

LIQUOR COMMISSION
DEPARTMENT OF LIQUOR CONTROL
COUNTY OF MAUI, STATE OF HAWAII

TRANSCRIPT OF PROCEEDINGS
REGULAR MEETING

Held at the Department of Liquor Control Conference Room, David K. Trask, Jr. Office Building, 2145 Kaohu Street, Room 108, Wailuku, Maui, Hawaii, commencing at 9:00 a.m., on Wednesday, September 14, 2016.

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APPEARANCES

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Robert Tanaka, Chairperson
Nane Aluli, Commissioner
Brenda Lee, Commissioner
William Kennison, Commissioner
Dana Souza, Commissioner
Roy Umeno, Commissioner
Stephen West, Commissioner
STAFF PRESENT:
Edward Kushi, Jr., First Deputy Corporation Counsel
Glenn Mukai, Director
Karilee Yoshizawa, Supervising Investigator
Sarah Cordeiro, Secretary to Boards/Commissions II

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(Wednesday, September 14, 2016, 9:00 a.m.)

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CHAIR TANAKA: (Gavel.) Liquor Commission meeting called to order. Roll call. Sarah.

MS. CORDEIRO: Sarah Cordeiro, Liquor Control.

COMMISSIONER KENNISON: Willy Kennison.

COMMISSIONER WEST: Good morning. Stephen West.

COMMISSIONER ALULI: Aloha. Nane Aluli.

MR. KUSHI: Ed Kushi.

CHAIR TANAKA: Good morning. Bob Tanaka.

COMMISSIONER SOUZA: Dana Souza.

COMMISSIONER UMENO: Roy Umeno.

COMMISSIONER LEE: Brenda Lee.

DIRECTOR MUKAI: Glenn Mukai, Liquor Control.

MS. YOSHIZAWA: Kari Yoshizawa, Liquor Control.

CHAIR TANAKA: Okay. Thank you. You have your agenda for September 14, 2016. If no questions, may I have a motion for approval?

COMMISSIONER WEST: So moved.

COMMISSIONER SOUZA: Second.

CHAIR TANAKA: Moved and seconded. All in favor, say "aye."

(Response.)

CHAIR TANAKA: Okay. You also have your minutes of August 10, 2016. If there's no questions or comments,

1 may I have a motion for approval?

2 COMMISSIONER WEST: So moved.

3 COMMISSIONER SOUZA: Second.

4 CHAIR TANAKA: All in favor, say "aye."

5 (Response.)

6 CHAIR TANAKA: Motion carried. Let's go on to
7 General Licensing Matters, Item A through I. If there's no
8 questions, may I have a motion for confirmation?

9 COMMISSIONER WEST: So moved. I move to approve
10 Licensing Matters A through I.

11 COMMISSIONER SOUZA: Second.

12 CHAIR TANAKA: Okay, moved and seconded. All in
13 favor, say "aye."

14 (Response.)

15 CHAIR TANAKA: All opposed, "no."

16 (No response.)

17 CHAIR TANAKA: Motion carried. Other Licensing
18 Matters, Hyatt Corporation.

19 MR. NAKAMURA: Good morning, Mr. Chair, Members of
20 the Commission. Craig Nakamura, attorney on behalf of the
21 applicant. And with me is Mr. Steven Lee who is the
22 Director of Finance for the Hyatt.

23 MR. LEE: Good morning.

24 MR. NAKAMURA: And, also, in the audience, is
25 Mr. Aaron Placourakis with Son'z Restaurant, who is also

1 involved in this application.

2 CHAIR TANAKA: Okay. Kari.

3 MS. YOSHIKAWA: At the Commission meeting held on
4 January 13, 2016, Hyatt Corporation doing business as Hyatt
5 Regency Maui requested Commission approval to utilize a
6 single restaurant dining area at separate and specific times
7 while operating under individual liquor licenses. The
8 restaurant dining area would be shared between Hyatt Regency
9 Maui and Son's Steakhouse Restaurant. At this meeting, the
10 Commission approved the request with the condition that
11 Hyatt Regency Maui place a condition on their Hotel Liquor
12 License Number 287 specifying the times that it will have
13 exclusive control of the restaurant dining area.

14 The matter before you today is Hyatt Regency Maui
15 requesting Commission approval to request that a condition
16 be placed on its liquor license that it will have exclusive
17 control of the single restaurant dining area from 2:01 a.m.
18 to 2:00 p.m.

19 CHAIR TANAKA: Thank you. Anything else to add?

20 MR. NAKAMURA: Mr. Chair, just very briefly, some
21 of you who were on the Commission back in January might
22 remember this is a request to, basically, share the use of
23 the restaurant floor space at the Hyatt. And what we're
24 doing at this point is to request that these limitations be
25 placed on the Hyatt -- on the Hyatt liquor license, the

1 Hotel liquor license. And we'll be coming in shortly with
2 an application for Mr. Placourakis' Son'z Restaurant for the
3 alternate hours. Be happy to answer any questions you have.

4 CHAIR TANAKA: Okay. I'm gonna open it to the
5 public for any public testimony on this item. Okay. Seeing
6 none, I get one question. Why?

7 MR. NAKAMURA: I'm sorry?

8 CHAIR TANAKA: Why? The thing is not working out
9 the way it is now?

10 MR. NAKAMURA: I think they just want to have a
11 separate license for the -- like, you know, some -- many
12 hotels have like separate -- in addition to like the Hotel
13 license, which covers the entire premises, separate
14 operators have their own liquor licenses to operate the
15 restaurant space, which is, basically, what's occurring
16 here. There's going to be a separate licensee,
17 Mr. Placourakis' company, to operate the Son'z Restaurant.
18 But due to the fact that there are limited facilities at the
19 hotel, they're going to share the -- basically, share the
20 floor space, where Mr. Placourakis is going to be operating
21 dinner and the hotel is going to be operating breakfast in
22 the same space. So that's why this request. But there are
23 many hotels that have separate Restaurant liquor licenses on
24 the hotel premises.

25 CHAIR TANAKA: My understanding was, when you

1 first came to the Commission, that this was the request,
2 that you guys utilize the same premises at different hours.

3 MR. NAKAMURA: That's right.

4 CHAIR TANAKA: And each condition is put on each
5 license.

6 MR. NAKAMURA: That's right.

7 CHAIR TANAKA: And now Hyatt gonna take over the
8 whole thing?

9 MR. NAKAMURA: No, no, no, no. No. It's the same
10 thing, but -- but --

11 CHAIR TANAKA: That's why I say why. What's
12 different?

13 MR. NAKAMURA: Well, the staff asked that we
14 submit this. And, actually, it was a -- it was a
15 condition -- and discussed at the previous meeting that a
16 condition regarding the limited hours for the hotel had to
17 be placed on -- be a condition to the Hotel liquor license.
18 So that's what we're doing. That's all we're doing is we're
19 asking that the time limitation be placed on the Hotel
20 liquor license so that the hotel will be using it for this
21 limited period. So that's what this request is for, just to
22 put the condition that was requested on the Hotel liquor
23 license.

24 CHAIR TANAKA: Commission understand what they're
25 asking for?

1 COMMISSIONER LEE: So -- I have a question. So
2 just based on the time of day --

3 MR. NAKAMURA: Yes -- that was.

4 COMMISSIONER LEE: -- determines which license
5 falls as --

6 MR. NAKAMURA: Yes.

7 COMMISSIONER LEE: -- first?

8 MR. NAKAMURA: Yes. Yeah. That was the -- that
9 was the condition that was discussed at the time of the
10 January meeting, was to put it -- I think it was felt that
11 putting time limitations was probably the best way to
12 determine who is in control of the premises at any given
13 time.

14 COMMISSIONER KENNISON: At a certain time.

15 MR. NAKAMURA: Yeah.

16 CHAIR TANAKA: That was -- that was my
17 understanding at the beginning.

18 MR. NAKAMURA: This is very consistent with your
19 understanding, but the purpose of this is -- is to formally
20 request that that condition be put on the Hotel license.
21 That's all.

22 CHAIR TANAKA: So the condition was never on the
23 Hotel license, then?

24 MS. YOSHIKAWA: No. The Commission did decide in
25 the January meeting that the hotel would need to come before

1 the Commission to have that condition placed formally on
2 their license.

3 CHAIR TANAKA: Okay. Fine.

4 COMMISSIONER WEST: Question.

5 CHAIR TANAKA: Any other question?

6 COMMISSIONER WEST: Yeah, question. So what's
7 going on there at night right now?

8 MR. NAKAMURA: It's closed right now.

9 MR. LEE: Right now, it's closed.

10 COMMISSIONER WEST: So 24 -- 24/7, it's -- it's
11 not in operation, you don't use it for any functions in the
12 evening at all?

13 MR. LEE: Just during the renovation, but it's
14 open --

15 MR. PLACOURAKIS: As of tonight, it's open.

16 MR. LEE: As of tonight, it's open as the Son's
17 Restaurant.

18 CHAIR TANAKA: Okay. Any other questions? If
19 there's no questions, and if the committee understand what's
20 happening, may I have a motion?

21 COMMISSIONER LEE: I have one more question. You
22 mentioned that other hotels are doing this. Can you name?

23 MR. NAKAMURA: Other hotels -- what I said was
24 other hotels have separate liquor licenses for restaurants
25 within the hotel.

1 COMMISSIONER LEE: Right.

2 MR. NAKAMURA: The Kea Lani. I know, for sure,
3 the Fairmont Kea Lani has one. I need to think about --

4 MR. PLACOURAKIS: Four Seasons, Spago.

5 MR. NAKAMURA: Yeah, Spago may have one. I'm not
6 sure. I don't represent Spago, so I'm not sure. But
7 it's -- it's relatively common.

8 COMMISSIONER LEE: Is that correct?

9 MS. YOSHIZAWA: This is a unique situation where
10 two licensed premises would be sharing one dining area.

11 COMMISSIONER LEE: Okay. So it's not the same?

12 MR. NAKAMURA: Well, it's not the same -- the --
13 the question that was posed by the -- the Chair was why are
14 we doing this. So I was explaining that it is common to
15 have -- because, you understand, in a Hotel liquor license,
16 the hotel is responsible for the entire premises.

17 COMMISSIONER LEE: Yes, I understand.

18 MR. NAKAMURA: Okay. And -- and that includes any
19 kind of liability involved with the operation of the
20 restaurant. So in certain instances, the hotel management
21 likes to have the restaurant operate under its own license
22 so that they're not responsible for the service of alcohol
23 or any kind of liability dealing directly with the
24 restaurant. And that's the reason why -- that's one of the
25 reasons why it's being done here. The fact that we're

1 coming in now is for continuous -- or both use of the same
2 space, which is a unique situation.

3 COMMISSIONER LEE: See, where I'm not clear is
4 that he says this has been done before.

5 CHAIR TANAKA: No. Basically, what he's saying is
6 that in the hotel area, a restaurant has their own license,
7 but they utilize one certain area that Hotel have no control
8 within that area. This one, because they using the same
9 premises --

10 COMMISSIONER LEE: It goes back and forth.

11 CHAIR TANAKA: Yeah, it goes back and forth.

12 COMMISSIONER ALULI: Can I just add that there are
13 a number of hotels that do that.

14 COMMISSIONER LEE: Yeah. I just want to know who.

15 COMMISSIONER ALULI: Well, Royal Lahaina does, for
16 instance. In the restaurant area, they -- there are
17 meetings that are held in that same area for Rotary. So
18 that's the kind of situation where you have it being used
19 for meetings on one hand --

20 COMMISSIONER LEE: No.

21 COMMISSIONER ALULI: -- restaurant on the other.

22 COMMISSIONER LEE: I understand that, but that
23 still stays under the hotel license.

24 CHAIR TANAKA: Still go under the --

25 COMMISSIONER LEE: We're talking about another

1 licensee coming in.

2 CHAIR TANAKA: This -- this is a different unique
3 situation.

4 COMMISSIONER LEE: Yeah.

5 CHAIR TANAKA: That's what it is. What --
6 what the attorney's saying is that there are separate
7 licenses within the hotel, but they control the premise
8 themselves. Here, because they use the same premises, that's
9 why I asked 'em why they're doing it --

10 COMMISSIONER LEE: Yeah.

11 CHAIR TANAKA: -- you know, because the last time
12 we approved it --

13 MR. NAKAMURA: Right.

14 CHAIR TANAKA: -- you know.

15 MR. NAKAMURA: Yes, you did -- you did approve it,
16 but I guess the discussion was that the hotel had to put a
17 condition on its license about the limited hours of
18 operation.

19 CHAIR TANAKA: Yeah. Yeah.

20 MR. NAKAMURA: So that's what we're requesting.
21 That's all we're requesting.

22 CHAIR TANAKA: We put the condition on Son'z.

23 MR. NAKAMURA: Right. And we're going to come in
24 with the Son'z application. And that's also gonna be --
25 have the limited hours.

1 COMMISSIONER WEST: Question. Just a question.
2 So employees, are you going to be utilizing the employees
3 from the hotel or is it going to be a separate workforce?

4 MR. LEE: Totally separate.

5 MR. NAKAMURA: Separate.

6 COMMISSIONER WEST: Totally separate.

7 CHAIR TANAKA: Oh, yeah, totally separate entity.

8 MR. LEE: Correct. It's a separation of
9 liability, share liability.

10 CHAIR TANAKA: Yeah. The only -- the only
11 difference is, the last time, if I remember, you get
12 different kitchens.

13 MR. LEE: Correct.

14 MR. NAKAMURA: That's correct.

15 MR. LEE: That's correct.

16 CHAIR TANAKA: Okay. Any other questions by the
17 Commissioners?

18 COMMISSIONER LEE: One more. Sorry.

19 CHAIR TANAKA: You're still not convinced.

20 COMMISSIONER LEE: What kind of point of sale are
21 you going to have to differentiate the hotel sales from --

22 MR. LEE: We do have a totally separate point of
23 sales.

24 COMMISSIONER LEE: Separate point of sale. Okay.

25 Thank you.

1 CHAIR TANAKA: Okay. Any other questions? If
2 not, may I have a motion?

3 COMMISSIONER SOUZA: I move to approve the request
4 put in by the Hyatt Corporation dba Hyatt Regency Maui.

5 COMMISSIONER WEST: Second.

6 CHAIR TANAKA: Okay, moved and second. All in
7 favor, say "aye."

8 (Response.)

9 CHAIR TANAKA: Opposed, "no."

10 (No response.)

11 CHAIR TANAKA: Motion carried.

12 MR. NAKAMURA: Thank you very much.

13 MR. LEE: Thank you.

14 CHAIR TANAKA: Cowboy Built, Inc.

15 MR. CAIRES: Aloha. Good morning, Commissioner.
16 Here to answer any questions. And I have some statements,
17 maybe after you finish your remarks to share with my
18 progress.

19 CHAIR TANAKA: Kari.

20 MS. YOSHIZAWA: Cowboy Built, Inc. doing business
21 as Kaupakalua Wine and Liquor Company, Manufacturer Other
22 Specified Liquor License at 1830 Kaupakalua Road, Haiku,
23 Maui, Hawaii, requesting an extension to exercise the liquor
24 license pursuant to Section 08-101-34(c) of the Rules of the
25 Liquor Commission, County of Maui. License granted by the

1 Commission on October 7, 2015; request for extension
2 approved by the Commission on March 9, 2016; extension to
3 expire on October 1st, 2016. The applicant is requesting a
4 one-year extension.

5 CHAIR TANAKA: Thank you. Do you have anything
6 else to add?

7 MR. CAIRES: The only thing I wanted to add was
8 I'm making good progress on the inspections that has been
9 taking place during this time. And this last extension is
10 just to get the wastewater treatment system in place, which
11 I'm gonna need time to get that completed.

