

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

March 13, 2015

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

Termination of Boating Lease No. B-11-01, dated April 1, 2011 between the State of Hawaii, Lessor, and the Sandbar Group, Inc., Lessee; Honolulu, Oahu, Hawaii. Tax Map Key (1) 4-6-006:Por. 067

PURPOSE:

Termination of Boating Lease No. B-11-01, dated April 1, 2011 between the State of Hawaii, Lessor, and the Sandbar Group, Inc., Lessee; Honolulu, Oahu, Hawaii. Tax Map Key (1) 4-6-006:Por. 067

APPLICANT:

Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR).

LEGAL REFERENCE:

Section 171-20, 21, 39, and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at the Heeia Kea Small Boat Harbor, Heeia, Koolaupoko, Oahu, Hawaii, identified by Tax Map Key (1) 4-6-006: Por. 067.

AREA:

The area of the agreement is comprised of the following:

Parcel 1 containing an area of 980 square feet  
Parcel 2 containing an area of 1,020 square feet  
Parcel 3 containing an area of 2,244 square feet  
Pipeline easement containing an area of 970 square feet

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES \_ NO X

CHARACTER OF USE:

Parcel 1 for petroleum storage tanks and facilities and a waste oil containment system

Parcel 2 for dockside fueling operations and sewage pump-out system

Parcel 3 for convenience store, ships chandlery, over-the-counter snack bar and ice house.

Pipeline easement for subsurface pipeline for transmission of petroleum products only and as a right-of-way for transmission of petroleum products only and as a right-of-way for the installation, repair, maintenance and replacement of said subsurface pipeline purposes.

TERM OF LEASE:

35 years, commencing on April 1, 2011 and expiring on March 31, 2046.

ANNUAL RENTAL:

\$36,012.00, payable monthly

REMARKS:

Pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in General Lease B-11-01, Sandbar Group, Inc. , Lessee, was served a Notice of Default by certified mail dated February 10, 2015 for:

x Failure to keep lease rental payments current

Said notice, accepted by the Lessee on February 18, 2015, offered the Lessee a thirty day cure period to correct the default. This cure period expires on March 20, 2015. As of February 24, 2013, this breach has not been cured.

Lessee was also served a Notice of Default by certified mail dated February 10, 2015 for:

X Failure to post required performance bond

Said notice, accepted by the Lessee on February 18, 2015, offered the Lessee a 30 day cure period to correct the default. This cure period expires on March 20, 2015. As of March 13, 2015, this breach has not been cured.

As of February 24, 2015, the current status of all lease compliance items is as follows:

RENT: The Lessee has a rental delinquency of \$40,163.00 for the time period from April 2012 to January 2015.

PERFORMANCE BOND: The Lessee has not posted the required performance bond as required under Section 28 of the Lease.

REMARKS:

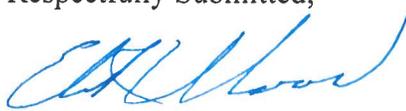
In April 2011, DOBOR entered into an agreement to lease three parcels of land at the Heeia Kea Small Boat Harbor in Kaneohe, Hawaii. The two of the parcels provided fuel to boaters and the third parcel provide a food, merchandise, and ship chandlery.

The lessee entered into this lease in April 2011 and was current with its payments until April 2012 when it began to miss its monthly payments. From April 2012 through February 2013, there were no payments. Payments started being made on a regular basis in March 2013; however, there were missed payments for October 2013 and January 2015. Additionally, late fees of \$50.00 month have been accruing since March 2013. As of February 6, 2015, the Lessee owed \$40,163.00.

RECOMMENDATION: That the Board:

1. Authorize the termination of General Lease No. B- 11-01 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. B- 11-01 be applied to any past due amounts;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of March 20, 2015, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under General Lease No. B- 11-01 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



Edward R. Underwood  
Administrator

APPROVED FOR SUBMITTAL:



Carty S. Chang, Interim Chairperson  
Board of Land and Natural Resources