



November 7, 2020

Chairperson and Members of the Board of Land and Natural Resources
DLNR Main office
Kalanimoku Building
1151 Punchbowl Street
Honolulu, HI 96813

Subject: FBO Lots at the Lihue Airport in Relationship to Grant Assurances and contest with amendments to Safari and Sunshine Helicopters

Dear Chairperson and Members of the Board,

We are writing to provide information as well as a request to the Board for consideration. We understand there is to be a "follow-up" to the meeting concerning Lihue Airport Helicopter leases and the definition of the lease terms and conditions as they relate to Fixed Base Operator (FBO) status.

It was very evident in the meeting via Zoom on August 14, 2020 that the State Department of Transportation Airports Division (HDOT-A) and their Airport Property Managers are not treating the operators equally and have neglected to maintain the leases in an equitable manner.

It was unfortunate that the State Property Managers showed up for the Zoom meeting in their masks and effectively were asking to "move forward" with their issues. They had no answer to the question that is still on the table: discrimination and Grant Assurance violation issues.

We humbly ask that you take the time to read the information we have assembled and research how this situation can be remedy for those of us who have followed all the rules and regulations and are paying more rent with a shorter lease.

We are requesting simple and reasonable adjustments:

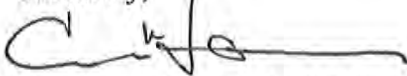
- 1) We are requesting an amendment to our lease, with approval from the Board and Natural Resources (BLNR) to extend our lease so that it is equal to all other air tour, charter and utility companies operating off the FBO lots, as well as the Port Allen Airport, all of which are a part of the Lihue Airport System (per definition of Grant Assurances).
- 2) We are also requesting that the rent and leases for our leased land be equal to the other air tour charter and utility operators within the Lihue Airport System. This is a requirement of the Grant Assurances benefit for the Airport and can be found in the program. It appears the rates per square foot for

- these special companies are selectively offered FBO status, they are expected to also bring the income level or additional revenue (in selling parts, service and fuel for example) to then bring up the lease rent to what is equal to ours. This situation, if monitored and managed correctly, would then create the added income that has been omitted from the current lease rents of Blue Hawaiian Helicopters, Jack Harter Helicopters, and Airborne Aviation as well as possibly other operators. In the Zoom meeting we witnessed that indeed, the DOTA has not required these operators to provide the added revenue and thus the tenants in question hold unfair and unequal rent conditions from other similar operators in the Lihue Airport System. These operators have had no intention of operating as FBO leases, and "going forward" is a hardship for any other similar competitor. The HDOT-A land managers have known for years that this is an unfair field of operation. This can not be denied or used as a "going forward" point. This has been wrong and is a violation of the lease, which should be dealt with fairly, per the regulations.
- 3) We are requesting an extension to our lease, at the current rent for one year. We, pandemic or not, have been forced to be closed for 7-8 months with the expectation of paying our rent and all surrounding permits. We would ask to have more than one year (to be equal to the FBO lots), as we will never recover the losses we have incurred. We placed a one million dollar building on State land and feel that we are unique, in the manner that we pay more than any other operator for the space. We have followed all the demands of the lease, unlike the operators in question who are disguising themselves as FBO operators to hold their spaces for less rent.
 - 4) We are asking that the BLNR request and insist that the HDOT-A treat all operators in a fair and equal manner, without prejudice. For example, for 4 yers we paid for the State easement for fuel trucks, which no other lease lot was required to pay for. We had to sue to correct this issue at great expense to receive what every other company was offered.

Our reasoning for these simple requests has been presented in part to the BLNR in a few different testimonies over previous years. As stated before, not being able to present at your meeting should not discount our testimony.

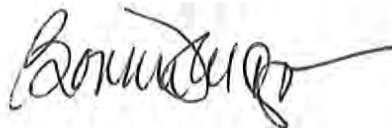
We are attaching a short version of the long history of this action and behavior by the HDOT-A. We are also attaching a variety of the many sources of proof of the HDOT-A antics and expectations. Honestly, this story would make a very juicy drama series; we would call it: "As The Rotor Turns".

Sincerely,



Curtis and Bonnie Lofstedt
Owners and Operators

Island Helicopters Kauai EST: 40 years ago on the Island of Kauai



Current History:

The HDOTA started the divide of property years ago, which can be found on the State Airport website, however, to make this easier to understand, following is the short history.

We were sent a document and given 14 days to make a decision on a 15-year lease. There was NO negotiations, NO options, NO questioning of the lease. The document was presented in a threat in writing to us, that if we did not sign the 3-inch lease within the 14 day period the HDOTA would then designate our spaces to the next willing company.

As the BLNR should now be aware, we have wanted and desired a long-term lease since 1980 when we started our company. The excuse for the 15-year (versus 25 or 30 year lease) was that the HDOTA said they were going to build a permanent helipad closer to the highway. Senator Kouchi has since stated that this scenario will never happen and the idea of another location for a heliport at Lihue Airport has been tossed out.

We were required, as were all other operators who signed leases, to build a new construction on the land and improve the surrounding unpaved area at a cost of at least \$150,000.00. To be totally honest, after paving the driveway, obtaining the multiple permits, the design, legal fees and approvals from the county public hearings- we were already at this total in cost without construction. Point is, one cannot build anything for \$150,000.00 on Kauai.

Manufactured offices were prohibited. We wanted to create an office that was proper and safe for our customers and employees. After nearly 40 years of dealing with the characters and management at the Lihue Airport, this should not have been so challenging. We have spent approximately one million dollars on our current building at the Lihue Airport. We pay County property tax at a level no other operator has to endure, because most all other operators have yet to build (at this writing only Island and Blue Hawaiian have buildings constructed). Most other helipad operators are operating in default of the lease we were given; they have not built and operate out of the dust bowl at the heliport.

It seems the Board is aware, the FBO lots are priced at a reduced rate and come with a longer lease. Were told in writing (proof which we can easily offer and we believe we have already offered in prior testimony) that we would never be granted permission to fly out of the FBO lots. We were then pressured to sign the lease (which we did not negotiate, contrary to the written statement from Jade Butay in attached letter written last month) and build or be faced with no place to conduct our business.

The BLNR has since approved this permission to lease land at a less rate with a longer lease and accepted the false testimony from both the State land management

as well as the various operators, they are not FBO operators and never planned to be.

Blue Hawaiian Helicopters, Jack Harter Helicopters, Airborne Aviation, Alii Helicopters have already operated at a financial advantage and with a different lease (requirements) than we have. The proof in the leases, please compare, especially the percentage rent. We have actually provided additional income in the retail we have sold, they have zero percentage rent, because they don't sell anything other than their tours, charters and utility work.

We have a building, and have sold inventory to the tune of thousands of added revenue and extra tax dollars per year in addition the rent and excessive (due to the high rent) County Property Tax for our building. This added funding which should have been collected all this time from other airport leases is still not being collected. This situation creates an uneven field for our company.

Airborne Aviation asked for less lease rent because he does rescue work. The County of Kauai, State and Federal Governments can and may use any operator they want to. Being an exclusive operator is not set in cement with any Government contract. Rates for these contracts need to be fair and competitive. Offering this operator less rent all while they are operating utility and commercial tours is an unfair and unequal situation, which does defy Grant Assurance protection. Believing this operator as well as the State land managers is where it all started.

"Going Forward" as stated in the testimony on August 14, 2020 by the State land managers during their Zoom meeting with the BLNR does not resolve the unequal treatment and unjust discrimination between the leases at the Lihue Airport.

Pad 4 at the Lihue Airport: We believe we were first, to request a lease on Pad 4, however the State land managers have played games and changed applications and denied our request. The BLNR gave the lease for Pad 4 earlier this year to Mauna Loa Helicopters, yet, to date, there is still no lease or rather revenue, no building permits and the pad sits vacant. By now, we would have built a hangar and it would have been generating revenue for the State. We missed the meeting due to the fact that we were removed from the electronic posting of the upcoming agenda listing in late 2019 before Jack Harter was also offered a special lease. **ADDITIONALLY, ON THE AGENDA FOR NOV. 13, 2020 IS A REQUEST FOR AN AMMENDMENT FOR SUNSHINE AND SAFARI HELICOPTERS: This is all a "switch" which did not include us and was all done so that we were not able to have Pad 4. This is as close to criminal as we have ever witnessed. It is because we are never included and always rejected by the HDOT-A. We protest this, especially if their leases are extended in duration, we were forced to build and this is a total farce of management.**

Jack Harter Helicopters received a block of land with a long lease from an auction? How will this work for us, when we were forced to sign a lease and never had a chance to discuss any future as this company was. This was another disguise via the

State land managers to offer another company a better lease for less money. This company has not started their building either. In a few years our one million dollar investment in the HDOT-A property goes up for auction? We were not offered this option but were refused this option, yet one who does not even have a building is treated with more favor?

Due to the fact that until last month were unable to communicate with the HDOT-A in any fashion or form; the State managers basically refused to answer any communication with us after 2017. We believe we have been treated unfairly. We are asking for a motion to discuss our request to lengthen our lease and reduce our rent at the same time the Board may be processing the inquiry definition of those companies who have been honored with FBO lots when they have not and do not intend to operate as they stated in their applications.

One question remains: Why has the HDOT-A treated us with unjust discrimination and unfair practice. We do not know the answer to this question. It could be that we do not deal independently with the various State employees; we follow the rules? It could be that we are the oldest air tour tenant in the State and have all the back up detailing their contradictive behaviors? It could also be that treating companies differently is just what they have been able accomplish. Is it the job of a BLNR member to "believe" the State employee, just because this is a position where they are a servant to the taxpayer? We do not know, but we do know we have been treated in an unfair manner and would like this to be cleaned up soon; and as fair as possible.

In closing, we have paid rent in full since the start of this pandemic, **has everyone else?** The State will use their deep pockets (our taxpayer money) to fight us. It is our understanding that the BLNR "going forward" has the last say. For this, we hope the Board will correct some the play by the HDOT-A and their land management team ". The HDOT-A land management did not return to the table on August 14, 2020 with proof of the actual FBO operations as requested by the Board. With no offence intended, the Board appeared to "believe" the HDOT-A employees and with all of this in mind, we question, why?

We continue to be a good tenant, as well, as a taxpayer. We are not the Government employees who hide behind masks on a Zoom call. We have not been able to operate since March 17, 2020 and have not deserved this unfair treatment. We would come to a Zoom meeting if it was an option. We are passionate and fair people and hope this small bit of information is at least a little interesting to each of you.

Island Helicopters Kauai and HDOTA History

In 1980, Island Helicopters Kauai, Inc became a month-to-month tenant, in good standing for the next 34 years at the Lihue Airport. Curt Lofstedt, along with wife, Bonnie started the company in 1980, a month before their first child was born. Curt was the only pilot and Bonnie did the rest of the business arrangements. Island has remained a small company by choice. Our association with the State of Hawaii airports Division (HDOT-A) began in 1973 when Curt operated Kenai Helicopters throughout the Hawaiian Islands (on each of the major islands). Curt remains the only licensed pilot owned Helicopter Company and has nearly 30 thousand accident free hours.

In 1988, the new Master Plan for the Lihue Helicopter operations included aircraft noise, and impact studies. Public hearings were held to discuss plans for the development of helicopter facilities, which would correct the problems of congestion at the existing helicopter operations area, those pads needed to be moved for the expansion of taxiways. He was a sitting member of these meetings.

Construction of the interim heliport facilities to serve helicopter operations until a permanent inland heliport could be built, this started in August of 1989. Those facilities included three take off and landing pads, and 20 parking pads (for helicopters only), a lawn taxiway, fueling facility and vehicle parking (dirt). Helicopters were always kept away from fixed wing (FBO areas) for safety reasons. A waiting list had been created previously for all companies interested in operating at this facility. Kenai Helicopters was number one on the list and Island Helicopters was number two. The waiting lists were maintained by the HDOT-A which was required by Hawaii Statutes.

The Interim Heliport facility was dedicated March 1991 and all Lihue helicopter operators were required to move their flight operations to the heliport. Around this time Inter Island Helicopters (dba Smoky Mountain Helicopters) worked with the State and the County to deliver themselves a special arrangement at Port Allen, under the disguise that they were the exclusive rescue and fire company, they flew commercial tours as well and their rent was a dime to the Lihue Airport dollar in rent. Our rent, just for parking our helicopter overnight and conducting our air operations during the day allowed for the HDOT-A to increase our rent over 400%. In return we received a 62'X62' cement parking pad for the actual helicopter, grass footage in front of this area to the fence and 3 dirt parking stalls for our vans. There were no lights, no bathrooms, and no covered areas for customers, nothing other than the cement pad for the helicopters. Twenty years later the land remained exactly the same. We paid for landing fees and had the added Airport Use Charge for the public bathrooms at the fixed wing area which were locked all the time. None of the services available at the airport were for our use, yet we appeared to be required to pay monthly for them.

At this same time South Seas Helicopters initiated a lawsuit against the HDOT-A due to the Pad assignments. This case went on for many years until Judge Matsuoka of the 5th Circuit Court finally determined that there had been no wrong doing on the part of the State and other named defendants (of which we were one of and had to pay legal fees for our protection). The waiting lists described by the HDOT-A were upheld. As noted later in this history, the same waiting list was used again by the HDOT-A (although Kenai Helicopters went out of business in 1992, after the hurricane).

Also in 1991, the HDOT-A held public hearing to discuss the construction of an inland facility for the permanent relocation of helicopter operations. The community voiced their opinions loud and clear. First, the location was determined to be near halfway bridge on Highway 50. Everyone deemed this location unsafe. Second, there would be no crash fire facilities or control tower or security or oversight. And third and most importantly, there was no way that the State could stop other companies from coming into the Lihue Airport. At this point, the decision was made to have the helicopter operations remain at the Lihue Airport.

For the next 14 years the Lihue operators continued to wait for the opportunity to build permanent facilities at the heliport for the convenience of our daily operations and for comfort and safety of our customers and employees. In 2011 the customers still used port o Potties and sat under make shift tents. Today, most operators (with the exception of Island and Blue Hawaiian) still operate exactly the same way, in the dirt, mud, with port o potties and tents.

In 1997 and again in 2001 an Island Helicopters was forced to move our month-to-month office cottage to different locations. This was preformed at our own expense each time costing over \$25,000.00 to move the building, prepare the lease lot and place our own water and electric, all with permits. We had to cover our parking lot as well (note: to date other lease lots are not required to cover the dust lots with gravel or cement).

Beginning in 2005, talks began with the HDOT-A about new facilities and several proposals were on the drawing board, including obtaining nearby land from Grove Farm to build a completely new heliport over the next ten years. In the meantime, Ahukini Road was to be aligned to begin construction of the new FBO lease lots, which would mean construction at the heliport. Construction for the heliport took a few years to complete. There again were numerous meetings between the helicopter operators and the HDOT-A. All current helicopter operators (at the time) were in agreement and had done homework to agree that the operators wanted the same facilities as Kahului on Maui, which had 20-year lease arrangements. In 2005 the HDOT-A came to the operators with plans to build the framework of the buildings consisting of 1 two story building (on pads 1&2) and the rest were one story buildings to make sure the line of sight was not lost between the tower and the aircrafts. A year later the HDOT-A arrived back at the meetings where after all this time the State decided the operators would build their own building on the empty

lots . The discussions always came back to space, especially space for customer and employee parking. Currently, ALL operators, other than Island Helicopters have FREE vehicle parking from the State. No other operator pays for the parking used for either customers or employees. These discussions continued for over three years always with agreement between the operators and then the HDOT-A taking notes to return to the table with totally different ideas and plans. This was the most frustrating experience we have had in the 40 years of being tenants at the Lihue Airport.

In 2006 Blue Hawaiian Helicopters arrived on Kauai. The Tesoro fuel line was then operated by the State and was deemed contaminated. Blue Hawaiian used their ability to fly to Maui to switch aircrafts to build their business. Blue Hawaiian had 2 pads but kept 6 helicopters on Kauai, parked for approximately 3-5 years without paying rent of any sort. They built a building without a Use Permit and were given an FBO lot yet they have never sold even a screwdriver to the public.

Jack Harter kept 4 helicopters on 2 pads, not paying rent for 2 of the spaces, Mauna Loa has had as many as 5 helicopters on their 2-3 spaces and Sunshine Helicopters has kept 4 helicopters on their 2-3 spaces. We have always paid for our spaces, this was brought up to the HDOT-A managers as well as the land management, with no comment as free rent continued for years.

We questioned Blue Hawaiian's FBO lot and Jack Harter's FBO lot many occasions, concerning their rents and leases. These leases are different than ours and their requirements are different as well.

It is a tough business to operate. Since 1980, 26 helicopter companies have gone out of business. We have weathered 2 hurricanes, floods, economic failures, and fierce competition, not to mention the pandemic but our hardest hurdle is always the State of Hawaii Department of Transportation Airports Division. We have seen at least 7 Lihue airport managers come and go and find that Honolulu administration the most difficult and cost spending (and wasting) division we have ever witnessed.

- 1) FEDERAL GRANT ASSURANCES**
- 2) "THE LIST" AND HELIPORT**
- 3) FBO- IRREGUALR RATES AND FREE RENT**
- 4) AIRBORNE AVIATION A TOUR COMPANY**
- 5) PAD 4 AND THE CONTINUED LOSS OF REVENUE FOR THE STATE OF HAWAII**
- 6) ISLAND HELICOPTER LEASE REQUIREMENTS**
- 7) SAMPLES OF EXAMPLES OF FREE RENT OR LOST REVENUE**
- 8) RECENT REQUEST TO HDOT-A**

Federal Grant Assurances

Chapter 9. Unjust Discrimination between Aeronautical Users

9.1. Introduction. This chapter contains guidance on the sponsor's responsibility to make the airport available on reasonable terms and without unjust discrimination. This guidance is primarily economic and focuses on charging comparable rates to similarly situated aeronautical users. Issues of unjust discrimination arising from access restrictions are addressed in chapters 13, *Airport Noise and Access Restrictions*, and 14, *Restrictions Based on Safety and Efficiency Procedures and Organization*, respectively. It is the responsibility of the airports district offices (ADOs) and regional airports divisions to advise sponsors on their obligations in this area.

a. Federal Grant Obligations. Grant Assurance 22, *Economic Nondiscrimination*, requires the sponsor to make its aeronautical facilities available to the public and its tenants on terms that are reasonable and without unjust discrimination. This federal obligation involves several distinct requirements.

First, the sponsor must make the airport and its facilities available for public use.

Next, the sponsor must ensure that the terms imposed on aeronautical users of the airport, including rates and charges, are reasonable for the facilities and services provided.

Finally the terms must be applied without unjust discrimination.

The prohibition on unjust discrimination extends to types, kinds and classes of aeronautical activities, as well as individual members of a class of operator. This is true whether these terms are imposed by the sponsor or by a licensee or tenant offering services or commodities normally required at the airport. The tenant's commercial status does not relieve the sponsor of its obligation to ensure the terms for services offered to aeronautical users are fair and reasonable and without unjust discrimination. (See



An air carrier that assumes the same obligations imposed on other tenant air carriers shall enjoy the same classification and status. This applies to rates, fees, rentals, rules, regulations, and conditions covering all the airport's aeronautical activities. (Photo: FAA)

paragraph 12.5.a of this Order.)
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b. Other Federal Obligations.

These same requirements apply to the Federal Aid to Airports Program (FAAP) and the Airport Development Aid Program (ADAP) agreements. These requirements are also reflected in surplus property and nonsurplus property agreements.

9.2. Rental Fees and Charges: General.

a. Comparable Rates, Fees, and Rentals.

For facilities that are directly and substantially related to air transportation, regardless of whether an air carrier or user is a tenant, subtenant, or nontenant, the sponsor must impose nondiscriminatory and substantially comparable rates, fees, rentals, and charges on all air carriers and users that assume similar obligations, use similar facilities, and make similar use of the airport.

Aside from rates, fees, and rentals, the sponsor must also impose comparable rules, regulations, and conditions on the use of the airport by its air carriers and users, regardless of whether they are tenants, subtenants, or nontenants.

b. Signatory and Nonsignatory Air Carriers.

The sponsor may establish a separate rate, fee, and rental structure for the use of airport facilities depending on whether an air carrier chooses to assume the obligations of a signatory carrier to a sponsor's



An airport might have fixed-base operators (FBOs) that provide commercial services such as the sale of aviation fuel and oil, tie-down and aircraft parking facilities, ramp services, flight training, aircraft sales, or avionics repair. Some FBOs may not be similarly situated, especially in regard to investment in facilities. A sponsor may have different fee schedules for FBOs not similarly situated. One of the most common and needed aeronautical services is aircraft parking. In the photograph above, the typical tie-down spot and rigging is illustrated. Another common aeronautical service is aircraft sales, shown below. (Photos: FAA)



²⁷ The obligations under the grant assurances to afford reasonable access extends only to aeronautical users engaging in aeronautical activities. The grant assurance obligations do not extend to nonaeronautical users.

airport use agreement or chooses not to assume those obligations and be classified as a nonsignatory carrier. The primary obligation of a signatory is to lease space in airport facilities and commit to long-term financial support of the development and operation of the airport. The debt for airport facilities is typically secured by signatory tenant leases. In return for their financial commitment, signatory carriers may have a rate, fee, and rental structure that differs from nonsignatory carriers choosing not to make the same financial commitment. The sponsor cannot unreasonably deny signatory status to an air carrier willing and able to assume the obligations of a signatory carrier.

c. Fixed-base Operators (FBOs).²⁸ The sponsor must impose the same rates, fees, rentals, and other charges on similarly situated fixed-based operators (FBOs) that use the airport and its facilities in the same or similar manner. However, FBOs under different types of sponsor agreements may have different fees and rentals. For example, an FBO leasing a sponsor-owned aeronautical facility may pay more in rent to the sponsor than an FBO that builds and finances its own facility. In the first case, the FBO is not servicing debt while in the second case, the FBO is servicing debt.

d. Changes in Rates Over Time. A sponsor is not foreclosed from revising its rental rate structure from time to time. An airport sponsor does not engage in unjust discrimination simply by imposing different lease terms on carriers and users whose leases have expired. FAA recognizes rate differences based partly on differences in other lease terms and facilities. Ideally, a new rate should be imposed at a time when the rates can be changed for all similarly situated tenants at the same time to avoid any claims of unjust discrimination. In some cases, however, the sponsor will have reason to revise rates even though existing contracts at lower rates have not yet expired. In such cases, the sponsor should make every effort to provide terms for new contracts that will support any difference in rates between new tenants and existing tenants. The sponsor should also consider limiting the term of new agreements to expire when existing agreements expire in order to bring all similarly situated tenants under a common rate structure at one time. While circumstances may allow differences in rental rates among tenants, landing fee schedules generally must be applied uniformly to all similarly situated users at all times (i.e., a signatory rate and a separate nonsignatory rate).

e. Complaints. The FAA does not normally review airport fees or question the fairness or comparability of the sponsor's rates, fees, and rental structure. Accordingly, the FAA normally investigates only upon receipt of a properly documented complaint that alleges sponsor noncompliance with an applicable assurance, such as Grant Assurance 22, *Economic Nondiscrimination*, Grant Assurance 23, *Exclusive Rights*, Grant Assurance 24, *Fee and Rental Structure*, or Grant Assurance 25, *Airport Revenues*.

²⁸ A fixed-base operator (FBO) is a commercial entity providing aeronautical services such as fueling, maintenance, storage, ground and flight instruction, etc., to the public.

f. Additional Information.

Refer to chapter 18 of this Order, *Airport Rates and Charges*, for a further discussion on airport rates and charges, and chapter 15 of this Order, *Permitted and Prohibited Uses of Airport Revenue*, for use of airport revenue.

9.3. Types of Charges for Use of Airport Facilities.

The sponsor may use direct charges (such as landing and tie-down fees) to charge aeronautical users for use of airport facilities. It may also use indirect charges through its FBO such as fuel flowage fees or percentages of gross receipts fees where it factors into the price of fuel and other aeronautical services the cost of providing airport facilities. For example, an FBO may have a ground lease, on which it erects hangars and other facilities, and also pay the sponsor a percentage of the receipts from fuel and aeronautical services provided to aeronautical users.

9.4. Airport Tenant and Concessionaire Charges to Airport Users.

At most airports, profit-motivated private enterprise can best provide fuel, storage, and aircraft service.

When negotiating agreements with tenants and concessionaires, it is the sponsor's responsibility to retain sufficient oversight to guarantee that aeronautical users will be treated fairly. A sponsor is encouraged to include a "subordination clause" in its contracts' standard terms and conditions. Such a clause subordinates the sponsor's contract with tenants to



A sponsor may establish two classes of FBO, one serving primarily high performance aircraft and another that caters to piston powered aircraft. Rates that may not be comparable because entities are not similarly situated should, nevertheless, be equitable. (Photos: FAA)



its federal obligations, preserving its rights and powers under Grant Assurance 5, *Preserving Rights and Powers*.

The sponsor has a federal obligation to ensure that aeronautical users have access to airport facilities on reasonable and not unjustly discriminatory terms. The sponsor is not obligated by federal grant agreements or property deeds with the United States to oversee the pricing and services for nonaeronautical concessions such as public parking and ground transportation, food and beverage concessions, and other terminal area concessions.

9.5. Terms and Conditions Applied to Tenants Offering Aeronautical Services.

a. Signatory and Nonsignatory. An air carrier that is willing and able to assume the same obligations assumed by other tenant air carriers shall enjoy the same classification and status. This applies to rates, fees, rentals, rules, regulations, and conditions covering all the airport's aeronautical activities.

b. Signatory Fees and Rentals. The sponsor may



All grant agreements contain an assurance that the sponsor will neither exercise nor grant any right or privilege that would have the effect of preventing the operator of an aircraft from performing any services on its own aircraft with its own employees. Two entities to which this applies are charter operators (below) and flight schools (above). (Photos: FAA).



§ 47129, including a dispute over matters described by § 47129 (e) and (f), will be processed by FAA under procedures applicable to airport compliance matters in general. In considering such a dispute, FAA's role is to determine whether the airport proprietor is in compliance with its grant obligations and statutory obligations relating to airport fees. The FAA proceeding is not intended to provide a mechanism for adjudicating the respective rights of the parties to a fee dispute.

In addition, the Department will not entertain a complaint about the reasonableness of a fee set by agreement filed by a party to the agreement setting the disputed fee. In the case of a complaint about the reasonableness of a fee set by agreement filed by an aeronautical user who is not a party to the agreement, the Department may take into account the existence of an agreement between air carriers or foreign air carriers, and the airport proprietor, in making a determination on the complaint.

Further, FAA will not ordinarily investigate the reasonableness of a general aviation airport's fees absent evidence of a progressive accumulation of surplus aeronautical revenues.

D. Components of Airfield

The Department considers the airfield assets to consist of ramps or aprons not subject to preferential or exclusive lease or use agreements, runways, taxiways, and land associated with these facilities. The Department also considers the airfield to include land acquired for the purpose of assuring land-use compatibility with the airfield, if the land is included in the rate base associated with the airfield under the provisions of this policy.

Principles Applicable to Airport Rates and Charges

1. In general, the Department relies upon airport proprietors, aeronautical users, and the market and institutional arrangements within which they operate, to ensure compliance with applicable legal requirements. Direct Federal intervention will be available, however, where needed.

2. Rates, fees, rentals, landing fees, and other service charges ("fees") imposed on aeronautical users for aeronautical use of airport facilities ("aeronautical fees") must be fair and reasonable.

3. Aeronautical fees may not unjustly discriminate against aeronautical users or user groups.

4. Airport proprietors must maintain a fee and rental structure that in the

circumstances of the airport makes the airport as financially self-sustaining as possible.

5. In accordance with relevant Federal statutory provisions governing the use of airport revenue, airport proprietors may expend revenue generated by the airport only for statutorily allowable purposes.

6. Fees imposed on international operations must also comply with the international obligations of the United States, which include the requirements that the fees be just, reasonable, not unjustly discriminatory, equitably apportioned among categories of users, no less favorable to foreign airlines than to U.S. airlines, and not in excess of the full cost to the competent charging authorities of providing the facilities and services efficiently and economically at the airport or within the airport system.

Local Negotiation and Resolution

1. In general, the Department relies upon airport proprietors, aeronautical users, and the market and institutional arrangements within which they operate, to ensure compliance with applicable legal requirements. Direct Federal intervention will be available, however, where needed.

1.1 The Department encourages direct resolution of differences at the local level between aeronautical users and the airport proprietor. Such resolution is best achieved through adequate and timely consultation between the airport proprietor and the aeronautical users about airport fees.

1.1.1 Airport proprietors should consult with aeronautical users well in advance, if practical, of introducing significant changes in charging systems and procedures or in the level of charges. The proprietor should provide adequate information to permit aeronautical users to evaluate the airport proprietor's justification for the change and to assess the reasonableness of the proposal. For consultations to be effective, airport proprietors should give due regard to the views of aeronautical users and to the effect upon them of changes in fees. Likewise, aeronautical users should give due regard to the views of the airport proprietor and the financial needs of the airport.

1.1.2 To further the goal of effective consultation, Appendix 1 of this policy statement contains a description of information that the Department considers would be useful to the U.S. and foreign air carriers and other aeronautical users to permit meaningful consultation and evaluation of a proposal to modify fees.

1.1.3 Airport proprietors should consider the public interest in establishing airport fees, and aeronautical users should consider the public interest in consulting with airports on setting such fees.

1.1.4 Airport proprietors and aeronautical users should consult and make a good-faith effort to reach agreement. Absent agreement, airport proprietors are free to act in accordance with their proposals, subject to review by the Secretary or the Administrator on complaint by the user or, in the case of fees subject to 49 U.S.C. 47129, upon request by the airport operator, or, in unusual circumstances, on the Department's initiative.

1.1.5 To facilitate local resolution and reduce the need for direct Federal intervention to resolve differences over aeronautical fees, the Department encourages airport proprietors and aeronautical users to include alternative dispute resolution procedures in their lease and use agreements.

1.1.6 Any newly established fee or fee increase that is the subject of a complaint under 49 U.S.C. 47129 that is not dismissed by the Secretary must be paid to the airport proprietor under protest by the complainant. Unless the airport proprietor and complainant agree otherwise, the airport proprietor will obtain a letter of credit, or surety bond, or other suitable credit instrument in accordance with the provisions of 49 U.S.C. 47129(d). Pending issuance of a final order determining reasonableness, an airport proprietor may not deny a complainant currently providing air service at the airport reasonable access to airport facilities or services, or otherwise interfere with that complainant's prices, routes, or services, as a means of enforcing the fee, if the complainant has complied with the requirements for payment under protest.

1.2 Where airport proprietors and aeronautical users have been unable, despite all reasonable efforts, to resolve disputes between them, the Department will act to resolve the issues raised in the dispute.

1.2.1 In the case of a fee imposed on one or more U.S. air carriers or foreign air carriers, the Department will issue a determination on the reasonableness of the fee upon the filing of a written request for a determination by the airport proprietor or, if the Department determines that a significant dispute exists, upon the filing of a complaint by one or more U.S. air carriers or foreign air carriers, in accordance with 49 U.S.C. 47129 and implementing regulations. Pursuant to the provisions of 49 U.S.C. 47129, the Department may only determine whether a fee is

“The List” and Helipoint

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION
400 Rodgers Boulevard, Suite 700
Honolulu, Hawaii 96819-1880

BARRY FUKUNAGA
DIRECTOR

Deputy Directors
FRANCIS PAUL KEENO
BRENNON T. MORIOKA
BRIAN H. SEKIGUCHI

IN REPLY REFER TO:

AIR
07.059

July 31, 2007

Mr. Ronnie Simpson
Manager, Airports District Office
Federal Aviation Administration
P. O. Box 50244
Honolulu, Hawaii 96850-0001

Dear Mr. Simpson:

The Department of Transportation, Airports Division (DOTA), will be leasing the helipad spaces upon completion of the current project to improve the heliport at Lihue Airport. Since the litigation over the helipad spaces at Lihue Airport was dismissed on December 17, 2004, nine entities have expressed interest in leasing space at the heliport. Eight of the entities have already been qualified for a lease. The latest applicant, Mauna Loa, is currently going through the qualification process.

Upon completion of the project, there will be twenty spaces available for lease (see attached map). There is enough space for limited improvements (e.g., office space, small hangars, etc.) for Space Nos. 1 through 17. Space Nos. 18 through 20 do not have sufficient room to install any improvements.

DOTA intends to offer each operator two spaces each on the basis of seniority. The spaces must be adjacent to each other, e.g., Spaces 1 and 2, Spaces 3 and 4, etc. According to DOTA's records, the order of seniority is as follows:

1. Island Helicopters Kauai, Inc.
2. Will Squyres Helicopter Tours
3. Jack Harter Helicopters, Inc.
4. Safari Aviation, Inc.
5. Air Kauai, Inc.
6. Heli USA Airways, Inc.
7. Blue Hawaiian Helicopters
8. Paul Asmus
9. Mauna Loa Helicopters (assuming Mauna Loa qualifies for a lease).

Mr. Ronnie Simpson
July 31, 2007
Page 2

AIR
07.059

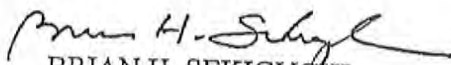
Based upon this list, Island Helicopters will be given the first choice as to which pads it will lease; Will Squyres will be given second choice and the process will continue until Mauna Loa has chosen its spaces.

Because there are nine entities, there will be two pads left at the end of the first round. The State intends to lease all the spaces. Accordingly, the State will go back to the top of the list and offer a single pad to Island Helicopters. If Island Helicopters accepts the pad, the last pad will be offered to Will Squyres. If Island Helicopters declines, the last two pads will be offered to Will Squyres and Jack Harter, respectively. This process will continue until the last two spaces are allocated. In the event, however, that another qualified operator informs the State that it wants to lease space prior to the acceptance of the State's offer regarding the last two remaining spaces, the two spaces will be offered to this operator.

In the future, in the event that helipad space becomes available for use (e.g., a lessee defaults on the terms of the lease and the lease is terminated), DOTA's policy will be to give preference to entities that do not have space at the heliport. To implement this policy, a waitlist will be maintained and posted in the Kauai District Manager's office. For example, if Company A does not have a space at the heliport, Company A will be put at the top of the waitlist. In the event that that no additional operator informs DOTA that it desires space at the heliport, DOTA will use the list provided above beginning with the entity that does not have a third space at the heliport.

DOTA believes that this allocation process is, in consideration of the limitations and restrictions, reasonable and a fair effort to accommodate our tenants. It will also further the policy to provide all qualified operators access to the heliport. The process also gives consideration to the senior operators who have been asking for additional space over the years. Although DOTA cannot provide each operator with the number of spaces that they desire, the allocation process is fair given the physical constraints of the heliport. If you have any questions, please call me at 838-8602.

Sincerely,


BRIAN H. SEKIGUCHI
Deputy Director-Airports

Attachments

c: Ms. Laurie Yoshida
(GOV Liaison)
bc: AIR-E, AIR-EC, AIR-K, AIR-PM
Patrick Boisvert

LINDA LINGLE
GOVERNOR



BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION
400 Rodgers Boulevard, Suite 700
Honolulu, Hawaii 96819-1880

IN REPLY REFER TO:

AIR-PM
09.0155

March 20, 2009

Mr. Curtis Lofstedt
President
Island Helicopters Kauai, Inc.
P. O. Box 831
Lihue, Hawaii 96766

Dear Mr. Lofstedt:

The State of Hawaii, Department of Transportation, Airports Division (DOTA) in its letter (AIR-A 09.0031) indicated that failure to return signed lease agreements by February 27, 2009, would result in DOTA establishing a different solution to occupancy at the heliport at Lihue Airport.

The heliport is a new facility that only was depicted in the exhibits in the offered leases. DOTA is establishing a waitlist for interested applicants for the new facility on a revocable permit basis. The waitlist will be for lots which include a paved area with two helipads and the unpaved area between the paved area and the frontage road.

Applications for the heliport waitlist will be accepted on a first-come, first-served basis as provided in Hawaii Administrative Rule section 19-17.1-3, beginning 8:00 a.m., Thursday, April 2, 2009, at the Kauai District Administration Office. Application forms may be picked up prior to April 2, 2009, at the Kauai District Administration Office.

Once the waitlist is established, offers for space will be sent out according to the waitlist. Upon receiving notice, you will have 14 calendar days to accept or decline the space. If no response is received within the 14-day period, the space will be offered to the next applicant on the waitlist. Should you accept the offer and provide the required documentation, a month-to-month revocable permit will be issued for the space.

If you have any questions, please contact Ms. Lorna Heindl of our Property Management and Land Acquisition Staff at (808) 838-8671.

Sincerely,

BRIAN H. SEKIGUCHI
Deputy Director-Airports

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION - KAUAI DISTRICT
LIHUE AIRPORT
3901 MOKULELE LOOP, UNIT 6
LIHUE, HAWAII 96766

1844
Pd4

GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE T. BUTAY
FORD N. FUJIGAMI
RANDY GRUNE
JADINE URASAKI

IN REPLY REFER TO:
AIR-K
13.057

August 2, 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Curtis W. Lofstedt
Island Helicopters
P. O. Box 831
Lihue, Hawaii 96766

Dear Mr. Lofstedt:

In May of this year we met and discussed the Lihue Heliport Operational Plan. This was the first step in the process to develop a plan to insure the heliport operates at its fullest potential; provides optimal space for current and future operators; and maintain a safe operating environment. You were given the opportunity to make a selection of helipads and adjacent lots for your operation. The airport in turn would attempt to create a buffer zone of unselected helipads for operational expansion and or selected use.

My records indicated that you selected helipads 1 & 2 and adjacent plots 011101-2A & B. Please confirm your selection(s) by signing below and returning this letter to me by August 12, 2013. After receiving all confirmations we will move on to the next step of the process.

Should you have any questions or concerns, please call me at 274-3805.

Regards,

DENNIS L. NEVES
Kauai Airports District Manager

Selection: Helipad(s) 1 & 2 and Plot(s) 011101-2A & B

Confirmed by: Curtis W. Lofstedt
(Print Name)

(Signature)

8/16/13
(Date)

Mr. Dennis L. Neves
Kauai Airports District Manager
Department of Transportation, Airports Division
3901 Mokulele loop, #6
Lihue, Hi. 96766

Date: 9-19-13

Dear Mr. Neves,

Although, over the years, there have been many unanswered questions and disagreements concerning the Lihue Interim Heliport Lease, Island Helicopters has been pushed in a corner to either sign a lease or possibly be evicted from the Lihue Heliport at a future date.

Therefore, Island Helicopters will sign a long term lease for pads 1, 2 and 3.

Bonnie and I, sole principals of Island Helicopters Kauai, Inc., are on the mainland and have been since receiving our 14 day notice. This letter from the State demands that Island Helicopters either sign a new RP or the State will cancel our current 30 day revocable permit, in 14 days.

Please have available for pick-up today (9-19-13) a current lease agreement for pads 1, 2 and 3, for Island Helicopters.

We would also request, in writing, any extensions, concessions or agreements made between the State and Blue Hawaiian Helicopters that may not be listed on the present lease documents. This is imperative to fair practice to our small business rights.

This has been sent via e-mail to expedite procedures due to the short notice given by the State. An original copy has been sent express mail today from California.

Sincerely,



Curtis W. Lofstedt
President
Island Helicopters Kauai, Inc.

Cc: Mr. Glenn M. Okimoto
Director of Transportation

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION

REVOCABLE PERMIT NO. 8109

THIS RENT INCLUDED
FUEL LINE
WHICH HAS BEEN
INOP SINCE
2007.

THIS AGREEMENT, made this 19 day of September, 2013, by and between the STATE OF HAWAII, acting by and through the Department of Transportation, Airports Division, hereinafter called "DEPARTMENT", hereby grants to the PERMITTEE hereinafter named permission to use and occupy the following described premises at the following named AIRPORT for the purpose(s) hereinafter specified; and the PERMITTEE agrees to pay the rental hereinafter specified and to perform all other obligations imposed upon it in the terms and conditions hereof.

1. PERMITTEE: ISLAND HELICOPTERS KAUAI, INC.
2. ADDRESS: P.O. Box 831
Lihue, Hawaii 96766
3. AIRPORT: LIHUE AIRPORT
4. PREMISES AS SHOWN ON ATTACHED EXHIBIT:

Area/Space No. 011-101A, containing an area of approx. 12,200 sq. ft. of improved, paved land and Space Nos. 011-101B, -101C, -101D, and -101E, containing a total area of approx. 19,677 sq. ft. of improved, unpaved land.

5. PURPOSE(S): Helicopter tour operation

6. RENTAL:		
Space No. 011-101A @ \$2.28 psfpa	\$	<u>2,318.00</u>
Space Nos. 011-101B to 011-101E @ \$1.80 psfpa	\$	<u>2,951.55</u>
Total Monthly Rental	\$	<u>5,269.55</u>

7. SECURITY DEPOSIT: \$ 15,808.65
8. EFFECTIVE DATE OF PERMIT: OCTOBER 30, 2013
9. HOLDOVER TENANCY: \$ 175.65

10. SPECIAL TERMS AND CONDITIONS AS INDICATED HEREON SPECIFIED AS ATTACHED HERETO:

- a. Environmental Compliance - Permittee's Duties
- b. Rental rates in this revocable permit will be adjusted upon determination of the 2013 Statewide Appraisal.
- c. In the event a qualified entity offers to lease the Premises named in this revocable permit, RP-8109 shall be terminated in order that the DEPARTMENT may lease the Premises to the qualified entity.
- d. The DEPARTMENT's plan for the Lihue Heliport (LH) calls for interested and qualified parties to enter into long-term leases of 15 years. Because of this fact, the issuance of long-term leases is foremost, and shall have priority over the issuance of revocable permits. If all spaces at the LH are not disposed of pursuant to the issuance of a lease, the DOTA may offer the remaining, available spaces to qualified entities by way of a revocable permit. The permittee of the revocable permit shall be advised that in the event a qualified entity offers to lease the premises occupied by the permittee, the existing revocable permit shall be terminated in order that the DOTA may lease the premises on a long-term basis.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the day and year first hereinabove indicated.

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION

PERMITTEE:
ISLAND HELICOPTERS KAUAI, INC.

By [Signature]

By [Signature]
Title: President

1 Free Rent
Blue Hawaiian
Jack Harter

being given only one year after signing lease, to complete construction or have our lease terminated is not realistic.

Why has Blue Hawaiian Helicopters operated 4 to 6 helicopters on 4-6 pads since 2006, yet paid for only two pads until 2013. They only paid for 4 pads starting just recently and fly more helicopters than they have pads?

Why has Mauna Loa Helicopters operated 4 helicopters on 4 pads from 2011 to present and pays for only 2 pads?

Why has Jack Harter Helicopters been permitted to operate 3 helicopters on 3 pads since 2006 and paid for only 2 pads? JH has been flying 4 helicopters since possibly 2011 and has only paid for 2 pads.

I was told by the Lihue Airport Manager in 2006 that all companies that were using extra pads that were not on their RP were paying a daily rate plus land tax. Recently, I have found out that this was not the case.

Island Helicopters wants the same concessions utilized and given to the other helicopter companies for all these years; including free rent for additional pads, a refund and also additional time to submit the plans and compete a building for our operation.

Island Helicopters has, until just a month ago, been the only helicopter company to pay for pads used, as required by the State. We have, for 34 years, followed the rules while other companies have been given benefits and preferential treatment that have helped them financially.

I hope to hear from you soon,

Curt Lofstedt

CONFIDENTIALITY NOTICE: This e-mail and any attachments contain information from The State of Hawaii and may contain confidential and/or privileged information. They are intended solely for the use of the named recipient or recipients. Any review, use, disclosure, or distribution of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

no years
priority

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION – KAUAI DISTRICT
LIHUE AIRPORT
3901 MOKULELE LOOP, UNIT 6
LIHUE, HAWAII 96766-9706

3/11/15

FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:
AIR-K 15.017

March 11, 2015

Mr. Curtis Lofstedt
Island Helicopters Kauai Inc.
P. O. Box 831
Lihue, Hawaii 96766

Dear Mr. Lofstedt:

In January 2014, the DOTA established new rental rates for airport real property at Lihue Airport. Because State of Hawaii law requires the rental of airport real property be no less than the current value determined by an appraisal performed by a disinterested appraiser, the DOTA offers Island Helicopters Kauai Inc. the opportunity to rent the premises presently encumbered under Revocable Permit 5670 through a new revocable permit (RP) authorized by the State Board of Land and Natural Resources. Enclosed is an Application for Revocable Permit. Please complete, verify the aircraft and registration numbers, sign and submit the Application to the Kauai Airports District Office, Attn: Mr. Dennis Neves, Manager, along with the following list of items, **within fourteen (14) days of certified receipt of this letter:**

1. A \$25 non-refundable administrative fee to cover the processing of the RP;
2. One full month's rent paid in advance in the amount of \$895.50;
3. Security deposit in the amount of \$2686.50. **Total remittance \$3607.00;**
4. Current (issued within the last six months of the date of this letter) State of Hawaii and County of Kauai tax clearance certificates for Island Helicopters Kauai Inc. and
5. A Certificate of Insurance evidencing Island Helicopters Kauai Inc. has in force Commercial General Liability Insurance, naming the State of Hawaii as an additional insured, with combined single limit coverage of at least \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate for bodily injury and property damage per occurrence for the premises.

Should Island Helicopters Kauai Inc. fail to meet the above requirements within the 14 days, the DOTA shall cancel this Application and terminate Revocable Permit 5670.

Island Helicopters Kauai Inc.
March 11, 2015
Page 2

AIR-K
15.017

Island Helicopters Kauai Inc. is also required to comply with Section 171-36(a)(4), Hawaii Revised Statutes, which requires State property not be rented to any applicant for a permit who is in arrears in the payment of taxes, rents or other obligations to any agency of the State of Hawaii or its political subdivisions.

Upon the complete execution and activation of the new RP, the DOTA must terminate Revocable Permit 5670.

Should you have any questions on this matter, please contact Mr. Dennis Neves, Kauai Airports District Manager, at (808) 274-3805.

Sincerely,



DENNIS L. NEVES
Kauai Airports District Manager

Enc.

c: AIR-PM

CERTIFIED MAIL, RETURN RECEIPT REQUESTED
#7012 1640 0001 6221 2955

FBO

**IRREGULAR RATES AND
FREE RENT**

From: Tomokiyo, Ethan <ethan.tomokiyo@hawaii.gov>
Sent: Tuesday, April 11, 2017 8:13 AM
To: fly@islandhelicopters.com
Subject: RE: Some more questions

Linda:

Please read my answers to your questions within your message below.

Kina'ole,

Ethan "TOMO" Tomokiyo
Property Manager V
Dept. of Transportation, Airports Division
400 Rodgers Blvd., 7th Floor
Hon, HI 96819-1880
Ph. 808-838-8673 Fax. 808-838-8753

Sharing our Vision

"He Kahua mokulele hanohano no ka Hawai'i a puni"
(An Airports System that is the pride of our State)

From: fly@islandhelicopters.com [mailto:fly@islandhelicopters.com]
Sent: Monday, April 10, 2017 10:49 AM
To: Tomokiyo, Ethan <ethan.tomokiyo@hawaii.gov>
Subject: RE: Some more questions

Good morning, thanks for Hobbs RP. I sent you some pictures under separate cover. The last 2 pictures are the property we are questioning. The county helicopter parks there now but in looking at the description on their recent lease, I believe it is for a different area. Airborne's area is like a parking lot. So who does have the lease or RP for the entire property?

I don't know. Please inquire with Dennis Neves.

Did Airborne take over Rotor Wing's RP for the hangar space

I don't know Rotor Wing.

; he is leasing it to Mauna Loa and Sunshine helicopters to do their maintenance so shouldn't there be a % of revenue clause in his lease/rp?

This provision is included in our leases, not in our RPs.

Getting back to the FBO lot, so if I understand you correctly even though these companies are not operating as true FBO's, they still have a 35 year lease (Blue Hawaiian) at the lower rate and they have not 1 but 3 FBO lots. Who makes such decisions as this seems discriminatory showing favoritism to three companies (Blue Hawaiian, Jack Harter and Airborne).

The Airport Manager

It is my understanding when reading the leases, the General Aviation price per square foot is less; however, DOTA receives a percentage of the business proceeds to make up for the rent. If this is the theory, why would DOTA make such a business decision to lease FBO lots at a lesser rate knowing full well that they will not receive any additional monies to make up the difference?

I do not know

This creates an unequal level of rent to other similar operators.

Out of curiosity, what do you mean about the FAA and transparency?

I refer to a real property audit performed by the FAA in March, 2014. This led to oversight by the FAA which requires the DOTA to be transparent.

Lastly, after Thursdays Governor Town Hall meeting, it is our understanding that both Ford Fuchigami and Dennis Neves stated that Port Allen leases will go out to auction.

I do not know about this and there has been no communique to treat the matter under a public auction.

How can that be when we have been on a list for over 25 years? Air Kauai's single wide building never went to auction as property management said it would. Lost revenue, as we asked to lease that area as soon as he vacated in 2008 and we have records to substantiate this fact.

Have a great day,

Linda

From: Tomokiyo, Ethan [<mailto:ethan.tomokiyo@hawaii.gov>]
Sent: Friday, April 07, 2017 2:24 PM
To: fly@islandhelicopters.com
Subject: RE: Some more questions

Please read my answers to your questions within your email message below.

Kina'ole,

Ethan "TOMO" Tomokiyo
Property Manager V
Dept. of Transportation, Airports Division
400 Rodgers Blvd., 7th Floor

Hon, HI 96819-1880
Ph. 808-838-8673 Fax. 808-838-8753

Sharing our Vision
"He Kahua mokulele hanohano no ka Hawai'i a puni"
(An Airports System that is the pride of our State)

From: fly@islandhelicopters.com [<mailto:fly@islandhelicopters.com>]
Sent: Thursday, April 06, 2017 1:38 PM
To: Tomokiyo, Ethan <ethan.tomokiyo@hawaii.gov>
Subject: Some more questions

Hi Tomo, as I mentioned the other day, Jack Harter has an RP for 4 parking pads, even though he was operating long before that and not paying for their parking. I pass by the FBO lot on a daily basis and he is now parking in front of all 3 FBO lots, so here are the questions?

Does he have a new/revised lease or RP for the parking spots?

No

Does he have all three FBO lots, if so can I get a copy of his lease.

No

Since he is not providing maintenance services to anyone except his own helicopters, why would he be granted two additional lots? This question goes for Blue Hawaiian Helicopters as I do know that they have three FBO lots and they do not provide outside services as well. Draw your own conclusion as to why they need all this space.

History...times change operations and oversight. After March, 2014, real property at the DOTA became transparent to the FAA.

Now onto a different subject:

DOT-A-16-0005 is specifically for the County of Kauai's Hughes 500. No problem, but my question is this – does Windward Aviation or Hobbs have a separate lease, if so where is it? I would like to have a copy of all his leases or RP's as well.

→ (AIRBORNE CURRENTLY)

DOT-A-16-0005 has not been executed.

What is the legal entity that Hobbs operates under. Windward Aviation is an entity operating at OGG. There is no Hobbs under Lease or RP.

OPERATING w/ NO LEASE?

