

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

March 22, 2013

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

OAHU

Revision of Rent for Revocable Permit No. 6814, Ronald P. Weidenbach, dba
Hawaii Fish Company, Kaena, Waialua, Oahu, Tax Map Key (1) 6-9-01:02 & 03.

A. BACKGROUND:

On December 14, 2012, item D-18, the Board renewed the Statewide revocable permits, including Revocable Permit (RP) 6814, for another 12 months. The approval also delegated the authority to the Chairperson to hire independent appraisers at any time to review and reestablish new rental for permits used for baseyard, commercial, industrial, and storage purposes. Staff would group the underperforming permits for independent appraisers to review and advise the Chairperson on the fair market rent. The December 2012 submittal (without the associated exhibits) is attached as **Exhibit A** for the Board's reference.

The permittee currently is in the process of obtaining a long term lease for aquaculture purposes over the existing permit area (18 acres). Pursuant to the Board approval on August 26, 2011, item D-13, an independent appraisal determined the annual fair market rent of the requested lease is \$10,980. At the time of writing this submittal, staff understands the applicant does not agree the lease rent, and there is no arbitration undergoing.

The annual rent of RP 6814 equates to \$996 (\$83 per month) or about 9% of the annual fair market rent of \$10,980. Meanwhile, staff notes that the monthly rent has not been revised since 1999. According to Condition B.4 of RP 6814, the Board may at any time increase the rent by written notice at least 30 days prior the date of change.

Using the rationale in the December 2012 approval, staff finds it prudent to seek the Board's authorization to revise the monthly rent for RP 6814. Since the annual fair market rent was already established by the appraiser at \$10,980, staff believes the hiring of an independent appraiser following the 2012 Board approval is not necessary in view of time and costs involved. Therefore, staff recommends the Board revise the rent of RP 6814 in the manner detailed in the following paragraph.

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B. REVISED RENT:

Staff notes in the past that a 25% deduction from the fair market value was normally used to reflect the temporary tenure of a revocable permit.

In the subject case, staff believes the base rent plus percentage rent approach is able to reflect the temporary tenure and a guaranteed return to the State, while allowing the State in sharing the profit from the aquaculture operation. Therefore, staff recommends the Board authorize using 30% of the recently appraised annual fair market rent as the base rent payable by the permittee under RP 6814. Therefore, the monthly base rent is computed as follow:

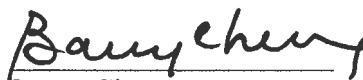
$$\$10,980 \times 30\% = \$3,294, \text{ say } \$3,300 \text{ per annum or } \$275 \text{ per month.}$$

In addition¹ to the base rent, staff recommends the Board impose a percentage rent of 1% of the gross revenue for RP 6814. Permittee shall provide quarterly reports to the satisfaction of the Chairperson regarding the gross revenue of the reported periods and pay the additional rent on quarterly basis accordingly.

Staff notes that the request only pertains to the revision in rent, pursuant to Condition B.4 of the RP 6814, no new revocable permit document will be issued in this regard. There are no other pertinent issues or concerns.

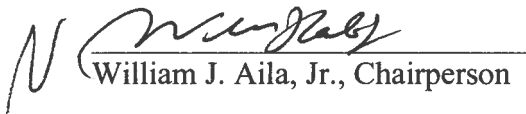
RECOMMENDATION: That the Board revise the monthly rent of Revocable Permit 6814 to \$275 per month plus 1% of the gross revenue, effective May 1, 2013, under the terms and conditions cited above.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

¹ The proposed rent structure is base rent (\$275 per month) plus 1% of the gross revenues.

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

December 14, 2012

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

Statewide

Annual Renewal of Revocable Permits on the Islands of Hawaii, Maui, Molokai, Kauai and Oahu.

BACKGROUND:

At the end of each calendar year, Land Division reviews its list of current revocable permits issued statewide and determines which ones to recommend to the Board of Land and Natural Resources for renewal for the upcoming year. Generally, those revocable permits in good standing will be recommended for renewal, unless the Board has approved a different disposition for the land covered by a particular permit.

Rents for renewed revocable permits are to be reviewed periodically according to a schedule approved by the Board at its meeting of April 22, 2005, Item D-17. See Exhibits 1 and 2 attached.¹ According to the approved schedule, revocable permits issued for baseyard/storage, commercial or industrial purposes are to be reviewed on an annual basis. Rents for all other revocable permits are reviewed at 5- or 10-year intervals. These intervals coincide in January 2015, with the result that rents for many of these other revocable permits will be reviewed at that time.

At its meeting of January 12, 2012, Item D-20, as amended, the Board approved the renewal of the revocable permits listed in the submittal without a rent increase. This year, staff is proposing that the revocable permits listed in Exhibit 3 attached be renewed at their current rents, but that rents for baseyard/storage, commercial or industrial revocable permits be adjusted during the course of the year as explained in further detail below.

¹ Exhibit 1 sets forth the rent review schedule in table format. Exhibit 2 is a copy of the Board action of April 22, 2005, Item D-17, less Exhibit A (which is the list of revocable permits renewed in 2005).

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
December 14, 2012

DB

EXHIBIT A

D-18

REMARKS:

In the past, Land Division's in-house appraiser recommended rents for renewed revocable permits in accordance with the schedule set forth in Exhibit 1. Accordingly, at the time the Board approved the renewal of the permits, it also authorized a rent adjustment for applicable categories of permits. Since June 2011, however, Land Division has been without the services of a licensed, in-house appraiser (except for a four-month period from December 2011 to March 2012). As a result, staff has been unable to make recommendations to the Board as to the fair market rents² to be charged for these permits.

For calendar year 2013, staff is proposing that it be authorized to procure the professional services of one or more appraisers licensed in Hawaii to review revocable permits issued for baseyard/storage, commercial or industrial (BSCI) purposes to determine if rent adjustments are warranted. Based on staff's familiarity with its BSCI revocable permits and those that may be underperforming in terms of revenue generated, staff would identify groups of revocable permits to be reviewed by the appraiser.³ The appraiser would provide a consulting report or opinion to the department as to recommended rents for these BSCI permits, and after review, staff would make a recommendation to the Chairperson to either approve or disapprove the rent determined. The rent determination would not be brought back to the Board for approval. However, staff would report in the next year's revocable permit renewal submittal on those BSIC permits whose rent had been adjusted in the course of the 2013 calendar year.

There is one additional item that staff believes merits some discussion. Occasionally, the Board issues revocable permits for narrow purposes such as parking or landscaping. Appraisers may view such narrow uses as significantly limiting the market value of the land. In order to assist staff and the Board in determining fair market rents for revocable permits, when staff solicits professional appraisal services to assist with rent review, it will instruct the appraisers to include an analysis in their reports as to the highest and best use of the land based on applicable zoning and other use restrictions, without regard to the use restriction in the permit. This analysis will help staff assess whether a particular revocable permit should be canceled or canceled and reissued to allow for expanded uses, thereby ensuring that department fulfills its fiduciary duty with respect to the management of the lands.⁴

² Fair market rents for revocable permits will generally be discounted by appraisers to reflect the temporary and revocable nature of the disposition.

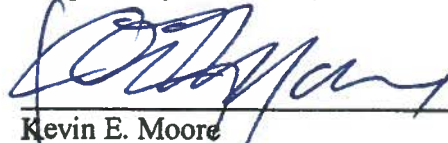
³ Revocable permits would be grouped on the basis of proximity of permitted lands, character of use, or other logical criteria.

⁴ This type of analysis is contemplated in the Board action of April 22, 2005, Item D-17, that approved various valuation methods. Method four states: "Permits for landscaping, access & utility easements, parking, government/community uses would require other research such as analyzing underlying land value."

RECOMMENDATION: That the Board:

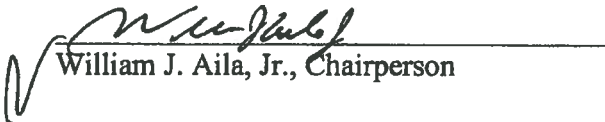
1. Approve the continuation of the Revocable Permits listed in Exhibit 3 on a month-to-month basis for another one-year period through December 31, 2013, except for permits that are in arrears of rental payment for more than 60 days and/or have been approved for forfeiture by a separate Board action. Permits in arrears of rental for 60 days or more and/or approved by the Board for forfeiture shall not be renewed;
2. Approve no immediate change in current monthly rent for Revocable Permits as listed in Exhibit 3, provided however, that the Land Board reserves and delegates to the Chairperson the right at any time to review and reestablish new rental charges for baseyard/storage, commercial or industrial and any other Revocable Permit, to reflect market conditions or the fair market rental for the rights and privileges granted by such Revocable Permit and to best serve the interests of the State;
3. Authorize Land Division to procure the services of one or more licensed appraisers to assist in establishing fair market rents as authorized in recommendation 2 above.

Respectfully Submitted,



Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson