

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

TRANSCRIPT OF PROCEEDINGS
REGULAR MEETING

Held at the Mitchell Pauole Conference Room,
Kaunakakai Town Center, 90 Ainoa Street, Kaunakakai,
Molokai, Hawaii, commencing at 11:00 a.m., on Friday,
January 20, 2017.

Transcribed by: Tonya McDade, CSR, RPR, CRC
CSR Maui, Inc.
Wells Street Professional Center
2145 Wells Street, Suite 302
Wailuku, Hawaii 96793
(808)244-3376
reporters@csrmaui.com

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APPEARANCES

Robert Tanaka, Chairperson
Darren Lopez, Vice-Chairperson
Nane Aluli, Commissioner
Dawn Bicoy, Commissioner (In, 12:20 p.m.)
William Kennison, Commissioner
STAFF PRESENT:
Mark Honda, Deputy Director
Layne Silva, Senior Investigator
Sharon Ito, Private Secretary
Gary Murai, Deputy Corporation Counsel

1 (Wednesday, January 20, 2017, 11:00 a.m.)

2 * * *

3 CHAIR TANAKA: (Gavel.) Okay. Liquor
4 Commission meeting called to order. Let's have roll call.
5 Sharon.

6 MS. ITO: Sharon Ito, Liquor Control.

7 COMMISSIONER ALULI: Nane Aluli.

8 COMMISSIONER KENNISON: Willy Kennison.

9 MR. MURAI: Deputy Corporation Counsel Gary
10 Murai.

11 CHAIR TANAKA: Bob Tanaka.

12 VICE-CHAIR LOPEZ: Darren Lopez.

13 DEPUTY DIRECTOR HONDA: Mark Honda, Liquor
14 Control.

15 MR. LAYNE SILVA: Layne Silva, Liquor Control.

16 CHAIR TANAKA: Okay. Right now, we don't have
17 quorum. So I'm gonna call a recess until 12:15.

18 Hopefully, at that time, our fifth Commissioner arrives.

19 Before -- before I call a recess, because we are
20 recording this conversation, any -- anybody who's going to
21 speak, please state your name first. And then one speaker
22 at a time. We don't want everybody talking over each
23 other. Okay?

24 So we're gonna recess until 12:15. (Gavel.)

25 (Recess, 11:01 a.m. to 12:20 p.m.)

1 CHAIR TANAKA: (Gavel.) Okay. Liquor
2 Commission meeting called back to order. Good morning,
3 Dawn. Or good afternoon. Let it be known that Dawn Bicoy
4 is present.

5 Okay. You have your agenda for January 20,
6 2017. If there's no questions, no comments, may I have a
7 motion for approval?

8 VICE-CHAIR LOPEZ: So moved.

9 COMMISSIONER KENNISON: Second.

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

12 (Response.)

13 CHAIR TANAKA: Okay. Let's go on to Licensing
14 Matters. Public Hearing, Application Number 10. Layne.

15 MR. LAYNE SILVA: Application Number 10, the
16 applicant is Paddlers Restaurant and Bar LLC doing
17 business as Paddlers Restaurant and Bar. The proposed
18 premises is located at 10 Mohala Street, Kaunakakai,
19 Molokai, Hawaii. This is a public hearing for a new
20 Dispenser General License, Category C(ii).

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

24 Notice of public hearing was published in "The
25 Maui News" on November 16th and 23rd, 2016. There are a

1 total of 90 owners and lessees situated within 500 feet of
2 the proposed premises. And the Department received no
3 protests.

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

6 MR. JORGENSEN: No, sir. Just that we are -- my
7 client is operating under a temporary license and we'll be
8 requesting an extension of that temporary license that
9 expires February 10th. And we would, also, just out of
10 overabundance of caution, because there's some issues my
11 client is working through with the County, that maybe give
12 'em one year to have the issue -- have the license issued
13 once they get all the requirements satisfied. We expect
14 and we hope it'll be done a lot sooner than that. And the
15 extended temporary will expire well before that, but just,
16 again, out of an overabundance of caution, we would
17 request that they have one year to exercise the license.

18 CHAIR TANAKA: So you're asking for an extension
19 before you get the license then?

20 MR. JORGENSEN: An extension -- well, we're
21 asking for an extension of the temporary license which
22 they're already operating under. The current temporary
23 license expires February 10th. So we'll be asking for an
24 extension of that to allow them more time to get the
25 remaining requirements fulfilled. What I'm asking for,

1 instead of six months, to have the license, the permanent
2 license issued, I'm asking for that to be a one-year
3 period.

