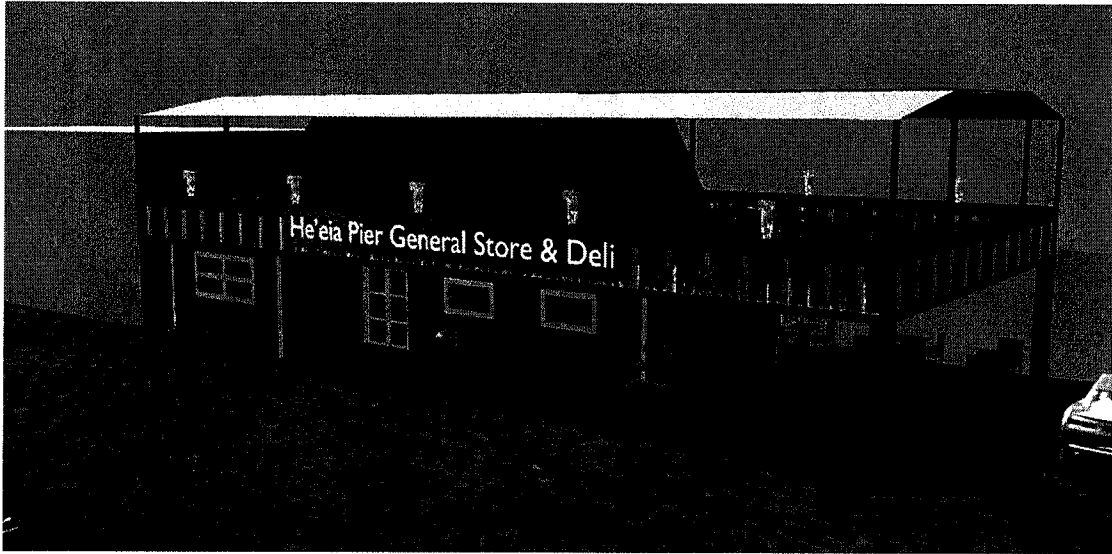
Sandbar Group, Inc.

46-499 KAMEHAMEHA HIGHWAY | KANEHOE 96744 | 808.469.5383

APPENDIX C

Mo'olelo Observation Deck Alteration Proposal

The conversion of the flat-roof area of the Chandlery building into an observation deck to allow customers, keiki and the community at-large to have an immersive learning experience about the land, ocean, and stars through a Native Hawaiian lens.



Front Orthogonal View of Proposed Mo'olelo Observation Deck



East Side Orthogonal View of Proposed Mo'olelo Observation Deck

46-499 KAMEHAMEHA HIGHWAY | KANEOHE 96744 | 808.469.5383

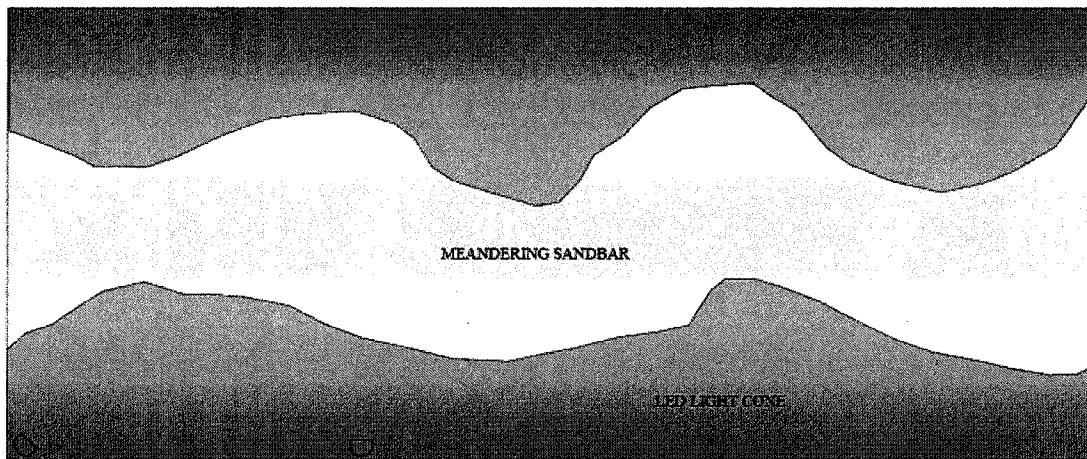
Sandbar Group, Inc.

