

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

December 8, 2022

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

Land Board Members:

SUBJECT: Request for contested case hearing by William G. Friel III, regarding the Board's May 31, 2022 decision to impose fines, revoke regular mooring permit, and prohibit Mr. Friel from obtaining any Division of Boating and Ocean Recreation use permit for 24 months, under Item #J-3 on the Board's special meeting agenda.

BACKGROUND:

At the May 31, 2022 special Board of Land and Natural Resources (Board) meeting, as Agenda Item J-3, the Board approved civil penalties against William G. Friel III, regarding illegal principal habitation of his vessel at Ala Wai Small Boat Harbor. Mr. Friel requested a contested case hearing (CCH) on August 22, 2022 for this matter.

DISCUSSION:

At the May 31, 2022 special Board meeting (rescheduled from the regularly scheduled meeting of May 27, 2022),¹ the Division of Boating and Ocean Recreation (DOBOR) brought a civil enforcement action against Mr. Friel for illegal principal habitation of his vessel, in violation of Hawaii Administrative Rule (HAR) Section 13-231-26.² Mr. Friel did not appear at the May 31, 2022 Board meeting, and the Board ruled to impose penalties including: (1) a civil fine of \$30,000.00; (2) revoking all DOBOR use permits held by Mr. Friel; and (3) prohibiting Mr. Friel from obtaining any type of DOBOR use permit for a period of 24 months from the date of the decision.³ Not being present, Mr. Friel did not otherwise request a contested case hearing during the May 31, 2022

¹ The agenda for the Board's May 31, 2022 special meeting is publicly available at, <https://dlnr.hawaii.gov/wp-content/uploads/2022/05/220531-AgendaS.pdf>.

² The staff submittal for Item #J-3 on May 31, 2022, which describes the alleged violations, is publicly available at, <https://dlnr.hawaii.gov/wp-content/uploads/2022/05/J-3-1.pdf>.

³ Item #J-3 can be found on the audio recording of the May 31, 2022 Board meeting available at, <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-220531.m4a>, from 05:40:11 to 05:58:48. The written summary of meeting minutes from May 31, 2022, as approved by the Board on July 24, 2022, is also publicly available at, <https://dlnr.hawaii.gov/wp-content/uploads/2022/08/Minutes-220531.pdf>.

meeting. Rather, when Mr. Friel visited the harbor office on or about June 2, 2022 to pay his mooring fees, Mr. Friel was informed of the Board's May 31, 2022 decision and fine, and he was presented with a demand letter dated June 1, 2022.

The rules setting forth the proper procedure for requesting a contested case hearing are set forth in the HAR. Specifically, HAR Section 13-1-31.1 provides, in relevant part:

[W]hen a violation is alleged for which an administrative remedy is provided and with respect to which the alleged violator is entitled to a contested case hearing, a contested case shall be held upon the petition of the alleged violator, provided that the petition is made in accordance with the provisions of section 13-1-29(a).

HAR Section 13-1-29(a) provides in relevant part:

An oral or written request for a contested case hearing must be made to the board no later than the close of the board meeting at which the subject matter of the request is scheduled for board disposition. An agency or person so requesting a contested case must also file (or mail a postmarked) written petition with the board for a contested case no later than ten calendar days after the close of the board meeting at which the matter was scheduled for disposition.

(Emphasis added.) Thus, under the relevant HAR, a proper request for a CCH must be made *during* the relevant Board meeting, and also, the request must be followed up with a written petition to the Board within ten days of the board meeting in question.

Here, as mentioned above, no oral or written request for CCH was made at the May 31, 2022 Board meeting. Likewise, no written petition for CCH was filed with the Board within ten calendar days after the Board's decision of Item J-3, May 31, 2022. Therefore, even though Mr. Friel may have been entitled to a CCH, he did not comply with HAR Section 13-1-31.1 because he did not request a CCH at the May 31, 2022 meeting and did not follow up with the required written CCH petition. Accordingly, if the Board wishes to grant Mr. Friel's late and improper request for a CCH, the Board should also vote to waive the requirements of HAR § 13-1-29(a) in doing so.

On June 9, 2022, Mr. Friel submitted a letter to DOBOR, requesting a "fair hearing to contest the decision about [his vessel]," in addition to a request for extension on the time given to vacate Ala Wai Small Boat Harbor. This initial request for a hearing was untimely, and the written petition was submitted to DOBOR rather than to the Board. As such, DOBOR staff informed Mr. Friel that his request was improperly requested and therefore would be denied.

Over two months after this in-person conversation, and almost three months after the board meeting at which the matter was scheduled for disposition—on August 22, 2022—Mr. Friel submitted a written "Petition for Contested Case Hearing & Response

to Request for Fines" (attached as **Exhibit A**) to DOBOR. Although Mr. Friel again incorrectly submitted his request to DOBOR instead of the Board, and although the request is unquestionably untimely, DOBOR is bringing this matter before the Board as a courtesy to Mr. Friel and a consultation with the Board.

Mr. Friel's August 22, 2022 letter claims that he received inadequate notice of the pending enforcement action against him, stating that he was in Florida and did not return to Hawaii until June 2, 2022. Pursuant to HAR Section 13-230-6, cited by Mr. Friel himself in his August 22, 2022 letter, service by mail is deemed received five days after the date of mailing. Thus, it is Mr. Friel's sole responsibility to check his mail and ensure that he receives his mail if he is absent from Hawaii.