4 CHAIR TANAKA: So on this application, you're
5 asking for an extension of temporary license?

6 MR. JORGENSEN: No. We'll be dealing with that
7 administratively with the Department.

8 CHAIR TANAKA: Okay. Since it's a public
9 hearing, I'm gonna open it to the public. Any public
10 testimony? Okay. Seeing none, public hearing closed.
11 Any questions by the Commissioners? If there's no
12 questions, may I have a motion?

13 COMMISSIONER KENNISON: Move to approve
14 Application Number 10 conditioned upon the applicant
15 completing the remaining application requirements to the
16 satisfaction of the Department of Liquor Control.

17 COMMISSIONER ALULI: Second.

18 CHAIR TANAKA: Okay, moved and seconded. All in
19 favor, say "aye."

20 (Response.)

21 CHAIR TANAKA: Opposed, "no."

22 (No response.)

23 CHAIR TANAKA: Motion carried.

24 MR. JORGENSEN: Thank you very much.

25 CHAIR TANAKA: That was a fast one. Okay.

1 Let's go on to communication item, letter from Peter
2 Horovitz dated January 13, 2017. Okay. Before we go on,
3 Commissioners, do you have all a copy of the letter?

4 COMMISSIONER KENNISON: Yes.

5 CHAIR TANAKA: Okay. Peter, (inaudible).

6 UNKNOWN SPEAKER: Good afternoon.

7 CHAIR TANAKA: Okay. Go ahead and present your
8 testimony.

9 MR. HOROVITZ: Thank you. Good afternoon, Mr.
10 Chair, Members of the Commission. Thank you for your time
11 today. With me today -- my name is Peter Horovitz, for
12 the record. With me is Chris Rabang, who is the general
13 manager of the (inaudible) Westin Nanea, and Brandon Maeda
14 who is the food and beverage director there as well.

15 This is a little bit of an unusual situation
16 that I find ourselves in. It's, actually, the first time
17 I've ever written a letter to the Commission directly in
18 my 15 years of -- of practicing liquor -- liquor laws or
19 liquor licenses in this county.

20 We have a situation where we're attempting to
21 get a new Hotel license and a new Retail license. And
22 we've been working with the Department since about July of
23 last year on this.

24 These are not new applicants. The -- the
25 individual who is the manager and who is vetted by the

1 Department actually has been approved by this Department
2 for a license on a property next door that had been under
3 common -- common ownership.

4 This exact structure and this -- actually, this
5 licensee holds -- I'm sorry. This structure holds four
6 licenses on Kauai for hotels, hotel and retail operations
7 over there, using exactly the structure here today.

8 And we're attempting to process, again, a two --
9 two new licenses, one is a -- the Hotel, the second is the
10 Retail. And then we are also attempting -- or would like
11 the Commission to consider our application to -- to update
12 the managers and officer -- or the managers and the
13 structure at the neighboring property.

14 The -- by way of a little bit of background, the
15 -- this -- these were Starwood properties. And, last
16 year, there was the big merger with -- and spinoff with
17 Marriott. And, you know, some hotels went one way, some
18 went -- went the other way. And so we're -- we're
19 attempting to -- to process those.

20 The issue that -- that we're -- that we've run
21 into is that these entities are all kind of vertically
22 integrated. You've got each hotel that's owned -- you
23 know, by a -- by an LLC or -- in this case, and then
24 there's entities above.

25 Ultimately, in this case these are

1 publicly-traded entities. And there was a law that was
2 passed specifically to allow that when you have a
3 publicly-traded entity as your ultimate parent, you
4 designate someone as your -- as your person who is then
5 vetted and disclosed. Because, frankly, if you go up the
6 corporate chain, you're gonna -- you're gonna be dealing
7 with vice presidents of, you know, marketing in Singapore,
8 nothing to do with anything here. And so the question was
9 always where do you kind of cut off the -- the vetting.

10 Before we submitted our applications to -- to
11 the Department, we sat down with the Department and, also,
12 with Corporation Counsel, about, you know, how -- how are
13 we gonna do this. Because, you know, we have this new law
14 that the Department actually testified in favor of. There
15 is some contradictions in it. And we're not gonna, you
16 know -- you know, take issue with that, but, you know, we
17 see it one way and other counties are processing it one
18 way, Maui's looking at it a little differently. But how
19 are we going to do this in this situation knowing what we
20 know.

21 And we felt we had reached an understanding with
22 Corporation Counsel and with -- and with the Department to
23 process our applications using Angela Halladay, who is the
24 person who is vetted on all the licenses in other counties
25 and on licenses in this county that -- that were active,

1 and is known -- and -- and using that same structure. And
2 we did that. And we worked -- you know, there were some
3 bumps along the road. We had the application returned to
4 us a couple of times for some minor -- you know, some
5 minor things. We got them corrected. Never -- never
6 once, you know, was the issue of we want some other people
7 vetted raised until last week Thursday at about 3:45 in
8 the afternoon.

