

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

February 23, 2024

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

**SUBJECT:** Denial of Petition for Contested Case Hearing filed on December 18, 2023 by Kama'aina Boaters regarding Item J-7 on the December 7, 2023 Board Agenda, titled: *Direct Issuance of a Parking Concession to Secure Parking Hawaii LLC, in the Designated Areas Located Within the Ala Wai Small Boat Harbor, Honolulu, Oahu, Hawaii, Identified by Tax Map Keys: (1) 2-6-010:003 (Portion), (1) 2-3-037:012 (Portion), :024, :027, :033, :035 and :037; and Continuation of Revocable Permit Issued to Secure Parking Hawaii LLC, for Management of Vehicular Parking in the Designated Areas Located Within the Ala Wai Small Boat Harbor, Honolulu, Oahu, Hawaii, Identified by Tax Map Keys: (1) 2-6-010:003 (Portion), (1) 2-3-037:012 (Portion), :024, :027, :033, :035 and :037; and Declare Project Exempt from Environmental Assessment Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules.*

The Board may go into executive session pursuant to § 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.

**SUMMARY:**

Kama'aina Boaters (hereinafter "Petitioner") filed a contested case hearing ("CCH") petition on December 18, 2023, regarding direct issuance of a parking concession to Secure Parking Hawaii LLC, *dba Concierge Car Wash and Traffic Monitoring Services* ("Secure"), and the continuation of the revocable permit ("RP") issued to Secure, for management of vehicular parking at Ala Wai Small Boat Harbor, Honolulu, Oahu. The request for direct issuance of a parking concession, as well as a continuation of the subject RP was presented to the Board of Land and Natural Resources ("Board") by the Department of Land and Natural Resources' Division of Boating and Ocean Recreation ("DOBOR") as Item J-7 of the December 7, 2023 Board meeting agenda. DOBOR recommends that the Board deny the CCH petition because Petitioner has not

demonstrated that it is legally entitled to a CCH on the issuance of a parking concession and continuance of the RP to Secure.

### BACKGROUND:

At the Board's December 7, 2023 meeting under agenda Item J-7, DOBOR requested approval to directly issue a parking concession to Secure and to continue the RP for parking management issued to Secure.<sup>1</sup> Kate Thompson, representing Petitioner, was present at the Board's meeting on December 7, 2023, in-person.

After approximately two hours of consideration, the Board voted to approve DOBOR's recommendation via its Staff Submittal, amended during the meeting.<sup>2</sup> Two persons orally requested a CCH for Item J-7 at the December 7, 2023 Board meeting.<sup>3</sup> While it is not clear whether Ms. Thompson was requesting a CCH on behalf of Petitioner, Petitioner was one of three individuals who filed written CCH petitions regarding Item J-7. Petitioner's written CCH petition is included as **Attachment A**. In it, Petitioner seeks a CCH to challenge the Board's approval of Item J-7. Petitioner's desired relief includes: revocation of the RP to Secure; initiating rulemaking to establish proper use and operation of a private contractor licensed to perform acts in connection with an RP; requiring DOBOR to require the towing contractor to accept credit cards; requiring terms and conditions of towing agreements to be public; requiring monthly towing records to be made public; and requiring an environmental assessment before issuing the RP.

### DISCUSSION:

An administrative agency is only required to hold a CCH when it is required by law, which means that a CCH is required by (1) statute; (2) administrative rule; or (3) constitutional Due Process. *Mauna Kea Anaina Hou v. BLNR*, 136 Hawai'i 376, 390, 363 P.3d 224, 238 (2015). Petitioner claims here that a CCH is warranted pursuant to due process and its constitutional right to a clean environment. DOBOR staff disagrees and recommends denial of the request.

There is a two-step process in determining whether a person is constitutionally entitled to a CCH. First, a court would consider "whether the particular interest which claimant seeks to protect by a hearing is 'property' within the meaning of the due process clauses of the federal and state constitutions." *Flores v. BLNR*, 143 Hawai'i 114, 125, 424 P.3d

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<sup>1</sup> The written submittal provided by DOBOR staff in connection with the December 7, 2023 Board meeting's agenda Item J-7 is publicly available via the Board's website, at <https://dlnr.hawaii.gov/wp-content/uploads/2023/12/J-7.pdf>. The expiration of the RP (fourth recommendation of the submittal) was amended at the December 7, 2023 meeting to no more than six months from the Board meeting date.

<sup>2</sup> See Audio, *supra* n.2, at [1:54:06/ 6:59:23](#).

<sup>3</sup> See Audio, *supra* n.2, at approximately [1:54:10-to-1:54:30/ 6:59:23](#). The individuals who did make the verbal requests for CCH did not do so until *after* the Board had already voted to approve staff's recommendation and authorize the direct issuance of a parking concession and continuation of the RP to Secure.