Have a great day,

Linda

P.S. Attached some reading for you with regards to FBO lots

Minutes
PLNR
RE JH. Leung

**MINUTES FOR THE
MEETING OF THE
BOARD OF LAND OF NATURAL RESOURCES**

DATE: THURSDAY APRIL 22, 2016
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAI'I 96813

Chairperson Suzanne D. Case called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS

Suzanne D. Case
James Gomes
Ulalia Woodside

Chris Yuen
Stanley Roehrig
Keone Downing

STAFF

Curt Cottrell-PARKS
Maria Carnavale-PMNM
Alton Miyasaka-DAR
Ed Underwood-DOBOR
Dave Smith-DOFAW

Carty Chang-ENG
Kevin Moore-LAND
Tiger Mills-OCCL
Bryan Tanaka-DAR

OTHERS

Bill Wyhnoff /Deputy AG
Ethan Tomokiyo/DOT-AIR
David Bettencourt/M-10
Anthony Richey/L-1
Gia Lee/F-6

Ross Smith/DOT-AIR
Denis Neves/DOT-AIR
Casey Reamer/M-10
Bonnie Kahapen-Tanner/F-2
Michael H. Chan/K-1

- ITEM M-1 Issuance of a Revocable Permit for Aircraft Parking, Federal Express Corporation, Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).**
- ITEM M-2 Issuance of a Revocable Permit for Space to Park a Trailer to be used as a Field Office, NAN, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).**
- ITEM M-3 Issuance of a Revocable Permit for the Purpose of Airline Operations, Delta Air Lines, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).**

as amended
APPROVED BY THE BOARD
AT ITS MEETING HELD ON
JUL 22 2016

- ITEM M-4** Issuance of a Revocable Permit for Storage Space, Passenger Check-In Counter and Office Space for Airline Operations, All Nippon Airways Co., Ltd., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 042 (Portion).
- ITEM M-5** Issuance of a Revocable Permit for Operations Office, Primeflight Aviation Services, Inc., Diamond Head Domestic Building, Honolulu International Airport, Tax Map Key: (1) 1-1-003: 053 (Portion).
- ITEM M-6** Amendment No. 1 to Revocable Permit No. 8439, Request to Include Additional Area to Revocable Permit, Robert's Tours and Transportation, Inc., Ualena Street, Honolulu International Airport, Tax Map Key: 1-1-04: 6 (Portion).
- ITEM M-7** Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, JS Planning International LLC, Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 21.
- ITEM M-8** Issuance of a Revocable Permit for Aircraft Parking, Kolea Leasing, LLC, Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.
- ITEM M-9** Issuance of a Revocable Permit for Space in the Main Terminal for Airline Operations, Westjet, Lihue Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

Ross Smith Property Manager for the Department of Transportation Airports Division-DOT-AIR reviewed items M-1 through M-9.

Member Gomes thanked Smith for giving more detail on item M-1.

Member Yuen asked what the figure for tenancy was during low holdover tenancy it's a daily rate based on the monthly rate.

Unanimously approved as submitted (Roehrig, Gomes)

ITEM M-10 Issuance of a Fixed-Base Facility Lease, Jack Harter Helicopters, Inc., Lihue Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

Written testimony was submitted by Island Helicopters.

Chair Case noted that testimony was handed to her 2 minutes before the Board meeting. She didn't want to consider this testimony because it was too much information too late. The Board had no time to review the information before the meeting. She did pass it around for the Board members to look at.

Member Roehrig asked if DOT wanted a direct lease. Smith confirmed.

Member Roehrig asked Smith about the email that he asked to Board Secretary to forward to him. His email said in order to have a direct lease the Senate conference committee report says that the small guy has to compete with the big guy, the other reason is it will increase competition. That was what Member Roehrig wanted in writing. He asked if Jack Harter was the small guy trying to compete with the big guy.

Smith explained that everyone there on Kauai has been in business for a long time. Member Roehrig asked if it was fair to say that they were all the same size. Smith agreed; it wasn't the small guy verses the big guy.

Member Roehrig asked if this would increase competition. Smith said that they would all have leases. Member Roehrig didn't agree that that would increase competition, that wasn't in writing.

Member Roehrig asked "Tomo" if all Jack Harter's competitors had leases. Ethan Tomokiyo, Property Manager for the neighbor island airports introduced himself and said that Smith was his supervisor. He explained that the fixed rate plans and different rates from the helicopters because the leases occurred at different times. Smith clarified that rates were updated periodically.

Member Roehrig asked Tomo if it was fair to give this person a direct lease a direct lease and why.

Tomo said it was because the lease and terms would be the same, DOT wouldn't risk their grant issuance.

Member Roehrig was worried that this wasn't fair and that there was some kind of violation.

Member Downing asked if this space was offered to people that have leases now, would they want the space. Would they have the opportunity and have they been offered that space. Smith said that unless they know that a lessee is looking for a new property.

Member Downing asked if Jack Harter was offered space. Smith said he was renting space from DOT.

Member Downing asked what the beef was with Island Helicopters and Jack Harter. Denis Neves, Kauai Airports District Manager explained that they all had a beef with each other, they all get along, but all have a beef.

Neves explained that everyone was offered a lease, prior to that Harter built a hanger on the area that DOT wants to lease to them. All they want to do is lease the area they built the hanger on. Neves thought it was fair that they get the lease the land they built their hanger on. He said there are other leases available if anyone else wants. They aren't being offered a lease to conduct their tours, they are being offered a lease to do their maintenance.

Member Woodside asked if there was a concern about enforcement of the use of their space only for maintenance as opposed to tour operations. Neves said no; a RP was given for a temporary tour operation because the heliport is full.

leases. They wanted to sign leases for more than two pads, DOT said okay, no one else wants to sign leases they, Blue Hawaiian could have more. He said there was a change in policy.

Smith indicated that the way it actually played out was that when DOT first designed the heliport, the old heliport was full so DOT said everyone gets two pads. When DOT opened this heliport there were big gaps in the usage, some pads weren't used at all so DOT agreed to giving additional pads.

* Reamer disclosed that they just needed a place to operate, they don't expect anything different as far as rates and charges; they are willing to pay what everyone else is paying even though the earlier lease that they were offered would've given them a much lower lease rent.

Chair Case asked Reamer if he knew what their risk was of making a capital improvement on a revocable permit.

Reamer understood, they needed to move ahead and were assured by DOT that they would be able to get a lease. There have been changes, but they are just trying to continue their operations.

Member Downing asked Reamer if he was willing to do a 15 year lease instead of a 35 year lease to be like everyone else.

Reamer believed that if he approached the owners of the company then they would probably say yes.

Member Roehrig gave the letter submitted by Island Helicopters and asked him to read it and explain the context of the letter in the face of the docket today.

Smith said that the 2007 letter did establish a two pad limit.

Member Roehrig asked if there was any other letter to like affect today or is it still the rule. Smith said no it wasn't the rule now.

Member Roehrig asked to see the new rules in writing.

Chair Case asked if this company had access to preferable space that the other companies would want to have if they had a choice; do all the operators have the chance to get the space too. Smith believed that Jack Harter was being offered the lease as a fixed based operation, not just commercial tour operation.

Chair Case asked if this was really a fixed based operator or are they servicing their own helicopters.

Smith said they were servicing their own equipment, most do their own. He further explained that the heliport was intended to be self-contained entity; but has not be built out that way.

Chair Case said she wasn't comfortable with a lease here and would rather just leave it as an RP until there is a longer term solution or until everyone has the opportunity to consider. Smith said their long term solution is expanding the heliport and requiring the heliport operations to be conducted there.

Reamer asked if the Board was allowing them to do tour operations on this lease.

Member Yuen said no, this was with respect to the pads that are outside. Recommendation #2 was that the operations on those 4 pads would be moved if other space became available.

Reamer explained that with the current situation at the heliport, they are allowed to do air tours with a 15 year lease; if they are going to be restricted then that lease should allow them to be fair and equitable.

Member Yuen asked DOT if they would require Jack Harter to move from those four pads irrespective of the existence of this lease if space became available.

Neves said yes.

Member Yuen then said that part of the motion was not necessary, because they are only with a lease of a fixed based operation. That part of the motion is addressing something that he didn't want which was that they would be allowed to do the operations out of a fixed based lease.

Member Roehrig asked if it should be added that they are not permitted to do air tour operations. Tomokiyo agreed to adding the language.

Member Yuen withdrew the clause that said Jack Harter if the lease became available because that was already covered by DOT's policy. Member Woodside seconded.

Member Yuen said that his concern now is the difference in terms at the heliport operations and the terms of this lease. He asked DOT if this was a problem.

Smith and Tomokiyo said no. ~~WRONG~~

Member Yuen said that the rates should be equivalent to similar operations.

Chair Case apologized to everyone for a long discussion and noted that they would look at reordering the agenda in the future. She said she was comfortable with this and if it doesn't work out then DOT can come back with another proposal.

Member Roehrig said he supports, but he would like Tomokiyo to look at the airport rules from other jurisdictions.

Chair Case again noted that the Board received a stack of testimony with Island Helicopters Letterhead about 5 minutes before the meeting started. She said that was too late for the Board members to digest, but she would give it to DOT to look at.

Reamer commented that the testimony that was received was not from Island Helicopters.

Chair Case call for the vote; all were in favor.

Unanimously approved as amended (Yuen, Woodside)

ITEM E-1 Request for Authorization for the Chairperson of the Board of Land and Natural Resources to Sign, Execute, and Amend Contract(s) for the Capital Improvement Project as Appropriated by Act 119, Session Laws Of Hawai'i



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION
400 Rodgers Boulevard, Suite 700
Honolulu, Hawaii 96819-1080

Rec'd 4/11/7

BARRY FUKUNAGA
INTERIM DIRECTOR

Deputy Directors
FRANCIS PAUL KEEBO
BRENTON T. MORIOKA
DRAH H. SEIBUCHI

IN REPLY REFER TO:

AIR-K
07.022

April 3, 2007

Mr. Casey Riemer
Jack Harter Helicopters, Inc.
P. O. Box 306
Lihue, Hawaii 96766

Dear Mr. Riemer:

Subject: Response to Inquiry

Thank you for your letter requesting clarification on established procedures.

1. HAR 19.17.1 allows operators to apply for an aircraft tie down at any airport and if there are available tie downs, one will be issued a Parking Permit. Lihue has several tie downs available, but they are designed specifically for fixed wing aircraft (three point "T" in ground tie down points). There are not any tie downs that are unique to helicopters. Therefore, it is the operator's choice how to use these points to secure their helicopter.
2. All helicopter tour operations take place at Lihue Heliport, which are currently undergoing improvements.
3. Helicopter tour operations are not authorized to be permitted from the General Aviation Ramp. However, the area can be used to enplane/deplane passenger destined for another airport or involved in special aerial operations.
4. The Fixed Base Operator (FBO) area was designed for locating those fixed wing tour operators, ground service companies to have office and training/briefing, ground handling services, FAA Certified FAR Part 145 (Repair Stations) maintenance facilities, flight school activities, Tie Downs/parking spaces, and T-hanger storage for fixed wing aircraft.
5. Helicopter operations within the FBO leased lot area will be those stated in Paragraph 4 above, that are associated with a certified flight school or, Repair Station/Depot level maintenance.

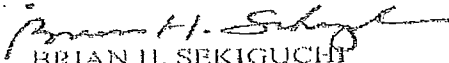
Mr. Casey Riemer
April 3, 2007
Page 2

AIR-K
07.022

6. HAR 19-31.1-2 requires aircraft owners in the State of Hawaii to register their aircraft yearly and the form requires the aircraft owner to identify a base of operations but the aircraft may use other public airports on a "transient" basis without having to pay associated landing and ground handling fees. Further, under HAR 19-34 helicopter operators are authorized to conduct tours from other airports as requested and approved in the Tour Operator permits.

If you have any questions, please contact Mr. George Crabbe, Kauai Airports District Manager, at 246-1450.

Sincerely,


BRIAN H. SEKIGUCHI
Deputy Director-Airports

c: Ms. Laurie Yoshida
(Governor's Liaison)
FAA ACTC, FSDO

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION
400 Rodgers Boulevard, Suite 700
Honolulu, Hawaii 96819-1880

BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI

IN REPLY REFER TO:

AIR-PM
08.0501

July 24, 2008

Mr. Curt Lofstedt
President
Island Helicopters Kauai, Inc.
P.O. Box 831
Lihue, Hawaii 96766

Dear Mr. Lofstedt:

Enclosed are copies of the questions submitted to the State of Hawaii, Department of Transportation, Airports Division (DOTA) regarding the heliport at Lihue Airport and the DOTA's responses to those questions.

If you have any questions, please contact Ms. Lorna Heindl of our Property Management and Land Acquisition Staff at (808) 838-8671.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian H. Sekiguchi".

BRIAN H. SEKIGUCHI
Deputy Director-Airports

Enc.

10. From the map handed out at the meeting it appears that space 9 with helipads 17 and 18 will have no developable area fronting the helicopter pads. Currently there is some usable space next to the lift station fronting pad 18. Is this space being reserved for some use other than the operations at the Lihue Interim Heliport?

Answer: See attached e-mail dated November 19, 2007.

11. Which tenant spaces will be allowed to build two-story building?

Answer: The State will only allow single story buildings at the Heliport.

12. What ADA requirements will we be required to comply with?

Answer: Tenants must meet all requirements of ADA.

13. Will elevators be required for two-story buildings?

Answer: See answer to Question 11.

14. The DESIGN CRITERIA presented at the meeting are for all areas at the Lihue Airport. There is one hangar on a lease lot that was constructed after August of 2003. It does not meet all of the design criteria. This sets a precedent for all future buildings at the Lihue Airport. We have already been communicating with DOT-A about this matter and have been assured in writing that we will be able to construct a building that is similar in design to the building on the "FBO" lot.

Answer: The design criteria presented with the leases were specifically created for the heliport development. The State may choose to provide different criteria for different areas of the airport depending on several factors which could include usage, visibility and feasibility. The hangar mentioned in the question was allowed to be built differing from certain portions the criteria developed for the heliport; however, that does not mean it sets a precedent. All tenants are welcomed to propose variations or alternatives to the State's design criteria and they will be reviewed on a case by case basis.

15. We have notified DOT-A that we have health and safety concerns related to conducting our operations from the heliport areas during the current construction process and during the construction of improvements. We request the ability to relocate our operations to another area of the Lihue Airport (North Ramp) during the final phase of the heliport improvements and during the period of the construction of our improvements. If this area is not available, we need to determine where we can operate in a safe manner.

Answer: Individual helicopter operators will be allowed to rent available space in the General Aviation Subdivision for helicopter operations on a temporary basis while the operator constructs improvements at the heliport. Such temporary use shall cease upon completion of operator's improvements at the heliport. Should an operator not comply



ISLAND HELICOPTERS

August 5, 2015

U.S. Mail and Email (dennis.l.neves@hawaii.gov)

Dennis L. Neves
Kauai Airports District Manager
Hawaii Department of Transportation—Airports Division
3901 Mokulele Loop, #6
Lihue, Kauai 96766

Re: Jack Harter Helicopters

Dear Mr. Neves:

I was on the mainland when you held the recent meeting about the proposal to allow Jack Harter Helicopters to conduct passenger operations from pads near the location of its maintenance hangar on the North Ramp and so I am writing on behalf of Island Helicopters Kauai, Inc. to state our opposition to the proposal for the following reasons:

1. Since the Lihue Heliport was constructed, the Lihue Airport management and the Airports Division have prohibited helicopter tour passengers from flying out of the North Ramp because of the safety concerns if airplane and helicopter traffic were mixed. The Lihue Heliport on the South Ramp was supposed to address those safety concerns.
2. In the summer of 2014, all Kauai helicopter tour companies were given a 30-day notice to either sign a long-term lease of space at the South Ramp or lose their pads and adjoining property at the heliport. We were never given the option of flying our passengers out of the North Ramp.
3. Jack Harter Helicopters had every opportunity to secure pads and lease an area at the South Ramp but chose not to, probably because the rents being paid for its North Ramp spaces are considerably lower than the rents we are paying for South Ramp space.
4. Had Island Helicopters been given an option to fly passengers from the North Ramp, we would have preferred to move our operations to the North Ramp rather than squeeze our operations into the limited area made available to us on the South Ramp.
5. Island Helicopters has paid full rent since signing a 15-year lease, yet is unable to use much of the property which it has leased due to the Airport Division's failure to secure a Use Permit which the County of Kauai asked the State to obtain several years ago. Also, Island Helicopters' construction of its passenger office has been held up for over six months for this reason along with the Airports Division's not signing off on a water waiver which is needed to secure a Use Permit from the County.

Dennis L. Neves
August 5, 2015
Page 2

6. Now you are proposing that Jack Harter Helicopters be allowed to operate passenger flights from the North Ramp even though the Airports Division never provided that opportunity to Island Helicopters or anyone else, putting Jack Harter Helicopters at a competitive advantage over other operators and apparently ignoring the safety concerns that have prevented helicopter passenger operations from being conducted from the North Ramp in the past.

In the interests of safety, and fairness to the other helicopter operators at the Lihue Airport, we respectfully request that the proposal to allow helicopter passenger operations from the North Ramp be abandoned and that Jack Harter Helicopters be required to locate its passenger operations out of the South Ramp under a lease with substantially the same terms and conditions as we were required to sign for our operations.

Sincerely,

ISLAND HELICOPTERS KAUAI, INC.



Curt Lofstedt
President

Cc: Ross Higashi, Deputy Director, Airports Division
Ross Smith, Property and Business Development Officer

J.H.
Lease

STATE LEASE NO. DOT-A-16-0006

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION

JACK HARTER HELICOPTERS, INC.

FIXED-BASE FACILITY LEASE

LIHUE AIRPORT

ISLAND OF KAUAI

JHH
lease

amounts accrued during a period in which this Lease is or was in effect, and which are unpaid at the time of any such expiration or termination.

6. Pro Rata Payment. If this Lease terminates without fault of LESSEE on any day other than the last day of any calendar month, the applicable rents and other charges for said month shall be paid pro rata in the same proportion that the number of days this Lease is in effect for that month bears to the total number of days in that month.

G. Additional Charges. In addition to the right of STATE to charge and collect upon demand interest and service charge fees as provided in this Article V.F.3.a. (Interest Charges) and Article V.F.3.b. (Service Charge) or to terminate this Lease pursuant to Article XX. (Termination by STATE) hereof, STATE may levy on and collect from LESSEE a charge of TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) per day, paid in legal tender of the United States of America, for each and every day LESSEE is in violation of any of the agreements, covenants, promises, provisions, requirements, reservations, restrictions, stipulations, terms, or conditions of this Lease; provided, however, that there shall be no levy unless the violation(s) continues beyond the period specified in Article XX. (Termination by STATE) hereof, for remedial action(s); and provided further, that separate charges may be levied by STATE for violations of separate provisions by LESSEE even though the violation(s) may be concurrent. Payment of the additional charges by LESSEE shall be due and paid to STATE on demand and shall bear interest when not paid at the same rate and in the same manner as for unpaid rentals as prescribed and set forth in Article V.F.3.a. (Interest Charges).

H. Return of Prepaid Rental. In the event this Lease is terminated prior to its expiration for any cause except LESSEE's default, all unearned, prepaid rentals received by STATE from or on behalf of LESSEE hereunder shall be returned or refunded to LESSEE.

I. Business Records. In connection with the rental obligations of LESSEE, LESSEE shall:

1. Monthly Report – Fuel Flowage Fee. Submit to the STATE on or before the twentieth (20th) day of each and every month following each month of the term of the Lease, including the twentieth (20th) day of the month following the end of the Lease by expiration or sooner termination, at the place fixed for the payment of rent, a written report using the forms prescribed or approved by the Director, to be certified as correct by the LESSEE or by a person duly authorized by the LESSEE to so certify, showing in accurate detail, the amount of aviation fuel delivered by a commercial supplier (s) during the previous month, accompanied with fuel delivery receipts from the commercial supplier(s) for the same period.

2. Monthly Report – Gross Receipts. Submit to the STATE on or before the twentieth (20th) day of each and every month following each month of the term of the Lease, including the twentieth (20th) day of the month following the end of the Lease by expiration or sooner termination, at the place fixed for the payment of rent, a written report using the forms prescribed or approved by the Director, to be certified as correct by the LESSEE or by a person duly authorized by the LESSEE to so certify, showing in accurate detail the amount of Gross Receipts for the preceding month.

3. Annual Report - Fuel Flowage Fee Report. The LESSEE shall further submit on or before the sixtieth (60th) day following the end of each Lease year, at the place fixed for the payment of rent, a written statement certified as correct by LESSEE or by a person duly authorized by LESSEE to so certify, or by a licensed, independent certified public accountant, showing in accurate detail, the total amount of aviation fuel delivered by a commercial supplier(s) for each such lease year.

4. Annual Report - Gross Receipt Report. The LESSEE shall further submit on or before the sixtieth (60th) day following the end of each Lease year, at the place fixed for the payment of rent, a written report certified as correct by LESSEE or by a person duly authorized by LESSEE to so certify, or by a licensed, independent certified public accountant, showing in accurate detail the amount of LESSEE's Gross Receipts for each such Lease year.

The written statements referred to herein shall be in such form and style and contain such details and breakdowns as STATE may require. Without prejudice to any remedies herein provided for such default, after seven (7) days' advance written notice to LESSEE, if LESSEE shall fail to promptly furnish any such monthly or annual verification report, STATE may have any such report prepared on LESSEE's behalf by an accountant to be selected by STATE, at the sole cost and expense of the LESSEE. LESSEE shall furnish to such accountant all books, accounts, records, statements, computer files, records and programs and reports, including, without limitation, gross income tax reports (hereinafter referred to collectively as "Records") requested for the purpose of preparing such reports, and LESSEE shall pay immediately to STATE, upon notice from STATE, all expenses incurred by STATE in securing and obtaining such reports.

5. Access. Grant unto STATE at all reasonable times access to all Records and at any reasonable time on twenty-four (24) hours' advance written notice permit a complete audit to be made, by STATE's accountant or by a Certified Public Accountant of STATE's choice, of LESSEE's entire business affairs and Records relating to the business conducted on the Premises. LESSEE will cooperate fully in the making of any inspection, examination or audit, including, without limitation, delivering to STATE or STATE's employees or accountants, all Records that are deemed relevant by STATE or STATE's employees and accountants and situated outside of the Island of Hawaii, State of Hawaii, and if LESSEE is unable to present the Records within the time prescribed by STATE, LESSEE shall pay all travel expenses incurred by STATE or STATE's employees and accountants to examine the Records.

ARTICLE VI. RESERVED

ARTICLE VII. IMPROVEMENTS

A. Acceptance of Premises. LESSEE has examined and knows of the condition of the Premises, including the Pre-Existing Leasehold Improvements, and takes the Premises, including the Pre-Existing Leasehold Improvements, "as is", in its existing form, content and state of condition without any representation by or on behalf of STATE, and LESSEE agrees that STATE shall not be liable for any latent, patent or other defects in, on, over or under the Premises, including any/all Pre-Existing Leasehold Improvements or easements and

Mr. Sidney Hayakawa
Administrative Services Officer
State of Hawaii
Department of Transportation
Airports Division
400 Rodgers Blvd, Suite 700
Honolulu, Hi. 96819-1880

June 21, 2011

Dear Mr. Hayakawa,

I am in receipt of your letter dated May 20, 2011, that I received by certified mail on June 1, 2011.

The State's demand that I sign an RP within 60 days or take the chance of losing my airport spaces is very intimidating in nature, considering the State has done nothing about Mauna Loa Helicopters continued daily tour operations from the General Aviation ramp at the Lihue Airport.

This situation has been brought to the attention of the Lihue Airport Manager numerous times without consequences to the company involved.

Mauna Loa Helicopters continues to advertise tours out of Lihue Airport with brochures displayed in the baggage claim racks. (Brochure and magazine ad enclosed)

Passengers for tours are openly escorted to the helicopter daily.

Why should Island Helicopters or any other helicopter company on Kauai have to pay the extreme, unfounded rates at the Heliport, when this company pays a minimal space per tie-down.

This is unfair competition condoned by the State.

I would like to know why the State Airport is ignoring this blatant infraction to policy, before I am forced to sign any Revocable Permit.

Sincerely,

Curtis W. Lofstedt
President
Island Helicopters Kauai, Inc.

Cc: Mr. George Crabbe

Exhibit 1

AIRBORNE AVIATION A TOUR COMPANY

AIRBORNE AVIATION TOURS

0

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Dedicated to safety and Excellence

Strictest Safety Protocols

Our reputation for the most qualified local pilots has come from Airborne Aviation's long history of being Kauai's number one helicopter utility service provider.

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Our unique experience accessing remote areas for fire response, remote coastal and mountain rescues, supply transfers and private government services make us extremely qualified for your tour adventure or private charter.



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Tours

View Wai'ale'ale Crater aka Blue Hole & The Weeping Wall, one of the wettest places on earth. Only visible from the sky!

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EVENTS

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Duration: Based on route

Departs from: Lihue Airport, Kauai

Contact Details

Name *

First

Last

Private Charter

Price: Contact us

Duration: Based on route

Departs from: Lihue Airport, Kauai



Destinations:

- Access remote areas
- Custom tours
- Group events
- VIP Luxury transport

Phone *

Email *

 Email

Confirm Email

Departure & Flight Details

Requested tour date

 Date

Time

Charter Destination

Number of guests?

Our reputation for having the strictest safety protocols along with most qualified local pilots has come from Airborne Aviation's long history of being the number one utility service provider on the island of Kauai. Our unique experience accessing remote areas for fire response, remote coastal and mountain rescues, supply transfers and private government services make us extremely qualified for your private charter needs.

Private Charter Services

Airborne Aviation offers charter services for private luxury helicopter transportation and custom tours. Whether your destination is for business or pleasure we offer the most comfortable and current aviation accommodations on Kauai. Your travel itinerary is carefully handled and every task we are assigned is reviewed for safety, quality and efficiency.

Our dedication to safety, risk management and attention to detail gives us the ability to accomplish tasks that others may not feel confident to approach. Our commitment is to the strictest industry protocols, our customers, our pilots, their families and area communities; values that ensure these special tasks are completed with excellence!

We are able to meet a variety of needs for your travel; staff events, private parties or island transports we are excited and honored to handle your special helicopter transportation request.

Accommodations

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- VIP flight luxury
- Doors off or on



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- Access remote areas
- Custom tours

- Group events
- VIP Luxury transport

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We are able to meet a variety of needs for your travel; staff events, private parties or island transports we are excited and honored to handle your special helicopter transportation request.

Accommodations

- Guaranteed window seating
- VIP flight luxury
- Doors off or on

Book A Private Charter

Price: Contact us

Duration: Based on route

Departs from: Lihue Airport, Kauai

Contact Details



Location Scouting and surveying



Aerial Photography and videography



Off-airport transportation



Wedding proposals and flower drops



External load transport



Emergency services

How can we assist?

As a Part 135 and Part 133 air carrier we are certified to help with many helicopter charter needs. Safety is our number one priority, so you can rest assured we will do the job right, no matter the task.

NOT FBO

PAD 4

**AND THE CONTINUED
LOSS OF REVENUE FOR
THE STATE OF HAWAII**

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**AGENDA
FOR THE MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES**

DATE: NOVEMBER 13, 2020
TIME: 9:00 A.M.
LOCATION: Online via ZOOM, Livestream via YouTube

Meeting materials are available for public review in advance of the meeting at:

<http://www.dlnr.hawaii.gov/meetings>

Considering the evolving COVID-19 situation, protecting the health and welfare of the community is of utmost concern. As such, the meeting will be held remotely, with board members, staff and applicants participating via online meeting venue.

The meeting will be livestreamed at:

<http://youtube.com/c/boardoflandandnaturalresourcesdlnr>

TESTIMONY:

Interested persons can submit written testimony in advance of each meeting that will be distributed to Board Members prior to the meeting. Written testimony must be submitted no later than 24 hours prior to the meeting to ensure time for Board Members to review it. Late written testimony will be retained as part of the record, but we cannot assure Board Members will receive it with sufficient time for review prior to decision-making. Submit written testimony to blnr.testimony@hawaii.gov.

To provide live oral/video testimony during the online meeting, email your request to blnr.testimony@hawaii.gov at least 24 hours in advance, with your name, phone number, email address, computer identification name (check your device settings), and the agenda item on which you would like to testify. Once your request has been received, you will receive an email with the Zoom link via which to testify. You will need a computer with internet access, video camera and microphone to participate. If you require access by phone only, please indicate that in your email request. Testimony will be limited to a maximum of three (3) minutes per person per agenda item.

The Board may go into Executive Session pursuant to Section 92-5(a) (4), Hawaii Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

Individuals requiring special assistance or auxiliary aids or services (i.e., sign language interpreter), please contact staff at least 72 hours prior to the meeting at 808.587.0404 so that arrangements can be made.

4. Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Ai Vu, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 21.
5. Issuance of a Revocable Permit for Aircraft Parking, Hawaii Pacific Aviation Inc., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 03.
6. Issuance of a Revocable Permit for Temporary Storage and Maintenance of Aircraft, Seawings LLC, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 03
7. Issuance of a Revocable Permit for Parking of Ground Service Equipment, Vehicles, and a Mobile Office Trailer, U.S. Aviation Services Corp., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 03.
8. Issuance of a Revocable Permit for Passenger Screening, County of Hawaii, Civil Defense Agency, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 03.
9. Amendment No. 1 to State Lease No. DOT-A-14-0016, Safari Aviation, Inc., Lihue Airport, Tax Map Key: (4) 3-5-01: 136 (Portion).
10. Amendment No. 1 to State Lease No. DOT-A-14-0006, Sunshine Helicopters, Inc., Lihue Airport, Tax Map Key: (4) 3-5-001: 136 (Portion).
11. Issuance of a Revocable Permit for Aircraft Parking, Buddy R. Wilson, Lihue Airport, Tax Map Key: (4) 3-5-001: Portion of 8.
12. Issuance of Month-to-Month Permit to Hawaii Stevedores, Inc. for an Office Trailer situated at Pier 1, Honolulu Harbor, Oahu, Tax Map Key No: (1) 2-1-015:009 (Portion), Governor's Executive Order No. 4238.
13. Issuance of Eight (8) Month-to-Month Permits to Kirby Offshore Marine Hawaii, LLC, for Office Space, Storage Space, Warehouse Space, and Parking, situated at Pier 21, Honolulu Harbor, Oahu, Tax Map Key Nos: (1) 1-5-039-035 (Portion), (1) 1-5-039:035 (Portion), (1)1-5-039:051, and (1) 5-039:007 (Portion), Governor's Executive Order No. 2903.
14. Request Approval for Public Auction- Five (5) Year Lease for Office Space, 4th floor, Aloha Tower, Situated at Pier 9, Honolulu Harbor, Oahu, Tax Map Key No: (1) 2-2-001:003 (Portion), Governor's Executive Order No. 3542
15. Authorizing the Department of Transportation (DOT) to sign as Grantee to a Grant of Non-Exclusive Easement for Traffic signal purposes onto land owned by Willow Plaza, L.L.C. (Willow Plaza) at Puna, Island of Hawaii, Hawaii, Tax Map Key: (3) 1-5-007:069.
16. Request Authorization to Acquire Land for the Department of Transportation, Highways Division, for Highway Purposes, Relating to Honoapiilani Highway Realignment, Phase

JY. IOE
GOVERNOR

RECEIVED

9639 15 NOV -9 12:31

DOT-AIRPORTS
KAUAI DISTRICT



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION - KAUAI DISTRICT
LIHUE AIRPORT
3901 Mokulele Loop #6
Lihue, HI 96766

WAIT LIST

PAK REQUEST
4

FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:
AIR-K1
15.047

I am the owner of the listed aircraft and I am requesting to have my name Curtis Loftstet or
Company name Island Helicopters placed on the Wait List for:

<input type="checkbox"/> Small T- Hangar	<input type="checkbox"/> Cargo Terminal Office	<input checked="" type="checkbox"/> Commuter Terminal Office
<input checked="" type="checkbox"/> Large T-Hangar	<input checked="" type="checkbox"/> Ramp Space	<input type="checkbox"/> Terminal Office Space
<input type="checkbox"/> Tie-down	<input checked="" type="checkbox"/> Vehicle Parking	<input checked="" type="checkbox"/> General Aviation Lots
Other <u>PAK</u>	<input checked="" type="checkbox"/> LIH	<input checked="" type="checkbox"/> PAK

AIRCRAFT REGISTRATION NUMBER: 801H

Type: Helicopter

Model: AS 350 B2

Address: P.O. Box 831
Lihue, Hi. 96766

Telephone: 808-246-0008 Work/Cell: 530-386-4650

Curtis Loftstet
Print Name Signature

Annual renewal for continuance on the Wait List must be submitted in writing not later than January 31 of each calendar year. If such notification is not on file before January 31, name will be deleted from the Wait List.

*Please enclose a filing fee of \$15.00 for each type of space selected.

Date File Office: _____
Wait List No: _____

Pad Request

45406

ISLAND HELICOPTERS KAUAI, INC.
P.O. BOX 831
LIHUE, KAUAI, HAWAII 96766

BANK OF HAWAII
LIHUE, HI 96768
58-1021213

CASH ONLY IF ALL CHECK-LOCK™ SECURITY FEATURES LISTED ON BACK INDICATE NO TAMPERING OR COPING

PAY TO THE ORDER OF Dept. of Transportation, Airports \$ 75.00 DOLLARS

Seventy five and 00/100

MEMO

⑈045406⑈ ⑈121301028⑈0070⑈031994⑈

PROTECTED AGAINST FRAUD

Guaranteed

Intelli Check™ Secure

Double on Back

Pad 4

fly@islandhelicopters.com

From: fly@islandhelicopters.com
Sent: Monday, January 15, 2018 12:18 PM
To: 'Williams, Tracy L'
Cc: fly@islandhelicopters.com
Subject: RE: Pad 4 - LIH Heliport

Ass't Mgr LIH.

Hi Tracy,

This places Island Helicopters in a very precarious position. We are tenants who have always complied and have always been in good standing at the Lihue Airport, for over 37 years. To hear that the State will not respond to any of our concerns is devastating news. We pay over \$8500.00 per month for our leases at the Lihue Airport and are **unable to communicate with management?** There is no "pending litigation" since Island Helicopters has not filed a lawsuit. Many of our questions concerning the Lihue Heliport, including safety matters, have gone unanswered by the State. As our landlord, who do you suggest we deal with?

I respect your compliance to your superiors and would not want to put you in an awkward position, however we **need to operate our business equal to those also leasing aircraft spaces and land leases at the State Airport.** I would hope someone would have replied in a timely manner and would appreciate a response to our request by a person of authority in the State Airports Division as soon as possible.

We are aware that the BLNR has not issued any changes to the existing lease for Pad 4, and that Pad 4 is not collecting revenue for the State at this time.

Thank you,
Curt Lofstedt

From: Williams, Tracy L [mailto:tracy.l.williams@hawaii.gov]
Sent: Monday, January 15, 2018 10:23 AM
To: fly@islandhelicopters.com
Cc: chopper@itol.com; Curt
Subject: Re: Pad 4 - LIH Heliport

Aloha Curt

I hope all is well with you and yours. I apologize for not responding. **I was advised that due to pending litigation to not return.** I hope all will be resolved

Tracy Williams

On Jan 15, 2018, at 10:18 AM, "fly@islandhelicopters.com" <fly@islandhelicopters.com> wrote:

Hi Tracy,
I hope you had a great Christmas and New Year's!

I know with the Holidays it has been hard to get answers, however, were you able to look into the matter of my e-mail dated December 13, 2017 (below)?

From: Smith, Lisa Ellen [<mailto:lisaellen.smith@hawaii.gov>]
Sent: Tuesday, March 21, 2017 1:27 PM
To: fly@islandhelicopters.com
Cc: 'Bonnie Lofstedt'; Smith, Ross; Neves, Dennis L; Williams, Tracy L
Subject: RE: pad 4

Aloha Curt,

Pad 4 is not available.

Lisa Ellen

From: fly@islandhelicopters.com [<mailto:fly@islandhelicopters.com>]
Sent: Tuesday, March 21, 2017 12:34 PM
To: Smith, Lisa Ellen <lisaellen.smith@hawaii.gov>
Cc: 'Bonnie Lofstedt' <chopper@litol.com>; Smith, Ross <ross.smith@hawaii.gov>; Neves, Dennis L <dennis.l.neves@hawaii.gov>; Williams, Tracy L <tracy.l.williams@hawaii.gov>
Subject: RE: pad 4

Lisa Ellen,

Thank you for your reply, however, I am a little confused to the disposition of pad 4. Island Helicopters is willing to sign a lease for pad 4 at this time. This would not be an exchange of pads and should not need a "Use Permit" at this time, since we have a completed building on adjoining property. This would also alleviate the problem with pad 4 being land locked allowing the State to begin collecting rent for this property.

Also, I am aware that rental rates are based on square footage. What I would like to know is how much is Sunshine Helicopters paying, at this time, for their three pads and adjoining leased areas at the Lihue Heliport.

Thank you,
Curt Lofstedt

From: Smith, Lisa Ellen [<mailto:lisaellen.smith@hawaii.gov>]
Sent: Tuesday, March 21, 2017 11:59 AM
To: fly@islandhelicopters.com
Cc: 'Bonnie Lofstedt'; Smith, Ross; Neves, Dennis L; Williams, Tracy L
Subject: RE: pad 4

Aloha Curt,

In response to your rate question, all rates are by disposed by square footage and subject to HRS 171-17.

This type of amendment, with to the request to exchange spaces, would require BLNR approval

Lisa Ellen

From: fly@islandhelicopters.com [<mailto:fly@islandhelicopters.com>]
Sent: Tuesday, March 21, 2017 11:40 AM
To: Smith, Lisa Ellen <lisaellen.smith@hawaii.gov>

Cc: 'Island Helicopters' <fly@islandhelicopters.com>; 'Bonnie Lofstedt' <chopper@itol.com>

Subject: pad 4

Hi Lisa Ellen,

I understand by our telephone conversation yesterday, that Sunshine Helicopters has signed a lease for pad 4.

You also stated that they moved from pads 5,6, and 7 to pads 4,5 and 6.

How does this move effect their lease?

Do they have another 15 year lease starting when the lease was changed, or do they have the same lease time frame, from their original signing of the lease in 2015?

What is the total amount that Sunshine Helicopters pays for their three pads and adjoining property compared to what Island Helicopters pays for its' three pads and adjoining property?

Based on the recent development and the apparent confusion between the County and the State, it is our understanding that the State is not able to commit to a binding lease agreement with operators, until the AG and BLNR remove an order from the past governor. (See BLNR agenda from past meeting)

How is the lease with Sunshine Helicopters going forward without an amendment from the BLNR?

I look forward to hearing from you at your earliest convenience.

Thank you,
Curt Lofstedt

NO REPLY FROM STATE.



This email has been checked for viruses by Avast antivirus software.
www.avast.com



This email has been checked for viruses by Avast antivirus software.
www.avast.com



Virus-free. www.avast.com

ISLAND HELICOPTER LEASE REQUIREMENTS

2. Percentage Fee. In addition to any other fees, the LESSEE shall pay a percentage of LESSEE's gross receipts from, related or attributable to the sale of souvenir or promotional items such as: 1) clothing, including but not limited to hats, shirts, shorts, pants, jackets, 2) accessories, including but not limited to handbags, fanny packs, and wallets; cups and water bottles, 3) other items bearing the name of the business, the Airport, the island or the state, or 4) any video or audio material, whether in analog or digital format, related to the LESSEE's Commercial Helicopter Operations or to island or any location within the state. The percentage shall be fifteen percent (15%).

a. Gross Receipts Defined. "Gross receipts" shall include all receipts, whether by coin or currency, on account, by check or credit card, derived or received by LESSEE from the display, offer to sell and sale of souvenirs or promotional items.

b. Exclusions. The only exclusions to the above definition shall be:

1) Taxes. Any and all retail sales taxes, excise taxes, or related direct taxes upon the consumer and collected by the LESSEE on such sales.

2) Refunds. Receipts in the form of refunds from or the value of merchandise, supplies, or equipment returned to shippers, suppliers or manufacturers.

3) Returns. Receipts with respect to any sale where the subject of such sale, or some part thereof, is thereafter returned by the purchaser and accepted by the LESSEE, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit.

4) Discounts. The amount of any cash or quantity discounts received from sellers, suppliers, or manufactures.

5) Gratuities. The amounts of any gratuities paid or given by patrons or customers to employee of the business operation.

6) Uniforms. Receipts from the sales at cost of uniforms or clothing to LESSEE's employees where such uniforms or clothing are required to be worn by such employees.

3. No Kickbacks. The LESSEE shall not be credited with nor allowed to have any reduction in the amount of gross receipts, as hereinabove defined which results from any arrangements for a rebate, kickback or hidden credits given or allowed to any customer.

i. Height limitation. All Leasehold Improvements, and other structures and improvements shall not exceed the airport height limitation prescribed by STATE or the FAA or cause a hazard to air safety, as prescribed and set forth in Article XXXVIII. (Approach Protection) hereof or pursuant to any federal, state, or county law, statute, ordinance, rule, or regulation.

j. Signs. Signs bearing LESSEE's name or business name shall not exceed the allowable overall size set by County building codes and shall not be located higher than the top of LESSEE's Leasehold Improvements. Illuminated, neon, or other similar signs are prohibited. Prior to the erection, installation, or placement of any sign by LESSEE, LESSEE must first obtain STATE's written approval of each sign's design, graphics, color, layout, and method of mounting.

k. Easement. Structures or foundations comprising LESSEE's Leasehold Improvements, including all buildings and other structures on the Premises, shall not be built, constructed, erected, installed, or placed over any pipeline or other utility conduit easement or within any aircraft approach/takeoff clear zone or other setback area without LESSEE first obtaining STATE's prior written approval.

l. Landscaping. For the enhancement and beautification of the Premises, LESSEE shall landscape all open and unpaved areas of the Premises with grass, ground cover, bushes, shrubbery, trees, and other types of foliage.

8. Completion of Construction.

a. Leasehold Improvements. LESSEE shall complete the construction and installation of LESSEE's Leasehold Improvements at, in, on, over, or under the Premises within one (1) year from the commencement date of this Lease.

b. Failure to Complete. STATE may, at its sole discretion, approve an extension of time for LESSEE to complete the construction and installation of LESSEE's Leasehold Improvements for reasonable, unforeseen delays caused by nature or labor disputes or other reasons deemed acceptable to STATE and outside LESSEE's control; provided, however, that the extension of time is granted, in writing, by STATE and does not exceed a maximum of ninety (90) calendar days in length and LESSEE submits a written request to STATE prior to the expiration of the one-year time limit to complete construction and installation of LESSEE's Leasehold Improvements. If LESSEE fails to completely construct and install LESSEE's Leasehold Improvements at, in, on, or over the Premises by the deadlines set forth above, STATE may, at its sole discretion, send a written notice of default under this Lease to LESSEE. If LESSEE fails to cure this default as required under this Lease, STATE may terminate this Lease or assess and collect from LESSEE any and all charges related to defaults under this Lease, including the additional charges under Article V.D. (Additional Charges) and such other charges as may be assessed under the provisions of Article XXI. (Termination by STATE) or resort to any other remedy available to STATE or some combination of all remedies.

**SAMPLES OF EXAMPLES
OF FREE RENT OR LOST
REVENUE**

Angela Anderson
Chair

Sean Mahoney
Vice-Chair

Louis Abrams
Wayne Katayama
Kimo Keawe
Amy Mendonca
Members



Michael A. Dahilig
Clerk of the Commission

PLANNING COMMISSION
County of Kaua'i, State of Hawai'i

4444 Rice Street
Kapule Building, Suite A-473
Līhu'e, Hawai'i 96766-1326
TEL (808) 241-4050 FAX (808) 241-6699

REQ: 16 parking
spaces
+ HANDICAP.

AUG 26 2015

ISLAND HELICOPTERS KAUA'I, INC.
c/o Walton D. Y. Hong, Esq., Authorized Agent
3135 Akahi Street, Suite A
Līhu'e, Hawai'i 96766

Subject: **Class IV Zoning Permit Z-IV-2015-45**
Use Permit U-2015-44
Tax Map Key: (4) 3-5-001:0148 (Portion)
Līhu'e, Kaua'i
ISLAND HELICOPTERS KAUA'I, INC., Applicant

Dear Mr. Hong,

This letter memorializes the action taken by the Kaua'i Planning Commission effective August 25, 2015 concerning approval of the above subject permits. The approval, per your consent, is subject to the following conditions:

1. The administration building and associated improvements shall be constructed and operated as represented. Any changes to the operation and/or the respective structures shall be reviewed by the Department to determine whether Planning Commission review and approval is required.
2. In accordance with Section 11A-2.2(a) of the KCC, the applicant shall submit to the Planning Department Environmental Impact Assessment (EIA) fees for the project. The E.I.A. fee for the subject proposal is assessed at one hundred dollars (\$100) per the minimum number of parking stalls required by the Comprehensive Zoning Ordinance (CZO). **The minimum number of off-street parking stalls serving the proposed administration building is sixteen (16); therefore, prior to operation the applicant shall submit to the Planning Department an EIA fee \$1,600.00.**

An Equal Opportunity Employer

3. Based on the proposal, the Applicant shall provide a minimum of 16 off-street parking stalls. However, the Applicant is made aware that in an effort to mitigate unforeseen parking issues, the department reserves the authority to increase the parking requirements when particular uses cause unusual traffic congestion.
4. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, all external lighting shall be only of the following types: *downward-facing shielded lights*. Any spotlights aimed upward or spotlighting of structures, landscaping, or the ocean shall be prohibited.
5. The Applicant shall develop and utilize Best Management Practices (BMP's) during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.
6. The Applicant shall resolve and comply with the applicable standards and requirements set forth by the State Health Department, and the County Departments of Public Works & Water.
7. The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.
8. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the applicant shall seek to hire Kaua'i contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kaua'i in temporary construction and permanent jobs. It is recognized that the applicant may have to employ non- Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.
9. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low energy lighting and other similar methods and techniques. All such proposals shall be

reflected on the plans submitted for building permit review.

10. The Applicant is advised that prior to construction and/or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).
11. The Planning Commission reserves the right to add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.

If you have further questions regarding this matter, please contact Dale A. Cua of my staff at (808) 241-4050.

Sincerely Yours,



MICHAEL A. DAHILIG
Clerk, Kaua'i Planning Commission

xc: COK – Public Works, Fire, Water, Finance-Real Property Division
State – Health, Historic Preservation Division-DLNR



RATES FOR LIHUE AIRPORT

Industrial Land (psfpa)	Existing	New
Improved, paved	\$ 2.24	\$ 3.00
Improved, unpaved	1.74	2.32
Unimproved, unpaved	0.87	1.16

Automobile Parking Stalls (per month)	Existing	New
Covered, paved	\$ 80.00	\$ 85.00
Uncovered, paved	52.00	55.00

LOST REVENUE FOR
FREE PARKING



RATES FOR LIHUE AIRPORT

Special Properties	psfpm	psfpa
Bldg 307 (car rental)	\$ 1.85	\$ 22.20
Bldg 003-120A (Old Air Kaua'i Hangar)	1.00	12.00
Bldg 516-144A (Island Helicopters)	1.85	22.20
Bldg 516-144B (Old Air Kaua'i)	1.85	22.20
Bldg 146 (Airborne Aviation Hangar)	1.00	12.00

**RECENT REQUEST TO
STATE DEPARTMENT OF
TRANSPORTATION
AIRPORTS DIVISION**



Sent

September 9, 2020

Director Jade Butay
State of Hawaii Department of Transportation
869 Punchbowl Street
Honolulu, HI 96813

Subject: Airport Rent and Lease Extension

Dear Director Butay,

It has now been nearly six months since the State has shut us down due to COVID-19. We have been required to pay a lease on a nearly one-million-dollar improvement we built on our now unused leased land. We are aware that other similar operators have been offered leases that are less in rent, more land and up-to a 30-year lease. We are requesting the same treatment and are asking for a longer lease with less rent. Some of these operators have falsely stated that they are Fixed Base Operators (FBO) of which, to our knowledge, they are not and have not operated as such.

In addition, there is no other similar air tour and charter company that has actually built to follow the lease definitions on the Lihue Airport. With exception to Blue Hawaiian Helicopters, who has one building (without a Use-Permit) and another lot without a building (this lot was granted, by the Board of Land and Natural Resources (BLNR) an interesting unlimited reason not to build). We have monitored all the various operator requests and leases offered to the BLNR through the Airports Division Land Management Department and feel the Hawaii Department of Transportation Airports Division (HDOT-A) is in clear violation of both their own rules and regulations, as well as the Federal Grant Assurances. The Port Allen Airport also may very well be included in the Federal definition as it is included in the Lihue Airport System. All of these various operators have rent amounts which are less than ours per square foot, as well as longer leases.

At this point, we are asking plainly to be treated equally, with consideration of our investment. We were forced to build (by the threat that if we didn't our pads would be designated to the next operator in line). Our last lawsuit was to be offered equal to what every other operator received. "The game" for the State was to spend money on attorneys, and "to win" was to lose for both us and the taxpayer in State legal costs and time.

After six months of non-use, and the billions of Federal Funding to Airports, it would be nice to see actual rent relief to your tenants from this benefit given to our State. We knew we would not be operational after two months and did not take any PPP or other loans. We took an SBA

loan after Hurricane Iniki and are still paying for it at a 4% interest and the Government added our personal home to the loan. There are no free loans.

If the State continues to operate with such a heavy hand to their tenants, especially in an inequitable manner, we will continue to pursue our rights. The deep pockets of the State are the pockets of the taxpayers. The attorney costs are the taxpayers as well, and we continue to be treated differently than our competitors. Why? Ask your management team this question. We are always left bewildered as to the reason we are charged more, harassed more and treated differently.

We are asking you to please address the following:

- The cost of our rent per square foot,
- a time extension to be equal to the other air tour operators operating out of the Lihue Airport System, based on the fact that we have a permitted, substantial improvement on the property,
- and the loss of time and money due to our lease during COVID-19.

We want to be equal to any new leases to those operators (Sunshine Helicopters, Mauna Loa Helicopters, Safari Aviation and Alii Helicopters) as they are about halfway through their leases and have yet to build. We offer the State abundant extra revenue with our inventory sales, but the other operators are not required to do so. We also pay much more in County Property Tax when these other operators operate off of unimproved raw land creating a dust bowl for *our* improvements and equipment. We also pay for our automobile parking while the other operators all park vehicles for free compliments of the State. We question the unbuilt lots at the heliport, as well as how the State will define the extension of their leases, should they ever build. What will happen in few years when we have to "go up for auction" because we were shorted on our lease timeframe in comparison to the FBO lots?

We are asking you to work together with us to make these mistakes right and to attempt to do this independently as you appear to have done with other operators, without the costs of attorneys and taxpayer funds. At this point we see some clear disparity and violations to Grant Assurances.

We have been tenants in good standing for, two months short of, 40 years. We are community members and do not think we should have to fight to be treated equally. It is past time to pay attention to the tenants who have paid for the right to remain in business and who are not in violation of the leases, rules and regulations.

Sincerely,

Curtis and Bonnie Lofstedt
Owners
Island Helicopters Kauai, Inc.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

September 28, 2020

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SHIFFEN

IN REPLY REFER TO
AIR-PM
20.0545

Mr. and Mrs. Curtis Lofstedt
Owners
Island Helicopters Kauai, Inc.
P.O. Box 831
Lihue, Kauai 96766

Dear Mr. and Mrs. Lofstedt:

The State of Hawaii, Department of Transportation, Airports Division (DOTA) is in receipt of Island Helicopter Kauai, Inc's (IHK) letter addressed to the Department of Transportation, Director Jade Butay, dated September 9, 2020, requesting that the DOTA address the following:

- The cost of our rent per square foot;
- A time extension to be equal to the other air tour operators, operating out of the Lihue Airport System, based on the fact that we have permitted substantial improvements on the property; and
- The loss of time and money due to our lease during Covid-19.

Please be advised that the cost of IHK's rent per square foot is based on the rental rates and charges published in the Airports Division Procedures No. 4.5 (Schedule of Rates and Charges), at the time of lease negotiations.

N/A

In addition, the DOTA may consider a request to extend the term of IHK's lease, pursuant to the provisions under Section 171-36 (b), Hawaii Revised Statutes.

The DOTA is aware of the current situation at Lihue Airport (and other airports), and the impact that is affecting the functioning of operators like IHK, due to the COVID-19 Pandemic, and has adopted the "Policy on Temporary Deferral of Certain Fees and Charges in Response to the COVID-19 Pandemic", from April 1 through October 31, 2020.

If you have any questions, please contact Ms. Abby Lareau, of our Property and Business Development Office at (808) 838-8674.

Sincerely,

Handwritten signature of Jade T. Butay.

JADE T. BUTAY
Director of Transportation