

TSUGAWA BIEHL LAU & MUZZI LLLC
A HAWAII LIMITED LIABILITY LAW COMPANY

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S.O.M. LLC

RECEIVED
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Hawaii Community Development Authority
By:

BEFORE THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
OF THE STATE OF HAWAII

In re the Petition of)	
)	
S.O.M. LLC	)	PETITION FOR DECLARATORY
	)	RELIEF; EXHIBITS A - O
For an order of Declaratory Relief)	
)	
_____)	

COMES NOW, Petitioner S.O.M. LLC ("**Petitioner**" or "**SOM**"), by and through its attorneys, Tsugawa Biehl Lau & Muzzi LLLC, and pursuant to Hawaii Administrative Rules ("**HAR**") § 15-219-83, seeking an order regarding the applicability of Hawaii Administrative Rules chapter 15-219 and whether (1) the current operator of Kewalo Basin Harbor has the authority to issue or revoke, or otherwise engage in the conduct described herein; (2) whether the current operator of Kewalo Basin Harbor acted in an arbitrary and capricious manner with respect to the conduct described herein; and (3) whether the current operator of Kewalo Basin Harbor engaged in illegal rulemaking when it added factors and otherwise required Petitioner to perform actions not required under Hawaii Administrative Rules chapter 15-212 or give Petitioner an opportunity to cure, in violation of the said rules.

PETITION

I. PETITIONER'S (AND PETITIONER'S COUNSEL'S) NAME, MAILING ADDRESS, AND TELEPHONE NUMBER

S.O.M. LLC
c/o Ms. Joan Joyce
350 Ward Avenue #106-250
Honolulu, Hawaii 96814

Christopher J. Muzzi, Esq.
Tsugawa Biehl Lau & Muzzi LLLC
1132 Bishop Street Suite 2400
Honolulu, Hawaii 96813
Attorney for Petitioner, S.O.M. LLC

II. DESIGNATION OF SPECIFIC STATUTE, RULE, OR ORDER IN QUESTION

Hawaii Administrative Rules ("HAR") chapter 15-212.

III. PETITIONER'S INTEREST IN THE SUBJECT MATTER AND REASONS FOR SUBMITTING THE PETITION

S.O.M, LLC ("**SOM**")¹ is the holder of Commercial Charter Mooring Permit for Berth No. FU (the "**Mooring Permit**") at Kewalo Basin Harbor ("**KBH**") for the commercial vessel m/v Queen of the Ring and has been since approximately 2013. The Queen of the Ring is an approximately sixty four foot vessel and is only allowed by the U.S. Coast Guard to carry six passengers or less. Berth No. FU is a front row slip in KBH along Ala Moana Boulevard. The Queen of the Ring is currently docked in Berth No. FU.

KBH is a harbor owned by the State of Hawaii. KBH is under the jurisdiction of the Hawaii Community Development Authority ("**HCDA**"). Pursuant to General Lease 14-1 ("**Lease**"), the HCDA has leased KBH to Kewalo Harbor, LLC. As part of the

Lease, Kewalo Harbor, LLC is required to exclusively follow the Hawaii Administrative Rules ("**HAR**") applicable to KBH, including chapters § 15-211 and § 15-212. Kewalo Harbor, LLC is owned by The Hughes Corporation, a developer of a number of condominium buildings near KBH. Almar Management, Inc. ("**Almar**"), either directly or indirectly, is managing KBH.

When SOM purchased the business of another KBH permittee in 2013, a substantial portion of the purchase price was attributable to the fact that the Mooring Permit was for a front row slip. During SOM's due diligence prior to the purchase, KBH, through the then harbormaster, stated to SOM that the Mooring Permit for Berth No. FU would continually be renewed as long as SOM was not in gross breach of the HAR.

Prior to 2015, the Mooring Permit was routinely renewed without question, conditions or requirements. As a custom and practice in KBH, mooring permits at KBH are renewed unless a permittee is in gross violation of the HAR governing KBH, such as nonpayment.

With respect to the last Mooring Permit physically delivered to SOM, the period was for July 20, 2015 through July 19, 2016.

On or about June 20, 2016, SOM was advised by Almar that its renewed Mooring Permit was available for signature and pick-up. The renewed Mooring Permit would have been for the period July 20, 2016 through July 19, 2017. SOM asked that the renewed Mooring Permit be sent to its agent so that it could be signed and returned, which Almar allows other permittees to do. However, despite indicating the Mooring Permit had been renewed, Almar refused to deliver the Mooring Permit, but instead began conditioning the delivery of the Mooring Permit on SOM's compliance with

¹ S.O.M. LLC is now a single member limited liability company owned 100% by Joan Joyce.

requirements not in the HAR that are burdensome on small businesses such as SOM and other permittees in KBH.

Almar's requests of SOM included a marine survey and submitting to an extensive audit at SOM's expense. Correspondence between Almar and SOM's attorney are attached hereto as Exhibits C – M, O. In its audit request, Almar asked for the following:

- General Excise Tax returns for 2015, 2016 and January through March of 2017
- Corporate Tax Returns for 2015 and 2016
- Guest Logs for 2015, 2016 and January through March of 2017
- Sales records for 2015, 2016 and 2017
- Checking account statements for Golden Eagle [sic] 2015, 2016 and 2017
- Credit Card Statements for 2015, 2016 and 2017
- Customer/Client agreements
- Delinquent Gross Receipts Reports for December 2016, January and February of 2017.

Exhibit K.

Almar did not give SOM written notice that if it did not cure alleged breaches of the HAR by a certain date that its Mooring Permit would be terminated or not renewed.

After going back and forth on these requests for eleven months, on May 31, 2017, Almar sent a letter to SOM saying that the Mooring Permit had expired and that it would not be renewed, and that SOM should move the Queen of the Ring no later than June 30, 2017. Exhibit M. Because the Mooring Permit referenced in Almar's June 2016 email would have an expiration date of July 19, 2017, SOM inferred that Almar

was taking the position that the 2016-2017 Mooring Permit was never issued as promised.

A similar termination of mooring permit was also issued on May 31, 2017 by Almar to Golden Eagle Marine Charter Corporation ("Golden Eagle"), another 100% woman-owned business, which has been in possession of the same slip for 44 years. Exhibit N. Thus, the only women-owned businesses in the front row slips at KBH, which are the most valuable and sought after, have had their permits terminated or not renewed simultaneously.

During the past year, SOM has been for sale. A successful sale would have transferred ownership of SOM and resulted in the assignment of the Mooring Permit, with KBH's approval and possession of the Queen of the Ring. Prior to the termination or nonrenewal of the Mooring Permit, another permittee of KBH offered to buy SOM. This other permittee has bought and resold several other businesses with mooring permits at KBH. This other permittee has a close relationship with the current harbor manager for KBH. This other permittee threatened that if SOM did not sell to it, it would cause the current harbor manager to revoke SOM's permit. SOM refused to sell to this permittee. Thereafter, Almar, through the current harbor manager, sent the May 31, 2017 letter stating that the Mooring Permit had expired and that it would not be renewed, and that SOM was to move the Queen of the Ring no later than June 30, 2017.

Almar purports to refuse to renew the Mooring Permit based on alleged violations of the HAR. However, even assuming that SOM is in violation of the HAR, which it disputes, many other permittees are in violation of the HAR and have not had their permits terminated or not renewed. Almar is selectively enforcing the HAR. Almar is

applying the HARs in an arbitrary and capricious manner by adding requirements that are not in the HARs. KBH is applying and enforcing the HARs favorable to Kewalo Harbor and those permittees that are in its good graces, including those that provide gratuities. Almar is discriminating against women in its application and "enforcement" of the HAR. Almar is discriminating against vessels that can only carry six passengers or less in an attempt to increase their profits at the expense of existing small business permittees.

SOM is entitled to a contested case hearing as the termination of or refusal to renew the permit is a taking of SOM's property without due process of law.

IV. PETITIONER'S REQUEST FOR DECLARATORY ORDER AND POSITION OR CONTENTION

Pursuant to HAR § 15-219-83, "[a]ny interested person or governmental agency may petition the authority for a declaratory order as to the applicability of any statutory provision or rule or order of the authority." See also HRS § 91-8 ("Any interested person may petition an agency for a declaratory order as to the applicability of . . . any rule or order of the agency."). See Citizens Against Reckless Development v. Zoning Bd. of Appeals, 114 Hawaii 184, 197, 159 P.3d 143, 156 (2007). Declaratory orders from administrative agencies can "remove uncertainty from legal relations and clarify, quiet and stabilize them before irretrievable acts have been undertaken, to enable an issue of questioned status or fact, on which a whole complex of rights may depend, to be expeditiously determined." Id.

Pursuant to this provision, Petitioner seeks a declaratory order regarding the actions of Almar, as described above. Specifically, Petitioner seeks a declaratory order from the HCDA stating whether Almar, as an operator of KBH, (1) has authority under

HAR Chapter 15-219 to issue then apparently un-issue and/or revoke mooring permits when it is not the "HCDA" and there has been no apparent delegation to KBR or to Almar to act on behalf of the HCDA with respect to these matters, or (2) may disregard the HARs related to KBH and/or act in an arbitrary or capricious manner in applying the HARs related to KBH with respect to first issuing a mooring permit and then claiming that no such permit had ever been issued, and otherwise either ignoring rules regarding permits or (3) usurps the HCDA authority to adopt rules by arbitrarily and capriciously creating new requirements for permit issuance, renewal, or revocation, without proper authority or without following the rulemaking requirements set forth in HRS chapter 91.

1. Neither KBH Nor Almar Have the Authority to Issue Regulatory Rulings Or Act on Behalf of the HCDA With Respect to Any Permits at Kewalo Basin

Section 6.1 of the Lease states as follows:

6.1. Operation of Kewalo Basin Harbor. Commencing as of 12:00 pm Hawaii Time on September 1, 2014, LESSEE shall be (and LESSOR shall have taken any actions necessary to make LESSEE) the exclusive manager and operator of all aspects (including but not limited to delegating to LESSEE full fiscal and physical harbor operations and management services) of Kewalo Basin Harbor as a marina, together with the parcels referred to in subsection (c) below (referred to as the "Harbor Facilities"), in accordance with the terms and conditions of this Lease and all Applicable Laws, including but not limited to, the Kewalo Basin Rules, as they may be amended from time to time and in such role, shall be the "harbor manager" referred to in the Kewalo Basin Rules; provided that where the Kewalo Basin Rules require a regulatory determination to be made by "HCDA", then LESSOR shall make such determination, not LESSEE, except as to any day-to-day management or operational decisions relating to the Harbor Facilities.

(a) LESSEE's operational and management responsibilities as harbor manager of Kewalo Basin Harbor shall include, but are not limited to: (i) timely collecting any rent or fees due and owing from any of the boat tenants or sublessees of the Harbor Facilities, (ii) timely and adequately responding to any complaints lodged or concerns noted by boat tenants or members of the public who utilize Kewalo Basin Harbor, (iii) disposing or

ensuring the removal or disposal of any vessels which are not permitted to berth at Kewalo Basin Harbor in accordance with all applicable Governmental Requirements, (iv) managing the harbor, slip, ticket booth, and office facilities and tenants, and (v) enforcing harbor rules and regulations (including but not limited to parking rules), including, in LESSEE'S discretion, the right to run the regularly scheduled stakeholder meeting. Prior to the Commencement Date, LESSOR shall assign to LESSEE all of LESSOR's rights and interests in all rents, revenues and reimbursements, security deposits and pre-paid rents and LESSEE shall assume all rights and obligations related thereto.

(b) During the Term, LESSEE shall be entitled to collect all revenues, income, or other receipts from the Harbor Facilities, which shall be included in LESSEE's Gross Receipts.

...
(Emphases added.) Thus, the Lease delegates authority to KBH to be the harbor manager to perform certain acts described in Section 6.1(a) of the Lease. These responsibilities do not include permit termination or revocation. Nor do they authorize KBH to adopt administrative rules.

The HCDA and the HARs related to KBH also do not provide KBH authority to perform these acts. HAR § 15-211-2 provides the general definitions that are to be used in chapters 212, 213, and 214. This section defines "harbormaster" and "harbor manager", and "harbor agent" as "any person appointed to that office by the executive director and vested with the operational control of Kewalo Basin." "The responsibilities of a harbormaster, harbor manager or harbor agent include, but are not limited to, enforcing rules, mooring and berthing of ships, control of water and air pollution in the harbor, allocation of storage space, and the movement of vessels into, out of, and within Kewalo Basin[.]" Id. This section also separately defines "HCDA" as the "Hawaii community development authority, a body corporate and public instrumentality of the State of Hawaii, its harbor manager, agent or entity vested with operational control of Kewalo Basin[.]"

The use of these definitions in HAR chapter 212 is clear – the harbormaster is in charge of the physical movement of vessels and the physical operation of the Harbor, but the rules specify that the HCDA makes the regulatory determinations regarding the permits. For example, HAR § 15-212-1(b) states that “[t]he berthing of vessels at Kewalo Basin shall be in conformity with this part and where not covered by this part at the discretion of the harbormaster in a reasonable manner such as to protect the public interest.” The rules in HAR subchapter 1 giving the harbormaster authority relate primarily to physical operation of the Kewalo harbor, including such provisions as requiring a master or person in charge of any vessel to obey the orders of the harbormaster regarding method and manner of bringing vessels to anchorage, forbidding trying the engines of any vessel except by permission of the harbormaster, requiring masters or owners of a vessel to give notice to the harbormaster of arrival or departure. These provisions relate to actual operation of the harbor.

By contrast, subchapter 2 relates to berths and moorings, and the provisions in this subchapter 2 delegate some authority to the harbormaster, but other provisions, including renewal of revocable permit, HAR § 15-212-43 (“The HCDA may issue or renew a revocable permit”), and revocation of a revocable permit, HAR § 15-212-48 (“If the permittee fails to remedy any breach of any of the duties, covenants, or conditions of the permit or to desist from violating these rules, the HCDA may revoke the permittee’s revocable permit”), retain authority to the HCDA specifically and do not delegate such authority to the harbormaster or to anyone else. The fact that the harbormaster’s powers are particularly set forth in parts of chapter 212, and that the HCDA’s authority is specifically identified in other parts of chapter 212 is critical. In re Water Use Permit Applications, 94 Hawaii 97, 151, 9 P.3d 409, 463 (2000) (explaining

that "where the legislature includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that the legislature acts intentionally and purposely in the disparate inclusion or exclusion" (brackets and internal quotations omitted)). As explained above, the authority to act in the shoes of the HCDA must be specifically granted in order for an individual or entity to fall within the definition of "HCDA". This was not done under the Lease, because the Lease did not delegate to KBH the authority to deal with permits, including revoking or terminating them. In fact, the Lease specifically reserved unto the HCDA the power to make regulatory determinations. Lease, Section 6.1. Nor is there anything that states that the HCDA or the executive director of the HCDA authorized Almar to act as "harbor manager."

Accordingly, neither the Lease nor HAR chapter 15-219 authorize Almar to act in the place of the HCDA. Thus, any regulatory determinations regarding SOM's permit are beyond the authority of Almar and accordingly ultra vires.

2. Actions by Almar In Applying the HARs Related to KBH Are Also Arbitrary and Capricious

As explained in the concurrently filed Petition for Contested Case Hearing, which is incorporated by reference, the actions that Almar took with respect to SOM's permit were not authorized by the HARs related to KBH, and in fact, were confusingly contradictory. Almar first stated that SOM's permit was ready for pick up, suggesting that Almar had issued the permit, which only required a ministerial action in the way of a signature. Then, almost a year later, after requesting SOM perform actions not required by the HARs related to KBH, Almar effectively states that the 2016-2017 permit had not been issued at all. Because of the timing, this means that Almar had issued a permit for

2016-2017 and then, while that permit was still active, retroactively un-issued it and refused to renew it. All without notice.

Generally, an agency is given certain deference in making determinations. "[A] determination made by an administrative agency acting within the boundaries of its delegated authority will not be overturned unless 'arbitrary, or capricious, or characterized by . . . [a] clearly unwarranted exercise of discretion.'" Paul's Elec. Serv. Inc. v. Befitel, 104 Hawaii 412, 419, 91 P.3d 494, 501 (2004) (citing HRS § 91-14(g)(6)). However, here, Almar is not an "agency", and it is not clear that Almar even has the delegated authority to act. But at minimum, these actions are arbitrary and capricious, because Almar did not follow the HARs related to KBH. Nor did it logically follow its own prior actions.

3. Almar, Without Authority and in Violation of HRS chapter 91, Engaged in Illegal Rulemaking When It Made Its Own Rules Regarding Permits.

By requesting that SOM perform actions that Almar was not authorized to request, and to seemingly base its determinations regarding SOM's permit on these factors that were not included in the HARs related to KBH, Almar in effect was engaged in illegal rulemaking. See Nuuanu Valley Ass'n v. City & County of Honolulu, 119 Hawaii 90, 194 P.3d 531 (2008) (agency policy that was inconsistent with administrative rules was improper administrative rulemaking under HRS § 91-1(4), 91-2(a)(3), (b)).

Under HAR § 15-219-5, the HCDA may delegate power or authority to the HCDA executive director, except the authority to adopt, amend, or repeal rules, and any power or authority expressly reserved to the HCDA by statute or rule. Thus, Almar's policies which added additional factors to its permit issuance and renewal evaluations

constituted improper rulemaking that is not permissible not only under law, but also under the HCDA's own administrative rules/

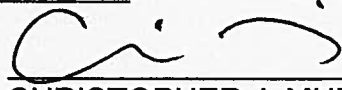
V. HEARING

Petitioner is requesting a hearing on this Petition.