469, 480 (2018) (citation and internal brackets omitted). Second, if a court "concludes that the interest is 'property,' th[e] court analyzes what specific procedures are required to protect it." *Id.*

Step one merely requires the court to determine whether a petitioner seeks to protect a constitutionally cognizable property interest. *Id.* To have such a property interest, a person "must clearly have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it." *Sandy Beach Def. Fund v. City & Cty. of Honolulu*, 70 Haw. 361, 377, 773 P.2d 250, 260 (1989). Legitimate claims of entitlement that constitute property interests "are not created by the due process clause itself. Instead, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law[.]" *Flores*, 143 Hawai'i at 125, 424 P.3d at 480 (citation and internal brackets omitted).

If step one of the analysis is satisfied, then step two analyzes how the government action would affect that interest with and without additional procedural safeguards. With respect to the step two, the Hawai'i Supreme Court has been careful to emphasize that "[d]ue process is not a fixed concept requiring a specific procedural course in every situation." *Sandy Beach*, 70 Haw. at 378, 773 P.2d at 261. Due process "is flexible and calls for such procedural protections as the particular situation demands." *Id.* (quoting *Morrisey v. Brewer*, 408 U.S. 471, 481 (1972)).

#### Step One Analysis: Petitioner has no Constitutionally Protected Property Interest in the Issuance of a Parking Concession or the Renewal of a RP to Secure

Hawaii Administrative Rules ("HAR") Section 13-1-29(b) provides that a formal petition for a contested-case hearing must include, among other things, a statement of "[t]he nature and extent of the requestor's interest that may be affected by board action on the subject matter that entitles the requestor to participate in a contested case[.]"

Petitioner alleges that the specific due process interests being affected by the subject Board action are: "to have adequate signage/notice of parking laws and regulations prior to parking a vehicle; to have a fair and proper determination made by a duly authorized state official when parking rules and regulations have been violated; to have regulations equally enforced and not subject to excessive and unreasonable fines and/or payment terms; to have the right to a clean and safe environment; rights as a recreational boat captain and boat owner, mooring permittee and beach access user; and right to make a complaint." These are not constitutionally protected property interests affected by the subject Board action because Petitioner has no legitimate claim of entitlement to them. Petitioner did not participate in the original invitation for bids that DOBOR issued in March 2021, which determined the recipient of the parking RP. Secure was the successful bidder and was issued the initial RP for management of

vehicular parking for Ala Wai Small Boat Harbor on September 10, 2021, as Board Agenda Item J-7.<sup>4</sup>

Additionally, Petitioner states as justification for being considered a party entitled to a CCH that its members include "boat owners with mooring permits and other members of the Hawaii boating community that use the boating facilities at Ala Wai Small Boat Harbor." However, holding a permit to moor a vessel at the Ala Wai small boat harbor does not establish any legitimate claim of entitlement to regarding the details of parking management and enforcement at the harbor's public parking facility. The Board should deny Petitioner's request for a CCH on the issuance of a parking concession and continuance of the RP to Secure on this basis alone.

Step Two Analysis: Even if Petitioner Identified a Constitutionally Protected Property Interest, Petitioner Is Not Entitled to a CCH Based Upon the Specific Factual Situation at Issue

Petitioner claims that a CCH is warranted pursuant to the right to a clean environment. However, continuance of the RP to Secure would not cause any significant environmental impacts from the original issuance of the RP to Secure. Further, any repairs and maintenance to the parking areas at Ala Wai Small Boat Harbor would be solely within DOBOR's responsibility to fund and manage, and denying continuance of the RP to Secure would not affect this responsibility.

For the sake of argument, even if Petitioner could establish a constitutionally protected property interest in the issuance of a parking concession and the RP renewal, Petitioner would still not be entitled to a CCH. The touchstone of due process is "notice and an opportunity to be heard at a meaningful time and in a meaningful manner before governmental deprivation of a significant property interest." *Sandy Beach*, 70 Haw. at 378, 773 P.2d at 261. To determine what further process is due, if any, the administrative agency must examine and balance three factors, repeated from above:

- (1) The private interest which will be affected;
- (2) The risk of an erroneous deprivation of such interest through the procedures actually used, and the probable value, if any, of additional or alternative procedural safeguards; and
- (3) The governmental interest, including the burden that additional procedural safeguards would entail.

*Flores*, 142 Hawai'i at 126–27, 424 P.3d at 481–82.

Even assuming the first factor could be established, the risk of an erroneous deprivation of any property interest in the absence of a CCH is minimal, as Petitioner was already afforded sufficient due process through Sunshine Law procedures. Any *additional*

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<sup>4</sup> Staff notes that neither Ms. Thompson nor Petitioner engaged in the sunshine process ahead of the Board's initial RP issuance to Secure.

procedures via an adversarial, trial-type CCH would not add significant value. Petitioner received ample notice of the December 7, 2023 Board meeting, including the publicly available staff submittal, and Petitioner had an opportunity to be heard via the submission of public testimony, which it submitted in opposition to the agenda item. Additionally, Ms. Thompson testified in person and was heard by the Board prior to its decisionmaking on Item J-7 at the December 7, 2023 meeting. Petitioner was therefore afforded ample notice *and* a substantial opportunity to be heard by providing written and oral testimony. *Sandy Beach*, 70 Haw. at 378, 773 P.2d at 261. Petitioner has not demonstrated that there would be any significant value in being allowed to participate in the trial-type procedures of a full CCH on the same.

