

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, October 12, 2016.

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APPEARANCES

Robert Tanaka, Chairperson

Nane Aluli, Commissioner

Dawn Bicoy, Commissioner

William Kennison, Commissioner

Brenda Lee, 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, October 12, 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 BICOY: Dawn Bicoy, Molokai.

COMMISSIONER KENNISON: Willy Kennison.

COMMISSIONER WEST: Stephen West. Good morning.

MR. KUSHI: Ed Kushi.

CHAIR TANAKA: Good morning. Bob Tanaka.

COMMISSIONER ALULI: Good morning. Nane Aluli.

COMMISSIONER UMENO: Good morning. Roy Umeno.

COMMISSIONER LEE: Brenda Lee.

DIRECTOR MUKAI: Glenn Mukai, Liquor Control.

MS. YOSHIZAWA: Kari Yoshizawa, Liquor Control.

CHAIR TANAKA: Okay. You have your agenda for October 12, 2016. If there's no questions, may I have a motion for approval?

COMMISSIONER WEST: So moved.

COMMISSIONER KENNISON: Second.

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

(Response.)

CHAIR TANAKA: You also have your Liquor Commission minutes of September 14, 2016. If there's no

1 questions or comments, may I have a motion for approval?

2 COMMISSIONER WEST: So moved.

3 COMMISSIONER KENNISON: Second.

4 CHAIR TANAKA: Okay. All in -- motion carried.

5 Let's go on to General Licensing Matters, Item A through DD.

6 If there's no questions or comments, may I have a motion for
7 confirmation?

8 COMMISSIONER KENNISON: So moved.

9 COMMISSIONER WEST: Second.

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

12 (Response.)

13 CHAIR TANAKA: Motion carried. Let's go on to
14 Licensing matters, Public Hearing. Application Number 28,
15 Azeka Boys.

16 MR. NAKAMURA: Good morning, Mr. Chair, Members of
17 the Commission. Craig Nakamura, attorney for the applicant.
18 With me is Mr. Reed Robertson, who is the general manager of
19 the restaurant.

20 CHAIR TANAKA: Thank you. Kari.

21 MS. YOSHIZAWA: Application Number 28, the
22 applicant is Azeka Boys Club LLC doing business as
23 Shearwater Tavern. The proposed premises is located at 1279
24 South Kihei Road, Number 201, Kihei, Maui, Hawaii. This is
25 a public hearing for a new Dispenser General License,

1 Category C(ii).

2 The documents necessary for completing the
3 remaining application requirement for a liquor license are
4 listed in the summary report.

5 Notice of public hearing was published in "The
6 Maui News" on August 17th and 24th, 2016. There are a total
7 of 23 owners and lessees situated within 500 feet of the
8 proposed premises. The Department did not receive any
9 protests.

10 CHAIR TANAKA: Thank you. Anything else to add,
11 Craig?

12 MR. NAKAMURA: Nothing further. Be happy to
13 answer any questions.

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

20 COMMISSIONER KENNISON: I move to approve
21 Application Number 28 conditioned upon the applicant
22 completing the remaining application requirements to the
23 satisfaction of the Department of Liquor Control.

24 COMMISSIONER WEST: Second.

25 CHAIR TANAKA: Okay, moved and seconded. All in

1 favor, say "aye."

2 (Response.)

3 CHAIR TANAKA: Opposed?

4 (No response.)

5 CHAIR TANAKA: Motion carried. Thank you.

6 MR. NAKAMURA: Thank you. Thank you very much.

7 CHAIR TANAKA: Application Number 30.

8 MR. JORGENSEN: Good morning, Chair Tanaka,
9 Members of the Commission and staff. My name's Dave
10 Jorgensen, I'm the attorney appearing on behalf of the
11 applicant Pashmina's & Gift Inc. dba Kamana Indian Cuisine.
12 With me this morning is Tirtha Luitel who is the principal
13 of the company.

14 CHAIR TANAKA: Thank you. Kari.

15 MS. YOSHIZAWA: Application Number 30, the
16 applicant is Pashmina's & Gift Inc. doing business as Kamana
17 Indian Cuisine. The proposed premises is located at 1881
18 South Kihei Road, B1, Kihei, Maui, Hawaii. This is a public
19 hearing for a new Dispenser General License, Category C(ii).
20 The documents necessary for completing the remaining
21 application requirements for a liquor license are listed in
22 the summary report.

23 Notice of public hearing was published in "The
24 Maui News" on August 17th and 24th, 2016. There are a total
25 of 69 owners and lessees situated within 500 feet of the

1 proposed premises. The Department did not receive any
2 protests.

3 CHAIR TANAKA: Thank you. Anything -- anything
4 else to add, Dave?

5 MR. JORGENSEN: No, Chair. Just that my client is
6 working his way through the County of Maui, but he's -- he's
7 confident that things will be worked out within a reasonable
8 time, but we are both available for any questions.

9 CHAIR TANAKA: Okay. Since this is a public
10 hearing, I'm gonna open it to the public. Anybody for or
11 against this application? Okay. Seeing none, public
12 hearing closed for this item. Any questions by the
13 Commissioners? If there's no questions, may I have a
14 motion?

15 COMMISSIONER WEST: I move to approve Application
16 Number 30 conditioned upon the applicant completing the
17 remaining application requirements to the satisfaction of
18 the Department of Liquor Control.

19 COMMISSIONER KENNISON: Second.

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

22 (Response.)

23 CHAIR TANAKA: Opposed, "no."

24 (No response.)

25 CHAIR TANAKA: Motion carried.

1 MR. JORGENSEN: Thank you very much.

2 CHAIR TANAKA: Okay. Let's go on to Preliminary
3 Hearings. Application Number 06.

4 MR. MANCINI: Good morning. My name is Paul
5 Mancini. I'm representing the applicant Happy Makes Company
6 dba Slappy Cakes. With me is Ellen -- is Alison Isabelle,
7 who is the manager of the two LLCs that are part of the
8 partnership here -- of the applicant.

9 CHAIR TANAKA: Thank you. Kari.

10 MS. YOSHIKAWA: Application Number 06, the
11 applicant is Happy Makes Company, a registered Hawaii
12 corporation, doing business as Slappy Cakes applying for a
13 Dispenser General License, Category C(ii).

14 The partners in the partnership is listed in the
15 investigator's report.

16 Applicant has submitted an unexecuted assignment
17 of lease and consent by and between SCH Ownership, LLC, an
18 Oregon limited liability company, assignor, and Happy Makes
19 Company, a Hawaii general partnership, assignee, and
20 Honolulu Limited, a Maryland nonprofit corporation,
21 landlord. The lease by and between Honolulu Limited,
22 landlord, and SCH Ownership LLC, tenant, is in effect for
23 seven years, to expire on the 30th day of September, unless
24 the term is sooner terminated or extended.

25 The proposed premises, containing approximately

1 6,800 square feet of floor space, is located at 3350
2 Honoapiilani Road, Unit Number 701, Honokowai, Maui, Hawaii.

3 There are no schools or churches located within a
4 radius of 500 feet.

5 Soup Nutz & Java Jazz and Nachos Grande are
6 licenses of the same class and kind located within a radius
7 of 500 feet.

8 There are one Restaurant General, two Retail
9 General, and one Hotel license located within a radius of
10 500 feet.

11 There are 112 licenses of this class and kind
12 currently issued within Maui County.

13 The applicant plans to be open seven days a week
14 from 7:00 a.m. to 2:00 p.m. The applicant is aware that if
15 they wish to open at 7:00 a.m. that they would need to
16 submit a permit application to request an extension of
17 hours.

18 Alison Leigh Isabelle was a member of SCH
19 Ownership, LLC dba Slappy Cakes, Number 230. There were no
20 incidents of liquor law violations. A copy of their past
21 history is attached.

22 In the opinion of the investigator, the applicant
23 appears to be fit and proper, and does not appear to be
24 disqualified by any provision as stated within Section
25 281-56 HRS from obtaining or exercising a license.

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

4 CHAIR TANAKA: Thank you. Anything else to add,
5 Paul?

6 MR. MANCINI: We have nothing. We're happy to
7 answer any questions that you may have.

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

11 MR. KUSHI: Question, Mr. Chairman. Is it a
12 transfer or new license?

13 MR. MANCINI: I'm sorry.

14 MS. YOSHIZAWA: This is a new license.

15 MR. KUSHI: What happened to the old one?

16 MS. YOSHIZAWA: They're gonna cancel upon the
17 issuance of this license.

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

20 COMMISSIONER KENNISON: I move to approve
21 Application Number 06 for public hearing and to process the
22 application for publication.

23 COMMISSIONER WEST: Second.

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

1 (Response.)

2 CHAIR TANAKA: Opposed, "no."

3 (No response.)

4 CHAIR TANAKA: Motion carried. Thank you.

5 MR. MANCINI: Thank you very much.

6 MS. ISABELLE: Thank you.

7 CHAIR TANAKA: Application Number 07.

8 MR. NAKAMURA: Good morning, Mr. Chair. Craig
9 Nakamura on behalf of the applicant. This is Mr. Rick
10 Tramontin, who is the officer and director of the applicant.

11 CHAIR TANAKA: Thank you. Kari.

12 MS. YOSHIZAWA: Application Number 07, the
13 applicant is Makena Club Services Corporation, a Hawaii
14 corporation, doing business as Kilohana Restaurant applying
15 for a Dispenser General License, Category C(ii).

16 The officers, directors and stockholder of the
17 corporation is listed in the investigator's report.

18 Applicant has submitted a management agreement by
19 and between Discovery Makena Management, LLC, a Delaware
20 limited liability company, and Makena Club Services
21 Corporation, a Hawaii corporation, effective as of August
22 12, 2016.

23 The proposed premises is a single-story structure
24 consisting of approximately 4,278 square feet, which
25 includes outside lanai areas and an outside bar, located at

1 5415 Makena Alanui Road, Makena, Maui, Hawaii.

2 The liquor for the outside bar will be secured
3 within lockable storage areas beneath the bar counter.

4 The toilet facilities are located outside of the
5 premises approximately 115 feet in the Kanaio/mauka
6 direction from the premises.

7 There are no schools, churches or licensees of the
8 same class and kind located within a radius of 500 feet.

9 There are 109 licenses of this class and kind
10 currently issued within Maui County.

11 Applicant initially plans to be open seven days a
12 week from 6:00 a.m. to 2:00 a.m. The applicant is aware of
13 the hours during which a dispenser general licensed premises
14 may be open for the sale, service and consumption of liquor.
15 A permit request has been submitted for an extension of
16 hours.

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

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

24 CHAIR TANAKA: Anything else to add, Craig?

25 MR. NAKAMURA: Just very briefly, Mr. Chair. This

1 is the golf course clubhouse at the Makena Golf Course.

2 CHAIR TANAKA: Kari, this is a new license too,
3 then?

4 MS. YOSHIKAWA: Yes.

5 CHAIR TANAKA: Okay. I get one question when I
6 looked at this. Why not the Restaurant license? You're
7 gonna operate this as a restaurant?

8 MR. NAKAMURA: Yeah. We're not allowed to apply
9 for Restaurant licenses unless the premises have been in
10 operation for one year and we can show gross sales of food
11 over 30 percent.

12 CHAIR TANAKA: Okay.

13 MR. NAKAMURA: So though there's a category for a
14 Restaurant license, we can't apply for it.

15 CHAIR TANAKA: I would think you better off with a
16 Restaurant license.

17 MR. NAKAMURA: We would, too.

18 COMMISSIONER KENNISON: Yeah.

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

23 COMMISSIONER KENNISON: Move to approve
24 Application Number 11 for publication and to process the
25 application for publication.

1 COMMISSIONER WEST: Second.

2 CHAIR TANAKA: Okay, moved and seconded.

3 COMMISSIONER BICOY: 07.

4 COMMISSIONER WEST: Chair? Number 07.

5 COMMISSIONER KENNISON: 07. Sorry.

6 CHAIR TANAKA: Moved and seconded. All in favor,
7 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 CHAIR TANAKA: Application Number 11.

14 MR. MANCINI: Good morning again. My name is Paul
15 Mancini. I represent RY Group LLC. With me today is Roy
16 Yamaguchi who is the agent for the applicant.

17 CHAIR TANAKA: Thank you. Kari.

18 MS. YOSHIKAWA: Application Number 11, the
19 applicant is RY Group LLC, a Hawaii limited liability
20 company, doing business as Humble Market Kitchen applying
21 for a Dispenser General License, Category C(ii).

22 The manager and agent of the manager-managed LLC
23 is listed in the investigator's report.

24 Applicant has submitted an amended and restated
25 amendment to lease by and between Sunstone Hawaii 3-0

1 Lessee, Inc., a Delaware corporation, landlord, and RY Group
2 LLC, a Hawaii limited liability company, tenant, effective
3 July 28, 2016.

4 The rent commencement date is to occur on the date
5 that is the earlier to occur of, (i), the date tenant opens
6 the premises to the public, and, (ii), the date that is 45
7 days after the date on which landlord delivers written
8 notice to tenant that landlord has received a certificate of
9 occupancy for the premises, the outside date, which said
10 certificate of occupancy is currently expected to be
11 obtained between September 15, 2016 and December 1st, 2016,
12 whether or not tenant has actually opened the premises to
13 the public by such date, the commencement date.

14 Renewal option, if and only if: (a) Tenant is not
15 in uncured default under any provision of this lease on the
16 date that tenant elects to exercise the renewal option (and
17 tenant has not been in recurring material default of any
18 provision of this lease during the 24-month period ending on
19 the last day of the initial term) and on the effective date
20 of such renewal option (provided, however, in the event that
21 on either of such dates tenant is in default but not beyond
22 any applicable cure date -- period, such dates shall be
23 tended to the first business day immediately following the
24 expiration of such cure period to give tenant the
25 opportunity to cure within the permitted cure period without

1 inadvertently losing its rights of renewal herein).

2 The proposed premises is a single-story restaurant
3 consisting of approximately 16,419 square feet, open air
4 dining is available at the restaurant, located within the
5 Wailea Marriott Resort, at 3700 Wailea Alanui Drive, Wailea,
6 Maui, Hawaii.

7 The toilet facilities are located outside of the
8 premises approximately 60 feet from the side entrance and
9 110 feet in the mauka/Hana direction from the front entrance
10 of the premises.

11 There are no schools, churches or licensees of the
12 same class and kind located within a radius of 500 feet.

13 There is one Hotel and one Retail General licensee
14 located within a radius of 500 feet.

15 There are 110 licenses of this class and kind
16 currently issued within Maui County.

17 Applicant initially plans to be open seven days a
18 week from 6:00 a.m. to 2:00 a.m. The applicant is aware of
19 the hours during which a dispenser licensed premises may be
20 open for the sale, service and consumption of liquor. A
21 permit request has been submitted for an extension of hours.

22 A site inspection was conducted of the proposed
23 premises on September 15, 2016.

24 In the opinion of the investigator, the applicant
25 appears to be fit and proper, and does not appear to be

1 disqualified by any provision as stated within Section
2 281-56 HRS from obtaining or exercising a license.

3 Roy Yamaguchi is a current manager of RH Company,
4 LLC, which is the general partner and an officer, director
5 and stockholder of the Roy's Holdings, Inc., which is the
6 limited partner of Roy's Limited Partnership Number 2 doing
7 business as Roy's Kaanapali, Restaurant General B(ii),
8 Liquor License Number 436.

9 There were no reports of liquor law violations at
10 this location.

11 Wailea Marriott Resort has obtained a permit to
12 reduce their premises to allow for the restaurant space.

13 All documents necessary for the issuance of the
14 liquor license have not been submitted. And those items are
15 listed in the investigator's report.

16 CHAIR TANAKA: Paul, any other comments?

17 MR. MANCINI: No, other than it might make sense
18 to have Roy explain the new concept. I think most people
19 are familiar with Roy's restaurants and this is sort of a
20 new concept that Roy has put together for this restaurant.
21 So it might make some sense to just go over to the
22 Commission's knowledge.

23 MR. YAMAGUCHI: Well, thank you very much for
24 allowing me the time. You know, the Humble Market Kitchin
25 comes from a concept. You know, my -- my grandfather used

1 to work on the plantation over here on Maui. So what I've
2 done is I'm combined the elements of what might have been
3 served during the plantation days, made it modern. And
4 then, on top of that, you know, utilizing what we've built
5 with Roy's. And then I have another concept called the
6 Eating House on Kauai and on Oahu. So trying to make it a
7 little bit more comfort, a little bit more accessible. So
8 the combination of highlighting the plantation food. You
9 know, highlighting what's available from farm to table on
10 Maui.

11 This new concept will be serving breakfast. We
12 have this incredible kitchen where you can look in and see
13 kind of a marketplace. Because my grandfather used to own a
14 market, the Yamaguchi General Store, on -- on Lower Main.

15 COMMISSIONER WEST: Lower Main.

16 MR. YAMAGUCHI: So -- so utilizing, you know, the
17 market concept within this restaurant and then, you know,
18 kind of like highlighting the modernization of plantation
19 food, hopefully we can kind of bring a new niche to the
20 Wailea area. So, hopefully, all of you will enjoy it, too.
21 Thank you.