VI. CONCLUSION

Based on all of the reasons asserted herein and any reasons appearing of record, Petitioner respectfully requests that the HCDA issue a declaratory order consistent with the foregoing.

DATED: Honolulu, Hawaii, June 30, 2017.



CHRISTOPHER J. MUZZI
Attorney for Petitioner
S.O.M. LLC

EXECUTION COPY

GENERAL LEASE NO. 14-1

between

**STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

and

KEWALO HARBOR, LLC

covering

KEWALO BASIN HARBOR

situated at

Kakaako, Oahu, Hawaii

Lot 1 as described on Exhibit A-1

34.877 Acres

[Being a Portion of Tax Map Key No. (1) 2-1-58: portion 128]

EXHIBIT A

deliver to LESSOR two copies of the "as-built" plans and specifications for such part, portion, or phase.

**ARTICLE VI
OPERATION OF KEWALO BASIN HARBOR**

6.1. **Operation of Kewalo Basin Harbor.** Commencing as of 12:00 pm Hawaii Time on September 1, 2014, LESSEE shall be (and LESSOR shall have taken any actions necessary to make LESSEE) the exclusive manager and operator of all aspects (including but not limited to delegating to LESSEE full fiscal and physical harbor operations and management services) of Kewalo Basin Harbor as a marina, together with the parcels referred to in subsection (c) below (referred to as the "Harbor Facilities"), in accordance with the terms and conditions of this Lease and all Applicable Laws, including but not limited to, the Kewalo Basin Rules, as they may be amended from time to time and in such role, shall be the "harbor manager" referred to in the Kewalo Basin Rules; provided that where the Kewalo Basin Rules require a regulatory determination to be made by "HCDA", then LESSOR shall make such determination, not LESSEE, except as to any day-to-day management or operational decisions relating to the Harbor Facilities.

(a) LESSEE's operational and management responsibilities as harbor manager of Kewalo Basin Harbor shall include, but are not limited to: (i) timely collecting any rent or fees due and owing from any of the boat tenants or sublessees of the Harbor Facilities, (ii) timely and adequately responding to any complaints lodged or concerns noted by boat tenants or members of the public who utilize Kewalo Basin Harbor, (iii) disposing or ensuring the removal or disposal of any vessels which are not permitted to berth at Kewalo Basin Harbor in accordance with all applicable Governmental Requirements, (iv) managing the harbor, slip, ticket booth, and office facilities and tenants, and (v) enforcing harbor rules and regulations (including but not limited to parking rules), including, in LESSEE'S discretion, the right to run the regularly scheduled stakeholder meeting. Prior to the Commencement Date, LESSOR shall assign to LESSEE all of LESSOR's rights and interests in all rents, revenues and reimbursements, security deposits and pre-paid rents and LESSEE shall assume all rights and obligations related thereto.

(b) During the Term, LESSEE shall be entitled to collect all revenues, income, or other receipts from the Harbor Facilities, which shall be included in LESSEE's Gross Receipts.

(c) The Harbor Facilities comprise the real and personal property at and located on the Premises.

(d) On or before September 1, 2014 and for the duration of the Term and at no cost to LESSEE, LESSOR shall grant, license, convey, assign, or otherwise transfer, provide, or make available (or shall cause to be granted, licensed, conveyed, assigned, or otherwise transferred, provided, or made available) to LESSEE any and all rights necessary or appropriate for LESSEE to have in connection with managing and operating the Harbor Facilities, including without limitation, intellectual and intangible property rights. Any intellectual property created by or at the direction of LESSEE,

including but not limited to naming of portions or all of the Premises, naming and branding and all protected rights or trade-marks associated with activities, events, personalities, or services offered at the Premises or related in any way to the Premises (the "Protected IP") shall remain the exclusive property of LESSEE during the term of the Lease and neither LESSOR nor any other parties shall have a right to use such Protected IP without LESSEE's prior written consent.

6.2. Operation of Kewalo Basin Harbor Not Assignable. Except to an Affiliated Entity, LESSEE shall not enter into any agreement or contract that would assign the operation or management of Kewalo Basin Harbor or any portion thereof without LESSOR's prior written approval, which approval shall not be unreasonably withheld. LESSOR's approval of an assignment or sublease of this Lease pursuant to Section 4.13 or 4.14 shall also constitute LESSOR's approval under this Section 6.2. Unless provided pursuant to Section 4.13 or 4.14, LESSEE shall furnish LESSOR with all reasonably requested information regarding the proposed assignment and assignee or sublease and sublessee in order to allow LESSOR to adequately evaluate the proposed assignment or sublease and determine whether to approve the proposed assignment or sublease. Any consent by LESSOR under this Section 6.2 shall apply only to the specific transaction thereby authorized and shall not relieve LESSEE of LESSEE's obligation to operate and maintain the Harbor Facilities pursuant to this Lease. LESSOR hereby acknowledges and agrees that LESSEE may enter into a new operating agreement with Almar Management Inc. to perform certain operational and maintenance obligations set forth in this Article 6. In the event that an Approved Mortgagee, as defined in Section 7.1 becomes the lessee pursuant to Section 7.2(c)(v) or (vi), then LESSOR may either approve Approved Mortgagee to operate and manage the Kewalo Basin Harbor or may require that Approved Mortgagee select an Experienced Operator to operate and manage the same. For purposes of this Section, an Experienced Operator shall mean a person or entity possessing the experience in the operation of high quality harbor operations, qualifications, good reputation, financial resources and adequate personnel necessary for the proper performance of all the harbor management and harbor operations as set forth under this Lease, in a manner consistent with the quality, character, reputation and viability of the Kewalo Basin Harbor.

6.3. Delivery of Operational Materials.

(a) On or before the Effective Date, LESSOR shall deliver to LESSEE all plans, surveys, contracts, materials, keys, manuals, maintenance log-books, and records pertaining to the operation of Kewalo Basin Harbor within the possession or control of LESSOR, and LESSOR agree to use its best efforts to obtain such materials not in its possession, and deliver such materials to LESSEE. LESSOR shall also furnish (or cause to be furnished) all such information, take (or cause to be taken) all such other action, and shall cooperate with LESSEE as LESSEE shall reasonably require in order to effectuate an orderly and systematic termination of the duties and activities of LESSEE's predecessor as harbor manager of the Kewalo Basin Harbor and orderly and systematic transfer of duties to LESSEE. LESSOR shall provide a copy of all rent rolls and shall provide financial records to identify all amounts due and owing and all payment and other obligations.



KEWALO BASIN HARBOR, HONOLULU, HAWAII

Date Permit Commences: 7/20/2015
Date Permit Ends: 7/19/2016

Permittee: S.O.M. LLC
Contact: Dave Lawrence
Address: 1166 Olowalu Way
City/State/Zip: Honolulu, HI. 96825
Phone: (808) 782-9931
Alt Phone:
E-mail: davel6940@yahoo.com

Vessel Name: QUEEN OF THE RING
Berth No.: FU
LOA: 59'
Reg./Doc. No.: 611194
GE License No.: W09788949-01
Insurance Exp.: 11/18/2015
Letter of Good Standing: ☒
Customer No.: 10848

Harbor Rates

Type of Permit:

- ☐ Commercial Fishing
☒ Commercial Charter
☐ Regular
☐ Temporary

Intended Use: Charter/Tour

Mooring: 1232.00
Utilities (Water): 13.00
Performance Fee: 2464.00
Ticket Booth: 135.00
Other: N/A
TOTAL: 1380.00

MOORING PERMIT

IT IS HEREBY AGREED BY AND BETWEEN:

ALMAR MANAGEMENT INC., a California corporation, on behalf of KEWALO HARBOR, LLC, a Hawaii limited liability company, hereafter called "Permitter", as Harbor Master pursuant to the Rules as defined below, and S.O.M. LLC hereinafter called "Permittee", subject to all the terms and conditions set forth herein, agree as follows:

This Permit is for a mooring berth in Kewalo Basin Harbor at Berth No. FU for the vessel QUEEN OF THE RING (the "Vessel"), Document No. 611194 for the purpose of Charter/Tour.

1. Permittee agrees to abide by all existing and future Hawaii Administrative Rules, Chapters 15-211 to 15-214, State of Hawaii, which are incorporated herein by reference, in addition to any other rules adopted by Permitter or the Hawaii Community Development Authority, as the same may be amended ("Rules") and to the full performance of the following terms, conditions, and charges.
2. Living aboard the Vessel is prohibited.
3. Permitter, in consideration for the compliance with Rules, fees, and charges to be paid by Permittee to it, and the terms and conditions hereinafter contained and to be observed and performed by Permittee, does hereby grant to Permittee permission to moor the Vessel, and only the Vessel registered herein with Permitter. Permitter may require Permittee to move the Vessel to another berth. Permitter reserves the right to use the berth when not in use by the Permittee, without any reduction or rebate of the Mooring Fees (as defined below).
4. Permittee agrees to pay the Permitter all fees and charges for use of the berth as set forth in the Hawaii Administrative Rules, Chapters 15-211 to 15-214, State of Hawaii, plus metered utilities, if applicable (collectively "Mooring Fees"). The current Mooring Fees as set forth under the Rules are reflected on Exhibit A attached hereto and incorporated herein. Mooring Fees shall be paid monthly in advance by Permittee, without notice, and the metered utilities shall be paid within fifteen (15) days after billed following the monthly reading of such meters. Should the Mooring Fees change, Permittee shall be given written notice once, at least thirty (30) days in advance of the date when such

EXHIBIT B

new Mooring Fees are due and payable. Thereafter, Permittee shall pay for the new Mooring Fees monthly in advance, without further notice. Permittee shall be deemed "delinquent" when the Mooring Fees and/or utility payments, if applicable, remain unpaid five (5) days after the date such payment is due.

5. Permittee covenants and agrees to at all times maintain in full force and effect commercial general liability insurance for bodily injury and property damage in the amounts and as set forth in the Rules and to cause the State of Hawaii, the Hawaii Community Development Authority, Permitter, Kewalo Harbor Management Company, LLC, Kewalo Harbor, LLC and all affiliated entities, successors and assigns and managing agents (collectively, "Permitter Insureds") to be named as additional insureds and to be provided written notice of cancellation from the insurance carrier at least 30 days prior to the proposed cancellation date, if any. Permittee shall also carry such property insurance as it deems prudent, and any risk of loss, whether insured or not, is solely Permittee's responsibility. Permittee's insurance shall be primary. Permitter and Permittee waive, and shall cause their insurers to waive, all subrogation rights against each other and the Permitter Insureds. Permittee further agrees that satisfactory proof of insurance shall be delivered to Permitter upon the execution of this permit and thereafter annually on the anniversary date of this permit.

6. **IN ADDITION TO WHAT IS PROVIDED BY THE RULES AND ELSEWHERE IN THIS PERMIT, THE PARTIES HERETO AGREE THAT NEITHER THE PERMITTOR NOR ANY AGENT, PROPERTY MANAGER, LAND LEASEHOLDER, LAND OWNER, SERVANT, OR EACH OF THEIR EMPLOYEES, AND ALL AFFILIATED ENTITIES, SUCCESSORS AND ASSIGNS (COLLECTIVELY WITH PERMITTOR, THE "PERMITTOR PARTIES") SHALL BE LIABLE FOR ANY LOSS, DAMAGE OR PERSONAL INJURY TO THE PERSON OR PROPERTY OF THE PERMITTEE OR ITS AGENTS, EMPLOYEES, OR INVITEES, INCLUDING, BUT NOT LIMITED TO, THE VESSEL, ITS INVENTORY AND EQUIPMENT, WHETHER SUCH LOSS, DAMAGE, OR PERSONAL INJURY BE OCCASIONED BY FIRE, THEFT, ACT OF GOD, OR ANY OTHER CAUSE (INCLUDING THE NEGLIGENCE OF THE PERMITTOR PARTIES, BUT EXCLUDING WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF THE PERMITTOR PARTIES). PERMITTEE HEREBY AGREES TO INDEMNIFY AND SAVE HARMLESS THE PERMITTOR PARTIES FROM OR AGAINST ANY CLAIM ARISING FROM THE MAINTENANCE, USE, AND OPERATION OF PERMITTEE'S VESSEL IN THE HARBOR AREAS OR THE USE BY THE PERMITTEE OF THE HARBOR FACILITIES. PERMITTEE HEREBY AGREES TO ASSUME FULL RESPONSIBILITY FOR PERSONAL INJURY AND PROPERTY DAMAGE ARISING OUT OF THE MAINTENANCE, USE, AND OPERATION OF PERMITTEE'S VESSEL AND PERMITTEE'S USE OF THE HARBOR FACILITIES. ACCORDINGLY, PERMITTEE BEARS 100% RISK OF LOSS TO THE VESSEL AND ALL OTHER PROPERTY OF THE PERMITTEE (OTHER THAN THE PERMITTOR PARTIES' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT). THIS SECTION RELEASES THE PERMITTOR PARTIES OF THEIR OWN NEGLIGENCE. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS PERMIT.**

7. The Permitter Parties shall not be liable for the care or protection of the vessel, its gear, equipment, or contents, or for any loss or damage of whatever kind or nature to the vessel, its contents, gear, or equipment howsoever occasioned. Permitter makes no warranty of any kind as to the condition of the piers, walks, wharfs, gangways, or mooring gear and equipment, nor shall Permitter be liable for injuries to the person or property of Permittee, its agents, employees or guests from any cause or circumstance, **EVEN IF ATTRIBUTABLE TO THE NEGLIGENCE OF THE PERMITTOR PARTIES.** The Permitter Parties shall be third party beneficiaries of this section.

8. In addition to what is provided by the Rules, Permittee shall not store or use hazardous materials (including any substance, pollutant, or contaminant regulated under any applicable

m

environmental laws) in any manner not sanctioned by law nor bring onto the harbor any such hazardous materials except in the ordinary course of Permittee's business, but only if pre-approved in writing by Permittor, within Permittor's sole and absolute discretion and in such instance, only if handled by Permittee in accordance with all applicable laws. Permittee shall be solely responsible for and shall indemnify, defend, and hold harmless the Permittor Parties from and against any loss, damage, cost, expense, or liability arising out of or attributable to the use, generation, manufacture, treatment, handling, refining, production, processing, storage, release, threatened release, discharge, disposal, or presence of hazardous materials within the harbor or elsewhere caused by Permittee or persons acting under or on behalf of Permittee, including the related costs of any required or necessary removal, repair, cleanup, or remediation of the Harbor, and the preparation and implementation of any closure, removal, remedial, or other required plans, and all reasonable costs and expenses incurred by Permittor in connection therewith, including without limitation reasonable attorneys' fees. This section shall survive the expiration or earlier termination of this Permit.


9. Use of the berth by Permittee pursuant to this permit does not grant Permittee any right to retain the use of the berth or any other space in the Harbor. Permittor may terminate this Permit, with or without cause, upon lapse of 48-hours' notice from Permittor to vacate the berth. Such termination right shall expressly apply in the event that Permittee has violated any provisions of this Permit or the Rules. Upon expiration of this Permit or upon its earlier termination, Permittee shall remove its vessel from the berth and the Harbor.

10. Failure of Permittee to vacate the berth and the Harbor, upon expiration of this permit or upon earlier termination pursuant to section 9 of this Permit, shall subject Permittee to liability for any damages incurred by the returning permittee or newly-assigned regular permittee resulting from Permittee's failure to vacate, and entitles Permittor to remove Permittee's vessel to an impounding area. Permittee shall indemnify and hold harmless Permittor from any liability for damages arising from the failure of Permittee to vacate the berth and the Harbor, and from the removal of the vessel to an impounding area by Permittor in accordance with the terms and conditions of this permit.

11. Permittee accepts the slip assigned to Permittee, the Harbor and all property of Permittor "as is" and accepts same as suitable for Permittee's purposes and expressly waives any defects therein and agrees to hold the Permittor Parties harmless from any loss or damage or injury to property or person resulting from any defect or improper construction or maintenance of the Harbor or property.

12. All notices (a "Notice") under this Permit shall be delivered or sent by: (i) first class, registered or certified mail, postage prepaid, return receipt requested, (ii) nationally recognized overnight carrier, or (iii) facsimile with original Notice sent via overnight delivery addressed to the address of the party in question set forth below or to such other address as either party may designate by Notice. Notices shall be deemed given (x) three business days after being mailed as provided in clause (i) above, (y) one business day after delivery to the overnight carrier as provided in clause (ii) above, or (z) on the day of the transmission of the facsimile so long as it is received in its entirety by 4:00 p.m. (Hawaii time) on such day and the original of such Notice is received the next business day via overnight mail as provided in clause (iii) above.

