

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, December 14, 2016.

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APPEARANCES

Robert Tanaka, Chairperson

Dawn Bicoy, Commissioner

William Kennison, Commissioner

Dana Souza, Commissioner

Roy Umeno, Commissioner

STAFF PRESENT:

Gary Murai, Deputy Corporation Counsel

Glenn Mukai, Director

Mark Honda, Deputy Director

Gene Silva, Senior Investigator

Sarah Cordeiro, Secretary to Boards/Commissions II

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

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

MS. CORDEIRO: Sarah Cordeiro, Liquor Control.

COMMISSIONER BICOY: Good morning. Dawn Bicoy.

COMMISSIONER KENNISON: Willy Kennison.

MR. MURAI: Deputy Corporation Counsel, Gary Murai.

CHAIR TANAKA: Good morning, Bob Tanaka.

COMMISSIONER UMENO: Roy Umeno.

COMMISSIONER SOUZA: Dana Souza.

DEPUTY DIRECTOR HONDA: Mark Honda, Liquor Control.

DIRECTOR MUKAI: Glenn Mukai, Liquor Control.

MR. GENE SILVA: Gene Silva, Liquor Control.

CHAIR TANAKA: You have your agenda for December 14, 2016. If there's no questions, may I have a motion for approval?

COMMISSIONER SOUZA: So moved.

COMMISSIONER KENNISON: Second.

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

(Response.)

CHAIR TANAKA: You also have your Commission

1 minutes of November 9, 2016. If there's no comments or
2 questions, may I have a motion for approval?

3 COMMISSIONER SOUZA: So moved.

4 COMMISSIONER KENNISON: Second.

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

6 (Response.)

7 CHAIR TANAKA: Okay. Carried. Let's go on to
8 General Licensing Matters, Item A through K. If there's any
9 questions or comments? If not, may I have a motion for
10 confirmation?

11 COMMISSIONER SOUZA: I move to confirm General
12 Licensing Matters from A to K.

13 COMMISSIONER UMENO: Second.

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

16 (Response.)

17 CHAIR TANAKA: Opposed, "no."

18 (No response.)

19 CHAIR TANAKA: Motion carried. Let's go on to
20 Licensing, Public Hearing, Application Number 06, Happy
21 Makes Company.

22 MR. MANCINI: Good morning, Commissioners, and
23 merry Christmas. My name is Paul Mancini. I represent
24 Happy Makes Company. With me is Ali Isabelle who is the
25 manager of the two LLCs that are -- that make up the

1 partnership of Happy Makes Company.

2 CHAIR TANAKA: Thank you. Gene.

3 MR. GENE SILVA: Application Number 06, the
4 applicant is Happy Makes Company doing business as Slappy
5 Cakes. The proposed premises is located at 3350
6 Honoapiilani road, Unit Number 701, Honokowai, Maui, Hawaii.
7 This is a public hearing for a new Dispenser General
8 License, Category C(ii). The documents necessary for
9 completing the remaining application requirements for a
10 liquor license are listed in the summary report.

11 Notice of public hearing was published in "The
12 Maui News" on October 19th and 26th of 2016. There are a
13 total of 1,057 owners and lessees situated within 500 feet
14 of the proposed premises. The Department did not receive
15 any protests.

16 CHAIR TANAKA: Thank you. Paul, anything else to
17 add?

18 MR. MANCINI: No, we have nothing to add to that.
19 Thank you.

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

1 COMMISSIONER KENNISON: I move to approve
2 Application Number 06 conditioned upon the applicant
3 completing the remaining application requirements to the
4 satisfaction of the Department of Liquor Control.

5 COMMISSIONER SOUZA: Second.

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

8 (Response.)

9 CHAIR TANAKA: Opposed, "no."

10 (No response.)

11 CHAIR TANAKA: Motion carried.

12 MR. MANCINI: Thank you for your time.

13 MS. ISABELLE: Thank you.

14 CHAIR TANAKA: Application Number 07, Makena Club
15 Services Corporation.

16 MR. NAKAMURA: Good morning, Mr. Chair, Members of
17 the Commission. Craig Nakamura, attorney on behalf of the
18 applicant. With me is Mr. Rick Tramontin, who is the
19 Officer and Director of the applicant.

20 CHAIR TANAKA: Thank you. Gene.

21 MR. GENE SILVA: Application Number 07, the
22 applicant is Makena Club Services Corporation doing business
23 as Kilohana Restaurant. The proposed premises is located at
24 5415 Makena Alanui Road, Makena, Maui, Hawaii. This is a
25 public hearing for a new Dispenser General License, Category

1 C(ii).

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

5 Notice of public hearing was published in "The
6 Maui News" on October 19th and 26th of 2016. There are a
7 total of 45 owners and lessees situated within 500 feet of
8 the proposed premises. The Department did not receive any
9 protests.

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

12 MR. NAKAMURA: Nothing further at this time. Be
13 happy to 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? Seeing none, public hearing
17 closed for this item. Any questions by the Commissioners?
18 Okay. If no questions, may I have a motion?

19 COMMISSIONER KENNISON: Move to approve
20 Application Number 07 conditioned upon the applicant
21 completing the remaining application requirements to the
22 satisfaction of Department of Liquor Control.

23 COMMISSIONER SOUZA: 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.

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

6 Thank you.

7 CHAIR TANAKA: Application Number 11, RY Group

8 LLC.

9 MR. MANCINI: Good morning. My name is Paul
10 Mancini. I'm representing RY Group LLC. The applicant here
11 is Roy Yamaguchi, who is the agent and who's the sole member
12 of the manager of the restaurant.

13 CHAIR TANAKA: Thank you. Gene.

14 MR. GENE SILVA: Application Number 11, the
15 applicant is RY Group LLC doing business as Humble Market
16 Kitchin. The proposed premises is located at 3700 Wailea
17 Alanui Drive, Wailea, Maui, Hawaii. This is a public
18 hearing for a new Dispenser General License, Category C(ii).

19 The documents necessary for completing the
20 remaining application requirements for a liquor license are
21 listed in the summary report.

22 Notice of public hearing was published in "The
23 Maui News" on October 19th and 26th of 2016. There are a
24 total of 223 owners and lessees situated within 500 feet of
25 the proposed premises. The Department did not receive any

1 protests.

2 CHAIR TANAKA: Thank you. Anything else to add,
3 Paul?

4 MR. MANCINI: We have nothing.

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

11 COMMISSIONER KENNISON: I move to approve
12 Application Number 11 conditioned upon the applicant
13 completing the remaining application requirements to the
14 satisfaction of Department of Liquor Control.

15 COMMISSIONER SOUZA: Second.

16 CHAIR TANAKA: Moved and second. All in favor,
17 say "aye."

18 (Response.)

19 CHAIR TANAKA: Opposed, "no."

20 (No response.)

21 CHAIR TANAKA: Motion carried.

22 MR. MANCINI: Thank you very much.

23 MR. YAMAGUCHI: Thank you.

24 CHAIR TANAKA: Okay. Let's go on to Preliminary
25 Hearings. Application Number 08, S&A Hospitality.

1 MR. KAWAGISHI: Chairman Tanaka, Members of the
2 Liquor Commission, Michael Kawagishi on behalf of S&A
3 Hospitality, LLC. With me today is Buff Weaver who is the
4 manager of the restaurant.

5 CHAIR TANAKA: Thank you. Gene.

6 MR. GENE SILVA: Application Number 08, applicant
7 is S&A Hospitality, LLC, a Hawaii limited liability company,
8 doing business as "To Be Named" applying for a Dispenser
9 General License, Category C(ii).

10 The members of the member-managed LLC is listed in
11 the investigator's report.

12 Applicant has submitted an unexecuted sublease and
13 consent by and between S&A Hospitality, LLC, a Hawaii
14 limited liability company, sublessee-tenant, and Oceanfront
15 Marketplace Ventures Inc., a Hawaii corporation, landlord,
16 and Meri-Jo Abrams Manuel, as Trustee of the Lakala Trust,
17 landlord, in consideration of the rents hereinafter set
18 forth, does hereby lease unto tenant, and tenant does hereby
19 lease from landlord, those certain premises hereinafter
20 described "Premises," situated within the building located
21 at 839 Front Street, Maui, Hawaii, "Building", known as
22 Ocean [sic] Marketplace, together with the nonexclusive
23 right of access to said premises over and across the common
24 areas within said building, upon the terms and conditions
25 hereinafter set forth.

1 The term of this lease shall be for five years,
2 nine months and 17 days, commencing on the 15th day of June,
3 2016 and ending on the 31st day of March, 2022, unless
4 sooner terminated.

5 The proposed premises is a two-story wooden
6 structure consisting of approximately 3,600 square feet,
7 located at 839 Front Street, Unit 5, Lahaina, Maui, Hawaii.
8 The premises is located to the rear/makai part of the
9 building.

10 Patrons must pass through a common area to access
11 the restaurant.

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

14 Sale Pepe and Lahaina Sports Bar are licensees of
15 the same class and kind located within a radius of 500 feet.
16 There are six Restaurant Generals, one Club, four Retail
17 General licensees located within a radius of 500 feet.

18 There are 111 licenses of this class and kind
19 currently issued within Maui County.

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

22 A site inspection was conducted of the proposed
23 premises on October 6, 2016. The investigator found that
24 the floor plan submitted was inconsistent with the plans
25 submitted with the application. The applicant has submitted

1 a updated floor plan that is consistent with the premises.

2 Information contained within the DLC-008 Form
3 submitted by Casey Rae Adams indicated that she had been
4 convicted for a violation of law other than minor traffic
5 violation. Information received during the criminal history
6 background check revealed that Casey Rae Adams had not been
7 convicted for a violation of law. Casey Rae Adams has
8 submitted a letter of explanation.

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

12 CHAIR TANAKA: Thank you. Michael, you get
13 anything else to add?

14 MR. KAWAGISHI: No.

15 CHAIR TANAKA: Okay. I'm going to open it to the
16 public for any public testimony. Okay. Seeing none, before
17 I call for the motion, I'm going to ask the Commission that
18 we go into Executive Session so we can discuss this item
19 with our attorney. So may I have a motion?