22 CHAIR TANAKA: Thank you.

23 COMMISSIONER UMENO: You going to serve spam?

24 MR. YAMAGUCHI: You know, spam is on the menu.

25 You know, my grandfather was a -- was a -- was in love with

1 spam. So whenever we used to have our chicken hekka, you
2 know, there's -- always be spam in there.

3 COMMISSIONER BICOY: And I hope it's served in
4 kaukau tins.

5 MR. YAMAGUCHI: Exactly. We have that lined up
6 already.

7 COMMISSIONER ALULI: I got a question. Is this
8 going to be where Migrant was located? Is that --

9 MR. YAMAGUCHI: So -- so Migrant and -- and
10 Mala --

11 COMMISSIONER ALULI: Right.

12 MR. YAMAGUCHI: -- used to occupy the space that
13 we're going to be in. Yes.

14 COMMISSIONER ALULI: Oh, okay.

15 CHAIR TANAKA: Okay. I'm gonna open it to the
16 public. Any public testimony? Okay. Seeing none, any
17 other questions by the Commissioners? I have one question
18 again. You're coming in for Dispenser General License.
19 Again, you're gonna operate this as a restaurant.

20 MR. MANCINI: Same issue as Craig --

21 CHAIR TANAKA: Yeah.

22 MR. MANCINI: -- Nakamura has.

23 CHAIR TANAKA: Glenn, we gotta change the rules.

24 DIRECTOR MUKAI: State law.

25 CHAIR TANAKA: It's a state law. So we cannot

1 change it, then. Because no make sense, eh, you know,
2 better to -- come in with a restaurant, you better off with
3 a restaurant license. Otherwise, you cannot allow minors to
4 come in by themselves. Okay. Doesn't make sense, anyways.
5 So I thought maybe the rules -- we could change the rules,
6 but okay. If not, any other question by the Commissioners?
7 If not, may I have a motion?

8 COMMISSIONER WEST: I move to approve Application
9 Number 11 for public hearing and process the application for
10 publication.

11 COMMISSIONER KENNISON: Second.

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

14 (Response.)

15 CHAIR TANAKA: Opposed, "no."

16 (No response.)

17 CHAIR TANAKA: Motion carried.

18 MR. MANCINI: Thank you for your time. Appreciate
19 it.

20 MR. YAMAGUCHI: Thank you very much.

21 MR. MANCINI: On Item A, I was on that, but that's
22 been withdrawn.

23 MS. YOSHIKAWA: Yes, we'll address that.

24 MR. MANCINI: Thank you for your time.

25 CHAIR TANAKA: Let's go on to Other Licensing

1 Matters. Lumeria Maui, LLC.

2 MS. YOSHIKAWA: Chair, Lumeria Maui has submitted
3 a letter, which you should have received. They're
4 withdrawing their request to appear before Commission. They
5 have met all requirements for their liquor license. They're
6 gonna be issued their liquor license.

7 CHAIR TANAKA: Okay. So we have a motion to
8 accept their withdrawal?

9 COMMISSIONER WEST: So moved.

10 COMMISSIONER KENNISON: Second.

11 CHAIR TANAKA: Okay, moved and second. All in
12 favor, say "aye."

13 (Response.)

14 CHAIR TANAKA: Opposed, "no."

15 (No response.)

16 CHAIR TANAKA: Motion carried. Let's go on to
17 Playmakers Sports Bar LLC.

18 MR. JORGENSEN: My client's coming in the front
19 door now. Sorry.

20 Good morning, Chairman Tanaka, Members of the
21 Commission and staff. My name's Dave Jorgensen. I'm the
22 attorney appearing on behalf of Playmakers Sports Bar LLC
23 dba Playmakers Sports Bar. With me this morning is Mark
24 Barrett who is the manager of the business.

25 CHAIR TANAKA: Thank you. Kari.

1 MS. YOSHIKAWA: Playmakers Sports Bar LLC doing
2 business as Playmakers Sports Bar requesting Commission
3 approval of a modified permit removing the condition
4 requiring a barrier be placed between the premises two
5 dartboards and allowing a reduction in the size of the
6 barrier to be placed between the dartboards and the rest of
7 the premises.

8 MR. JORGENSEN: Chairman Tanaka, if I may, first,
9 I want to express apologies on behalf the owner of the
10 business, Misha Vosburg. She fully intended to be here, but
11 she's come down with the flu and has been, unfortunately,
12 getting very sick all night. So Mark was able to come up to
13 be here.

14 I do have -- if I can, I'll hand out -- if I can
15 hand out some pictures so you have a good idea what we're
16 talking about.

17 First, I want to clarify. The -- the permit, when
18 it was issued -- and these are two electronic soft tip
19 dartboards. And they're also connected to the internet. So
20 I can play with my brother in Miami, Mark can play with his
21 family in Buffalo, if they're at a place that has a similar
22 machine.

23 They are very much soft tip darts. And I have
24 some of the darts. These are not, you know, your typical
25 darts. These are not the --

1 COMMISSIONER WEST: Throw one at me, huh.

2 MR. JORGENSEN: Well, I won't take a chance, but,
3 I mean, Mark could throw it at me and if it -- unless it
4 hits you in the eye, it's not going to do any damage. If
5 you go on your smartphone and Google these, it will come up
6 and bring up -- bring up sites and it'll say soft tip, also
7 known as safety darts. Yeah. I mean, they're not soft, but
8 they're safety darts. They're specifically designed to be
9 much safer. The boards that they go into have little nubs
10 and the tip goes into there. They're much lighter than
11 normal darts.

12 The permit that was issued said that each area
13 designated for a dartboard shall be fully enclosed and shall
14 be a nonconsumption area, and that the players shall be
15 within the booth when utilizing the dart game device.

16 We sent a request asking for them not to have to
17 be fully enclosed. We talked to the Department. And the
18 end result was that there had to be a floor-to-ceiling
19 barrier between the dartboards and between the dartboards
20 and the audience. And you'll see in the first picture,
21 that's -- and that after going -- talking to the Department
22 some more, they agreed it only had to extend four feet out
23 from the boards.

24 So until this matter was presented to you, my
25 clients just turned on the one dartboard, which, on the

1 first picture, is behind the curtain, and left the other
2 dartboard dark.

3 The problem is -- there's several problems. One,
4 it's ugly. Two, you can't really see what's going on behind
5 the curtain. Three, it's -- if you look on the fifth
6 picture -- and that's just an example -- if -- if four
7 people are playing the game, you have to kind of crowd
8 around and look over shoulders and -- and squinch in, and
9 nobody else can see what's going on.

10 So our position is that, in the sixth picture, the
11 way the dartboards are in that picture and the next picture
12 is the way we believe it should be.

13 The picture after that, which is, I believe, the
14 eighth picture, that says "The Korner Room" at the bottom,
15 there's two pictures from The Korner Room in Kaneohe. Then
16 one from Bob's Sports Bar in Kailua, one from Ohana Karaoke
17 in Waimanalo, actually two from Ohana, and one from The
18 Shack in Hawaii Kai. You'll see there's no barriers. These
19 are all soft tip machines. They're at bars where there's
20 other activities, other patrons, customers, doing things
21 besides playing darts. And no barrier is required.

22 So in our discussions with the Department, we had
23 submitted the letter asking for a waiver of the condition
24 for a barrier between the dartboards and a reduction in the
25 barrier between the dartboards and the rest of the bar. But

1 what I'm asking for today is reduction means no barrier.
2 We're asking that the Commission decide there doesn't need
3 to be any barriers between the dartboards or between the
4 dartboards and the rest of the bar.

5 You can also note from the pictures that --
6 hopefully, it comes through -- in the third picture, the
7 fourth and fifth, that this -- this is in an alcove in the
8 bar. I don't know if any of you have been to Playmakers or
9 in the premises when it was a prior location, but there's an
10 alcove. One of the dartboards is fully in that alcove. The
11 next dartboard is right outside it. This is in a corner of
12 the bar where there's no other traffic. Outside the alcove
13 is the hallway to the bathrooms. The rest of the bar is off
14 to the side. You know, there's nobody that's walking by
15 this area.

16 We also talked to -- I showed you the pictures
17 from Oahu. I also talked to the directors from Kauai and
18 from the Big Island. The Big Island doesn't even require
19 permits for games. So when I asked them about soft tip
20 dartboards, he says, you know, we don't have -- we don't do
21 permits for anything, but we don't have any problem with
22 soft tip darts. On Kauai, they said they do have permits
23 for dartboards, but they've never had a problem with soft
24 tip darts. And in his, I think he said, 23 years with the
25 Department, he's never had a problem. And on Oahu, you can

1 see a sampling of the premises that have soft tip darts.

2 So --

3 And, actually, on Maui, the only other dartboards
4 on Maui that we're aware of, and the Department would be
5 able to clarify, Diamond's in Kihei and Dog & Duck in Kihei
6 has dartboards, but they're steel tip dartboards. And they
7 have -- they're -- right by the entrance of each bar is
8 where they have the dartboards. So they have them blocked
9 off from the rest of the crowd.

10 So, again, Mark's here to answer any questions.

11 You know, people have come in that play darts and
12 they've kind of laughed when we tell them -- you know, they
13 ask what's that blue curtain doing up there. We've actually
14 had people come from Oahu with their soft tip darts to play,
15 because they're here doing work, they're on a crew out
16 Makena doing the hotel, they'll come in to play darts
17 because they've heard about the machine. And they've also
18 said here -- where they've played on the mainland, there's
19 no requirement of a barrier.

20 So that's our request. We're available for any
21 questions, but -- we feel that the Department has indicated
22 safety is their concern, at least that's the only concern
23 I'm aware of. And what we're saying is there is no
24 reasonable risk of injury from these darts.

25 If somebody is playing pool and they go crazy with

1 the pool stick, they could hurt somebody, but if they're
2 playing the game, that doesn't happen. With the darts, I
3 mean, if you turn around and throw them at somebody, if you
4 throw a pool ball at somebody, you're going to hurt them,
5 but in playing the game, we're saying there's no risk and no
6 need for barriers.

7 Thank you.

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

11 COMMISSIONER LEE: I have questions. Dave, on the
12 photos that you show of these other establishments --

13 MR. JORGENSEN: Yes.

14 COMMISSIONER LEE: -- there's clearly a lot of
15 space. And on one of 'em, there's even a stanchion.

16 MR. JORGENSEN: Between the dartboards --

17 COMMISSIONER LEE: Right.

18 MR. JORGENSEN: -- and the entertainment area.

19 COMMISSIONER LEE: And I don't see that here.

20 MR. JORGENSEN: Well, the one with the stanchion
21 in the entertainment area is blocking off the entertainment
22 area is my understanding. But there's no stanchion
23 between -- well, it looks like the copier made a thin blue
24 line, that's not a stanchion, but you can see the stanchions
25 which are between the boards and the entertainment area.

1 But there's no stanchion or anything between the dartboards
2 and the tables that people would sit at. So --

3 COMMISSIONER LEE: Right. And that's where I'm
4 concerned that the table for a customer is right up against
5 the machine.

6 MR. JORGENSEN: And -- and we don't have any
7 tables for customers right up against the machines, but The
8 Korner Room on Oahu does. I -- you know, that's --

9 COMMISSIONER LEE: Isn't that -- isn't this a
10 table?

11 MR. JORGENSEN: Well, I'm sorry, I'm looking at a
12 different one. Well, that table is there now, but that
13 dartboard is not active. So when the dartboard is turned
14 on, that table won't be there.

15 COMMISSIONER LEE: So are you going to change the
16 layout?

17 MR. JORGENSEN: No. Just move that table. It's a
18 rolling rounder. So the table will just be slid to another
19 location. Yes, I mean, they would be changing the layout,
20 but not the layout with the -- with the Department.

21 COMMISSIONER LEE: Well, I'm just --

22 MR. JORGENSEN: Not the floor plan.

23 COMMISSIONER LEE: -- concerned that there is not
24 enough space to allow for error on the part of a person
25 throwing a dart.

1 MR. JORGENSEN: Yeah. And -- and that's -- you
2 know, people don't -- wouldn't normally be walking over
3 there when we're playing darts.

4 COMMISSIONER LEE: But there's a table. So are
5 you --

6 MR. JORGENSEN: The table won't be there.

7 COMMISSIONER LEE: Okay. That's all I have.

8 CHAIR TANAKA: Any other question?

9 COMMISSIONER KENNISON: Yeah. What -- what's the
10 concern, Glenn? As I -- as I look at it, I really don't see
11 a problem. I look -- I look at the darts, I look at the
12 layout and I --

13 DIRECTOR MUKAI: If you check out the darts, it
14 has a really thick type tip on it. Most of the soft tip
15 darts is skinnier and stuff. And it must fit into that
16 small holes because there's hundreds of holes on the
17 dartboard.

18 And when we went to a demonstration when the soft
19 tip came out, the person that demonstrated it said very
20 rarely -- normally, when you throw it, if it doesn't hit the
21 hole, it will fall straight down. But during the
22 demonstration, one of the darts went ricocheting into where
23 he would have set up his -- the licensee sitting area. And
24 so he said should have a barrier. And one of the darts,
25 when he threw, somehow went up and over into the next area.

1 So that's why we required covering on the top, too.

2 And when the two dartboards are side by side, the
3 licensee says, you know, usually, they're courteous where
4 they won't -- when one is throwing, the other won't walk up,
5 because, normally, you're playing tandem. But if it's two
6 different people, he can't control if one of the players go
7 to retrieve his dart while the other is throwing.

8 And the dart itself, the soft tip, is dangerous to
9 me. Because I bought one soft tip dartboard and had it in
10 my house. After about a month, my wife told me to get it
11 out because the damage to the wall, my drywall, you know,
12 enough holes already. So I gave it to someone. That
13 someone said, when his son throw, they're bigger, they throw
14 hard enough where it stuck into his wall, these darts.

15 So our concern is safety.

16 MR. JORGENSEN: If I may.

17 COMMISSIONER BICOY: What's the regs on this?
18 What's the rule say on this?

19 DIRECTOR MUKAI: Well, we set the condition that
20 they construct barriers, but we not telling them what kind
21 of barriers to use. Majority that I saw are using the
22 screens, those fiberglass screens. Because the dartboard --
23 from the thrower to the dartboard itself is eight feet, the
24 legal length that you shoot, the recommended length. So,
25 basically, they put a barrier between the two dartboard and

1 above, so any darts that ricochet or whatever don't injure
2 any patrons.

3 COMMISSIONER BICOY: So that's our regs, then. So
4 it's on both sides --

5 DIRECTOR MUKAI: Yes.

6 COMMISSIONER BICOY: -- you're saying, and the
7 top?

8 MR. JORGENSEN: No. The regs don't say that.

9 COMMISSIONER BICOY: Okay. So it just says
10 barrier?

11 DIRECTOR MUKAI: No. It's a condition of the --

12 COMMISSIONER BICOY: It just says --

13 MR. JORGENSEN: Doesn't say barrier.

14 DIRECTOR MUKAI: It's a barrier. You can put up
15 plexiglass, you can put up --

16 CHAIR TANAKA: Basically --

17 DIRECTOR MUKAI: -- anything as long as it protect
18 the public.

19 CHAIR TANAKA: Basically a condition on the
20 permit.

21 COMMISSIONER KENNISON: The permit only.

22 CHAIR TANAKA: They got to come in for a permit
23 for --

24 COMMISSIONER KENNISON: That's why they asking
25 for --

1 CHAIR TANAKA: And that's a condition.

2 MR. JORGENSEN: Yeah. The rules don't say
3 anything.

4 CHAIR TANAKA: The -- let me explain, Dave. The
5 Commissioners can do whatever they want to do, they have
6 that authority, you know, just to -- but the staff sets
7 conditions on a permit process. And they have that
8 authority to do that. Now, what the client is coming back
9 to the Commission to ask for a waiver from those conditions.
10 Or we can add -- we can tell them enclose the whole premises
11 and make it a separate room, if we want. The Commission has
12 that authority. But let me explain. Because of this issue,
13 I went there yesterday, I think I met with you.

14 MR. BARRETT: Yes.

15 CHAIR TANAKA: Okay. In looking at the situation
16 and looking at the area, I felt that just by moving the
17 curtain one more over, to isolate the dart area, playing
18 area, I would be agreeable to that.

19 MR. JORGENSEN: The problem is, if you look in the
20 pictures, and I don't know if they really show it, where the
21 curtain is hung now, on the third picture, it's stapled to a
22 beam that happens to run between the two. The Department is
23 saying that they're worried, it's an 11-foot high ceiling,
24 that somebody is going to throw the dart up and over the
25 curtain, so the curtain has to run from floor to ceiling.

1 Number one, I'm not sure where Mr. Mukai saw other
2 barriers, but there's none in the state of Hawaii.

3 CHAIR TANAKA: Dave -- Dave, let me finish. Okay?
4 What I'm saying is that I'm agreeable to moving -- just
5 moving the curtain, the way it's situated now, over to the
6 next dartboard to isolate the dartboard area from any
7 patrons.