Permittor: Almar Management Inc.
1125-B1 Alamoana Blvd
Honolulu, HI 96814
Phone:(808)-594-0849
Fax: (808)-594-0848



Permittee: S.O.M. LLC

1166 Olowalu Way
Honolulu, HI. 96825
(808) 782-9931

davel6940@yahoo.com

13. This Permit does not create a landlord-tenant relationship between the parties, and shall only constitute a license subject to the terms of this Permit, including the Rules as incorporated herein. This Permit shall not be assigned or transferred without the prior written consent of Permittor.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

PERMITTOR:

By:

Title: Harbor Manager

S.O.M. LLC

a

By:

Name: Dave Lawrence

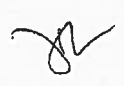
Title: Managing Partner



EXHIBIT A
MOORING FEES AND CHARGES

Mooring Fees and other charges shall be as set forth in Hawaii Administrative Rules, Chapters 15-211 to 15-214, State of Hawaii, as the same may be amended. Such rates are currently set as follows and, pursuant to the Rules, may be adjusted in accordance with CPI and for improvements made in accordance with Rules:

MOORING	<u>\$ 1232.00</u>
UTILITIES (WATER)	<u>\$ 13.00</u>
PERFORMANCE FEE	<u>\$ 2464.00</u>
TICKET BOOTH, IF ANY	<u>\$ 135.00</u>
OTHER	<u>\$ N/A</u>
<hr/>	
TOTAL	<u>\$ 1380.00</u>



Begin forwarded message:

From: Kewalo Basin Harbor <slips@kewaloharbor.com>
Subject: MOORING PERMIT - QUEEN OF THE RING - FU
Date: June 20, 2016 at 2:55:03 PM HST
To: "joanjoyce2@comcast.net" <joanjoyce2@comcast.net>

Your new Mooring Permit is ready for your signature as your current permit is expiring June 30, 2017

Thank you,

Sandy

EXHIBIT C

Teri L. Canon

From: Christopher J. Muzzi
Sent: Tuesday, June 28, 2016 9:51 AM
To: slips@kewaloharbor.com
Cc: joanjoyce2@comcast.net
Subject: MOORING PERMIT - QUEEN OF THE RING - FU

Dear Sandy:

As the twenty-four hour point of contact for S.O.M. LLC, please email the permit to this email address and we will deliver the original permit executed by Ms. Joyce to the harbor office immediately. Thank you.

Christopher J. Muzzi
Tsugawa Biehl Lau & Muzzi
A Hawaii Limited Liability Law Company
Bishop Place
1132 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Phone (808) 531-0490
Fax (808) 534-0202
e-mail: cmuzzi@hilaw.us

CONFIDENTIALITY AND CIRCULAR 230 NOTICE: This e-mail may contain confidential information that is legally privileged. Do not read this e-mail if you are not the intended recipient. If you have received this transmission in error, please notify us immediately by replying to the e-mail or by telephone at (808) 531-0490 and destroy the original transmission and any attachments without reading or saving the transmission in any manner. To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

EXHIBIT D

Teri L. Canon

From: Kewalo Basin Harbor <slips@kewaloharbor.com>
Sent: Tuesday, June 28, 2016 12:00 PM
To: Christopher J. Muzzi; Kewalo Basin Harbor
Cc: joanjoyce2@comcast.net
Subject: RE: MOORING PERMIT - QUEEN OF THE RING - FU

Christopher –

Our records show that Dave Lawrence is the only manager listed on the Articles of Organization of S.O.M. LLC. The other manager is not listed. We request an updated Articles to show Ms. Joan Joyce is a manager for S.O.M. LLC and authorized to sign on behalf of S.O.M. LLC.

Furthermore, I require an updated survey of the vessel to determine the seaworthiness and overall condition of QUEEN OF THE RING before a permit will be issued.

John Eveleth | Harbor Master | Kewalo Harbor

1125-B1 Ala Moana Blvd. | Honolulu, HI 96814

O: 808.594.0849 | F: 808.594.0848

JEveleth@KewaloHarbor.com

From: Christopher J. Muzzi [<mailto:cmuzzi@hilaw.us>]
Sent: Tuesday, June 28, 2016 9:51 AM
To: Kewalo Basin Harbor
Cc: joanjoyce2@comcast.net
Subject: MOORING PERMIT - QUEEN OF THE RING - FU

Dear Sandy:

As the twenty-four hour point of contact for S.O.M. LLC, please email the permit to this email address and we will deliver the original permit executed by Ms. Joyce to the harbor office immediately. Thank you.

Christopher J. Muzzi
Tsugawa Biehl Lau & Muzzi
A Hawaii Limited Liability Law Company
Bishop Place
1132 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Phone (808) 531-0490
Fax (808) 534-0202
e-mail: cmuzzi@hilaw.us

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EXHIBIT E

(including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Teri L. Canon

From: Christopher J. Muzzi
Sent: Tuesday, June 28, 2016 3:08 PM
To: Kewalo Basin Harbor
Cc: joanjoyce2@comcast.net
Subject: RE: MOORING PERMIT - QUEEN OF THE RING - FU
Attachments: RDPMS_PDF-13392596.pdf; business.pdf

Mr. Eveleth:

To address the first point of your email, the Articles of Organization for an LLC do not get updated to show a change in manager. The change is simply accomplished by informing the Department of Commerce and Consumer Affairs in a sworn letter, which I have attached to this email for your files. I have also attached the print out from the DCCA as of today that reflects the change of the manager of S.O.M. LLC to Joan Joyce.

I will respond to your second point shortly.

Thank you.

Christopher J. Muzzi
Tsugawa Biehl Lau & Muzzi
A Hawaii Limited Liability Law Company
Bishop Place
1132 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Phone (808) 531-0490
Fax (808) 534-0202
e-mail: cmuzzi@hilaw.us

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From: Kewalo Basin Harbor [<mailto:slips@kewaloharbor.com>]
Sent: Tuesday, June 28, 2016 12:00 PM
To: Christopher J. Muzzi; Kewalo Basin Harbor
Cc: joanjoyce2@comcast.net
Subject: RE: MOORING PERMIT - QUEEN OF THE RING - FU

Christopher –

Our records show that Dave Lawrence is the only manager listed on the Articles of Organization of S.O.M. LLC. The other manager is not listed. We request an updated Articles to show Ms. Joan Joyce is a manager for S.O.M. LLC and authorized to sign on behalf of S.O.M. LLC.

EXHIBIT F

Furthermore, I require an updated survey of the vessel to determine the seaworthiness and overall condition of QUEEN OF THE RING before a permit will be issued.

John Eveleth | Harbor Master | Kewalo Harbor

1125-B1 Ala Moana Blvd. | Honolulu, HI 96814

O: 808.594.0849 | F: 808.594.0848

JEveleth@KewaloHarbor.com

From: Christopher J. Muzzi [<mailto:cmuzzi@hilaw.us>]

Sent: Tuesday, June 28, 2016 9:51 AM

To: Kewalo Basin Harbor

Cc: joanjoyce2@comcast.net

Subject: MOORING PERMIT - QUEEN OF THE RING - FU

Dear Sandy:

As the twenty-four hour point of contact for S.O.M. LLC, please email the permit to this email address and we will deliver the original permit executed by Ms. Joyce to the harbor office immediately. Thank you.

Christopher J. Muzzi

Tsugawa Biehl Lau & Muzzi

A Hawaii Limited Liability Law Company

Bishop Place

1132 Bishop Street, Suite 2400

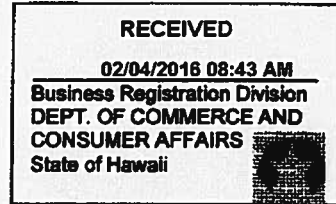
Honolulu, Hawaii 96813

Phone (808) 531-0490

Fax (808) 534-0202

e-mail: cmuzzi@hilaw.us

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S.O.M. LLC
350 Ward Ave. Suite 106 Box #250
Honolulu, HI 96814-4004

February 2, 2016

JT

Department of Commerce and Consumer Affairs
Business Registration Division
P. O. Box 40
Honolulu, Hawaii 96810

Re: S.O.M. LLC

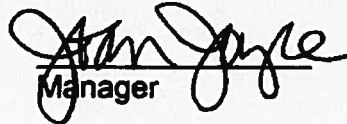
The above-named entity has changed its members/managers.

From: ~~Dave~~ Lawrence Manager
 David

To: Joan Joyce Manager
 350 Ward Ave.
 Suite 106-250
 Honolulu, HI 96814-4004

I certify under the penalties of the Hawaii Revised Statutes that I am authorized to make this change for the entity and the statements herein are true and correct in all material respects.

Sincerely,


Manager

File # 110178C5

DCCA State of Hawaii

Downloaded on June 28, 2016.

The information provided below is not a certification of good standing and does not constitute any other certification by the State.

Website URL: <http://hbe.ehawaii.gov/documents>

Business Information

MASTER NAME	S.O.M. LLC
BUSINESS TYPE	Domestic Limited Liability Company (LLC)
FILE NUMBER	110178 C5
STATUS	Active
PLACE INCORPORATED	Hawaii UNITED STATES
REGISTRATION DATE	Oct 7, 2013
MAILING ADDRESS	350 WARD AVE STE 106 BOX 250 HONOLULU, Hawaii 96814-4004 UNITED STATES
PARTNER TERMS	AT-WILL
MANAGED BY	MANAGER(S)
AGENT NAME	JOAN JOYCE
AGENT ADDRESS	350 WARD AVE STE 106 BOX 250 HONOLULU, Hawaii 96814-4004 UNITED STATES

Annual Filings

FILING YEAR	DATE RECEIVED	STATUS
2015	Dec 23, 2015	Processed
2014	Sep 25, 2015	Processed

Officers

NAME	OFFICE	DATE
JOYCE,JOAN	MGR	Feb 4, 2016

Trade Names

NAME	TYPE	CATEGORY	REGISTRATION DATE	STATUS
BEST FISHING HAWAII	Trade Name	NO CATEGORY SELECTED	Jun 19, 2012	Active
CENTER RING DIVING	Trade Name	NO CATEGORY SELECTED	Jan 6, 2012	Active
QUEEN OF THE RING	Trade Name	NO CATEGORY SELECTED	Nov 13, 2013	Active



KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

808.594.0849

slips@kewalobasinharbor.com

12/16/16

Ms. Joan Joyce
S.O.M. LLC
350 Ward Avenue #106-250
Honolulu, HI 96814-4004

RE: Missing Gross Receipts Reports

Dear Ms. Joyce,

We have made previous requests for Gross Receipts Reports.

This letter is to give you notice that you must submit all the delinquent Monthly Gross Receipt Reports that are required by the Hawaii Administrative Rules for Kewalo Basin Harbor. If we do not receive these reports by January 20, 2017, we will revoke your mooring permit.

Sincerely,

John Eveleth | Kewalo Basin Harbor
(808) 594-0849 off | (808) 630-1711 cell
jeveleth@kewaloharbor.com

EXHIBIT G



KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
808.594.0849

Monthly Gross Receipts Report

Name of operation or firm:

Vessel Name:

Slip Number:

S.O.M. LLC

QUEEN OF THE RING

FU

Name of Owner:

Phone number:

Cellular number:

S.O.M. LLC

()

()

Address:

Email:

350 WARD AVENUE
SUITE 106-250

CMUZZI@HILAW.US

HONOLULU, HAWAII 96814

Slip Fee: \$ 1,232.00

per month or 2% of gross receipts, whichever is greater.

1. Gross Receipts for month of:

NOVEMBER, 2015

\$ 2,550.00

2. Charges as a percentage of gross receipts = 2 % (i.e. Amount in line 1 x.02):

\$ 51.00

3. Less the basic slip fee paid in advance for month covered by this statement,
NOT INCLUDING WATER CHARGE:

\$ 1,232.00

4. Additional amount due (Line 2 minus line 3). This amount will be 0 if line 2 is
less than line 3, which does not include monthly water charge:

\$ 0.00

NOTICE TO OWNER:

Please mail original of this statement
together with remittance, if any, to:

Kewalo Basin Harbor
1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
kewalobasinharbor@gmail.com

*Payment and correctly completed report must be received not
later than 30 days following the end of the month.*

*(Example: Gross receipts for the month of October are due by
November 30.)*

*Late payment fee of \$100.00 plus interest may be assessed for
incorrect or delinquent payment.*

I certify that this statement is to the best of my knowledge and belief, a true and correct declaration of gross receipts for the
period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andrew Sese
Authorized Signature

MANAGER
Title

31 DEC 2015
Date



KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
808.594.0849

Monthly Gross Receipts Report

Name of operation or firm:

Vessel Name:

Slip Number:

S.O.M. LLC

QUEEN OF THE RING

FU

Name of Owner:

Phone number:

Cellular number:

S.O.M. LLC

()

()

Address:

Email:

350 WARD AVENUE
SUITE 106-250

CMUZZI@HILAW.US

HONOLULU, HAWAII 96814

Slip Fee: \$ 1,232.00 per month or 2% of gross receipts, whichever is greater.

1. Gross Receipts for month of:

DECEMBER, 2015

\$ 2,550.00

2. Charges as a percentage of gross receipts = 2 % (i.e. Amount in line 1 x.02):

\$ 51.00

3. Less the basic slip fee paid in advance for month covered by this statement,
NOT INCLUDING WATER CHARGE:

\$ 1,232.00

4. Additional amount due (Line 2 minus line 3). This amount will be 0 if line 2 is
less than line 3, which does not include monthly water charge:

\$ 0.00

NOTICE TO OWNER:

Please mail original of this statement
together with remittance, if any, to:

Kewalo Basin Harbor
1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
kewalobasinharbor@gmail.com

*Payment and correctly completed report must be received not
later than 30 days following the end of the month.
(Example: Gross receipts for the month of October are due by
November 30.)*

*Late payment fee of \$100.00 plus interest may be assessed for
incorrect or delinquent payment.*

I certify that this statement is to the best of my knowledge and belief, a true and correct declaration of gross receipts for the
period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andru Susly

Authorized Signature

MANAGER

Title

31 JAN 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

Email: [] Change

CMUZZI@HILAW.US350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$ 1,232.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

JANUARY 2016\$ 2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement **NOT INCLUDING THE WATER CHARGE**:\$ 1,232.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

Please send this statement together with any remittance to:

Payment and correctly completed report must be received not later than 30 days following the end of the month.
(Example: Gross receipts for the month of October are due by November 30.)

A late payment fee of \$100.00 plus interest may be assessed for incorrect or delinquent payments.

Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Arthur J. Jolly

Authorized Signature

MANAGER

Title

28 FEB 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FV

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

Email: [] Change

CMUZZI@HILAW.US350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$ 1,232.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:	<u>FEBRUARY 2016</u>	<u>\$ 2,550.00</u>
2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):		<u>\$ 51.00</u>
3. Less the Basic Slip Fee paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE :		<u>\$ 1,232.00</u>
4. Additional amount due (Line 2 minus Line 3). This amount will be ZERO (0) if Line 2 less than Line 3, which does not include the Monthly Water Charge:		<u>\$ 0.00</u>

NOTICE TO OWNER:

Please send this statement together with any remittance to:

Payment and correctly completed report must be received not later than 30 days following the end of the month.

(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

A late payment fee of \$100.00 plus interest may be assessed for incorrect or delinquent payments.

I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.


 Authorized Signature

MANAGER
 Title

31 MAR 2016
 Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

350 WARD AVENUE

Email: [] Change

CMUZZI@HILAW.USSUITE 106-250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$ 1,232.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

MARCH 2016\$ 2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:\$ 1,232.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

Please send this statement together with any remittance to:

Payment and correctly completed report must be received not later than 30 days following the end of the month.
(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

A late payment fee of \$100.00 plus interest may be assessed for incorrect or delinquent payments.

I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andru Sery

Authorized Signature

MANAGER

Title

30 APR 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

Email: [] Change

CMUZZI@HILAW.US350 WARD AVENUESUITE 106 - 250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

Eff. 02/01/15

\$ 1,248.00**ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.**

1. Gross Receipts for Month of:

APRIL 2016\$ 2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:\$ 1,248.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

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Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andru Susy

Authorized Signature

MANAGER

Title

31 MAY 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

350 WARD AVENUE

Email: [] Change

CMUZZI@HILAW.USSUITE 106-250

SLIP FEE/MONTH:

\$ 1,248.00HONOLULU, HAWAII 96814

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:	<u>MAY 2016</u>	<u>\$2,550.00</u>
2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):		<u>\$ 51.00</u>
3. Less the Basic Slip Fee paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE :		<u>\$ 1,248.00</u>
4. Additional amount due (Line 2 minus Line 3). This amount will be ZERO (0) if Line 2 less than Line 3, which does not include the Monthly Water Charge:		<u>\$ 0.00</u>

NOTICE TO OWNER:

Please send this statement together with any remittance to:

Payment and correctly completed report must be received not later than 30 days following the end of the month.

(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

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Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

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I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andr Leary
Authorized Signature

MANAGER
Title

30 JUN 2016
Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

Email: [] Change

CMUZZI@HILAW.US350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$ 1,248.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

JUNE 2016\$ 2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:\$ 1,248.00

4. Additional amount due (Line 2 minus Line 3). This amount will be ZERO (0) if Line 2 less than Line 3, which does not include the Monthly Water Charge:

\$ 0.00**NOTICE TO OWNER:**

Please send this statement together with any remittance to:

Payment and correctly completed report must be received not later than 30 days following the end of the month.
(Example: Gross receipts for the month of October are due by November 30.)Kewalo Harbor
1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
Fax: (808) 594-0848
Slips@KewaloHarbor.com

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I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andru Juey
Authorized SignatureMANAGER
Title31 JUL 2016
Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

Email: [] Change

CMUZZI@HILAW.US350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$1,248.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

JULY 2016\$2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:\$1,248.00

4. Additional amount due (Line 2 minus Line 3). This amount will be ZERO (0) if Line 2 less than Line 3, which does not include the Monthly Water Charge:

\$ 0.00**NOTICE TO OWNER:**

Please send this statement together with any remittance to:

Payment and correctly completed report must be received not later than 30 days following the end of the month.
(Example: Gross receipts for the month of October are due by November 30.)Kewalo Harbor
1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
Fax: (808) 594-0848
Slips@KewaloHarbor.com

A late payment fee of \$100.00 plus interest may be assessed for incorrect or delinquent payments.

I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andrew Singh
Authorized SignatureMANAGER
Title31 AUG 2016
Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

350 WARD AVENUE

Email: [] Change

CMUZZI@HILAW.USSUITE 106-250

SLIP FEE/MONTH:

\$ 1,248.00HONOLULU, HAWAII 96814

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

AUGUST 2016\$ 2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement **NOT INCLUDING THE WATER CHARGE**:\$ 1,248.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

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(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

A late payment fee of \$100.00 plus interest may be assessed for incorrect or delinquent payments.

I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Authorized Signature

MANAGER

Title

30 SEP 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: ☐ ChangeEmail: ☐ ChangeCMUZZI@HILAW.US350 WARD AVENUESUITE 106 - 250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$ 1,248.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

SEPTEMBER 2016\$2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:\$1,248.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

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1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
Fax: (808) 594-0848
Slips@KewaloHarbor.com

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I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Anchor Seely

Authorized Signature

MANAGER

Title

31 OCT 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: ☐ ChangeEmail: ☐ ChangeCMUZZI@HILAW.US350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$1,248.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

OCTOBER 2016\$2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement **NOT INCLUDING THE WATER CHARGE**:\$1,248.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

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Honolulu, HI 96814

Fax: (808) 594-0848

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Authorized Signature

MANAGER

Title

30 NOV 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

350 WARD AVENUE

Email: [] Change

CMUZZI@HILAW.USSUITE 106 - 250

SLIP FEE/MONTH:

\$ 1,248.00HONOLULU, HAWAII 96814

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

NOVEMBER 2016\$ 2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement **NOT INCLUDING THE WATER CHARGE**:\$ 1,248.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

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Andrew Sings

Authorized Signature

MANAGER

Title

31 DEC 2016

Date

TSUGAWA BIEHL LAU & MUZZI

A Hawaii Limited Liability Law Company

Michael L. Biehl
Tedson H. Koja
Alan K. Lau
Christopher J. Muzzi
Leila M. Rothwell Sullivan
Eric H. Tsugawa

BISHOP PLACE
1132 BISHOP STREET, SUITE 2400
HONOLULU, HAWAII 96813

TELEPHONE: 808.531.0490
FACSIMILE: 808.534.0202
WEBSITE: <http://hlaw.us>

Of Counsel:
Frank T. Kanemitsu
Attorney At Law
A Law Corporation

March 7, 2017

Via Email
and
United States Mail

jeveleth@KewaloBasinHarbor.com

John Eveleth, Harbor Manager
Almar Management, Inc.
1125-B1 Ala Moana Blvd.
Honolulu, Hawaii 96814

RE: S.O.M., LLC – Kewalo Basin Harbor Berth No. FU

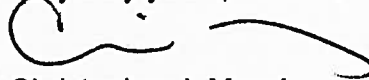
Dear Mr. Eveleth:

As you know, I am the attorney for S.O.M., LLC ("S.O.M."), a permittee at Kewalo Basin Harbor. Last summer, the owner of S.O.M. was contacted to go to the Harbor Office to pick up its permit. There were no conditions precedent to its issuance.

I then wrote a letter asking that the permit be mailed to me. In response to my letter, a new condition for issuance of the permit was stated: a seaworthiness test - effectively a "buoy run". The year previous, we objected to a similar arbitrary request and S.O.M. was not required to perform a "buoy run" in order to have its permit renewed. We continue to object to such an arbitrary requirement. S.O.M.'s vessel is fully insured as seaworthy. S.O.M. would like to make arrangements to receive its permit.

I look forward to your response. Thank you.

Very truly yours,



Christopher J. Muzzi

Teri L. Canon

From: John Eveleth <jeveleth@kewaloharbor.com>
Sent: Wednesday, March 08, 2017 11:48 AM
To: Joy Higaki
Cc: Christopher J. Muzzi; Teri L. Canon
Subject: RE: Letter Dated March 7, 2017

Question:

Was there a recent survey (within the last two years) done on QUEEN OF THE RING for S.O.M. LLC?

Thank you,

John Eveleth | Harbor Master | Kewalo Harbor

1125-B1 Ala Moana Blvd. | Honolulu, HI 96814

O: 808.594.0849 | F: 808.594.0848

JEveleth@KewaloHarbor.com

From: Joy Higaki [<mailto:jhigaki@hilaw.us>]
Sent: Tuesday, March 07, 2017 4:58 PM
To: John Eveleth
Cc: Christopher J. Muzzi; Teri L. Canon
Subject: Letter Dated March 7, 2017

Please see attached letter from Christopher Muzzi, Esq. dated March 7, 2017, the original of which will follow by U.S. mail. Please let me know if you have any questions. Thank you.

Please note our new address:

Joy M. Higaki

Tsugawa Biehl Lau & Muzzi LLLC
Bishop Place
1132 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Telephone: (808) 531-0490
Facsimile: (808) 534-0202
Email: jhigaki@hilaw.us

CONFIDENTIALITY NOTICE: This e-mail may contain confidential information that is legally privileged. Do not read this e-mail if you are not the intended recipient. If you have received this transmission in error, please notify us immediately by replying to the e-mail or by telephone at (808) 531-0490 and destroy the original transmission and any attachments without reading or saving the transmission in any manner. Thank you.

EXHIBIT J



KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd,
Honolulu, HI 96814
808.594.0849

4/10/17

Mr. Christopher J. Muzzi
Attorney/Contact for S.O.M. LLC
1132 Bishop Street Suite 2400
Honolulu, Hawaii 96813

Ms. Joan Joyce
S.O.M. LLC
350 Ward Avenue #106-250
Honolulu, Hawaii 96814

Sent via email and Certified USPS regular mail

RE: Business Records Request

Dear Mr. Muzzi and Ms. Joyce,

Pursuant to HAR §15-212-54, we are conducting an audit of S.O.M. LLC and its business records to verify your Monthly Gross Receipt Reports submitted for your vessel Queen Of The Ring.

Please submit the following business records to this office by May 10, 2017.

1. General Excise Tax returns for 2015, 2016 and January through March 2017.
2. Corporate Tax Returns for 2015 and 2016.
3. Guest Logs for 2015, 2016 and January through March 2017.
4. Sales records for 2015, 2016 and 2017.
5. Checking account statements for Golden Eagle Marine Charter Services Corp. 2015, 2016 and 2017.
6. Credit Card Statements for 2015, 2016 and 2017.
7. Customer/Client agreements.
8. Delinquent Gross Receipts Reports for December 2016, January and February 2017.

Thank you in advance for your attention to this request.

Sincerely,

John Eveleth
Kewalo Harbor LLC
(808) 594-0849 office | (808) 630-1711 mobile
jeveleth@kewaloharbor.com

EXHIBIT K

TSUGAWA BIEHL LAU & MUZZI

A Hawaii Limited Liability Law Company

Michael L. Biehl
Tedson H. Koja
Alan K. Lau
Christopher J. Muzzi
Leila M. Rothwell Sullivan
Eric H. Tsugawa

BISHOP PLACE
1132 BISHOP STREET, SUITE 2400
HONOLULU, HAWAII 96813

TELEPHONE: 808.531.0490
FACSIMILE: 808.534.0202
WEBSITE: <http://hilaw.us>

Of Counsel:
Frank T. Kanemitsu
Attorney At Law
A Law Corporation

May 8, 2017

Via Email
and
United States Mail

jeveleth@KewaloBasinHarbor.com

John Eveleth, Harbor Manager
Almar Management, Inc.
1125-B1 Ala Moana Blvd.
Honolulu, Hawaii 96814

RE: S.O.M., LLC – Kewalo Basin Harbor Berth No. FU

Dear Mr. Eveleth:

As you know, I am the attorney for S.O.M., LLC ("S.O.M."), a permittee at Kewalo Basin Harbor. Last summer, the owner of S.O.M. was contacted to go to the Harbor Office to pick up its permit. There were no conditions precedent to its issuance.

I then wrote a letter asking that the permit be mailed to me. In response to my letter, a new condition for issuance of the permit was stated: a seaworthiness test - effectively a "buoy run." The year previous, we objected to a similar arbitrary request and S.O.M. was not required to perform a "buoy run" in order to have its permit renewed. We continue to object to such an arbitrary requirement. S.O.M.'s vessel is fully insured as seaworthy, and the harbor office was provided with and have on file a copy of the full policy in effect.

Instead of issuing the permit, you asked when the latest survey was and then indicated that you are performing an audit. Audits are allowed under the Hawaii Administrative Rules ("HAR") under three circumstances: (1) to determine the validity of maintaining the vessel's classification;¹ (2) the fees owing to the HCDA;² and (3) any other information necessary for enforcing the rules³. None of these circumstances are present here. Further, the breadth of information that you are seeking is significantly

¹ The Queen of the Ring falls within the Charter Boat classification.

² It is my understanding that S.O.M., LLC would have to generate over \$50,000 per month in order to be required to pay more than the base monthly fee.

³ No HAR sought to be enforced has ever been cited in any prior correspondence from you.

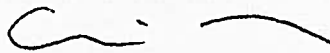
John Eveleth
May 8, 2017
Page 2

more than what is contemplated by the HAR, and appears designed to impose a burden on my small business client that is not otherwise required. In speaking with other harbor management personnel, I understand that audits are virtually unheard of.

Are you singling out my client? How many other audits have been completed since you became harbor manager? If so, please identify the number of completed audits and the names of the permittees so that we may verify. In the event you are singling out my client, your actions are arbitrary and capricious and in violation of the HAR.

Please issue the permit we were told was available for pick-up last July.

Very truly yours,

A handwritten signature in black ink, appearing to read "Christopher J. Muzzi", with a stylized flourish at the end.

Christopher J. Muzzi



KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
808.594.0849

5/31/17

Mr. Christopher J. Muzzi
Attorney/Contact for S.O.M. LLC
1132 Bishop Street Suite 2400
Honolulu, Hawaii 96813

Ms. Joan Joyce
S.O.M. LLC
350 Ward Avenue #106-250
Honolulu, Hawaii 96814

Sent via email and USPS mail

RE: Mooring Permit for m/v QUEEN OF THE RING, O.N. 611194

Dear Mr. Muzzi and Ms. Joyce,

We acknowledge receipt of your letter dated 5/8/17.

This letter is notice to S.O.M. LLC that the mooring permit for m/v QUEEN OF THE RING in slip FU at Kewalo Basin Harbor is expired. This permit will not be renewed. Subsequently, the m/v QUEEN OF THE RING with official number 611194 is no longer authorized to be moored in slip FU at Kewalo Basin Harbor and must vacate.

S.O.M. LLC has 30 days to remove the m/v QUEEN OF THE RING, as referenced above, from Kewalo Basin Harbor.

Sincerely,

John Eveleth | Manager
Kewalo Harbor
(808) 594-0849
jeveleth@kewaloharbor.com

EXHIBIT M



KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
808.594.0849

5/31/17

Golden Eagle Marine Charter Services Corporation
Ms. Laurie Bakke
350 Ward Avenue #106-107
Honolulu, Hawaii 96814

Sent via email and USPS mail

RE: Expired mooring permit for EMERAUDE II, slip FS

Dear Ms. Bakke,

We acknowledge receipt of your email dated 5/10/17.

This letter is notice to GOLDEN EAGLE MARINE CHARTER SERVICES CORPORATION that the mooring permit for s/v EMERAUDE II slip FS at Kewalo Basin Harbor is expired. This permit will not be renewed. Subsequently, the s/v EMERAUDE II with official number 1097127 is no longer authorized to be moored in slip FS at Kewalo Basin Harbor and must vacate.

GOLDEN EAGLE MARINE CHARTER SERVICES CORPORATION has 30 days to remove the s/v EMERAUDE II, as referenced above, from Kewalo Basin Harbor.

Sincerely,

John Eveleth
Kewalo Harbor LLC
(808) 594-0849 office | (808) 630-1711 mobile
jeveleth@kewaloharbor.com

EXHIBIT N

TSUGAWA BIEHL LAU & MUZZI

A Hawaii Limited Liability Law Company

Michael L. Biehl
Tedson H. Koja
Alan K. Lau
Christopher J. Muzzi
Leila M. Rothwell Sullivan
Eric H. Tsugawa

BISHOP PLACE
1132 BISHOP STREET, SUITE 2400
HONOLULU, HAWAII 96813

TELEPHONE: 808.531.0490
FACSIMILE: 808.534.0202
WEBSITE: <http://hilew.us>

Of Counsel:
Frank T. Kanemitsu
Attorney At Law
A Law Corporation

June 9, 2017

Via Email:
and United States Mail

jeveleth@KewaloBasinHarbor.com

John Eveleth, Harbor Manager
Almar Management, Inc.
1125-B1 Ala Moana Blvd.
Honolulu, Hawaii 96814

RE: S.O.M., LLC ("S.O.M.") – Kewalo Basin Harbor Berth No. FU

Dear Mr. Eveleth:

This letter responds to your May 31, 2017 letter stating that S.O.M.'s permit was not being renewed. For numerous reasons, the decision not to renew S.O.M.'s permit is arbitrary, capricious and plain wrong.

As you may be aware, the refusal to renew S.O.M.'s permit is subject to administrative and judicial review. If the nonrenewal was done for tortious or illegal reasons, you, ALMAR and the HCDA and at least one other third-party will likely find yourselves defendants in a lawsuit brought by S.O.M. We have reasons to believe that the nonrenewal of S.O.M.'s permit, as well as that of Golden Eagle Marine Services Corp. (which you inadvertently referred to in your letter of April 10, 2017), were wrongful, including in violation of the Hawaii Administrative Rules and other laws, and that when the facts are elicited in discovery, they will be newsworthy.

S.O.M. is not interested in litigation, which may result in people losing their jobs, or worse. S.O.M. wants its permit for 2016-2017 renewed and renewed again for 2017-2018.

If S.O.M. does not receive the above referenced renewed permits by June 13, 2017, it will take appropriate legal action. This is a confidential settlement communication pursuant to Rule 408 of the Hawaii and Federal Rules of Evidence.

Very truly yours,



Christopher J. Muzzi

TSUGAWA BIEHL LAU & MUZZI LLLC
A HAWAII LIMITED LIABILITY LAW COMPANY

CHRISTOPHER J. MUZZI (6939-0)
Bishop Place
1132 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Telephone No. 531-0490

Attorney for Petitioner
S.O.M. LLC

RECEIVED

2017 JUL 21 AM 10 52

HAWAII COMMUNITY
DEVELOPMENT
AUTHORITY

BEFORE THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
OF THE STATE OF HAWAII

In re the Petition of)	
)	
S.O.M. LLC	)	FIRST AMENDED PETITION FOR
	)	DECLARATORY RELIEF; EXHIBITS A
For an order of Declaratory Relief	)	- O
)	
)	

COMES NOW, Petitioner S.O.M. LLC ("**Petitioner**" or "**SOM**"), by and through its attorneys, Tsugawa Biehl Lau & Muzzi LLLC, and pursuant to Hawaii Administrative Rules ("**HAR**") § 15-219-83, and hereby submits this First Amended Petition for Declaratory Relief ("**Petition**") seeking an order regarding the applicability of Hawaii Administrative Rules chapters 15-212 and 15-219 and whether (1) the current operator of Kewalo Basin Harbor has the authority to issue or revoke, or otherwise engage in the conduct described herein; (2) whether the current operator of Kewalo Basin Harbor acted in an arbitrary and capricious manner with respect to the conduct described herein; and (3) whether the current operator of Kewalo Basin Harbor engaged in illegal rulemaking when it added factors and otherwise required Petitioner to perform actions

not required under Hawaii Administrative Rules chapter 15-212 or give Petitioner an opportunity to cure, in violation of the said rules.

PETITION

I. PETITIONER'S (AND PETITIONER'S COUNSEL'S) NAME, MAILING ADDRESS, AND TELEPHONE NUMBER

S.O.M. LLC
c/o Ms. Joan Joyce
350 Ward Avenue #106-250
Honolulu, Hawaii 96814

Christopher J. Muzzi, Esq.
Tsugawa Biehl Lau & Muzzi LLLC
1132 Bishop Street Suite 2400
Honolulu, Hawaii 96813
Attorney for Petitioner, S.O.M. LLC

II. DESIGNATION OF SPECIFIC STATUTE, RULE, OR ORDER IN QUESTION

Hawaii Administrative Rules ("HAR") chapter 15-212.

III. PETITIONER'S INTEREST IN THE SUBJECT MATTER AND REASONS FOR SUBMITTING THE PETITION

S.O.M, LLC ("**SOM**")¹ is the holder of Commercial Charter Mooring Permit for Berth No. FU (the "**Mooring Permit**") at Kewalo Basin Harbor ("**KBH**") for the commercial vessel m/v Queen of the Ring and has been since approximately 2013. The Queen of the Ring is an approximately sixty four foot vessel and is only allowed by the U.S. Coast Guard to carry six passengers or less. Berth No. FU is a front row slip in KBH along Ala Moana Boulevard. The Queen of the Ring is currently docked in Berth No. FU.

¹ S.O.M. LLC is now a single member limited liability company owned 100% by Joan Joyce.

KBH is a harbor owned by the State of Hawaii. KBH is under the jurisdiction of the Hawaii Community Development Authority ("**HCDA**"). Pursuant to General Lease 14-1 ("**Lease**"), the HCDA has leased KBH to Kewalo Harbor, LLC ("**KH, LLC**"). As part of the Lease, Kewalo Harbor, LLC is required to exclusively follow the Hawaii Administrative Rules ("**HAR**") applicable to KBH, including chapters § 15-211 and § 15-212. KH, LLC is owned by The Hughes Corporation, a developer of a number of condominium buildings near KBH. Almar Management, Inc. ("**Almar**"), either directly or indirectly, is managing KBH.