Here, a May 16, 2022 notice of enforcement action was sent to Mr. Friel's address on record with DOBOR regarding the originally scheduled May 27, 2022 meeting. On May 24, 2022, DOBOR sent a second notice of enforcement action to inform Mr. Friel that the May 27 meeting had been cancelled and rescheduled as a special meeting to occur on May 31, 2022. Neither of these notices was returned as undeliverable. Therefore, pursuant to HAR Section 13-230-6, Mr. Friel is deemed to have received the May 21, 2022 Notice of Enforcement on May 29, 2022, which is five days after the notice of enforcement was mailed to him, and two days before the May 31, 2022 Board meeting. The fact that an initial notice was mailed on May 16, 2022 also means that Mr. Friel was afforded extra time to prepare for the enforcement action against him.

Despite the above procedural defects, DOBOR Staff recommends that the Board waive the requirements of HAR Section 13-1-29(a) and approve Mr. Friel's CCH request to afford Mr. Friel Due Process regarding the enforcement action against him.

RECOMMENDATION:

That the Board:

1. Waive the time limits contained in HAR Section 13-1-29(a) and approve Mr. Friel's request for contested case hearing; and
2. Authorize the Chairperson to take any and all actions necessary to effectuate its decision including, but not limited to, appointing a hearing officer for this matter.

Respectfully submitted,



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

APPROVED FOR SUBMITTAL:

Suzanne D. Case

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

Attachment:

- A. Petition for Contested Case Hearing & Response to Request for Fines, dated August 22, 2022, submitted by William G. Friel III



MYLES S. BREINER

1003 Bishop Street, Suite 2150
Honolulu, Hawaii 96813
Tel: (808) 526-3426
Fax: (808) 521-7680
e-mail: myles@breinerlaw.net
Web: hawaiiicriminaldefense.net

August 22, 2022

MR. EDWARD R. UNDERWOOD

Department of Land & Natural Resources
Division of Boating & Ocean Recreation
4 Sand Island Access Road
Honolulu, Hawaii 96819

**Re: Mr. William G. Friel III
Petition for Contested Case Hearing &
Response to Request for Fines**

Dear Mr. Underwood,

This letter is to inform you that the Law Office of Myles S. Breiner & Associates has been retained as legal counsel by Mr. William G. Friel III (“Mr. Friel”). Please address all future communications pertinent to Mr. Friel, accordingly.

This correspondence acknowledges the “Administrative enforcement action and recommended penalties for alleged violation of Hawaii Administrative Rule (“HAR”) § 13-231-26 (Use of a vessel as a place of principal habitation), Ala Wai Small Boat Harbor, against William G. Friel III for using a vessel as a place of principal habitation without a valid principal habitation permit or alternatively, for alleged violation of HAR § 13-231-28 (Staying aboard vessels moored at Ala Wai or Keehi small boat harbor), Ala Wai Small Boat Harbor, for staying aboard a vessel without prior notice and without stay aboard permit; and delegation of authority to the Chairperson to approve or deny a contested case hearing for this matter” (“Request for Fines”).

In accordance with Hawaii Administrative Rules (“HAR”) § 13-1-29(a), Mr. Friel now requests a contested case hearing with respect to the Request for Fines advanced by the State of Hawaii Department of Land and Natural Resources (“DLNR”), dated May 27, 2022.

I. Nature and Extent of the Requestor’s Interest

Mr. Friel is one of the owners of the vessel named “HE SUN II” (“Vessel”) (Hawaii Registration Number HA 6708 K). On May 16, 2022, the DNLN DOBOR sent a letter to Mr. Friel via certified mail that was designed to

notify him of DOBOR's intent to bring an enforcement action against him for an alleged violation of HAR § 13-231-26 ("Initial Attempt"). See Enclosure 1.

This Initial Attempt stated that this particular matter would be placed on the Board of Land and Natural Resources ("BLNR") agenda for a May 27, 2022 video conference meeting, which would serve as Mr. Friel's opportunity to request a contested case hearing. Significantly, the return receipt that accompanied the Initial Attempt, which was delivered via certified mail, indicated that *it was not received by Mr. Friel until June 2, 2022*, eighteen (18) days after it was sent. See Enclosure 1.

Thereafter, the DLNR DOBOR sent a second letter, dated May 24, 2022, which stated that the May 27, 2022 videoconference meeting was rescheduled to May 31, 2022. See Enclosure 2. The return receipt that accompanied the May 24, 2022 letter, which was delivered via certified mail, also indicated that *it was not received by Mr. Friel until June 2, 2022*, ten (10) days after it was sent. See Enclosure 2.

These correspondences were sent unbeknownst to Mr. Friel because he was in Florida and did not return to Oahu until June 2, 2022. Consequently, it is irrefutable that he did not receive notice of DOBOR's intent to bring an enforcement action until after the May 31, 2022 BLNR meeting had already taken place.

To address this issue, Mr. Friel sent letters to (1) Ed Underwood and (2) Bruce Shwaritz, dated June 9, 2022, requesting a contested case hearing pertinent to DLNR DOBOR's Request for Fines. See Enclosures 3 and 4.

In response, Meghan L. Statts, DLNR DOBOR Assistant Administrator, sent Mr. Friel a letter on June 13, 2022 that erroneously stated:

"Your request for a contested case hearing is hereby denied for being untimely. A request for contested case hearing on a Board of Land and Natural Resources (Board) decision must be made at the meeting where the matter is considered. No such request was made at the May 31, 2022 Board meeting."

See Enclosure 5 (emphasis added).

As established above, Mr. Friel did not have an opportunity to receive the Initial Notice and the May 24, 2022 letter until June 2, 2022. Accordingly, he did not have *proper notice* of the BLNR Meeting that took place on May 31, 2022. This understanding of *proper notice* is supported by the Hawaii Administrative Rules, which govern the DLNR DOBOR.

Specifically, HAR § 13-230-6, "Notice", unequivocally states:

Where notice to a permittee, co-owner, lien holder, owner or any other party is required by this chapter, the department shall *effect service* by one of the following:

- (1) Posting the notice in a conspicuous place aboard the permittee's vessel or at the assigned berth;
- (2) *Mailing the notice to the person by certified mail, return receipt requested, at the person's last known address, provided that service by mail is deemed received and completed five days after the date of mailing*; or
- (3) Personal service.

In this case, the DLNR DOBOR did not effect service of either the Initial Attempt or the May 24, 2022 letter because Mr. Friel did not receive them until eighteen (18) days and ten (10) days after the dates they were sent, respectively, which corresponds to the “date of the mailing” articulated in HAR § 13-230-6. Thus, since no notice was posted on the vessel and Mr. Friel was never personally served, it is unassailable that Mr. Friel did not receive proper notice pursuant to HAR § 13-230-6 and is entitled to a contested case hearing regarding the DLNR DOBOR’s Request for Fines.

II. Requestor’s Disagreement

Mr. Friel contests all penalties and fines sought by the DLNR DOBOR. As an initial matter, Mr. Friel was never found on the Vessel on any of the alleged dates of violation.¹ This fact is confirmed in the Request for Fines, which unequivocally states:

“DOCARE Officers initially encountered *William Fielder*, who is *not* the mooring permittee, aboard the Vessel and informed him that living aboard or staying aboard a vessel in AWSBH is prohibited without a valid permit.”

See Request for Fines at 4.

To be clear, Mr. Friel never gave Mr. Fielder permission to stay aboard the vessel overnight or utilize the Vessel as a place of principal habitation. As such, any instance that Mr. Fielder was allegedly found illegally aboard the Vessel is an instance of trespassing upon Mr. Friel’s property. While Mr. Friel recognizes his duty to maintain vigilance over his Vessel, Mr. Friel believed that Harbor Police would keep it was safe from trespassers into the Ala Wai Small Boat Harbor (“AWSBH”).

¹(1) September 11, 2021; (2) October 23, 2021; (3) December 11, 2021; (4) January 15, 2022; (5) February 26, 2022; and (6) March 5, 2022.

Moreover, the language utilized in the Request for Fines is unclear as to whether DOCARE Officers actually found Mr. Fielder trespassing on the Vessel. Specifically, the Request for Fines concedes that DOCARE Officers only found “observations supporting a conclusion that a person was aboard the Vessel” and did not actually see Mr. Fielder on the Vessel. *See* Request for Fines at 4.

The Request for Fines summarized these “observations” as follows:

- (a) A motorcycle belonging to Mr. Fielder was regularly parked outside the Vessel, *supporting the conclusion* that Mr. Fielder was aboard the Vessel².
- (b) The Vessel’s port hatches and port holes were opened, *likely for* ventilation³.
- (c) DOCARE Officers announced that police were present and observed that a dog barked at them from within the Vessel. *No person emerged from the Vessel*, but staff then observed that a dog would stop barking all of a sudden, indicating that a person may have been aboard the Vessel to stop the dog from barking⁴.
- (d) Also after DOCARE Officers announced their presence, the Vessel would begin to rock back and forth *as if* a person was moving around on the Vessel⁵.

These unsupported suppositions are woefully inadequate to conclude that anyone, including Mr. Fielder, was utilizing the Vessel as a place of principal habitation. Moreover, these suppositions do not serve as a basis for the imposition of penalties and exorbitant fines against Mr. Friel, who was never found in violation of HAR § 13-231-26 or HAR § 13-231-28.

Furthermore, Exhibit B to the Request for Fines contains an Investigation Report authored by Vance K. Lime, a Lead Investigator of the DLNR Division of Conservation and Resources Enforcement, dated April 8, 2022 (“Investigation Report”).

This Investigation Report confirms that the DLNR failed to actually make contact with anyone on the Vessel on any of the alleged dates of violation:

“After the first encounter with Mr. FIELDER and the warnings we stated to him, he went silent, but, his dog always barked at us. Each time we knocked and announced police on Mr. FRIEL’s vessel, FIELDER’s dog barked at us and then all of the sudden go silent. As we continued to knock and announce, the dog would let out a bark and back to silent, until it makes no noise. On several occasions, as we knocked and announced, Officer PANG and I would observe the vessel rock back and forth as if

² The Request for Fines contained no evidence showing that a motorcycle was in proximity of the Vessel.