8 MR. JORGENSEN: I understand, sir. What we're
9 asking is for there to be no barrier because nobody --

10 CHAIR TANAKA: This is --

11 MR. JORGENSEN: -- else has a barrier.

12 CHAIR TANAKA: This is what -- this is what I'm
13 saying.

14 MR. JORGENSEN: Back on the point of damaging,
15 these tips break. If you throw them against a hard wall,
16 this tip will break before it will put too many holes in
17 your wall. The darts have morphed over the years. But
18 these tips are replaceable. If you unscrew it, it comes
19 off. You replace 'em because they break. By design,
20 they're designed to be safety tips.

21 COMMISSIONER BICOY: Is this a more up-to-date
22 system? I mean --

23 MR. JORGENSEN: Well, the -- if you saw -- if you
24 see in the pictures, the -- the machine itself is very up --
25 very high-tech. There's a camera on it. If I'm playing my

1 brother in Miami, I can see him on the camera -- on the
2 picture when I'm throwing, or when he's throwing, and he can
3 see me. The -- as I've said, on -- it's not -- hasn't been
4 a problem anywhere else. There's been no injuries to
5 anybody in Hawaii from soft tip darts. And nobody has
6 barriers. If you're playing pool, you go crazy with a pool
7 stick, you could hurt somebody. If you go crazy with a soft
8 tip dart, you could hurt somebody. But there's no reason to
9 have any barrier on the premises for these dartboards.

10 COMMISSIONER KENNISON: So what happens -- when
11 the dart hits the board, what happens, what happens to the
12 dart?

13 MR. JORGENSEN: The dart -- the dartboard has, I
14 don't know, maybe 1,000 little nubs that are beveled. So
15 this goes in and it sticks in. Sometimes it hits and it
16 bounces off and falls to the ground, but it still registers
17 the score. You throw three, you go -- it tallies your score
18 automatically, you hit the button, it goes to the next
19 player, you pull the darts out and give 'em to the next
20 player.

21 COMMISSIONER KENNISON: What way would the darts
22 bounce away?

23 MR. JORGENSEN: To the floor.

24 COMMISSIONER KENNISON: Yeah. But like Glenn was
25 explaining, how -- how would the darts bounce --

1 MR. JORGENSEN: In all the times I've played, it's
2 maybe bounced a couple feet to the left, couple feet to the
3 right. I mean, I have never seen it bounce -- they're
4 not -- there's not a lot of weight here, so they're not
5 gonna bounce very far. But if you throw them as hard as you
6 can against a hard surface, they might bounce some distance.
7 But if you -- you know, it doesn't hurt.

8 COMMISSIONER WEST: I have a question. Sports
9 Page in Kihei had -- had three. Did you represent Sports
10 Page at that time?

11 MR. JORGENSEN: I represented Sports Page in the
12 lease negotiations at the end.

13 COMMISSIONER WEST: So did Sports Page -- I know,
14 the times I've been in there, I've never seen any kind of
15 curtains or barriers when I was there. And there was three.
16 And my concern with the barrier is can -- can the bartender
17 see what's going on or can the manager see what's going on
18 behind those curtains if -- if -- you know, because, from
19 where I look, there's a wall and then there's your -- your
20 dartboard. If something is going on behind that, you know,
21 somebody doing drugs or whatever, they're not gonna be able
22 to take care of it. Right?

23 MR. BARRETT: I can answer that because, how our
24 bar is situated, my bar faces the dartboards.

25 COMMISSIONER WEST: Oh, it does?

1 MR. BARRETT: So where I am, I'm -- actually, the
2 perspective you have of them looking at the dartboard, like
3 those guys leaning over, that's what I'm looking at when I'm
4 standing by my register. So I can see straight at the
5 dartboards the whole time. The only time the barrier would
6 be blocking my point of view is if I was in the corner,
7 moving -- you know, walking around, picking up cups, and I
8 was not able to see behind it.

9 MR. JORGENSEN: Or if somebody was standing next
10 to the dartboard, between the dartboard and the curtain,
11 they could be kind of hiding back there, but, I mean, Mark
12 would --

13 MR. BARRETT: It's a very small space.

14 MR. JORGENSEN: Mark would go find out what's
15 going on.

16 COMMISSIONER BICOY: I have a question. So just
17 for consistency sake, do we have other soft tip dartboards
18 existing on Maui and what do we require them to do?

19 MS. YOSHIZAWA: Soft tips, I'm not sure. I know
20 steel tips, for sure. Diamond's and L'ava's has a --

21 COMMISSIONER BICOY: So this would be the first
22 soft tip on the island?

23 DIRECTOR MUKAI: No. Previously, we had a lot of
24 'em.

25 COMMISSIONER BICOY: So --

1 MS. YOSHIKAWA: But, currently, as a game device
2 in a licensed premises, I believe there's only three
3 licensees that's applied for a game device permit and all
4 have the condition that it shall be fully enclosed.

5 COMMISSIONER BICOY: Okay. That's my --

6 DIRECTOR MUKAI: One correction. I did check with
7 Kauai, they require a four-foot barrier.

8 COMMISSIONER BICOY: Okay.

9 MR. JORGENSEN: A four-foot barrier?

10 DIRECTOR MUKAI: Yeah, four feet both ways.

11 COMMISSIONER UMENO: What about Oahu?

12 DIRECTOR MUKAI: Oahu, they just approved the
13 games device, same like Big Island.

14 COMMISSIONER BICOY: So these other soft tip
15 establishments or that have the soft tip darts, they are
16 complying with these barriers?

17 MS. YOSHIKAWA: The licensed premises that do have
18 game devices for dartboards, yes, they do have fully
19 enclosed. For example, Diamond's, they actually have maybe
20 like a shelf, a hard shelf that goes kind of lower that kind
21 of blocks halfway, but then they also have a retractable
22 curtain. That's when the dartboard's in use. They pull the
23 curtain, so it blocks to keep the other patrons safe.

24 MR. JORGENSEN: So just to clarify, that's steel
25 tip darts and it's right by the entrance to the bar.

1 COMMISSIONER BICOY: I thought -- I thought we
2 were talking about soft tip darts.

3 MR. JORGENSEN: We are.

4 MS. YOSHIZAWA: Yeah. We can't -- we can't
5 confirm definitively --

6 MR. JORGENSEN: I can.

7 MS. YOSHIZAWA: -- which licensed premises have
8 soft tips and steel tips.

9 COMMISSIONER BICOY: So we don't know who else has
10 soft tip darts?

11 MS. YOSHIZAWA: At this time, yes.

12 COMMISSIONER BICOY: So we don't --

13 MR. JORGENSEN: There is nobody else on Maui with
14 soft tip darts.

15 COMMISSIONER WEST: I have a motion.

16 MR. KUSHI: Couple questions, Mr. Chair. Dave,
17 are minors allowed in this place?

18 MR. JORGENSEN: No.

19 MR. KUSHI: Okay. So no minors. I'm assuming you
20 guys charge a fee to use these darts.

21 MR. JORGENSEN: No. The machine --

22 MR. KUSHI: The machine.

23 MR. JORGENSEN: You put a dollar in the machine.

24 MR. KUSHI: And you play all night? Is there a
25 time limit?

1 MR. JORGENSEN: If you have a lot of dollars.

2 It's per game. I mean, it's --

3 MR. KUSHI: Oh.

4 MR. JORGENSEN: Let's say if you play cricket or
5 different -- the different games they have, 501, 301, you
6 know, you tally a score.

7 MR. KUSHI: So it's not for free?

8 MR. JORGENSEN: No. No, no.

9 MR. KUSHI: Now, the throwing area where the
10 patrons throw, is that -- can I get my --

11 MR. JORGENSEN: No.

12 MR. KUSHI: -- drink and throw?

13 MR. JORGENSEN: No. It's a nonconsumption area.
14 In the one picture, you see, as Commissioner Lee pointed
15 out, there's a table that will be moved. But in the picture
16 where the four guys are playing, there's a rounder, behind
17 where you stand to throw, that's where people would leave
18 their drinks. Outside --

19 MR. KUSHI: So if the LCO comes in there and he
20 sees a guy throwing with a beer in his hand --

21 MR. JORGENSEN: Right. That would be a violation.

22 MR. KUSHI: Last question. You guys have liquor
23 liability insurance?

24 MR. JORGENSEN: Yes.

25 MR. KUSHI: Would you ensure -- ensure it covers

1 this activity?

2 MR. JORGENSEN: Well, we have -- they have general
3 liability, which would cover this, in addition to the liquor
4 liability.