12 CHAIR TANAKA: Thank you. I'm gonna open it to
13 the public for any public testimony. Seeing none, any
14 questions by the Commissioners?

15 COMMISSIONER WEST: You think you have enough --

16 MR. CAIRES: One year.

17 COMMISSIONER WEST: One year is enough?

18 MR. CAIRES: Actually, I was -- I wanted to
19 request if I can -- if I do complete it earlier, do I still
20 have to wait a year? Or can I come in earlier and
21 request --

22 CHAIR TANAKA: No.

23 MR. CAIRES: No? Okay. So although I'm asking
24 for a long extension, my goal is to get it done in a shorter
25 period of time.

1 CHAIR TANAKA: Soon as -- soon as you get a CO,
2 then you can come in and apply for it.

3 MR. CAIRES: Yes.

4 COMMISSIONER KENNISON: Yeah.

5 CHAIR TANAKA: Any other questions? If not, may I
6 have a motion?

7 COMMISSIONER KENNISON: I move to approve the
8 extension of Other Licensing Matter B.

9 COMMISSIONER WEST: Second.

10 CHAIR TANAKA: Okay, moved and seconded. All in
11 favor, say "aye."

12 (Response.)

13 CHAIR TANAKA: Opposed, "no." Motion carried.
14 Thank you.

15 MR. CAIRES: Mahalo. Thank you. Have a good day.

16 CHAIR TANAKA: Arcobaleno LLC.

17 MR. DI BARI: Good morning. My name is Michele Di
18 Bari, I'm the manager-member of Arcobaleno LLC, Sale Pepe
19 restaurant. I'm here for an extension of the restaurant.
20 We gonna be doing lunch, we want to do something for the
21 community (inaudible).

22 MS. DI BARI: At a lower price point. I'm his
23 wife, Kiana Di Bari.

24 MR. DI BARI: Wanna do something for the
25 community. So there's going to be a nice lunch for all the

1 locals. And then at night will be a waiting area where
2 customer can wait to get a table in the restaurant that we
3 have right now.

4 CHAIR TANAKA: Thank you. Kari.

5 MS. YOSHIZAWA: Arcobaleno LLC, a registered
6 Hawaii limited liability company, doing business as Sale
7 Pepe, Dispenser General License, Category C(ii). The
8 manager and members of the manager-managed LLC is listed in
9 the investigator's report.

10 Request for approval to extend the existing
11 premises approximately 720 square feet in the Olowalu
12 direction to include the neighboring unit, Unit 9. Licensee
13 requesting approval to modify the existing premises by
14 removing a portion of an existing wall on the Olowalu side
15 of the licensed premises to connect to Unit 9 as plans
16 submitted.

17 Original application for a Dispenser General,
18 Category C(ii), which was filed on December 13, 2013, for a
19 premises located at 878 Front Street, Building A, Unit 7 and
20 8, Lahaina, Maui, Hawaii. The premises consists of
21 approximately 1,440 square feet. Original floor plan is
22 attached.

23 A public hearing for this application took place
24 on April 9, 2014. There were no protests.

25 A lease by and between the Harry and Jeanette

1 Weinberg Foundation, Incorporated, a Maryland corporation,
2 landlord, and Arcobaleno LLC, a Hawaii limited liability
3 company, tenant, dated November 6, 2015, indicates that the
4 licensee has the use and exclusive control of the area being
5 requested.

6 Section 08-101-46, Reduction or increase in area
7 of licensed premises: The Commission may, in its
8 discretion, permit the reduction or the increase in the area
9 of the licensed premises of any licensee without publication
10 of notice at a public hearing; provided that, where an
11 increase in premises may significantly impact the public,
12 the Commission may require hearings pursuant to Sections
13 281-39.5 and 281-57 to 281-60, HRS. The licensee shall be
14 subject to notice requirements of Sections 281-57, 58 and
15 59, HRS, whenever there is a substantial increase of the
16 licensed premises and there are any owners or lessees of
17 real estate of record or owners of record of shares in a
18 cooperative apartment or individuals on the list of owners
19 as provided by the managing agent or governing body of the
20 shareholders association situated within a distance of 500
21 feet from the nearest point of the premises for which the
22 extension is asked to the nearest point of such real estate
23 or cooperative apartment that were not previously notified.
24 Whenever any reduction or increase is permitted, the same
25 shall be endorsed in some appropriate manner upon the

1 license.

2 Section 08-101-98, Modification or extension of
3 licensed premises: (a), Modification to the licensed
4 premises other than what was submitted to the Commission at
5 the time of application is strictly prohibited; (b),
6 Extension of premises shall not be granted unless such area
7 requested is adjacent to and connected to the licensed
8 premises and meet all governmental requirements.

9 The Department is recommending approval of this
10 request with the condition that the licensee submit all
11 necessary clearances from other governmental agencies.

12 CHAIR TANAKA: Thank you. You have anything else
13 to add?

14 MR. DI BARI: Nothing.

15 CHAIR TANAKA: Okay. I'm gonna open it to the
16 public for any public testimony. Okay. Seeing none, any
17 questions by the Commissioners? Okay. If there's no
18 questions, may I have a motion?

19 COMMISSIONER WEST: I move to approve the change
20 in license for an extension, I guess it would be a change in
21 license, modification.

22 CHAIR TANAKA: Yeah, modification.

23 COMMISSIONER KENNISON: Modification. Second.

24 CHAIR TANAKA: Okay, moved and seconded. All in
25 favor, say "aye."

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(Response.)
CHAIR TANAKA: Opposed, "no."
(No response.)
CHAIR TANAKA: Motion carried. Thank you.
MS. DI BARI: Thank you.
MR. DI BARI: Thank you.
CHAIR TANAKA: Go to Item D, Mulligan's on the

Blue.

MR. TODD: Good morning.
MR. GROSS: Good morning.

MR. TODD: Jonathan Todd for the owner of Mulligan's on the Blue, Michael O'Dwyer, who is in Europe at this meeting, who asked me to come here, and his bar supervisor David --

MR. GROSS: David Jeffrey Gross.
CHAIR TANAKA: Thank you. Kari.

MS. YOSHIKAWA: Mulligan's on the Blue, LLC, a registered Hawaii limited liability company, doing business as Mulligan's on the Blue, Restaurant General License, Category B(ii). The member and organizer of the member-managed LLC is listed in the investigator's report.

Mulligan's on the Blue requests Commission approval to hold a special event on its licensed premises for the eighth annual musical tribute to the band Led Zeppelin to be held on Saturday, September 24, 2016, from

1 6:00 p.m. to 10:00 p.m.

2 The event is a 21-years-of-age-and-over event.
3 400 to 450 people are anticipated. Doors open at 6:00 p.m.
4 and close promptly at 10:00 p.m. All live music will end by
5 10:00 p.m. Mulligan's will continue to be open for business
6 from 10:00 p.m. to 2:00 a.m. Live music will run from 7:00
7 p.m. to 10:00 p.m. There will be no entertainment outside.

8 There will be 10 security personnel and two
9 managers on duty at all times. Two security watching the
10 dance floor, two security watching bathrooms and back
11 entrance, two security at the door to check IDs and
12 wrist-band everyone who enters Mulligan's on the Blue, two
13 security monitoring aisles and walkways, and two security
14 monitoring the entire premises.

15 In addition, licensee is requesting a temporary
16 extension and an increase in the consumption area to include
17 the lawn area on the makai of the licensed premises and the
18 breezeway area on the mauka side of the licensed premises to
19 utilize one area, 14 feet by 32 feet, for dancing, and one
20 area, six feet by 24 feet, for entertainment, two portable
21 bars within the building, four porta-potties, two designated
22 for women and two designated for men, one hand-washing
23 station, and eight six feet by two and-a-half feet tables to
24 be set up in the area of extension.

25 Application for a Restaurant General License,

1 Category B(ii), was filed on April 17, 2001, and a liquor
2 license was issued on October 24, 2001, for premises located
3 at 100 Kaukahi Street, Wailea, Hawaii, 96753. The premises
4 consists of approximately 7,620 square feet. The original
5 floor plan is attached.

6 The public hearing for this application took place
7 on August 8, 2001. The Liquor Commission approved
8 Mulligan's on the Blue, LLC doing business as Mulligan's on
9 the Blue for a Restaurant General, Category B(ii) license.

10 Due to the amount of noise complaints received by
11 the Department, Mulligan's on the Blue, LLC appeared before
12 the Liquor Commission on May 14, 2003, for a review of their
13 liquor license renewal, pursuant to Section 08-101-33 of the
14 Rules of the Liquor Commission, County of Maui, and Section
15 281-61 of the Hawaii Revised Statutes. 17 protests were
16 filed with the Department regarding noise issues originating
17 from Mulligan's on the Blue. 12 protests were filed by
18 property owners/lessees within a 500-foot radius of the
19 premises.

20 Section 08-101-33, Renewal of license: (b), If
21 complaints from the public, reports from the Commission's
22 investigators, or adjudications of the Commission, or the
23 board indicate that noise created by patrons departing from
24 the premises disturbs residents on the street, or of the
25 neighborhood in which the premises is located, or that noise

1 from the premises, or adjacent related outdoor areas under
2 the licensee's control, such as parking lots or lanais,
3 exceed standards contained in State, County, or Commission
4 noise codes, and intrudes into nearby units, the Commission
5 may withhold the issuance of a renewed license until
6 corrective measures meeting the Commission's approval are
7 taken; (c), The Commission, at the time of renewal, or at
8 any time, may revoke, suspend, or place conditions or
9 restrictions on any license issued under the Rules of the
10 Commission for the purpose of preventing activities within
11 the licensed premises or adjacent areas under the licensee's
12 control that are potentially injurious to the health, safety
13 and welfare of the public, including, but not limited to,
14 criminal activity, including assault, drug dealing, drug use
15 or prostitution, upon petition of the administrator of the
16 appropriate County agency, proper notice to the licensee,
17 and a hearing before the Commission pursuant to Chapter 91,
18 HRS.

19 Section 281-61, Renewals: (a), Other than for
20 good cause, the renewal of an existing license shall be
21 granted upon the filing of an application; providing that
22 if: (1), Complaints from the public; (2), Reports from the
23 Commission's investigators; or (3) adjudications of the
24 Commission or the Liquor Control Adjudication Board,
25 indicate that noise created by patrons departing from the

1 premises disturbs residents on the street or of the
2 neighborhood in which the premises are located, or that
3 noise from the premises or adjacent related outdoor areas,
4 such as parking lots or lanais, exceed standards contained
5 in State or County noise codes or intrudes into nearby
6 residential units, the Commission may deny the renewal
7 application or withhold the issuance of a renewed license
8 until corrective measures meeting the Commission's approval
9 are taken. (b), The Commission or Board, pursuant to
10 Section 281-17, at the time of renewal, or at any time, may
11 revoke, suspend, or place conditions or restrictions on any
12 license issued under this chapter for the purpose of
13 preventing activities within the licensed premises or
14 adjacent areas that are potentially injurious to the health,
15 safety, and welfare of the public and neighborhood,
16 including, but not limited to, criminal activity, including
17 assault, drug dealing, drug use or prostitution, upon proper
18 notice to the licensee, and a hearing before the Commission
19 pursuant to Chapter 91.

20 On May 27, 2003, an agreement between the Wailea
21 Community Association and Mulligan's on the Blue was
22 executed and submitted to the Liquor Commission. Mulligan's
23 on the Blue and the Wailea Community Association agreed to
24 the following conditions:

25 One, All Music. (a), Sunday through Thursday,

1 ends at 12:00 a.m.; (b), Friday and Saturday, ends at 12:30
2 a.m.; (c), No outdoor music; (d), All doors will be closed
3 all nights beginning no later than 10:00 p.m.; (e)
4 Mulligan's on the Blue will require band(s) to monitor their
5 levels at a reasonable standard considering the building
6 size, location and construction to minimize sound intrusion
7 into the surrounding community.

8 Two, Special Events. (a), All special events will
9 follow the rules stated above; (b) event dates are New
10 Year's Eve, St. Patrick's Day, Cinco de Mayo, 4th of July
11 and Halloween; (c), No outdoor activities such as, but not
12 limited to, bouncing castles or similar, pony rides, et
13 cetera; (d), Outdoor food tents must close no later than
14 10:00 p.m.; (e), No parking on Kaukahi Street; and, (f)
15 Special attention made to clean-up of parking area and
16 surrounding common area.

17 Mulligan's on the Blue, LLC appeared before the
18 Liquor Commission on June 4, 2003, to review liquor license
19 renewal pursuant to Section 08-101-33 of the Rules of the
20 Liquor Commission, County of Maui, and Section 281-61 of the
21 Hawaii Revised Statutes. The following conditions were
22 placed on the liquor license for Mulligan's on the Blue,
23 LLC:

24 One, Music shall cease at 12:00 a.m. on Sundays
25 through Thursdays, and at 12:30 a.m. on Fridays and

1 Saturdays; Two, There shall be no outdoor music; Three, All
2 doors shall close no later than 10:00 p.m. whenever there is
3 music; Four, New Year's Eve, St. Patrick's Day, Cinco de
4 Mayo, 4th of July, Halloween, and all other special events
5 shall be restricted to Conditions 1 through 3 as stated
6 above, and additional special events shall be approved by
7 the Liquor Commission; Five, There shall be no outdoor
8 activities such as, but not limited to, bouncing castles or
9 similar, pony rides, et cetera; Six, Outdoor food tents
10 shall close no later than 10:00 p.m.

11 History of liquor law violations for Mulligan's on
12 the Blue after the above conditions were imposed by the
13 Liquor Commission:

14 On July 13, 2003, at approximately 2:04 a.m.,
15 licensee did have the sale, service or consumption of liquor
16 on or within its licensed premises before or after the hours
17 prescribed by the Commission, contrary to Section
18 08-101-25(c), Rules of the Liquor Commission.

19 On November 6, 2003, the licensee was found guilty
20 and received a \$2,000 fine, \$1,500 suspended one year
21 provided no violation of this rule.

22 On December 31st, 2003, the licensee failed to
23 comply with the conditions imposed by the Liquor Commission
24 by failing to close the side doors of the premises while
25 live music and entertainment was being provided within the

1 premises and by failing to cease music by 12:00 a.m.,
2 contrary to Section 08-101-26(d) of the Rules of the Liquor
3 Commission, County of Maui, 2004-80; 04-0651-J.

4 On March 10, 2004, a written caution was issued.

5 On March 17, 2005, at approximately 8:00 p.m.,
6 licensee failed to ensure that aisles or walkways within the
7 premises were cleared of any congestion or blockage which
8 would prevent any person from moving freely within any aisle
9 or walkway, contrary to Section 08-101-90(b) of the Rules of
10 the Liquor Commission, County of Maui, 2005-64; 05-0898-J.

11 On May 3rd, 2005, a written caution was issued.

12 On August 18, 2005, at approximately 11:15 p.m.,
13 licensee permitted liquor to be removed by patrons from the
14 designated area for liquor consumption, contrary to Section
15 08-101-60(b)(10) of the Rules of the Liquor Commission,
16 County of Maui, 2006-13; 06-0301-C.

17 On September 8, 2005, a written caution was
18 issued.

19 On March 17, 2006, at approximately 7:50 p.m.,
20 licensee failed to ensure that aisles or walkway within the
21 premises were cleared of any congestion or blockage which
22 prevented any person from moving freely within any aisle or
23 walkway, contrary to Section 08-101-90(b) of the Rules of
24 the Liquor Commission, County of Maui, 2006-47; 06-0931-C.