20 COMMISSIONER UMENO: So move.

21 COMMISSIONER SOUZA: Second.

22 CHAIR TANAKA: Okay, moved and seconded. All in
23 favor, say "aye."

24 (Response.)

25 (Recess to Executive Session, 9:12 a.m. to 9:19

1 a.m.)

2 CHAIR TANAKA: Okay. Liquor Commission meeting
3 called back to order. Before we call for the motion, I'm
4 gonna open it to the public for any public testimony. Okay.
5 Seeing none, may I have a motion?

6 COMMISSIONER KENNISON: I move to approve
7 Application Number 11 -- I mean Number 08 for publication --
8 public hearing and to process the application for
9 publication.

10 COMMISSIONER SOUZA: 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. Thank you.

17 MR. KAWAGISHI: Thank you.

18 CHAIR TANAKA: Application Number 12, Everyday
19 Restaurant Group.

20 MR. MANCINI: Good morning. My name is Paul
21 Mancini. I'm representing Everyday Restaurant LLC. With me
22 is Ali Isabelle who is one of the managers of the LLC. Adam
23 Fuderer is also with us today, he's the other manager.

24 CHAIR TANAKA: Thank you. Gene.

25 MR. GENE SILVA: Application Number 12, applicant

1 is Everyday Restaurant Group LLC, a Hawaii limited liability
2 company doing business as Kolea Kitchen applying for a
3 Dispenser General License, Category C(ii).

4 The members, agent and organizers of the
5 member-managed LLC is listed in the investigator's report.

6 Applicant has submitted a shopping center lease by
7 and between Kahana Partners II, LLC, a Delaware limited
8 liability company, landlord, and Everyday Restaurant Group
9 LLC, a Hawaii limited liability company, tenant, dated
10 August 15, 2016. Term ending 10 years after the rent
11 commencement date. Commencement date is the date upon which
12 landlord delivers possession of the premises to tenant. In
13 the event that such possession is not tendered prior to the
14 second anniversary date of this lease, then this lease shall
15 terminate automatically.

16 The proposed premises is a full service restaurant
17 located on the third level consisting of approximately 8,159
18 square feet, located at 4405 Honoapiilani Highway, Suite
19 Number 301, Lahaina, Maui, Hawaii.

20 There are no schools, churches or licenses of the
21 same class and kind located within a radius of 500 feet.

22 There are one Restaurant General, one Brewpub and
23 two Retail General licensees located within a radius of 500
24 feet.

25 There are 111 licenses of this class and kind

1 currently issued within Maui County.

2 Alison Leigh Isabelle is a member and Adam Scott
3 Fuderer is a member and agent of SCH Ownership, LLC doing
4 business as Slappy Cakes, Restaurant General B(ii), Liquor
5 License Number 230. There were no reports of liquor law
6 violations at this location.

7 Alison Leigh Isabelle is the manager of both
8 general partners within Happy Makes Company doing business
9 as Slappy Cakes, which has applied for a Dispenser General,
10 C(ii) liquor license, Application Number 06. The
11 application is scheduled for public hearing on December
12 14th, 2016.

13 Applicant initially plans to be open seven days a
14 week from 8:00 a.m. to 2:00 a.m.

15 A site inspection was conducted of the proposed
16 premises on November 17, 2016. The investigator found that
17 the floor plan submitted was inconsistent with the floor
18 plan submitted within the application. The premises is
19 currently undergoing construction.

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 provisions as stated within Section
23 281-56 of the HRS from obtaining or exercising a license.

24 All documents necessary for the issuance of a
25 liquor license have not been submitted. Those items are

1 listed in the investigator's report.

2 CHAIR TANAKA: Thank you. Paul, anything to add?

3 MR. MANCINI: No, we have nothing to add.

4 CHAIR TANAKA: Okay. I'm gonna open it to the
5 public for any public testimony on this item. Seeing none,
6 any questions by the Commissioners? Okay. If there's no
7 questions, may I have a motion?

8 COMMISSIONER KENNISON: I move to approve
9 Application Number 12 for public hearing and to process the
10 application for publication.

11 COMMISSIONER SOUZA: 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. Thank you.

18 MR. MANCINI: Thank you very much.

19 MS. ISABELLE: Thank you.

20 CHAIR TANAKA: Application Number 13, Kattwood,
21 LLC.

22 MR. NAKAMURA: Good morning again, Mr. Chair.
23 Craig Nakamura, attorney on behalf of the applicant. And
24 with me is Mr. Dennis Preussler -- P-R-E-U-S-S-L-E-R -- who
25 is the General Manager of the applicant.

1 CHAIR TANAKA: Thank you. Gene.

2 MR. GENE SILVA: Application Number 13, applicant
3 is Kattwood, LLC, a Tennessee limited liability company
4 doing business as "To Be Named" applying for a Dispenser
5 General License, Category C(ii).

6 The members and manager of the manager-managed LLC
7 is listed in the investigator's report.

8 Applicant has submitted an executed indenture of
9 lease by and between the Harry and Jeanette Weinberg
10 Foundation, Incorporated, a Maryland corporation, landlord,
11 and Kattwood, LLC, a Tennessee limited liability company,
12 tenant, dated March 11, 2015. The term of the -- of this
13 lease shall be for five years and zero months, beginning on
14 the 1st day of January, 2015 and ending on the 31st day of
15 December, 2019, unless said term shall be sooner terminated
16 or extended as hereinafter provided.

17 The proposed premises is a two-story structure
18 consisting of approximately 14,511 square feet, located at
19 878 Front Street, Building B, Unit 4, Lahaina, Maui, Hawaii.

20 There are no schools or churches located within a
21 radius of 500 feet.

22 Lahaina Sports Bar, Ruth's Chris Steak House,
23 Number 153, and Sale Pepe are licensees of the same class
24 and kind located within a radius of 500 feet.

25 There are 10 Restaurant General, one Club, and six

1 Retail General licensees located within a radius of 500
2 feet.

3 There are 112 licenses of this class and kind
4 currently issued within Maui County.

5 Roy Kazuyuki Tokujo was previously an officer of
6 Lahaina Myth & Magic Theatre, LLC doing business as Maui
7 Theatre, Dispenser General C(ii), Liquor License Number 271.

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

10 Michael Nathan Kattawar, Jr. is the member,
11 manager, and Roy Kazuyuki Tokujo is the member of Kattwood
12 II, LLC doing business as Aloha Ballroom at Maui Theatre,
13 Dispenser General C(ii) Liquor License within Application
14 Number 23. Application approved at public hearing on August
15 10, 2016.

16 Applicant initially plans to be open seven days a
17 week from 8:00 a.m. to 2:00 a.m.

18 The applicant anticipates that it will continue
19 with performances such as Ulalena and other similar programs
20 with significant cultural, educational and historical value
21 to the community as well as other various forms of
22 entertainment.

23 The applicant is requesting Commission approval
24 for the below conditions to be placed on their liquor
25 license to allow for liquor consumption within the seating

1 area with minors in attendance:

2 A, Exception to Section 08-101-61(f)(2), Rules of
3 the Liquor Commission:

4 (a), A minor is any individual under the age of 21
5 years of age.

6 (f), No licensee shall permit any minor to remain
7 in or about any portion of the licensed premises used or set
8 aside for the sale or consumption of liquor, except as
9 provided by law or under the following circumstances:

10 (2), When all of the following apply:

11 (A), The minor is waiting to order or be served,
12 or is consuming food;

13 (B), Which shall be consumed before 12 midnight;

14 (C), in a licensed premises which:

15 (i) the licensee has on file at the Department a
16 current approved financial report that shows at least 30
17 percent of the establishment's gross revenue is derived from
18 the sale of food that is prepared and cooked within its
19 kitchen facilities and served to patrons within the
20 premises;

21 (ii) has kitchen facilities within the licensed
22 premises which require Department of Health and Department
23 of Fire Control approval; and

24 (iii) is offering at the time the minor is present
25 meals composed of protein, carbohydrates, and fruit or

1 vegetable which are prepared and cooked within its kitchen
2 facilities at the time of ordering; or.

3 B. Exception to Section 08-101-92, Rules of the
4 Liquor Commission.

5 08-101-92, Lighting.

6 The interior lighting shall be sufficient to make
7 easily discernible the appearance and conduct of all persons
8 and patrons in that portion of the premises where liquor is
9 sold, served, delivered, or consumed, and the exterior of
10 the licensed premises shall be well and properly lighted.

11 C. Licensee will appear before the Commission
12 if/when concerns by the Liquor Department are brought forth;
13 and

14 D. There shall be two employees approved by the
15 Director at all times observing the gallery from the
16 catwalk.

17 A site inspection was conducted of the proposed
18 premises on November 17th, 2016.

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

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

1 CHAIR TANAKA: Anything to add, Craig?

2 MR. NAKAMURA: Can I just -- first of all, I would
3 like to just hand out a few materials. I know Ms. Bicoy,
4 Commissioner Bicoy commented on how helpful they were, so I
5 thought I would --

6 COMMISSIONER BICOY: Blame it on me.

7 MR. NAKAMURA: -- give you some photographs and
8 kind of show -- so thank you. This is the Maui Theatre.
9 This is the location where Ulalena has been presenting its
10 show, and there have been various other shows for the past
11 17 years. The -- basically, what's happening is they have
12 had some difficulties with the operation of the business,
13 they've got an investor, and we're transferring the license
14 to a new company, but everything remains the same. The
15 operation remains the same.

16 You'll see that Mr. Tokujo who was the principal
17 that, when we came in for the initial application 17 years
18 ago, is still with the company. I don't know if -- maybe
19 Mr. Tanaka was there at that time, but, probably, he's
20 probably the only Liquor Commissioner that was sitting on
21 the Commission at the time that we came in for this
22 application.

23 CHAIR TANAKA: I may have opposed it, eh?

24 MR. NAKAMURA: So, you know -- I mean, I don't
25 know how many of you have been to the -- to see the Ulalena

1 presentation. This is, also, where Darren Lee, who is very
2 popular in the community, is doing his Elvis -- Elvis show.

3 What I have -- what I have done is just provided
4 you some information, just a brief floor plan that shows the
5 location, and then some photographs that shows the exterior
6 of the building as well as the concession area and the
7 seating area.

8 So it's, basically, just like a movie theater.
9 You walk in from the outside, you know, you pay and you buy
10 your drinks and, you know, food at this concession stand,
11 then you walk in and you sit at the theater.

12 All we're doing is asking that the same conditions
13 that we were granted 17 years ago continue, meaning that
14 this -- in this particular theater, we're allowed to
15 purchase -- patrons are allowed to purchase their beverage
16 and then walk into the theater seating and sit there and
17 consume their -- consume their beverages. That's why I
18 believe the two provisions of the rules that were cited in
19 the report. But, again, all we're doing is we're asking to
20 continue with the present operation.

21 And -- and you can see that they're -- over the
22 last 17 years, there have been no reports of any complaints,
23 no violations, you know. And -- and so we think that we can
24 continue. Mr. Preussler has been with the theater for.

25 MR. PREUSSLER: 17 years.

1 MR. NAKAMURA: 17 years, since the beginning. And
2 he's going to continue on in his position as General
3 Manager. So we expect that the same monitoring of alcohol
4 consumption and everything else will remain the same. And
5 we don't expect any changes or any violations or any
6 problems with the service of liquor.

7 With that, we'd be happy to answer any questions
8 you might have.

9 CHAIR TANAKA: I'm gonna open it to the public.
10 Any comments from the public? Okay. Seeing none, I
11 remember when we passed this thing, that was the first of
12 its kind.

13 MR. NAKAMURA: That's correct.

14 CHAIR TANAKA: I'm glad -- I'm glad I hear that
15 you don't have any violations.

16 Glenn, this -- is this a transfer, Gene?

17 MR. GENE SILVA: No.

18 CHAIR TANAKA: It's a new license? Oh, okay.

19 MR. GENE SILVA: Yeah.

20 CHAIR TANAKA: Because if it was a transfer,
21 everything goes along, anyway, with it.

22 MR. NAKAMURA: Yeah, they -- they were unable to
23 renew their license at the end of last year. So we're
24 applying for a new license at this time.

25 CHAIR TANAKA: Okay. Any other questions by the

1 Commissioners?

2 COMMISSIONER UMENO: Are your monitors trained or
3 are they the same monitors that were previously there?

4 MR. PREUSSLER: Yeah. Well, they're not the same
5 from the very beginning, but, yeah, they -- they all go
6 through the -- the liquor -- they get their liquor cards and
7 they all go through the classes as -- as they come and go.
8 Yeah.

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

11 COMMISSIONER KENNISON: I move to approve
12 Application Number 12 -- 13 for public hearing and process
13 the application for publication.

14 COMMISSIONER UMENO: Second.

15 COMMISSIONER SOUZA: Second.

16 CHAIR TANAKA: Okay, moved and seconded. All in
17 favor, say "aye."

18 (Response.)

19 CHAIR TANAKA: Opposed, "no."

20 (No response.)

21 CHAIR TANAKA: Motion carried.

22 MR. NAKAMURA: Thank you very much.

23 CHAIR TANAKA: Application Number 14, Coconut's
24 Fish Cake [sic].

25 MR. KAWAGISHI: Chairman Tanaka and Members of the

1 Liquor Commission, Michael Kawagishi on behalf of Coconut's
2 Fish Cafe LLC doing business as Coconut's Fish Cafe. With
3 me today is Michael Phillips who is the officer of the
4 company.

5 CHAIR TANAKA: Thank you. Gene.

6 MR. GENE SILVA: Application Number 14, applicant
7 is Coconut [sic] Fish Cafe LLC doing business as Coconut's
8 Fish Cafe applying for a Dispenser Beer and Wine license,
9 Category C(ii).

10 The manager of the manager-managed LLC is listed
11 in the investigator's report.

12 Applicant has submitted an executed Kamaole
13 Shopping Center Lease by and between Pinelake Resort, Inc.,
14 a Hawaii corporation, as landlord, and Coconut [sic] Fish
15 Cafe LLC, a Hawaii limited liability company as tenant,
16 effective March 29, 2016. Tenant shall pay base rent and
17 General Excise Tax thereon, commencing on the date that is
18 the earlier of: (a) six months after the commencement date,
19 or, (b), the date tenant first opens for business to the
20 general public from all or any portion of the premises (the
21 rent commencement date). The term of this lease will
22 commence on the rent commencement date and expire on the
23 last day of the 10th full year thereafter, (the lease term).

24 The proposed premises is on the second floor of a
25 two-story building consisting of approximately 3,050 square

1 feet, located at 2463 South Kihei Road, Space A-21, Kihei,
2 Maui, Hawaii.

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

5 Maui Thai Bistro is a license of the same class
6 and kind located within a radius of 500 feet.

7 There are two Restaurant General and two Retail
8 General licensees located within a radius of 500 feet.

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

11 Applicant initially plans to be open seven days a
12 week from 9:00 a.m. to 12:00 midnight.

13 A site inspection was conducted of the proposed
14 premises on November 21st, 2016. The investigator found
15 that the floor plan submitted was inconsistent with the
16 floor plan submitted within the application. The applicant
17 has submitted an updated floor plan that is consistent with
18 the premises.

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

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

1 CHAIR TANAKA: Thank you, Gene. Mike, anything
2 else to add?

3 MR. KAWAGISHI: No, nothing to add at this time.

4 CHAIR TANAKA: Okay. I'm gonna open it to the
5 public for any public testimony.

6 MR. KAPAHULEHUA: Commissioners, I would like to
7 speak on behalf of the Coconut's Fish and Cafe [sic].

8 CHAIR TANAKA: Sure. Go right ahead. State your
9 name, if you represent a group. You have three minutes.

10 MR. KAPAHULEHUA: Good morning, Commissioners. My
11 name is Kimokeo Kapahulehua. I'm speaking on behalf of
12 myself as being a culturist adviser and cultural support to
13 Coconut Fish and Cafe [sic]. I just wanted to let you know
14 that Mike Phillips has been on the island for 24 years, and
15 we've been involved in many community projects before this
16 license that you see this morning.

17 Coconut's Fish and Cafe [sic] has its original
18 shop in Azeka's Mauka, nine years we celebrate. Every year
19 we dedicate one -- one year -- I would like to tell you the
20 name Coconut's from a cat that was adopted at the Humane
21 Society. And the daughter -- daughter looked at the cat and
22 told him that why don't we give the -- your restaurant that
23 name, Coconut's. So every year, we dedicate one day for
24 Humane Society and dedicate that funds to the Humane Society
25 because the name of the restaurant come from a cat named

1 Coconut's.

2 But besides that, we now have three restaurants in
3 Kona -- I mean Arizona, and about to open the fourth one.
4 We have one to be established in Kauai. We just recently
5 opened one in Sacramento. And in the past, we have opened
6 up two in Texas. But, most of all, that we promote culture
7 in -- in the restaurant to the visitors and to the employees
8 about our farmers to the table and our fishermen to the
9 table, and letting people know that -- to support our legal
10 farmers and our local fishermen, and promoting that to
11 preserve to perpetuate and educate the Hawaiian culture.

12 Our recent project is Kimokeo Foundation that
13 their attorneys and accountants had helped us to file for
14 the papers. We got established in March of this year,
15 Kimokeo Foundation. October, we went on the website. Our
16 first project is to assist the Hawaiian Immersion School to
17 try to building a building.

18 So I just wanted to speak on whatever of the
19 Coconut Fish and Cafe [sic], that it's just not about the --
20 the restaurant itself, it's about a community and involving
21 many other local community projects here in the island. So
22 thank you for giving me this opportunity. Mahalo,
23 Commissioners.

24 CHAIR TANAKA: Thank you. Anybody else? Okay.
25 If not, any questions by the Commissioners? If there's no

1 questions, may I have a motion?

2 COMMISSIONER KENNISON: I move to approve
3 Application Number 14 for public hearing and to process the
4 application for publication.

5 COMMISSIONER UMENO: Second.

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. Thank you.

12 MR. PHILLIPS: Aloha. Merry Christmas.

13 CHAIR TANAKA: Okay. Let's have a 10-minute
14 recess.

15 (Recess, 9:41 a.m. to 9:54 a.m.)

16 CHAIR TANAKA: Okay. Liquor Commission meeting
17 called back to order. Let's go on to Other Licensing
18 Matters. Kimo's Partnership.

19 MS. FUKAGAWA: Good morning. I'm Tammy Fukagawa,
20 I'm Assistant Secretary of TS Aloha, the managing partner of
21 Kimo's Partnership. And this is Lisa Davies, our Assistant
22 Controller.

23 CHAIR TANAKA: Thank you. Gene.

24 MR. GENE SILVA: Applicant is Kimo's Partnership,
25 LLC doing business as Kimo's Restaurant, notifying the

1 Commission of a change of officers, directors and
2 stockholders within the managing member, TS Aloha, Inc., of
3 the limited liability company. William A. Parsons was
4 removed as an officer and director. John A. Saxten, III,
5 Patricia A. Thibaut and Jack A. Saxten were removed as
6 directors of the managing member, TS Aloha, Inc., within the
7 limited liability company.

8 Jacqueline R. Reed was appointed as an officer.
9 Susanne L. Saxten and James R. Thibault were appointed as
10 directors of the managing member, TS Aloha, Inc., within the
11 limited liability company.

12 Rosamond D. Saxten changed titles of the managing
13 member, TS Aloha, Inc., within the limited liability
14 company.

15 John A. Saxten, III previously owned 65 percent of
16 the outstanding capital stock of the managing member, TS
17 Aloha, Inc. Effective upon the approval of the Liquor
18 Commission, 65 percent of the outstanding capital stock of
19 the managing member, TS Aloha, Inc., will be transferred to
20 the Survivor's Trust with Rosamond D. Saxten as trustee.

21 Patricia A. Thibaut previously owned 33 percent of
22 the outstanding capital stock of the managing member, TS
23 Aloha, Inc., which, upon the approval of the Liquor
24 Commission, shall be distributed as to cause no one person
25 or entity to obtain at least 25 percent of the outstanding

1 capital stock of the managing member, TS Aloha, Inc.

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

4 Applicant has submitted a Certification of Change
5 in Directors and Shareholders of TS Aloha, Inc., managing
6 member, Kimo's Partnership, LLC, dated July 14th, 2016,
7 which reflects the changes.

8 In the opinion of the investigator, the applicant
9 appears to be fit and proper, and does not appear to be
10 disqualified by any provision as stated within Section
11 281-56 of the HRS from obtaining or exercising a license.

12 CHAIR TANAKA: Thank you, Gene. Anything else to
13 add? Okay. I'm gonna open it to the public. Any public
14 testimony? Okay. Seeing none, any questions by the
15 Commissioners? Okay. If there's no questions, may I have a
16 motion for approval?

17 COMMISSIONER KENNISON: I move to approve Other
18 Licensing Matters, A, Kimo's Partnership, LLC doing business
19 as Kimo's Restaurant, requesting Commission approval for a
20 change in stockholder and notifying the Commission of a
21 change of officers, directors and titles within the limited
22 liability company.

23 COMMISSIONER SOUZA: Second.

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

1 (No response.)

2 CHAIR TANAKA: Opposed, "no."

3 (No response.)

4 CHAIR TANAKA: Motion carried. Thank you.

5 MS. FUKAGAWA: Thank you.

6 CHAIR TANAKA: Young's Market, LLC. Nobody from
7 Young's Market? Can defer 'em?

8 COMMISSIONER KENNISON: Defer.

9 CHAIR TANAKA: Okay. Changing officers.

10 COMMISSIONER KENNISON: Just changing officers.

11 CHAIR TANAKA: Yeah. Well, normally -- normally,
12 if the owners or representative is not here, the Commission
13 would defer action on this request, but since it's strictly
14 a change in officers and managers, Commission has the
15 authority to approve or disapprove or defer. What's the
16 Commissioners' --

17 COMMISSIONER KENNISON: Unless the staff had any
18 problem with it, I don't have a problem.

19 MR. GENE SILVA: No.

20 CHAIR TANAKA: Okay. The Commissioners have no
21 problems with -- without any representation. Okay. If not,
22 may I have a motion, then?

23 COMMISSIONER KENNISON: I move to approve Other
24 Licensing Matters, B, Young's Market, LLC doing business as
25 Young's Market Company of Hawaii, requesting Commission

1 approval for a change of stockholder, and notifying the
2 Commission of change of officers and title of the limited
3 liability company and the change of officers' and directors'
4 titles and percentage of stock within the manager and member
5 of the limited liability company and within the members of
6 the limited liability company.

7 COMMISSIONER UMENO: Second.

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

10 (Response.)

11 CHAIR TANAKA: Opposed, "no."

12 (No response.)

13 CHAIR TANAKA: Motion carried. Glenn --

14 DIRECTOR MUKAI: Yes.

15 CHAIR TANAKA: -- the Department will inform the
16 applicant about the approval of this?

17 DIRECTOR MUKAI: Yes.

18 CHAIR TANAKA: Can you -- can you state in there
19 that they should have sent a representative or owner or
20 whatever it is? Next time, we will defer action or
21 disapprove the thing.

22 DIRECTOR MUKAI: Yes.

23 CHAIR TANAKA: Thank you. Let's go on to Item C,
24 Hyatt Corporation.

25 MR. NAKAMURA: Good morning, Mr. Chair. Craig

1 Nakamura, attorney on behalf of the licensee.

2 CHAIR TANAKA: Thank you. Craig -- Gene, you got
3 anything else to add?

4 MR. GENE SILVA: I can read this out.

5 CHAIR TANAKA: Just a letter?

6 MR. GENE SILVA: Yeah.

7 CHAIR TANAKA: Okay. Commissioners have the
8 letter in front of them. I have one question. What's gonna
9 happen with Son'z?

10 MR. NAKAMURA: We're applying for a license for
11 that restaurant. I believe the application has been
12 submitted, it's just pending.

13 MR. GENE SILVA: Yeah.

14 CHAIR TANAKA: The application has coming in?

15 MR. GENE SILVA: Yes.

16 CHAIR TANAKA: So, basically, you're asking that
17 Hyatt takes over until the application is approved?

18 MR. NAKAMURA: No. I think this was to address
19 the -- I believe that the purpose of this request is to
20 address the -- although, I thought it was understood, but
21 address the situation where Hyatt will not be using the
22 premises during Son'z operation. Is that correct?

23 CHAIR TANAKA: Well, originally, my understanding
24 was that Son'z was going to use 'em within a certain period.

25 MR. NAKAMURA: Right.

1 CHAIR TANAKA: And Hyatt gonna use 'em with the
2 12-hour/12-hour change period.

3 MR. NAKAMURA: That -- that's correct.

4 CHAIR TANAKA: That was my understanding, but,
5 according to your letter, it says that Hyatt gonna take over
6 the whole thing now.

7 MR. NAKAMURA: I'm sorry.

8 DIRECTOR MUKAI: What happened was, I believe,
9 when Mr. Nakamura was here the last time when the Commission
10 approved this, it should have been added that this will take
11 effect once Son's license takes effect.

12 MR. NAKAMURA: Yeah, yeah, yeah, yeah. Okay. I'm
13 sorry.

14 CHAIR TANAKA: That's why I asked you if Son's
15 going apply --

16 MR. NAKAMURA: This is because the -- the license
17 application for Son's hasn't been submitted -- hasn't been
18 approved yet, right. So this -- this will allow the
19 premises to go back to the Hyatt during that interim period.
20 I apologize.

21 CHAIR TANAKA: So if -- if the Commission approves
22 this thing, gotta be on condition such that Son's
23 application is approved, then, the date it's approved and
24 issued, right?

25 MR. NAKAMURA: No. I think it just gives --

1 MR. GENE SILVA: Upon issuance of.

2 DIRECTOR MUKAI: I believe what they will do is --
3 what we did was, Department, to accommodate Hyatt, we issued
4 them a permit to operate, to extend the premises. So
5 Mr. Nakamura now is coming here to cancel what you
6 requested. And when the Son's application come in, then
7 they'll come back again and make the request.

8 CHAIR TANAKA: You lost me now. Well, originally,
9 my understanding is that the whole premises was under Hyatt,
10 was a hotel premises.

11 MR. NAKAMURA: That's correct.

12 CHAIR TANAKA: You guys came in and asked to
13 separate it. My understanding was --

14 MR. NAKAMURA: That's correct.

15 CHAIR TANAKA: -- that you guys -- Hyatt didn't
16 want to take liability of Son's operation and vice versa.
17 So we approved that.

18 MR. NAKAMURA: That's correct.

19 CHAIR TANAKA: Okay.

20 MR. NAKAMURA: Let me clarify. I think I
21 understand. The -- the issue is that because Son's license
22 hasn't been applied for or approved yet, but Son's is
23 actually continuing to operate. So what this does is it
24 puts the premises back to the hotel so that the premises can
25 continue to operate as it has been all this time. And then

1 once Son'z operation goes into effect, then we'll go back to
2 the separate licenses. So, basically --

3 CHAIR TANAKA: Isn't this kind of premature?

4 MR. NAKAMURA: No. This -- this allows us to go
5 back to -- to put the premises back to the hotel so that the
6 restaurant can continue to operate under the Hotel license.
7 So, in other words, we -- as it's -- as it's operating right
8 now, the restaurant is operating under the Hotel license.
9 So that's continuing on. But because we had the approval to
10 delete that time period, then that was premature, basically,
11 because -- because the restaurant is continuing to operate.
12 So this would allow the restaurant to continue to operate.

13 CHAIR TANAKA: So -- so, right now, the hotel is
14 in agreement with Son'z --

15 MR. NAKAMURA: Yes.

16 CHAIR TANAKA: -- operating agreement, then?

17 MR. NAKAMURA: Yes.

18 CHAIR TANAKA: Basically --

19 MR. NAKAMURA: Yes.

20 CHAIR TANAKA: -- during that period of time.

21 MR. NAKAMURA: That's correct.

22 CHAIR TANAKA: Okay. Now I understand.

23 MR. NAKAMURA: Sorry.

24 COMMISSIONER BICOY: So the last three months,
25 they were not operating correctly, then?

1 MR. NAKAMURA: They were remodeling for a period
2 of time and then -- then they were starting operation.

3 CHAIR TANAKA: So, right now, they operating under
4 an agreement with the hotel?

5 MR. NAKAMURA: That's right.

6 COMMISSIONER KENNISON: They have been operating?

7 MR. NAKAMURA: Yes.

8 CHAIR TANAKA: Yeah. Okay. Okay. Everybody
9 understand?

10 COMMISSIONER SOUZA: So is Son'z, the application,
11 almost done? It's gonna be --

12 MR. NAKAMURA: It's been filed. We're just
13 waiting it to be set for hearing.

14 COMMISSIONER SOUZA: So it should be soon?

15 MR. NAKAMURA: I hope so.

16 CHAIR TANAKA: Okay. So now we understand, now.
17 Now, it's a little bit clear as mud.

18 COMMISSIONER BICOY: So --

19 COMMISSIONER KENNISON: She has a question.

20 COMMISSIONER BICOY: I have a question. So -- so
21 in the last three months, because they -- Son'z hasn't
22 applied for a license, what were they operating under? It
23 was strictly under construction?

24 MR. NAKAMURA: No. They were operating -- when
25 they reopened, they were operating, as the Chair said, under

1 the agreement with the hotel. So they're operating under
2 the Hotel license, which they have been doing for years.