46-499 KAMEHAMEHA HIGHWAY | KANEOHE 96744 | 808.469.5383

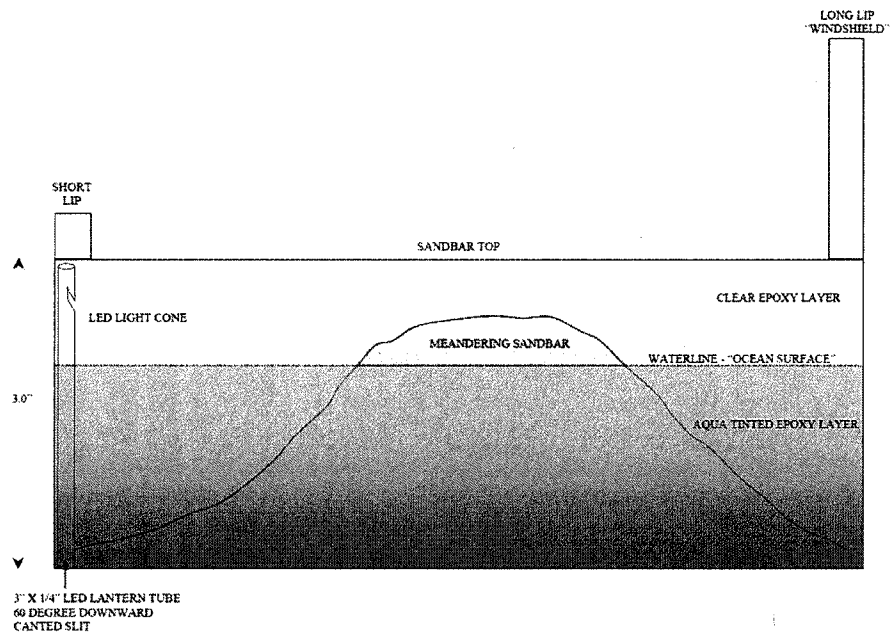
APPENDIX C (continued)

Sandbar Under the Stars

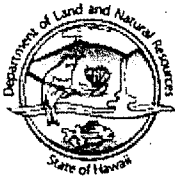
The rail-mounted “Sandbar” top is an 18” wide by 3” deep, clear and aqua-blue tinted epoxy model of the world-famous Ahu O Laka sandbar in Kaneohe Bay. The sandbar-top is indirectly lit by dimmable, soft-white LED lights located around its perimeter as well as internally lit from within some of the figurines that accent the above and below epoxy-model sea-level landscape, including a stilted Hale, sea-floor volcano, and certain shells, starfish and corals. The sloping of the model sandbar toward the sea floor combined with the dim LED lights through the clear and aqua-blue tinted epoxy cause the sandbar-top to have a sand and soft aqua-blue depth-gradient glow similar to the actual sandbar as viewed from the sky.



3" X 1/4" LED LANTERN TUBE
60 DEGREE DOWNWARD
CANTED SLIT



DAVID Y. IGE
GOVERNOR OF HAWAII



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

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

EDWARD R. UNDERWOOD
ADMINISTRATOR
DIVISION OF BOATING AND OCEAN RECREATION

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION**

4 Sand Island Access Road
Honolulu, Hawaii 96819

April 11, 2018

Certified Mail
7017 0530 0001 0150 5379

SandBar Group, Inc.
46-499 Kamehameha Hwy.
Kaneohe, HI 96744

BOR.PM-167.18

Dear SandBar Group, Inc.,

NOTICE OF DEFAULT

This correspondence is to inform you that you are in material breach of your obligations under Boating General Lease No. B-11-01 (Lease) dated April 1, 2011 by and between the State of Hawaii (Lessor) and SandBar Group, Inc., A Hawaii Corporation (Lessee).

In accordance with Sections 171-20 and 171-21, Hawaii Revised Statutes, and the breach provision contained in the Lease, you are hereby served this Notice of Default (NOD) and Demand for Cure for failure to do the following:

I. Failure to Comply with Section 13. Assignments, etc.:

Pursuant to section 13. Assignments, etc. provides that lessee shall not transfer or assign the lease without prior Board approval. "Sale or transfer of 20% or more of ownership interest . . . shall be deemed an assignment."

SGI indicated to staff that ownership of SGI had not changed and there was no need to request an assignment of Lease. Subsequently, SGI provided staff with a spreadsheet that indicated that more than 20% of the ownership interest had changed. SGI failed to inform staff that ownership had changed, SGI failed to seek the Board's consent to the assignment of the Lease, and SGI failed to pay any assignment premium that may be due in connection with the transfer.

You are hereby given sixty (60) days from the date of receipt of this letter to cure the above-described breach. You will need to submit a written request for the Board's consent to the assignment of the lease, provide a detailed breakdown of who the new owners are of SGI, what percentage they own, what consideration was paid for the transfer of interest, and what their experience is operating this type of business.

II. Failure to Comply with Section 12. Character of Use, Ice House:

Under the Lease, Parcel 1 is to be used solely for petroleum storage tanks and facilities and a waste oil containment system. Parcel 2 is to be used solely for dockside fueling operations and sewage

EXHIBIT B

pump-out system. Parcel 3 is to be used solely for convenience store, ship chandlery, over-the-counter snack bar and ice house (and easement purposes).

On March 9, 2018, the Board of Land and Natural Resources (Board) requested staff to verify the amount of ice available and being sold. According to the Character of Use section, SGI is required to provide an ice house. The term ice house is defined as a building-like structure where ice is made or stored. Staff conducted a site visit and found that SGI had removed the previous ice house to expand seating and instead installed a small ice making unit. Ice is now only available in limited quantities and not sufficient to service commercial fishing vessels, which was the intended purpose of requiring an ice house.

You are hereby given sixty (60) days from the date of receipt of this letter to cure the above-described breach and provide an ice house.

III. Failure to Comply with Section 12, Character of Use, Convenience Store:

The uses of the property are as stated above. The term convenience store is defined as a small retail business that stocks items such as groceries, snack foods, confectionery, soft drinks, tobacco products, toiletries, newspapers and magazines. SGI's convenience store lacks the selection of basic items, such as packaged foods, candies, snacks, over the counter drugstore items etc. Currently SGI has a small stand that sells hats, shirts, towels, a showcase that consist of local handmade jewelry, a five-gallon bucket that contains a net and fishing poles and has one cold two-door slide refrigerator which carries a limited stock of soft drinks.

Ship chandlery is defined as a shop selling nautical items for ships and boats. Upon inspection, it appears the SGI provides no supplies or equipment for ships and has a very limited inventory of goods for sale.

According to the Lease, C. Percentage Rent, the State is entitled to 5% of the annual gross revenues from the premises. The failure of SGI to have a fully functioning convenience store and ship chandlery limits the amount of gross revenues generated which results in the State not receiving the maximum revenue potential of the property.

You are hereby given sixty (60) days from the date of receipt of this letter to cure the above-described breach and provide a supplied, stocked convenience store as well as a ships chandlery.