25 On June 26, 2006, a written caution was issued.

1 On March 17, 2010, at approximately 8:55 p.m.,
2 licensee failed to ensure that aisles or walkways within the
3 premises were cleared of any congestion or blockage which
4 prevented any person from moving freely within any aisle or
5 walkway, contrary to Section 08-101-90(b) of the Rules of
6 the Liquor Commission, County of Maui, and allowed the
7 service of more than two drinks of liquor at one time to an
8 individual, contrary to Section 08-101-84(b) of the Rules of
9 the Liquor Commission, County of Maui, 2011-5; 09-01876.

10 On July 2nd, 2010, a written caution was issued.

11 On April 16, 2010, at approximately 10:00 p.m.,
12 licensees failed to ensure that aisles or walkways within
13 the premises were cleared of any congestion or blockage
14 which prevented any person from moving freely within any
15 aisle or walkway, contrary to Section 08-101-90(b) of the
16 Rules of the Liquor Commission, County of Maui, 2011-4;
17 09-01964.

18 On July 2nd, 2010, a written caution was issued.

19 On May 29, 2010, at approximately 2:10 a.m.,
20 licensee failed to cease the sale, service or consumption of
21 liquor on its licensed premises after the hours prescribed
22 by the Commission, contrary to Section 08-101-25(c) of the
23 Rules of the Liquor Commission, County of Maui, and failed
24 to remove all empty glasses and containers from an area of
25 the licensed premises which was open to the public later

1 than the legal closing time for liquor sales, contrary to
2 Section 08-101-84(e) of the Rules of the Liquor Commission,
3 County of Maui, 2010-6; 09-02076.

4 On July 2nd, 2010, a written caution was issued.

5 On October 23rd, 2010, at approximately 9:10 p.m.,
6 licensee failed to ensure that the main or primary entrances
7 and street entrances and street entrance doorways to its
8 premises were unobstructed, contrary to Section 08-101-90(a)
9 of the Rules of the Liquor Commission, County of Maui; and
10 failed to ensure that aisles or walkways within the premises
11 were cleared of any congestion or blockage which prevented
12 any person from moving freely within any aisle or walkway,
13 contrary to Section 08-101-90(b) of the Rules of the Liquor
14 Commission, County of Maui; and failed to have an approved,
15 clearly designated, non-consumption area for dancing,
16 contrary to Section 08-101-23(b) of the Rules of the Liquor
17 Commission, County of Maui; and failed to have the persons
18 serving the customers remove all empty glasses and
19 containers at the time of or before serving another drink
20 contrary to Section 08-101-84(e) of the Rules of the Liquor
21 Commission, County of Maui, 2011-23; 11-00313-000.

22 On January 31st, 2011, a written caution was
23 issued.

24 On August 21st, 2010, at approximately 9:35 p.m.,
25 licensee failed to acquire a permit for an extension of

1 premises, contrary to Section 08-101-27(a)(5) and Section
2 08-101-27(a)(10) of the Rules of the Liquor Commission,
3 County of Maui; and failed to ensure that, while open for
4 business, main or primary entrances and street entrance
5 doorways to the premises must be kept unlocked and entrances
6 to booths must be open and unobstructed, contrary to Section
7 08-101-90(a) of the Rules of the Liquor Commission, County
8 of Maui, and failed to ensure that aisles or walkways within
9 the premises were cleared of any congestion or blockage
10 which prevented any person from moving freely within any
11 aisle or walkway, or entry to or exit from the premises,
12 contrary to Section 08-101-90(b) of the Rules of the Liquor
13 Commission, County of Maui, 2011-27; 11-00175-000 and
14 11-00175-001.

15 On April 6, 2011, a written caution was issued.

16 On March 7, 2011, at approximately 3:04 p.m.,
17 licensee failed to maintain time sheets with the surnames of
18 all employees from February 26 to 27, 2011, contrary to
19 Section 08-101-70(f), Rules of the Liquor Commission,
20 2011-38; 11-00568-000.

21 On July 7, 2011, a written caution was issued.

22 On March 17, 2011, at approximately 10:05 p.m. and
23 11:32 p.m., licensees did, through their employee(s), fail
24 to ensure that main or primary entrances were unobstructed,
25 and aisles and walkways were cleared of any congestion or

1 blockage which would prevent any person from moving freely
2 within any aisle or walkway, contrary to Section 08-101(b)
3 [sic] of the Rules of the Liquor Commission, County of Maui.

4 On December 1st, 2011, the licensee was found
5 guilty and received a \$500 fine.

6 On March 17, 2011, at approximately 10:09 p.m.,
7 licensee did, through its employee(s), fail to comply with
8 the conditions placed on its liquor license by the
9 Commission, contrary to Section 08-101-26(d) [sic] of the
10 Rules of the Liquor Commission, County of Maui.

11 On December 1st, 2011, the licensee was found
12 guilty and received a \$500 fine.

13 On June 22nd, 2012, at approximately 8:10 p.m.,
14 licensee failed to comply with Section 08-101-27(a)(4) and
15 Section 08-101-27(a)(10) of the Rules of the Liquor
16 Commission, County of Maui, by allowing carnival-type games
17 without a permit, and not obtaining a permit to modify the
18 premises as required, 2014-8; 11-01671-000.

19 On September 9, 2013, a written caution was
20 issued.

21 On September 28, 2013, at approximately 8:23 p.m.,
22 licensee did, through its employee(s), fail to ensure that
23 aisles or walkways were cleared of any congestion or
24 blockage which would prevent any person from moving freely
25 within any aisle or walkway, contrary to Section

1 08-101-90(b) of the Rules of the Liquor Commission, County
2 of Maui.

3 On October 2nd, 2014, the licensee was found
4 guilty and received a \$1,000 fine.

5 On September 28, 2013 at approximately 8:23 p.m.,
6 licensee did, through its employee, provide more than two
7 drinks of any liquor to any individual patrons at one time,
8 contrary to Section 08-101-84(b) of the Rules of the Liquor
9 Commission, County of Maui.

10 On October 2nd, 2014, the licensee was found
11 guilty and received a \$500 fine.

12 On August 24, 2014, at approximately 12:28 a.m.,
13 licensee failed to comply with Section 08-101-26(d) of the
14 Rules of the Liquor Commission, County of Maui, because all
15 doors were open while music was playing, contrary to the
16 condition of -- condition the Liquor Commission placed on
17 its license, "All doors shall close no later than 10:00 p.m.
18 whenever there is music," 2015-13; VR14-00036.

19 On September 16, 2014, a written caution was
20 issued.

21 On September 20th, 2014, at approximately 12:45
22 a.m., licensee failed to comply with Section 08-101-26(d) of
23 the Rules of the Liquor Commission, County of Maui, because
24 the majority of the doors were open while a deejay was
25 playing music through amplified speakers, contrary to the

1 condition the Liquor Commission placed on its license, "All
2 doors shall close no later than 10:00 p.m. whenever there is
3 music," 2015-17; VR14-00062.

4 On November 26, 2014, a written caution was
5 issued.

6 On November 7, 2015, Mulligan's on the Blue held a
7 live concert special event on its licensed premises. The
8 below are violations that are charged, but not adjudicated:

9 Count 1: On November 7, 2015, between the
10 approximate times of 10:47 p.m. and 11:50 p.m., Mulligan's
11 on the Blue, LLC doing business as Mulligan's on the Blue, a
12 Restaurant General licensee, did fail to comply with the
13 condition placed on its liquor license by the Commission,
14 contrary to Section 08-101-26(d) of the Rules of the Liquor
15 Commission, County of Maui.

16 Count 2: On November 27, 2015, between the
17 approximate times of 10:47 p.m. and 11:50 p.m., Mulligan's
18 on the Blue, LLC doing business as Mulligan's on the Blue, a
19 Restaurant General licensee, did fail to comply with all
20 conditions placed on any permit issued by the Department or
21 Commission, contrary to Section 08-101-27(c) of the Rules of
22 the Liquor Commission, County of Maui.

23 Count 3: On November 7, 2015, between the
24 approximate times of 10:47 p.m. and 11:50 p.m., Mulligan's
25 on the Blue, LLC doing business as Mulligan's on the Blue, a

1 Restaurant General licensee, did fail to obtain a permit for
2 the area designated for music, entertainment and dancing,
3 contrary to Section 08-101-27(a)(6) of the Rules of the
4 Liquor Commission, County of Maui.

5 Count 4: On November 7, 2015, between the
6 approximate times of 10:47 p.m. and 11:50 p.m., Mulligan's
7 on the Blue, LLC doing business as Mulligan's on the Blue, a
8 Restaurant General licensee, did fail to ensure that its
9 premises was constructed, arranged, furnished, equipped,
10 maintained and operated in such a manner as prescribed by
11 the Liquor Commission, contrary to Section 281-72 of the
12 Hawaii Revised Statutes.

13 Count 5: On November 7, 2015, between the
14 approximate times of 10:47 p.m. and 11:50 p.m., Mulligan's
15 on the Blue, LLC doing business as Mulligan's on the Blue, a
16 Restaurant General licensee, did fail to obtain a permit to
17 modify its premises other than what was submitted to and
18 approved by the Commission at the time of application,
19 contrary to Section 08-101-27(a)(10) of the Rules of the
20 Liquor Commission, County of Maui.

21 Count 6: On November 7, 2015, between the
22 approximate times of 10:49 p.m. and 11:50 p.m., Mulligan's
23 on the Blue, LLC doing business as Mulligan's on the Blue, a
24 Restaurant General licensee, did fail to ensure that aisles
25 or walkways were cleared of any congestion or blockage which

1 would prevent any person from moving freely within any aisle
2 or walkway, contrary to Section 08-101-90(b) of the Rules of
3 the Liquor Commission, County of Maui.

4 Count 7: On November 7, 2015, at approximately
5 11:11 p.m., Mulligan's on the Blue, LLC doing business as
6 Mulligan's on the Blue, a Restaurant General licensee, did
7 fail to ensure that its premises contained separate and
8 adequate toilet facilities for males and females, contrary
9 to Section 08-101-94(a) of the Rules of the Liquor
10 Commission, County of Maui.

11 Count 8: On November 7, 2015, between the
12 approximate times of 11:11 p.m. and 11:50 p.m., Mulligan's
13 on the Blue, LLC doing business as Mulligan's on the Blue, a
14 Restaurant General licensee, did permit liquor to be
15 consumed by patrons within its restrooms, contrary to
16 Section 08-101-99(a)(6) of the Rules of the Liquor
17 Commission, County of Maui.

18 Count 9: On November 7, 2015, at approximately
19 11:23 p.m., Mulligan's on the Blue, LLC doing business as
20 Mulligan's on the Blue, a Restaurant General licensee, did
21 permit liquor to be consumed by patrons within areas for
22 dancing, music and entertainment, contrary to Section
23 08-101-99(a)(7) of the Rules of the Liquor Commission,
24 County of Maui.

25 Count 10: On November 7, 2015, at approximately

1 11:28 p.m., Mulligan's on the Blue, LLC doing business as
2 Mulligan's on the Blue, a Restaurant General licensee, did
3 fail to comply with the condition that it is subject to any
4 other laws or rules applicable to the business of the
5 licensee, contrary to Section 281-38 of the Hawaii Revised
6 Statutes.

7 Count 11: On November 7, 2015, at approximately
8 11:51 p.m., Mulligan's on the Blue, LLC doing business as
9 Mulligan's on the Blue, a Restaurant General licensee, did
10 permit liquor to be removed by a patron from the designated
11 area for liquor consumption, contrary to Section
12 08-101-60(b)(10) of the Rules of the Liquor Commission,
13 County of Maui.

14 Count 12: On March 17, 2016, at approximately
15 10:06 p.m., Mulligan's on the Blue, LLC doing business as
16 Mulligan's on the Blue, a Restaurant General licensee, did
17 fail to ensure that aisles or walkways were cleared of any
18 congestion or blockage which would prevent any person from
19 moving freely within any aisle or walkway, contrary to
20 Section 08-101-90(b) of the Rules of the Liquor Commission,
21 County of Maui.

22 Count 13: On March 17, 2016, at approximately
23 10:06 p.m., Mulligan's on the Blue, LLC doing business as
24 Mulligan's on the Blue, a Restaurant General licensee, did
25 permit liquor to be consumed by patrons within its

1 restroom(s), contrary to section 08-101-99(a)(6) of the
2 Rules of the Liquor Commission, County of Maui.

3 Count 14: On March 17, 2016, at approximately
4 10:06 p.m., Mulligan's on the Blue, LLC doing business as
5 Mulligan's on the Blue, a Restaurant General licensee, did
6 fail to comply with the condition placed on its liquor
7 license by the Commission, contrary to Section 08-101-26(d)
8 of the Rules of the Liquor Commission, County of Maui.

9 Count 15: On March 17, 2016, at approximately
10 10:06 p.m., Mulligan's on the Blue doing business as
11 Mulligan's on the Blue, a Restaurant General licensee, did
12 fail to obtain a permit to modify its premises other than
13 what was submitted to and approved by the Commission at the
14 time of application, contrary to Section 08-101-27(a)(10) of
15 the Rules of the Liquor Commission, County of Maui.

16 Count 16: On March 17, 2016, at approximately
17 10:06 p.m., Mulligan's on the Blue, LLC doing business as
18 Mulligan's on the Blue, a Restaurant General licensee, did
19 fail to ensure that its premises was constructed, arranged,
20 furnished, equipped, maintained and operated in such a
21 manner as prescribed by the Liquor Commission, contrary to
22 Section 281-72 of the Hawaii Revised Statutes.

23 Count 17: On March 17, 2016, at approximately
24 10:06 p.m., Mulligan's on the Blue, LLC doing business as
25 Mulligan's on the Blue, a Restaurant General licensee, did

1 fail to ensure that its premises contained separate and
2 adequate toilet facilities for males and females, contrary
3 to Section 08-101-94(a) of the Rules of the Liquor
4 Commission, County of Maui.

5 On June 24, 2016, Mulligan's on the Blue held a
6 live music special event on its licensed premises. The
7 below is a violation that is pending, but not yet charged:

8 Count 1: On June 24, 2016, at approximately 10:21
9 p.m., Mulligan's on the Blue, LLC doing business as
10 Mulligan's on the Blue, a Restaurant General licensee, did
11 permit liquor to be removed by a patron from the designated
12 area for liquor consumption, contrary to Section
13 08-101-60(b)(10) of the Rules of the Liquor Commission,
14 County of Maui.

15 CHAIR TANAKA: Thank you, Kari. You can rest a
16 little while now. Before -- before I ask for your response,
17 I'm gonna open it to the public for any public testimony.
18 Okay. Seeing none, can you respond to all these
19 allegations?

20 MR. TODD: I can tell you that Mulligan's -- this
21 is a 16-year licensee, I guess, right, from 2001.

22 I'm not representing Mulligan's. I'm representing
23 the producers of this event that has happened six years in a
24 row and would like to have in the seventh year. During
25 these particular events, this one-time-a-year community

1 artistic and charity-based event, we have not had major
2 violations. There were no violations that I'm aware of
3 during this particular event. We bring in extra security.
4 We have numbered tickets. We have extra personnel there.

5 And I think Mulligan's has some issues. They're
6 not adjudicated. I think we have to let Mulligan's handle
7 that through the process. But we have an event in about 10
8 days. In the past, it has been open to what we are
9 requesting, this extra small area which, technically, gives
10 us 63 more people. The -- the CO is 487, and we're looking
11 to go to 550. That's because we have 60 musicians --
12 40-something musicians plus the staff and -- and group that
13 monitor them. So we're asking to extend a little bit.

