

Sam Monet
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Governor Linda Lingle
Executive Chambers
States Attorney General
State Capitol
Honolulu, Hawaii, 96813
Phone: 586-0034
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Hand Delivered August 18, 2010
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State of Hawaii
Land Board DLNR
P. O. Box 621 Honolulu,
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adaline.f.cummings@hawaii.gov

Hand Delivered August 18, 2010

DLNR
Laura H. Thielen, Chairperson
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dlnr@hawaii.gov
laura.h.thielen@hawaii.gov

Hand Delivered August 18, 2010

CERTIFIED MAIL hard copy and email

Re:

- 1) Last Request for Documents and Things as follows:
 - a. All correspondence, minutes of meetings and any other written or auditory thing of any kind including but not limited to email between Defendants Lingle, Thielen and DLNR relating to or including but not limited to Sam Monet; and or amending administrative rules relating to “boats leaving small boat harbors” on regular basis; and or relating to the lease or sale of the Ala Wai fuel dock or the former boat yard; and email between Defendant DLNR and the Hawaii Yacht Club, its officers or employees on or about January 18, 2007 “HAWAII YACHT CLUB REQUEST TO ASSIST DLNR / PLEASE READ”;
 - b. All correspondence of any kind including but not limited to email between Defendant Lingle and former Corrections Department Deputy Director Propotnic relating to Sam Monet;

- c. Copy of a small boat harbor rental agreement circa. 1969 and also circa. 1979.
 - d. Current financial statement for Hawaii small boat harbors.
- 2) Notice to Defendants State of Hawaii DLNR, Linda Lingle individual and Governor, Laura Thielen, individual and Director DLNR, Does 1-20; of intent to file complaint for violation HRS 91, HRS 521, and health and safety (EPA), Department of Health rules, and other related issues; admiralty jurisdiction on navigable waterways (Commercial).
 - 3) Request for meeting to settle issues and dispute prior to filing complaint in court(s) of competent jurisdiction.

Dear Governor Lingle, Director Thielen, State of Hawaii, DLNR “Defendants”

Monet has, many times, requested the documents and things from Defendants listed above without success, with no reply from Defendants. State has an obligation to provide and Monet has the lawful right to request. On **August 17, 2010** I went to the DLNR office at 333 Queen St. Honolulu to request the documents including but not limited to minutes of DLNR or land board harbor meeting, small boat harbor financials and archival records listed herein above. I was not alone. I met with DLNR agent/administrator Ed Underwood. Underwood and I argued over the meaning of HRS 200-9. Underwood became visibly upset and stated that the law gave DLNR unfettered authority to force recreational boats out of the harbor on bouy runs “anytime, even every 4 days, every day, or in the proposed case every 90 days under “regular basis”. I told Underwood that the US supreme court defines “regular” as “customary and traditional practices” not some arbitrary, capricious or punitive manner he describes. Underwood disagreed. Underwood then told me that I would need a subpoena to get the records. Underwood was very angry. I have a witness to the argument with Underwood.

Defendants and DLNR committed malfeasance, misconstrued, misinterpreted and wrongfully applied its mandate under legislative authority, if any authority exists as we challenge that authority, at HRS 200-9 enacted in 1976, by promulgating rules and regulations thereby redefining “regularly navigate” from 2 years, to 1 year to 90 days, all within the last 2 calendar years. Defendants made these rules without regard for customary and traditional practices that existed for decades; and constitutes an abuse of authority at HRS 200, 521 and 91 and under federal law.

All live aboards are tenants of the State at HRS 521; state the landlord. DLNR Administrative rules do not apply.

Ala Wai harbor rules allow commercial operations (commercial catamarans, yacht clubs), therefore all vessels therein fall under federal jurisdiction [28 U.S.C. 1333](#); not State.

At the former boat yard and at the fuel dock, both superfund sites by definition [33 U.S.C. § 1313](#); owner State has failed in its obligations at [33 U.S.C. § 1251](#) Clean water act. Again jurisdiction federal [28 U.S.C. 1333](#) not State. State cannot lease the sites without first cleaning them up.

Because Monet has opposed DLNR and made complaints to governmental agencies about an unlawful conspiracy by DLNR employees and its tenant Hawaii Yacht Club (corruption, bribery, conspiracy); and Defendant Lingle’s attempt to defame and slander Monet with his business associates (Propotnic); and Defendant Lingle making knowing false, unfounded and malicious allegations of “harassment” by Monet (Bank of Hawaii); and Defendant Thielen harassing statements to Monet (“pain in the ass”); Defendants Lingle and Thielen each have had personal contact with Plaintiff Monet that has led to personal aminus on the part of Defendants toward Monet. Defendants then conspired to punish Monet

and anyone associated with him to thwart his lawful activities at governmental meetings and at the Legislature. Sovereign immunity does not apply to individual Defendants Lingle and Thielen.

Defendants by their unlawful, arbitrary, capricious, discriminatory, wonton, deliberate, intentional malicious acts and omissions have in their official capacity and as individuals violated state and federal law; failed to follow the Landlord Tenant Code HRS 521 and HRS 91 (Administrative Rules) as these laws relates to boat rentals in small boat Harbors. Defendants promulgating rules and regulations requiring insurance, dwelling and boat inspections and other related rules that violate HRS 521, unlawful search. Ala Wai is a commercial harbor, jurisdiction admiralty.

Defendant Thielen knowingly lied to and misled the legislature and general public at hearings and Defendants acts constitute a quasi-legislative capacity. Existing Harbor Rules violate "unreasonable search" clause of the State and US Constitution.

In addition, Defendant DLNR failed to reissue amended RFP for "boatyard" development to Honey Bee when clearly the negotiated contract contains terms and conditions far outside the scope of the original RFP; and the parties must be enjoined, required to provide EIR, clean up property (superfund site) and lease the space, post clean up for boater related activities only.

Individual Defendants Lingle and Thielan's acts were unlawful arbitrary, capricious, wrongful, discriminatory, exhibited personal animus and were designed to punish Plaintiff Monet and other boat owners similarly situate, who made complaints to governmental agencies about the crime and corruption as will be proven in court.

The new and proposed Harbor rules violate the Landlord Tenant Code, constitute and unauthorized tax, and are intentionally designed to create hardship and punish Plaintiff(s). Defendants failed to provide proper notice, hold the required public hearings or notify individual interested persons; and agency DLNR failed to provide documents and things relating to minutes, hearings, decisions and evidence as required by law.

"Where an administrative agency seeks to promulgate a 'rule,'" it "must consider the views of interested persons," for the "powers of government should not be used in a manner giving an appearance of being arbitrary."

Plaintiffs will seek an order to reverse and vacate the unlawfully promulgated rules, require Defendants to comply with EPA and other federal maritime regulations; or in the alternative comply with landlord tenant code; and seek punitive and compensatory damages against individual Defendants including all costs and fees.

If you fail to timely schedule a pre-complaint settlement conference, a complaint will be filed in the courts of competent jurisdiction.

Sam Monet