IV. Failure to comply with Section 12, Character of Use, Fuel Service:

On July 22, 2016, Item J-1, the Board of Land and Natural Resources approved the waiver of interest owed on condition of a fuel truck being purchased and being operational by the end of 2016. SGI did not provide the fuel truck and did not provide fuel services by the end of 2016. On January 17, 2017, by way of letter BOR.PM 123.17, DOBOR sent an NOD as a final demand for remedy and SGI was given ten (10) calendar days to cure. On February 15, 2017, by way of letter BOR.PM 178.17, DOBOR sent a second NOD as a final demand for remedy and SGI was given an additional fourteen (14) calendar days to cure. On October 9, 2017, by way of letter BOR.PM 056.18, DOBOR sent an NOD and gave SGI sixty (60) days to cure the default.

SGI informed DOBOR that fuel was being provided at HKSBH since 2017. On March 8, 2018, staff's site visit at HKSBH revealed the fuel pumps weren't in working order causing individuals to purchase their diesel fuel elsewhere. On March 24, 2018, SGI submitted the fuel sales report (FSR) for year 2017. The FSR shows the gasoline fuel was provided during the months of July through October

and the month of December. There was no diesel fuel being sold for year 2017. The FSR shows the inconsistency of providing fuel services from 2017, and fuel sales remain sporadic. According to the Lease, C. Percentage Rent, the State is entitled to 5% of the annual gross revenues from the premises. The failure of SGI to have a fully functioning fuel service limits the amount of gross revenues generated which results in the State not receiving the maximum revenue potential of the property.

SGI indicated on March 9, 2018 before the Board that the fuel lines and underground lines were replaced at a cost of approximately \$28,000.00. SGI has not provided plans or specifications indicating what repairs were actually conducted and whether proper permissions and permits were obtained.

You are hereby given sixty (60) days from the date of receipt of this letter to cure the above-described breach and provide documentation of regular fuel service for both regular gas and diesel fuel.

V. Failure to comply with Section 43, Fire and extended insurance:

Pursuant to The Special Conditions, Item No. 43. Fire and extended coverage insurance, states in part, "the Lessee, at its cost and expense, shall procure and maintain at all times during the term of this lease, fire and extended coverage insurance with an insurance company (s) licensed to do business in the State of Hawaii."

On March 24, 2017, DOBOR requested SGI to submit proof of insurance for Fire and extended coverage (FEC). At this time, the Lessee has not submitted the required proof of FEC insurance. Until DOBOR receives the proper FEC insurance, SGI is non-compliant with the special conditions with its Lease agreement. SGI is given sixty (60) days to cure or remedy the default.

You are hereby given sixty (60) days from the date of receipt of this letter to cure the above-described breach and provide Fire and extended insurance coverage.

Finally, should SGI fail to cure or remedy the defaults listed above, DOBOR will bring this matter before the Board and request to terminate the lease. Should you have any questions, please contact Keiki Kipapa at (808)587-1964.

Regards,

Suzanne D. Case

Suzanne D. Case
Chairperson

cc: David Rodriguez
Louis Perez
Russ Inouye



**Neil
Nakai
Inc.**

INSTALLATION, MAINTENANCE & EMERGENCY SERVICE

- Gasoline Dispensing & Lubrication Equipment
- Electronic Fueling Systems
- Underground / Aboveground Fuel Storage Tanks
- Air Compressors
- Hydraulic Hoists
- Excavation Work
- Precision Tank and Line Testing

1640 KAHAI STREET HONOLULU HAWAII 96819 PHONE: (808) 848-1496 FAX: (808) 848-6501

INVOICE

THE DELI
46-499 KAMEHAMEHAHWY
KANE OHE, HI 96744

DATE 4/28/2017
INVOICE NO. 38039
P.O. NO.
REQ. NO.
JOBSITE Heeia
PAGE 1

3/20/17 through 3/24/17, 3/29/17 through 3/31/17 Furnished labor, material and equipment to troubleshoot and repair problem of gasoline pump not drawing fuel from the AST after a long period of inactivity. Tried to prime the fuel pump, but could not get the pump to prime. Disassembled the fuel pumping unit, disassembled and cleaned the by-pass and regulator valves and replaced the v-belt. Got the pumping unit to pull a strong vacuum at this point, but still could not draw fuel from the AST. Removed the metal shrouds that protect the piping and found severely corroded fitting with holes in it. Inspected the remainder of the aboveground steel piping and found more holes. Showed the existing conditions to Dave of Heeia Pier and he agreed to replace the entire runs for the gasoline and diesel fuel piping along the wood beams and specific portions within the concrete containment area where the AST's are located.

NOTE: Discount on the labor rate.

PartNumber	Description	Quantity	Price	Extension
	Material / Equipment	1.00	2933.04	2933.04
	Labor ST	213.50	60.00	12810.00
	Labor OT	2.00	90.00	180.00

Please pay from Invoice
Thank you!

SUBTOTAL \$15923.04 SALES TAX \$750.29 PLEASE PAY THIS AMOUNT **\$16673.33**

TERMS: 30 Days Net Cash A Finance Charge of 1 1/2% per month (18% per annum) will be charged on past due accounts.

EXHIBIT C



**Neil
Nakai
Inc.**

INSTALLATION, MAINTENANCE & EMERGENCY SERVICE

- Gasoline Dispensing & Lubrication Equipment
- Electronic Fueling Systems
- Underground / Aboveground Fuel Storage Tanks
- Air Compressors
- Hydraulic Hoists
- Excavation Work
- Precision Tank and Line Testing

1640 KAHAI STREET HONOLULU HAWAII 96819 PHONE: (808) 848-1496 FAX: (808) 848-6501

INVOICE

HEEIA PIER
THE DELI
46-499 KAM HWY
KANE OHE, HI 96744

DATE 4/28/2017
INVOICE NO. 38309
P.O. NO.
REQ. NO. RB
JOBSITE
PAGE 1

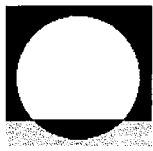
4/27/17 Furnished labor to find cause of leak on top cover on pumping unit and pump to labor when picking up prime on the regular gas pump. Found a valve on the vent line of the pumping unit was clogged. Remove cover on pumping unit and inspect gasket. Found it was okay. Test pump and it functions properly.

PartNumber	Description	Quantity	Price	Extension
	Labor	2.00	80.00	160.00

Please pay from Invoice
Thank you!

SUBTOTAL \$160.00 SALES TAX \$7.54 PLEASE PAY THIS AMOUNT **\$167.54**

TERMS: 30 Days Net Cash A Finance Charge of 1½% per month (18% per annum) will be charged on past due accounts.



**Neil
Nakai
Inc.**

INSTALLATION, MAINTENANCE & EMERGENCY SERVICE

- Gasoline Dispensing & Lubrication Equipment
- Electronic Fueling Systems
- Underground / Aboveground Fuel Storage Tanks
- Air Compressors
- Hydraulic Hoists
- Excavation Work
- Precision Tank and Line Testing

1640 KAHAI STREET HONOLULU HAWAII 96819 PHONE: (808) 848-1496 FAX: (808) 848-6501

INVOICE

THE DELI
46-499 KAMEHAMEHAHWY
KANEOHE, HI 96744

DATE 7/18/2017
INVOICE NO. 38663
P.O. NO.
REQ. NO. RB
JOBSITE Heeia
PAGE 1

07/17/17 Furnished labor and material to troubleshoot cause of the regular gas pump is not dispensing and found it had a lost prime. Primed pump unit to correct problem. Replace leaking gas hose between the pipe coupling and the nozzle.

PartNumber	Description	Quantity	Price	Extension
532327720-01572	Gas Hose	1.00	60.30	60.30
	Labor	3.00	80.00	240.00

Please pay from Invoice
Thank you!

SUBTOTAL \$300.30 SALES TAX \$14.15 PLEASE PAY THIS AMOUNT **\$314.45**

TERMS: 30 Days Net Cash A Finance Charge of 1½% per month (18% per annum) will be charged on past due accounts.