

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96813

October 28, 2011

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

PETITION OF SEABIRD CHARTERS, INC. (SCI) FOR WAIVER OF MINIMUM GROSS RECEIPTS REQUIREMENT FOR REISSUANCE OF COMMERCIAL USE PERMIT FOR LAHAINA SMALL BOAT HARBOR, MAUI. DELEGATE AUTHORITY TO THE CHAIRPERSON OR ADMINISTRATOR OF THE DIVISION OF BOATING AND OCEAN RECREATION (DOBOR) TO DETERMINE WHEN REISSUANCE OF A PERMITTEE'S COMMERCIAL PERMIT WOULD BE FAIR AND WARRANTED ACCORDING TO HAR §13-231-61

REMARKS:

Mr. Phil Kasper is purchasing the stock of Seabird Charters, Inc. from Paradise Cruise, Ltd. (PCL) and intends to close on the transaction by the end of October 2011. The vessel identified in the commercial permit is the "Spirit of Lahaina" and the current commercial permit expires March 2012.

Prior to the transfer of stock to SCI, PCL submitted an application to temporarily remove the vessel from the Lahaina small boat harbor and bring it to Oahu in order to service and dry-dock the vessel. Their request was granted and the vessel was absent from the Lahaina small boat harbor from May 9, 2011 and returned on August 31, 2011. The vessel was operated on a limited basis and generated approximately \$78,000 in gross receipts from April 2011 until the sale of the corporation to Mr. Kasper.

In order to do the change of officers and directors required by the Department of Liquor (DOL) upon the stock transfer, Mr. Kasper must go through background checks, fingerprinting, etc. All of that material is required to be turned in to DOL upon close of the purchase transaction, at which time the DOL will move forward. Should all the information be submitted by November, the earliest possible hearing and approval date by DOL would be mid-December. If for some reason the meeting is not held, the next meeting would be held in January 2012.

Mr. Kasper intends to use Seabird Charters, Inc. to conduct dinner tours, which would include the service of alcohol. The possible delay in obtaining the change of officers and directors with the Department of Liquor will negatively impact Mr. Kasper's ability to sell dinner tours. It is anticipated that Seabird Charters, Inc. will not meet the minimum gross receipts requirements needed to renew the commercial permit in March 2012 since they only have approximately three

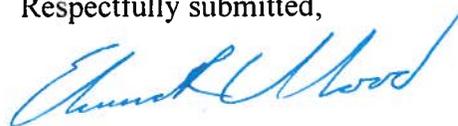
and a half months of actual operations to generate the additional \$172,000 needed to meet the minimum gross receipts requirement.

Due to the fact that the ability to generate the minimum gross receipt requirement for the reissuance of the commercial permit was a result of the vessel being out of operation in order to conduct necessary repairs and maintenance as well as operations being curtailed while DOL permits were being transferred, Seabird Charters, Inc. is petitioning the Land Board for relief from meeting the minimum gross receipts requirement for the 2011-2012 permit year.

RECOMMENDATIONS: That the Board:

1. Waive the minimum gross receipt requirement for the 2011-2012 permit year and approve the reissuance of a commercial permit for Lahaina Harbor for a one year term to Seabird Charters, Inc., according to the circumstances that have been outlined in this submittal.
2. Delegate authority to the Chairperson or the Administrator of DOBOR to determine when reissuance of a permittee's commercial permit would be fair and warranted according to HAR §13-231-61.

Respectfully submitted,



Edward R. Underwood
Administrator

APPROVED FOR SUBMITTAL



William J. Aila, Jr.
for Chairperson and Member