As to the third factor, the Board should find that the governmental interest, including the burden that holding a CCH would entail, weighs heavily in favor of rejecting the CCH petition. CCHs are expensive and time-consuming endeavors for the Department of Land and Natural Resources. The cost for retaining hearing officers and court reporters alone can be thousands of dollars for even single-day CCHs, and those costs are compounded when considering staff and attorney time. Petitioner has failed to justify why DOBOR should bear such costs and spend many hours of staff time on a CCH of that would have little to no significant value. Of significant note is that if a CCH were held and issuance of the parking concession and continuance of the RP to Secure is stayed or revoked pending the outcome of the CCH, *see Mauna Kea*, 136 Hawai'i at 381, 363 P.3d at 229, there would be no entity available to perform parking lot management at the Ala Wai Small Boat Harbor, which would only serve to compound the very issues Petitioner seeks to address and would create additional issues with unmonitored and unenforced parking violations. On balance, even if Petitioner could establish a sufficient property interest, the *Sandy Beach* factors weigh in favor of denying the instant petition.

#### Additional Considerations

There are also procedural requirements that Petitioner failed to satisfy, which additionally support denial of the CCH petition. HAR Section 13-1-29(a), for example, provides: "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. For good cause, the time for making the oral or written request or submitting a written petition or both may be waived."

It was not clear during the December 7, 2023 meeting that Ms. Thompson requested a CCH on behalf of Petitioner, as opposed to making the request in her individual capacity. However, even assuming that Ms. Thompson properly complied with the requirements for requesting a CCH on behalf of Petitioner pursuant to HAR Section 13-1-29(a), Petitioner is still not entitled to a CCH on Agenda Item J-7 of the Board's December 7, 2023 meeting because Petitioner has neither demonstrated a sufficient

property interest in continuance of the RP to Secure, nor has it shown that the *Sandy Beach* factors weigh in its favor. Ultimately, Petitioner does not have a due process right to a CCH.

Therefore, Petitioner is not entitled to a CCH, based on the above, and staff recommends that the Board deny the pending petition.

RECOMMENDATIONS:

1. That the Board deny the CCH petition by Petitioner, pursuant to HAR Section 13-1-29.1 because Petitioner does not have a legal right, duty, or privilege entitling it to a CCH regarding issuance of a parking concession and continuance of the RP issued to Secure Parking Hawaii LLC; and
2. That the Board authorize the Chairperson to take any and all actions necessary to effectuate its decision.

Respectfully Submitted,



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

APPROVED FOR SUBMITTAL:



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DAWN N.S. CHANG, Chairperson  
Board of Land and Natural Resources

Attachment:

- A. December 18, 2023 Contested Case Hearing Petition by Kama'aina Boaters



STATE OF HAWAII  
BOARD OF LAND AND NATURAL RESOURCES

**PETITION FOR A CONTESTED CASE HEARING**

OFFICIAL USE ONLY	
Case No.	Date Received
Board Action Date / Item No.	Division/Office

**INSTRUCTIONS:**

- File (deliver, mail or fax) this form within ten (10) days of the Board Action Date to:  
  
 Department of Land and Natural Resources  
 Administrative Proceedings Office  
 1151 Punchbowl Street, Room 130  
 Honolulu, Hawaii 96813  
 Phone: (808) 587-1496, Fax: (808) 587-0390
- DLNR's contested case hearing rules are listed under Chapter 13-1, HAR, and can be obtained from the DLNR Administrative Proceedings Office or at its website (<http://dlnr.hawaii.gov/forms/contested-case-form/>). Please review these rules before filing a petition.
- If you use the electronic version of this form, note that the boxes are expandable to fit in your statements. If you use the hardcopy form and need more space, you may attach additional sheets.
- Pursuant to §13-1-30, HAR, a petition that involves a Conservation District Use Permit must be accompanied with a \$100.00 non-refundable filing fee (payable to "DLNR") or a request for waiver of this fee. A waiver may be granted by the Chairperson based on a petitioner's financial hardship.
- All materials, including this form, shall be submitted in **three (3)** photocopies.

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 2023 DEC 18 PM 1:22  
 DEPT. OF LAND & NATURAL RESOURCES  
 STATE OF HAWAII

A. PETITIONER		
(If there are multiple petitioners, use one form for each.)		
<b>1. Name</b> Surfparking.org (an unincorporated association), Kama'aina Boaters (an unincorporated association). and Kate Thompson and Soloman Kawamae	<b>2. Contact Person</b> Kate Thompson, Director of Surfparking.org, Owner of a sailboat moored at the Ala Wai Small Boat Harbor, for 25 years, Admin. role of the Kama'aina Boaters Facebook.	
<b>3. Address</b> [REDACTED]	<b>4. City</b> Kailua	<b>5. State and ZIP</b> HI 96734
<b>6. Email</b> [REDACTED]	<b>7. Phone</b> [REDACTED]	<b>8. Fax</b>
B. ATTORNEY (if represented)		
<b>9. Attorney Name</b>	<b>10. Firm Name</b>	

TBD		
<b>11. Address</b>	<b>12. City</b>	<b>13. State and ZIP</b>
<b>14. Email</b>	<b>15. Phone</b>	<b>16. Fax</b>

**C. SUBJECT MATTER**

**17. Board Action Being Contested**

**BLNR decided on December 7, 2023 to continue a Revocable Permit and issue a Direct Issuance to Secure Parking LLC.**

Continuation of Revocable Permit ("Permit") Issued to Secure Parking Hawaii LLC, ("Licensee") for Management of Vehicular Parking in the Designated Areas Located Within the Ala Wai Small Boat Harbor.

