

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

August 23, 2013

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

PETITION FOR A DECLARATORY RULING BY WILLIAM GIBSON REGARDING THE EXPIRATION OF HIS REGULAR MOORING PERMIT FOR THE HONOKOHAU SMALL BOAT HARBOR.

BACKGROUND:

R & R, Inc. (William E. Gibson, President) held both a regular mooring permit and commercial use permit for the Honokohau small boat harbor; however, both use permits expired on April 30, 2012. R and R, Inc. was able to renew their regular mooring permit under the name of William Gibson by paying the appropriate late fees and applying for renewal within the thirty day grace period found in Hawaii Administrative Rules (HAR), §13-231-5. Unfortunately, the commercial use permit could not be renewed according to HAR and was offered to the next qualified applicant on the waitlist.

One year later, William Gibson again failed to renew his regular mooring permit prior to the expiration date of April 30, 2013. The Hawaii District Harbor Staff sent a reminder letter on May 2, 2013 to Mr. Gibson informing him that his regular mooring permit expired and he had until May 30, 2013 to renew his mooring permit. The letter was sent certified mail to the address on record but was returned as “undeliverable”.

HAR, §13-231-5(b), states, “(b) If a permittee fails to renew a regular mooring permit on or before the date on which it expires, that person may be granted a thirty (30) calendar day period to reinstate the regular mooring permit as long as all the conditions or covenants of the original issuance, including the requirement of prompt monthly payment of charges in advance, have been met and the rules governing small boat harbors of the department of land and natural resources have been fully complied with. The person shall pay a one-time penalty fee of \$250.00 as well as all other applicable fees. Impoundment of the vessel shall be stayed only until the grace period has expired.”

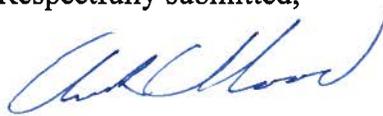
Mr. Gibson failed to renew his regular mooring permit prior to the expiration date as well as the thirty day grace period. The permit expiration date was printed on the billing statements and a certified letter was sent to the address on record notifying him that he had a thirty day grace period to renew the regular mooring permit. Also, Mr. Gibson had failed to renew his use permits the year before and was aware of the consequences for not renewing prior to the permit expiration date.

RECOMMENDATION:

That the Board:

1. Deny the petition for a declaratory ruling filed by R and R, Inc. for the reasons set forth above.

Respectfully submitted,



Edward R. Underwood
Administrator

APPROVED FOR SUBMITTAL



William J. Aila, Jr.
Chairperson