³ The Request for Fines contained no evidence showing that the hatches and port holes were utilized for ventilation.

⁴ The Request for Fines contained no evidence showing a dog aboard the Vessel.

⁵ The Request for Fines contained no evidence showing that the Vessel was “rocking back and forth”.

someone was moving around in the vessel. *During these times, we could not make contact with the person onboard nor could we identify him/her. These were the contact dates and times;*

*09-11-2021 @ 1232hrs.
10-23-2021 @ 1217hrs.
12-11-2021 @ 0252hrs.
01-15-2022 @ 0125hrs.
02-26-2022 @ 1245hrs.
03-30-2022 @ 1241hrs.”*

It is dispositive that during each of the alleged dates of violation listed in the Request for Fines, Mr. Lime admitted he “could not make contact with the person onboard” and *could not make any identification whatsoever*. Given that no identification was made by the Lead Investigator of the DLNR Division of Conservation and Resources Enforcement, it follows that there is no basis for the assessment of any penalties or fines, especially against Mr. Friel.

In addition, the allegations contained in the Request for Fines are attenuated. The first alleged violation occurred on September 11, 2021, 259 days before the Request for Fines was sent to Mr. Friel. It serves no purpose to withhold any alleged violations from Mr. Friel for such a prolonged duration, especially given that these alleged violations occurred as a result of a trespasser on his Vessel. Further, the photos provided in the Request for Fines that supposedly support the veracity of these alleged violations are undated. Rather, the Request for Fines supplies loose pages that contain an assortment of photos, some of which have such a low resolution that whatever depicted is indecipherable. Moreover, each photo contained in the assortments have differing dates handwritten inside the margins and have no timestamp. Thus, there is no way to authenticate whether these dates are accurate.

Pursuant to Mr. Lime’s admission, it is evident that there is no basis to assess any fines or penalties against Mr. Friel. His Investigation Report concedes that he neither made contact with anyone on the Vessel nor could identify anyone upon it. As such, any penalty or fine imposed would be patently erroneous and an abuse of the administrative powers conferred to the DLNR DOBOR.

III. Relief Requestor Seeks

Mr. Friel seeks to avoid any and all penalties and fines suggested in the Request for Fines.

As demonstrated throughout this Response, there is no evidence to suggest that Mr. Friel committed any violation of the Hawaii Administrative Rules cited in the Request for Fines. Moreover, the Lead Investigator of the DLNR Division of Conservation and Resources Enforcement, who is also the individual responsible for composing the Complaint attached to the Request for Fines (Exhibit B) conceded that he could not identify anyone on the Vessel during the

alleged violations. Consequently, there is no basis to assert that Mr. Friel is responsible for any violation advanced in the Request for Fines.

To establish these facts on the record, Mr. Friel now requests a contested case hearing, which he is entitled to pursuant to HAR § 13-230-6.

IV. Public Interest

As a Hawaii resident boat owner wrongfully accused of violating the Hawaii Administrative Rules, Mr. Friel's case is squarely within the public interest because other boat owners may also be wrongfully accused by DLNR DOBOR investigators in the same fashion.

Furthermore, the notice issue outlined at the onset of this Response is enough to illustrate that the DLNR DOBOR has mistakenly applied the Hawaii Administrative Rules to the detriment of the public it is tasked to facilitate. This, in conjunction with the baseless and unsupported suppositions relied upon by the DLNR DOBOR to advance its Request for Fines against Mr. Friel, also need to be examined closely, as other boat owners may also be victimized by the same erroneous application of administrative authority.

Thank you for your time and attention to this matter. Please contact me at (808) 526-3426 upon your receipt of this Petition to discuss this matter in greater detail.

Very Truly Yours,



MYLES S. BREINER
KYLE T. DOWD
SEAN FITZSIMMONS

cc: William Friel.

Enclosures.

Enclosure 1

DAVID Y. IGE
GOVERNOR OF HAWAII



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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

EDWARD R. UNDERWOOD
ADMINISTRATOR
BOATING AND OCEAN RECREATION

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION
4 SAND ISLAND ACCESS ROAD
HONOLULU, HAWAII 96819

BOR-017.05.22

May 16, 2022

William G. Friel III
[REDACTED]

Dear Mr. Friel:

YOU ARE HEREBY NOTIFIED that the Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR) plans to bring an enforcement action against you at the May 27, 2022 Board of Land and Natural Resources (BLNR) meeting for alleged principal habitation of your vessel at the Ala Wai Small Boat Harbor, in violation of Hawaii Administrative Rule Section 13-231-26.

The enforcement action submittal is attached. The May 27, 2022 BLNR meeting will be held by Zoom at 9:00am. Further details, including the Zoom link and meeting agenda, will be made available at the BLNR website: <https://dlnr.hawaii.gov/meetings/blnr-meetings-2022>. BLNR meeting agendas are posted approximately one week prior to the date of the meeting.

If you have any questions, please feel free to contact our office at (808) 587-1966.

Sincerely,

Handwritten signature of Edward R. Underwood in blue ink.