3 COMMISSIONER BICOY: Oh. So under the Hotel
4 license, but, at a certain amount of time, it was supposed
5 to be operated under --

6 MR. NAKAMURA: Son's license, yeah. So we're now
7 applying for a new -- a separate license for the restaurant
8 itself. Instead of operating under the Hotel license, it's
9 going to have its own license. So what this does --

10 CHAIR TANAKA: Basically --

11 COMMISSIONER BICOY: Okay.

12 CHAIR TANAKA: Yeah. Basically, Dawn --

13 COMMISSIONER BICOY: Yeah.

14 CHAIR TANAKA: -- when Hyatt came in originally,
15 they were premature and we approved it prematurely.

16 Basically, that's what it is.

17 MR. NAKAMURA: Yeah. I think -- I think that's
18 correct. The idea was at the time --

19 CHAIR TANAKA: You guys trying to fool us, yeah?

20 COMMISSIONER BICOY: Yeah, we just approve
21 everything.

22 MR. NAKAMURA: The idea -- the idea when we
23 started this was that both applications were going to be
24 filed at the same time.

25 CHAIR TANAKA: Yeah. That's what --

1 COMMISSIONER BICOY: Yeah.

2 CHAIR TANAKA: -- I thought.

3 MR. NAKAMURA: Right. That -- and that was the
4 intent, but, unfortunately, that didn't happen. So one got
5 filed and the other one didn't.

6 CHAIR TANAKA: Okay. So what we're doing now is
7 we retracting what you guys originally asked --

8 MR. NAKAMURA: That's, basically, correct, yes.

9 CHAIR TANAKA: Okay, now we understand. Any other
10 questions? Any comments by the public? You guys got
11 nothing to say? Okay. Any question by the Commissioners?
12 If not, may I have a motion?

13 COMMISSIONER KENNISON: I move to approve Other
14 Licensing Matter C, Hyatt Corporation, doing business as
15 Hyatt Regency Maui, requesting Commission approval for a
16 condition to be removed from its liquor license, that it
17 will have exclusive control of the single dining area as
18 plans submitted from two thousand and -- I mean 2:01 a.m. to
19 2:00 p.m. daily.

20 COMMISSIONER SOUZA: Second.

21 CHAIR TANAKA: Okay, moved and seconded. All in
22 favor, say "aye."

23 (Response.)

24 CHAIR TANAKA: Opposed.

25 (No response.)

1 MR. NAKAMURA: Thank you. Sorry for the
2 confusion. Thank you.

3 CHAIR TANAKA: Motion carried. Okay, you don't
4 have to move. Savio MBH Owner LLC.

5 MR. NAKAMURA: Good morning, Mr. Chair. Craig
6 Nakamura, attorney on behalf of the applicant. This is
7 Mr. Greg Peros, who is the general manager of the Maui Beach
8 Hotel.

9 MR. PEROS: Good morning.

10 CHAIR TANAKA: Okay. Gene.

11 MR. GENE SILVA: The Department is providing a
12 liquor license application status update to the Commission
13 for Savio MBH Owner LLC doing business as Maui Beach Hotel.
14 At the November 9, 2016 Commission meeting, Savio MBH Owner
15 LLC doing business as Maui Beach Hotel was ordered to show
16 cause why the Commission should not cancel license number
17 TEM-03 as well as not further process its pending license
18 application pursuant to Section 281-96 of the HRS and
19 Section 08-101-35.

20 At the Commission meeting, the Department reported
21 to the Commission Members that there was no Hotel liquor
22 license application filed with the Department as it had been
23 returned to the applicant. Through investigation, the
24 application was found to be false, inaccurate and
25 misleading.

1 At the meeting, the Commission Members made and
2 approved a motion to not cancel and to allow Savio MBH Owner
3 LLC doing business as Maui Beach Hotel to continue to
4 operate under a temporary liquor license and that the
5 application has to be returned and submitted to the
6 Department to further process it in that matter.

7 Corporation Counsel clarified in the meeting that
8 it was a recommendation to the Department staff, and, if the
9 staff does not follow the recommendations and issues a
10 decision to the applicant, then the applicant has a recourse
11 to appeal that written decision to the Commission.

12 Since the November 9th, 2016 meeting, the
13 Department's Licensing Section received no communication
14 from the applicant regarding their application for Savio MBH
15 Owner LLC doing business as Maui Beach Hotel, and there was
16 no request for an appointment to submit the Hotel license
17 application for Savio MBH Owner LLC doing business as Maui
18 Beach Hotel.

19 On December 1st, 2016, an email was sent to
20 authorized agent and attorney Craig Nakamura, requesting an
21 update to the status of application and when the Department
22 could expect to receive the application as applicant
23 continued to operate on a Hotel temporary liquor license
24 with no application on file. Craig Nakamura responded that
25 they would be filing a Dispenser license application for DH

1 Investment.

2 The Department continued to consult and update
3 Corporation Counsel regarding the application status of
4 Savio MBH Owner LLC doing business as Maui Beach Hotel.

5 On December 5th, 2016, the Department received an
6 email request from Attorney Nakamura's office requesting an
7 extension to their Hotel temporary liquor license as the
8 temporary license was set to expire on December 9th, 2016.

9 The Department forwarded to Corporation Counsel,
10 for their review and determination, the request for an
11 extension of a Hotel temporary liquor license.

12 Background information provided updated
13 information that Attorney Nakamura will instead be
14 submitting in an application for a Dispenser liquor license
15 for DH Investments and not a Hotel liquor license
16 application for Savio MBH Owner LLC, and informed
17 Corporation Counsel that the applicant has not yet submitted
18 their Hotel liquor license application.

19 Nakamura's office was informed that their request
20 was forwarded and under review by Corporation Counsel.

21 During the review by Corporation Counsel, the
22 Department was informed that they were in communication with
23 Attorney Nakamura. Subsequent emails received from Attorney
24 Nakamura following the request for legal services were
25 forwarded to Corporation Counsel for their review and

1 response.

2 After careful review by Corporation Counsel and
3 meeting with this Department's personnel, it was determined
4 that the Director is prevented from administratively issuing
5 a temporary license until the applicant has complied with
6 all requirements as set forth by the Rules of the Liquor
7 Commission, County of Maui, and Chapter 281, Hawaii Revised
8 Statutes.

9 A letter was reviewed by Corporation Counsel and
10 sent, and received by the applicant on December 9th, 2016,
11 informing the applicant that the temporary license, Number
12 TEM-03 issued to Savio MBH Owner LLC doing business as Maui
13 Beach Hotel, expires at midnight on December 9th, 2016, and
14 the licensee is required to file the gross liquor sales
15 report and pay the percentage fee assessment due within five
16 days after the expiration of the license pursuant to Section
17 08-101-50 of the Rules of the Liquor Commission, County of
18 Maui.

19 A copy of this letter is provided in your
20 Commission packet.

21 CHAIR TANAKA: Thank you, Gene. Craig, before I
22 ask you any questions, I'm gonna open it to the public. Any
23 public get testimony or comments or anything to say? Okay.
24 Seeing none, Craig, explain your position and situation --

25 MR. NAKAMURA: Thank you very much, Mr. Chair.

1 CHAIR TANAKA: -- to the Commission.

2 MR. NAKAMURA: So I, basically, agree with the --
3 the report except for the fact that there was -- the
4 statement that there were no communications with the
5 Department regarding our intent. The day of the -- you
6 know, I think, at the last hearing, it was very clear
7 what the -- what the Commission wanted, that the application
8 process continue and that the temporary license continue
9 or be -- yeah, continue.

10 That day, I spoke to the Director. And I told
11 him, you know, we have -- because of the Department's issue
12 with the management agreement, which is what was the big
13 issue at the last meeting, because of that issue, I thought
14 we could avoid the entire situation by having the food and
15 beverage operator, D&H Investment, just submit its own
16 application. So he would be the -- apply for a Dispenser
17 license for the hotel instead of a Hotel liquor license.

18 I then spoke to Mr. Huang with D&H Investment. He
19 agreed to do that. And I advised the Chair -- the
20 Director -- excuse me -- that that's what we would be doing,
21 but that we couldn't jeopardize -- one of the conditions was
22 we couldn't jeopardize that temporary license. Of course,
23 we didn't want to lose that license just because we were
24 applying for a different type of license.

25 I thought I was doing the Department a favor,

1 frankly, because I was trying to avoid having to face the
2 issue of whether or not that management agreement had to be
3 reported and whether or not all of the officers and
4 directors and shareholders of the manager had to be reported
5 and we had to go through the same process, which we, at the
6 last Commission meeting, discussed. And at that point, at
7 that meeting, I pointed out the fact that that rule had been
8 rescinded numerous years ago, that required specific
9 reporting for a management agreement. Anyway, we didn't
10 address that particular issue. And I thought I was doing
11 the -- the Department a favor by having -- avoiding that
12 issue by filing a license application for the food and
13 beverage, Dispenser license, because, then, the management
14 agreement wouldn't even come up.

15 And what happened subsequently is the -- we -- the
16 week before the temporary license was to expire, we sent in
17 an email requesting an extension, and, as you heard,
18 subsequently received a letter saying that it would not be
19 extended pursuant to the rule. I spoke to Mr. Murai. I
20 believe the -- the reason that they could not extend the
21 temporary license was because the application for the hotel
22 license had been returned and was not re-submitted. Okay.

23 So I emailed the Director. And I said we will be
24 happy to re-submit that application, okay, but, two things:
25 Number one, the Department has a policy that if certain

1 items are not submitted within a certain time period, they
2 go stale. In other words, they have to be updated and
3 re-submitted. I said I didn't think it was fair that we had
4 to do that because the Department returned the application
5 to us in error. In other words, the Commission determined
6 that the application should go ahead and should not have
7 been returned. So if it was returned in error, why should
8 we have to go through the effort of redoing all of the
9 application materials that we had done and submitted several
10 months ago? Okay.

11 If the Commission recall, this -- this matter has
12 been pending. We initially -- of course, you recall the
13 license wasn't renewed back in June. And since July, we've
14 been attempting to file the application and have had the
15 application on file for numerous months, it's like six
16 months. Okay. So I said, you know, we can't -- we can't --
17 we shouldn't have to re-submit all those application
18 requirements again.

