

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 Margaret Hallahan 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:

Margaret Hallahan (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 she 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.¹ Petitioner was present at the Board's meeting on December 7, 2023, virtually by "Zoom."

After approximately two hours of consideration, the Board voted to approve DOBOR's recommendation via its Staff Submittal, amended during the meeting.² Two persons orally requested a CCH for Item J-7 at the December 7, 2023 Board meeting, one of which was Petitioner.³ 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 an environmental assessment before issuing the RP; requiring DOBOR to take responsibility for sharing online digital information from the parking vendor; requiring DOBOR to hold community meetings for Ala Wai Small Boat Harbor users and stakeholders; having the Board hold an informational session to create a plan for DOCARE to issue parking citations; and returning the use of Ala Wai Small Boat Harbor to recreational use only.

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

¹ 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.

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

³ 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.

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 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 *Morrissey 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: "due process rights; right to a clean environment; recreational boat captain, boat owner, and beach access user; and the Department of Commerce and Consumer Affairs does not take complaints from the public regarding service providers in contracts with the State of Hawaii." 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-7.⁴

Additionally, Petitioner states as justification for being considered a party entitled to a CCH that she is a "recreational boat captain, boat owner, and beach access user." However, holding a permit to moor a vessel at the Ala Wai small boat harbor or being a beach access user 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* procedures via an adversarial, trial-type CCH would not add significant value. Petitioner

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

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 she submitted in opposition to the agenda item. 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.

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 her 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,



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

APPROVED FOR SUBMITTAL:



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

Attachment:

A. December 18, 2023 Contested Case Hearing Petition by Margaret Hallahan



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.

RECEIVED
 2023 DEC 18 PM 1:23
 DEPT. OF LAND & NATURAL RESOURCES
 STATE OF HAWAII

A. PETITIONER		
(If there are multiple petitioners, use one form for each.)		
1. Name Surfparking.org (an unincorporated association), Captain Margaret Hallahan	2. Contact Person Captain Margaret Hallahan, Member of Surfparking.org, a 45-year recreational user of the Ala Wai Small Boat Harbor	
3. Address [REDACTED]	4. City San Francisco	5. State and ZIP CA 94115
6. Email [REDACTED]	7. Phone [REDACTED]	8. Fax

B. ATTORNEY (if represented)		
9. Attorney Name TBD	10. Firm Name	
11. Address	12. City	13. State and ZIP
14. Email	15. Phone	16. Fax

C. SUBJECT MATTER	
17. Board Action Being Contested	
<p>The BLNR decision on December 7, 2023, to continue a Revocable Permit and issue a Direct Issuance to Secure Parking LLC.</p> <p>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.</p> <p>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</p> <p>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</p> <p>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)</p>	
18. Board Action Date 12/07/2023	19. Item No. J-7
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)	

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

- Due process rights: to obtain adequate signage/notice of parking laws and regulations in public parking; to have a proper determination made by a duly authorized state official when parking rules and regulations have been violated; and the right to have regulations fairly enforced and not subject to excessive and unreasonable fines and/or payment terms. On the parking signs at the Pay Station, in small letters, it says: “By parking your vehicle in this parking lot, you (1 Are entering into a contract with the State of Hawaii through its parking vendor(s) and understand that this contract may affect your legal rights.” For this reason, the penalty for a meter overstay should be consistent with other State public parking properties.
- Right to a clean environment.
- Recreational boat captain, boat owner, and beach access user.
- The Department of Commerce and Consumer Affairs (DCCA) does not take complaints from the public regarding service providers (permittees/licensees) in contracts with the State of Hawaii. Therefore, the State has additional responsibilities to evaluate the effectiveness of the services the permittee provides and monitor the public’s satisfaction with these services, for parking management, the monthly statement should include several citations written and the number of vehicles removed from the area by towing. The BLNR is in charge of making sure access to oversight of the DLNR divisions are run by capable people and their actions are transparent to the public. BLNR must create more oversight, not less oversight, of the administrators.

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

Reasons I am requesting a contested case hearing.

- HRS §103D-101 Procurement should have been used rather than HRS 102 even though act 163 was passed in 2022. I do not believe Act 163 excused DLNR from using §103D-101 when in 2021 the state's AG office directed DLNR to use §103D-101.
- In the Secure Parking 2022 accounting records include certain allowed adjusted gross line items that are not permitted by agreements with DLNR. These line item amounts need to be investigated to confirm their accuracy, and why and who allowed the deductions. “Surfparking.org” has requested such information via UIPA request to DLNR to receive the above information, which request is overdue. I believe Secure Parking may owe money to the State of Hawaii. On the parking sign at the Pay Station, it says: By parking your vehicle in this parking lot, you (1 Are entering into a contract with the State of Hawaii through its parking vendor(s) and understand that this contract may affect your legal rights.
- State of Hawaii and Secure Parking has online access to the State of Hawaii parking software. Our UIPA request form to DLNR for the parking meter software is currently overdue. Is this parking meter software available for public access? Does Secure Parking have the right to share this information to a third parking and/or the public? Is Secure Parking able to share the software access and analytics and data? This is not in the contract that I can see, accordingly, I object until the details are clarified. I believe Secure Parking does share such information with a towing sub-contractor. If so, why not share this information with the public? By parking your vehicle in this parking lot, you

(1 Are entering into a contract with the State of Hawaii through its parking vendor(s) and understand that this contract may affect your legal rights

- 12-7-2023 J-7 submittal states Secure Parking will be creating user outreach. I object because the state cannot outsource community outreach to the same parking vendor the community is rejecting. It is similar to hiring a private military company, and then asking that same private company to hear the public's complaints about their military actions, then write their own report of those complaints. We need more oversight by the public and the BLNR of DOBOR/DLNR rule-making and policies, not less oversight. A state-funded mediator would be an appropriate expense, to avoid lawsuits.
- 12-7-2023 J-7 submittal did not talk about creating a new permit. As the old permit had expired the information to create a new permit needed to be submitted.
- Act 163 was not submitted in the 12-7-2023 submittal yet it was the foundational document used in the Board's decision to move forward with voting in favor of J-7.
- My request for an earlier contested case hearing on 8-21-2023 BLNR meeting has not been answered. This is stated in my written testimony. I object because my petition to request a contested case hearing regarding the J-1 8-11-23 BLNR meeting has not been responded to.
- DOCARE officers should be issuing the parking citations, for many reasons, including these should be union jobs, not concessioned out to Secure Parking.
- How can a tow be done from the AWSBH, with Secure Parking giving out online data from the state pay machines, but not the determination of a violation? Since 2011, the policy has been to tow vehicles when no state officer, or parking management representative, has issued a parking citation before a towing vehicle. There is no physical inspection by a qualified person, with the legal standing to cite the vehicle, yet the private property of the public (vehicle) is hooked up and removed. In the DOBOR testimony of December 7, 2023, the number of tows that the towing company verbally reports (though a UIPA has been requested to DOBOR for the written information which was verbally reported to the BLNR in this meeting) as 1500 tows between January 1, 2023, until August 8, 2023 (222 days). And if the amount of towing stays relatively consistent through the end of the year, then the amount of tows for 2023, will exceed 2000. DOCARE officers have likely issued less than 25 citations in the Ala Wai Harbor all year. Through a UIPA request, DLNR has refused to release the number of citations issued by DOCARE, between June 1-15, 2023.

12-7-2023 J-7 submittal did not request the creation of a new permit. However, as the old permit expired on November 9, 20023, the permit was incapable of being extended, and a request to issue a new permit was required. In this meeting on 12-7-2023, the Duty AG gave direction to BLNR that the new Act 163 permits this DOBOR to not use HRS §103D-101. The Duty AG also said that Act 163 makes it legal for DOBOR to not be required to create a new submittal if changes are needed during the BLNR meeting. This creates a problem for being able to create the needed time for the public to be notified that there may be changes. OIP has said to me on the phone that the submittal can not be changed during a meeting.

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

- The Revocable Permit and Direct Issuance exempt from Environmental Assessment.

12-7-2023 J-7 And Declare Project Exempt from Environmental Assessment Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules.

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 addressed.
2. For 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 should include
 1. Determining when parking regulations have been violated;
 2. charging reasonable fines and fees in connection with parking violations and with the removal of vehicles;
 3. requiring 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 specifics such as ‘a vehicle can be towed for an expired safety check or registration.’
 5. including terms regarding sharing of electronic information, and protections to ensure errors do not result in improper removal of vehicles.
 6. require licensees/permittees to produce monthly towing records;
3. Require an environmental assessment following Hawaii law, before issuing the license/permit. If the only improvement is parking asphalt re-pavement, then the EA can be waived, but other redesign project(s) or ground changes need to be assessed.
4. Require DOBOR to take responsibility for sharing online digital information from the State software with Mr. Tow LLC, through Secure Parking LLC.
5. Require DOBOR to engage in regular (at least quarterly) community meetings with AWSBH users and stakeholders.
6. Have the Board request an Informational Session with the BLNR Chair, DOCARE, and DOBOR to come up with a plan to use union DOCARE employees to issue parking citations.
7. From the research I submitted in my testimony, in 1957 the Territorial Governor released the Ala Wai Small Boat Harbor to be used for recreational use only except for the Hawaii Yacht Club. I request that the BLNR board return the Ala Wai Small Boat Harbor to Recreational Use only as created by Hawaii State Law. Please see the 47 pages in my testimony online in the meeting.

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

1. Preserve due process and environmental rights to the public. Also, preserve beach and ocean access, and preserve cultural rights.
2. The current parking management is not being done properly, or fairly, is not pono and it does not protect the public. 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 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. I regularly use this harbor and I would appreciate the opportunity to express my concerns in a case hearing settled. I also suggest a BLNR informational meeting with the recreational user of the AWSBH community is vital and could be useful before my oral testimony during the contested case hearing.

*.- 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)*

Check this box if Petitioner is submitting supporting documents with this form.

Check this box if Petitioner will submit additional supporting documents after filing this form.

Captain Margaret Hallahan

Petitioner or Representative (Print
Name)

M. Hallahan

Signature

12-18-2023

Date

December 5th, 2023 request for Zoom attendance for the J-7 meeting December 7th.

To Chair Dawn Chang, and to the Board of Land and Natural Resources.

Item J-7: I am in Strong Opposition to Secure Parking LLC receiving a contract. If they must have a contract that it not exceed June 30, 2023.

Thank you for your time at this meeting to review the history of the Ala Wai. We must look back to at least to the early 1900's when the Ala Wai was dredged to understand why it is so important for recreational use only.

My request for a contested case hearing was on 8-21-2023 and has not been heard. I do not believe it is correct to have a vote on J-7 till this is settled.

The AWSBH parking and recreational use only is a settled matter. I am asking the BLNR to have DOBOR uphold the agreement BLNR created in 2008.

1957 Please see the records of the territorial Governor creating the Ala Wai Area for recreational use only. Aerial photo and recent aerial photo showing with land erosion.

2008 Please see the J-1 1-25-2008 BLNR meeting J-1 5-23-2008 BLNR meeting. New Parking Plan agreement Plan A was adapted as was the agreement that 249 parking meters would create \$800,000 a year and these funds would be used in free recreational parking upkeep and monitoring. State paid mediation service to create this recommendation to the BLNR Board 5-22-2008 and they ordered DOBOR to agree to several important action items. BLNR ordered that the community surrender 249 free parking stalls to generate money for overall upkeep of AWSBH and to create an ad-hoc community group and this support has not been created, or delivered to the people who use the area.

2020 - Please see the Contract with Mr. Tow showing they did not have to have a bond and no requirement to report back to the state how many daily tows they are doing at the AWSBH.

2020 - Please see the State contract with Diamond Parking that the Board approved saying that would be a flat income not to exceed \$10,000. a month (or \$120,000. a year).

2022-2023 -Please see sample of Secure Parking financial monthly report to DOBOR.

2022 Please see emergency (covid 19) contract with Secure Parking that does not uphold the BLNR required direction of a flat fee of \$10,000. a month of vendor profit. Also, Secure Parking LLC did not have the minimum 5 years of experience at the time the contract was awarded. Currently Secure Parking is responsible for monitoring the recreational parking, yet there is no evidence that Secure Parking monitors the recreational area at all.

2022 and 2023 Please see Secure Parking contract stating 20 percent of gross receipts nothing about allowed adjusted gross receipts. The Monthly Statements trend shows a possible refund to the State.

2023, Please see Senate Bill 1034, Introducer(s) INOUYE, CHANG, LEE, MCKELVEY, SHIMABUKURO, San Buenaventura, Wakai. Report title Ala Wai Boat Harbor; Public Parking; Free Stalls. Requires the maintenance of at least three hundred parking stalls at Ala Wai Boat Harbor at no cost for recreational ocean access and for the practice of traditional and customary Native Hawaiian rights. Bill 1034 passed in a joint committee hearing of Water and Land and Committee on Hawaii Affairs. The measure would permanently make at least 300 parking stalls in and around the harbor free for people who want to access the ocean or perform Native Hawaiian cultural practices. 2/17/2023 report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM. The bill was never scheduled for a hearing in the Senate Ways and Means Committee by the March 2, 2023 deadline.

8-11-2023 Please see the transcript from the BLNR video meeting from J-1

8-21-2023 Please see my request for a contested case hearing.

11-14-2023 Please see Waterway Coast Guard email from research

11-20-2023 Please see SENATOR LORRAINE R. INOUYE (D) research

11-21-2023 Please see Jason Redulla DOCARE research

12-5-2023 Written testimony by Maggie Hallahan to the board on J-7



THE TERRITORY OF HAWAII
EXECUTIVE CHAMBERS
IOLANI PALACE
HONOLULU

July 8, 1957

FISCAL 1957

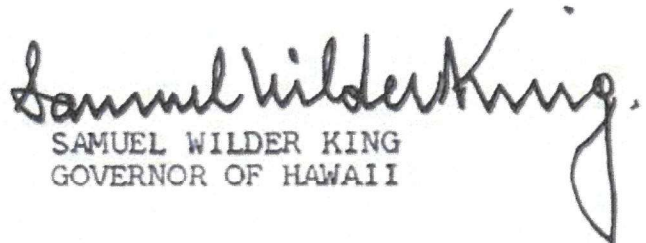
MEMORANDUM NO. 122

TO: Commissioner of Public Lands
FROM: Governor of Hawaii
SUBJECT: Transfer of land area at the boat harbor to
the Board of Harbor Commissioners.

The question of transferring the land area at the boat harbor being created off the Ala Wai entrance to the Board of Harbor Commissioners has been pending for some time.

I have finally decided to transfer this land to the Board of Harbor Commissioners for use as a boat harbor with the understanding that no commercial leases or other extraneous activities will be authorized by the Board, with the exception, however, of granting a lease of a limited area of land to the Hawaii Yacht Club for the construction and operation of a club house.

Will you get together with the Chairman of the Board of Harbor Commissioners to delineate the area to be transferred and draft an executive order for that purpose.


SAMUEL WILDER KING
GOVERNOR OF HAWAII

cc: Attorney General
Board of Harbor Commissioners



1952

