

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

February 22, 2019

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

Land Board Members:

SUBJECT: AUTHORIZE A ONE-YEAR HOLDOVER OF LEASE NO. H-78-5 TO
LA MARIANA SAILING CLUB, INC., KALIHI-KAI, HONOLULU,
OAHU, TAX MAP: (1) 1-2-023:052.

AND

DECLARE PROJECT EXEMPT FROM REQUIREMENTS OF
CHAPTER 343, HRS AND TITLE 11, CHAPTER 200, HAWAII
ADMINISTRATIVE RULES.

APPLICANT:

La Mariana Sailing Club, Inc.

LEGAL REFERENCE:

Sections 171-13, 40 Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Governor's Executive Order No. 1458 consisting of fast and submerged lands situated seaward of Sand Island Access Road, Kalihi-Kai, Honolulu, Oahu, identified by Tax Map Key: (1) 1-2-023:052, hereinafter referred to as the "Premises" as shown on the map labeled **EXHIBIT A** and attached hereto.

AREA:

Total area of 2.979 acres, more or less, consisting of .605 acres of fast land (8,679 sq. ft. Exclusive Use Area, 3,888 and 13,798 Nonexclusive Use Area), and 2.374 acres of submerged land.

ZONING:

State Land Use District: Urban
City & County of Honolulu: I-2

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act: YES X NO __

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

CURRENT USE STATUS:

Encumbered by Executive Order No. 1458 setting aside to the Department of Transportation for airport and harbor related purposes.

Encumbered by Lease No. H-78-5, La Mariana Sailing Club, Inc., Lessee, for the construction of certain improvements which shall be used primarily for a private sailing club for sailboats only. Liveaboards are not permitted. The improvements to be constructed shall include suitable piers and may include a clubhouse with a snack bar and bar for members, bathroom showers for men and women and a building to house an office, recreation room, bathroom and kitchenette, workshop, lockers and a caretaker's quarters. The premises may also be used for such other purposes related to the private sailing club, as may be approved in writing by the lessor.

CHARACTER OF USE:

Private sailing club purposes for sailboats only, no liveaboards permitted.

HOLDOVER LEASE COMMENCEMENT DATE:

May 1, 2019.

HOLDOVER LEASE RENT:

\$18,900.00 per quarter.

The rent is what the applicant is currently paying under Lease No. H-78-5. The rent was last increased in 2004.

COLLATERAL SECURITY DEPOSIT:

Performance bond equal to 1/6 of annual rent.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT

In accordance with the Exemption List for the Department of Land and Natural Resources, concurred and reviewed by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states “Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing” and item 47, which states, “Leases of state land involving negligible or no expansion or change of use beyond that previously existing.”

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:

Lease No. H-87-5 was awarded to Annette L. Nahinu dba La Mariana Sailing Club on July 14, 1978 for a period of thirty-five (35) years.

At its meeting on April 9, 1999, the Board approved the assignment of Lease No. H-78-5 to La Mariana Sailing Club, Inc. (lessee).

On March 11, 2011, the tsunami that hit the Hawaiian Islands, together with debris carried by it, caused close to \$400,000.00 in damage to the lessee’s docks. Staff has inspected lessee’s invoices, check stubs and receipts, and is satisfied that the cost to repair the tsunami damage is as stated.

In addition to the tsunami damage, the lessee replaced its septic system.

In order to amortize the repair costs, the lessee requested an extension of its lease for an addition five (5) years. At its meeting on June 14, 2013, under agenda item J-3, the Board approved the extension of the lease for an additional five (5) years, extending the lease termination date to April 30, 2019.

To repair the tsunami damage to its facilities and for the replacement of its septic system, the lessee opened a line of credit at a local bank with a credit limit of \$500,000.00. Due to the lack of term remaining on the lease, the bank urged the lessee to pay off its credit line, and to take out a loan from a trust account for which one of the lessee's officers is trustee. The promissory note for the new loan is dated January 11, 2019 with a principal balance of \$377,624.35, payable in eighty-four (84) consecutive monthly installments. Staff has not seen the promissory note, but is in receipt of a letter from lessee's banker outlining the terms of the new loan. Staff needed to clarify the lessee's financial situation prior to bringing this matter before the Board.

Upon termination of this lease on April 30, 2019, the lessee will surrender its improvements to the State. Given that the lessee was forced to expend a large sum of money (which has not been fully repaid as of this date) due to an act of God, staff believes that a one-year holdover is the most equitable solution, as it will allow DOBOR to take the necessary steps, such as obtaining the concurrent resolution, to sell the lease at public auction and give the lessee a fair opportunity to bid at the auction for a new lease.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, Hawaii Administrative Rules, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize a one-year holdover of lease no. H-78-5, Kalihi-Kai, Honolulu, Oahu, under the terms and conditions cited above, which are by this reference, incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current holdover lease form, as may be amended from time to time; and
 - b. Review and approval by the Department of the Attorney General.
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,




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

Authorize a One-Year Holdover of Boating
Lease No. H-78-5 to La Mariana Sailing Club, Inc.