19 And then the second thing is, I believe the
20 Department is still taking the position that the management
21 agreement requires full reporting. In other words, if we go
22 back to the Hotel liquor license, the application for the
23 Hotel liquor license, and there is a management agreement
24 for D&H to operate the food and beverage operation, we have
25 to do a complete reporting of all the officers and directors

1 and shareholders of D&H Investment. And the Department
2 would require that prior to the application being accepted.
3 In other words, nowadays, at the Department, the review
4 process is -- I believe they only have one, or very few,
5 people that are assigned to taking in and reviewing
6 applications. At that point, it goes to another staff
7 person for what they call secondary review. If they find
8 things that are in error or that they want additional
9 information, we have to re-submit before it's approved or
10 accepted. Okay. And I believe we would have to go through
11 that entire process before it will be accepted and before
12 the temporary license would be issued.

13 So two issues: One, we shouldn't have to revive
14 and redo all of those documents and re-submit them; and,
15 two, we shouldn't have to re-submit the information on the
16 manager D&H Investment.

17 I told them that we would be happy to submit the
18 application. You know, I wanted -- I asked for -- for
19 confirmation that we could submit the application. And I
20 never heard anything.

21 Frankly, you know, we have to be very careful with
22 our application materials because, in certain instances
23 these days, these things get lost. I don't want to just
24 drop off a packet of information which has -- it's a stack
25 of information of all the documents that were prepared for

1 the application and find out that they have been lost. So I
2 need -- I wanted to make sure that we got approval that we
3 could submit them before I just dropped them off. I didn't
4 want to just drop them off.

5 So that's kind of where we are. In the interim,
6 the temporary license, which we -- I thought was going to
7 continue, the temporary license for the hotel was canceled
8 as of Friday. They went through the weekend and up to today
9 with no liquor service. They've had events over the weekend
10 with very upset customers because they -- you know, they had
11 arranged to attend certain events and -- and there was no
12 liquor service there.

13 And so I'm actually -- I'm -- I'm happy this
14 matter was put on the agenda. Actually, I think it was put
15 on the agenda before any of this actually came up regarding
16 the temporary license, but I'm happy that it did get on the
17 agenda so at least we have the opportunity to address the
18 Commission and let them know what happened.

19 I'd be happy to answer any questions.

20 CHAIR TANAKA: So what you -- what you intend to
21 do now?

22 MR. NAKAMURA: Well, I mean, again, you know,
23 our -- our request -- you know --

24 CHAIR TANAKA: Let -- before -- before you go on.
25 There is a Hotel license?

1 MR. NAKAMURA: There is an application for a Hotel
2 license.

3 CHAIR TANAKA: Okay. There's an application for
4 Hotel license. Right. And based on that application for
5 Hotel license, the temporary was issued?

6 MR. NAKAMURA: That's correct.

7 CHAIR TANAKA: Okay. Now, the operator is coming
8 in for a Hotel license?

9 MR. NAKAMURA: Well, what we suggested -- what we
10 suggested was, to avoid -- because, at the last hearing,
11 there was a big issue about this management agreement.
12 Right? It turned out that there's actually a management
13 agreement between -- between -- a management agreement
14 between the hotel owner and the food and beverage operator
15 for the operation of the food and beverage --

16 CHAIR TANAKA: Is there a management agreement
17 now?

18 MR. NAKAMURA: Yes. It was -- to back up, it was
19 originally a lease, which is -- which is the problem that
20 the -- the Department had with the -- with that arrangement.
21 It was originally a lease.

22 And in discussing that with the Corp Counsel's
23 Office, they felt that the management agreement would
24 suffice, as it has in numerous other instances that we
25 submitted applications for, you know, in a lot of different

1 instances, in hotels and different operators in the County.
2 So we prepared a management agreement.

3 And at that point, the staff said that, even with
4 a management agreement, we had to provide a complete
5 accounting for all the officers, directors and shareholders
6 of the manager company, which isn't a requirement.

7 That's never been -- that's definitely a change in
8 policy. The rule requiring that was, actually, rescinded.
9 And -- and now they're asking us to do that again. That was
10 the issue at the last hearing. Okay.

11 So, I mean -- in other words, so not only for the
12 hotel, but now for the manager, we would have to provide
13 personal history statements, two identifications, criminal
14 history clearance, fingerprinting, you know, all of this
15 information for -- it's like filing a new application.

16 And that -- that -- at that point, you know, what
17 the Commission decided at the last meeting was forget that,
18 we just re-submit our application and the temporary license
19 would continue, which was fine, okay, but there was still an
20 issue, an unspoken and undecided issue, about the management
21 agreement. Is that valid or is it not? Do we have to
22 provide this information or do we not. Okay.

23 So, again, I thought I was doing a favor by
24 saying, okay, let's forget that issue, then, okay, we'll
25 just file a Dispenser license for the food and beverage

1 operator, and we don't even have to address that issue. I
2 thought that was gonna be acceptable, you know. And then,
3 at the last minute, we find out that wasn't acceptable. So
4 I said, okay, we'll re-submit the application, then. No --
5 no response. And, again, I'm not gonna -- I'm not gonna
6 just drop it off at somebody's office.

7 CHAIR TANAKA: So let me get this straight. Savio
8 Inc. gonna apply for Hotel license and let D&H run the
9 restaurant?

10 MR. NAKAMURA: That's correct.

11 CHAIR TANAKA: So they taking the whole
12 responsibility, they -- they controlling the operations and
13 everything?

14 MR. NAKAMURA: That's correct.

15 CHAIR TANAKA: That's -- so that's how it's gonna
16 be?

17 MR. NAKAMURA: At the food beverage operation; not
18 for the entire hotel.

19 CHAIR TANAKA: Yeah.

20 COMMISSIONER BICOY: Because that was the issue,
21 the exclusive control.

22 MR. NAKAMURA: Exactly.

23 COMMISSIONER BICOY: In the beginning.

24 MR. NAKAMURA: Exactly.

25 CHAIR TANAKA: So they -- they gonna control

1 everything?

2 MR. NAKAMURA: For -- well --

3 COMMISSIONER KENNISON: Food and beverage, eh?

4 MR. NAKAMURA: Okay. So, again, under a
5 management agreement, the management agreement provides --

6 CHAIR TANAKA: Forget the management agreement.

7 MR. NAKAMURA: No, but -- okay. But to comply
8 with the rules, okay, and the policy of the Department, the
9 management agreement has to provide that, even though you're
10 a manager, okay, the owner still has control. Okay. To --
11 because the owner is the one holding the license. Okay. So
12 the management -- when you asked me that question, does
13 the -- does the -- they have control, they are doing the
14 operation, but, technically, to comply with the law, it's
15 the owner that has control over the premises.

16 COMMISSIONER BICOY: So from what I remember, it
17 was -- the lease was the problem.

18 MR. NAKAMURA: That's right.

19 COMMISSIONER BICOY: In the beginning, right?

20 MR. NAKAMURA: That's right.

21 COMMISSIONER BICOY: And -- and because there
22 wasn't implied exclusive control, and so the lease was a
23 problem, so you went ahead and got the management agreement
24 to, basically, appease --

25 MR. NAKAMURA: That's correct.

1 COMMISSIONER BICOY: Yeah. Okay.

2 CHAIR TANAKA: Can you revise the lease --

3 MR. NAKAMURA: We can do -- you know, I mean --

4 CHAIR TANAKA: -- to get around what you saying
5 you don't wanna do?

6 MR. NAKAMURA: I can -- I can, you know -- I mean,
7 I'm not the kind that's going to object and try to oppose
8 everything. Okay. All we're asking for is some direction.
9 I mean, I submitted -- I asked the -- the -- in my email, I
10 said, look, can we do this, okay, tell me if we can submit
11 the re -- re-submit the application and you'll accept it,
12 you know. I mean, I thought we were trying to help out by
13 filing this food and beverage --

14 CHAIR TANAKA: So all -- all -- all you need is if
15 you can revise the lease to reflect that whoever -- whoever
16 is D&H is the manager of the restaurant, period, and all
17 they need is a manager's license. Am I correct, Glenn?

18 MR. NAKAMURA: I think -- I think the -- I think
19 the Department would have objection to the lease because
20 that's the position --

21 COMMISSIONER BICOY: They did.

22 MR. NAKAMURA: -- that they've taken.

23 COMMISSIONER BICOY: Yeah.

24 MR. NAKAMURA: So they didn't like the lease
25 because they felt that --

1 CHAIR TANAKA: Right now, the lease -- the lease
2 specifically states that Savio supposed to run everything.

3 MR. NAKAMURA: No. The lease says that --

4 CHAIR TANAKA: They -- they -- they control
5 everything.

6 MR. NAKAMURA: The lease is a typical lease and it
7 gives, you know -- so, basically, the -- the tenant, which
8 is D&H, operates the premises, which is -- you know, I think
9 that was the issue. They didn't want to have -- they didn't
10 like -- I don't know specifically what the issue is, but I
11 believe the word "lease" was -- was a negative, you know, as
12 far as they were concerned. That's why we changed the lease
13 to a management agreement.

14 So we can re-submit -- we can re-submit the
15 application just as it is, okay, with the management
16 agreement, that's not a problem, if the Department will
17 accept that, and won't make us -- won't make us re --
18 redo --

19 CHAIR TANAKA: Well, seems like the easiest thing
20 is to get the manager's -- management agreement.

21 MR. NAKAMURA: We have a management agreement.

22 CHAIR TANAKA: So that's the easiest way, seems
23 like.

24 MR. NAKAMURA: That's what -- and --

25 CHAIR TANAKA: Then, instead of the operator

1 coming for Dispenser -- Dispenser General License,
2 because --

3 MR. NAKAMURA: Yeah.

4 CHAIR TANAKA: If it comes in for Dispenser
5 General License, then, under the rules, you cannot get a
6 temporary.

7 MR. NAKAMURA: At the -- at the last meeting that
8 was the issue that was decided. Because we did have that
9 management agreement already, the Commission said, okay, go
10 ahead and re-submit the application and we'll allow the
11 temporary to continue.

12 CHAIR TANAKA: Glenn, what -- what is -- what --
13 what's wrong with the management agreement?

14 DIRECTOR MUKAI: Well, the management agreement,
15 like we brought up in the last Commission hearing --

16 CHAIR TANAKA: Yeah.

17 DIRECTOR MUKAI: -- although they deleted the part
18 on the management agreement which required Commission
19 approval from the rules, but, still, if you look at Section
20 08-101-30, it addresses management agreement where they have
21 to comply, that they must submit to criminal history and
22 everything else like they're getting their own license, you
23 know, as directed by Section, I think 281.45.

24 COMMISSIONER BICOY: I think -- but wasn't that
25 part in question, though, because the original was rescinded

1 back -- what was that?

2 MR. NAKAMURA: 42.

3 COMMISSIONER BICOY: 42, right. And then what I
4 remember, my understanding, was this was kind of a residual
5 that wasn't taken out and removed when Rule 42 was
6 completely removed by the prior Commission. So -- and then
7 if, what I remember correctly, correct me if I'm wrong, then
8 it was the lease was in question because of the exclusive
9 control, and so the management agreement came in, the lease
10 was contentious because there was the -- the possibility of
11 prosecution, right?

12 MR. NAKAMURA: Well --

13 COMMISSIONER BICOY: Yeah, right? You know, and
14 then I think Corp Counsel had said, well, then that
15 wouldn't -- there would be a challenge still with the lease.

16 CHAIR TANAKA: Maybe --

17 COMMISSIONER BICOY: If it was --

18 CHAIR TANAKA: Maybe what we --

19 COMMISSIONER BICOY: -- control or not.

20 CHAIR TANAKA: -- should do is change the rule.

21 MR. NAKAMURA: That -- that's what the Corp
22 Counsel suggested at the --

23 CHAIR TANAKA: Yeah.

24 MR. NAKAMURA: Last meeting.

25 CHAIR TANAKA: Maybe we should take a look at

1 changing the rule.

2 MR. NAKAMURA: So -- but just -- Mr. Chair,
3 just --

4 CHAIR TANAKA: The -- the -- the situation is, and
5 the best way to resolve it is get the management agreement,
6 and that gonna resolve everything.

7 MR. NAKAMURA: Well, except for the fact that,
8 before they will accept that -- my understanding of the
9 Department's position is that we -- we are -- number one, we
10 already have a management agreement. Okay. So that was
11 done and then --

12 COMMISSIONER BICOY: We got it.

13 MR. NAKAMURA: And addressed at the last meeting.
14 Okay. But the Department's position, as you just heard from
15 the Director, is that even though we have a management
16 agreement, now we have to report all of the officers,
17 directors and shareholders of manager.

18 CHAIR TANAKA: Yeah, that's what -- that's where
19 I'm getting to. Commission has the power to exempt
20 whatever -- whatever is there. So, you know, we can discuss
21 that situation. Is Savio's application in?

22 DIRECTOR MUKAI: They have not filed anything.

23 MR. NAKAMURA: And, again, I asked him if he would
24 accept it. And I didn't hear back. Okay. So, I mean, I
25 would be happy to re-submit it. I have it just as it was

1 returned.

2 CHAIR TANAKA: Well, you got to --

3 COMMISSIONER KENNISON: Yeah.

4 CHAIR TANAKA: -- submit your application before
5 you --

6 COMMISSIONER KENNISON: Yes.

7 MR. NAKAMURA: I understand, but, again -- again,
8 Mr. Chair, given the position of -- of the Department, we
9 need to make sure we understand what the conditions are
10 for -- for granting of the -- you know, accepting that
11 license. If I submit it right now, I can tell you what they
12 will do without any further word from the Commission.
13 They're gonna reject that application because some of the
14 documents are stale. And number two, they're gonna reject
15 the application because I don't have the officers,
16 directors, shareholders and everybody else from the manager
17 reporting.

18 COMMISSIONER KENNISON: Is that true, Glenn?

19 DIRECTOR MUKAI: Yes.

20 MR. NAKAMURA: And then they're not gonna issue
21 the temporary license. So that's why we're here. I mean, I
22 think it's unfair.

23 CHAIR TANAKA: How soon -- how soon can you get
24 that application up to -- up to date?

25 MR. NAKAMURA: It's gonna -- okay. So let me --

1 let me go over what -- on the application, these are the
2 things that the Department would consider to be stale, okay,
3 because they're old. But, again, remember that this
4 application was -- we started submitting this application in
5 July, and it was ultimately accepted, I believe it was in
6 November. Oh, no. Excuse me. Might have been August. But
7 after that last -- that Commission meeting in which we had
8 this discussion before, okay, about the floor plan and
9 everything else.

10 So, now, things that the Department would consider
11 to be stale would be the owner's authorization allowing us
12 to file the application, the application itself has got to
13 be re-signed, the certification of the officers and
14 directors has to be re-signed, we need a certificate of good
15 standing from the State, we need tax clearances, both
16 Federal and State, for the applicant, we got to re-sign
17 Mr. Savio's Personal History Statement and redo his
18 guaranty.

19 COMMISSIONER BICOY: How long do tax clearances
20 take?

21 MR. NAKAMURA: It -- I cannot tell you. I mean,
22 it depends on -- from my understanding -- it's usually my
23 assistant that does the tax clearances. My understanding is
24 that -- well, at the end of the year, the fiscal year,
25 certainly, it's very difficult. At the end of the calendar

1 year, it's probably difficult.

2 My understanding, and Mr. Mukai may know better,
3 is that the person at the Internal Revenue Service office
4 that was doing these is no longer there. So I don't know --
5 you know, with that and then we've, also, had really a
6 difficult time getting past clearances from the --

7 CHAIR TANAKA: When was this submitted?

8 MR. NAKAMURA: This --

9 CHAIR TANAKA: When was that submitted, that --

10 MR. NAKAMURA: The department of tax.

11 CHAIR TANAKA: Application?

12 MR. NAKAMURA: This information?

13 CHAIR TANAKA: Yeah.

14 COMMISSIONER BICOY: You said July.

15 MR. NAKAMURA: It was originally attempted to be
16 submitted in July.

17 CHAIR TANAKA: What do you mean, attempted?

18 MR. NAKAMURA: Well, again, you know, we
19 submitted -- remember, we went through the -- the whole
20 issue about the floor plan?

21 CHAIR TANAKA: Yeah, but when was that submitted?

22 MR. NAKAMURA: That was in July. We originally
23 submitted the application in July, July 15.

24 CHAIR TANAKA: So it's been four months right now?

25 MR. NAKAMURA: Well, yeah, five.

1 COMMISSIONER KENNISON: Five.

2 CHAIR TANAKA: Five months. It hasn't been a
3 year. Glenn, can we accept all that since been only five
4 months?

5 DIRECTOR MUKAI: Well, I have to look up what the
6 rules say on the accepting dates. There's certain dates
7 like a tax clearance good for.

8 CHAIR TANAKA: Well, the tax clearance good for
9 one year, yeah? You know, so --

10 MR. NAKAMURA: You know, I mean -- I mean, again,
11 you know, our -- our position -- you know, these documents
12 were returned to us because the Commission -- and I have the
13 letter -- the Commission said that, you know, there was
14 questions about the -- about the management agreement.

15 CHAIR TANAKA: So you're saying everything in that
16 application is current?

17 MR. NAKAMURA: It's not current up to their
18 standards, but it's --

19 CHAIR TANAKA: No, no.

20 MR. NAKAMURA: It's --

21 CHAIR TANAKA: As far as you're concerned, is it
22 current?

23 MR. NAKAMURA: Yeah. I mean, I haven't touched
24 the application since it was returned to us.

25 CHAIR TANAKA: Okay. And everything -- everything

1 is in there?

2 MR. NAKAMURA: Yes.

3 CHAIR TANAKA: Okay.

4 MR. NAKAMURA: So I could re-submit that today,
5 you know, but they're gonna bounce it because they're gonna
6 say, no, you got to do -- you gotta bring everything
7 up-to-date and they're going to require everything for the
8 manager. I know that's their position.

9 CHAIR TANAKA: Any -- any other question by the
10 Commissioners?

11 COMMISSIONER KENNISON: Before we do anything, I
12 like go into Executive Session.

13 CHAIR TANAKA: Yeah, that's what I'm going to say.
14 Let's go into Executive Session so we can confer with
15 Gary --

16 COMMISSIONER KENNISON: I move.

17 CHAIR TANAKA: -- on the legality of this thing.

18 COMMISSIONER SOUZA: Second.

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

21 (Response.)

22 (Recess to Executive Session, 10:32 a.m. to 11:00
23 a.m.)

24 CHAIR TANAKA: Okay. Liquor Commission meeting
25 called back to order. Craig, we have two alternatives.

1 MR. NAKAMURA: Okay.

2 CHAIR TANAKA: Okay. Number one, Commission will
3 accept the management agreement as is provided you submit a
4 application for the Hotel license. Okay? Number two, have
5 D&H submit an application for Dispenser General. We will
6 issue a temporary license on that application. Commission
7 will overrule the rule that states that temporary license
8 cannot be issued for unlike usage. Do you understand what
9 I'm saying?

10 MR. NAKAMURA: Yes, I do.

11 CHAIR TANAKA: You have your choice.

12 MR. NAKAMURA: We -- we would be happy to do
13 either. Whatever is going to give us our temporary license
14 quicker is what we will do. And so --

15 COMMISSIONER KENNISON: And we exempt them from
16 the -- Bobby, Bobby -- and we exempt from the criminal --
17 criminal history.

18 CHAIR TANAKA: Yeah, we're gonna accept the --

19 COMMISSIONER KENNISON: As is.

20 CHAIR TANAKA: -- management agreement as is.

21 COMMISSIONER KENNISON: As is.

22 CHAIR TANAKA: Without --

23 COMMISSIONER KENNISON: Without a criminal history
24 check.

25 CHAIR TANAKA: Yeah.

1 COMMISSIONER BICOY: For the purpose of a
2 temporary license for 120 days.

3 CHAIR TANAKA: Yeah, for purpose of temporary
4 license.

5 MR. NAKAMURA: Okay. So my understanding is we
6 can re-submit the application.

7 CHAIR TANAKA: In order for you to get temporary
8 license, you got to submit an application --

9 MR. NAKAMURA: Right. That's correct.

10 CHAIR TANAKA: -- no matter what. Okay. So
11 that's the number one criteria.

12 COMMISSIONER KENNISON: You have it ready, yeah?

13 CHAIR TANAKA: You have to submit an application.

14 MR. NAKAMURA: So re -- if we re-submit the Hotel
15 license, we don't have to -- we do not have to update those
16 stale documents and we don't have to do the reporting on the
17 management agreement, and then the license will --

18 CHAIR TANAKA: No. Let me -- let me reiterate
19 this. Submit an application for the Hotel license. Okay.
20 We will accept the management agreement as is without the
21 Department needing to do criminal history background and
22 your personal background. Your application -- we will give
23 you a temporary license, once -- once you submit that
24 application. But you -- you have to eventually, within that
25 temporary license period, bring your application up to date.

