

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: SALE OF LEASE AT PUBLIC AUCTION FOR PRIVATE MARINA, RESTAURANT SELLING BOTH ALCOHOLIC AND NON-ALCOHOLIC DRINKS, GIFT SHOP, BOAT AND TRAILER STORAGE, OTHER MARINA RELATED SERVICES AND PARKING PURPOSES, KALIHI-KAI, HONOLULU, OAHU, TAX MAP KEY: (1) 1-2-023:052, 053, 054, 057, 059 AND 037.

AND

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

REQUEST:

Sale of lease at public auction for private marina, restaurant selling both alcoholic and non-alcoholic drinks, gift shop, boat and trailer storage, other marina related services and parking purposes. Liveaboards shall not be permitted.

LEGAL REFERENCE:

Sections 171-14, -16, -17 -53(c), and other applicable sections of Chapters 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kalihi-Kai, Honolulu, Oahu, identified by Tax Map Keys: (1) 1-2-023:052, 053, 054, 057, 059 and 037 hereinafter referred to as the "Premises" as shown on the following exhibits labeled as: **EXHIBIT A1 and A2**.

AREA:

4.184 acres of fast and submerged land
TMK: (1) 2-023:052 – .605 acres of fast and 2.374 acres submerged land
TMK: (1) 2-023: 053, 054, 057, 059 and 037 – 1.205 acres fast land

ZONING:

State Land Use District: Urban
C&C of Honolulu CZO: I-2, Intensive Industrial

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act: Parcels 053, 054, 057, 059 and 037
Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ___ NO X

CURRENT USE STATUS:

Tax map key (1) 1-2-023:052 is encumbered under Boating Lease No. H-78-5, La Mariana Sailing Club, Inc., for private sailing club purposes, which expires April 30, 2019. Liveaboards shall not be permitted Staff is seeking the Board’s approval for a one-year holdover under a different submittal.

Tax map key (1) 1-2-023:059, with an area of 10,000 square feet, is encumbered by Revocable Permit No. H-02-2339 issued by the Department of Transportation-Harbors Division (“DOT-Harbors”) to Paul N. Fukunaga, dba P.F. Marine. The current monthly rental is \$1,800.00.

Tax map keys (1) 1-2-023:053, 054, 057and 037 are unencumbered.

CHARACTER OF USE:

Private marina, restaurant selling both alcoholic and non-alcoholic drinks, gift shop, boat and trailer storage, other marina related services and parking purposes.

LEASE TERM:

Thirty-Five (35) years from the commencement date of the lease.

COMMENCEMENT DATE:

To be determined by the Chairperson.

MINIMUM UPSET ANNUAL RENTAL AND PERCENTAGE RENT:

To be determined by staff or independent appraisal establishing fair market rent, subject to review and approval by the Chairperson. The appraisal shall determine the upset rent for the premises for the first five years of the lease, as well as an appropriate stepped increase (as a percentage increase over the base rent of the immediately preceding 5-year period) for the second and third 5-year periods to provide the successful bidder with a known rent for the first 15 years of the lease. The appraiser procured to determine the upset rent shall also separately determine the percentage rent.

METHOD OF PAYMENT:

The minimum upset rent shall be paid monthly, in advance, and the percentage rent shall be paid monthly, in arrears.

RENTAL REOPENINGS:

At the end of the 15th, 25th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Twice the annual rental amount.

RENT WAIVER:

The rent may be waived for a maximum period of twelve (12) calendar months. Notwithstanding the foregoing, the successful bidder shall pay percentage in the event the rent is waived.

PROPERTY CHARACTERISTICS:

Utilities — Water, individual wastewater system, electricity and telephone

Existing Improvements – A wood structure with an approximate area of 6,812 square feet and 2,390 linear feet of floating docks.

Legal access to property – Staff will obtain concurrence from DOT-Harbors for an access easement over lands set aside to it from Sand Island Access Road.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the "Exemption List for the Department of Land and Natural Resources", approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 47 that states "Leases of State land involving negligible or no expansion or change of use beyond that previously existing." See attached Exemption Notification.

REMARKS:

The premises consist of six parcels containing a total area of 4.184 acres, more or less (approximately 1.81 acres of fast lands and 2.374 acres of submerged lands) located at Kalihi-Kai, Honolulu. The parcels are zoned I-2 under the City and County of Honolulu's Land Use Ordinance (LUO). The proposed use is allowed under the LUO.

Tax map key (1) 1-2-023:052 is encumbered under Boating Lease H-78-5, made July 14, 1978, and issued to Annette L. Nahinu, dba la Mariana Sailing Club for a term of thirty-five (35) years ("lease"). The lease was assigned to La Mariana Sailing Club, Inc. ("lessee") by that certain assignment executed June 3, 1998.

Lessee's operations were significantly affected by the tsunami that hit the Hawaiian Islands on March 11, 2011. As a result of the expense lessee incurred to repair the tsunami damage to its floating docks, the Board of Land and Natural Resources ("Board"), at its meeting on June 14, 2013, under agenda item J-3, approved an extension of lessee's lease for an additional five (5) years, expiring on April 30, 2019.

At its meeting on December 14, 2018, under agenda item D-6, the Board approved the withdrawal of five (5) parcels totaling 1.205 acres, more or less from Executive Order No. 3708 to re-set aside to DOBOR. These parcels are located Mauka and across the roadway from the lessee's premises, and staff wishes to include these parcels in the sale of lease at public auction for boat, trailer storage, other marina related services and parking purposes.

Staff will obtain a concurrent resolution from the Legislature pursuant to 171-53 (c), HRS for the lease auction sale of the submerged lands.

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 the sale of a lease at public auction covering the subject area for maritime purposes, 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 Boating Lease form, as may be amended from time to time;
 - b. The successful bidder will be responsible for compliance with Chapter 343, HRS, with respect to any increased development or change in use of the property from the previously existing use;
 - c. Approval by the Governor and concurrence from the Legislature pursuant to 171-53 (c), HRS;
 - d. Review and approval by the Department of the Attorney General; and
 - e. 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:

- 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 sale of lease at public auction
Project / Reference No.:	
Project Location:	Kalihi-Kai, Honolulu, Oahu, Tax Map Key: (1) 1-2-023:052, 053, 054, 057, 059 AND 037
Project Description:	Sale of lease at public auction for private sailing club, restaurant selling both alcoholic and non-alcoholic drinks, gift shop, boat and trailer storage and parking purposes. Liveboards shall not be permitted.
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. Therefore, staff believes the sale of the lease at public auction for the same uses will have no significant effect on the environment.
Action May have Significant Impact on Particularly Sensitive Environment?	No, staff does not believe the sale of lease at public auction will have significant impact on the environment. It is not a particularly sensitive environment, as the premises and surrounding parcels are zoned for intensive industrial use.
Analysis:	The request pertains to authorizing the sale of lease at public auction. The location has been used for the same purpose since 1978 with no known significant impact to the environment. 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.

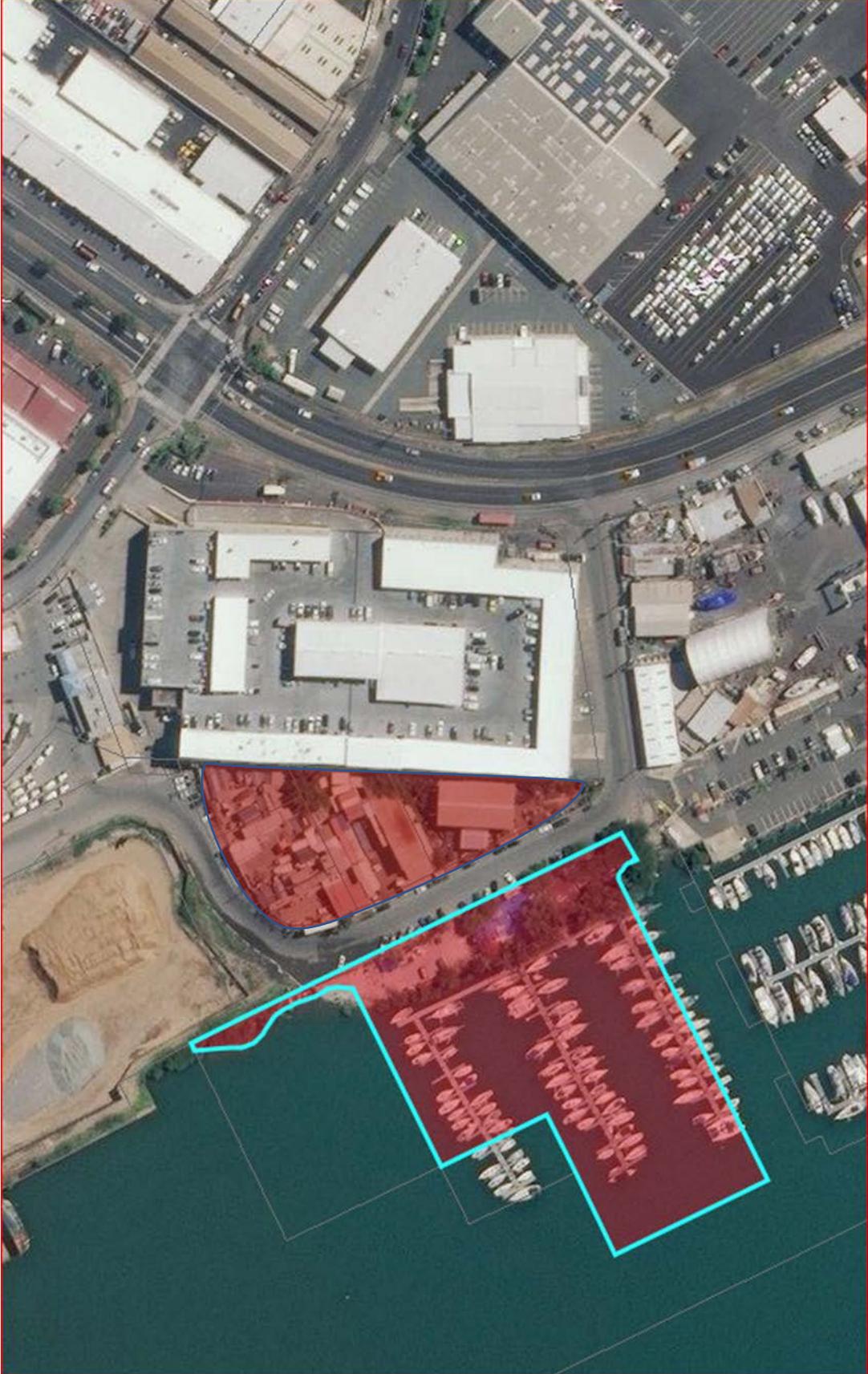


Exhibit A2