When SOM purchased the business of another KBH permittee in 2013, a substantial portion of the purchase price was attributable to the fact that the Mooring Permit was for a front row slip. During SOM's due diligence prior to the purchase, KBH, through the then harbormaster, stated to SOM that the Mooring Permit for Berth No. FU would continually be renewed as long as SOM was not in gross breach of the HAR.

Prior to 2015, the Mooring Permit was routinely renewed without question, conditions or requirements. As a custom and practice in KBH, mooring permits at KBH are renewed unless a permittee is in gross violation of the HAR governing KBH, such as nonpayment.

With respect to the last Mooring Permit physically delivered to SOM, the period was for July 20, 2015 through July 19, 2016.

On or about June 20, 2016, SOM was advised by Almar that its renewed Mooring Permit was available for signature and pick-up. The renewed Mooring Permit would have been for the period July 20, 2016 through July 19, 2017. SOM asked that the renewed Mooring Permit be sent to its agent so that it could be signed and returned, which Almar allows other permittees to do. However, despite indicating the Mooring

Permit had been renewed, Almar refused to deliver the Mooring Permit, but instead began conditioning the delivery of the Mooring Permit on SOM's compliance with requirements not in the HAR that are burdensome on small businesses such as SOM and other permittees in KBH.

Almar's requests of SOM included a marine survey and submitting to an extensive audit at SOM's expense. Correspondence between Almar and SOM's attorney are attached hereto as Exhibits C – M, O. In its audit request, Almar asked for the following:

- General Excise Tax returns for 2015, 2016 and January through March of 2017
- Corporate Tax Returns for 2015 and 2016
- Guest Logs for 2015, 2016 and January through March of 2017
- Sales records for 2015, 2016 and 2017
- Checking account statements for Golden Eagle [sic] 2015, 2016 and 2017
- Credit Card Statements for 2015, 2016 and 2017
- Customer/Client agreements
- Delinquent Gross Receipts Reports for December 2016, January and February of 2017.

Exhibit K.

Almar did not give SOM written notice that if it did not cure alleged breaches of the HAR by a certain date that its Mooring Permit would be terminated or not renewed.

After going back and forth on these requests for eleven months, on May 31, 2017, Almar sent a letter to SOM saying that the Mooring Permit had expired and that it would not be renewed, and that SOM should move the Queen of the Ring no later than

June 30, 2017. Exhibit M. Because the Mooring Permit referenced in Almar's June 2016 email would have an expiration date of July 19, 2017, SOM inferred that Almar was taking the position that the 2016-2017 Mooring Permit was never issued as promised.

A similar termination of mooring permit was also issued on May 31, 2017 by Almar to Golden Eagle Marine Charter Corporation ("Golden Eagle"), another 100% woman-owned business, which has been in possession of the same slip for 44 years. Exhibit N. Thus, the only women-owned businesses in the front row slips at KBH, which are the most valuable and sought after, have had their permits terminated or not renewed simultaneously.

During the past year, SOM has been for sale. A successful sale would have transferred ownership of SOM and resulted in the assignment of the Mooring Permit, with KBH's approval and possession of the Queen of the Ring. Prior to the termination or nonrenewal of the Mooring Permit, another permittee of KBH offered to buy SOM. This other permittee has bought and resold several other businesses with mooring permits at KBH. This other permittee has a close relationship with the current harbor manager for KBH. This other permittee threatened that if SOM did not sell to it, it would cause the current harbor manager to revoke SOM's permit. SOM refused to sell to this permittee. Thereafter, Almar, through the current harbor manager, sent the May 31, 2017 letter stating that the Mooring Permit had expired and that it would not be renewed, and that SOM was to move the Queen of the Ring no later than June 30, 2017.

Almar purports to refuse to renew the Mooring Permit based on alleged violations of the HAR. However, even assuming that SOM is in violation of the HAR, which it

disputes, many other permittees are in violation of the HAR and have not had their permits terminated or not renewed. Almar is selectively enforcing the HAR. Almar is applying the HARs in an arbitrary and capricious manner by adding requirements that are not in the HARs. Almar is applying and enforcing the HARs favorable to Kewalo Harbor and those permittees that are in its good graces, including those that provide gratuities. Almar is discriminating against women in its application and "enforcement" of the HAR. Almar is discriminating against vessels that can only carry six passengers or less in an attempt to increase their profits at the expense of existing small business permittees.

SOM believes that it is entitled to a contested case hearing as the termination of or refusal to renew the Mooring Permit is a taking of SOM's property without due process of law. However, inasmuch as it is not clear that the HCDA has actually delegated the authority to KH, LLC and/or Almar to act in the manner described above, in the alternative as provided in this Petition, SOM seeks an order regarding the applicability of Hawaii Administrative Rules chapters 15-212 and 15-219 to KH, LLC and/or Almar and whether KH, LLC and/or Almar have authority under said rules to perform and conduct and make the purported determinations as set forth above..

IV. PETITIONER'S REQUEST FOR DECLARATORY ORDER AND POSITION OR CONTENTION

Pursuant to HAR § 15-219-83, "[a]ny interested person or governmental agency may petition the authority for a declaratory order as to the applicability of any statutory provision or rule or order of the authority." See also HRS § 91-8 ("Any interested person may petition an agency for a declaratory order as to the applicability of . . . any rule or order of the agency."). See Citizens Against Reckless Development v. Zoning Bd. of Appeals, 114 Hawaii 184, 197, 159 P.3d 143, 156 (2007). Declaratory orders

from administrative agencies can “remove uncertainty from legal relations and clarify, quiet and stabilize them before irretrievable acts have been undertaken, to enable an issue of questioned status or fact, on which a whole complex of rights may depend, to be expeditiously determined.” Id.

Pursuant to this provision, Petitioner seeks a declaratory order regarding the actions of KH, LLC and/or Almar, as described above. Specifically, Petitioner seeks a declaratory order from the HCDA stating whether Almar, as an operator of KBH, (1) has authority under HAR chapter 15-212 and/or 15-219 to issue then apparently un-issue and/or revoke mooring permits when it is not the “HCDA” and there has been no apparent delegation to KBR or to Almar to act on behalf of the HCDA with respect to these matters, or (2) may disregard the HARs related to KBH and/or act in an arbitrary or capricious manner in applying the HARs related to KBH with respect to first issuing a mooring permit and then claiming that no such permit had ever been issued, and otherwise either ignoring rules regarding permits or (3) usurps the HCDA authority to adopt rules by arbitrarily and capriciously creating new requirements for permit issuance, renewal, or revocation, without proper authority or without following the rulemaking requirements set forth in HRS chapter 91.

1. Neither KBH Nor Almar Have the Authority to Issue Regulatory Rulings Or Act on Behalf of the HCDA With Respect to Any Permits at Kewalo Basin

Section 6.1 of the Lease states as follows:

6.1. Operation of Kewalo Basin Harbor. Commencing as of 12:00 pm Hawaii Time on September 1, 2014, LESSEE shall be (and LESSOR shall have taken any actions necessary to make LESSEE) the exclusive manager and operator of all aspects (including but not limited to delegating to LESSEE full fiscal and physical harbor operations and management services) of Kewalo Basin Harbor as a marina, together with the parcels referred to in subsection (c) below (referred to as the "Harbor Facilities"), in accordance with the terms and conditions of this Lease and

all Applicable Laws, including but not limited to, the Kewalo Basin Rules, as they may be amended from time to time and in such role, shall be the "harbor manager" referred to in the Kewalo Basin Rules; provided that where the Kewalo Basin Rules require a regulatory determination to be made by "HCDA", then LESSOR shall make such determination, not LESSEE, except as to any day-to-day management or operational decisions relating to the Harbor Facilities.

(a) LESSEE's operational and management responsibilities as harbor manager of Kewalo Basin Harbor shall include, but are not limited to: (i) timely collecting any rent or fees due and owing from any of the boat tenants or sublessees of the Harbor Facilities, (ii) timely and adequately responding to any complaints lodged or concerns noted by boat tenants or members of the public who utilize Kewalo Basin Harbor, (iii) disposing or ensuring the removal or disposal of any vessels which are not permitted to berth at Kewalo Basin Harbor in accordance with all applicable Governmental Requirements, (iv) managing the harbor, slip, ticket booth, and office facilities and tenants, and (v) enforcing harbor rules and regulations (including but not limited to parking rules), including, in LESSEE'S discretion, the right to run the regularly scheduled stakeholder meeting. Prior to the Commencement Date, LESSOR shall assign to LESSEE all of LESSOR's rights and interests in all rents, revenues and reimbursements, security deposits and pre-paid rents and LESSEE shall assume all rights and obligations related thereto.

(b) During the Term, LESSEE shall be entitled to collect all revenues, income, or other receipts from the Harbor Facilities, which shall be included in LESSEE's Gross Receipts.

...

(Emphases added.) Thus, the Lease delegates authority to KH, LLC to be the harbor manager to perform certain acts described in Section 6.1(a) of the Lease. These responsibilities do not include permit termination or revocation. Nor do they authorize KH, LLC (or Almar) to adopt administrative rules.

The HCDA and the HARs related to KBH also do not provide KH, LLC or Almar authority to perform these acts. HAR § 15-211-2 provides the general definitions that are to be used in chapters 212, 213, and 214. This section defines "harbormaster" and "harbor manager", and "harbor agent" as "any person appointed to that office by the

executive director and vested with the operational control of Kewalo Basin.” “The responsibilities of a harbormaster, harbor manager or harbor agent include, but are not limited to, enforcing rules, mooring and berthing of ships, control of water and air pollution in the harbor, allocation of storage space, and the movement of vessels into, out of, and within Kewalo Basin[.]” Id. This section also separately defines “HCDA” as the “Hawaii community development authority, a body corporate and public instrumentality of the State of Hawaii, its harbor manager, agent or entity vested with operational control of Kewalo Basin[.]”

The use of these definitions in HAR chapter 212 is clear – the harbormaster is in charge of the physical movement of vessels and the physical operation of KBH, but the rules specify that the HCDA makes the regulatory determinations regarding the permits. For example, HAR § 15-212-1(b) states that “[t]he berthing of vessels at Kewalo Basin shall be in conformity with this part and where not covered by this part at the discretion of the harbormaster in a reasonable manner such as to protect the public interest.” The rules in HAR subchapter 1 giving the harbormaster authority relate primarily to physical operation of KBH, including such provisions as requiring a master or person in charge of any vessel to obey the orders of the harbormaster regarding method and manner of bringing vessels to anchorage, forbidding trying the engines of any vessel except by permission of the harbormaster, requiring masters or owners of a vessel to give notice to the harbormaster of arrival or departure. These provisions relate to actual operation of the harbor.

By contrast, subchapter 2 relates to berths and moorings, and the provisions in this subchapter 2 delegate some authority to the harbormaster, but other provisions, including renewal of revocable permit, HAR § 15-212-43 (“The HCDA may issue or

renew a revocable permit”), and revocation of a revocable permit, HAR § 15-212-48 (“If the permittee fails to remedy any breach of any of the duties, covenants, or conditions of the permit or to desist from violating these rules, the HCDA may revoke the permittee’s revocable permit”), retain authority to the HCDA specifically and do not delegate such authority to the harbormaster or to anyone else. The fact that the harbormaster’s powers are particularly set forth in parts of chapter 212, and that the HCDA’s authority is specifically identified in other parts of chapter 212 is critical. In re Water Use Permit Applications, 94 Hawaii 97, 151, 9 P.3d 409, 463 (2000) (explaining that “where the legislature includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that the legislature acts intentionally and purposely in the disparate inclusion or exclusion” (brackets and internal quotations omitted)). As explained above, the authority to act in the shoes of the HCDA must be specifically granted in order for an individual or entity to fall within the definition of “HCDA”. This was not done under the Lease, because the Lease did not delegate to KH, LLC the authority to deal with permits, including revoking or terminating them. In fact, the Lease specifically reserved unto the HCDA the power to make regulatory determinations. Lease, Section 6.1. Nor is there anything that states that the HCDA or the executive director of the HCDA authorized Almar to act as “harbor manager.”

Accordingly, neither the Lease nor HAR chapter 15-219 authorizes Almar to act in the place of the HCDA. Thus, any regulatory determinations regarding SOM’s permit are beyond the authority of Almar and accordingly ultra vires.

2. Actions by Almar In Applying the HARs Related to KBH Are Also Arbitrary and Capricious

As explained in the concurrently filed Petition for Contested Case Hearing, which is incorporated by reference, the actions that Almar took with respect to SOM's permit were not authorized by the HARs related to KBH, and in fact, were confusingly contradictory. Almar first stated that SOM's permit was ready for pick up, suggesting that Almar had issued the permit, which only required a ministerial action in the way of a signature. Then, almost a year later, after requesting SOM perform actions not required by the HARs related to KBH, Almar effectively states that the 2016-2017 permit had not been issued at all. Because of the timing, this means that Almar had issued a permit for 2016-2017 and then, while that permit was still active, retroactively un-issued it and refused to renew it. All without notice.

Generally, an agency is given certain deference in making determinations. "[A] determination made by an administrative agency acting within the boundaries of its delegated authority will not be overturned unless 'arbitrary, or capricious, or characterized by . . . [a] clearly unwarranted exercise of discretion.'" Paul's Elec. Serv. Inc. v. Befitel, 104 Hawaii 412, 419, 91 P.3d 494, 501 (2004) (citing HRS § 91-14(g)(6)). However, here, Almar is not an "agency", and it is not clear that Almar even has the delegated authority to act. But at minimum, these actions are arbitrary and capricious, because Almar did not follow the HARs related to KBH. Nor did it logically follow its own prior actions.

3. Almar, Without Authority and in Violation of HRS chapter 91, Engaged in Illegal Rulemaking When It Made Its Own Rules Regarding Permits.

By requesting that SOM perform actions that Almar was not authorized to request, and to seemingly base its determinations regarding SOM's permit on these factors that were not included in the HARs related to KBH, Almar in effect was engaged in illegal rulemaking. See Nuuanu Valley Ass'n v. City & County of Honolulu, 119

Hawaii 90, 194 P.3d 531 (2008) (agency policy that was inconsistent with administrative rules was improper administrative rulemaking under HRS § 91-1(4), 91-2(a)(3), (b)).

Under HAR § 15-219-5, the HCDA may delegate power or authority to the HCDA executive director, except the authority to adopt, amend, or repeal rules, and any power or authority expressly reserved to the HCDA by statute or rule. Thus, Almar's policies which added additional factors to its permit issuance and renewal evaluations constituted improper rulemaking that is not permissible not only under law, but also under the HCDA's own administrative rules/

V. HEARING

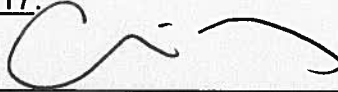
Although Petitioner acknowledges that a hearing is discretionary, Petitioner is requesting a hearing on this Petition, as provided in HAR § 15-219-83(b)(6). The matters alleged in the Petition, together with supporting legal memorandum above, will not permit the fair and expeditious disposition of the Petition due to the fact-intensive nature of the Petition and that neither the HCDA nor the Petitioner may know all of the underlying facts. For example, because the HCDA delegated some of its authority to KH, LLC, a third party, and KH, LLC presumably delegated some of its authority to Almar, the HCDA may not have full knowledge of the actions of KH, LLC and Almar relating to the exercise of that authority. Further, Petitioner does not know the full scope of the delegation of the HCDA's authority. A hearing will allow all parties to present evidence regarding these issues.

Although generally, a petition for a declaratory ruling from an administrative agency will be a straightforward application of the underlying facts to the applicable statute, rule, or order in question, here, important components are not yet developed sufficiently for the HCDA to dispose of the Petition in a fair and expeditious manner.

VI. CONCLUSION

Based on all of the reasons asserted herein and any reasons appearing of record, Petitioner respectfully requests that the HCDA issue a declaratory order consistent with the foregoing.

DATED: Honolulu, Hawaii, July 21, 2017.



CHRISTOPHER J. MUZZI
Attorney for Petitioner
S.O.M. LLC

GENERAL LEASE NO. 14-1

between

**STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

and

KEWALO HARBOR, LLC

covering

KEWALO BASIN HARBOR

situated at

Kakaako, Oahu, Hawaii

Lot 1 as described on Exhibit A-1

34.877 Acres

[Being a Portion of Tax Map Key No. (1) 2-1-58: portion 128]

EXHIBIT A

deliver to LESSOR two copies of the "as-built" plans and specifications for such part, portion, or phase.

**ARTICLE VI
OPERATION OF KEWALO BASIN HARBOR**

6.1. **Operation of Kewalo Basin Harbor.** Commencing as of 12:00 pm Hawaii Time on September 1, 2014, LESSEE shall be (and LESSOR shall have taken any actions necessary to make LESSEE) the exclusive manager and operator of all aspects (including but not limited to delegating to LESSEE full fiscal and physical harbor operations and management services) of Kewalo Basin Harbor as a marina, together with the parcels referred to in subsection (c) below (referred to as the "Harbor Facilities"), in accordance with the terms and conditions of this Lease and all Applicable Laws, including but not limited to, the Kewalo Basin Rules, as they may be amended from time to time and in such role, shall be the "harbor manager" referred to in the Kewalo Basin Rules; provided that where the Kewalo Basin Rules require a regulatory determination to be made by "HCDA", then LESSOR shall make such determination, not LESSEE, except as to any day-to-day management or operational decisions relating to the Harbor Facilities.