5 MR. KUSHI: In addition to liquor liability?

6 MR. JORGENSEN: There's the \$1 million liquor
7 liability which is required by the Department. The business
8 also has its general premises liability which does cover
9 this.

10 MR. KUSHI: The liquor liability covers us as
11 additional insured.

12 MR. JORGENSEN: Yes.

13 MR. KUSHI: Can you put this activity on that
14 policy?

15 MR. JORGENSEN: I don't think so. That's just
16 liquor liability.

17 MR. KUSHI: Oh, it's part of the --

18 MR. JORGENSEN: I don't know. We could check, but
19 I don't know if you could or not because it's covered under
20 the general premises liability.

21 MR. KUSHI: But general premises doesn't cover the
22 Department as additional insured.

23 MR. JORGENSEN: That's -- that's true.

24 CHAIR TANAKA: You willing to have a hold harmless
25 agreement?

1 MR. JORGENSEN: Yes.

2 MR. KUSHI: Hold harmless doesn't mean boo. It's
3 the liquor liability insurance.

4 COMMISSIONER WEST: Would -- would you put
5 together like some kind of a waiver, that they would have to
6 sign?

7 MR. JORGENSEN: Well, I think what Mr. Kushi is
8 saying is -- that's different than insurance, but, yes.

9 MR. KUSHI: Could you look into the possibility of
10 a rider?

11 MR. JORGENSEN: Again, we could.

12 CHAIR TANAKA: Isn't it easier just to put -- move
13 the curtain over?

14 MR. JORGENSEN: It's not because of the height of
15 the ceiling. And it's -- it's not -- it -- it costs money,
16 it is unattractive, it's not required anywhere else. And
17 what we're saying is the chances of a risk of injury are, in
18 our opinion, almost nonexistent, but certainly minimal.

19 CHAIR TANAKA: You --

20 MR. JORGENSEN: There's no evidence anybody has
21 been hurt by a soft tip dart.

22 CHAIR TANAKA: Dave, you cannot guarantee that.

23 MR. JORGENSEN: I cannot guarantee in.

24 MR. KUSHI: You can insure it, though.

25 MR. JORGENSEN: What?

1 MR. KUSHI: Insure it.

2 MR. JORGENSEN: The bottom line is there's no --
3 I -- I searched -- I went online and searched for soft tip
4 dart injuries, safety dart injuries, and I found none.

5 CHAIR TANAKA: Oh, there always a first time, you
6 know.

7 MR. JORGENSEN: But -- but we're penalizing my
8 client because of something that might possibly happen
9 that's never happened anywhere else.

10 COMMISSIONER KENNISON: But they been playing pool
11 and get hurt, too.

12 MR. JORGENSEN: Right. I could get mad and throw
13 a pool ball at Mark. That -- you don't enclose the pool
14 table because somebody might inadvertently swing the pool
15 stick and hit somebody.

16 MR. KUSHI: That's an intentional tort, though.
17 Come on.

18 MR. JORGENSEN: And if somebody were to turn and
19 throw a soft tip dart, that would be an intentional tort
20 that would be an exception --

21 MR. KUSHI: Well --

22 MR. JORGENSEN: -- as well.

23 MR. KUSHI: Accidents happen throwing darts.

24 MR. JORGENSEN: Pardon me?

25 MR. KUSHI: It's all right.

1 COMMISSIONER KENNISON: Yeah. As I look at it,
2 it's soft tip, soft tip darts, I can't see how -- the
3 liability would be minimal.

4 COMMISSIONER BICOY: Well, and I think we're
5 setting precedence if this is the first soft tip dart
6 establishment that's going on record. So I think we need to
7 be foursquare about it.

8 COMMISSIONER WEST: I have a motion.

9 CHAIR TANAKA: Any other questions? Any other
10 comments?

11 COMMISSIONER WEST: So I have a motion to make. I
12 would say I would -- I would move to approve the gaming
13 device without curtain for Playmakers Sports Bar LLC.
14 That's it.

15 COMMISSIONER KENNISON: Second.

16 CHAIR TANAKA: Okay, moved and seconded.

17 COMMISSIONER LEE: Without conditions?

18 COMMISSIONER WEST: No conditions.

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

21 COMMISSIONER KENNISON: Aye.

22 COMMISSIONER WEST: Aye.

23 COMMISSIONER ALULI: Aye.

24 COMMISSIONER BICOY: Aye.

25 CHAIR TANAKA: Opposed, "no."

1 COMMISSIONER LEE: I oppose.

2 CHAIR TANAKA: Okay. May I have a show of hands?
3 Everybody in favor, raise your hand. One, two, three, four.
4 Okay. Motion passed.

5 MR. KUSHI: No.

6 MR. JORGENSEN: Thank you, sir.

7 MR. KUSHI: You need five.

8 DIRECTOR MUKAI: You need five.

9 CHAIR TANAKA: Let's see the hands again. One,
10 two, three, four. We don't have any five. Okay.

11 COMMISSIONER WEST: So another motion to defer
12 this to the next meeting.

13 CHAIR TANAKA: Motion denied. Can we defer this
14 thing?

15 MR. KUSHI: No action, so --

16 CHAIR TANAKA: No action.

17 MR. KUSHI: It can still be on the agenda if you
18 want to bring it up.

19 MS. CORDEIRO: Mr. Chair, I'm sorry to interrupt,
20 isn't a no vote considered a "yes?"

21 COMMISSIONER KENNISON: Yeah.

22 MR. KUSHI: What?

23 MS. CORDEIRO: If someone abstains from voting, is
24 that not considered a yes?

25 MR. KUSHI: If you abstain, it's a yes.

1 CHAIR TANAKA: Who abstained?

2 MS. CORDEIRO: That would be Roy.

3 CHAIR TANAKA: Roy abstained.

4 COMMISSIONER UMENO: Well, I didn't raise my hand.

5 CHAIR TANAKA: Yeah. So --

6 COMMISSIONER KENNISON: So you abstain?

7 COMMISSIONER UMENO: Yeah.

8 COMMISSIONER KENNISON: Yeah, he abstained, so get
9 five votes.

10 MR. KUSHI: Abstention is a "yes."

11 COMMISSIONER KENNISON: It's a "yes."

12 CHAIR TANAKA: You abstain?

13 COMMISSIONER KENNISON: Yeah.

14 CHAIR TANAKA: So motion carried.

15 MR. JORGENSEN: Thank you very much.

16 MR. BARRETT: Thank you.

17 CHAIR TANAKA: Let's go on to Item C, MTP
18 Operating Company.

19 MR. PORGATORIO: Good morning. I'm Roland
20 Porgatorio with Maui Tropical Plantation.

21 MR. GEIGER: Good morning. James Geiger. I'm
22 here in two capacities; I represent Maui Tropical Plantation
23 on matters and I also am here as the Hawaii State Chairman
24 of Ducks Unlimited and the Co-chairman of the Maui Ducks
25 Unlimited dinner.

1 CHAIR TANAKA: Ducks Unlimited. That's a firing
2 whatever -- what is that?

3 MR. GEIGER: I would be happy to tell you. Ducks
4 Unlimited is the world's largest and oldest private wetlands
5 conservation organization. It's 79 years old, it will be 80
6 years old next year. It has over 600,000 members throughout
7 the United States. It does approximately 3,900 events each
8 year where we raise funds. We preserve wetlands for the
9 flora and the fauna. Basically, we have wetlands so that
10 the ducks can grow, ducks and other birds can grow.

11 In Hawaii, Ducks Unlimited has put in about \$7
12 million in projects and they've preserved about 1,500 acres
13 of land here in Hawaii. Ducks Unlimited in Hawaii, the Maui
14 -- the Hawaii chapters has been holding events for over 20
15 years. And we've held them at various places, various
16 islands. And usually we get about 70 to 90 people who come,
17 mostly couples, and we help raise money so that we can help
18 preserve the wetlands. We certainly don't raise as much
19 money as the organization has put into the state, but we do
20 try to do our part.

21 CHAIR TANAKA: Thank you. Kari.

22 MS. YOSHIZAWA: The applicant is MTP Operating
23 Company, LLC, a registered Hawaii limited liability company,
24 doing business as Maui Tropical Plantation (338), Restaurant
25 General License, Category B(ii).

1 The manager and agent of the manager-managed LLC
2 is listed in the investigator's report.

3 The applicant is requesting for approval to hold
4 an auction to include firearms within the premises.

5 The applicant has indicated within the request
6 that there will be no ammunition allowed at the event and
7 that the persons who are the high bidders will not take
8 possession of the firearms at the event. The applicant
9 indicated that the high bidder will be required to go to the
10 federal firearms licensee's business, provide proof of his
11 or her ability to acquire the firearm in accordance with
12 Hawaii state law, complete the federal forms necessary to
13 obtain possession of the firearm, and then register the
14 firearm with the Maui Police Department.

15 Background information: Current conditions placed
16 on permits for auctions are: A., Permit shall be readily
17 available on the licensed premises for inspection at all
18 times; b., No liquor and other prohibited items (firearms,
19 explosives, ammunition, et cetera) will be included in any
20 gift certificates, packages, et cetera; c., Licensee shall
21 obtain necessary clearances from other governmental agencies
22 and comply with all state and county laws, ordinances and
23 administrative rules.

24 CHAIR TANAKA: Thank you. You have anything else
25 to add?

1 MR. GEIGER: I think I should explain a little bit
2 how the process works so you can understand it. What
3 happens is that -- in connection with firearms, if we order
4 a firearm for an event to bring it in, we have to provide
5 the federal firearms licensee license, which is sent to
6 Ducks Unlimited in Memphis, Tennessee. They then send the
7 firearms directly to the federal firearms licensee. The
8 licensee holds the firearms in his inventory, keeps them
9 there until the night of the event. He brings them to the
10 event. He assembles the firearms at the event. All of
11 these firearms are new in box from the manufacturer. So
12 that means that they all have trigger locks that come with
13 them.

14 What happens is the firearms are displayed at the
15 event. And then after the event is over, the federal
16 firearms licensee packs up the firearms again, takes 'em
17 back to his premises. Anyone who is a successful bidder or
18 obtains -- gets the firearm has to go to the federal
19 firearms licensee, complete the federal firearms transfer
20 form and then they have to take it to the Maui Police
21 Department where it is then registered with Maui Police
22 Department. They will not be able to even complete the
23 federal firearms license application until they have a
24 permit to acquire from the Maui Police Department. So it's
25 heavily regulated as far as that goes.

1 We will have and -- have not had any ammunition at
2 these events. And we always are careful about these things.
3 We want to make sure that it's a safe event, so we make sure
4 that there's always somebody around the firearms to make
5 sure that somebody doesn't pick 'em up, somebody doesn't do
6 something stupid with them.

7 And if there are any other questions, be happy to
8 answer it.

9 CHAIR TANAKA: You just mentioned that you have a
10 lock on that thing.

11 MR. GEIGER: There are -- all firearms come from
12 manufacturers with trigger locks now. It's just standard.

13 CHAIR TANAKA: So I -- I can go out there and
14 unlock it?

15 MR. GEIGER: No. They have keys and --

16 CHAIR TANAKA: (Inaudible.)

17 MR. GEIGER: You maintain the keys.

18 CHAIR TANAKA: So you can control that lock?

19 MR. GEIGER: Yes.

20 COMMISSIONER WEST: Who is going to have the key?

21 MR. GEIGER: Well, it would be the fire -- federal
22 firearms licensee because he's the one who actually has
23 control and possession of them.

24 COMMISSIONER WEST: And who is that?

25 MR. GEIGER: In this case it's a guy named Carl

1 Kubo, K&K Outfitters.

2 CHAIR TANAKA: So he's the one that assembles
3 the --

4 MR. GEIGER: He -- he does it all. Yes.

5 CHAIR TANAKA: So nobody can go out there and -- I
6 cannot go and bring an ammunition and put it in and fire the
7 thing?

8 MR. GEIGER: You -- well, first of all, if we saw
9 you coming with ammunition, we would immediately have you
10 leave, but --

11 CHAIR TANAKA: No, no, no. But I can hide it.

12 MR. GEIGER: Yeah. Well, but if you tried, the
13 way the trigger locks work, it would be very unusual that
14 you could even get ammunition into a firearm, or at least
15 ones we're going to have, but -- you might be able to get
16 ammunition into the firearm, you would not be able to pull
17 the trigger, you would not be able to do anything with it.

18 CHAIR TANAKA: Okay. So just like taking a fire
19 pin out, firing pin out?

20 MR. GEIGER: Similar.

21 COMMISSIONER UMENO: What type of firearms?

22 MR. GEIGER: We expect to have two shotguns, two
23 rifles, and there will be two handguns. We had not ordered
24 them, but they sent them to us from Ducks Unlimited. These
25 are not what you would call --

1 COMMISSIONER UMENO: Hunting?

2 MR. GEIGER: Well, these are hunting weapons,
3 these are hunting firearms.

4 COMMISSIONER UMENO: Oh.

5 MR. GEIGER: Actually, the shotguns are a .12
6 gauge semiautomatic from Beretta, it's a hunting gun, and a
7 Tristar .20 gauge Over/Under, which is also a hunting gun,
8 hunting shotgun. The rifles are two hunting rifles. These
9 are not like an AR-15 or an AK-47, anything like that.
10 These are not semiautomatic; these are bolt action rifles.
11 One is in a .22 and one is in a .22-250, which, I don't know
12 much about rifles, but I'm told that that's supposed to be a
13 nice hunting round.

14 The handguns happen to be a Buck Mark .22, which
15 is like a target pistol, if you will, manufactured by
16 Browning. And then a Taurus, which, again, is a hunting
17 pistol, it happens to be a .45 Long Colt.

18 COMMISSIONER WEST: So question. Everything
19 that's going to be listed on this Page 5, those 40 items,
20 that's pretty much what you're gonna have?

21 MR. GEIGER: There will be some additional items,
22 but that's pretty much it, yes. And that will be updated.
23 As we have done in the past, we update the list as we get
24 closer so that they have an idea of what it is. And we need
25 to know, too.

1 CHAIR TANAKA: Okay. Any other questions? Thank
2 you.

3 COMMISSIONER LEE: I have a question.

4 CHAIR TANAKA: Open to the public. Any public
5 testimony? Okay. Seeing none --

6 COMMISSIONER LEE: I have a question, Chair.

7 CHAIR TANAKA: Go ahead, Brenda.

8 COMMISSIONER LEE: Who attends this event?

9 MR. GEIGER: It's mostly couples. It's -- we get
10 people mostly from Upcountry, Central Maui, South Maui, we
11 get a few from West Maui, but it's mostly couples. We will
12 get, every now and then, some Ducks Unlimited members who
13 are from the mainland who are over here on vacation and
14 they'll come to the event. We generally do not get any
15 children. And I can't remember the last time we've had a
16 kid.

17 COMMISSIONER LEE: So am I correct to understand,
18 it's a membership only event function?

19 COMMISSIONER BICOY: Possible members.

20 MR. GEIGER: By coming to the event, you become a
21 member of Ducks Unlimited and you get a magazine five times
22 a year and that, but it -- you become a member. It's open
23 to the public, but you become a member.

24 COMMISSIONER LEE: So you have, at any time, like
25 a list of people who attended?

1 MR. GEIGER: Oh, yes.

2 COMMISSIONER LEE: Okay. All right. Thank you.

3 MR. GEIGER: And, in fact, I know most of them.

4 We get repeat people. It's pretty much the same people each
5 year.

6 CHAIR TANAKA: Okay. Any other questions?

7 COMMISSIONER WEST: I got a question. So Maui
8 Tropical is going to be serving alcohol at this event?

9 MR. GEIGER: Maui Tropical will sell alcohol at
10 the event.

11 COMMISSIONER WEST: All right.

12 CHAIR TANAKA: Basically, you're just asking for
13 an exemption for --

14 MR. GEIGER: We're just asking for the --

15 CHAIR TANAKA: -- for firearms at the auction --

16 MR. GEIGER: That's correct. We're asking --

17 CHAIR TANAKA: -- because there's sales of
18 alcohol?

19 MR. GEIGER: Yeah.

20 CHAIR TANAKA: Any other questions? If there's no
21 other questions, may I have a motion?

22 COMMISSIONER WEST: I move to approve the
23 exemption for Maui Tropical for this event.

24 COMMISSIONER KENNISON: Second.

25 CHAIR TANAKA: Moved and seconded. All in favor,

1 say "aye."

2 (Response.)

3 CHAIR TANAKA: Opposed, "no."

4 (No response.)

5 CHAIR TANAKA: Motion carried.

6 MR. GEIGER: Thank you very much.

7 MR. PORGATORIO: Thank you.

8 CHAIR TANAKA: Okay. Let's have a 10-minute
9 recess.

10 (Recess, 10:00 a.m. to 10:10 a.m.)

11 CHAIR TANAKA: Liquor Commission meeting called
12 back to order. Administrative Affairs. Approval of forms.

13 MS. YOSHIZAWA: Chair and Members, the Department
14 is requesting approval of amendment to DLC-001 License
15 Application Checklist. We received notice from the Hawaii
16 Criminal Justice Data Center that the FBI is reducing their
17 fees for fingerprint-based criminal history record checks.
18 So the fee is going from \$49.75 per person to \$47 per
19 person. So on Page 2, the only amendment to the checklist
20 is a change in fee.

21 CHAIR TANAKA: Okay. Any questions by the
22 Commissioners? If not, may I have a move for approval?

23 COMMISSIONER KENNISON: So move.

24 COMMISSIONER WEST: Second.

25 CHAIR TANAKA: Okay, moved and seconded. All in

1 favor, say "aye."

2 (Response.)

3 CHAIR TANAKA: Okay. Thank you. Approved. Let's
4 go on to Director's Monthly Report.

5 DIRECTOR MUKAI: Director's Monthly Report. The
6 rules of the Liquor Commission and Chapter 281 HRS has been
7 completed in its update. We have posted it on the
8 Department website and provided advanced copies to the
9 Commission and Board, Corporation Counsel, Prosecuting
10 Attorney and staff. The Department has placed printing out
11 to bid as required, and we will distribute all copies to the
12 licensee once they are available.

13 The second item is annual report. Pursuant to
14 Section 281-15 HRS the Commission Chairperson has submitted
15 to the Mayor a full report upon the business operation of
16 the Commission during the preceding year. If you note, on
17 second to last page, that the gross -- total gross sales of
18 liquor in Maui County is now at \$353,208,496.88. So that's
19 approximately \$12 million increase; and \$3 million is on the
20 retail side and \$9 million is on the dispenser side.

21 Small Business Review and Advisory Committee met
22 on September 26 at 2016. They reviewed and -- the proposed
23 rules as well as discuss various other items. The target
24 date to conclude the review of the rules and amendments is
25 December 2016. And so probably in January 2017, the

1 proposed rules will be presented to the Commission for
2 review.

3 The Department held its education class, that we
4 discussed at the last meeting, on September 28, 2016. There
5 were 33 attendees. The following were reviewed: Liquor
6 License Application; license cancellation procedures;
7 temporary license; requirements to upgrade in class of
8 license, Dispenser to Restaurant; permits; Gross Sales
9 Report; and renewal application. The majority attendees was
10 various position in hotels.

11 Department received positive feedback from many of
12 the attendees. And the Administrative Service Division
13 staff did an excellent job conducting the class.

14 The Department conducted its minor decoy operation
15 on September 18, 22 and 23. The premises checked were from
16 a computer random generated list of licensee. 29 premises
17 were checked, two were closed, and two Retail and one
18 Dispenser premises sold liquor to the minor decoy.

19 COMMISSIONER WEST: Which one?

20 DIRECTOR MUKAI: The minor decoy operation was
21 conducted on October 3. Eight premises were checked. One
22 was closed, one sold liquor to a minor decoy. In all
23 instance, the employees of the licensed premises did request
24 the minor decoy to present identification. The employee
25 checked the minor decoy driver's license and sold the liquor

1 to the minor.

2 COMMISSIONER WEST: Which licensees?

3 DIRECTOR MUKAI: We haven't charged them yet, so
4 we don't want to disclose that.

5 COMMISSIONER WEST: Okay.

6 DIRECTOR MUKAI: The Percentage Fee Assessment
7 have been delivered to all licensees. And the license have
8 31 days of the receipt of said assessment to pay the
9 percentage fee. Licensee who pay -- who fails to pay the
10 percentage fee by the due date shall not exercise the
11 license until the fee is paid.

12 Deputy Director. Mark Honda has been selected as
13 the Deputy Director. And his appointment is contingent on
14 the result of the mandatory County's drug test.

15 HGEA has shampooed the carpet, drycleaned the
16 drapes and replaced the missing ceiling tiles in the Deputy
17 Director office.

18 The Maui County Council, in its audit and review,
19 could not find ordinances which created a Department Liquor
20 Control Fund and the Liquor Education Fund as well as other
21 County funds as required by HRS. The County Budget Director
22 and Office of Corporation Counsels are drafting necessary
23 ordinance for submittal to the County Council, because,
24 without the ordinance, all our money, by law, should go into
25 the County General Fund. So they are currently drafting

1 ordinance so we can retain the funds, since our funds are
2 strictly by license fees and not by any taxes or anything
3 else.

4 COMMISSIONER WEST: Can you let us know when
5 that's going to be on the agenda?

6 DIRECTOR MUKAI: Yes.

7 CHAIR TANAKA: Glenn --

8 DIRECTOR MUKAI: Yes.

9 CHAIR TANAKA: -- the education funds are also
10 included in that?

11 DIRECTOR MUKAI: Yes.

12 CHAIR TANAKA: So the fee -- I mean the fines are
13 all included?

14 DIRECTOR MUKAI: Yes.

15 CHAIR TANAKA: But I thought HR -- HRS controls
16 that?

17 DIRECTOR MUKAI: Yes, HRS said that if --

18 CHAIR TANAKA: So they can be used only for
19 education?

20 DIRECTOR MUKAI: Yeah, providing that -- yes, but,
21 according to ordinance, they have to -- HRS, they have to
22 make an ordinance, the Council have to make an ordinance to
23 create those funds.

24 CHAIR TANAKA: So, basically, the Council cannot
25 use 'em any other way, even though it's in the General Fund?

1 DIRECTOR MUKAI: Basically --

2 CHAIR TANAKA: HRS controls that.

3 MR. KUSHI: Yeah. Let me explain. HRS was
4 amended to say that a portion of percentage of the funds can
5 be used for education. Before, it was education for the
6 licensees and staff, but as amended to say it can go to
7 other public education purposes. The -- this Commission
8 approved a grant, I think it was recently, you remember,
9 to --

10 COMMISSIONER WEST: Right.

11 MR. KUSHI: Youth -- Boys and Girls Club or
12 whatever.

13 DIRECTOR MUKAI: Yeah.

14 MR. KUSHI: So that's the kind of purpose. The
15 financial mechanism as far as getting the liquor fines
16 monies into a separate fund that they can use is not
17 existent on the County level. So the Council will create,
18 by passing an ordinance, a separate fund within the Liquor
19 Department for that purpose. It's like a -- you know, it's
20 a technical issue, but, yet, we couldn't find another way to
21 do it. It may have been challenged, Glenn just issues a
22 check from the General Fund monies.

23 CHAIR TANAKA: You no more pCard, eh?

24 MR. KUSHI: No, no, no. PCard couldn't be used.

25 COMMISSIONER ALULI: It's like the Kokua Fund,

1 then? Similar to what the Kokua --

2 MR. KUSHI: Almost, but it's a separate fund.

3 COMMISSIONER ALULI: Arakawa's Kokua Fund.

4 MR. KUSHI: No, no, no.

5 COMMISSIONER ALULI: No.

6 MR. KUSHI: We have no control over that one.

7 COMMISSIONER ALULI: Right.

8 MR. KUSHI: But it's a -- separately designated
9 for this purpose and when it's -- when deposited, is
10 appropriated. So that should come up shortly.

11 DIRECTOR MUKAI: Okay. The Adjudication Board had
12 a hearing on October 6, 2016. I believe you guys have
13 the -- basically, they did -- there was a plea agreement on
14 the 17 counts. They were no contest plea for 10 counts,
15 seven counts on the Complaint and Accusation, plus one
16 pending count for the November hearing was dismissed. And
17 so the total fines came out to \$4,800 with 2,000 suspended.

18 CHAIR TANAKA: Okay. Thank you. Any other
19 questions or comments?

20 COMMISSIONER WEST: Question. Regarding the minor
21 decoy operations, you don't have to go into too much detail,
22 but I've just been noticing lack of managers, like, say, on
23 duty in places I've been. And has -- has your investigators
24 noted that? Have they seen that as well? Where there is
25 like, you know, say a wait help that's there, but not a

1 manager or, you know, someone that's really not securing the
2 premises other than --

3 DIRECTOR MUKAI: There has been some reports and
4 the licensed premises has been issued an administrative
5 notice of caution. If it continues, then we'll bring them
6 before the Board.

7 COMMISSIONER WEST: Okay. Thank you. Appreciate
8 it.

9 CHAIR TANAKA: Okay. Any other questions,
10 comments? If not, may I have a motion for adjournment?

11 COMMISSIONER WEST: So moved.

12 COMMISSIONER KENNISON: Moved.

13 CHAIR TANAKA: Okay, meeting adjourned. Thank
14 you. (Gavel.)

15 (Meeting adjourned, 10:21 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 27th day of October, 2016.

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