

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 23, 2015

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

Ref: 15OD-007

OAHU

After-the-Fact Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Fort DeRussy Beach, Kalia, Waikiki, Honolulu, Oahu, TMK (1) 2-6-005:Seaward of 001 on January 18, 2015.

APPLICANT:

Hawaii Explosives & Pyrotechnics, Inc.

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Fort DeRussy Beach, Kalia Waikiki, Honolulu, Oahu, identified by Tax Map Key:(1) 2-6-005:Seaward of 001, as shown on the map attached as **Exhibit A**.

AREA:

500 square feet, more or less, and a safety zone ranging between 100 and 210 feet radius depending on different stages during the event.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Requested area is vacant and unencumbered.

CHARACTER OF USE:

Set up and conducting aerial fireworks display.

TERM:

Between 12:00 noon to 10:00 p.m. on Sunday, January 18, 2015.

ONE-TIME PAYMENT:

\$550.

COLLATERAL SECURITY DEPOSIT:

None.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Pursuant to the authority delegated by the Board on June 14, 2013, item D-11, as amended, Chairperson declared the request exempt from the preparation of an environmental assessment, and signed the exempt notification.

DCCA VERIFICATION:

| | | |
|---|--------------|--------------|
| Place of business registration confirmed: | YES <u>X</u> | NO <u>__</u> |
| Registered business name confirmed: | YES <u>X</u> | NO <u>__</u> |
| Applicant in good standing confirmed: | YES <u>X</u> | NO <u>__</u> |

REMARKS:

Hawaii Explosives & Pyrotechnics, Inc. ("Applicant") is requesting the issuance of a right-of-entry permit for the set-up and firing of fireworks display at Fort DeRussy Beach for the special event fireworks display on January 18, 2015.

At its meeting of October 10, 2014, item D-4, the Board authorized the issuance of a management right-of-entry to the City and County of Honolulu ("City") over Fort DeRussy Beach¹ for beach management purposes. Such right-of-entry is planned to be replaced by a revocable permit, which is currently processed at the Department of Attorney General.

¹ The right-of-entry area includes the requested area.

When Applicant was approached by its client to conduct the fireworks display, Applicant submitted an application for the event to the Division of Boating and Ocean Recreation (“DOBOR”) on December 9, 2014. Subsequently, DOBOR advised Applicant that the requested area is under the jurisdiction of the City pursuant to the right-of-entry mentioned above. Therefore, the request should be processed by the City accordingly.

However, staff of the City’s administration did not share the same understanding as DOBOR, and responded that the transfer of jurisdiction was not intended to cover the handling of any request of beach area for beach activities.

Pursuant to discussion at the Land Division, it was decided that the request would be processed by the issuance of a right-of-entry permit in accordance to the policy adopted by the Board at its meeting of June 14, 2013, item D-11, as amended, further subject to an after-the-fact approval to be sought at the next available Board meeting.

Applicant plans to set up the display between 12:00 noon and 2:00 p.m. on the event date. For the sake of safety, there will be a safety zone measuring 100 feet radius during this set up period, and it will be monitored by security personnel hired by the Applicant. In addition, the safety zone will be expanded to 210 feet radius starting from 15-30 minutes prior to the firing time [tentatively at 7:45 p.m.] until the firework operator declares “all clear” after the firing. As noted from Exhibit A, the safety zone covers portions of water and Hale Koa Hotel. Applicant will coordinate with the respective parties about the fireworks show.

Request was submitted by the Applicant to the Department on December 9, 2014, which was more than four weeks prior to the event date. Therefore, staff does not recommend any late fee pursuant to the Board policy dated June 14, 2013, item D-11 as amended.

Since the subject request cannot be heard by the Board prior to the event date, the Chairperson declared the request exempt from the preparation of an environmental assessment and issued a right-of-entry for the request, pursuant to the June 14, 2013 policy.

In addition, staff is recommending that a charge of \$500 be imposed to cover the exclusive use of the safety zone, of which portions are State lands, as shown on Exhibit A.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions. No comments were solicited from government or community agencies.

There are no pertinent issues or concerns. Staff does not have any objection to this request.

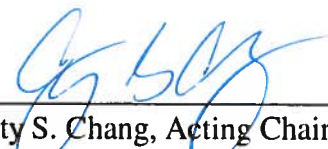
RECOMMENDATION: That the Board authorize the issuance of an after-the-fact right-of-entry permit to Hawaii Explosives & Pyrotechnics, Inc. on January 18, 2015 covering the subject area for aerial fireworks display purposes under the terms and conditions cited above.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Carty S. Chang, Acting Chairperson



EXHIBIT "A"