(a) LESSEE's operational and management responsibilities as harbor manager of Kewalo Basin Harbor shall include, but are not limited to: (i) timely collecting any rent or fees due and owing from any of the boat tenants or sublessees of the Harbor Facilities, (ii) timely and adequately responding to any complaints lodged or concerns noted by boat tenants or members of the public who utilize Kewalo Basin Harbor, (iii) disposing or ensuring the removal or disposal of any vessels which are not permitted to berth at Kewalo Basin Harbor in accordance with all applicable Governmental Requirements, (iv) managing the harbor, slip, ticket booth, and office facilities and tenants, and (v) enforcing harbor rules and regulations (including but not limited to parking rules), including, in LESSEE'S discretion, the right to run the regularly scheduled stakeholder meeting. Prior to the Commencement Date, LESSOR shall assign to LESSEE all of LESSOR's rights and interests in all rents, revenues and reimbursements, security deposits and pre-paid rents and LESSEE shall assume all rights and obligations related thereto.

(b) During the Term, LESSEE shall be entitled to collect all revenues, income, or other receipts from the Harbor Facilities, which shall be included in LESSEE's Gross Receipts.

(c) The Harbor Facilities comprise the real and personal property at and located on the Premises.

(d) On or before September 1, 2014 and for the duration of the Term and at no cost to LESSEE, LESSOR shall grant, license, convey, assign, or otherwise transfer, provide, or make available (or shall cause to be granted, licensed, conveyed, assigned, or otherwise transferred, provided, or made available) to LESSEE any and all rights necessary or appropriate for LESSEE to have in connection with managing and operating the Harbor Facilities, including without limitation, intellectual and intangible property rights. Any intellectual property created by or at the direction of LESSEE,

including but not limited to naming of portions or all of the Premises, naming and branding and all protected rights or trade-marks associated with activities, events, personalities, or services offered at the Premises or related in any way to the Premises (the "Protected IP") shall remain the exclusive property of LESSEE during the term of the Lease and neither LESSOR nor any other parties shall have a right to use such Protected IP without LESSEE's prior written consent.

6.2. Operation of Kewalo Basin Harbor Not Assignable. Except to an Affiliated Entity, LESSEE shall not enter into any agreement or contract that would assign the operation or management of Kewalo Basin Harbor or any portion thereof without LESSOR's prior written approval, which approval shall not be unreasonably withheld. LESSOR's approval of an assignment or sublease of this Lease pursuant to Section 4.13 or 4.14 shall also constitute LESSOR's approval under this Section 6.2. Unless provided pursuant to Section 4.13 or 4.14, LESSEE shall furnish LESSOR with all reasonably requested information regarding the proposed assignment and assignee or sublease and sublessee in order to allow LESSOR to adequately evaluate the proposed assignment or sublease and determine whether to approve the proposed assignment or sublease. Any consent by LESSOR under this Section 6.2 shall apply only to the specific transaction thereby authorized and shall not relieve LESSEE of LESSEE's obligation to operate and maintain the Harbor Facilities pursuant to this Lease. LESSOR hereby acknowledges and agrees that LESSEE may enter into a new operating agreement with Almar Management Inc. to perform certain operational and maintenance obligations set forth in this Article 6. In the event that an Approved Mortgagee, as defined in Section 7.1 becomes the lessee pursuant to Section 7.2(c)(v) or (vi), then LESSOR may either approve Approved Mortgagee to operate and manage the Kewalo Basin Harbor or may require that Approved Mortgagee select an Experienced Operator to operate and manage the same. For purposes of this Section, an Experienced Operator shall mean a person or entity possessing the experience in the operation of high quality harbor operations, qualifications, good reputation, financial resources and adequate personnel necessary for the proper performance of all the harbor management and harbor operations as set forth under this Lease, in a manner consistent with the quality, character, reputation and viability of the Kewalo Basin Harbor.

6.3. Delivery of Operational Materials.

(a) On or before the Effective Date, LESSOR shall deliver to LESSEE all plans, surveys, contracts, materials, keys, manuals, maintenance log-books, and records pertaining to the operation of Kewalo Basin Harbor within the possession or control of LESSOR, and LESSOR agree to use its best efforts to obtain such materials not in its possession, and deliver such materials to LESSEE. LESSOR shall also furnish (or cause to be furnished) all such information, take (or cause to be taken) all such other action, and shall cooperate with LESSEE as LESSEE shall reasonably require in order to effectuate an orderly and systematic termination of the duties and activities of LESSEE's predecessor as harbor manager of the Kewalo Basin Harbor and orderly and systematic transfer of duties to LESSEE. LESSOR shall provide a copy of all rent rolls and shall provide financial records to identify all amounts due and owing and all payment and other obligations.



KEWALO BASIN HARBOR, HONOLULU, HAWAII

Date Permit Commences: 7/20/2015

Date Permit Ends: 7/19/2016

Permittee: S.O.M. LLC

Contact: Dave Lawrence

Address: 1166 Olowalu Way

City/State/Zip: Honolulu, HI. 96825

Phone: (808) 782-9931

Alt Phone:

E-mail: davel6940@yahoo.com

Vessel Name: QUEEN OF THE RING

Berth No.: FU

LOA: 59'

Reg./Doc. No.: 611194

GE License No.: W09788949-01

Insurance Exp.: 11/18/2015

Letter of Good Standing: ☒

Customer No.: 10848

Harbor Rates

Mooring: 1232.00

Utilities (Water): 13.00

Performance Fee: 2464.00

Ticket Booth: 135.00

Other: N/A

TOTAL: 1380.00

Type of Permit:

☐ Commercial Fishing

☒ Commercial Charter

☐ Regular

☐ Temporary

Intended Use: Charter/Tour

MOORING PERMIT

IT IS HEREBY AGREED BY AND BETWEEN:

ALMAR MANAGEMENT INC., a California corporation, on behalf of KEWALO HARBOR, LLC, a Hawaii limited liability company, hereafter called "Permitter", as Harbor Master pursuant to the Rules as defined below, and S.O.M. LLC

hereinafter called "Permittee", subject to all the terms and conditions set forth herein, agree as follows:

This Permit is for a mooring berth in Kewalo Basin Harbor at Berth No. FU for the vessel QUEEN OF THE RING (the "Vessel"), Document No. 611194 for the purpose of Charter/Tour.

1. Permittee agrees to abide by all existing and future Hawaii Administrative Rules, Chapters 15-211 to 15-214, State of Hawaii, which are incorporated herein by reference, in addition to any other rules adopted by Permitter or the Hawaii Community Development Authority, as the same may be amended ("Rules") and to the full performance of the following terms, conditions, and charges.

2. Living aboard the Vessel is prohibited.

3. Permitter, in consideration for the compliance with Rules, fees, and charges to be paid by Permittee to it, and the terms and conditions hereinafter contained and to be observed and performed by Permittee, does hereby grant to Permittee permission to moor the Vessel, and only the Vessel registered herein with Permitter. Permitter may require Permittee to move the Vessel to another berth. Permitter reserves the right to use the berth when not in use by the Permittee, without any reduction or rebate of the Mooring Fees (as defined below).

4. Permittee agrees to pay the Permitter all fees and charges for use of the berth as set forth in the Hawaii Administrative Rules, Chapters 15-211 to 15-214, State of Hawaii, plus metered utilities, if applicable (collectively "Mooring Fees"). The current Mooring Fees as set forth under the Rules are reflected on Exhibit A attached hereto and incorporated herein. Mooring Fees shall be paid monthly in advance by Permittee, without notice, and the metered utilities shall be paid within fifteen (15) days after billed following the monthly reading of such meters. Should the Mooring Fees change, Permittee shall be given written notice once, at least thirty (30) days in advance of the date when such

EXHIBIT B

new Mooring Fees are due and payable. Thereafter, Permittee shall pay for the new Mooring Fees monthly in advance, without further notice. Permittee shall be deemed "delinquent" when the Mooring Fees and/or utility payments, if applicable, remain unpaid five (5) days after the date such payment is due.

5. Permittee covenants and agrees to at all times maintain in full force and effect commercial general liability insurance for bodily injury and property damage in the amounts and as set forth in the Rules and to cause the State of Hawaii, the Hawaii Community Development Authority, Permitter, Kewalo Harbor Management Company, LLC, Kewalo Harbor, LLC and all affiliated entities, successors and assigns and managing agents (collectively, "Permitter Insureds") to be named as additional insureds and to be provided written notice of cancellation from the insurance carrier at least 30 days prior to the proposed cancellation date, if any. Permittee shall also carry such property insurance as it deems prudent, and any risk of loss, whether insured or not, is solely Permittee's responsibility. Permittee's insurance shall be primary. Permitter and Permittee waive, and shall cause their insurers to waive, all subrogation rights against each other and the Permitter Insureds. Permittee further agrees that satisfactory proof of insurance shall be delivered to Permitter upon the execution of this permit and thereafter annually on the anniversary date of this permit.

6. **IN ADDITION TO WHAT IS PROVIDED BY THE RULES AND ELSEWHERE IN THIS PERMIT, THE PARTIES HERETO AGREE THAT NEITHER THE PERMITTOR NOR ANY AGENT, PROPERTY MANAGER, LAND LEASEHOLDER, LAND OWNER, SERVANT, OR EACH OF THEIR EMPLOYEES, AND ALL AFFILIATED ENTITIES, SUCCESSORS AND ASSIGNS (COLLECTIVELY WITH PERMITTOR, THE "PERMITTOR PARTIES") SHALL BE LIABLE FOR ANY LOSS, DAMAGE OR PERSONAL INJURY TO THE PERSON OR PROPERTY OF THE PERMITTEE OR ITS AGENTS, EMPLOYEES, OR INVITEES, INCLUDING, BUT NOT LIMITED TO, THE VESSEL, ITS INVENTORY AND EQUIPMENT, WHETHER SUCH LOSS, DAMAGE, OR PERSONAL INJURY BE OCCASIONED BY FIRE, THEFT, ACT OF GOD, OR ANY OTHER CAUSE (INCLUDING THE NEGLIGENCE OF THE PERMITTOR PARTIES, BUT EXCLUDING WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF THE PERMITTOR PARTIES). PERMITTEE HEREBY AGREES TO INDEMNIFY AND SAVE HARMLESS THE PERMITTOR PARTIES FROM OR AGAINST ANY CLAIM ARISING FROM THE MAINTENANCE, USE, AND OPERATION OF PERMITTEE'S VESSEL IN THE HARBOR AREAS OR THE USE BY THE PERMITTEE OF THE HARBOR FACILITIES. PERMITTEE HEREBY AGREES TO ASSUME FULL RESPONSIBILITY FOR PERSONAL INJURY AND PROPERTY DAMAGE ARISING OUT OF THE MAINTENANCE, USE, AND OPERATION OF PERMITTEE'S VESSEL AND PERMITTEE'S USE OF THE HARBOR FACILITIES. ACCORDINGLY, PERMITTEE BEARS 100% RISK OF LOSS TO THE VESSEL AND ALL OTHER PROPERTY OF THE PERMITTEE (OTHER THAN THE PERMITTOR PARTIES' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT). THIS SECTION RELEASES THE PERMITTOR PARTIES OF THEIR OWN NEGLIGENCE. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS PERMIT.**

7. The Permitter Parties shall not be liable for the care or protection of the vessel, its gear, equipment, or contents, or for any loss or damage of whatever kind or nature to the vessel, its contents, gear, or equipment howsoever occasioned. Permitter makes no warranty of any kind as to the condition of the piers, walks, wharfs, gangways, or mooring gear and equipment, nor shall Permitter be liable for injuries to the person or property of Permittee, its agents, employees or guests from any cause or circumstance, **EVEN IF ATTRIBUTABLE TO THE NEGLIGENCE OF THE PERMITTOR PARTIES.** The Permitter Parties shall be third party beneficiaries of this section.

8. In addition to what is provided by the Rules, Permittee shall not store or use hazardous materials (including any substance, pollutant, or contaminant regulated under any applicable

m

environmental laws) in any manner not sanctioned by law nor bring onto the harbor any such hazardous materials except in the ordinary course of Permittee's business, but only if pre-approved in writing by Permittor, within Permittor's sole and absolute discretion and in such instance, only if handled by Permittee in accordance with all applicable laws. Permittee shall be solely responsible for and shall indemnify, defend, and hold harmless the Permittor Parties from and against any loss, damage, cost, expense, or liability arising out of or attributable to the use, generation, manufacture, treatment, handling, refining, production, processing, storage, release, threatened release, discharge, disposal, or presence of hazardous materials within the harbor or elsewhere caused by Permittee or persons acting under or on behalf of Permittee, including the related costs of any required or necessary removal, repair, cleanup, or remediation of the Harbor, and the preparation and implementation of any closure, removal, remedial, or other required plans, and all reasonable costs and expenses incurred by Permittor in connection therewith, including without limitation reasonable attorneys' fees. This section shall survive the expiration or earlier termination of this Permit.


9. Use of the berth by Permittee pursuant to this permit does not grant Permittee any right to retain the use of the berth or any other space in the Harbor. Permittor may terminate this Permit, with or without cause, upon lapse of 48-hours' notice from Permittor to vacate the berth. Such termination right shall expressly apply in the event that Permittee has violated any provisions of this Permit or the Rules. Upon expiration of this Permit or upon its earlier termination, Permittee shall remove its vessel from the berth and the Harbor.

10. Failure of Permittee to vacate the berth and the Harbor, upon expiration of this permit or upon earlier termination pursuant to section 9 of this Permit, shall subject Permittee to liability for any damages incurred by the returning permittee or newly-assigned regular permittee resulting from Permittee's failure to vacate, and entitles Permittor to remove Permittee's vessel to an impounding area. Permittee shall indemnify and hold harmless Permittor from any liability for damages arising from the failure of Permittee to vacate the berth and the Harbor, and from the removal of the vessel to an impounding area by Permittor in accordance with the terms and conditions of this permit.

11. Permittee accepts the slip assigned to Permittee, the Harbor and all property of Permittor "as is" and accepts same as suitable for Permittee's purposes and expressly waives any defects therein and agrees to hold the Permittor Parties harmless from any loss or damage or injury to property or person resulting from any defect or improper construction or maintenance of the Harbor or property.

12. All notices (a "Notice") under this Permit shall be delivered or sent by: (i) first class, registered or certified mail, postage prepaid, return receipt requested, (ii) nationally recognized overnight carrier, or (iii) facsimile with original Notice sent via overnight delivery addressed to the address of the party in question set forth below or to such other address as either party may designate by Notice. Notices shall be deemed given (x) three business days after being mailed as provided in clause (i) above, (y) one business day after delivery to the overnight carrier as provided in clause (ii) above, or (z) on the day of the transmission of the facsimile so long as it is received in its entirety by 4:00 p.m. (Hawaii time) on such day and the original of such Notice is received the next business day via overnight mail as provided in clause (iii) above.

Permittor: Almar Management Inc.
1125-B1 Alamoana Blvd
Honolulu, HI 96814
Phone:(808)-594-0849
Fax: (808)-594-0848



Permittee: S.O.M. LLC

1166 Olowalu Way
Honolulu, HI. 96825
(808) 782-9931

davel6940@yahoo.com

13. This Permit does not create a landlord-tenant relationship between the parties, and shall only constitute a license subject to the terms of this Permit, including the Rules as incorporated herein. This Permit shall not be assigned or transferred without the prior written consent of Permitter.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

22

EXECUTED this 17 day of Nov, 2015.

PERMITTOR:

ALMAR MANAGEMENT INC.,
a California corporation

By: 

Name: John Eveleth

Title: Harbor Manager

PERMITTEE:

S.O.M. LLC

a _____

By: 

Name: Dave Lawrence

Title: Managing Partner



EXHIBIT A
MOORING FEES AND CHARGES

Mooring Fees and other charges shall be as set forth in Hawaii Administrative Rules, Chapters 15-211 to 15-214, State of Hawaii, as the same may be amended. Such rates are currently set as follows and, pursuant to the Rules, may be adjusted in accordance with CPI and for improvements made in accordance with Rules:

MOORING	<u>\$ 1232.00</u>
UTILITIES (WATER)	<u>\$ 13.00</u>
PERFORMANCE FEE	<u>\$ 2464.00</u>
TICKET BOOTH, IF ANY	<u>\$ 135.00</u>
OTHER	<u>\$ N/A</u>
<hr/>	
TOTAL	<u>\$ 1380.00</u>

Handwritten signature

Begin forwarded message:

From: Kewalo Basin Harbor <slips@kewaloharbor.com>
Subject: **MOORING PERMIT - QUEEN OF THE RING - FU**
Date: June 20, 2016 at 2:55:03 PM HST
To: ["joanjoyce2@comcast.net"](mailto:joanjoyce2@comcast.net) <joanjoyce2@comcast.net>

Your new Mooring Permit is ready for your signature as your current permit is expiring June 30, 2017

Thank you,

Sandy

EXHIBIT C

Teri L. Canon

From: Christopher J. Muzzi
Sent: Tuesday, June 28, 2016 9:51 AM
To: slips@kewaloharbor.com
Cc: joanjoyce2@comcast.net
Subject: MOORING PERMIT - QUEEN OF THE RING - FU

Dear Sandy:

As the twenty-four hour point of contact for S.O.M. LLC, please email the permit to this email address and we will deliver the original permit executed by Ms. Joyce to the harbor office immediately. Thank you.

Christopher J. Muzzi
Tsugawa Biehl Lau & Muzzi
A Hawaii Limited Liability Law Company
Bishop Place
1132 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Phone (808) 531-0490
Fax (808) 534-0202
e-mail: cmuzzi@hilaw.us

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EXHIBIT D

Teri L. Canon

From: Kewalo Basin Harbor <slips@kewaloharbor.com>
Sent: Tuesday, June 28, 2016 12:00 PM
To: Christopher J. Muzzi; Kewalo Basin Harbor
Cc: joanjoyce2@comcast.net
Subject: RE: MOORING PERMIT - QUEEN OF THE RING - FU

Christopher –

Our records show that Dave Lawrence is the only manager listed on the Articles of Organization of S.O.M. LLC. The other manager is not listed. We request an updated Articles to show Ms. Joan Joyce is a manager for S.O.M. LLC and authorized to sign on behalf of S.O.M. LLC.

Furthermore, I require an updated survey of the vessel to determine the seaworthiness and overall condition of QUEEN OF THE RING before a permit will be issued.

John Eveleth | Harbor Master | Kewalo Harbor

1125-B1 Ala Moana Blvd. | Honolulu, HI 96814

O: 808.594.0849 | F: 808.594.0848

JEveleth@KewaloHarbor.com

From: Christopher J. Muzzi [<mailto:cmuzzi@hilaw.us>]
Sent: Tuesday, June 28, 2016 9:51 AM
To: Kewalo Basin Harbor
Cc: joanjoyce2@comcast.net
Subject: MOORING PERMIT - QUEEN OF THE RING - FU

Dear Sandy:

As the twenty-four hour point of contact for S.O.M. LLC, please email the permit to this email address and we will deliver the original permit executed by Ms. Joyce to the harbor office immediately. Thank you.

Christopher J. Muzzi
Tsugawa Biehl Lau & Muzzi
A Hawaii Limited Liability Law Company
Bishop Place
1132 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Phone (808) 531-0490
Fax (808) 534-0202
e-mail: cmuzzi@hilaw.us

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EXHIBIT E

(including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Teri L. Canon

From: Christopher J. Muzzi
Sent: Tuesday, June 28, 2016 3:08 PM
To: Kewalo Basin Harbor
Cc: joanjoyce2@comcast.net
Subject: RE: MOORING PERMIT - QUEEN OF THE RING - FU
Attachments: RDPMS_PDF-13392596.pdf; business.pdf

Mr. Eveleth:

To address the first point of your email, the Articles of Organization for an LLC do not get updated to show a change in manager. The change is simply accomplished by informing the Department of Commerce and Consumer Affairs in a sworn letter, which I have attached to this email for your files. I have also attached the print out from the DCCA as of today that reflects the change of the manager of S.O.M. LLC to Joan Joyce.

I will respond to your second point shortly.

Thank you.

Christopher J. Muzzi
Tsugawa Biehl Lau & Muzzi
A Hawaii Limited Liability Law Company
Bishop Place
1132 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Phone (808) 531-0490
Fax (808) 534-0202
e-mail: cmuzzi@hilaw.us

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From: Kewalo Basin Harbor [<mailto:slips@kewaloharbor.com>]
Sent: Tuesday, June 28, 2016 12:00 PM
To: Christopher J. Muzzi; Kewalo Basin Harbor
Cc: joanjoyce2@comcast.net
Subject: RE: MOORING PERMIT - QUEEN OF THE RING - FU

Christopher –

Our records show that Dave Lawrence is the only manager listed on the Articles of Organization of S.O.M. LLC. The other manager is not listed. We request an updated Articles to show Ms. Joan Joyce is a manager for S.O.M. LLC and authorized to sign on behalf of S.O.M. LLC.

EXHIBIT F

Furthermore, I require an updated survey of the vessel to determine the seaworthiness and overall condition of QUEEN OF THE RING before a permit will be issued.

John Eveleth | Harbor Master | Kewalo Harbor

1125-B1 Ala Moana Blvd. | Honolulu, HI 96814

O: 808.594.0849 | F: 808.594.0848

JEveleth@KewaloHarbor.com

From: Christopher J. Muzzi [<mailto:cmuzzi@hilaw.us>]

Sent: Tuesday, June 28, 2016 9:51 AM

To: Kewalo Basin Harbor

Cc: joanjoyce2@comcast.net

Subject: MOORING PERMIT - QUEEN OF THE RING - FU

Dear Sandy:

As the twenty-four hour point of contact for S.O.M. LLC, please email the permit to this email address and we will deliver the original permit executed by Ms. Joyce to the harbor office immediately. Thank you.

Christopher J. Muzzi

Tsugawa Biehl Lau & Muzzi

A Hawaii Limited Liability Law Company

Bishop Place

1132 Bishop Street, Suite 2400

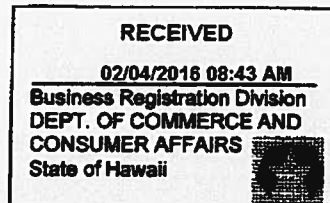
Honolulu, Hawaii 96813

Phone (808) 531-0490

Fax (808) 534-0202

e-mail: cmuzzi@hilaw.us

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S.O.M. LLC
350 Ward Ave. Suite 106 Box #250
Honolulu, HI 96814-4004

February 2, 2016

JT

Department of Commerce and Consumer Affairs
Business Registration Division
P. O. Box 40
Honolulu, Hawaii 96810

Re: S.O.M. LLC

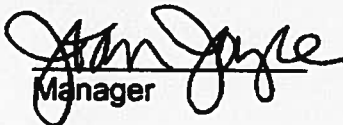
The above-named entity has changed its members/managers.

From: ~~Dave~~ Lawrence Manager
 David

To: Joan Joyce Manager
 350 Ward Ave.
 Suite 106-250
 Honolulu, HI 96814-4004

I certify under the penalties of the Hawaii Revised Statutes that I am authorized to make this change for the entity and the statements herein are true and correct in all material respects.

Sincerely,


Manager

File # 110178C5

DCCA State of Hawaii

Downloaded on June 28, 2016.

The information provided below is not a certification of good standing and does not constitute any other certification by the State.

Website URL: <http://hbe.hawaii.gov/documents>

Business Information

MASTER NAME	S.O.M. LLC
BUSINESS TYPE	Domestic Limited Liability Company (LLC)
FILE NUMBER	110178 C5
STATUS	Active
PLACE INCORPORATED	Hawaii UNITED STATES
REGISTRATION DATE	Oct 7, 2013
MAILING ADDRESS	350 WARD AVE STE 106 BOX 250 HONOLULU, Hawaii 96814-4004 UNITED STATES
PARTNER TERMS	AT-WILL
MANAGED BY	MANAGER(S)
AGENT NAME	JOAN JOYCE
AGENT ADDRESS	350 WARD AVE STE 106 BOX 250 HONOLULU, Hawaii 96814-4004 UNITED STATES

Annual Filings

FILING YEAR	DATE RECEIVED	STATUS
2015	Dec 23, 2015	Processed
2014	Sep 25, 2015	Processed

Officers

NAME	OFFICE	DATE
JOYCE, JOAN	MGR	Feb 4, 2016

Trade Names

NAME	TYPE	CATEGORY	REGISTRATION DATE	STATUS
BEST FISHING HAWAII	Trade Name	NO CATEGORY SELECTED	Jun 19, 2012	Active
CENTER RING DIVING	Trade Name	NO CATEGORY SELECTED	Jan 6, 2012	Active
QUEEN OF THE RING	Trade Name	NO CATEGORY SELECTED	Nov 13, 2013	Active





KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
808.594.0849
slips@kewalobasinharbor.com

12/16/16

Ms. Joan Joyce
S.O.M. LLC
350 Ward Avenue #106-250
Honolulu, HI 96814-4004

RE: Missing Gross Receipts Reports

Dear Ms. Joyce,

We have made previous requests for Gross Receipts Reports.

This letter is to give you notice that you must submit all the delinquent Monthly Gross Receipt Reports that are required by the Hawaii Administrative Rules for Kewalo Basin Harbor. If we do not receive these reports by January 20, 2017, we will revoke your mooring permit.

Sincerely,

John Eveleth | Kewalo Basin Harbor
(808) 594-0849 off | (808) 630-1711 cell
jeveleth@kewaloharbor.com

Teri L. Canon

From: Teri L. Canon
Sent: Friday, January 20, 2017 11:05 AM
To: jeveleth@kewalobasinharbor.com
Cc: Christopher J. Muzzi
Subject: S.O.M., LLC - Kewalo Basin Harbor Berth No. FU
Attachments: som monthly gross receipts.PDF

Mr. Eveleth:

I have attached Monthly Gross Receipts Reports for S.O.M. LLC for 12/31/2015 – 12/31/2016.

Should you have any questions, please contact Christopher J. Muzzi at cmuzzi@hilaw.us.

Thank you!

Teri Lynn Canon, Assistant to Christopher J. Muzzi, Esq. & Leila M. Rothwell Sullivan, Esq.
Tsugawa Biehl Lau & Muzzi LLLC
Bishop Place
1132 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Telephone: (808) 531-0490
Facsimile: (808) 534-0202
Email: tcanon@hilaw.us

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EXHIBIT H



KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
808.594.0849

Monthly Gross Receipts Report

Name of operation or firm: S.O.M. LLC Vessel Name: QUEEN OF THE RING Slip Number: FU
Name of Owner: S.O.M. LLC Phone number: () Cellular number: ()
Address: 350 WARD AVENUE Email: CMUZZI@HILAW.US
SUITE 106-250
HONOLULU, HAWAII 96814 Slip Fee: \$ 1,232.00 per month or 2% of gross receipts, whichever is greater.

1. Gross Receipts for month of:	<u>NOVEMBER, 2015</u>	\$ <u>2,550.00</u>
2. Charges as a percentage of gross receipts = 2 % (i.e. Amount in line 1 x .02):		\$ <u>51.00</u>
3. Less the basic slip fee paid in advance for month covered by this statement, NOT INCLUDING WATER CHARGE:		\$ <u>1,232.00</u>
4. Additional amount due (Line 2 minus line 3). This amount will be 0 if line 2 is less than line 3, which does not include monthly water charge:		\$ <u>0.00</u>

NOTICE TO OWNER:

Please mail original of this statement together with remittance, if any, to:

Kewalo Basin Harbor
1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
kewalobasinharbor@gmail.com

*Payment and correctly completed report must be received not later than 30 days following the end of the month.
(Example: Gross receipts for the month of October are due by November 30.)*

Late payment fee of \$100.00 plus interest may be assessed for incorrect or delinquent payment.

I certify that this statement is to the best of my knowledge and belief, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andrew Scully
Authorized Signature

MANAGER
Title

31 DEC 2015
Date



KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
808.594.0849

Monthly Gross Receipts Report

Name of operation or firm:

Vessel Name:

Slip Number:

S.O.M. LLC

QUEEN OF THE RING

FU

Name of Owner:

Phone number:

Cellular number:

S.O.M. LLC

()

()

Address:

Email:

350 WARD AVENUE

CMUZZI@HILAW.US

SUITE 106-250

HONOLULU, HAWAII 96814

Slip Fee: \$ 1,232.00 per month or 2% of gross receipts, whichever is greater.

1. Gross Receipts for month of:

DECEMBER, 2015

\$ 2,550.00

2. Charges as a percentage of gross receipts = 2 % (i.e. Amount in line 1 x.02):

\$ 51.00

3. Less the basic slip fee paid in advance for month covered by this statement,
NOT INCLUDING WATER CHARGE:

\$ 1,232.00

4. Additional amount due (Line 2 minus line 3). This amount will be 0 if line 2 is
less than line 3, which does not include monthly water charge:

\$ 0.00

NOTICE TO OWNER:

Please mail original of this statement
together with remittance, if any, to:

Kewalo Basin Harbor
1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
kewalobasinharbor@gmail.com

*Payment and correctly completed report must be received not
later than 30 days following the end of the month.
(Example: Gross receipts for the month of October are due by
November 30.)*

*Late payment fee of \$100.00 plus interest may be assessed for
incorrect or delinquent payment.*

I certify that this statement is to the best of my knowledge and belief, a true and correct declaration of gross receipts for the
period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andru Susly

Authorized Signature

MANAGER

Title

31 JAN 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814

Email: [] Change

CMUZZI@HILAW.US

SLIP FEE/MONTH:

\$ 1,232.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

JANUARY 2016\$ 2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement **NOT INCLUDING THE WATER CHARGE**:\$ 1,232.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

Please send this statement together with any remittance to:

Payment and correctly completed report must be received not later than 30 days following the end of the month.
(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

A late payment fee of \$100.00 plus interest may be assessed for incorrect or delinquent payments.

I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Authorized Signature

MANAGER

Title

28 FEB 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FV

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

Email: [] Change CMUZZI@HILAW.US350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$ 1,232.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:	<u>FEBRUARY 2016</u>	<u>\$ 2,550.00</u>
2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):		<u>\$ 51.00</u>
3. Less the <u>Basic Slip Fee</u> paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE :		<u>\$ 1,232.00</u>
4. Additional amount due (Line 2 minus Line 3). This amount will be ZERO (0) if Line 2 less than Line 3, which does not include the Monthly Water Charge:		<u>\$ 0.00</u>

NOTICE TO OWNER:

Please send this statement together with any remittance to:

Payment and correctly completed report must be received not later than 30 days following the end of the month.
(Example: Gross receipts for the month of October are due by November 30.)Kewalo Harbor
1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
Fax: (808) 594-0848
Slips@KewaloHarbor.com

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I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andrea Susey
Authorized SignatureMANAGER
Title31 MAR 2016
Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: ☐ ChangeEmail: ☐ Change350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814CMUZZI@HILAW.US

SLIP FEE/MONTH:

Eff. 02/01/15

\$ 1,232.00**ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.**

1. Gross Receipts for Month of:

MARCH 2016\$ 2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement **NOT INCLUDING THE WATER CHARGE**:\$ 1,232.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

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Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Michael Leary

Authorized Signature

MANAGER

Title

30 APR 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: ☐ ChangeEmail: ☐ ChangeCMUZZI@HILAW.US350 WARD AVENUESUITE 106 - 250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$ 1,248.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:	<u>APRIL 2016</u>	<u>\$ 2,550.00</u>
2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):		<u>\$ 51.00</u>
3. Less the Basic Slip Fee paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:		<u>\$ 1,248.00</u>
4. Additional amount due (Line 2 minus Line 3). This amount will be ZERO (0) if Line 2 less than Line 3, which does not include the Monthly Water Charge:		<u>\$ 0.00</u>

NOTICE TO OWNER:

Please send this statement together with any remittance to:

Payment and correctly completed report must be received not later than 30 days following the end of the month.

(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

A late payment fee of \$100.00 plus interest may be assessed for incorrect or delinquent payments.

I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andru J. J. J.
Authorized Signature

MANAGER
Title

31 MAY 2016
Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

350 WARD AVENUE

Email: [] Change

CMUZZI@HILAW.USSUITE 106-250

SLIP FEE/MONTH:

\$ 1,248.00HONOLULU, HAWAII 96814

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

MAY 2016\$2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement **NOT INCLUDING THE WATER CHARGE**:\$ 1,248.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

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(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

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I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andr Sepy
Authorized SignatureMANAGER
Title30 JUN 2016
Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

Email: [] Change

CMUZZI@HILAW.US350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$ 1,248.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

JUNE 2016\$ 2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:\$ 1,248.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

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Payment and correctly completed report must be received not later than 30 days following the end of the month.

(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

A late payment fee of \$100.00 plus interest may be assessed for incorrect or delinquent payments.

I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andru Lugey

Authorized Signature

MANAGER

Title

31 JUL 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814

Email: [] Change

CMUZZI@HILAW.US

SLIP FEE/MONTH:

\$1,248.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

JULY 2016\$2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:\$1,248.004. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:\$ 0.00**NOTICE TO OWNER:**

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(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

A late payment fee of \$100.00 plus interest may be assessed for incorrect or delinquent payments.

I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andru Singh
Authorized SignatureMANAGER
Title31 AUG 2016
Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814

Email: [] Change

CMUZZI@HILAW.US

SLIP FEE/MONTH:

Eff. 02/01/15

\$ 1,248.00**ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.**

1. Gross Receipts for Month of:

AUGUST 2016\$ 2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the Basic Slip Fee paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:\$ 1,248.00

4. Additional amount due (Line 2 minus Line 3). This amount will be ZERO (0) if Line 2 less than Line 3, which does not include the Monthly Water Charge:

\$ 0.00**NOTICE TO OWNER:**

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(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

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Authorized Signature

MANAGER

Title

30 SEP 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

Email: [] Change

CMUZZI@HILAW.US350 WARD AVENUESUITE 106 - 250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$ 1,248.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

SEPTEMBER 2016\$2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:\$1,248.00

4. Additional amount due (Line 2 minus Line 3). This amount will be ZERO (0) if Line 2 less than Line 3, which does not include the Monthly Water Charge:

\$ 0.00**NOTICE TO OWNER:**

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(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

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I certify that this statement is, to the best of my knowledge, a true and correct declaration of gross receipts for the period stated, pursuant to the terms, covenants and conditions of the permit to which this statement applies.

Andru Sery

Authorized Signature

MANAGER

Title

31 OCT 2016

Date

**KEWALO HARBOR**

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: ☐ ChangeEmail: ☐ ChangeCMUZZI@HILAW.US350 WARD AVENUESUITE 106-250HONOLULU, HAWAII 96814

SLIP FEE/MONTH:

\$1,248.00

Eff. 02/01/15

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

OCTOBER 2016\$2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.003. Less the **Basic Slip Fee** paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:\$1,248.00

4. Additional amount due (Line 2 minus Line 3). This amount will be ZERO (0) if Line 2 less than Line 3, which does not include the Monthly Water Charge:

\$ 0.00**NOTICE TO OWNER:**

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Kewalo Harbor

1125-B1 Ala Moana Blvd.

Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

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Authorized SignatureMANAGER
Title30 NOV 2016
Date



KEWALO HARBOR

1125-B1 Ala Moana Blvd.

Honolulu, Hawaii 96814

Phone: 808-594-0849

Fax: 808-594-0848

Monthly Gross Receipts Report

Name of Operation or Firm:

S.O.M. LLC

Vessel Name:

QUEEN OF THE RING

Slip No:

FU

Account No:

10848

Name of Owner:

S.O.M. LLC

Contact Phone No:

Alternate No:

Address: [] Change

350 WARD AVENUE

SUITE 106 - 250

HONOLULU, HAWAII 96814

Email: [] Change

CMUZZI@HILAW.US

SLIP FEE/MONTH:

Eff. 02/01/15

\$ 1,248.00

ADDITIONAL AMOUNT DUE IF 2% OF GROSS RECEIPTS IS GREATER THAN YOUR SLIP FEE.

1. Gross Receipts for Month of:

NOVEMBER 2016

\$ 2,550.00

2. Charges as a percentage of Gross Receipts X 2% (i.e., Amount on Line 1 x 0.02):

\$ 51.00

3. Less the **Basic Slip Fee** paid in advance for the month covered by this statement NOT INCLUDING THE WATER CHARGE:

\$ 1,248.00

4. Additional amount due (Line 2 minus Line 3). This amount will be **ZERO (0)** if Line 2 less than Line 3, which does not include the Monthly Water Charge:

\$ 0.00

NOTICE TO OWNER:

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Payment and correctly completed report must be received not later than 30 days following the end of the month.

(Example: Gross receipts for the month of October are due by November 30.)

Kewalo Harbor

1125-B1 Ala Moana Blvd.

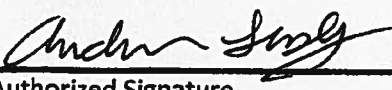
Honolulu, HI 96814

Fax: (808) 594-0848

Slips@KewaloHarbor.com

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Authorized Signature

MANAGER

Title

31 DEC 2016

Date

TSUGAWA BIEHL LAU & MUZZI

A Hawaii Limited Liability Law Company

Michael L. Biehl
Tedson H. Kojia
Alan K. Lau
Christopher J. Muzzi
Leila M. Rothwell Sullivan
Eric H. Tsugawa

BISHOP PLACE
1132 BISHOP STREET, SUITE 2400
HONOLULU, HAWAII 96813

TELEPHONE: 808.531.0490
FACSIMILE: 808.534.0202
WEBSITE: <http://hlaw.us>

Of Counsel:
Frank T. Kanemitsu
Attorney At Law
A Law Corporation

March 7, 2017

Via Email
and
United States Mail

jeveleth@KewaloBasinHarbor.com

John Eveleth, Harbor Manager
Almar Management, Inc.
1125-B1 Ala Moana Blvd.
Honolulu, Hawaii 96814

RE: S.O.M., LLC – Kewalo Basin Harbor Berth No. FU

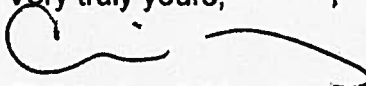
Dear Mr. Eveleth:

As you know, I am the attorney for S.O.M., LLC ("S.O.M."), a permittee at Kewalo Basin Harbor. Last summer, the owner of S.O.M. was contacted to go to the Harbor Office to pick up its permit. There were no conditions precedent to its issuance.

I then wrote a letter asking that the permit be mailed to me. In response to my letter, a new condition for issuance of the permit was stated: a seaworthiness test - effectively a "buoy run". The year previous, we objected to a similar arbitrary request and S.O.M. was not required to perform a "buoy run" in order to have its permit renewed. We continue to object to such an arbitrary requirement. S.O.M.'s vessel is fully insured as seaworthy. S.O.M. would like to make arrangements to receive its permit.

I look forward to your response. Thank you.

Very truly yours,



Christopher J. Muzzi

Teri L. Canon

From: John Eveleth <jeveleth@kewaloharbor.com>
Sent: Wednesday, March 08, 2017 11:48 AM
To: Joy Higaki
Cc: Christopher J. Muzzi; Teri L. Canon
Subject: RE: Letter Dated March 7, 2017

Question:

Was there a recent survey (within the last two years) done on QUEEN OF THE RING for S.O.M. LLC?

Thank you,

John Eveleth | Harbor Master | Kewalo Harbor

1125-B1 Ala Moana Blvd. | Honolulu, HI 96814

O: 808.594.0849 | F: 808.594.0848

JEveleth@KewaloHarbor.com

From: Joy Higaki [<mailto:jhigaki@hilaw.us>]
Sent: Tuesday, March 07, 2017 4:58 PM
To: John Eveleth
Cc: Christopher J. Muzzi; Teri L. Canon
Subject: Letter Dated March 7, 2017

Please see attached letter from Christopher Muzzi, Esq. dated March 7, 2017, the original of which will follow by U.S. mail. Please let me know if you have any questions. Thank you.

Please note our new address:

Joy M. Higaki

Tsugawa Biehl Lau & Muzzi LLLC
Bishop Place
1132 Bishop Street, Suite 2400
Honolulu, Hawaii 96813
Telephone: (808) 531-0490
Facsimile: (808) 534-0202
Email: jhigaki@hilaw.us

CONFIDENTIALITY NOTICE: This e-mail may contain confidential information that is legally privileged. Do not read this e-mail if you are not the intended recipient. If you have received this transmission in error, please notify us immediately by replying to the e-mail or by telephone at (808) 531-0490 and destroy the original transmission and any attachments without reading or saving the transmission in any manner. Thank you.

EXHIBIT J



KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
808.594.0849

4/10/17

Mr. Christopher J. Muzzi
Attorney/Contact for S.O.M. LLC
1132 Bishop Street Suite 2400
Honolulu, Hawaii 96813

Ms. Joan Joyce
S.O.M. LLC
350 Ward Avenue #106-250
Honolulu, Hawaii 96814

Sent via email and Certified USPS regular mail

RE: Business Records Request

Dear Mr. Muzzi and Ms. Joyce,

Pursuant to HAR §15-212-54, we are conducting an audit of S.O.M. LLC and its business records to verify your Monthly Gross Receipt Reports submitted for your vessel Queen Of The Ring.

Please submit the following business records to this office by May 10, 2017.

1. General Excise Tax returns for 2015, 2016 and January through March 2017.
2. Corporate Tax Returns for 2015 and 2016.
3. Guest Logs for 2015, 2016 and January through March 2017.
4. Sales records for 2015, 2016 and 2017.
5. Checking account statements for Golden Eagle Marine Charter Services Corp. 2015, 2016 and 2017.
6. Credit Card Statements for 2015, 2016 and 2017.
7. Customer/Client agreements.
8. Delinquent Gross Receipts Reports for December 2016, January and February 2017.

Thank you in advance for your attention to this request.

Sincerely,

John Eveleth
Kewalo Harbor LLC
(808) 594-0849 office | (808) 630-1711 mobile
jeveleth@kewaloharbor.com

EXHIBIT K

TSUGAWA BIEHL LAU & MUZZI

A Hawaii Limited Liability Law Company

Michael L. Biehl
Tedson H. Koja
Alan K. Lau
Christopher J. Muzzi
Leila M. Rothwell Sullivan
Eric H. Tsugawa

BISHOP PLACE
1132 BISHOP STREET, SUITE 2400
HONOLULU, HAWAII 96813

TELEPHONE: 808.531.0490
FACSIMILE: 808.534.0202
WEBSITE: <http://hlaw.us>

Of Counsel:
Frank T. Kanemitsu
Attorney At Law
A Law Corporation

May 8, 2017

Via Email
and
United States Mail

jeveleth@KewaloBasinHarbor.com

John Eveleth, Harbor Manager
Almar Management, Inc.
1125-B1 Ala Moana Blvd.
Honolulu, Hawaii 96814

RE: S.O.M., LLC – Kewalo Basin Harbor Berth No. FU

Dear Mr. Eveleth:

As you know, I am the attorney for S.O.M., LLC ("S.O.M."), a permittee at Kewalo Basin Harbor. Last summer, the owner of S.O.M. was contacted to go to the Harbor Office to pick up its permit. There were no conditions precedent to its issuance.

I then wrote a letter asking that the permit be mailed to me. In response to my letter, a new condition for issuance of the permit was stated: a seaworthiness test - effectively a "buoy run." The year previous, we objected to a similar arbitrary request and S.O.M. was not required to perform a "buoy run" in order to have its permit renewed. We continue to object to such an arbitrary requirement. S.O.M.'s vessel is fully insured as seaworthy, and the harbor office was provided with and have on file a copy of the full policy in effect.

Instead of issuing the permit, you asked when the latest survey was and then indicated that you are performing an audit. Audits are allowed under the Hawaii Administrative Rules ("HAR") under three circumstances: (1) to determine the validity of maintaining the vessel's classification;¹ (2) the fees owing to the HCDA;² and (3) any other information necessary for enforcing the rules³. None of these circumstances are present here. Further, the breadth of information that you are seeking is significantly

¹ The Queen of the Ring falls within the Charter Boat classification.

² It is my understanding that S.O.M., LLC would have to generate over \$50,000 per month in order to be required to pay more than the base monthly fee.

³ No HAR sought to be enforced has ever been cited in any prior correspondence from you.

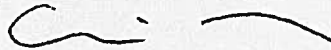
John Eveleth
May 8, 2017
Page 2

more than what is contemplated by the HAR, and appears designed to impose a burden on my small business client that is not otherwise required. In speaking with other harbor management personnel, I understand that audits are virtually unheard of.

Are you singling out my client? How many other audits have been completed since you became harbor manager? If so, please identify the number of completed audits and the names of the permittees so that we may verify. In the event you are singling out my client, your actions are arbitrary and capricious and in violation of the HAR.

Please issue the permit we were told was available for pick-up last July.

Very truly yours,

A handwritten signature in black ink, appearing to read "Christopher J. Muzzi", with a stylized flourish at the end.

Christopher J. Muzzi



KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
808.594.0849

5/31/17

Mr. Christopher J. Muzzi
Attorney/Contact for S.O.M. LLC
1132 Bishop Street Suite 2400
Honolulu, Hawaii 96813

Ms. Joan Joyce
S.O.M. LLC
350 Ward Avenue #106-250
Honolulu, Hawaii 96814

Sent via email and USPS mail

RE: Mooring Permit for m/v QUEEN OF THE RING, O.N. 611194

Dear Mr. Muzzi and Ms. Joyce,

We acknowledge receipt of your letter dated 5/8/17.

This letter is notice to S.O.M. LLC that the mooring permit for m/v QUEEN OF THE RING in slip FU at Kewalo Basin Harbor is expired. This permit will not be renewed. Subsequently, the m/v QUEEN OF THE RING with official number 611194 is no longer authorized to be moored in slip FU at Kewalo Basin Harbor and must vacate.

S.O.M. LLC has 30 days to remove the m/v QUEEN OF THE RING, as referenced above, from Kewalo Basin Harbor.

Sincerely,

John Eveleth | Manager
Kewalo Harbor
(808) 594-0849
jeveleth@kewaloharbor.com

EXHIBIT M



KEWALO BASIN HARBOR

1125-B1 Ala Moana Blvd.
Honolulu, HI 96814
808.594.0849

5/31/17

Golden Eagle Marine Charter Services Corporation
Ms. Laurie Bakke
350 Ward Avenue #106-107
Honolulu, Hawaii 96814

Sent via email and USPS mail

RE: Expired mooring permit for EMERAUDE II, slip FS

Dear Ms. Bakke,

We acknowledge receipt of your email dated 5/10/17.

This letter is notice to GOLDEN EAGLE MARINE CHARTER SERVICES CORPORATION that the mooring permit for s/v EMERAUDE II slip FS at Kewalo Basin Harbor is expired. This permit will not be renewed. Subsequently, the s/v EMERAUDE II with official number 1097127 is no longer authorized to be moored in slip FS at Kewalo Basin Harbor and must vacate.

GOLDEN EAGLE MARINE CHARTER SERVICES CORPORATION has 30 days to remove the s/v EMERAUDE II, as referenced above, from Kewalo Basin Harbor.

Sincerely,

John Eveleth
Kewalo Harbor LLC
(808) 594-0849 office | (808) 630-1711 mobile
jeveleth@kewaloharbor.com

EXHIBIT N



TSUGAWA BIEHL LAU & MUZZI

A Hawaii Limited Liability Law Company

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TELEPHONE: 808.531.0490
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WEBSITE: <http://hlaw.us>

Of Counsel:
Frank T. Kanemitsu
Attorney At Law
A Law Corporation

June 9, 2017

Via Email:
and United States Mail

jeveleth@KewaloBasinHarbor.com

John Eveleth, Harbor Manager
Almar Management, Inc.
1125-B1 Ala Moana Blvd.
Honolulu, Hawaii 96814

RE: S.O.M., LLC ("S.O.M.") – Kewalo Basin Harbor Berth No. FU

Dear Mr. Eveleth:


This letter responds to your May 31, 2017 letter stating that S.O.M.'s permit was not being renewed. For numerous reasons, the decision not to renew S.O.M.'s permit is arbitrary, capricious and plain wrong.

As you may be aware, the refusal to renew S.O.M.'s permit is subject to administrative and judicial review. If the nonrenewal was done for tortious or illegal reasons, you, ALMAR and the HCDA and at least one other third-party will likely find yourselves defendants in a lawsuit brought by S.O.M. We have reasons to believe that the nonrenewal of S.O.M.'s permit, as well as that of Golden Eagle Marine Services Corp. (which you inadvertently referred to in your letter of April 10, 2017), were wrongful, including in violation of the Hawaii Administrative Rules and other laws, and that when the facts are elicited in discovery, they will be newsworthy.

S.O.M. is not interested in litigation, which may result in people losing their jobs, or worse. S.O.M. wants its permit for 2016-2017 renewed and renewed again for 2017-2018.

If S.O.M. does not receive the above referenced renewed permits by June 13, 2017, it will take appropriate legal action. This is a confidential settlement communication pursuant to Rule 408 of the Hawaii and Federal Rules of Evidence.

Very truly yours,



Christopher J. Muzzi



I do hereby certify that this is a full, true, and correct copy of the original on file in this office.

T. Soare JUL 11 2017
Secretary, Hawaii Community
Development Authority

Tommilyn K. Soare

BEFORE THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY

OF THE STATE OF HAWAII

In re the Petition of	)	Docket No. DR-PET-2017-02
	)	HAWAII COMMUNITY DEVELOPMENT
S.O.M. LLC	)	AUTHORITY'S REQUEST FOR
	)	SUBMISSION OF AN AMENDED
For an order of Declaratory Relief	)	PETITION FOR DECLARATORY
	)	RELIEF; CERTIFICATE OF SERVICE
_____)	
)	
)	

**HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S REQUEST FOR
SUBMISSION OF AN AMENDED PETITION FOR DECLARATORY RELIEF**

On June 30, 2017, the Hawaii Community Development Authority (HCDA) received
Petitioner's petition entitled, PETITION FOR DECLARATORY RELIEF (hereinafter, Petition).

Hawaii Administrative Rule (HAR) § 15-219-83(b)(6) requires that a petition for
declaratory relief shall set forth "whether a hearing is required, and if so, the reasons why the
matters alleged in the petition, together with supporting legal memoranda, will not permit the fair
and expeditious disposition of the petition."

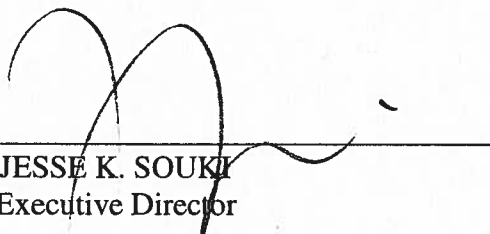
The Petition provides no explanation relating to whether a hearing is required, and
if so, the reasons why the matters alleged in the petition, together with supporting legal
memoranda, will not permit the fair and expeditious disposition of the petition.

The Petition does not substantially comply with HAR § 15-219-83(b). Therefore, pursuant to HAR § 15-219-83(c), HCDA is requesting that Petitioner submit an amended petition by July 21, 2017 at 4:00 p.m.

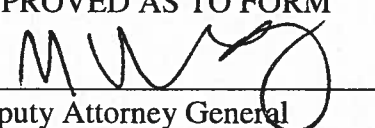
Dated, Honolulu, Hawaii JUL 11 2017.

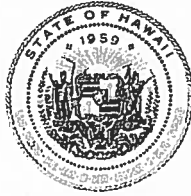
HAWAII COMMUNITY DEVELOPMENT
AUTHORITY

STATE OF HAWAII

By 
JESSE K. SOUKI
Executive Director

APPROVED AS TO FORM


Deputy Attorney General



BEFORE THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
OF THE STATE OF HAWAII

In re the Petition of) CERTIFICATE OF SERVICE
S.O.M. LLC)
For an order of Declaratory Relief)
_____)

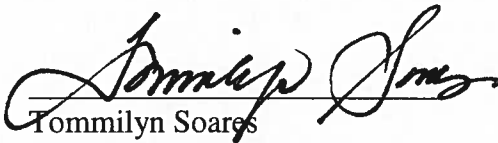
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was duly served
on following party at their last known address as indicated below via U.S. Mail.

Christopher J. Muzzi
Bishop Place
1132 Bishop Street, Suite 2400
Honolulu, Hawaii 96813

Attorney for Petitioner
S.O.M. LLC

Dated, Honolulu, Hawaii JUL 11 2017


Tommilyn Soares
HAWAII COMMUNITY
DEVELOPMENT AUTHORITY