February 22, 2019
Item No. J-1

APPROVED FOR SUBMITTAL:



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

Attachment:

- A1. Aerial Map
- A2. Aerial Map Close-up

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Authorize a one-year holdover of Lease No. H-78-5
Project / Reference No.:	
Project Location:	Kalihi-Kai, Honolulu, Oahu, Tax Map Key: (1) 1-2-023:052
Project Description:	One-year holdover of Lease No. H-78-5
Chap. 343 Trigger(s):	Use of State land
Exemption Class No(s).:	No. 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," Item 47, which states, "Leases of state land involving negligible or no expansion or change of use beyond that previously existing."
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No, the requested location has been in the same use for many years with no known significant impact to the environment. As the tenant is not expanding or changing its use of the premises, an additional one-year holdover with the same use will not have a significant impact. Therefore, staff believes the holdover for an additional year has no significant effect on the environment.
Action May have Significant Impact on Particularly Sensitive Environment?	No, staff does not believe the one-year holdover of the tenant, a sailing club, will have significant impact on the environment, as the premises and neighboring parcels are zoned for intensive industrial use.
Analysis:	The request pertains to authorizing a one-year holdover of Lease No. H-78-5 at the subject location. The location has been used for the same purpose since 1978, with no known significant impact to the environment. Therefore, staff believes that the request would involve negligible or no expansion or change in use of the subject location beyond that previously existing.
Consulted Parties:	Land Division-ODLO was consulted and concurred with respect to the Chapter 343 exemption.
Declaration	The Board finds that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment.

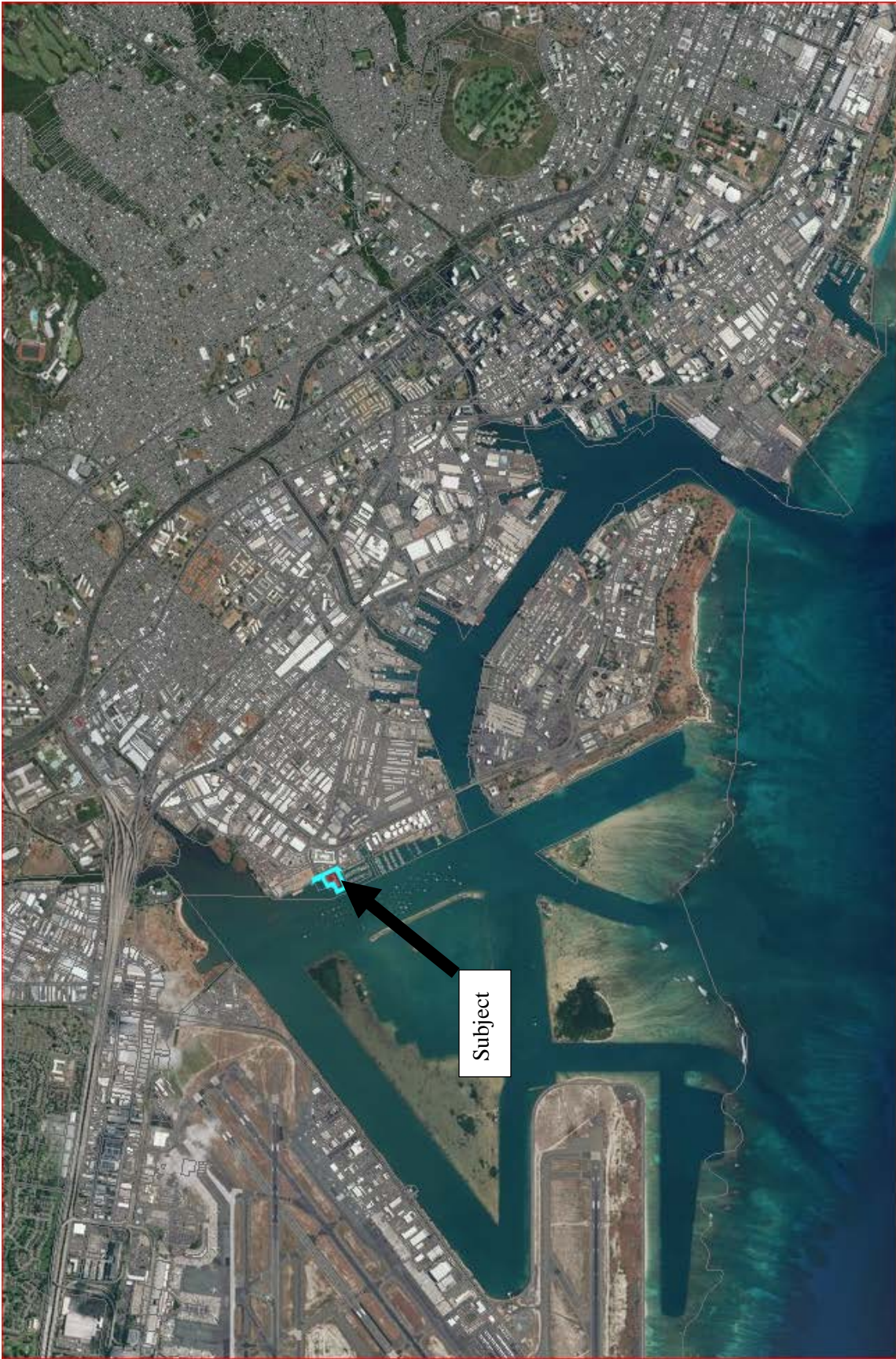


Exhibit A1

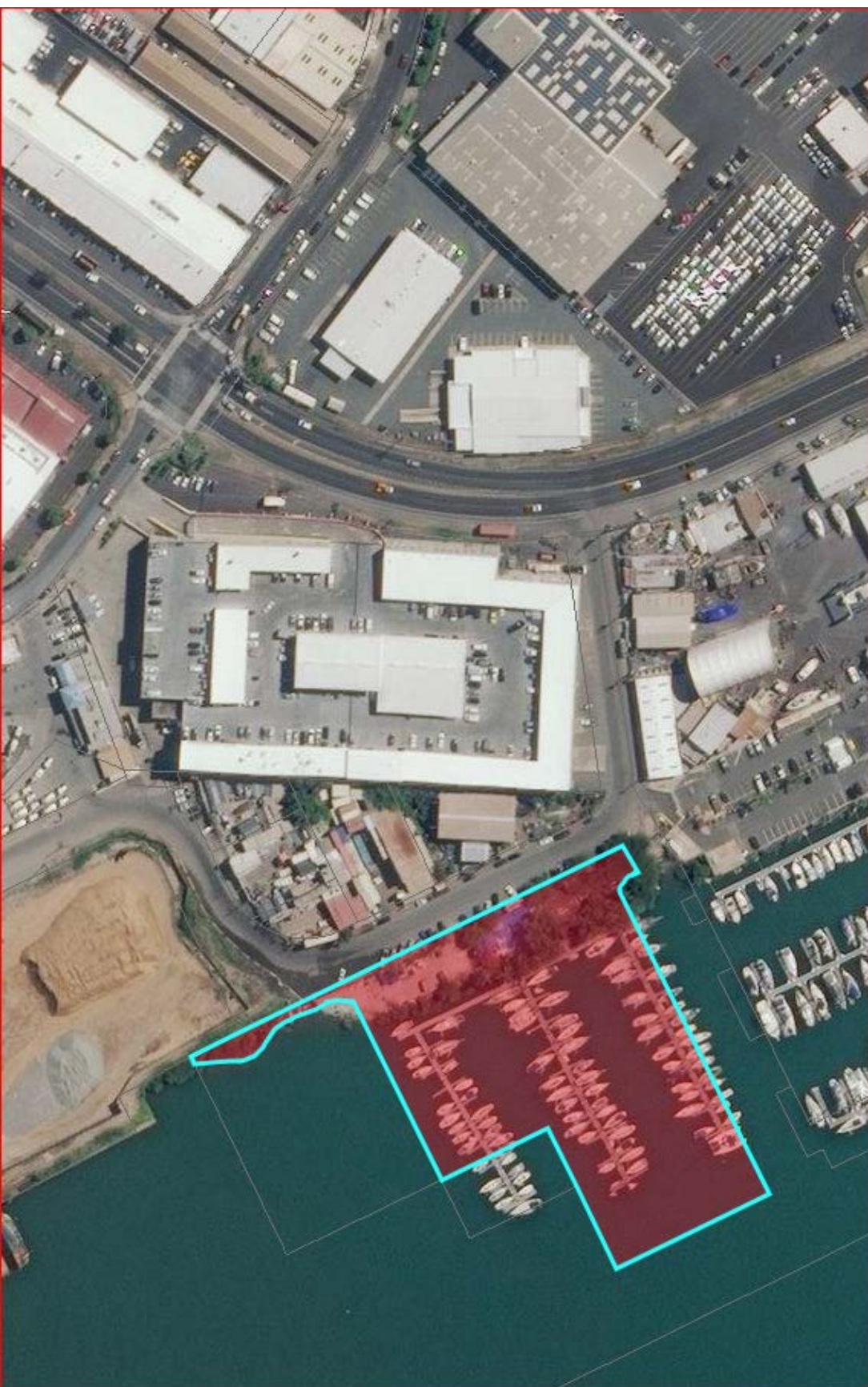


Exhibit A2