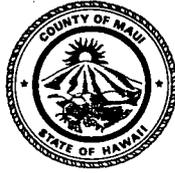


JAMES "KIMO" APANA
Mayor



JAMES B. TAKAYESU
Corporation Counsel

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
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MEMORANDUM

June 25, 2002

TO: Department of Liquor Control
Attention: Sharon Otsubo

VIA: Franklyn L. Silva, Director
Department of Liquor Control

FROM: Victoria J. Takayesu, Deputy Corporation Counsel *J*

SUBJECT: KKO Kai Ku 'Ono, Request to Amend Restrictions on License: Licensee Sent Out Notice of Public Hearing With Incorrect Zip Code for our Office; Licensee was Instructed to Re-send Notices with Correct Zip Code

I am in receipt of the Notice of Public Hearing that was sent out by the licensee in this case, as well as the attached correspondence from Gloria Muller, Postmaster, Kihei.

It appears from a review of the materials that the Notice of Public Hearing, which was forwarded to individuals within 500 feet of the premises, were given an address to forward their objections and comments to, and which address contained an incorrect zip code.

Pursuant to § 08-101-47(d) of the Department of Liquor Control, "Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui", public notice is required to be given in any request to amend or eliminate restrictions on a license. Section 08-101-47(d)(3) mandates that the Commission shall cancel the hearing if discovering any of the information submitted by applicant is false.

The restriction sought to be amended is the current requirement that security patrol the parking lot nightly from 10:00 p.m. to 1:30 a.m. Because neighboring residents may be significantly impacted by the elimination of this service, it is imperative to ensure they have the opportunity to respond.

Although the erroneous zip code appears to be a result of a typographical error, nonetheless the zip code provided to the public is false. While the comments, objections and protest that may be generated will, eventually, get to the right address - there is no assurance provided by the Kihei Postmaster that it will be received in time for the July 10, 2002 hearing.

As such, it cannot be said that the error is harmless or insignificant. It is false information which may lead to correspondence sent in a timely fashion being untimely received, i.e., after the public hearing.

It is, therefore, the opinion of this Department that the Licensee resend the public notice with the correct contact information and a public hearing be rescheduled.