

LAND BOARD BRIEFING

April 23, 2021 (Item M-11)

At the August 14, 2020 Land Board meeting, under Agenda Item M-5, Fixed-Based Operation (FBO) leases were discussed in terms of use, qualification and conformance. The State of Hawaii, Department of Transportation, Airports Division (DOTA) disclosed that there are 3 current operators at Lihue Airport (LIH) that were approved as FBO's. In this meeting, DOTA stated, "they were not sure they could require the Lessee's under their leases to operate as an FBO because the leases did not specifically require it; the lease gave them the right to operate as an FBO".

The Board recommended that the DOTA have the Attorney General review the 3 leases to see whether or not the LESSEE's could be required to operate as an FBO and to determine whether the LESSEE's were actually operating as an FBO.

In response to the Land Board's questions:

The 3 operators listed below are located at the General Aviation Subdivision (North Ramp) at LIH, as shown and highlighted on Exhibit A (attached).

Definition of an FBO:

"The term fixed base operator is defined by the FAA as a "business granted the right by the airport sponsor to operate on an airport and provide aeronautical services..." The most basic FBO offers its customer fueling, use of hangars, ground services, and sometimes aircraft maintenance. The services often vary, as FBO's cater to small General Aviation aircraft, business aviation, commercial airlines, cargo operators, or a combination of clientele".

DOTA reviewed the following 3 leases at LIH:

- DOTA-12-0008 – Air Service Hawaii;
- DOTA-06-0012 – Helicopter Consultants of Maui dba Blue Hawaiian Helicopters; and
- DOTA-16-0006 – Jack Harter Helicopters, Inc.

According to each of the tenant file folders and websites, these are the services that are being offered:

1. Air Service Hawaii – "Established in 1948, locally-owned and locally managed FBO in the Hawaiian Islands that provides aviation services for business, commercial, and personal aircraft". Air Service Hawaii is known as a full service FBO offering fueling, ground handling, and concierge services. *Approved by the Land Board on 04/13/12, Item M-1.*
2. Helicopter Consultants of Maui dba Blue Hawaiian Helicopters – "Blue Hawaiian is Hawaii's #1 helicopter tour company". Their website offers Helicopter Tours only. *Approved by the Land Board on 11/17/06, M-10.*
3. Jack Harter Helicopters – offers "Helicopter Tours and Helicopter Charters (location scouting and surveying, aerial photography and videography, off-airport transportation, wedding proposals and flower drops, external load transport, and emergency services". *Approved by the Land Board on 04/22/16, Item M-10.*

DOTA concluded that (1) Air Service offers a full service FBO, (2) the aeronautical services offered by Jack Harter Helicopters satisfies the FAA’s definition of an FBO, and (3) the aeronautical services offered by Helicopter Consultants of Maui dba Blue Hawaiian Helicopters does not fit the definition of an FBO.

However, Article III. (Use of Premises) of the Leases states, “Lessee shall have the right to use the premises for any of the following”, and continues to list those rights, which include but are not limited to servicing passengers, air cargo, aircraft equipment repairs, aircraft repairs and testing, aviation fuel service or sales, aeronautical training, and the right to sell, lease, rent, park and store aircraft.

DOTA determined that while these tenants were issued FBO Leases, the language contained in the Leases provides the Lessee the RIGHT to use the premises for the services mentioned but does not necessarily REQUIRE the Lessee to perform those services.

Although DOTA has determined that the 3 operators are in compliance with the Use of Premises under their respective leases, GOING FORWARD, DOTA would like to assure the Board that any future submittals and leases for FBO’s or other Lease types would be written to describe in detail the services being offered.

WRITTEN TESTIMONY:

While the Board’s questions are focused on the issuance of FBO Leases and whether the Lessee’s are operating as an FBO, the questioning seem to originate from written testimony submitted by Island Helicopters Kauai.

Heliport Snapshot (South Ramp):

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
IHK			V	SUNSHINE			V	SAFARI	MLH		BLUE HAWAIIAN					V	V		

Currently there are 5 helicopter tour operators that were issued Heliport Leases at the Heliport located on the South Ramp at LIH.

All tenants at the Heliport executed leases for a term of 15-years, at the published Heliport rates (initial rates were approximately \$1.74/\$2.24 psfpa), with a requirement to make Leasehold Improvement at a minimum investment of \$150,000.

The highlights of the written testimony are as follows:

- DOTA and their Airport PM’s not treating the operators equally and neglecting to maintain leases in an equitable manner;
- DOTA issued FBO Leases to bypass the Public Auction process, and provided FBO Leases longer terms and lower rental rates; and
- Some of the Heliport Operators have not completed the requirement Leasehold Improvements.

Please be advised that DOTA has not only reviewed the FBO Leases, but has reviewed all of the Heliport Leases. In addition, DOTA has engaged in several discussions with Island Helicopters to fully understand their concerns.

It is important that everyone understands that there are certain terms and conditions that apply to certain types of leases, and that leases are not intended to be identical, however, there are also terms and conditions that would apply to both FBO and Heliport Leases. An example would be applying a general aviation developmental rate, in accordance with 261-7(g), HRS, and providing a lease term based on the Leasehold Investment that the tenant has made.

At this time, and without going into details on each of the leases, DOTA has offered solutions and is committed to working with Island Helicopters on a resolution. DOTA will also be addressing each of the Heliport Leases at LIH individually and as appropriate.

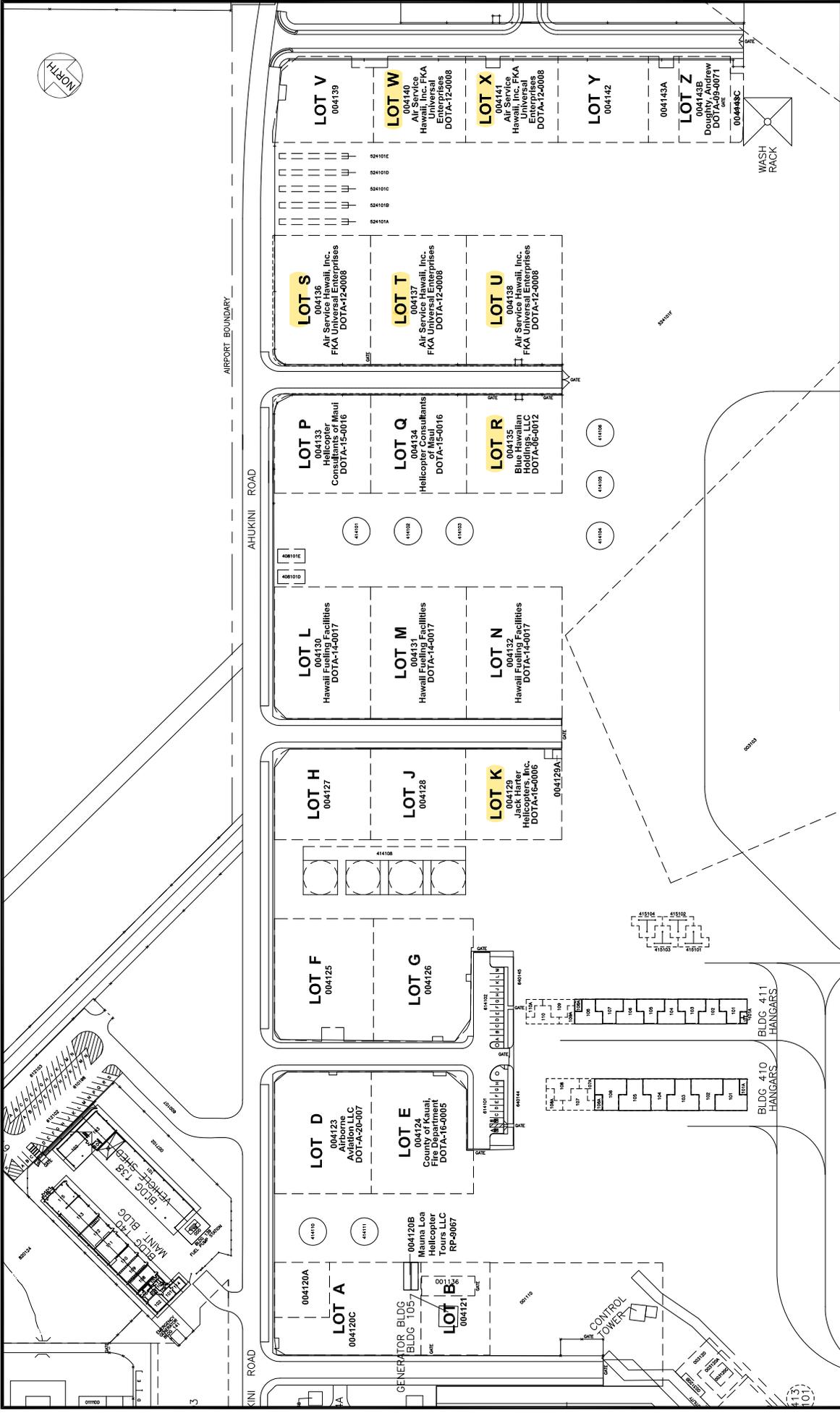


EXHIBIT: **A**

SHT 1 OF 1

**GENERAL AVIATION
SUBDIVISION LOTS
GROUND LEVEL**

Date : APRIL 2021

LIHUE AIRPORT

Airports Division