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

March 8, 2013

OAHU

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

Cancellation of Revocable Permit No. BO-07-30 to Waianae Ice House Partnership, and Issuance of a New Revocable Permit and Immediate Right-of-Entry to Dolphin Excursions Hawaii, Inc. for a Portion of Land Located Within the Waianae Small Boat Harbor on the Island of Oahu

**APPLICANT:**

Cancellation of BO-07-30:  
Waianae Ice House Partnership, a Hawaii General Partnership, whose business and mailing address is c/o Mr. Victor Rapoza, 84-1190 Ala Hele Street, Waianae, Hawaii, 96792.

Issuance of new Permit (RP):  
Dolphin Excursions Hawaii, Inc., a Domestic Profit Corporation, whose address is 44-145 Hako Street, Kaneohe, Hawaii 96744

**LEGAL REFERENCE:**

Sections 171-13 and 55, Hawaii Revised Statutes.

**LOCATION & AREA:**

Portion of Government land at the Waianae Small Boat Harbor, situated at Waianae, Island of Oahu, identified by Tax Map Key: (1) 8-5-002:051 more or less 6,655 square feet of land as shown on the attached map labeled Exhibit A. The site is presently occupied by the Waianae Ice House partnership.

**LAND TITLE STATUS:**

Section 5(a) lands of the Hawaii Admission Act.  
DHHL 20% entitlement lands pursuant to the Hawaii

**CHARACTER OF USE:**

Occupy and use the premises for the sale of ice, sundry items, non-alcoholic beverages, food, incidental marine related items, and cold storage, or additional uses as approved by the Chairperson. The Permittee shall also maintain operation of a fish hoist and scale.

**COMMENCEMENT DATE:**

The final commencement date to be determined by the Chairperson.

**RENT:**

Rent to remain the same. The Permittee shall pay a base rental in the amount of \$732.00 per month or ten percent (10%) of gross receipts monthly, whichever is greater. The monthly rental shall be in advance, and any percentage rental shall be paid prior to the end of the following month for which it is due. In addition, the percentage rent shall be accompanied with gross receipt reports on a form approved by the Department.

**SECURITY DEPOSIT:**

Twice the base monthly rental totaling \$1,464.00

**CHAPTER 343 ENVIRONMENTAL ASSESSMENT:**

In accordance with the "Comprehensive Exemption List for the Division of Boating and Ocean Recreation, Department of Land and Natural Resources, State of Hawaii, as concurred in by the Environmental Council, State of Hawaii", dated March, 1995, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that states in pertinent part, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing." The subject support areas will have negligible or no expansion or change of use beyond that previously existing.

**DCCA VERIFICATION:**

Place of business registration confirmed:	Yes
Registered business name confirmed:	Yes
Applicant in good standing confirmed:	Yes

**REMARKS:**

The Division of Boating and Ocean Recreation (DOBOR) has received a notice of request from the Waianae Ice House Partnership (WIHP) to end its operation under Revocable Permit No. BO-07-30 at the Waianae Small Boat Harbor.

The present Permittee (WIHP) owns the structure on the property containing ice machines, freezers, storage, kitchen facilities, fish hoist and an office. The Permittee has said they are prepared to remove all improvements at the time the Board approves this request, or has proposed that they would negotiate a sale of the structure and all equipment to the new operator if the State sought to continue the same or similar use of this property.

DOBOR expressed the desire to continue offering the property for use of a business to provide same or similar services within Waianae Small Boat Harbor in order to maintain continuity of services to the harbor users. DOBOR received a proposal to continue the similar services under a new revocable permit, for the same site and understands that it would purchase the equipment and structure from the WIHP.

Request for a new revocable permit is being made by Dolphin Excursions Hawaii, Inc. (DEH). DEH is an established commercial operation that has work out of Waianae Small Boat Harbor for many years. DEH has a deep understanding of the needs of the harbor and would purchase the structure with all equipment presently located on site. Should the Board approve the request, DEH wishes access to make any necessary upgrades necessary so as to keep continuity of service while waiting on the completion of the agreement. DEH has requested an immediate right-of-entry so as to perform these repairs and upgrade to the structure, and equipment to continue operations maintaining the fish hoist and scale.

DOBOR recommends the approval of Waianae Ice House Partnership request for cancellation, under the terms and conditions of Revocable Permit No. BO-07-30, and the issuance of new Revocable Permit to Dolphin Excursions, Inc. with an immediate right-of-entry so as to expedite repairs to continue continuity of services at the Waianae Small Boat Harbor.

DOBOR recommends the following conditions to be included in the Revocable Permit to Dolphin Excursions Hawaii, Inc.:

1. Operate at minimum six (6) days per week, including weekends and shall provide DOBOR for approval, its operating hours to be in line with the needs of the harbor.
2. Provide all plans for approval by the Department prior to initiating any work.
3. Provide monthly gross receipts reports on a form provided by the Department no later than thirty (30) days following the close of the previous month.
4. Keep surrounding area, storage areas, safe, clean, and maintain all improvements on the property.
5. Work closely with the Harbor Master for any special events, parking and daily operation.
6. Permittee shall be responsible for any connection and payment of all utilities.

**RECOMENDATION:**

That the Board:

- A. Declare that after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect and is therefore exempt from the preparation of an environmental assessment.
- B. Authorize the cancellation of Revocable Permit No. BO-07-30 to Waianae Ice House Partnership and approve the issuance of a new Revocable Permit with an immediate right-of-entry to Dolphin Excursions Hawaii, Inc. for a portion of land at Waianae Small Boat Harbor.
  1. To include all terms and conditions as included herein;

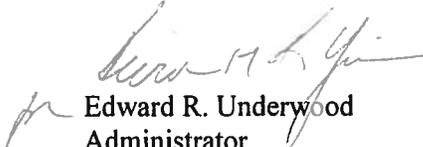
Cancellation of Revocable Permit No. BO-07-30 to Waianae Ice House Partnership, and Issuance of a New Revocable Permit and Immediate Right of Entry to Dolphin Excursions Hawaii, Inc. for a Portion of Land Located Within the Waianae Small Boat Harbor on the Island of Oahu

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2. Any such other terms and conditions as may be required by the Chairperson.
3. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time.
4. Review and approval by the Department of the Attorney General.

Respectfully submitted,

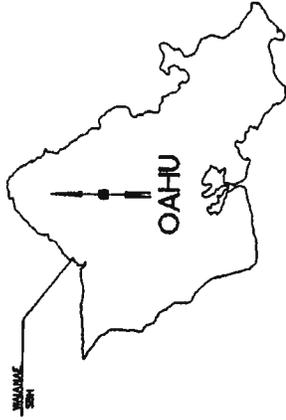
  
Edward R. Underwood  
Administrator

Attachments

APPROVED FOR SUBMITTAL



William J. Aila, Jr.  
Chairperson



**WAIANAЕ BOAT HARBOR**

TAX MAP REF: B-3-0211