Edward R. Underwood
Administrator

c: William G. Friel III, [REDACTED]

Attachment: Enforcement Action Submittal Against William G. Friel III

VIA REGULAR MAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 William Friel
 [Redacted Address]
 802-017.05.22



9590 9402 7100 1251 4265 46

2. Article Number (Transfer from service label)
 7022 0410 0001 5325 0042

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 [Signature]
 Agent
 Addressee

B. Received by (Printed Name)
 William Friel

C. Date of Delivery
 6/2/22

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Adult Signature
 Adult Signature Restricted Delivery
 Certified Mail®
 Certified Mail Restricted Delivery
 Collect on Delivery
 Collect on Delivery Restricted Delivery

Priority Mail Express®
 Registered Mail™
 Registered Mail Restricted Delivery
 Signature Confirmation™
 Signature Confirmation Restricted Delivery

USPS TRACKING#

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State of Hawaii
 Dept. of Land & Natural Resources
 Division of Boating & Ocean Recreation
 4 Sand Island Access Road
 Honolulu, HI 96810

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Extra Services & Fees (check box, add fees appropriate)	
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$ 5.05
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
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<input type="checkbox"/> Adult Signature Restricted Delivery	\$



Postage	
\$	2.36
Total Postage and Fees	
\$	9.16

Sent To	William Friel	602-017.05.22
Street and Apt. No., or PO Box No.	[REDACTED]	
City, State, ZIP+4®	[REDACTED]	

Enclosure 2

DAVID Y. ICE
GOVERNOR OF HAWAII



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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR WATER

EDWARD R. UNDERWOOD
ADMINISTRATOR
BOATING AND OCEAN RECREATION

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION
4 SAND ISLAND ACCESS ROAD
HONOLULU, HAWAII 96819

BOR-019.05.22

May 24, 2022

William G. Friel III
[REDACTED]

Dear Mr. Friel:

On May 16, 2022, you were notified that the Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR) planned to bring an enforcement action against you at the May 27, 2022 Board of Land and Natural Resources (BLNR) meeting for alleged principal habitation of your vessel at the Ala Wai Small Boat Harbor, in violation of Hawaii Administrative Rule Section 13-231-26 (BOR-017.05.22).

YOU ARE HEREBY NOTIFIED that the BLNR meeting for this matter has been rescheduled to Tuesday, May 31, 2022. The May 31, 2022 BLNR meeting will be held by Zoom at 9:00am. Further details, including the Zoom link and meeting agenda, will be made available at the BLNR website: <https://dlnr.hawaii.gov/meetings/blnr-meetings-2022>. BLNR meeting agendas are posted approximately one week prior to the date of the meeting.

If you have any questions, please feel free to contact our office at (808) 587-1966.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edward R. Underwood".

Edward R. Underwood
Administrator

c: William G. Friel III, [REDACTED]

VIA REGULAR MAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the reverse side of the mailpiece. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>												
<p>1. Article Address:</p> <p>William Friel</p> <p>[Redacted]</p> <p>Boe-019.05.22</p>  <p>9590 9402 7188 1284 5489 09</p>	<p>B. Received by (Printed Name) William Friel</p> <p>C. Date of Delivery 6/2/22</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>												
<p>2. Article Number (Transfer from service label)</p> <p>7022 0410 0001 5325 0271</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input checked="" type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td></td> </tr> </table> <p>Mail Restricted Delivery (M)</p>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input checked="" type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Collect on Delivery Restricted Delivery	
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<p>PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt</p>													

USPS TRACKING #



HONOLULU HI 96819
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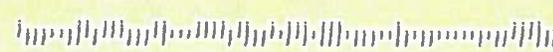
9590 9402 7100 1251 4265 46

First-Class Mail
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State of Hawaii
 Dept. of Land & Natural Resources
 Division of Boating & Ocean Recreation
 4 Sand Island Access Road
 Honolulu, HI 96819
 Todd



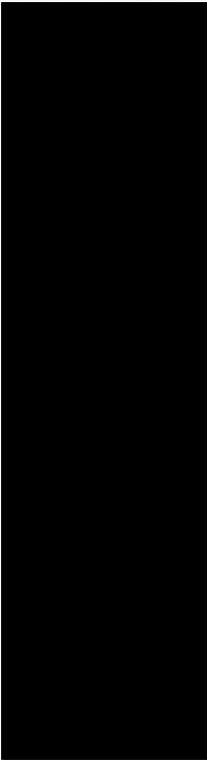
7022 0410 0001 5325 0271

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Postage \$ 1.58	
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Enclosure 3

TO: ED UNDERWOOD

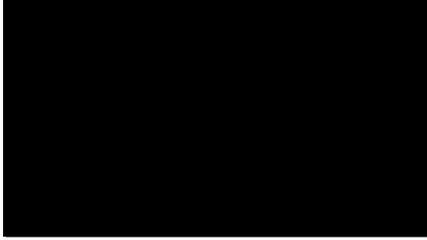
FROM: WILLIAM FRIDLE



JUN 9 22 PM 34780R 1R

JUN 9'22 PM 3:19BOR UR

Name: William Friel III



To: Ed Underwood

I would like to request a fair hearing to contest the decision about the sailing vessel II Shey At the Ala Wai small boat harbor. I would also like to request an extension on the 72 hours' notice to vacate the harbor pending a fair contested case hearing.

