



PO Box 17603 ▪ Honolulu, HI 96817-0603 ▪ (808) 842.1359 ▪ Fax (808) 841.1270
info@sibahawaii.org ▪ sibahawaii.org

August 13, 2021

The Honorable Suzanne D. Case, Chairperson
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii 96813

Dear Chairperson Case and members of the Board of Land and Natural Resources,

Sand Island Business Association (SIBA) appreciates this opportunity to testify in support of DLNR Land Division's submittal dated August 13, 2021. This submittal essentially requests BLNR to do three things:

- Rescind its prior action of April 25, 1997, under agenda item D-5, as amended;
- Authorize the issuance of an interim revocable permit to SIBA covering all or a portion of Lot 113, as SIBA may request, for a temporary office trailer and parking purposes; and
- Authorize a certain amendment of General Lease No. S-5261 (the "Master Lease") relative to the obligation to dedicate infrastructure to the City and County of Honolulu.

1. **RESCISSION OF ACTION OF APRIL 25, 1997.** This submittal is helpful in that it acknowledges that "... over the course of 24 years that have elapsed since the date of the Board action on this item, SIBA has managed subleasing of the lots in the industrial park as originally provided for in the master lease". As such, DLNR is now "... recommending that the BLNR's action of April 25, 1997, Item D-5, as amended, be rescinded so that **any question about the need for SIBA to seek BLNR consent for tenant subleases can be resolved – BLNR consent is not required**" (emphasis added). This acknowledgment by the DLNR is an important one for SIBA and SIBA supports this action.

2. **ISSUANCE OF REVOCABLE PERMIT FOR ALL OR A PORTION OF LOT 113.** The DLNR submittal's discussion of the issuance of a revocable permit for either the whole or a portion of Lot 113 is important to SIBA's continued ability to use Lot 113. There are a number of issues which should be clarified if possible:

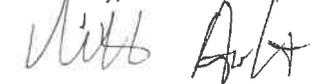
- a. Where will the 1,000 square feet to be used by SIBA be located and how will it be configured? Does SIBA have the discretion to identify the location and configuration, or will this be decided through a mutual agreement with the DLNR?
- b. Rent must be paid for that portion of Lot 113 used by SIBA in excess of 1,000 square feet, and such rent will be "fair market rent", taking into account the B-2 zoning of Lot 113. Does the appraisal need to assume that SIBA will be using Lot 113 in its entirety or just a portion of Lot 113? Does DLNR intend to use the same appraiser that it used in 2019 (whose appraisal SIBA rejected as parking would have been unaffordable at that rent schedule) to determine the fair market rent?

- c. In terms of timing, it would seem that the fair market rent for Lot 113 must be determined before the revocable permit can be finalized. Does this mean that SIBA can determine the amount of land area it will use after the rent has first been determined?
 - d. If SIBA elects to use only a portion of Lot 113, how will the remainder of Lot 113 be used? Will any restrictions be placed on the remainder portion to ensure SIBA's quiet enjoyment of the portion covered by the revocable permit?
 - e. The DLNR submittal indicates that "negotiations regarding the use of Lot 113 are ongoing and staff is not prepared to present a proposal of long-term disposition to the Board at this time." As such, the proposal for a revocable permit is described as "an interim measure." Does the term "negotiations" refer to DLNR's discussions with SIBA or with a third-party?
3. **AMENDMENT OF THE MASTER LEASE.** The discussion of the proposed amendment to the Master Lease is helpful to SIBA in that it contains an express acknowledgment by the DLNR that (i) the Master Lease contains **no stated deadline** by which SIBA must dedicate the Sand Island Industrial Park infrastructure improvements to the City; and (ii) of the DLNR's proposal to amend the Master Lease to allow dedication to the City to occur any time up to five years prior to the Master Lease is **reasonable**. Non-dedication of the infrastructure improvements allows SIBA to secure the industrial subdivision overnight and weekends. The State Park adjacent to SIBA is well known for homeless and theft issues, and our tenants have enjoyed a relatively safe working environment since 1992.

With respect to the initial bond amount of \$2,485,000, this amount is subject to increases or decreases between now and the date that is 5-years prior to the end of the Master Lease term (e.g., 2042), based upon "the reports of SIBA's engineers and on the advice of such other engineering professionals employed or procured by the BLNR". Because the City's infrastructure dedication requirements may change over time, the DLNR's desire to build in some flexibility to increase the amount of the bond is understandable. However, as a practical matter, is it feasible to procure such a bond where both the **scope** of work and the **cost** of work is likely to continue to change over time? What is involved in procuring a bond in 2021 that is supposed to guaranty the completion of work that will not be done until 2042, at the earliest?

Thank you for your consideration of SIBA's comments and concerns regarding this matter. We look forward to a continued strong and successful private-public partnership with DLNR and BLNR.

Sincerely,



Milton Holt

Executive Director

Sand Island Business Association