Direct Issuance of a Parking Concession, (for 3 years) to Secure Parking Hawaii LLC, in the Designated Areas Located Within the Ala Wai Small Boat Harbor, Honolulu, Oahu, Hawaii, Identified by Tax Map Keys: (1) 2-6-010:003 (Portion), (1) 2-3-037:012(Portion), :024, :027, :033, :035 and :037; and

Continuation of Revocable Permit Issued (for 'up to six months long', per meeting transcripts), to Secure Parking Hawaii LLC, for Management of Vehicular Parking in the Designated Areas Located Within the Ala Wai Small Boat Harbor, Honolulu, Oahu, Hawaii, Identified by Tax Map Keys: (1) 2-6- 010:003 (Portion), (1) 2-3-037:012 (Portion), :024, :027, :033, :035 and :037; and

Declare Project Exempt from Environmental Assessment Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules. (REVISED FROM 11.09.2023)

<b>18. Board Action Date</b> 12/07/2023	<b>19. Item No.</b> J-7
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**20. Any Specific Statute or Rule That Entitles Petitioner to a Contested Case**

HAR 13-1-28; Hawaii constitution Article 1, Section 4 (Due Process), and Article IX, Section 4 (Preservation of a Healthful Environment)

HRS 205-A Coastal Zone Management in general, and 205A-2, ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided,...including the Protection of Individual Rights Under Hawai`i's Constitution. 14 UH L. Rev. 311 (1992).

**21. Any Specific Property Interest of Petitioner That Is Entitled to Due Process Protection**

Due process rights:

1. To have adequate signage/notice of parking laws and regulations prior to parking a vehicle. Signage is inconsistent throughout the harbor (a minimum duty, Exhibit B of RP 120).
2. To have a fair and proper determination made by a duly authorized state official when parking rules and regulations have been violated;
3. To have regulations equally enforced and not subject to excessive and unreasonable fines and/or payment terms.
4. to have the right to a clean and safe environment.
5. My rights as a Recreational boat captain and boat owner, mooring permittee and beach access user.



6. My right to make a complaint: DCCA does not take complaints from the public regarding service providers (permittees/licenseses) that have contracts with the State of Hawaii.

**22. Any Disagreement Petitioner May Have with an Application before the Board**

1. Petitioner's previous contested case hearing request was submitted on August 21, 2023, objecting to the Board's action taken at the August 11, 2023 BLNR meeting approaching agenda Item J-1 to that meeting (regarding the continuation of Revocable permit issued to Secure Parking LLC in respect of the Ala Wai Small Boat Harbor). Because the objections and issues raised in Petitioner's August 21, 2023 Contested Case Hearing Request and this request, and Agenda Item J7 from the August 11 2023 meeting and Agenda Item J-1 from the December 7 hearing, are substantially the same, BLNR should not have acted on December 7 Agenda Item J-1 without first resolving Petitioner's August 21, 2023 Contested Case Hearing Request.

2. Board should not have approved the revocable permit because of legitimate reports that (i) signage regarding parking is inadequate, resulting in improper removal of vehicles; (ii) that state officials are not determining whether parking meters are expired before vehicles are towed/removed; (iii) Licensee/permittee is not performing its duties as was reported to the Board and that no licensee/permittee representative is patrolling the parking area; and (iv) that fees in connection with towing and enforcement are excessive and unreasonable. Furthermore, the licensee Secure Parking LLC works closely with the state contracted with the towing company, Mr. Tow LLC. Continued violations of law and complaints constitutes a failure of DLNR/DOBOR to administer this contract.

3. DOBOR did not adequately demonstrate that the application was entitled to an exemption from performing an environmental assessment because the Exemption Notice did not comply or did not demonstrate notice compliance with HAR 11.200.1-17 (b) or (c). Re-design projects and new sites should continue to require an EA. It seems DOBOR/DLNR has appropriately revised this since my filing of Request for a Contested Case Hearing, submitted on August 21, 2023.

4. DOBOR failed to to comply with HRS Chapter 205A, including by determining whether the issuance of the proposed Revocable Permit was "development" within the Special Management Area, including whether by cumulative and/or significant adverse effect, and/or otherwise was required to obtain a special management area permit, or a permit for development within the Shoreline Setback Area.

5. DOBOR failed to supervise, or enforce the contract, with Secure Parking LLC to provide 'Minimum Duties of the Parking Concession' (Exhibit B) in RP #120, from the start date 09-15-2021 until 11-09-2023, which specifically states 'Monitor the 6-hour limit within the free parking area to ensure compliance.' Those services were not provided during the contract period(s).

**23. Any Relief Petitioner Seeks or Deems Itself Entitled to**

1. Revocation of the permit; halt the RFI contract process until all issues raised have been discussed and addressed.

2. Request the Board to engage in rule-making to establish proper use and operation of a private contractor licensed/permitted to perform the acts in connection with the revocable license/permit, or direct issuance including procedures to provide adequate signage; determining when parking regulations have been violated; charging reasonable fines and fees in connection parking violations and with the removal of vehicles;

3. Require the State division to require its towing contractor to accept typical forms of legal tender including credit cards;

4. Require licensees/permittees to make the terms and conditions of all agreements with towing companies public, including terms regarding sharing of electronic information, and include protections to ensure errors do not result in improper removal of vehicles; and
5. Require licensees/permittees to produce monthly towing records of these State funds.
6. Require an environmental assessment in accordance with Hawaii law, before issuing the license/permit. If the only improvement is parking asphalt repavement, then the EA can be waived, but other redesign project(s) or ground changes need to be assessed.

**24. How Petitioner's Participation in the Proceeding Would Serve the Public Interest**

1. Preserve due process and environmental rights to the public. Preserve beach and ocean access and cultural rights for land and ocean use..
2. The current parking management is not being done properly, or fairly, is not pono and it does not adequately protect the public from predatory towing practices. To our knowledge, this does not happen in any other state parking facility.. Before a towing event, the final citation must be issued by a State Official such as a DOCARE Officer or an HPD Officer.

**25. Any Other Information That May Assist the Board in Determining Whether Petitioner Meets the Criteria to Be a Party under Section 13-1-31, HAR**

Petitioners include boat owners with mooring permits and other members of the Hawaii boating community that use the boating facilities at Ala Wai Small Boat Harbor. Petitioners include the members of Surfparking.org who use this area, which is Trust Land Status property for ocean access for surfing, sailing, paddling, swimming, and other forms of ocean recreation.

As a boat harbor mooring permit holder for more than 25 years, I have personally witnessed 100's of vehicles tows from the Ala Wai Small Boat Harbor.. I have documentation of emails dating back 20 years with the AWSBH Harbormasters or DOBOR trying to prevent towing, by providing better parking signage on poles and ground paint and labeling, with little response from the Harbormasters or DOBOR. With the current high stakes of perpetuating 'Instant Towing' policies for another 3 plus years (RFI can extend for 25 years) I think it's time to END INSTANT TOWING. It is not ethical to keep towing vehicles for minor parking violations. This is not standard procedure in other State and City and County parking spaces, and DOBOR/DLNR has a responsibility to develop HAR's or HRS's, if necessary, to ensure public protecting access to the ocean in this 'no build', public conservation and public trust land.

*.- Excepting lands set aside for federal purposes, the equitable ownership of public land in Hawaii has always been in its people. Upon admission, trusteeship to such land was transferred to the state, and such land has remained in public trust since that time. State ex rel. Kobayashi v. Zimring, 58 Haw. 106, 566 P.2d 725 (1977). (bold emphasis added).*

In the Department of Accounting and General Services (DAGS) parking lots, there is no license number input, or even stall number, required to purchase parking stall time. The parking payment stub goes on the dashboard. This is 'public protecting' because it's 'easy'. Parking at AWSBH should be easy.

I have drafted a 'public protecting' Request for Interest for parking concession contract and Applicant Score Sheet that I will suggest and a remedy during a contested case hearing. I have already shared the scoring sheet with DOBOR/DLNR. I have enclosed a copy with this petition.

Mr. Soloman Kawamae has joined this petition and will be adding documents regarding Hawai'ian cultural rights to this petition for a contested case hearing.



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DEPT. OF LAND  
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STATE OF HAWAII

To	DLNR
Cc	
Bcc	
Subject	Applicants for Parking Management RFI, Ala Wai Small Boat Harbor

### Point System to Evaluate Parking Vendors for Ala Wai Small Boat Harbor.

This form will be used for each vendor (concessionaire) that submits 'REQUEST FOR INTEREST' (RFI) documents seeking a Parking Concession Contract by Direct Negotiation with the Department of Land and Natural Resources (DLNR). Since the vendor must meet the Minimum Requirement of five years experience in providing parking systems and management, set forth in the RFI first published on the DOBOR website on September 6th, 2023, It can be assumed that the interested parties meet the 'experience' requirement. It can also be assumed the competing vendors have already submitted their documents by the September 15th deadline, and that those who will be evaluated with the 'Application Score Sheet' have already met the minimum requirement. This evaluation tool serves as a point system to rank specific criteria to quantify 'expertise in management of parking facilities'.

EXAMPLE APPLICANT: Concessionaire Applicant Name: **Secure Parking LLC, dba Concierge Car Wash and Traffic Monitoring Services, or Diamond Parking Services LLC, or others.**


## Assessment Rubric for Parking Vendor Applicants for Ala Wai Small Boat Harbor

Part 1: Customization and Signage Compliance	0 pts	1 pts	2 pts	Score
<b>1) Hawaii Resident discount/ Kama'aina discount</b>	Does not have a Hawaii Resident discount in place.	Can put in service in place within 3 months.	Has one or more years of experience offering Hawaii Resident discounts.	
<b>2) Experience producing the General Parking Instruction signage near the parking area entrances. A large general sign (4x6 feet) near two entrances and 6 smaller (2x3 foot) signs attached to poles spaced throughout the harbor. <u>Submits photos of sample signage already used in other parking lots</u> <u>An accurate parking map appears on this signage.</u></b>	Does not have a large sign (4x6 feet) Instructional sign that displays a Parking Map.  Does not currently provide a large and specific Parking Map, as to the specific stall type and its location.	Can put a large sign that explains general parking instructions which displays an accurate parking map (specific to the type of stall), in place within 3 months.	One or more years of experience providing large General Parking Instruction in their other managed parking contracts. Can provide a scan code with general parking information that includes a link to the parking map that can be downloaded by the parking customers.	
<b>3) All pole and ground signage meets 1990 ADA signage rules (and the Federal updated requirements) INSERT LINK</b>	Does not have signage in place that meets the requirements of ADA for signage.	Willing to undergo an inspection of pole signage by a third party, such as the State of Hawaii Accounting and General Services, Department (DAGS) that manages many State parking areas, used by the public.	Has already undergone an inspection by a recognized third party parking signage expert and agrees to an annual inspection.	
<b>4) All pole signage meets the State of Hawaii rules for Parking Signage</b>	Does not have signage in place that meets State of Hawaii parking signage requirements.	Willing to undergo an inspection of pole signage by a third party, such as the State of Hawaii Accounting and General Services, Department (DAGS) that manages many State parking areas, used by the public.	Has already undergone an inspection by a third party, has remedied the sub-standard aspects within 90 days, and schedules an annual inspection. Delivers the written results and remedies to DLNR and these reports are researchable. via UIPA request.	
<b>5. Uses technology to enhance the customer experience</b> Such as the ability to send text reminders to add payment and avoid a meter overstay.	Does not have the capacity to send a text reminder to add payment to avoid a meter overstay.	Can put a text reminder service in place within 3 months.	Has had a text reminder service in place for one or more years that offers clients a reminder to add payment to avoid a meter overstay.	
<b>Part 1: Customization and Signage Compliance Subtotal</b>				

Part 2: Transparency	0 pts	1 pts	2 pts	Score
<p><b>6) Memorandum of agreements (MOA's) and/or subcontracts</b> with other LLCs or business entities are made available for public review, such as the contract between the 'Concessionaire' (parking vendor) and the <b>1. TOW company</b></p> <p><b>2. Software Support (such as ParkWhiz)</b></p>	<p>Does not submit MOA's with other LLCs and companies</p> <p>Rationale for request: to ensure that any funds that go to/from the Tow Company, or to/from the Software Company are public.</p>	<p>Submit MOA's within 5 days of DLNR, or public request.</p> <p>MOA's or contracts are available for review.</p>	<p>Has already submitted all MOA's and subcontracts for evaluation by DLNR and for public record.</p> <p>These documents are included in the company's RFI submission prior to the selection committee evaluation.</p>	
<p><b>7) Monthly summary reports</b> from the 'Concessionaire' to DLNR include revenue generated from parking and showing the percentage split with specific amounts listed. In addition, money gain/loss from subcontracts (ParkWiz). ADDITIONALLY, the</p> <p><b>1. Number of TICKETS issued, including called in HPD/DOCARE tickets for expired registration or safety</b></p> <p><b>2. Number of TOW's performed</b></p> <p>Revenue from tickets will be divided at the same rate at the 80/20 split with 80% to the (DOBOR managed Boating Special Fund) and 20 % to the Concessionaire's Bank Account. The lack of revenue from ticketing will give the Concessionaire incentive to provide excellent signage and communication, so that the '4X Daily' inspections by a parking attendant (liaison) can be done quickly and effectively.</p>	<p>Does not submit monthly ticketing and towing records.</p>	<p>Does submit Ticketing and Towing records for the previous month, within 5 Days of an Agency or Public request.</p>	<p>Has a proven history of submitting monthly reports that include the specific financial revenue, as well as a record of number of tickets issued by category (meter overstay, out of stall) and the number of tows.</p> <p>Monthly statements are submitted to DOBOR/ DLNR and the number of tickets and tows are researchable on the DLNR website.</p> <p>This criteria has been included because of public complaints of predatory towing at the Ala Wai Small Boat Harbor. Complaints increased since 2021 when the Tow Company was given direct access to the software that shows when the meter payment expires.</p> <p>Solution: Vehicles are never towed for an expired Safety Check or Registration tag on the day of the discovery. Towing for expired 'tags' requires a HPD or DOCARE citation and a 24 grace period.</p>	

<b>Part 2: Transparency Subtotal</b>	
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Part 3: Accountability, Evaluation, Improvement Procedures	0 pts	1 pts	2 pts	Score
<p><b>8) Follow-up after post-tow hearing client complaints. Reads company reviews on social media, such as Yelp, and Trip Advisor.</b></p> <p>Once the Parking Concessionaire is given the <b>authority to ticket</b>, towing should be rare: less than 20 vehicles per month. (Compared with the 2022-23 average of 10 plus vehicles per day.) <b>Concessionaire attends all ‘post-tow hearings’ and documents the person’s complaint.</b> When specific valuable improvement (feedback) is presented by the person whose vehicle was towed, the Concessionaire can decide to give a full or partial refund, or no refund of the \$165.00 towing fee. (Or ticket cost, once established.) Client feedback will generally be about the pole or ground signage.</p>	<p>Refuses to modify pole signage or ground stenciling following complaints in the same stall or lot. The signage is this parking stall or area, has led to towing on two or more occasions.</p> <p>One such repetitive problem is the client who pays to park but wrongly parks in a stall reserved for boat owners.</p>	<p>Concessionaire presents at least one written example, with photos, of an improvement the company has made based on Client-Customer feedback, regarding pole and/or ground signage.</p> <p><i>Reviews Social Media posts at least once every 3 months and works to resolve issues.</i></p>	<p>Additional point for Documented work to remedy ‘client identified’ issues. Takes ‘responsibility’ or ‘accountability’ for vague, faded and misleading signage.</p> <p>The concessionaire can offer a full or partial refund, or no refund of a ticket or towing fee. If the client’s vehicle is wrongly towed (has happened at least 5 times), then the vehicle must be immediately returned.</p> <p>Concessionaire actively works to make sure each client whose vehicle was towed is given the opportunity to submit a post-tow hearing form. This can be supported via email or text to see if the client was given the form and that the submission deadline has been communicated a second time.. A scan code link to the post-tow hearing form can be included in the text.</p> <p>The Concessionaire actively works to improve pole and ground signage. Works to improve communication and resolve conflicts between the client and agencies such as the Harbormaster, HPD or DOCARE.</p>	
<p><b>9) Good lighting above the pole signage for parking and Pay</b></p>	<p>Does not provide adequate lighting over the pole signage for parking</p>	<p>Undergoes an inspection of lighting on the pole signage and at Pay Stations by a third party such as</p>	<p>Has already undergone an inspection by a third party of lighting on the pole signage and</p>	

<b>Stations</b>	and at the Pay Stations	DAGS or designated agency.	Pay Stations and agrees to an annual inspection	
<p><b>10) Pay station is based on the Stall Number, as the reference for payment.</b></p> <p><u>No longer will the vehicle license plate number be required.</u></p>	Concessionaire is unable to switch to a Stall Number based system	Willing to switch to a Stall Number based system, with 4 or less digits. A paid stall will have a number such as P103, and this number is used at the Pay Station, or with the electronic Parking Application	Has an established Stall Numbering system in place for one year or longer (in a different parking contracted area) for use in the Pay Stations and on the Electronic Parking Application, such as ParkWhiz, or similar application.	
<p><b>11) Install a large 4x6 foot sign that provides general information and a detailed accurate map detailing the stall numbers in the PAID and REC (Beach Access Stalls).</b></p> <p>The lack of General informational Signage and the lack of parking stall labeling leads to some people paying to park but accidentally parking in a 'Boat Owner Permit' Stall.</p> <p>Under NO circumstances will a vehicle be towed if the person has paid but parked in the wrong stall, unless it is their 5th time to make this mistake. The person would need to have received 4 previous tickets (on different days) to get the final ticket that leads to a tow.</p>	<p>Zero points if the Concessionaire company policy is to tow the vehicle immediately away, if the client has paid but parks in the wrong type of stall.</p> <p>Zero points If the company does not provide an accurate map and large readable general signage in at least locations in the Harbor,</p>	<p>Must meet all 3 criteria to earn one point.</p> <p>1) Agrees that the company logos should only exist in the Public Paid Area. Will remove company logos from pole signage in the boat owner permit parking lots/stalls.</p> <p>2) Agrees to produce an educational 'Warning' form that can be placed on the vehicle dash, and/or a \$25.00 paper ticket to be used when the person did pay, the paid time has not expired but they parked in the wrong type of stall. The client's mistake of paying but parking in the wrong type of stall is currently due to poor pole or ground signage.</p> <p>3) Has read the Community Petition and 'Comments' in the Oct. 2021: Every Stall Needs a Ground Label <a href="https://www.change.org/Signage_to_prevent_towing_AlaWaiHarbor">https://www.change.org/Signage_to_prevent_towing_AlaWaiHarbor</a></p> 	<p>Labels each stall in a map color key and descriptive word either: PAID and BEACH ACCESS and BOAT OWNER.</p> <p>For example, a ground stencil of the word PAID and the stall number P103.</p> <p>For example, the free recreational stall parking the words BEACH ACCESS and the stall number B124. BOAT OWNER stalls have ground labels (but NO number to reduce confusion in the adjacent paid stalls.</p> <p>A Warning or Ticket is given for this mistake.</p> <p>No Towing is allowed for this mistake of paying but parking in the wrong type of stall.</p> <p>Only if the same client has been issued 5 separate Warnings, or 5 Tickets, on 6 different days, then a tow order can be issued by a DOCARE officer, at the Harbormaster's request.</p>	