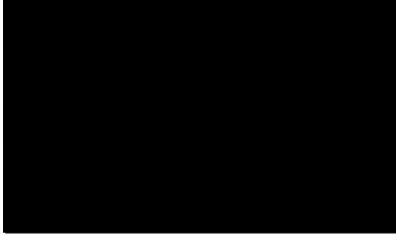
Sign:

A handwritten signature in black ink, appearing to be 'W. Friel III', enclosed within a large, loopy oval stroke.

Date: June 9th, 2022

Enclosure 4

Name: William Friel III



To: Bruce Shwaritz

I would like to request a fair hearing to contest the decision about the sailing vessel II Shey At the Ala Wai small boat harbor. I would also like to request an extension on the 72 hours' notice to vacate the harbor pending a fair contested case hearing.

Sign:

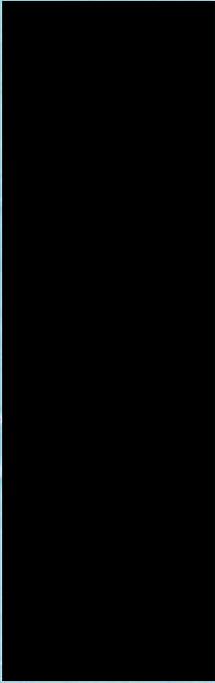
A handwritten signature in black ink, enclosed within a hand-drawn oval border.

Date: June 9th, 2022

JUN 9'22 PM 3:35BOR UR

TO: BRUCE SHWARTZ

FROM: WILLIAM FRIEL III



JUN 9 '22 PM 3:35:08 UR

Enclosure 5

DAVID Y. IGE
GOVERNOR OF HAWAII



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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

EDWARD R. UNDERWOOD
ADMINISTRATOR
BOATING AND OCEAN RECREATION

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION
4 SAND ISLAND ACCESS ROAD
HONOLULU, HAWAII 96819

BOR-024.06.22

June 13, 2022

William G. Friel III

Dear Mr. Friel:

This is in response to your letter dated June 9, 2022, requesting a hearing to contest the decision about your vessel (Hawaii registration number HA 6708 K) at Ala Wai Small Boat Harbor and requesting an extension of the 72-hour time limit to vacate the harbor.

Your request for a contested case hearing is hereby denied for being untimely. A request for contested case hearing on a Board of Land and Natural Resources (Board) decision must be made at the meeting where the matter is considered. No such request was made at the May 31, 2022 Board meeting.

Your request for an extension of the 72-hour time limit to vacate the harbor is also denied. Please be aware that as of the date of this letter, the 72-hour time limit has expired, and the vessel with Hawaii registration number HA 6708 K is subject to impoundment.

Sincerely,

A handwritten signature in blue ink that reads "Meghan L. Statts".

Meghan L. Statts
Assistant Administrator

c: William G. Friel III, [REDACTED]
DOBOR O'ahu District

VIA REGULAR MAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED

STATE OF HAWAII
 DEPT. OF LAND AND NATURAL RESOURCES
 DIVISION OF BOATING AND OCEAN RECREATION
 4 SAND ISLAND ACCESS ROAD
 HONOLULU, HAWAII 96819
 BOR-024.06.22

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William G. Friel III



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 6/15
 6/29
 6/19

NIXIE 968 DE 1 0006/29/22

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**RETURN RECEIPT
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 OF THE RETURN ADDRESS FOR A PROPER MAILING

7022 0410 0001 5325 0332

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 William Friel

 BOR-024.06.22

2. Article Number (Transfer from service label)
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PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X

B. Received by (Printed Name)

D. Is delivery address different from item label?
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3. Service Type
 Adult Signature
 Adult Signature Restricted Delivery
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State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

Log Number OA-22-00088	District NORTHERN	Lead Investigator Lime, Vance K - LIMEV
Date/Time Reported 08/16/2021 2200	Location ALA WAI SMALL BOAT HARBOR	Classification
Status PEND	Activity Code Small Boat Harbors	

Incident and Report Control

A. COMPLAINT

Taken By: **Lime, Vance K** Reported Date/Time: **8/16/2021 10:00:00 PM**
How Taken: **ON BEAT**
Location: **ALA WAI SMALL BOAT HARBOR**

Occurred From: **8/16/2021 2200**
Occurred To: **3/15/2022 0300**

B. REPORT CONTROL

Branch: **OAHU**
District: **ODI**
Lead Investigator: **Lime, Vance K**

C. NOTES/DISPOSITION/OTHER INFO

Disposition: **PENDING FURTHER ACTION**



State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

Log Number OA-22-00088	District DISTRICT I (OAHU)	Lead Investigator Lime, Vance K - LIMEV
Date/Time Reported 08/16/2021 2200	Location ALA WAI SMALL BOAT HARBOR	Incident Type Boating Investigation
Status PEND PENDING FURTHER ACTION	Activity Code Small Boat Harbors	

Investigation Report

Fishing
 Hunting
 Boating
 Drug Rel.
 Forestry
 NOAA
 JEA
 Land - OCCL
 CWRM
 Historic
 State Parks
 KAIC
 Other

BASIC

Classification _____ Source **ONBEAT
ON BEAT**

Location of Incident / Intersecting Street
**1651 ALA MOANA BLVD.
HONOLULU HI 96815
X-Street:**

Island **OAHU** Branch **OAHU**

Date / Time Occurred From **8/16/2021 2200** Date / Time Occurred to **3/15/2022 0300**

Category **PICK** Weather _____

WEAPONS USED: _____

INVOLVED VEHICLES

Type	Auto/Truck	Year	Make	Model	Color	License / HA Number	Length	Involvement	SUSPV
TWIN-ENGINE, PROPELL		1979				939160 HI		SUSPECT VEHICLE	
TWIN-ENGINE, PROPELL		1975				936686 HI		SUSPECT VEHICLE	
BOAT						HA 6708 K HI		SUSPECT VEHICLE	

PERSONS

Name (Last, First, Middle) **ALPERT, ERIC ROGER** Juvenile Sex **MALE** Race _____ Age _____ Date of Birth _____

Address _____

Category **SUSPECT** CODE: **SUSP** Home Phone _____ Other Phone _____

Name (Last, First, Middle) **FRIEL, WILLIAM GREGORY** Juvenile Sex **MALE** Race _____ Age _____ Date of Birth _____

Address _____

Category **SUSPECT** CODE: **SUSP** Home Phone _____ Other Phone _____

Name (Last, First, Middle) **PIERCE, DONALD LEONARD** Juvenile Sex **MALE** Race _____ Age _____ Date of Birth _____

Address _____

Category **SUSPECT** CODE: **SUSP** Home Phone _____ Other Phone _____

Name **ALA WAI SMALL BOAT HARBOR**

Category **BUSN** Business Address **1651 ALA MOANA BLVD. HONOLULU, HI 96815**

Phone 1 **973-9727** Phone 2 _____ Phone 3 _____

RESPONDING / INVOLVED UNITS, OFFICERS, AND TIMES

Division	Supervisor	Unit Number	Officer / ID (Ofcr 1 / Ofcr 2)	Officer / ID (Ofcr 3 / Ofcr 4)
OAHU	Redulla, Jason K.		Lime, Vance K	LIMEV
			PANG, JOHN-BRANDON	PANGJK

Written By: **Lime, Vance K** 04/08/2022 Approved By: _____



State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

Log Number OA-22-00088	District DISTRICT I (OAHU)	Lead Investigator Lime, Vance K - LIMEV
Date/Time Reported 08/16/2021 2200	Location ALA WAI SMALL BOAT HARBOR	Incident Type Boating Investigation
Status PEND	Activity Code Small Boat Harbors	
PENDING FURTHER ACTION		

INVESTIGATION

Narrative Created By / Created On Lime, Vance K	Approved By / On 04/08/2022
---	---------------------------------------

Ala Wai Report

ASSIGNMENT/ARRIVAL

On numerous Friday nights, as a uniformed Division of Conservation and Resources Enforcement (DOCARE) Officers, Officer PANG and I (LT. V. LIME) were on patrol of the Ala Wai Small Boat Harbor (SBH) to check on Boating Violations within the Small Boat Harbor, including illegal live aboards.

SCENE

The scene of this investigation is 1651 Ala Moana Blvd. Honolulu, HI 96815, on the south shore of the island of Oahu.

OFFICERS ACTIONS

On the following time frame from August 2021 to March 2022, Officer PANG and I conducted enforcement actions within Ala Wai Small Boat Harbor. One of those actions were to perform "Illegal Liveaboard" inspections between the hours of 12:15am and 3:00am. These inspections consisted of inspecting vessels that were on a list created by the DOBOR staff. The vessels listed were suspected of having individuals onboard without first obtaining permission or notifying the Ala Wai SBH staff of such activity. During these "Illegal Liveaboard" inspections, there were 3 vessels that were consistently in violation of Hawaii Administrative Rule(HAR) 13-231-26(a) No notification of persons onboard.

OFFICERS OBSERVATIONS

During the time frame mentioned above and during our inspections, Officer PANG and I observed numerous violations consistent with 3 vessels. These 3 vessels were observed with people being onboard the vessel without proper notification for such activity. The notifications were to notify Ala Wai SBH Staff that the owner and guest were to stay aboard during the hours of 12:00am-5:00am. The 3 vessels consistently in violation of this rule were:

- "Cruzin Hawaii": Eric Alpert
- "HEATHER": Donald Pierce
- HA 6708 K: William Friel III

"Cruzin Hawaii" Eric Alpert CONTACT MADE

At approximately between the hours or 1215-0300 hours, we contacted a male party later identified as Eric ALPERT. We made several inspections throughout the timeframe above and each inspection consisted of a positive contact with Mr. ALPERT. Upon first contact we informed ALPERT that we were Officer PANG and Officer LIME with DLNR Conservation Police. We further advised him that we were contacting him because his vessel was on an illegal live aboard list. We further advised him that he was in violation of HAR 13-231-26(a)

"Cruzin Hawaii" Eric Alpert CONTACT MADE CONTINUED:

Written By: **Lime, Vance K**
04/08/2022 *[Signature]*

Approved By:



State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

Log Number OA-22-00088	District DISTRICT I (OAHU)	Lead Investigator Lime, Vance K - LIMEV
Date/Time Reported 08/16/2021 2200	Location ALA WAI SMALL BOAT HARBOR	Incident Type Boating Investigation
Status PEND PENDING FURTHER ACTION	Activity Code Small Boat Harbors	

Use of a vessel as a place of principal habitation and HAR 13-231-28(a) Staying aboard vessels moored at Ala Wai or Keehi small boat harbor. Each subsequent contact thereafter Mr. ALPERT was reminded of the HAR rules that he was in violation of. ALPERT was contacted on these dates and times;

- 08-28-2021 @ approx. 1239 hrs.
- 10-02-2021 @ approx. 0113 hrs.
- 11-06-2021 @ approx. 0159 hrs.
- 11-27-2021 @ approx. 0246 hrs.
- 01-29-2022 @ approx. 0217 hrs. (2 unknown males onboard sleeping)
- 03-05-2022 @ approx. 0133 hrs.

ALPERT was positively identified with his State of Hawaii Driver License. For further information refer to submitted photographs.

SUSPECT ERIC ALPERT's INFORMATION

The suspect under this investigation is Eric ALPERT. Block information for ALPERT is:

Eric ALPERT
 DOB: [REDACTED]
 SSN: [REDACTED]
 PHYSICAL/MAILING ADDRESS:
 [REDACTED]

VESSEL "HA 6708 K" William FIELDER CONTACT MADE:

At the approximate hours of 1215-0300 hours, we contacted a male party later identified as William FIELDER, FIELDER is not the registered owner of the vessel. We made several inspections throughout the timeframe above and each time made a positive observation through fact gathering that someone was aboard the vessel. Upon first contact we informed FIELDER that we were Officer PANG and Officer LIME with DLNR Conservation Police. We further advised him that we were contacting him due to the fact that his vessel was on the illegal live aboard list and that he was in violation of HAR 13-231-26(a) Use of a vessel as a place of principal habitation and HAR 13-231-28(a) Staying aboard vessels moored at Ala Wai or Keehi small boat harbor. With each subsequent contact with the Vessel in slip #812, we observed Mr. FIELDER's motorcycle that he often operates in the harbor area, the female's bicycle leaning on the storage that belongs to slip #812, port hatches, port holes opened for air, and Mr. FIELDER's dog barking at us. After the first encounter with Mr. FIELDER and the warnings we stated to him, he went silent, but, his dog always barked at us. Each time we knocked and announced police on Mr. FRIEL's vessel, FIELDER's

VESSEL "HA 6708 K" William FRIEL CONTACT MADE CONTINUED:

dog would barked at us and then all of the sudden go silent. As we continued to knock and announce, the dog would let out

Written By: Lime, Vance K
04/08/2022 *[Signature]* #1

Approved By:



State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

Log Number OA-22-00088	District DISTRICT I (OAHU)	Lead Investigator Lime, Vance K - LIMEV
Date/Time Reported 08/16/2021 2200	Location ALA WAI SMALL BOAT HARBOR	Incident Type Boating Investigation
Status PEND PENDING FURTHER ACTION	Activity Code Small Boat Harbors	

a bark and back to silent, until it makes no noise. On several occasions, as we knocked and announced, Officer PANG and I would observe the vessel rock back and forth as if someone was moving around inside the vessel. During these times, we could not make contact with the person onboard nor could we identify him/her. These were the contact dates and times;

- 09-11-2021 @ 1232hrs.
- 10-23-2021 @ 1217hrs.
- 12-11-2021 @ 0252hrs.
- 01-15-2022 @ 0125hrs.
- 02-26-2022 @ 1245hrs.
- 03-05-2022 @ 1241hrs.

SUSPECT INFORMATION

The suspect under this investigation is William FRIEL. Block information for FRIEL is:

William FRIEL
 HDL: [REDACTED]
 DOB: [REDACTED]
 SSN: [REDACTED]
 PHYSICAL/MAILING ADDRESS:
 [REDACTED]

William FIELDER (person onboard)

"HEATHER" Donald PIERCE CONTACT MADE:

At approximately between the hours of 1215-0300 hours, we contacted a male party later identified as Donald PIERCE. We made several inspections throughout the timeframe above and several of those inspections consisted of a positive contact with Mr. ALPERT. Upon first contact we informed ALPERT that we were Officer PANG and Officer LIME with DLNR Conservation Police. We further advised him that we were contacting him because his vessel was on an illegal live aboard list. We further advised him that he was in violation of HAR 13-231-26(a) Use of a vessel as a place of principal habitation and HAR 13-231-28(a) Staying aboard vessels moored at Ala Wai or Keehi small boat harbor. Each subsequent contact thereafter Mr. PIERCE was reminded of the HAR rules that he was in violation of. MR. PIERCE was contacted on several times as listed below. Also, during our inspections, we observed slippers on the deck, television on, lights on in the cabin, port holes open, Mr. PIERCE's truck in the parking lot, but no person would come out upon our knock and announcement. These were the contact dates and times;

"HEATHER" Donald PIERCE CONTACT MADE CONTINUED:

- 08-28-2021 @ approx. 1218hrs.
- 10-02-2021 @ approx. 1257hrs.

Written By: Lime, Vance K
04/08/2022

Approved By: