

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

December 13, 2019

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
North Kona, Hawaii

Land Board Members:

SUBJECT: MUTUAL CANCELLATION OF REVOCABLE PERMIT NO. 81, UNBELIEVABLE SPORTFISHING, INC., PERMITTEE; ISSUANCE OF REVOCABLE PERMIT TO INFINITY, INC. FOR STORAGE AND RECREATION PURPOSES, HONOKOHAU SMALL BOAT HARBOR, KEALAKEHE, NORTH KONA, ISLAND OF HAWAII, HAWAII, IDENTIFIED BY TAX MAP KEY: (3) 7-4-008:003 (PORTION)

AND

DECLARE PROJECT EXEMPT FROM REQUIREMENTS OF CHAPTER 343, HRS AND TITLE 11, CHAPTER 200.1, HAWAII ADMINISTRATIVE RULES.

APPLICANT:

Infinity, Inc. a Domestic Profit Corporation, whose mailing address is, 74-425 Kealakehe Pkwy. #24C, Kailua-Kona, Hawaii 96840

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government fast lands at Honokohau Small Boat Harbor (“KSBH”), situated in Kealakehe, North Kona, Island of Hawaii, Hawaii, identified by Tax Map Key: (3) 7-4-008:003 (Portion), as shown on the attached maps labeled **Exhibits A-1 and A-2**.

AREA:

Revocable Permit No. 81: Pavilion area of 90 Sq. Ft., adjacent to Slip #13 (see **Exhibit A-2**).

ZONING:

State Land Use District: Urban & Conservation (portion of parcel along the coastline is in the Resource Conservation Subzone)

County of Hawaii: CZO: Open

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:

Currently encumbered under Revocable Permit No. 81, Infinity, Inc.

CHARACTER OF USE:

Covered areas used for storage and recreation.

COMMENCEMENT DATE:

November 1, 2019

MONTHLY RENTAL:

The monthly rental for the reissued revocable permit will remain at \$45.00, payable in advance by the first of each and every month, based on an in-house valuation of \$.50 per square foot per month, or \$6.00 per square foot annually.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This Exemption Notice for the above action is based on general exemption types enumerated in HAR § 11-200.1, under Exemption Class, 1. Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving, minor expansion or minor change of use beyond that previously existing.

Also, under DLNR Exemption List reviewed and concurred to by the Environmental Council on June 5, 2015, Exemption List Class 1: Item 51, "Permits, licenses, registrations and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing".

In consultation with the Hawaii District Land Office, regarding HRS Chapter 343, they concurred that this RP met the requirements of Chapter 343, HRS, and chapter 11-200.1, HAR and this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

JUSTIFICATION FOR REVOCABLE PERMIT:

It is not practicable to convert this revocable permit to long-term disposition due to the nominal rental the permit generates versus the cost to do so.

REMARKS:

At its meeting on February 22, 2019, under agenda item J-3, the Board approved the issuance of a revocable permit to Infinity, Inc. for storage and recreation purposes.

Unbelievable Sportfishing, Inc. provided staff with written notice on September 25, 2019, of its desire to cancel its revocable permit no. 81 effective July 18, 2019, as it had relocated its boat to a different slip. However, the permit states that the permittee shall provide twenty-five (25) days written notice before vacating the premises. Infinity, Inc. now occupies the vacated berth and has requested to enter into a revocable permit for the use of approximately 90 sq. ft. of fast lands adjacent to berth 36 for recreational and storage activities.

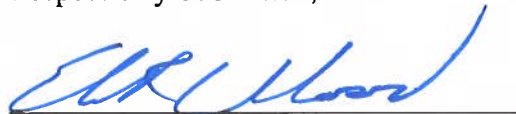
Both entities are controlled by the same individual.

