

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

May 8, 2015

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

Cancellation of Boating Revocable Permit No. BM-14071, dated July 1, 2014 between the State of Hawaii, Lessor, and Fusion Food Truck LLC, Lessee; Lanai City, Hawaii. Tax Map Key (2) 4-9-017 (por)

APPLICANT:

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

PURPOSE

Fusion Food Truck LLC has defaulted on their revocable permit. They are delinquent in their monthly rent and have not provided evidence of the required insurance.

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 Manele Small Boat Harbor, Manele, Lana'i, Hawaii, identified by Tax Map Key (2) 4-9-017 (por)

AREA: Approximately 750 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

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CHARACTER OF USE:

For the sale of food, non-alcoholic beverages and incidental items as approved by the Department of Land and Natural Resources from a vehicle to be removed each evening.

TERM OF PERMIT:

Month-to-month Revocable Permit

MONTHLY RENTAL:

\$500.00 payable monthly or ten percent of gross monthly sales, whichever is greater.

REMARKS:

In July 2014, DOBOR entered into a revocable permit (RP) agreement with Fusion Food LLC (Fusion) to allow it to provide lunch truck service at the Manele Small Boat Harbor on Lana'i.

The RP required Fusion to pay \$500.00 every month and allowed it to use a certain area of the harbor for its food truck. It also requires Fusion to have comprehensive liability insurance. Fusion has not made its payments; has not provided evidence of its required comprehensive general liability insurance; and has operated outside it permitted area.

The permit allows the Department, in the event that the payment of rent is delinquent for a period of ten (10) calendar days, to revoke the permit upon notice to the permittee at least five calendar days prior to revocation. A written notice was sent on March 31, 2015 notifying the permittee had failed to make payment as required by the permit.

The permittee also failed to procure and maintain comprehensive general liability insurance of at least \$1,000,000 for each occurrence and \$2,000,000 in aggregate.

As of April 1, 2015, the current status of all lease compliance items is as follows:

RENT: The Lessee has a rental delinquency of \$4,800.00.
INSURANCE: The Lessee has not provided evidence of the required insurance.

RECOMMENDATION: That the Board:

1. Authorize the cancellation of Revocable Permit BM-14071;
2. Authorize the retention of all sums heretofore paid or pledged under Revocable Permit BM-14071 applied to any past due amounts;

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3. Terminate the Revocable Permit and all rights of Permittee and all obligations of the Permitter effective as of June 1, 2015, provided that any and all obligations of the Permittee which have accrued up to said effective date or which are stated in the permit to survive termination shall endure past such termination date until duly fulfilled, and further provided that Permitter 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 Revocable Permit BM-14071 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



Edward R. Underwood
Administrator

APPROVED FOR SUBMITTAL:



for Suzanne D. Case, Chairperson
Board of Land and Natural Resources