1 We're not gonna accept carte blanche that -- whatever you
2 have there. The Department would have to be satisfied.

3 MR. NAKAMURA: So the stale documents, we just
4 have to re-submit them?

5 CHAIR TANAKA: Whatever.

6 COMMISSIONER SOUZA: Hopefully within the 120.

7 MR. NAKAMURA: That's fine.

8 COMMISSIONER KENNISON: Within the 120 days.

9 CHAIR TANAKA: If they don't accept -- if they
10 don't accept your document, you gotta reissue whatever.

11 COMMISSIONER KENNISON: So you got to hustle.

12 MR. NAKAMURA: Yeah. That's fine.

13 CHAIR TANAKA: That's one alternative.

14 MR. NAKAMURA: We'll do that.

15 COMMISSIONER SOUZA: Okay.

16 DIRECTOR MUKAI: Basically, what the Commission is
17 saying, that we will accept the application and that you
18 guys are waiving the management agreement, we will --

19 CHAIR TANAKA: Yeah.

20 DIRECTOR MUKAI: And so they don't have to submit
21 the personal history and --

22 COMMISSIONER KENNISON: That's correct.

23 DIRECTOR MUKAI: -- criminal history.

24 COMMISSIONER KENNISON: That's correct.

25 DIRECTOR MUKAI: And we can -- you want us to

1 issue the temporary license based on what they submit in
2 application, but they have to update the application to
3 fully comply with the rules --

4 CHAIR TANAKA: Yeah.

5 DIRECTOR MUKAI: -- within the 120 days.

6 COMMISSIONER KENNISON: 120 days.

7 CHAIR TANAKA: 120 days.

8 COMMISSIONER SOUZA: Yes.

9 CHAIR TANAKA: Okay.

10 MR. NAKAMURA: So if we re-submit the application
11 today, can we get the temporary license issued today?

12 COMMISSIONER SOUZA: Yep.

13 COMMISSIONER KENNISON: Yep.

14 CHAIR TANAKA: It's up to Glenn.

15 MR. NAKAMURA: I'll miss lunch for that.

16 COMMISSIONER KENNISON: Up to Glenn.

17 DIRECTOR MUKAI: No. Up to the Commission.

18 COMMISSIONER KENNISON: Glenn, no. We -- we
19 requesting that they --

20 CHAIR TANAKA: Yeah.

21 COMMISSIONER KENNISON: -- get the --

22 CHAIR TANAKA: Craig, now, make sure you bring all
23 that application information up to date within that period.

24 MR. NAKAMURA: Yes.

25 CHAIR TANAKA: Otherwise, no extension.

1 MR. NAKAMURA: Yes, sir.

2 CHAIR TANAKA: Okay.

3 DIRECTOR MUKAI: But, also, we have to make the
4 Commission aware, if they don't update and they don't go to
5 the -- remember, they haven't even reached the preliminary
6 hearing. So if you -- we extend it for 120 days, like the
7 Commission said, and if they don't go through the completing
8 the application and go between the preliminary hearing and
9 public hearing, during that period of time, they might be
10 without a license.

11 MR. NAKAMURA: Yes. So I -- I guess that's
12 correct. And there are other contingencies that might arise
13 in the application process. I know the Commission is
14 really -- the Department is very over -- overworked,
15 understaffed. And, you know, we might not be able to get a
16 preliminary hearing processed right away. So I would say,
17 you know, instead of just giving us an absolute deadline on
18 this being the last extension of the temporary license that
19 we leave that open, and give us the opportunity to come in
20 for a further extension if needed.

21 COMMISSIONER KENNISON: Isn't it the first one --

22 CHAIR TANAKA: No. Why don't -- why don't you
23 speed up your work?

24 MR. NAKAMURA: We're definitely going to do that,
25 but, again, it might be things without -- not in our

1 control.

2 CHAIR TANAKA: No procrastinate.

3 MR. NAKAMURA: No. I'm gonna -- I'm gonna -- I'm
4 gonna go back right now and bring the application back --

5 CHAIR TANAKA: I know, because this been since
6 June, you know.

7 MR. NAKAMURA: I understand. And, we're -- you
8 know -- I mean, if I was the kind of attorney that didn't
9 have a lot of work to do and I just want to build up fees, I
10 probably would do that, but I'm not. I mean, we have --
11 I'll go back to the office today and bring it right back.
12 It's -- it's -- I have it in the same packet that was
13 returned to me. All I got to do is bring it back over.

14 CHAIR TANAKA: Okay, go get it. No need eat,
15 then.

16 MR. NAKAMURA: I'll go.

17 MR. JORGENSEN: I'll save you a plate.

18 MR. NAKAMURA: Thank you. Thank you.

19 COMMISSIONER SOUZA: So, Mr. Chair, shall we
20 remove that one 120-day timeframe that he has to do all that
21 and maybe give him one more temporary license extension
22 after that?

23 CHAIR TANAKA: No. I think we should just leave
24 'em there and let him come back to us and at least give us
25 the reasons.

1 MR. NAKAMURA: Okay. Believe me, we'll do our
2 very best to get that done. We -- we want that -- that
3 license to be issued --

4 CHAIR TANAKA: Okay.

5 MR. NAKAMURA: -- as quickly as possible.

6 COMMISSIONER KENNISON: Yeah.

7 CHAIR TANAKA: Everybody understand --

8 COMMISSIONER KENNISON: Yeah.

9 CHAIR TANAKA: -- what the motion is?

10 COMMISSIONER KENNISON: Yeah. You got any
11 questions?

12 MR. MURAI: No.

13 COMMISSIONER KENNISON: Okay.

14 CHAIR TANAKA: So may I have a motion?

15 COMMISSIONER SOUZA: So the motion is that we --
16 you re-submit the Hotel license, and the temporary license
17 be issued upon that, and, hopefully, bring your license --
18 application up to speed within the 120 days.

19 MR. NAKAMURA: And that the management --

20 CHAIR TANAKA: We accept --

21 MR. NAKAMURA: -- agreement will be --

22 COMMISSIONER SOUZA: And we accept the management
23 agreement as is.

24 COMMISSIONER BICOY: And we'll overrule the
25 background criminal, personal.

1 CHAIR TANAKA: Yeah.

2 COMMISSIONER KENNISON: Yeah, as is.

3 MR. NAKAMURA: Thank you.

4 CHAIR TANAKA: Okay. That's the motion.

5 COMMISSIONER UMENO: Second.

6 COMMISSIONER BICOY: Second.

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

9 (Response.)

10 CHAIR TANAKA: Oppose, "no."

11 (No response.)

12 CHAIR TANAKA: Motion carried.

13 MR. NAKAMURA: Thank you very much. I appreciate
14 it. Thank you.

15 MR. PEROS: Thank you.

16 CHAIR TANAKA: Get it all fixed up so we no need
17 see you again.

18 MR. NAKAMURA: Yeah, I hope so. Thank you.

19 COMMISSIONER KENNISON: Now you can have a good
20 Christmas.

21 CHAIR TANAKA: Okay. Let's go on to
22 Administrative Affairs. Director's Monthly Report.

23 DIRECTOR MUKAI: Director's Monthly Report. On
24 November 15, the Department appeared before the County
25 Council Budget and Finance Committee requesting budget

1 amendment to purchase a portable electronic fingerprint
2 scanner. Lisa Paulson, Executive Director of Maui Hotel
3 Association, as well as attorney Craig Nakamura, David
4 Jorgensen and Peter Horovitz presented testimony in support.
5 The Committee approved the request and forwarded to full
6 Council. Full Council approved the resolution on December
7 2nd. So now we are waiting for MIS -- or the people -- the
8 computer experts from -- in the County to hook us up, to
9 figure what connections we need to hook up our fingerprint
10 scanner once we purchase it.

11 The Department hosted the Annual 2016 Hawaii State
12 liquor Investigators Workshop on November 14, 15 and 16,
13 2016, and 2016 Conference of Hawaii State Liquor Commissions
14 and Industry Representatives on November 27 through 30,
15 2016. All the reviews was very positive. And we had many
16 requests for us to host it again, but we had to inform those
17 requesting that it's on a four-year rotating basis. So the
18 next conference will be held, I believe, in Kona at King
19 Kam, hosted by the Big Island Liquor Control.

20 And, also, the Department did conduct a minor
21 decoy operation on December 9th, 2016, by the Enforcement
22 staff, Maui Police Department officers and a minor decoy.
23 Eight premises was check. Two premises, the employees did
24 check the minor ID and still sold liquor to the minor.

25 The proposed rule amendments have been forwarded

1 to the Department of Corporation Counsel for review. And a
2 tentative date for the hearing is February 8, 2017.

3 Most of you know the new Deputy Director is Mark
4 Honda.

5 And the Personnel Services inform the Department
6 yesterday that the current list for the Liquor Control
7 Trainee vacancy position is, how do you say, slim. Less
8 applicants than they normally would want, so they will be
9 re-recruiting and publish and recruit for more applicants.

10 Adjudication Board hearing was held on December 1,
11 2016. And the results are within the Commission packet.

12 That's all we have.

13 CHAIR TANAKA: Okay. Any questions, comments from
14 the Commissioners? If not, may I have a motion for
15 adjournment?

16 COMMISSIONER SOUZA: So moved.

17 COMMISSIONER UMENO: Second.

18 CHAIR TANAKA: Meeting adjourned. Thank you.

19 (Gavel.)

20 (Meeting adjourned, 11:11 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 ___ day of December, 2016.

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