

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

May 22, 2020

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

Land Board Members:

SUBJECT: TERMINATION OF BOATING LEASE NO. LH-19-002, PACIFIC
MARINE PARTNERS, LLC, LESSEE, HONOKOHAU SMALL BOAT HARBOR,
NORTH KONA, HAWAII, TAX MAP KEY: (3) 7-4-008:003 (POR).

PURPOSE:

Forfeiture of Boating Lease No. LH-19-002 (“Lease”), Pacific Marine Partners, Lessee.

LEGAL REFERENCE:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Honokohau Small Boat Harbor, North Kona, Hawaii identified by Tax Map Key: (3) 7-4-008:003 (por), as shown on the attached map labeled Exhibit A.

AREA:

9 acres, more or less.

TRUST LAND STATUS:

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

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

CHARACTER OF USE:

Boat/trailer storage and vehicle parking purposes.

TERM OF LEASE:

10 years, commencing on November 1, 2018 and expiring on October 31, 2028.

ANNUAL RENTAL:

\$423,000.00 due in equal monthly payments.

PERCENTAGE RENT:

50% of gross receipts to the extent percentage rent exceeds base rent.

SECURITY DEPOSIT:

\$70,000.00.

REMARKS:

Pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980, and the breach provision contained in the Boating Lease No. LH-19-002, Pacific Marine Partners, LLC, Lessee, was served a Notice of Default by certified mail dated April 14, 2020 (see Exhibit B) for:

- ☒ Failure to keep lease rental payments current
- ☐ Failure to post required performance bond
- ☐ Failure to post required fire insurance policy
- ☐ Failure to post required liability insurance policy
- ☐ Other: _____

Said notice, accepted by the Lessee (see certified receipt Exhibit B) offered the Lessee a cure period of 35 days to correct the default by May 18, 2020. As of May 22, 2019, this breach has not been cured.

Lessee failed to make the required rent payments beginning August 2019. Since that time, staff has had considerable contact with members or alleged members of Lessee and their attorneys regarding a dispute between the members.

At its meeting held on October 25, 2019, under agenda item J-2, the board deferred action on staff's recommendation to assign the lease from Lessee to one of the members. The Board also cautioned that its failure to pay the rent may result in the forfeiture of the lease.

Lessee has made five payments between August 2019 and April 23, 2020:

August 10, 2019	\$18,250.00 (This check was returned due to non-sufficient funds)
December 9, 2019	\$75,000.00
December 24, 2019	\$10,000.00
February 19, 2020	\$20,000.00
April 23, 2020	\$10,000.00

Lessee stated to staff, he would bring in an additional check for \$25,000.00 on/or before February 21, 2020, which was never received; and instead on April 23, 2020 Lessee brought in a check in the amount of \$10,000.00.

As of May 22, 2020, Lessee still has an outstanding balance owed of, \$173,391.66, excluding any late penalty fees and accrued interest fees to cure and bring the account current;

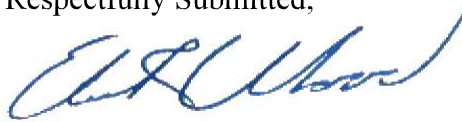
RECOMMENDATION: That the Board:

1. Authorize the cancellation of Boating Lease No. LH-19-002 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under Boating Lease No. LH-19-002 to be applied to any past due amounts;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of May 22, 2020, 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; and

May 22, 2020

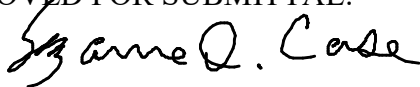
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under Boating Lease No. LH-19-02 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



Edward R. Underwood, Administrator
Division of Boating and Ocean Recreation

APPROVED FOR SUBMITTAL:

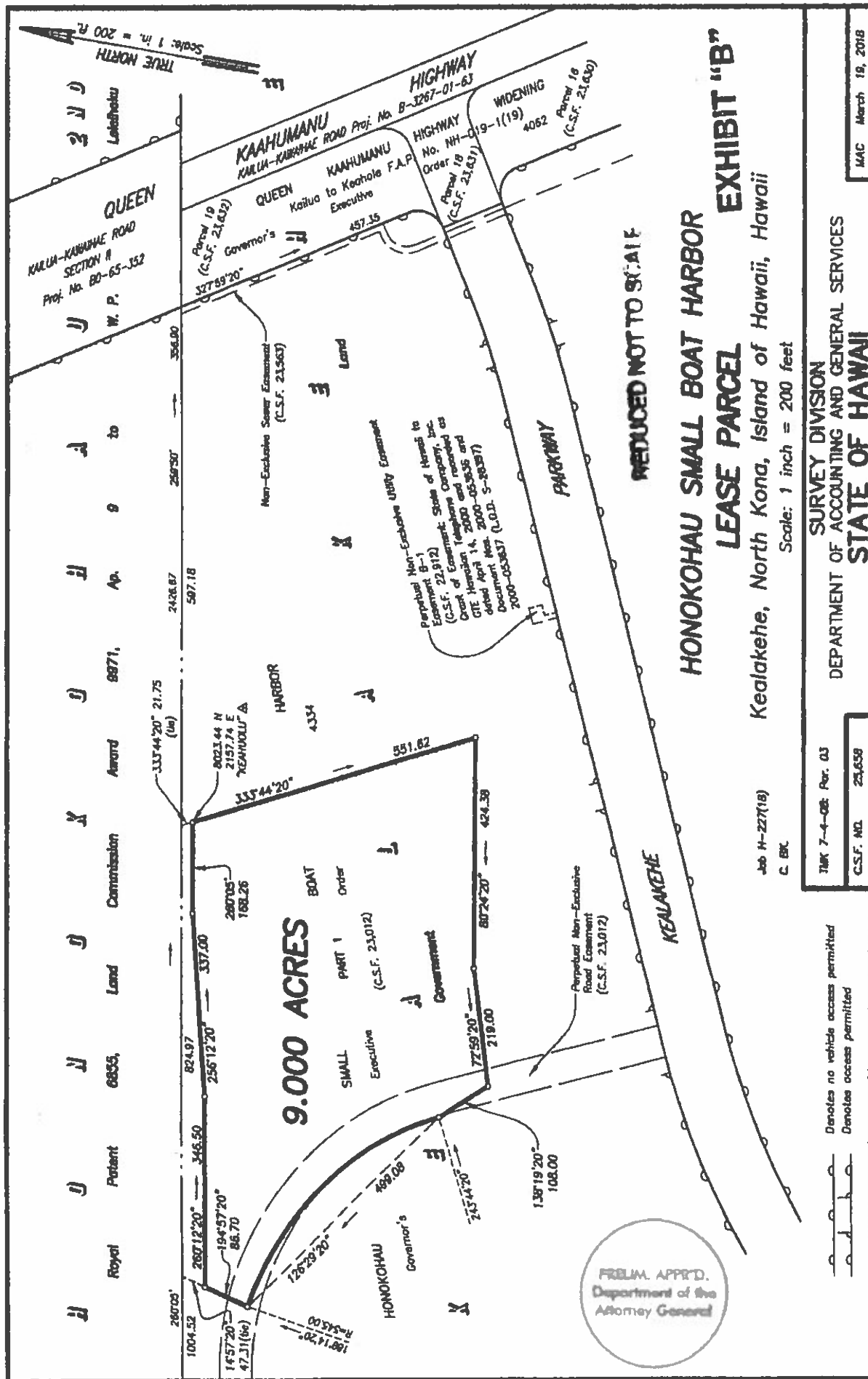


Suzanne D. Case, Chairperson
Board of Land and Natural Resources

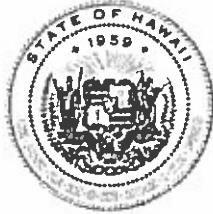
Attachments:

Exhibit A – Site Map
Exhibit B – Notice of Default

EXHIBIT A



DAVID Y. IGE
GOVERNOR OF HAWAII



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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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 912819

BOR.PM-037-20

April 14, 2020

VIA CERTIFIED MAIL – RRR
and REGULAR MAIL

Pacific Marine Partners, LLC
Attn: Mr. Jason Ho'opai
348 Puuhale Road #339
Honolulu, Hawaii 96819

Pacific Marine Partners, LLC
74-380 Kealakehe Parkway
Kailua-Kona, Hawaii 96740-2704

Pacific Marine Partners, LLC
P.O. Box 2425
Kailua-Kona, Hawaii 96740-2704

Pacific Marine Partners, LLC
317 Kapulei Street
Honolulu, Hawaii 96813

Pacific Marine Partners, LLC
74-427 Kealakehe Parkway
Kailua-Kona, Hawaii 96740

NOTICE OF DEFAULT OF LEASE NO. LH-19-002
Honokohau Small Boat Harbor, North Kona, Island of Hawaii, Hawaii

Dear Mr. Ho'opai:

You are hereby informed that Pacific Marine Partners LLC (PMP) is in default and breach on Lease No. LH-19-002, dated September 10, 2018 ("Lease") by and between PMP and the State of Hawai'i. PMP has failed to pay rent due under the lease.

This correspondence is sent on behalf of the Board of Land and Natural Resources ("Board") and pursuant to paragraph 21 of the lease and HRS § 171-20. You are hereby provided with written notice of the default and breach. The State hereby demands that PMP cure the breach by payment in full of the back rent on or before May 18, 2020. The amount required

to cure is \$148,141.66 as of April 13, 2020. As of May 1, 2020, the amount required to cure is \$183,391.66. (These numbers are based on minimum guaranteed rent; PMP has not provided information as to gross revenue).

If PMP fails to cure as demanded, then the State may exercise any or all of the rights and remedies available to it by law and under the Lease. These rights and remedies include but are not limited to termination, re-entry, and action to determine and collect all damages attributable to PMP's default and breach.

Should you have any questions, please contact the Division of Boating and Ocean Recreation, Property Management Section at (808) 587-1965.

Regards,

Suzanne D. Case

Suzanne D. Case
Chairperson

SENDER: COMPLETE THIS SECTION	
<p>1. Complete items 1, 2, and 3.</p> <p>Print your name and address on the reverse so that we can return the card to you.</p> <p>Attach this card to the back of the mailpiece, or on the front if space permits.</p>	
<p>Pacific Marine Partners, LLC Attn: Mr. Jason Ho'opai 348 Puuhale Road #339 Honolulu, HI 96819</p>	
<p>2. Article Number (Transfer from service label)</p> <p>9590 9402 3658 7335 8967 11</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	

COMPLETE THIS SECTION ON DELIVERY	
A. Signature X <i>SR</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name) <i>SR</i>	C. Date of Delivery <i>00-19</i>
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail (over \$500) <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery	
4. Express® <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail (over \$500) <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery	
APR22 20PM 4:42PM 40M	
Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION	
<p>1. Complete items 1, 2, and 3.</p> <p>Print your name and address on the reverse so that we can return the card to you.</p> <p>Attach this card to the back of the mailpiece, or on the front if space permits.</p>	
<p>Pacific Marine Partners, LLC 317 Kapulei Street Honolulu, HI 96813</p>	
<p>2. Article Number (Transfer from service label)</p> <p>9590 9402 4881 9032 1112 82</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	

COMPLETE THIS SECTION ON DELIVERY	
A. Signature X <i>N. Ho'opai</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name) <i>N. Ho'opai</i>	C. Date of Delivery <i>00-19</i>
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail (over \$500) <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery	
4. Express® <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail (over \$500) <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery	
APR22 20PM 4:42PM 40M	
Domestic Return Receipt	

Pacific Marine Partners-Notice of Default











4.14.20

Final Audit Report

2020-04-14

Created:	2020-04-14
By:	Candace Calleon (candace.m.calleon@hawaii.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAL1rSwjGsnMVLA4qJWfRcrHvz_MRHEDpF

"Pacific Marine Partners-Notice of Default 4.14.20" History

-  Document created by Candace Calleon (candace.m.calleon@hawaii.gov)
2020-04-14 - 9:59:39 PM GMT - IP address: 132.160.239.30
-  Document emailed to Richard Howard (richard.t.howard@hawaii.gov) for approval
2020-04-14 - 10:00:52 PM GMT
-  Email viewed by Richard Howard (richard.t.howard@hawaii.gov)
2020-04-14 - 10:01:59 PM GMT - IP address: 132.160.239.30
-  Document approved by Richard Howard (richard.t.howard@hawaii.gov)
Approval Date: 2020-04-14 - 10:02:20 PM GMT - Time Source: server - IP address: 132.160.239.30
-  Document emailed to Ed Underwood (ed.r.underwood@hawaii.gov) for approval
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-  Document approved by Ed Underwood (ed.r.underwood@hawaii.gov)
Approval Date: 2020-04-14 - 10:33:48 PM GMT - Time Source: server - IP address: 76.172.28.56
-  Document emailed to Suzanne Case (suzanne.case@hawaii.gov) for signature
2020-04-14 - 10:33:49 PM GMT
-  Email viewed by Suzanne Case (suzanne.case@hawaii.gov)
2020-04-14 - 11:40:46 PM GMT - IP address: 76.93.221.242
-  Document e-signed by Suzanne Case (suzanne.case@hawaii.gov)
Signature Date: 2020-04-14 - 11:41:37 PM GMT - Time Source: server - IP address: 76.93.221.242

- ✓ Signed document emailed to Suzanne Case (suzanne.case@hawaii.gov), Richard Howard (richard.t.howard@hawaii.gov), Candace Calleon (candace.m.calleon@hawaii.gov), and Ed Underwood (ed.r.underwood@hawaii.gov)

2020-04-14 - 11:41:37 PM GMT