

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

October 22, 2021

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

Land Board Members:

**SUBJECT:** Request approval of proposed time period given to mooring permittees to remedy accounts that are delinquent in payments and/or to remedy violations of Hawaii Revised Statutes (HRS) and/or Hawaii Administrative Rules (HAR); and delegate authority to the Chairperson to revoke use permits if after lapse of the time period, the permittee fails to remedy the delinquency and/or violation.

**REMARKS:**

Among its responsibilities, the Division of Boating and Ocean Recreation (DOBOR) manages state small boat harbors and issues regular mooring permits, which allow permittees to moor a vessel at a state small boat harbor or offshore mooring area. Permittees may become delinquent in payments owed to DOBOR and remain delinquent in payments for extensive periods of time. Permittees may also violate harbor sanitation and safety rules, which create public health and safety hazards as well as create unsightly conditions in state small boat harbors.

Currently, the only recourse available to DOBOR in these situations is to wait for the regular mooring permit to expire and require the permittee to pay the balance owed to DOBOR in full or remedy the violation before being allowed to renew their permit. This often results in large past-due balances which are difficult to collect or, in the case of a violation of harbor sanitation and safety rules, the harbors being kept in an unsightly, unsanitary, and unsafe condition for an extensive period of time because there is currently no authority to immediately revoke a use permit issued to permittees that fail to comply with HRS and/or HAR restrictions.

HAR Section 13-231-6(a), Revocation of use permit, states:

If after notice and lapse of a reasonable period of time set by the department, the permittee fails to remedy any breach of the duties, covenants or conditions of the use permit or to desist from violating or

Request approval of proposed time period given to mooring permittees that are delinquent and/or in violation of laws and/or administrative rules; and delegate authority to the Chairperson to revoke use permits of permittees that are delinquent and/or in violation of laws and/or administrative rules

October 22, 2021  
Page 2

permitting violation of these rules, the department may revoke the permittee's use permit.

The Board of Land and Natural Resources (Board) therefore has the authority to: (1) determine the time period that must elapse before a use permit may be revoked for delinquency and/or violation(s) of HRS or HAR restrictions; and (2) revoke a use permit if the time period has elapsed and the permittee has not remedied the delinquency and/or violation(s).

Pursuant to HAR Section 13-231-6(a), DOBOR requests that the Board approve the following time periods:

- A. Any permittee account that is sixty (60) calendar days or more past-due would be issued a first notice for being delinquent in payments due to DOBOR and given ten (10) business days to remedy the delinquency.
- B. Any permittee violating HRS and/or HAR restrictions, such as sanitation or storage restrictions, would be issued a first notice for being in violation of HRS and/or HAR restrictions and given five (5) business days to remedy the violation.
- C. If the delinquency and/or violation(s) are not remedied within the time period specified by the relevant first notice, DOBOR would issue the permittee a final notice to remedy the delinquency and/or violation(s) and give the permittee an additional five (5) business days, after which the permittee's use permit(s) would be eligible for revocation.

DOBOR also requests that the Board delegate authority to revoke use permits to the Chairperson. Lapse of the time period provided by a final notice would result in the Chairperson immediately revoking the mooring permit and all associated use permits, pursuant to HAR Section 13-231-6(a).

Permittees who have their use permit(s) revoked pursuant to HAR Section 13-231-6(a) would also be prevented from applying for any new use permit for a period of two (2) years from the date of permit revocation.

#### RECOMMENDATIONS:

That the Board:

1. Approve DOBOR's proposed time periods for a permittee to remedy a delinquency and/or violation(s) of HRS and HAR restrictions as follows:
  - a. A first notice providing ten (10) business days to cure a delinquency that is sixty (60) calendar days or more past-due;
  - b. A first notice providing five (5) business days to remedy a violation of HRS and/or HAR restrictions; and
  - c. A final notice providing five (5) additional business days if the permittee has not complied with the relevant first notice, after which all of the permittee's applicable use permits would be eligible for revocation.

Request approval of proposed time period given to mooring permittees that are delinquent and/or in violation of laws and/or administrative rules; and delegate authority to the Chairperson to revoke use permits of permittees that are delinquent and/or in violation of laws and/or administrative rules

October 22, 2021

Page 3

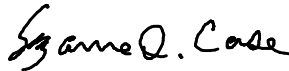
2. Delegate authority to the Chairperson to revoke use permits pursuant to HAR Section 13-231-6(a) if a permittee fails to remedy a delinquency and/or violation(s) of HRS and/or HAR within the time specified by applicable first and final notices.

Respectfully Submitted,



EDWARD R. UNDERWOOD, Administrator  
Division of Boating and Ocean Recreation

APPROVED FOR SUBMITTAL:



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