<b>Part 3: Accountability, Evaluation, Improvement Procedures Subtotal</b>				

<b>Part 4: Safety, Security, And Camera Monitoring</b>	<b>0 pts</b>	<b>1 pts</b>	<b>2 pts</b>	<b>Score</b>
<p><b>12) The physical presence of a human in the parking area at least 4 times a day between 6:00 a.m. to 10:30 p.m.</b></p> <p>Parking lot 'inspections' this can be done on foot or preferably in an enclosed air-conditioned electric vehicle.</p> <p>The parking lot inspections do not need to be specific times, but ideally inspections will take place every 6 hours.</p>	<p>Ineffective Enforcement and Security Cameras are currently installed in the area but the quality of video is not high enough to serve as proof when the victim is 'pressing charges' for vandalism or car theft. Parking vendors have tried to save money by not having any human patrol the parking area and have, per DOBOR policy delegated all parking enforcement usually done parking attendants by ticketing, to the tow truck company and patron's vehicle is immediately removed, even for a meter overstay.</p>	<p>Concessionaire facilitates the communication between a crime victim and with Honolulu Police Department (HPD) officers, and/or the Division of Conservation and Resources Management (DOCARE) officers. Provides medium-high quality video surveillance footage to the victim of a reported crime for the purposes of prosecution proceedings. The Concessionaire may charge at a one time fee of \$50.00, but not more, for a video clip that is uploaded to a DROPBOX app or similar. File access is given to the victim of the crime and not the defense, unless the defense files a subpoena.</p>	<p>In addition to the requirements to earn 1 point regarding cameras mentioned in the column to the left, an additional 1 point (2 pts total) can be earned by the Concessionaire that is able to provide a communication booth with a 'live' speaker system to a Customer Service Representative.</p> <p>(Similar to the 'Our Kaka'ako parking lot, Honolulu)</p> <p>This speaker system will have a human representative available via a speaker system from 7:00 am till 10:30 pm</p>	
<b>Part 4: Safety, Security, and Camera Monitoring Subtotal</b>				

<b>Part 5: Financial Capacity</b>	<b>0 pts</b>	<b>1 pts</b>	<b>Score</b>
<p><b>13) As defined by DCCA, has deposit and financial requirements stated in the RFI.</b></p>	<p>Does not have deposit and financial requirements stated in the RFI.</p>	<p>As defined by DCCA and DLNR. Has met the banking, financial and insurance requirements stated in the RFI Only 1 pt for meeting this criteria, signifying Yes or No One pt for Yes, meets all the specified financial requirements in the RFI</p>	
<b>Part 5: Financial Capability</b>			

## Scoring Sheet

<b>Applicant Name:</b> <i>(i.e. Secure Parking LLC)</i>	
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**Evaluator declaration:**

*"I have used the Assessment Rubric form (10-1-2023) to evaluate the Parking Concessionaire Applicant."*

**Evaluator Name (Printed):** \_\_\_\_\_ **Date:** \_\_\_\_\_

Assessment Criteria:	Aspect:	Score (0, 1, or 2)
<b>Part 1: Customization and Signage Compliance</b>	1. Hawaii Resident Discount	
	2. Large Informational Poster explaining instructions and includes an accurate map.	
	3. Signage meets Federal ADA rules	
	4. Signage meets State of Hawaii rules	
	5. Uses technology to enhance the customer experience.	
	<b>Part 1 Subtotal</b>	
<b>Part 2: Transparency</b>	6. Memorandum of Agreements and/or Subcontracts	
	7. Monthly Summary Reports (1 pt) for a Financial only statement. An additional 1 pt (2 total) when monthly Ticketing and Towing records are included in the monthly summary.	
	<b>Part 2 Subtotal</b>	
<b>Part 3: Accountability, Evaluation, Improvement Procedures</b>	8. Follow-up after post-tow hearing client complaints. Reads company reviews on social media, such as Yelp, and Trip Advisor.	
	9. Good lighting exists above the pole signage and Pay Stations.	
	10. Pay station is based on the Stall Number, as the reference for payment.	
	11. Install a large 4x6 foot sign that provides general information and a detailed accurate map detailing the stall numbers in the PAID and REC (Beach Access Stalls).	
	<b>Part 3 Subtotal</b>	
<b>Part 4: Safety, Security, and Camera Monitoring</b>	12. The physical presence of a human in the parking area at least 4 times a day between 6:00 a.m. to 10:30 p.m.	
	<b>Part 4 Subtotal</b>	
<b>Part 5: Financial Capacity</b>	13. As defined by DCCA and DLNR. Has met the banking, financial and insurance requirements stated in the RFI. One pt for YES, meets all the qualifications set forth in RFI.	
	<b>Part 5 Subtotal</b>	
<b>Total Score (out of 25)</b>		<b>/ 25</b>

<b>Additional Comments:</b>	
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As noted by DOBOR/ DLNR on Sept. 6, 2023 publication for Request For Interest: the score point system allows applicants with prior 'Convictions for Violations of Law' to apply. In such a situation, negative points can be applied on the score sheet.

**Evaluator Name (Signed):** \_\_\_\_\_ **Date:** \_\_\_\_\_