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 11-200.1, HAR, 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. Cancellation of Revocable Permit No. 81.
3. Authorize the issuance of a revocable permit to Infinity, Inc. under the following conditions:
 - a. The standard terms and conditions of the most current Revocable Permit 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

APPROVED FOR SUBMITTAL:



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

Attachments:

- Exhibit A-1 Honokohau Small Boat Harbor Location on Hawaii
- Exhibit A-2 Infinity, Inc. Location



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
4 Sand Island Access Road
Honolulu, Hawaii 96819

December 13, 2019

EXEMPTION NOTICE

TO: DLNR Public Files for HRS Chapter 343 Exemptions
FROM: BLNR via Chairperson for the Division of Boating & Ocean Recreation (DOBOR)
RE: Exempted applicant action as defined by HRS § 343-5(b) and HAR § 11-200.1-15

Project Name:	Issuance of Revocable Permit (RP) to Infinity, Inc. (“Infinity”)
Location (incl. address, island & district; TMK or other geolocation) :	Located at Honokohau Small Boat Harbor (HSBH), North Kona, Island of Hawaii, Tax Map Key: (3) 7-4-008:003 (POR.)
Project Start/End:	November 1, 2019, to June 30, 2020
Project Approval(s):	Issuance of an RP to Infinity from BLNR, HRS §171-55
Project Description:	Approximately 90 Sq. Ft. for Infinity would be using fast lands for covered areas for storage and recreation to support their boating activities.
HRS § 343-5 Trigger(s):	Use of state lands
Exemption Class No(s): (see general Exemption Types in HAR § 11-200.1-15; or if from an approved DLNR Exemption List, cite the class and item)	This Exemption Notice for the above action is based on general exemption types enumerated in HAR § 11-200.1, under Exemption Type(s): 1. Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving, minor expansion or minor change of use beyond that previously existing. Also, under DLNR Exemption List reviewed and concurred to by the Environmental Council on June 5, 2015: Exemption List Class 1: Item 12, “Operations, repair, and maintenance of existing loading docks, piers, piles, boat launch ramps, offshore mooring facilities, and other similar support structures”. Item 51, “Permits, licenses, registrations and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing”.

<p>Analysis re: Application of Exemption(s) to the Proposed Action: (see HAR §11-200.1-17)</p>	<p>The applicant has been a responsible permittee of DLNR-DOBOR since April 1, 2019. The request to issue this RP would involve no expansion or change in use of the subject location beyond that previously existing.</p>
<p>Previous Determinations and Exemption Notices? (see HAR §11-200.1-11 and -12)</p>	<p>The initial plan for Honokohau Harbor was approved in 1965. The initial phase of construction of the harbor was done by the U.S. Army Corps of Engineers between 1968 to 1970. A revised EIS (1975-11-DD-HA-REIS Honokohau Harbor) was done to allow for the construction of a small boat harbor for the purposes of supporting small boating needs, which included ancillary shore facilities. At the Board's February 22, 2019, meeting, under agenda item J-3, the use of the fast lands for pavilions to supported boating operations was declared exempt. An RP for the fast lands adjacent to Slips #36 was approved.</p>
<p>Adverse Cumulative Impacts to Receiving Environment? (Particularly sensitive environment?)</p>	<p>None likely. The vacating permittee, Unbelievable Sportfishing, Inc. has been utilizing the permitted area for storage and recreation under DLNR-DOBOR RP 81 since April 1, 2019. The currently existing dock facilitates and public access, minimizing any damage from mooring, erosion, coral impacts that might otherwise be caused if the structure was not used. Although there may be a potential for fuel spills from boating operations, the alternative to not use the designed fast lands would not obviate such risks. Any risk from cumulative impacts appears negligible.</p> <p>The proposed Infinity permit area is not a particularly sensitive environment, and no known threatened, endangered, or endemic species are impacted by issuance of this short-term permit.</p>
<p>Other Considerations?</p>	<p>In DOBOR's experience, issuance of an RP for use of a small boat harbor facility is unlikely to raise environmental concerns and is likely to enhance public safety for the boating public.</p>
<p>Analysis:</p>	<p>Based on its expertise and experience, DLNR/DOBOR believes the proposed action is a routine activity and ordinary function that merits exemption from the preparation of an environmental assessment.</p>
<p>Consulted Parties re: Propriety of Exemption:</p>	<p>Hawaii Land Division - was consulted and concurred with respect to the HRS Chapter 343 exemption.</p>
<p>Declaration</p>	<p>The Board determines, through its judgment and experience, that the requested action will individually and cumulatively probably have minimal or no significant effect on the environment, and that the proposed action is consistent with exemption and therefore declared exempt from the preparation of an environmental assessment.</p>

**Exhibit A-1
Honokohau Small Boat Harbor**

**Honokohau
Small Boat Harbor**



Exhibit A-2
Honokohau Small Boat Harbor



Exhibit A-2

Infinity, Inc.
Pavilion: Slip #36
7.5'x12'=90 sf