

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

July 26, 2013

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

PSF#13MD-113
Maui

Impose a \$1,000.00 Fine and \$420.00 in Administrative Cost against MAUIOCEANACTIVITIES.COM LLC, also known as MAUI OCEAN ACTIVIES.COM LLC, for Unauthorized Commercial Activities Conducted on State Unencumbered Lands at Wailea Beach, Wailea, Honuaula, Maui, at TMK: (2) 2-1-008: Seaward of Parcel 109.

PURPOSE:

Issuance of Administrative penalty for the unauthorized commercial use of unencumbered lands by MAUIOCEANACTIVITIES.COM LLC, also known as MAUI OCEAN ACTIVIES.COM LLC.

LEGAL REFERENCE:

Sections 13-221-35, Commercial Activities, of the Hawaii Administrative Rules, and 171-6, Hawaii Revised Statutes, as amended.

LOCATION:

Shoreline area fronting the Grand Wailea Resort at Wailea Beach, Wailea, Honuaula, Maui, at Tax Map Key: (2) 2-1-008: Seaward of 109.

CURRENT USE STATUS:

Vacant and unencumbered shoreline.

RESPONSIBLE:

Registrant / Company Name: MAUIOCEANACTIVITIES.COM LLC, also known as MAUI OCEAN ACTIVIES.COM LLC

Business Address: 343 Hanamau Street, Unit#3
Kahului, Hawaii 96732

Agent Name: Gregory Evans
Agent Address:
Makawao, Hawaii 96768

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>

VIOLATION:

On January 30, 2013 at 8:00am, a site inspection of Wailea Beach was conducted. The primary reason for this inspection was due to ongoing complaints of unauthorized pre-setting of beach chairs and commercial activities taking place on unencumbered State lands makai of the shoreline. During this inspection, staff observed multiple kayaks lined up unattended on the sandy beach below the shoreline.¹ Upon monitoring the area for approximately twenty (20) minutes, staff observed a group of fourteen (14) people (who appeared to be tourists) and one instructor walk out onto the beach and gather around the kayaks. For the next ten minutes the instructor provided instruction on the use of the kayaks to the group. Upon completion of what appeared to be the instruction phase of the activity, the kayaks were pulled down the beach and placed into the water.

A check of the concession stand located above the shoreline on the privately owned Grand Wailea property was then conducted. Upon speaking with the sales associate, she indicated that the services provided to the group that just entered the water were conducted by their staff (Maui Ocean Activities).

REMARKS:

The activity constitutes a violation of the Unencumbered Public Lands rules, Hawaii Administrative Rules Section 13-221-35, which prohibits commercial activities on unencumbered lands. Staff believes the assessment of a fine is reasonable under the circumstances. The fine will serve as a deterrent to any future unauthorized activity.

¹ Shoreline is defined by statute in HRS Section 205A-1 as “the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves.”

The Maui District Land Office has received numerous complaints from the public regarding the overcrowding of shoreline areas due to vendors laying out kayaks or surfboards along the beaches while awaiting the arrival of clients or during instruction and while safety briefings are being conducted prior to moving out into the water for tours or surf lessons. The public has for generations utilized specific areas for family outings and recreational activities and is now being forced out of these locations because of the impacts brought about by the presence of unauthorized commercial operators.


EXHIBITS:

- Exhibit #1 - GIS overview map of Wailea Beach.
- Exhibit #2 - Business advertisements which were retrieved from the internet for MAUIOCEANACTIVITIES.COM LLC.
- Exhibit #3 - Photo of report dated 1/30/2013 of unattended kayaks stored on the shoreline and of MAUIOCEANACTIVITIES.COM LLC's staff member providing instruction to clients.

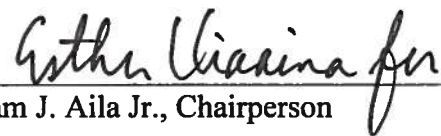
RECOMMENDATION: That the Board:

1. Find that MAUIOCEANACTIVITIES.COM LLC, also known as MAUI OCEAN ACTIVITIES.COM LLC, violated the provisions of Chapter 171-6, Hawaii Revised Statutes, and Hawaii Administrative Rules 13-221-35, Commercial Activities, by conducting unauthorized commercial activities on unencumbered State land; that it be ordered to pay a fine of \$1,000.00 and \$420.00 in administrative costs within thirty (30) days of the date of the Board's action of today's date. The fine and administrative costs shall be paid to the Department of Land and Natural Resources.
2. Order that in the event MAUIOCEANACTIVITIES.COM LLC, also known as MAUI OCEAN ACTIVITIES.COM LLC, conducts unauthorized commercial activities on unencumbered State lands after the date of today's Board action, it shall be fined \$1,000.00 for each day or part thereof that such activities occur.

Respectfully Submitted,


for Daniel Ornellas, District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila Jr., Chairperson

Wailea Beach

Wailea Beach Villas
(2) 2-1-008:091

Grand Wailea Resort
(2) 2-1-008:109

Four Seasons Resort
(2) 2-1-023:007

Blue: Coastline (State of Hawaii)
Red: Indicates Private Property





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\$99/person

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For Hotel Guests,
Ext 4257

Located

Visit the real
unspoiled on the
beach path next to
the terminal taxi

[VIEW MAP](#)

Visit **GRAND WAILEA**

Everything you need is right here.

We specialize in water activity fun on the beautiful island of Maui in Hawaii. From paddle boards to kayaks to boogie boards we have all of the equipment you need to explore the water. Whether it's swimming with the turtles or venturing out on your own we have something for you.



Beach Club

AT WAILEA BEACH

Unlimited kayaks, paddle boards, boogie boards and snorkel gear. Pick from two packages.

\$99 for 4 days **\$129 for 7 days**
per person per person

[SCHEDULE NOW](#)



Swim with the Turtles

ON MAUI OCEAN ACTIVITIES' KAYAK TOUR

Join us on our daily snorkel excursion. The tour starts along the southern coast with fantastic views of Haleakala and neighboring islands.

Along the way share fun facts about local history and the local eco-system. You will see some of the best snorkeling that Maui has to offer. You might see some surprise visitors - dolphins, manta rays, whales and even more. And don't fret, we'll always see turtles (if we don't your next trip is free).

\$75 /person

We provide all necessary gear, water, and towels

[SCHEDULE NOW](#)

CHECK-IN

8 a.m. at the Maui Ocean Activities desk

DEPARTURE & RETURN

8:15 a.m. departing from Wailea Beach

10:30 a.m. returning to Wailea Beach

THINGS TO BRING

Sunscreen, sunglasses, underwater camera



Stand Up Paddle Board Lessons

Demonstrate your dexterity and enjoy this ancient Hawaiian pastime. Our talented instructors will work with you until you're

standing.

\$99 /person

Daily by Reservation only

[SCHEDULE NOW](#)



Hawaiian Outrigger Experience

A true cultural immersion, our guides are expert in this ancient form of travel. Learn how the canoe has shaped Hawaiian life from it's

beginning, and pay homage to this original form of ocean exploration.

EQUIPMENT RENTALS

Mask, snorkel & fins

Hour \$10
Day \$20

Boogie Boards

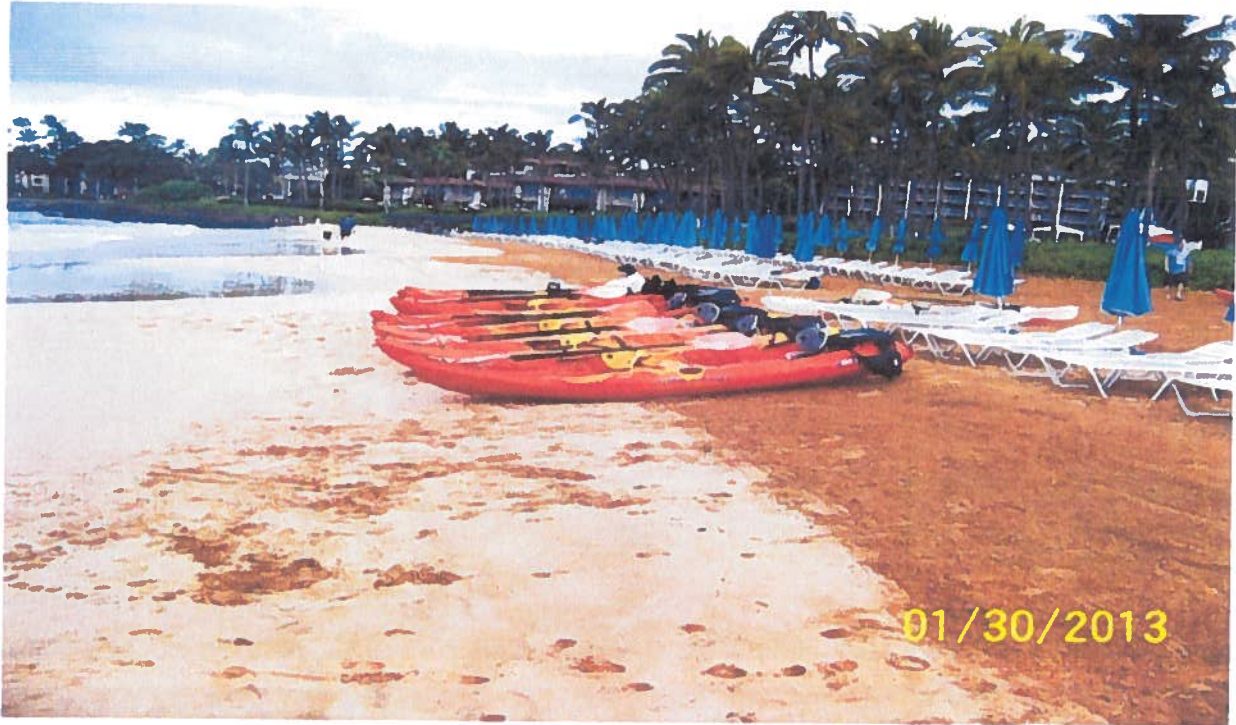
Hour \$10
Day \$20

Paddle Boards

1 Hour \$40
2 Hour \$60

Kayaks

1 Hour \$30
2 Hour \$40



Maui Ocean Activities Kayaks stored on Wailea Beach for Commercial Use.



An instructor from Maui Ocean Activities provides instruction and safety briefings along the shoreline at Wailea Beach.