14 And I hope that the Commissioners, Chairman and
15 Director can look at this as a one-instance case where a
16 professional group is coming in to do this work.

17 I've been before you many times. I created
18 Fleetwood's of -- on Front Street for Mick. I know -- I
19 know what you guys are looking for and how to maintain it.
20 I personally will be there from before setup to after
21 closing.

22 Everything that we're asking for is within the
23 licensed restrictions that are put on us. We're going not
24 to 12:30, but to 10:00. We've cut it off right then.

25 And I can promise you all that we will not have

1 pony rides or prostitutes.

2 MR. GROSS: In addition to that, we're also going
3 this year with something we haven't done in the past which
4 is, basically, going above and beyond, is not allowing any
5 alcohol in the restaurant area, and just having that as a
6 dance floor. Actually, the dance floor doesn't even take up
7 the entire restaurant area, but no alcohol be permitted into
8 the restaurant area. Looking at these past violations, it
9 sounds like a lot of them are with aisles and walkways. By
10 extending the area, that's going to help us to not break any
11 of those laws.

12 Porta-potties as well. We've had a violation with
13 that. This year, we'll plan to have them clearly marked.
14 And not changing anything regarding the ready -- the
15 restrooms that are already there.

16 MR. TODD: And I talked to the owner about this.
17 Because this is a lot of violation. And it's -- it's
18 tainting type violation, when you read it. And I asked him
19 to explain, because he's not a bad guy. And I asked him to
20 explain why this was going on. And he started going through
21 things like -- it seems to me he wants to do the right
22 thing. He had too many women, so he said let's make the
23 men's a women's bathroom, and designate the porta-potties
24 for only men and put a monitor there. Well, he didn't
25 realize that you have to put the sign on top of that, so he

1 got a sign violation. And I see a lot of those kinds of
2 things.

3 I also see really serious things that LC has found
4 and -- and is trying to enforce. And I can only say to
5 those serious things that I can promise that our team will
6 be on site for this one event that we're asking for the
7 extension for today. And I hope you choose to grant it.

8 CHAIR TANAKA: Before we go on, let me ask you,
9 you represent Mr. O'Dwyer?

10 MR. GROSS: I represent Mr. O'Dwyer.

11 CHAIR TANAKA: You represent Mr. O'Dwyer. So
12 whatever you say goes, then?

13 MR. GROSS: I'm sorry?

14 CHAIR TANAKA: Whatever you say, we can hold it to
15 the licensee, then?

16 MR. TODD: Whatever you commit to, they can rely
17 on.

18 MR. GROSS: Yes. That's correct.

19 CHAIR TANAKA: Let me ask you this: It seems like
20 the violations here are repeat violations. To me, when I
21 look at it, it seems like he doesn't care.

22 MR. GROSS: I understand.

23 CHAIR TANAKA: You know, he not doing nothing
24 about it, you know. And it's only a couple, few months --

25 MR. GROSS: With this --

1 CHAIR TANAKA: -- between the -- these violations.

2 MR. GROSS: Yes, I agree. With this --

3 CHAIR TANAKA: Why?

4 MR. GROSS: -- permit --

5 CHAIR TANAKA: Why?

6 MR. GROSS: I know that with this permit that
7 we're asking for today, it complies with all the laws. And
8 it actually -- with the extension of licensed premises, it
9 will enable us to abide by those laws.

10 MR. TODD: Chairman Tanaka is asking specifically
11 why.

12 CHAIR TANAKA: Yeah. Yeah, why --

13 MR. TODD: Why he's doing this.

14 CHAIR TANAKA: -- you guys continue to have these
15 violations? Seems like, you know, you guys not doing
16 anything to curb these violations. Guys taking they drink
17 and walking --

18 MR. GROSS: I understand.

19 CHAIR TANAKA: -- to the parking lot or wherever.

20 MR. GROSS: Absolutely. I think that another
21 issue that has been happen in the past --

22 CHAIR TANAKA: The issue has been happening the
23 last, what, 15 years, seems like.

24 MR. GROSS: Yes. I personally have worked at
25 Mulligan's for the last -- last year. And I've been there

1 for these 17 violations. I will say that I believe that a
2 large portion of the violations have come from
3 understaffing, which has never happened during a Zeptember
4 event. I was there for Zeptember last year. There was no
5 violations last year during the event. This year, we plan
6 to have two managers on duty in addition to 25
7 front-of-house employees in addition to 10 security guards
8 to ensure that there's no drinks brought outside the
9 premises, no drinks brought into the restrooms, no smoking
10 or vaping, which is some of the things that we've been --
11 had violations in the past.

12 COMMISSIONER UMENO: What about reducing the
13 amount of attendees?

14 MR. GROSS: We plan -- we would like to extend the
15 premises --

16 COMMISSIONER UMENO: But you can't control it.

17 MR. GROSS: I'm sorry?

18 COMMISSIONER UMENO: It looks like you can't
19 control it.

20 MR. GROSS: I understand that, the way it looks on
21 paper, 100 percent. By extending the perimeter --

22 COMMISSIONER UMENO: It's not on paper; it's real.

23 MR. GROSS: No. Absolutely.

24 COMMISSIONER UMENO: Yeah.

25 MR. TODD: I think this is a special circumstance.

1 I think the violations are occurring during almost
2 exclusively regular or non-special permitted programs, so
3 their employees are down in number. And they get swamped
4 with something, they can't handle it, they call their
5 people, they come in later, and they have problems. I think
6 that when you look at the special permit -- that's why I'm
7 coming back to this is the seventh year -- we don't have
8 violations that I'm aware of on any September evening
9 because we're bringing in 10 security and tons of extra
10 personnel and extra LC card-holding management. I -- I
11 think that we can cover this. And it's very separate from
12 all of those violations.

13 COMMISSIONER UMENO: You knew about the
14 violations?

15 MR. TODD: Completely, yeah.

16 COMMISSIONER UMENO: Why are you -- why don't you
17 move the venue to someplace else?

18 MR. TODD: The -- the idea here is a for-community
19 charity enjoyable event. I looked at a number of places.
20 And I have KAOI, who is the major sponsor, Ruth O'Keefe.

21 MS. O'KEEFE-TODD: Good morning.

22 MR. TODD: Fair warning, she's also my wife now,
23 because I met her here and fell in love. And none of you
24 can have her. You know, guys, you can actually get married
25 and love the wife that you married. It's amazing. Ruth is

1 the deejay from 2:00 to 6:00 p.m. drive time on KAOI, and
2 has conceived this event.

3 It's a tribute to Zeppelin that is so good in its
4 musicality that Fleetwood came in and performed at it last
5 year. And just wanted to drop in and play with these band
6 members. They get paid \$50 a song. And that's nothing for
7 these guys. There are some 40 of them that actually
8 perform. That group practices for months in advance to do
9 perfection of something artistic. Overages of money are
10 given to charity. So -- and they've done that each year.

11 I look at going to somewhere else. And,
12 Commissioner, I can go to the MACC and I have a sterile
13 environment. Here, I have a box, if you look at the
14 diagram, where we're not going to allow any drinking this
15 year. The stage goes back. They use that stage every
16 night, Willy K is on one night, there's a magician, Brenton,
17 on another night. So the group is on the normal stage.

18 The sound and lighting is normal, so it's not
19 going to be obtrusive or annoying to the neighborhood. It
20 stops at 10:00 on the dot.

21 Because of that environment, you have a group of
22 people watching rather than really dancing. And that's
23 always what Zeptember has been. It's been this tribute to
24 the people who love that, you know, seventies'ish music.
25 And I don't know where else to do it.

1 I proposed doing it at the theater. I'm also,
2 currently, the VP of the Maui Theatre. But how do I put
3 this type of an event that's got vibe in it and is so sort
4 of Mauiesque in its -- in its vibe and feeling in a
5 theatrical area.

6 It also has seven years of history -- or six prior
7 years of history in this location, so moving it is
8 potentially damaging.

9 Then, again, I have to look at these things and
10 go, "I have to sit in front of the LC and beg for a permit
11 on this, and try and hope that they trust my history of
12 being on the island and doing good events here."

13 So I leave it in your hands. I can't -- I can't
14 speak for Mr. O'Dwyer on this other than for -- to say
15 that -- to answer your direct question, Chairman. He felt
16 stung and he was upset by it, and so he went into a hole.
17 And my suggestion to him, when we talked, is, "Go get a
18 lawyer and talk to the lawyer and find out what you have to
19 agree to and pay the fines. You're wrong, you know. If you
20 think you're right, then go fight it."

21 And I guess he's looking at -- at making that
22 move, but I hope that those things are separated from this
23 one request for permit. And I understand your situation.

24 COMMISSIONER WEST: I have some questions.

25 MR. TODD: Yes, Commissioner.

1 COMMISSIONER WEST: So exactly what -- number one,
2 what exactly -- how are you going to -- how are you going to
3 prevent kids from being served? What are you going to do --

4 MR. TODD: Okay.

5 COMMISSIONER WEST: -- to do that? That's just
6 one.

7 MR. TODD: So there's only one point of entry to
8 Zeptember, and there always has been, and it's up the side.
9 You have to get in the line and wade into that. To get into
10 Zeptember there are only two ways do it; you had to have had
11 a prepurchased ticket online which is numbered and ID'd, or
12 you can buy at the door if tickets are available. We have
13 three security that pre-card the line, physically looking at
14 the -- at the driver's license. It's got to be Hawaii. If
15 it's not Hawaii, we don't play with it because we don't like
16 the fake liquor [sic] license potential. They then have a
17 special band provided by Bud, they band those people, but
18 they're the only three guys that have that band. When they
19 come up with the band on -- it's 21 and over only, no
20 exception. When they come up with the band on, we have a
21 scanner on our cell phones that goes to the event ticketing
22 system. 95 percent of the people are pre -- prepaid. So we
23 have their name, their phone number, their address, their
24 credit card. We know who they are. They verify who they
25 are with their printout ticket. We scan the ticket to

1 verify it, that kills the ticket in the system, they can't
2 come back in again. Even in one minute, one second.
3 It's -- it's realtime. So I believe that we're really good
4 with that. Then we've got seven other patrol looking for
5 those wristbands. And we hunt people who took the
6 wristbands off and taken them back out to the front, we have
7 to look them up in the dead system, bring 'em back up,
8 verify 'em with their driver's license again and do it. I'm
9 personally -- I -- I feel the liability as a producer for
10 this. And it's not -- it's just not worth a \$45 ticket, you
11 know.

12 COMMISSIONER WEST: Right. Thank you.

13 MR. TODD: Or the LC violation, for that matter.

14 COMMISSIONER WEST: The second one is overservice.
15 How are you -- how are you going to prevent that?

16 MR. TODD: I don't believe in it, sir.

17 COMMISSIONER WEST: Okay. All right. Good.

18 MR. TODD: We've never had -- I -- I can tell you
19 that LC has been out in force at this event in the past. I
20 have seen the owner, O'Dwyer, monitor this with his life.
21 He's worried about drunken behavior leading to a death.
22 It's not really a drunk and disorderly event.

23 COMMISSIONER WEST: Right.

24 MR. TODD: It's never been one. I don't -- have
25 any of the commissioners actually been there? Because they

1 could -- I guess not. All right. For \$45, we have a great
2 event. The -- the value of this is the artistic rendition.
3 A lot of the people that are coming are truly friends, fans
4 and family. They don't get too drunk. They don't get
5 wildly high and come in here. We had three people last
6 year -- I was at the door last year as well -- who I felt
7 were pre-inebriated. I didn't let them in. We just
8 refunded them in cash there, took their tickets back and
9 didn't let them in. So I have too much at stake here in
10 reputation and the history of the event and the musicians
11 separate from the licensing property.

12 COMMISSIONER WEST: So the other one is as far as
13 adequate parking. Do you think you have adequate parking
14 for this event?

15 MR. TODD: We know we do from the past. We -- we
16 have told people in the past, in our notices, that if they
17 don't come early for parking that they should park at a
18 hotel and then come over via cab. We also monitor people
19 going out and we look for drunk and we will pull them and
20 call cab for them. And we -- I did two cabs last year was
21 it. We had two cabs. And those were marginal. And that
22 wasn't a wild crazy case. So I feel like we understand it.

23 The good part about Mulligan's is that you really
24 only got two ways to get out of that place. And we're
25 really on those two ways, which is great because there's no

1 secret passageway to escape.

2 COMMISSIONER WEST: So then the last question is
3 regarding -- you had, basically, said you had managers that
4 are going to have manager cards. So how many -- how many of
5 those, they're not going to be serving alcohol, they're just
6 going to be monitoring --

7 MR. TODD: Just eyes.

8 COMMISSIONER WEST: -- this area?

9 MR. GROSS: That's correct.

10 COMMISSIONER WEST: Okay. How many extra -- how
11 many extra managers?

12 MR. TODD: Two extra.

13 MR. GROSS: Two managers.

14 MR. TODD: Two managers.

15 MR. GROSS: Two managers on the floor the entire
16 event, not serving, just monitoring.

17 MR. TODD: I want to state that, without the 10
18 security, the extra managers, et cetera, et cetera, we're
19 talking about a differential of 63 people in the request by
20 extending the area, which is really to allow for the egress
21 and lack of blockage. They do those numbers, anyway.
22 They're running the 500 people at a Willy K or the magic
23 show often during the winter and -- and -- and season. So
24 it's a small number that -- we're not -- I can't ask you to
25 look at it as, oh, we're asking, instead of having 300

1 people come in, that there's 2,000 people. It's the
2 difference between already being licensed for 487 and going
3 to 550, which is 63 more bodies. And to do that, we're
4 opening this area up, which gives us the egress that I think
5 we really need so that we don't have more of those blocked
6 issues. And I agree with that safety need.

7 COMMISSIONER WEST: So --

8 MR. TODD: And there is food served, so it's --

9 COMMISSIONER WEST: I got it. I mean, I'm -- my
10 whole life has been food and beverage. I was a bartender, I
11 was a server. I have done this kind of stuff. And, you
12 know, given the circumstances that you have here, I think,
13 you know, I would like to put -- I would -- number one, I
14 would like to approve it, but I would like to ask that you
15 put on two more managers, you know, as a good faith effort
16 to show --

17 MR. TODD: Can we do that?

18 MR. GROSS: Four managers total?

19 COMMISSIONER WEST: -- this Commission you are
20 dedicated --

21 MR. TODD: Four managers total.

22 MR. GROSS: We can do that.

23 COMMISSIONER WEST: -- dedicated to preventing
24 any -- any future incidents.

25 MR. GROSS: Absolutely. 100 percent.

1 COMMISSIONER WEST: That's it.

2 MR. TODD: We would agree to that condition.

3 CHAIR TANAKA: Any other questions?

4 COMMISSIONER LEE: I have a question on the
5 barricade. What kind of barricade are you intending to --

6 MR. GROSS: So it's a metal fence that connects
7 quite heavy structures.

8 COMMISSIONER LEE: So no chance of crashes?

9 MR. GROSS: No. No, definitely not.

10 MR. TODD: We might electrify it.

11 COMMISSIONER ALULI: I've got a question, Chair.
12 You've held this program six years previously? And you have
13 no other violations at -- at -- at Mulligan's, right?

14 MR. TODD: Correct.

15 COMMISSIONER ALULI: And there have been no --

16 MR. TODD: To the best of my knowledge.

17 COMMISSIONER ALULI: I see no violations --

18 MR. TODD: There are not on these dates.

19 COMMISSIONER ALULI: -- based on your previous --

20 MR. TODD: Correct.

21 COMMISSIONER ALULI: -- productions, which speaks
22 well for you. That means that at least you've provided what
23 you say you're going to provide to make sure that there --

24 MR. GROSS: That's true.

25 COMMISSIONER ALULI: -- aren't the kind of

1 intrusions that are taking place.

2 MR. TODD: Thank you, Commissioner.

3 COMMISSIONER ALULI: So I see that in your favor.
4 I would just make a comment for Mulligan's that one of the
5 things that you need to address is you've got systemic
6 problems. You need a really, really good sound training
7 program in place to make sure that it doesn't happen again.

8 MR. GROSS: I agree.

9 COMMISSIONER ALULI: To have you come in front of
10 all the commissioners here with this number of violations --

11 MR. GROSS: Absolutely.

12 COMMISSIONER ALULI: -- you got to realize -- the
13 owner has got to realize these are really serious.

14 MR. GROSS: Yeah. And he does. And he does.
15 It's been a hard year for him.

16 COMMISSIONER ALULI: I hope so. There's a real
17 training problem.

18 MR. GROSS: I would agree.

19 COMMISSIONER ALULI: Pretty obvious because they
20 recur over and over.

21 MR. TODD: It's the same thing over and over.

22 COMMISSIONER ALULI: Over and over again. That's
23 got to stop.

24 MR. GROSS: Yeah. Since we've had these
25 violations, we have made -- made some progress with that,

1 for sure. And just making our staff more aware of what's
2 been going on with these violations and --

3 MR. TODD: I've had serious conversations with him
4 over the past two weeks about this based on my experience
5 with Fleetwood's. And I'll tell you, he's starting to get
6 the picture. I -- I --

7 COMMISSIONER ALULI: Yeah.

8 MR. GROSS: Yeah.

9 COMMISSIONER KENNISON: He's not making his staff
10 more aware. I think he don't have enough staff.

11 COMMISSIONER WEST: Yeah. I think that's --

12 MR. TODD: He's at his -- he's at his last leg.
13 And he doesn't want to close this place, so he understands
14 that he has to remove his feelings and simply comply with
15 the law. And I think he had a problem for a couple of
16 years. I mean, this gentleman, I think, is really good.
17 And I know a lot of the card-carrying managers on this
18 island. He really gets it. In phone conversations we've
19 had over the past couple of days and weeks, he understands
20 every question that I ask him and he's giving me the right
21 answer. So I feel really comfortable with that.

22 I can tell you that, last year, they didn't have a
23 man like this entrenched. And I think that it's all about
24 the managers in these places. And you've been there, the
25 manager, it just takes it right down. And that's -- that's

1 the words.

2 It's, also, about the owner. And I think the
3 owner has been ignoring this issue, making the claim that,
4 oh, everybody is against me. Well, LC has got a job to do.
5 And, frankly, if there are six million people that pass
6 through those doors during this period of time of his
7 license, which is roughly the math I did, for what he's
8 done, he's got too many violations. And LC is catching 'em,
9 which is their job, it's what it's supposed to do and ensure
10 safety for the public. So if he doesn't take this
11 seriously, he -- he doesn't have a lot of more strikes to
12 go. And I think I have gotten him to understand that.

13 CHAIR TANAKA: I have one question. What
14 guarantee do you have that you won't have any violations?

15 MR. GROSS: If we extend the perimeter, there
16 should be no issue with aisles and walkways. If somebody is
17 caught smoking, they're kicked out. No one is getting in if
18 they're under 21. There's 10 security. If somebody goes
19 into the bathroom with a drink, it's not gonna happen,
20 there's going to be two security right by the bathrooms.
21 We're doing everything that we can.

22 MR. TODD: I -- I can't guarantee it. I can't
23 guarantee it, Chairman. I can -- I can vouch safe for the
24 Commission that I will make sure that the major violations
25 do not occur. I see this as my watch. If a bathroom sign

1 isn't changed, if a guy pulls out a vape and -- and LC is
2 there and sees it before we see it, that can happen. And I
3 can't guarantee that. And it's getting tougher and tougher
4 now to guarantee things like the vape coming out of the
5 pocket, you know. Are there gonna be drunk and disorderly?
6 No. Are there gonna be double service, two glasses in front
7 of one person at one time, overservice? No. And he and I
8 together, between the production team and managers -- and I
9 think, Commissioner West, it's a good idea to add and
10 require extra managers because the area is wide. The two
11 managers could go this way, but two more would go that way.
12 We should be able to nail it with that. I think that's
13 smart.

14 CHAIR TANAKA: My concern is that, you know,
15 because of all these violations, it seems like, you know, he
16 doesn't care.

17 MR. GROSS: No. I understand how it looks.

18 CHAIR TANAKA: The last time -- the last time he
19 was before the Commission -- and this was for another
20 entity -- he made a comment that Mulligan's, if I not
21 mistaken, was on a month-to-month lease. Am I correct?

22 MR. GROSS: I am not sure.

23 CHAIR TANAKA: You know, that -- that eventually,
24 they gonna close that place up. So my concern is, eh, even
25 if you get a violation, he don't give a damn.

1 MR. GROSS: Who cares, I understand.

2 MR. TODD: Oh, I disagree.

3 CHAIR TANAKA: I'm gonna move out of there. So,
4 you know, that's our concern.

5 MR. GROSS: Absolutely.

6 MR. TODD: Chair Tanaka --

7 CHAIR TANAKA: That's why --

8 MR. TODD: -- I can tell you --

9 CHAIR TANAKA: -- we're looking for some kind of
10 guarantee.

11 MR. TODD: He's -- he has just struck a deal with
12 the theatre for a program that is, by contract, months long.
13 So every Saturday, there is going to be an unplugged Elvis
14 type thing that comes from Maui's Theatre based on Darren
15 Lee, who is currently there with the Burn'n Love Show. So
16 he has no intention of closing rapidly based on that
17 contract. There's no point in him creating that contract if
18 he intended to close.

19 MR. GROSS: Yeah.

20 COMMISSIONER WEST: What charities will benefit
21 from this?

22 MR. TODD: Ruth, do you want to describe that?
23 Come on up here to the microphone. Sorry, you have to.
24 I'll let you have the chair.

25 MS. O'KEEFE-TODD: Hello. This year, we're

1 looking at Aloha --

2 CHAIR TANAKA: Can you state your name, please?

3 MS. O'KEEFE-TODD: Oh. Ruth O'Keefe --

4 CHAIR TANAKA: Thank you.

5 MR. TODD: Todd.

6 MS. O'KEEFE-TODD: -- Todd. This year, we're
7 looking at Aloha Cancer Project, which was founded in
8 Honolulu earlier this year by two people that have suffered
9 with cancer and found other ways to help people. It's not
10 necessarily through the medical system, but through other
11 healing things that they do like delivering organic
12 groceries and bringing music to people on disks and things
13 that they can deliver to the home. So they need some help
14 in getting their things out to the people.

15 COMMISSIONER WEST: Thank you.

16 MS. O'KEEFE-TODD: Thank you.

17 CHAIR TANAKA: Thank you.

18 COMMISSIONER ALULI: I have a question, Chair.

19 What would happen if the Commission denied the permit? What
20 would you do?

21 MR. TODD: We would go ahead with exactly what has
22 been planned and -- and is already promoted because of the
23 timing. And we would limit to 487, including the musicians,
24 tech, security, et cetera. We would get -- you know what, I
25 would -- I would keep those two extra managers even if they

1 denied, because I think it's a good idea.

2 MR. GROSS: Yeah.

3 MR. TODD: So we would have an upside down year
4 for the first time, probably, financially. And that's it.
5 We would just go ahead without having the extra perimeter.
6 It would be tougher to do because we know we'll pack it.
7 And having that breathing room helps with the egress and
8 entrance and the non-blockage of spaces. But everything
9 else that you're concerned about would go on because it's
10 not prohibited under its regular license. It's a really
11 good question.

12 MR. KUSHI: Mr. Chair, a couple questions. One
13 for the licensee. I'm looking at Mr. O'Dwyer's undated
14 letter to the Department. And he says -- and he has a
15 sketch for the dance floor.

16 MR. GROSS: Uh-huh.

17 MR. TODD: Uh-huh.

18 MR. KUSHI: And it's 14 by 32 feet. But you said
19 the dance floor will be the entire restaurant?

20 MR. GROSS: No. No, absolutely not. So there's
21 the inside area at Mulligan's. That -- the dance floor is
22 not going to even take up that whole space. But we're not
23 allowing any drinks in that room, just to prevent someone
24 from dancing --

25 MR. KUSHI: So the dance floor will be 14 by 32?

1 MR. GROSS: That's correct, yes.

2 MR. KUSHI: Okay.

3 MR. GROSS: We're just not permitting any drinks
4 into that whole room.

5 MR. TODD: Last year, we did have the drinks in
6 the room.

7 MR. GROSS: Yeah.

8 MR. TODD: It didn't feel right. I was worried
9 that -- every second that somebody might spill or we might
10 have a slip and fall. So we talked about it and said, look,
11 you come into the area -- because they don't really dance,
12 they kind of do this, right, in -- in a group. And you come
13 into this area, we're going to -- we're going to take
14 that -- and I know, how you do this in the -- I bounced.

15 CHAIR TANAKA: Okay. Thank you.

16 MR. KUSHI: Question for the staff. This is a
17 special event under their license? I mean, have they been
18 coming in every -- for the last eight years?

19 MS. YOSHIZAWA: No.

20 MR. KUSHI: I don't recall them coming in.

21 MS. YOSHIZAWA: They have not.

22 COMMISSIONER ALULI: It's only for the extension.
23 That's what this is all about, correct?

24 MS. YOSHIZAWA: No. The licensee does have a
25 condition --

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COMMISSIONER ALULI: Right.

MS. YOSHIKAWA: -- placed on their license that any special event outside of the New Year's Eve, St. Patrick's Day, those listed, that they need to come before the Commission for approval.

MR. TODD: They should have -- they should have come before the --

MR. GROSS: Is that any live music?

MR. TODD: Well, it's any special event, which becomes a very difficult thing.

MR. GROSS: Yeah.

MR. TODD: Like is Willy K on Wednesdays a special event, and that would be up for LC to decide.

CHAIR TANAKA: That's not a special event because it's a weekly thing, huh?

MR. TODD: This is an annual thing.

CHAIR TANAKA: Yeah. Is that an annual thing, once a year, Willy K?

COMMISSIONER ALULI: No.

MR. TODD: No, no, no. Willy K would be weekly; this would be annually.

CHAIR TANAKA: It's not a special event; yours is a special event.

MR. KUSHI: The special event is based on the

1 extension of the premises, correct?

2 MR. GROSS: That was my understanding.

3 MR. TODD: That's our understanding.

4 MS. YOSHIKAWA: No. The special event is for the
5 event itself to take place in the licensed premises. What
6 they're asking in addition is all those things, the portable
7 bar, the extension of licensed premises, to install
8 porta-potties to support. Because the restrooms aren't part
9 of the licensed premises; they are actually granted approval
10 by the landlord to use those common area restrooms that's
11 below the clubhouse. So the installation of porta-potties
12 and stuff would require additional clearances maybe from
13 Department of Health, also.

14 MR. KUSHI: Correct. But what I'm saying, if they
15 wanted to proceed with the event without this Commission --
16 let's say this Commission says no, they can still proceed
17 with the event, but they will be confined to the regular
18 premises, correct?

19 CHAIR TANAKA: Yeah, I think that's the definition
20 of a special event now.

21 MR. KUSHI: No.

22 CHAIR TANAKA: If you consider that a special
23 event.

24 MR. KUSHI: If they'll still -- still be confined
25 within the hours and -- and the perimeter of -- of the

1 regular Mulligan's operations, it's not a special event.
2 You can't have no porta-potties there, they can't have no
3 temporary bars, they can't have any barricades.

4 CHAIR TANAKA: So, basically, Mulligan's special
5 event is only that St. Patrick's, Cinco de Mayo, whatever it
6 is, the one the Commission approved previously, yeah?

7 DIRECTOR MUKAI: Yes.

8 CHAIR TANAKA: Yeah.

9 DIRECTOR MUKAI: Anything other than that, they
10 have to come before the Commission.

11 MR. KUSHI: So they've been -- they been operating
12 illegally for the past eight years, then. Every September,
13 they --

14 MR. TODD: Well, it --

15 CHAIR TANAKA: Every September, you have this.

16 MR. TODD: Every September, we've had it there. I
17 mean, they just did a fight night. You know, if -- if
18 there's a game on, is that a special event because it's only
19 once a -- I mean, if they stay within their perimeter -- I
20 don't know, I leave that to you guys. I leave that to you
21 guys.

22 MR. KUSHI: No. I'm just --

23 MR. TODD: If you tell us that that -- you don't
24 grant this and that we cannot do it, we would cancel this
25 event.

1 MR. KUSHI: No. You can do it, but you got to do
2 it within the confines of Mulligan's.

3 MR. TODD: We would expect to do that. And we
4 would put on the extra two people that Commissioner West is
5 suggesting. Because even if we don't get the extension, I
6 think it's a very smart idea for simple -- simple
7 compliance. I -- I hope that you don't penalize this event
8 because of the venue.

9 CHAIR TANAKA: That's what we're looking at,
10 that's why, because of the venue's --

11 MR. TODD: History.

12 CHAIR TANAKA: -- history, yeah, and the
13 reputation.

14 MR. TODD: I see, Chairman.

15 CHAIR TANAKA: You know, we hate to get
16 criticized, the Commission approving something when this guy
17 been doing all this all these years, you know. So that's
18 why I'm saying, what's your guarantee. Are you willing
19 to -- are -- are you willing to go one step forward and say,
20 if you have a violation that Commission will cancel your
21 license?

22 MR. GROSS: I -- I can't say that, absolutely not.
23 If someone -- like I said -- like Jonathan said, if someone
24 pulls out a vape or lights up a cigarette while Liquor
25 Commission is there and sees it before the security sees it,

1 even though there's 10 security there, with four managers on
2 the floor, and when we get a strike for that --

3 MR. TODD: But what about a major -- that's not an
4 unreasonable request in the major situation. Are we -- can
5 we guarantee that you will not over-serve?

6 MR. GROSS: Oh, we won't over-serve. However,
7 if --

8 MR. TODD: If you over-serve, can they pull your
9 license?

10 MR. GROSS: If someone goes into the bathroom and
11 takes some illegal drugs, comes out and is belligerent, and
12 Liquor Commission sees this, again, before -- in the split
13 second before the security sees it, you know, that -- that's
14 a major violation. So to say to cancel the license because
15 of a situation that may occur, which even though we're doing
16 everything possible to -- to prevent, you know --

17 MR. KUSHI: I think that's beyond the scope of
18 this.

19 COMMISSIONER KENNISON: Yeah, I think so, too.
20 I -- I think Mulligan's would have to answer to the
21 Adjudication Board on their violations. I think that's the
22 way it should be.

23 COMMISSIONER SOUZA: I would just like to say
24 that, as a Commission, we have the responsibility of public
25 safety.

1 MR. GROSS: Absolutely.

2 COMMISSIONER SOUZA: And all of these complaints
3 and stuff that came in here about the neighbors, we gotta
4 help those neighbors out. So that's what my concern is. So
5 the neighbors are gonna see this thing going on, your event
6 going on, go, oh, no, one more big deal, what's with the
7 Commission, why did they allow it.

8 MR. GROSS: Absolutely.

9 COMMISSIONER SOUZA: But with you guaranteeing,
10 then maybe it's okay.

11 MR. TODD: And -- and I like your idea enough that
12 my company will put on two extra personnel from my team as
13 well. So I'll bring in two extra personnel. And we'll --
14 we'll coordinate. We usually have radios or -- or cell
15 walkie-talkies that they can use. So I can add two more to
16 that.

17 COMMISSIONER WEST: I'm just going to say one
18 thing. You know, I've been in the food and beverage
19 industry a long time, I mean, most of my life, a good --
20 good part of it. And, you know, generally, when we have an
21 overservice issue, you know, the employer fires the
22 bartender or something like that. But, you know, I think it
23 really goes back to the culture. And, you know, these
24 managers that are floor managers and whatnot, generally they
25 keep their jobs, they stay. But the problem is, on the

1 management side, they're allowing it. They're not --
2 they're hiding in their offices, they're -- they're really
3 not being proactive. I think this Commission needs to look
4 at that because, in the end, you know, they're the ones that
5 are -- that are staying, you know. The bartenders, the
6 servers, they'll lose their job. But if we take away their
7 manager's card, they can't --

8 COMMISSIONER KENNISON: I think -- and I think
9 Mulligan's on the Blue is, basically, economics. They're
10 not staffing they people properly. They're staffing it
11 according to how much patrons they have, then they get
12 overflow patrons, they cannot handle it. So they have very
13 poor, poor management of the operation. Like this -- like
14 this special event a little bit different because they gonna
15 be staffing it properly.

16 COMMISSIONER WEST: So I have a question. If --
17 if -- if there is an overservice issue and -- what action
18 would you take -- what action would you take against your
19 managers and your servers and what --

20 MR. TODD: I would fire them on the spot.

21 MR. GROSS: Yeah. And that -- you have to
22 understand, this is not that kind of an event. This is --

23 COMMISSIONER WEST: Yeah, I know. I understand.

24 MR. GROSS: Yeah. It's --

25 COMMISSIONER WEST: I'm looking for a level of

1 accountability.

2 MR. GROSS: Absolutely.

3 COMMISSIONER WEST: You know --

4 MR. GROSS: Absolutely.

5 COMMISSIONER WEST: -- are you willing to lose
6 your job if there was an overservice issue? I mean, I'm
7 not -- don't answer that, but I'm just saying, this
8 Commission right now, based on the questions that they're
9 asked, you know, they're very -- we're concerned. And
10 that's why I asked you the questions I asked.

11 MR. GROSS: What you're asking is what --

12 COMMISSIONER WEST: Yeah.

13 MR. GROSS: -- what is our accountability. And,
14 yeah, I think that anyone who is over-serving needs to be
15 fired, 100 percent.

16 COMMISSIONER WEST: I think, you know, it comes
17 back to what my brother here talked about is training.

18 MR. GROSS: Absolutely.

19 COMMISSIONER WEST: You know, start -- start a
20 good training program and --

21 MR. GROSS: Yeah, I would agree.

22 COMMISSIONER WEST: -- you know, let's go from
23 there.

24 MR. GROSS: When Mike comes back, I'll -- I'll
25 pass all this information to him.

1 COMMISSIONER WEST: Because he needs to take it
2 serious.

3 MR. GROSS: I totally agree, yeah.

4 COMMISSIONER WEST: Anyway, I have a motion to
5 make.

6 CHAIR TANAKA: Any other questions? Okay. Let's
7 have a motion.

8 COMMISSIONER WEST: Okay. Kari, you're gonna
9 probably have to help me with this, but I move to approve
10 the change in the license and extension of the premises for
11 Mulligan's on the Blue.

12 CHAIR TANAKA: Wait. Wait. Excuse me. You
13 approving the special permit.

14 COMMISSIONER WEST: Yes, special permit.

15 CHAIR TANAKA: Not changing license.

16 COMMISSIONER WEST: Okay. And then with the
17 condition of you adding more managers, two more managers.

18 COMMISSIONER KENNISON: Second.

19 CHAIR TANAKA: Okay. Any discussion? If not, all
20 in favor, say "aye."

21 (Response.)

22 CHAIR TANAKA: Opposed, "no."

23 (No response.)

24 CHAIR TANAKA: Okay. Motion carried.

25 MR. TODD: Thank you, Commission.

1 CHAIR TANAKA: Hopefully, we don't see you guys
2 again under this type of circumstances.

3 MR. TODD: Thank you very much.

4 CHAIR TANAKA: Okay, let's have a five-minute
5 recess before we go on to Licensing Matters.

6 (Recess, 10:15 a.m. to 10:24 a.m.)

7 CHAIR TANAKA: Liquor Commission meeting called
8 back to order. Okay, let's go into Licensing Matters.
9 Public Hearing, application Number 29, Kapalua Kai Sailing
10 Inc.

11 MS. ROBBIN: Good morning. My name is Julie Inca
12 Robbin. And I'm the owner of Kapalua Kai Sailing Inc.

13 CHAIR TANAKA: Thank you. Kari.

14 MS. YOSHIZAWA: Chair and Commission, just let you
15 know, this is a Tour or Cruise Vessel License application,
16 so there is no preliminary hearing. They go straight to
17 public hearing.

18 So Application Number 29, the applicant is Kapalua
19 Kai Sailing Inc., a registered Hawaii corporation, doing
20 business as Hula Girl Sailing Charters, Hula Girl, applying
21 for a Tour or Cruise Vessel License, Category 2.

22 The officer, director and stockholder of the
23 corporation is listed in the investigator's report.

24 Applicant has submitted an executed lease by and
25 between Sailing Maui Inc., lessor, and Kapalua Kai Sailing

1 Inc., lessee, dated August 1st, 2016, continuing five years
2 by mutual agreement.

3 Applicant has submitted a copy of the U.S. Coast
4 Guard Certificate of Documentation dated August 18, 2015.

5 The proposed premises is a 64-foot catamaran and
6 authorized to carry 49 passengers and five crew members.

7 The vessel will be moored at the Mala Wharf Offshore Mooring
8 Area, RM024892, Lahaina, Maui, Hawaii.

9 The toilet facilities are located on the main
10 deck. Liquor will be dispensed from the service area on the
11 main deck.

12 There are 33 licenses of this class and kind
13 currently issued within Maui County. The applicant plans to
14 be open seven days a week, from 7:00 a.m. to 7:00 p.m. The
15 applicant is aware that if they wish to remain during
16 outside of the hours during which a Tour or Cruise licensed
17 premises may be open for the sale of liquor that the
18 premises will need to submit a permit application to request
19 an extension of hours.

20 In the opinion of the investigator, the applicant
21 appears to be fit and proper, and does not appear to be
22 disqualified by any provision as stated within Section
23 281-56, HRS, from obtaining or exercising a license.

24 Julie Inca Robbin is currently an officer,
25 director and shareholder for Crystal Seahorse, Ltd. doing

1 business as Shangri-La Sailing Charters, Shangri-La, Tour or
2 Cruise Vessel, Category 2, Liquor License Number 003. There
3 have been no incidents of liquor law violations. A copy of
4 the past history is attached.

5 Julie Inca Robbin was previously an officer,
6 director and shareholder for Kapalua Kai Sailing, Inc. doing
7 business as Hula Girl Sailing Charters, Tour or Cruise
8 Vessel, Category 2. There were no incidents of liquor law
9 violations. A copy of their past history is attached.

10 All documents necessary for the issuance of a
11 liquor license have not been submitted. Those items are
12 listed in the investigator's report.

13 CHAIR TANAKA: Thank you. Do you have anything
14 else to add?

15 MS. ROBBIN: No, sir.

16 CHAIR TANAKA: Okay. I'm gonna open it to the
17 public since this is a public hearing. Anybody for or
18 against this application? Okay. Seeing none, public
19 hearing closed for this item. Any questions by the
20 Commissioners? Okay. If there's no questions, may I have a
21 motion?

22 COMMISSIONER KENNISON: I move to approve
23 Application 29 conditioned upon the applicant completing the
24 remaining application requirements to the satisfaction of
25 the Department of Liquor Control.

1 COMMISSIONER WEST: Second.

2 CHAIR TANAKA: Okay, moved and seconded. All in
3 favor, say "aye."

4 (Response.)

5 CHAIR TANAKA: Opposed, "no."

6 (No response.)

7 CHAIR TANAKA: Motion carried. Thank you.

8 MS. ROBBIN: Thank you.

9 CHAIR TANAKA: Okay. Let's go on to Preliminary
10 Hearings, Item -- Application Number 01, Three Sons and
11 Associates.

12 MR. LACAP: Good morning.

13 MR. KAWAGISHI: Good morning, Chairman Tanaka and
14 Members of the Liquor Commission. Michael Kawagishi on
15 behalf of Three Sons and Associates, Inc. doing business as
16 Smokehouse BBQ Bar & Grill. And with me today is Jose
17 Lacap, who is the sole officer of the company.

18 CHAIR TANAKA: Thank you. Kari.

19 MS. YOSHIZAWA: Application Number 01, applicant
20 Three Sons and Associates, Inc., a registered Hawaii
21 corporation doing business as Smokehouse BBQ Bar & Grill
22 applying for Dispenser General License, Category C(ii). The
23 officer, director and stockholder of the corporation is
24 listed in the investigator's report.

25 Applicant has submitted a lease by and between

1 Three Sons and Associates, Inc. doing business as Smokehouse
2 BBQ Bar & Grill, lessee, and Robert J. Longhi Trust, lessor,
3 dated August 1st, 2016, continuing month to month and may be
4 terminated with a -- with a 60-day notice from Robert J.
5 Longhi Trust. The applicant is aware an amendment to the
6 lease would need to be submitted on a monthly basis to show
7 exclusive control.

8 The proposed premises, containing approximately
9 2,200 square feet of floor space, is located at 930 Wainee
10 Street, Unit 1, Lahaina, Maui, Hawaii.

11 There are no schools located within a radius of
12 the 500 feet. Kaanapali Beach Ministries is located within
13 a range of 500 feet.

14 Ruth's Chris Steak House is a license of the same
15 class and kind located within a radius of 500 feet. There
16 are three Restaurant General, one Retail General and one
17 Brewpub General license located within a radius of 500 feet.

18 There are 110 licenses of this class and kind
19 currently issued within Maui County.

20 The applicant plans to be open seven days a week
21 from 8:00 a.m. to 2:00 a.m.

22 Jose Manalang Lacap was an officer, director and a
23 shareholder for Three Sons and Associates, Inc. doing
24 business as Smokehouse BBQ Bar & Grill, Number 069. There
25 are no incidents of liquor law violations. A copy of their

1 past history is attached.

2 All documents necessary for the issuance of a
3 liquor license have not been submitted. Those items are
4 listed in the investigator's report.

5 CHAIR TANAKA: Thank you. Mike, you get anything
6 else to add?

7 MR. KAWAGISHI: Yes. I do not quite agree with
8 the lease -- the -- where it says the applicant is aware an
9 amendment of lease will need to be submitted on a monthly
10 basis to show exclusive control. The month-to-month lease
11 that they currently hold could go on for the next 10 years
12 as is without any amendment. It is very advantageous to the
13 licensee because it calls for no rent increase and no
14 percentage rent. I feel that, by the licensee having to
15 submit a new lease every month because he does have a
16 month-to-month lease, is unreasonable because the Department
17 currently does not track leases for other licensees. With
18 400-some-odd licensees, I can guarantee that if you go into
19 the files, at least 25 percent of the leases have expired.

20 CHAIR TANAKA: Why -- why you get only a
21 month-to-month lease?

22 MR. LACAP: My landlord, that's what he gave me,
23 month-to-month.

24 CHAIR TANAKA: Then he can kick you out.

25 MR. LACAP: In 60 days, that's what is --

1 CHAIR TANAKA: Yes, 60 days notice.

2 MR. LACAP: Yeah.

3 MR. KUSHI: You know, that being the case, your
4 license would be month-to-month, also. You understand that,
5 right? If you don't have a lease, you don't have a license.

6 MR. KAWAGISHI: Well, the point that I'm trying to
7 make is that the Department doesn't track leases for other
8 places.

9 MR. KUSHI: Yeah. I'm sure in this case it will.

10 CHAIR TANAKA: Why can't you get a longer lease?

11 MR. LACAP: Well, I'm working on my landlord
12 making me a long-term lease.

13 MR. KUSHI: Well, you take your chance. You can
14 take your chances.

15 CHAIR TANAKA: You understand what the attorney is
16 saying?

17 MR. LACAP: Yes.

18 CHAIR TANAKA: Okay. Anything else, Mike?

19 MR. KAWAGISHI: No.

20 CHAIR TANAKA: Okay. I'm gonna open it to the
21 public for any public testimony. Okay, seeing none, any
22 questions by the Commission?

23 COMMISSIONER SOUZA: So if this is granted, will
24 it need to be submitted on a monthly basis?

25 CHAIR TANAKA: Yeah.

1 COMMISSIONER LEE: Yeah.

2 COMMISSIONER SOUZA: That's -- that's just the way
3 we gotta do it?

4 CHAIR TANAKA: Based on the attorney's --

5 MR. KUSHI: No. What I said, Mr. Chair, is his
6 license -- license will be subject to the lease, and the
7 lease is month-to-month. If he loses possession with 60
8 days notice and the Department finds out about it, or the
9 landlord calls the Department saying this guy has --

10 CHAIR TANAKA: Finished.

11 MR. KUSHI: -- no right to possession, then the
12 license is in jeopardy. I don't think the license should be
13 stated on a month-to-month basis, but I'm just advising the
14 applicant that he takes that risk.

15 COMMISSIONER SOUZA: But can we approve for it to
16 go to publication with the month-to-month --

17 MR. KUSHI: Yes.

18 COMMISSIONER SOUZA: -- where he needs to come in
19 every month and show --

20 MR. KUSHI: Right.

21 COMMISSIONER SOUZA: So we got to leave that in
22 there.

23 COMMISSIONER WEST: They have to notify us if
24 there's any change in the lease, right? Am I correct?

25 MS. YOSHIZAWA: Yes.

1 MR. KUSHI: Well, we've had conditions --
2 situations where the landlord notified the Commission. If
3 you guys recall, about that Koa Restaurant, the bar.

4 CHAIR TANAKA: Yeah, that's right. Okay. Any
5 other questions? No. May I have a motion?

6 COMMISSIONER SOUZA: I move to approve Application
7 Number 01 for public hearing and to process the application
8 for publication.

9 COMMISSIONER WEST: Second.

10 CHAIR TANAKA: Okay, moved and seconded. All in
11 favor, say "aye."

12 (Response.)

13 CHAIR TANAKA: Opposed, "no."

14 (No response.)

15 CHAIR TANAKA: Motion carried.

16 MR. KAWAGISHI: Thank you.

17 CHAIR TANAKA: Application Number 02, Nabee Inc.

18 MS. HAN: Good morning. My name's Julie Han --
19 I'm Julie Hyun Sook Han, president of Nabee Inc. I'm here
20 for apply for Dispenser General License, Category C(ii) and
21 D.

22 CHAIR TANAKA: Thank you. Kari.

23 MS. YOSHIKAWA: Application Number 02, the
24 applicant is Nabee Inc., a registered Hawaii corporation,
25 doing business as Poni, applying for a Dispenser General

1 License, Category C(ii)/D. The officer and director of
2 the -- of the corporation is listed in the investigator's
3 report.

4 Applicant has submitted an executed lease by and
5 between Puuone Development, a Hawaii limited partnership,
6 lessor, and Nabee Inc. doing business as Poni, a Hawaii
7 corporation, lessee, dated June 28, 2016, for a term of five
8 years, beginning August 1st, 2016.

9 The proposed premises, containing approximately
10 1,225 square feet of floor space, is located at 1063 Lower
11 Main Street, C-108 and C-109A, Wailuku, Maui, Hawaii.

12 There are no schools or churches located within a
13 radius of 500 feet.

14 Club Koreana Arirang 1, Mimi's Lounge, Club AGA-C,
15 Tokyo Tei, Club Hemi's, L'ava's Sportsbar & Karaoke are
16 licenses of the same class and kind located within a radius
17 of 500 feet.

18 There's one Retail General license located within
19 a radius of 500 feet. There are 110 licenses of this class
20 and kind currently issued within Maui County.

21 The applicant plans to be open seven days a week
22 from 1:00 p.m. to 2:00 a.m.

23 In the opinion of the investigator, the applicant
24 appears to be fit and proper, and does not appear to be
25 disqualified by any provision as stated within Section

1 281-56, HRS, from obtaining or exercising a license.

2 All the documents necessary for the issuance of
3 liquor license have not been submitted. Those items are
4 listed in the investigator's report.

5 CHAIR TANAKA: Thank you. Do you have anything
6 else to add?

7 MS. HAN: No. I keep the same as everything, the
8 previous bar, Min Dulle.

9 CHAIR TANAKA: I'm gonna open it to the public.
10 Any public testimony? Okay. Seeing none, any questions by
11 the Commissioners?

12 COMMISSIONER UMENO: This is a hostess license?

13 CHAIR TANAKA: Yeah. Okay. If there's no
14 questions, may I have a motion?

15 COMMISSIONER KENNISON: I move to approve
16 Application Number 02 for public hearing and to process the
17 application for publication.

18 COMMISSIONER WEST: Second.

19 CHAIR TANAKA: Moved and seconded. All in favor,
20 say "aye."

21 (Response.)

22 CHAIR TANAKA: Opposed, "no."

23 (No response.)

24 CHAIR TANAKA: Motion carried. Thank you.

25 MS. HAN: Thank you.

1 CHAIR TANAKA: Application Number 03, Wailea Golf
2 LLC.

3 MR. NAKAMURA: Good morning again, Mr. Chair,
4 Members of the Commission. Craig Nakamura, attorney on
5 behalf of the applicant. And with me is Mr. Barry Helle,
6 who is the applicant's representative.

7 CHAIR TANAKA: Thank you. Kari.

8 MS. YOSHIKAWA: Application Number 03, the
9 applicant is Wailea Golf LLC, a registered Hawaii limited
10 liability company, doing business as "To Be Named" applying
11 for a Dispenser General license, Category C(ii).

12 The member and manager of the manager-managed
13 limited liability company is listed in the investigator's
14 report.

15 Applicant has submitted a limited warranty deed
16 and quitclaim of easements by between Wailea Golf Resort,
17 Inc., grantor, and Wailea Golf LLC, grantee, dated October
18 1st, 2003.

19 The proposed premises, containing approximately
20 3,246 square feet of floor space, is located on the second
21 floor of the Wailea Tennis Club Building at 131 Wailea Ike
22 Place, Wailea, Maui, Hawaii.

23 There are no schools or churches located within a
24 radius of 500 feet.

25 Matteo's Osteria is a license of the same class

1 and kind located within a radius of 500 feet.

2 There's one Retail General license located within
3 a radius of 500 feet.

4 There are no Hotel licensed premises within a
5 radius of 500 feet.

6 There are 108 licenses of this class and kind
7 currently issued within Maui County.

8 The applicant plans to be open seven days a week
9 from 10:30 a.m. to 9:00 p.m.

10 Anne Matsuko Takabuki is currently a manager at
11 the Wailea Old Blue LLC doing business as Manoli's Pizza
12 Company, Restaurant General license, Category B(ii).
13 Manoli's Pizza Company has no adjudicated violations on
14 record.

15 In the opinion of the investigator, the applicant
16 appears to be fit and proper, and does not appear to be
17 disqualified by any provision as stated within Section
18 281-56, HRS, from obtaining or exercising a license.

19 All the documents necessary for the issuance of
20 the liquor license have not been submitted. Those items are
21 listed in the investigator's report.

22 CHAIR TANAKA: Thank you. Anything else to add?

23 MR. NAKAMURA: Just for informational purposes,
24 this application is -- this restaurant is the former Joe's
25 restaurant at Wailea. We would be happy to answer any

1 questions.

2 CHAIR TANAKA: Okay. I'm gonna open it to the
3 public. Any public testimony? Okay. Seeing none, any
4 questions by the Commission? Okay. If there's no
5 questions, may I have a motion?

6 COMMISSIONER KENNISON: I move to approve
7 Application Number 03 for public hearing and to process the
8 application for publication.

9 COMMISSIONER WEST: Second.

10 CHAIR TANAKA: Moved and seconded. All in favor,
11 say "aye."

12 (Response.)

13 CHAIR TANAKA: Opposed, "no."

14 (No response.)

15 CHAIR TANAKA: Motion carried.

16 MR. NAKAMURA: Thank you very much.

17 MR. HELLE: Thank you very much.

18 CHAIR TANAKA: Application Number 04.

19 MR. KAWAGISHI: Good morning, Chairman Tanaka,
20 Members of the Liquor Commission. Michael Kawagishi on
21 behalf of the Nutcharee's Authentic Thai Food LLC doing
22 business as Nutcharee's Authentic Thai Food. And with me
23 today is Nutcharee Case who is the sole member of the LLC.

24 CHAIR TANAKA: Thank you. Kari.

25 MS. YOSHIKAWA: Application Number 04, the

1 applicant is Nutcharee's Authentic Thai Food LLC, a
2 registered Hawaii limited liability company, doing business
3 as Nutcharee's Authentic Thai Food applying for a Dispenser
4 Beer and Wine license, Category C(ii).

5 The member of the member-managed LLC is listed in
6 the investigator's report. Applicant has submitted a copy
7 of a tenant lease by and between Ronin Properties, LLC, a
8 Delaware limited liability company, landlord, and
9 Nutcharee's Authentic Thai Food LLC, tenant, effective
10 September 1st, 2015.

11 The proposed premises, containing approximately
12 1,064 feet of floor space is located within the Azeka
13 Shopping Center, at 1280 South Kihei Road, Suite 124, Kihei,
14 Maui, Hawaii.

15 There are no schools, churches or licenses of the
16 same class and kind located within a radius of 500 feet.
17 There are nine Dispenser General, one Restaurant General and
18 two Retail General licenses located within a radius of 500
19 feet. There are seven licenses of this class and kind
20 currently issued within Maui County.

21 Applicant initially plans to be open seven days a
22 week from 11:00 a.m. to 12:00 midnight.

23 Nutcharee R. Case was the member of Nutcharee's
24 Authentic Thai Food LLC doing business as Nutcharee's
25 Authentic Thai Food, Dispenser Beer and Wine, C(ii), Liquor

1 License Number 301. A copy of their past history is
2 attached.

3 In the opinion of the investigator, the applicant
4 appears to be fit and proper, and does not appear to be
5 disqualified by any provision as stated within Section
6 281-56, HRS, from obtaining or exercising a license.

7 All documents necessary for the issuance of a
8 liquor license have not been submitted. Those items are
9 listed in the investigator's report.

10 CHAIR TANAKA: Okay. Mike, you get anything to
11 add?

12 MR. KAWAGISHI: Yes. We would like to request
13 that the applicant not be required to submit the zoning,
14 miscellaneous fire and waste wastewater clearance again
15 since the applicant has recently obtained a new Certificate
16 of Occupancy. What happened in this case was, in the middle
17 of May of this year, the applicant opened for business after
18 receiving her Certificate of Occupancy. And she received a
19 liquor license on May 20th, I believe it was. And came to
20 June 30th, she lost her license because she had a issue with
21 her tax clearance. So her Certificate of Occupancy is
22 really not even six months old. And the Certificate -- new
23 Certificate of Occupancy encompasses the zoning,
24 miscellaneous fire and wastewater clearance.

25 CHAIR TANAKA: Okay. Before we discuss that, I'm

1 gonna open it to the public. Any public testimony? Okay.

2 None. Can she go back to the Department and get it renewed?

3 MR. KAWAGISHI: For the clearances?

4 CHAIR TANAKA: For the CO.

5 MR. KAWAGISHI: That is a brand new CO that was
6 issued.

7 CHAIR TANAKA: Yeah, but --

8 COMMISSIONER LEE: So why isn't it still valid?

9 MS. CASE: We have it.

10 COMMISSIONER WEST: It was the tax clearance that
11 triggered everything?

12 MS. CASE: Yes.

13 MR. KAWAGISHI: Yeah. She had a tax clearance
14 issue.

15 COMMISSIONER WEST: It just took a long time, is
16 that what happened?

17 MS. CASE: They lost my paperwork at the Tax
18 Department.

19 CHAIR TANAKA: So, basically, you're saying the CO
20 is still active, then?

21 MR. KAWAGISHI: Yeah.

22 MS. CASE: Yes.

23 CHAIR TANAKA: So the Commission don't have to
24 make any decision.

25 COMMISSIONER LEE: That's what I'm saying.

1 CHAIR TANAKA: Because we can accept the CO, eh?
2 Why are you requesting that?

3 COMMISSIONER WEST: Yeah.

4 MR. KAWAGISHI: Well, because it's listed on the
5 investigator's report that those items are required.

6 CHAIR TANAKA: Yeah. So don't you have the CO?

7 MS. CASE: We do. I do have.

8 CHAIR TANAKA: Well, you can submit that CO.

9 MR. KAWAGISHI: Department has a company of the
10 CO.

11 CHAIR TANAKA: Well, whatever, whatever, whether
12 they have it or not, but you can submit 'em as part of your
13 application.

14 COMMISSIONER WEST: Glenn, will that be
15 sufficient?

16 CHAIR TANAKA: If it's still active.

17 MS. YOSHIKAWA: We would have to just check and
18 verify the date.

19 COMMISSIONER WEST: Wait. Wait. I asked -- I
20 asked Glenn. He's the Director. Not Kari; Glenn.

21 DIRECTOR MUKAI: Yeah. We're checking if it's
22 still valid from the issuing agency because, at times, they
23 may say it's not valid, they have to come in for a new one.

24 COMMISSIONER WEST: So you're saying no? Yes or
25 no?

1 DIRECTOR MUKAI: We would have to check if it's
2 valid. If it's valid, then we can accept it. If it's
3 not -- when we check with Public Works, and issuing agency,
4 and they say it's not valid, then we required to submit the
5 other requirements.

6 COMMISSIONER LEE: Yeah. It should say here,
7 though, I think.

8 CHAIR TANAKA: Well, the CO was in May, you said
9 you got 'em?

10 MS. HAN: We just got --

11 CHAIR TANAKA: Why can't you go check with the
12 issuing authority?

13 MR. KAWAGISHI: No. I previously checked with
14 them. And they said, as far as they're concerned, it's
15 still valid.

16 CHAIR TANAKA: Well, then --

17 COMMISSIONER LEE: So what's the problem?

18 COMMISSIONER ALULI: If the CO is good, then --

19 CHAIR TANAKA: You have no problem.

20 COMMISSIONER ALULI: -- it should be good.

21 CHAIR TANAKA: Should be.

22 COMMISSIONER ALULI: Yeah.

23 CHAIR TANAKA: Yeah. I don't see -- I don't see
24 any problem. So --

25 COMMISSIONER LEE: Did you submit it with your

1 paperwork?

2 MS. HAN: Yes.

3 CHAIR TANAKA: Just submit it like that.

4 MS. HAN: All of this is -- the new CO is brand
5 new, you know.

6 COMMISSIONER LEE: Right. But did you submit it
7 when you applied?

8 MS. HAN: Yes.

9 MR. KAWAGISHI: Yes, we did.

10 CHAIR TANAKA: Yeah.

11 COMMISSIONER ALULI: I think you covered the
12 bases.

13 CHAIR TANAKA: Should be all right. I don't think
14 -- I don't think the Commission should make an exemption to
15 that. You just submit 'em. And if the CO is valid, fine.

16 COMMISSIONER LEE: The CO has an expiration date
17 on it, right?

18 MR. KAWAGISHI: No.

19 COMMISSIONER LEE: So it's good until situations
20 change in the -- in the actual area.

21 MS. HAN: Yeah.

22 MR. KAWAGISHI: Yeah, I believe so.

23 COMMISSIONER LEE: Yeah. It's good until you make
24 modifications.

25 COMMISSIONER ALULI: Right.

1 COMMISSIONER LEE: Yeah. So --

2 DIRECTOR MUKAI: And at times the -- in the past,
3 the Department, although they issued a CO, the new person
4 come in, they would require a miscellaneous inspection
5 report just to make sure that they go out to check all
6 the --

7 COMMISSIONER LEE: Exactly.

8 DIRECTOR MUKAI: -- things --

9 COMMISSIONER LEE: Yeah.

10 DIRECTOR MUKAI: -- in order.

11 COMMISSIONER ALULI: So the main issue is the
12 CO -- your current CO is in place and valid.

13 MS. CASE: Yes.

14 COMMISSIONER ALULI: Okay.

15 MS. CASE: It's new application, so --

16 COMMISSIONER WEST: But the tax clearance
17 triggered all this.

18 MS. CASE: Yes.

19 COMMISSIONER WEST: Because they didn't get back
20 to you, right.

21 MS. CASE: They lost my whole paperwork.

22 MR. KAWAGISHI: So what we're trying to avoid is
23 the cost and time to go and have to apply again for
24 miscellaneous and fire inspection. Which, like I said, it's
25 part of the original certificate of occupancy that she

1 received a few months ago.

2 COMMISSIONER ALULI: (Inaudible). Sorry.

3 COMMISSIONER WEST: Question for Ed. So does this
4 body have the authority to waive those two?

5 MR. KUSHI: I would say leave it up to the
6 Department staff, but in my -- my reading of the list of
7 documents needed, if a -- if a CO is still active and valid
8 and confirmed by the Department, then Items 1 through 4
9 would be confirmed. But you still need to go to Items 5, 6,
10 7 and whatever, right?

11 MR. KAWAGISHI: Yes.

12 MR. KUSHI: So leave it up to the staff.

13 CHAIR TANAKA: Yeah. I don't think it's the
14 discretion of the Commission to circumvent the rule on that
15 item.

16 MR. KUSHI: But if what he is saying is true and
17 it's confirmed, then you don't need to.

18 CHAIR TANAKA: Yeah. I don't see any problem
19 there. Any other questions? Any other comments?

20 MR. KAWAGISHI: No.

21 CHAIR TANAKA: Any other questions by the
22 Commission? Okay. If not, may I have a motion?

23 COMMISSIONER SOUZA: I move to approve Application
24 Number 04 for public hearing and to process the application
25 for publication.

1 COMMISSIONER WEST: Second.

2 CHAIR TANAKA: Moved and seconded. All in favor,
3 say "aye."

4 (Response.)

5 CHAIR TANAKA: Opposed, "no."

6 (No response.)

7 CHAIR TANAKA: Motion carried.

8 MR. KAWAGISHI: Thank you.

9 MS. CASE: Thank you.

10 CHAIR TANAKA: Okay. Let's go on to
11 Administrative Affairs.

12 DIRECTOR MUKAI: The proposed rules we included in
13 your packet. This is what the Committee reviewed and worked
14 with quite fast. Item 1, it is all by HRS, Hawaii Revised
15 Statutes, that we making it to be conform to HRS. And on
16 Page 2, Number 2, again, the Class 2 license, C(1), that is
17 HRS, Hawaii Revised Statutes, adding in what the legislature
18 passed.

19 Item 3(a)(2) is by, again, HRS. We're updating
20 the rules to reflect Hawaii Revised Statutes. And on Page
21 4, at the bottom, on Number 5 -- actually, that -- I don't
22 know why it was included with the authority of the
23 Commission because it's not part of the HRS 281-17.
24 Actually, if you look at HRS, that is a separate law under
25 281-22. So what we're doing is we're moving it out of the

1 Authority section and moving it to a new section, which
2 would be 801 -- 08-101-19, which you'll find on Page 6.

3 On Page 7, Item 5, Licenses and Classes. Turn to
4 Page 8, there were discussion on this, on the hostess bar
5 limitation, apparently, the committee felt that there should
6 be no limit placed on 12 Category D, C -- you know, Category
7 D, Class 5, Dispenser license in county because it referred
8 to the moratorium when it was in Lahaina, when there was
9 only a set amount of license, it put value to the license.
10 So instead of renewing or getting a license for \$600 in
11 Lahaina, people had to pay tens and hundreds of thousand
12 dollars just to get a license because they had to actually
13 buy the building to get the license. So to put any
14 moratorium and any type, they felt that it's -- put value on
15 the license, which I felt was wrong. But I'm sure many of
16 you remember the moratorium.

17 COMMISSIONER LEE: Profiteering.

18 DIRECTOR MUKAI: Yes, profiteering. And on Number
19 6, the bottom of Page 6, Page 8, we're adding the word "from
20 which organization, no person shall [sic] entitled to or
21 takes, directly or indirectly, any share of the profits
22 thereof." It's already in there, 501, that charitable and,
23 you know, education organization they cannot take any share.
24 But, also, at the bottom on Number 2, we are adding
25 501(c)(4) and 501(c)(10) because in Maui Roping Club was a

1 501(c)(4). In reviewing the 501(c)(4), it falls under
2 charitable and educational. And the 501(c)(10) is like a
3 VFW, Veterans Foreign War group. They tried to apply, but
4 they didn't qualify under the 501(c)(3), but they fall under
5 501(c)(10). And, also, they are listed as a charitable
6 organization. So we're adding those.

7 On Page 9, Item 7, we are changing the hours to
8 make it uniform. Like in a Dispenser, Restaurant, Club
9 License, transient number 1, we're changing it to 6:00 to
10 reflect like how the hotels could have opened at 6:00. Same
11 like the Cabaret, we're we changing from 8 to 6.

12 And the hotel and condominium hotels, it will be
13 any hour of the day because the Hotel Association said
14 because of their type of activities they have where guests
15 and people that arrive all kind of times.

16 The retailers, we're changing it from 6:00 a.m. to
17 5:00 a.m. because I believe it's to service the fishermen
18 and others that goes out early. They were saying that, you
19 know, when they go to a retail like Safeway, (inaudible) is
20 open and they can't buy their beer to put on their boat.

21 And manufacturing --

22 COMMISSIONER UMENO: That's important.

23 DIRECTOR MUKAI: And 5, the manufacturing
24 wholesalers, we are moving -- removing the times so they can
25 operate any hour of the day because they have the ability to

1 deliver any time. 'Cause times at 9:00 when they prevented
2 from -- after 9:00, they can't deliver. And the restaurant
3 run out of liquor, they call them, because of the
4 restriction. So -- and, plus, also, one of the members on
5 the committee mentioned that I believe Lahaina have a
6 committee that is mitigating on the parking. So this would
7 help the delivery because they're looking at maybe restrict
8 the delivery on Front Street to only certain hours because
9 those big trucks that blocking all the highway and taking
10 all that parking.

11 And the Brewpub, also, we making it, instead of
12 8:00, to 6:00 a.m. to be consistent. And for the
13 on-premises consumption, it's 5:00 a.m. to 11:00 for
14 off-premises consumption liquor sales which will be
15 consistent with the Retail license.

16 And Number 7, Small Craft Producer Pub, we are
17 changing it from 8:00 to 6:00 to make it consistent. And
18 any hour of the day for the manufacturing wholesale.
19 Because how it's written, seem like they can only
20 manufacture only between certain hours, but, actually, they
21 manufacture throughout the day and night, the brewing
22 process and everything. And since they also can have
23 retail, we're changing it from 6:00 to 5:00 a.m. to make it
24 consistent.

25 And we are adding caterers, the new license, from

1 6:00 a.m. to 2:00 a.m.

2 Number 9, Winery, any hour of day for the
3 wholesale and manufacture and 5:00 a.m. to 11:00 p.m. for
4 off-premise retail sales to make it consistent with the
5 retail dealers.

6 And, Number 8, No License Issued To [sic], on the
7 next page, Page 11, is HRS, they changed the wording. So we
8 changing our wording to reflect Hawaii Revised Statutes.

9 And the next page, Page 12, Number 8 at the top,
10 that's highlighted, we're adding Class 17 since it's by HRS
11 again.

12 And Number 9, Fees for Liquor License, temporary
13 license duplicate.

14 On the next page, on the top, Page 13, individuals
15 solicit -- or representative is required to obtain an
16 individual permit in his or her name. That is already
17 happening. Just clarify it.

18 And on the percentage fee, D(1), we're adding
19 Class 16, which is the Winery license; 18, Small Craft
20 Producer license.

21 On the next page, on Page 14, this is the one that
22 had some concern regarding the gross sales report where it
23 fell on the weekends. So, basically, we had to shut down or
24 close premises because they didn't have this thing that
25 allows that if it falls on a Saturday or Sunday or legal

1 County holiday, the last day for filing for the gross sales
2 report shall be on 4:30 on the first County working day. So
3 that will resolve the problem.

4 And Item 10, A(1), we're adding "or more than two
5 drinks of alcohol beverages" since there was a concern that
6 some of this special licensee and other licensee during the
7 events are selling multiple drinks, like five or seven
8 drinks for X amount of dollars, so they have no control over
9 the sale, service or over consumption. And one licensee
10 said if they drink the total amount and be drunk, we just
11 roll 'em down the hill.

12 COMMISSIONER LEE: Good plan.

13 DIRECTOR MUKAI: And on Number 11 on Page 15, the
14 last, charging the Commission and Board Members. I believe
15 Corp Counsel reviewed the rule. And actually, you know, the
16 Board of Ethics should not be included. So we're requesting
17 elimination of the Board of Ethics in that rule.

18 And that's all I have for the proposed rule
19 amendments.

20 And on the Director's monthly report, I have
21 several items.

22 Item one, Internal Revenue. The Department was
23 informed Internal Revenue Service will be open one day a
24 week by appointment only which may cause a problem on the
25 renewal time.

1 The Deputy Director office status is unchanged.
2 The Department sent the fire Department HazMat report and
3 recommendation to HGEA, the landlord, and has not received a
4 response to our email and status. The follow-up letter will
5 be sent.

6 Posting of Commission minutes. The Department has
7 received a request from Chris Sugidono of "The Maui News" on
8 possibly posting the Commission minutes on Department
9 website. The Department researched the request and will be
10 posting the Liquor Commission's and the Liquor Control
11 adjudication minutes in PDF form on its website starting
12 with the September 2016 minutes. So, in other words, this
13 minutes will be posted on our website.

14 Class for liquor license applicant. The
15 Department received a letter from Peter Horovitz. The
16 letter -- his letter is attached, and the Department
17 response, requesting a meeting regarding changes in both
18 regulations and procedures with him and two other attorney
19 represent license holders and applicants. The Department
20 scheduled an education class on September 28, 2016, at 10:00
21 a.m. to include all attorneys and representatives, RSVP
22 requested due to limited amount of space in the conference
23 room. The class subjects will include liquor license
24 application, permits, gross sales report, licensed renewal,
25 et cetera. This class was tentatively scheduled for

1 February 2017.

2 The Small Business Review and Advisory Committee
3 held the second meeting on August 18, 2016. The committee
4 reviewed and discussed proposed rule amendments as well as
5 other items. The committee realized several of the concerns
6 were State laws or Federal codes which must be dealt at
7 those levels. The committee will address 10 proposed rule
8 amendments at each meeting so have sufficient time to fully
9 review and discuss the amendments. And you just saw the
10 first 10.

11 County policy, news release. The Department
12 checked with the Mayor's Office of Communication regarding
13 if there is any change of policy on news release, speaking
14 to news reporters, et cetera. The Department was informed
15 there has not been any change, and their office been
16 notified when approached by media and determination will be
17 made if the Department need to respond at all or work on a
18 response together.

19 Enforcement Division: LCO II, Amy Martin, has
20 submitted her resignation effective September 17th, 2016.
21 She will be transferring to County Environmental department.

22 The Department made several changes in the
23 division: One, we suspended the use of uniforms. Two,
24 follow-up investigation procedures on open cases were
25 changed, all investigation follow-up investigation, manner

1 operation reports, information, et cetera, will be made on
2 the violation incident report only on the Gladiator Report
3 System. The Gladiator Report System automatically logs,
4 assign a case number, track the report and its status.
5 We're doing this because when it came -- the Gladiator
6 system actually was Kari's idea, and she formulated it
7 before I came, way before I came. Because when you do a
8 report, you want everything to be tracked, so nothing
9 disappears. But when I took office, I found out the
10 Enforcement Division did use Gladiator system for some
11 reports, but they had this VR ticket system that was not
12 tracked or recorded anywhere. And, also, a memorandum type
13 report, also there was no tracking or -- or accountability,
14 where it went. So I immediately stopped that and told them
15 everything goes on the Gladiator system. So as soon as it's
16 typed, automatically it's numbered and it can be tracked.
17 So anyone that goes on the Gladiator system can track and
18 find the status, if there's a follow-up being done, if
19 there's additional follow-up need to be done, when it's
20 completed, when it is submitted to us for action.

21 MR. KUSHI: Question. When you say access, it's
22 only internal, departmental?

23 DIRECTOR MUKAI: Only internal.

24 MR. KUSHI: Not external?

25 DIRECTOR MUKAI: No.

1 Item 4, Enforcement staff, along with the Maui
2 Police Department and volunteer minors, will begin their
3 minor decoy operations from mid-September to end of
4 December. The September operation is scheduled to be
5 conducted on the 18th, 22nd and 23rd.

6 Salary Commission. The Liquor Commission
7 Chairperson Robert Tanaka and I appeared before the Salary
8 Commission on September 9th, 2016.

9 Department budget. The Department is currently on
10 its -- working on its next fiscal budget. And the deadline
11 is looming. Should any Commission member would like to
12 include any item on the budget, please submit a request as
13 soon as possible.

14 Halloween. In the Commission packet, there's a
15 letter from the Maui Police Department. The Department has
16 scheduled the entire enforcement staff to work on Halloween,
17 which will be on a Monday. Police are taking additional
18 precautions due to recent incident in the news, Lahaina.
19 Like instead of that -- the type of barricades, they gonna
20 use a more hard type barricade. Because you remember
21 recently in the news where the truck went through and ran
22 over all the crowd.

23 COMMISSIONER SOUZA: Oh, yeah.

24 DIRECTOR MUKAI: Yeah. So they are doing hard
25 barricade and to ensure the safety of the public.

1 Okay. Next item, the Liquor Control Adjudication
2 Board. There are no September hearing due to the Deputy
3 Prosecutor requesting continuance.

4 There are seven direct or administrative
5 complaints against licensee. And the Department of
6 Prosecuting Attorney pending the Deputy Prosecutor
7 availability to prosecute those cases before the Liquor
8 Control Adjudication Board.

9 That's all we have.

10 COMMISSIONER WEST: That was Mulligan's, right?

11 DIRECTOR MUKAI: No. That's besides Mulligan's.

12 COMMISSIONER WEST: Oh, besides Mulligan's. Okay.

13 CHAIR TANAKA: Okay. I guess, any other
14 questions?

15 COMMISSIONER WEST: Yeah, I got some questions
16 regarding the Deputy Director office status. So exactly
17 what are we waiting for, for that, again? It was --

18 DIRECTOR MUKAI: The HazMat report stated that
19 they should look into having another electrician to come in
20 and check all the electrical. Also, some kind of expert to
21 look into the ceiling area to see if there's anything that
22 was causing the odor and that cause our employees to get,
23 you know, dizzy, and everything else. And, also, they
24 recommend possibly changing the ceiling tiles. So we sent
25 the HazMat report to HGEA and we haven't got a response.

1 And I believe one of the HGEA people that was in charge of
2 maintenance came and looked at the office. And I think he
3 said -- what he needed?

4 MS. YOSHIKAWA: Nate Wong, the Executive Assistant
5 to Randy Perreira, came out to look at the office and he
6 also noticed that the windows within the deputy's office as
7 well as this conference room isn't up to code with emergency
8 exits. So what he wanted to do at the same time that he
9 took care of the Deputy Director's office was to install the
10 emergency exits through the windows, like how the Department
11 did in the enforcement office and in the front office areas.

12 COMMISSIONER WEST: Okay. So while we're on the
13 topic of Deputy Director, what -- are you intending to fill
14 that position or not?

15 DIRECTOR MUKAI: Yes, I am.

16 COMMISSIONER WEST: You are, okay. So are you
17 just waiting for the office to be taken care of and then, at
18 a later time, fill that position?

19 DIRECTOR MUKAI: We are actively seeking.

20 COMMISSIONER WEST: So how many applicants do you
21 have? How many people are you looking at and where is that
22 at?

23 DIRECTOR MUKAI: At this time we have one
24 potential.

25 COMMISSIONER WEST: Okay. What was the other

1 question I had?

2 CHAIR TANAKA: Okay.

3 COMMISSIONER WEST: Yeah, just give me a second.

4 So on 10 -- on that proposed changes, 10-1, so is that
5 referred to like flights of drinks that they're doing? Like
6 restaurants that do like flights, like say tastings of saki
7 and --

8 DIRECTOR MUKAI: This is more toward the special
9 events.

10 COMMISSIONER WEST: Okay. All right. I gotcha.
11 Thank you. That's it.

12 CHAIR TANAKA: Okay. Any other questions? If
13 not, may I have a motion for adjournment?

14 COMMISSIONER WEST: So moved.

15 COMMISSIONER UMENO: Second.

16 COMMISSIONER SOUZA: Oh, excuse me, someone has a
17 question.

18 MS. TSUKIYAMA: Really quickly. My name is
19 Kristine Tsukiyama, our office represents some liquor
20 licensees, but I'm here just in an individual capacity. I
21 wanted to ask, do you folks take comment on the proposed
22 rule amendments? And I might have missed the session when
23 you folks did.

24 DIRECTOR MUKAI: This is just a briefing.

25 CHAIR TANAKA: We will go to public hearing.

1 MS. TSUKIYAMA: Oh, it does.

2 CHAIR TANAKA: It goes to public hearing, so you
3 can make your comments at a public hearing.

4 MS. TSUKIYAMA: Okay. I'll save it for then,
5 then. Thank you.

6 CHAIR TANAKA: Okay. If not, may I have a motion
7 made, second. Okay. Meeting adjourned. (Gavel.)

8 (Meeting adjourned, 11:10 a.m.)

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CERTIFICATE

I, TONYA MCDADE, Certified Court Reporter of the State of Hawaii, do hereby certify that the proceedings contained herein were taken by me in machine shorthand and thereafter was reduced to print by means of computer-aided transcription; and that the foregoing represents, to the best of my ability, a true and accurate transcript of the proceedings had in the foregoing matter.

I further certify that I am not an attorney nor an employee of any of the parties hereto, nor in any way concerned with the cause.

DATED this 4th day of October, 2016.

/s/ Tonya McDade

Tonya McDade
Certified Shorthand Reporter #447
Registered Professional Reporter
Certified Realtime Reporter
Certified Broadcast Reporter