9 Our hope was, actually, that today we would be
10 before you on -- as a preliminary hearing for these two --
11 for these two licenses and for the -- and for the change.
12 But, again, about 3:45 last week Thursday, we were told,
13 no, we want, you know, 10 other people vetted.

14 You know, these are the upstream people who have
15 nothing to do with the operations here. And we feel the
16 law -- you know, the law would allow us not to -- not to
17 have to fully vet.

18 Now, the question is were they actually
19 disclosed, did we -- you know, were we hiding the ball
20 from the Department. The answer is no. Again, we met
21 with the -- the, you know, Department and Corp Counsel
22 about the issue, the structure issue, before we even
23 started the application. We checked our emails and our
24 notes. We actually gave the names of those 10 people and
25 their positions at the parent entity to the Department

1 back in October. So, you know, we were disclosing, you
2 know, who they were and where they were and what -- what
3 their titles were.

4 And never once were we asked, okay, you know, we
5 gotta slow down, we gotta -- we want those people, we need
6 to, you know, insert some entity in the middle of the --
7 of these two -- two entities to -- to allow -- allow you
8 to -- to process this. So it was quite a bit of a -- a
9 bit of a shock. And we're not really sure why there was
10 such a change in -- in position.

11 Now, the practical reality of what's -- you
12 know, what -- you know, why is this important, why is it
13 important that we -- we move this forward. The hotel
14 property is, right now, scheduled to open beginning or
15 middle of April. That's the target date. In order to do
16 that, they need the liquor license. Without the liquor
17 license, they can't open the restaurant, they can't really
18 do their F&B, they can't -- their -- their corporate
19 parent won't allow them to open the hotel.

20 As you guys know, the -- in order to get a
21 license, you have a preliminary hearing and then, two
22 months later, you have the public. If we had gotten on
23 today as the preliminary, we would have been sending out
24 2,000 mailings by tomorrow morning and publishing in
25 Sunday's newspaper in order to get on the March calendar.

1 We're not gonna do that.

2 Our hope now is -- and what our -- our request
3 in our letter was that -- that the applications be
4 accepted without further requirement of vetting anyone --
5 any further people beyond Ms. Halladay who is known and
6 has previously been vetted by the Department and who's --
7 all the information's been updated and -- and provided to
8 the Department. And that -- that we then get on the
9 February calendar for our applications and our transfers,
10 you know, the three -- the three pending -- pending
11 requests, so that we will then be in line to get on the
12 early April calendar, which should work with -- you know,
13 with opening.

14 Now, what's at stake? There's about 300 jobs at
15 stake. Without -- you know, without opening the hotel --
16 and I think Chris can -- can verify this, but he mentioned
17 to me before the hearing, I said -- you know, my previous
18 letters have been about 150. That's more on the F&B side.
19 Overall hotel, he's saying about 314 --

20 MR. RABANG: 314.

21 MR. HOROVITZ: 314 people. If the hotel can't
22 open -- I mean, it'll open eventually, but they're not
23 gonna be on payroll until -- until we open.

24 So we're not asking for favors, you know, from
25 the Department or from the Commission, but what we are

1 asking for is, when we work and -- and reach an
2 understanding of -- of how we're -- how the rules are and
3 how they're applied, and we go forward on an application
4 on that basis, that that be honored.

5 And, again, I don't understand why, you know,
6 that the change was -- we -- we went back and searched all
7 our communications, all our -- all our formal
8 communications, letters and whatnot, and all the informal
9 emails and whatnot as to, hey, did this come up at any
10 other time that we -- that they were -- wanted full
11 vetting of the upstream folks who -- who don't have
12 anything to do with the operations here. It didn't. You
13 know, there was never anything until we were -- we were
14 told last week Thursday.

15 And that realistically would set -- you know,
16 it's not something that can happen overnight. That's
17 realistically gonna -- even if we do have to do that would
18 probably set us back, you know, a couple of months, at
19 least.

20 So what my request would be, you know, just so
21 -- just so we're clear, is to have the three licenses.
22 And my request would be that -- and they're ready to go.
23 They -- they're -- they're -- everything's done. I think
24 the report might be in draft form or, you know, close to
25 final, but I don't want to speak for the Department on

1 that. But my request would be that the Commission order
2 that the Department accept the applications in their -- in
3 their current state, that they not require any vetting of
4 anyone else other than Ms. Halladay, who is the sole
5 manager of the licensed entity and who has been vetted by
6 the Department and who has served in that role for other
7 licensees within this County as well as in other counties.
8 And then the applications -- our three applications be
9 placed on the February agenda, preliminary hearings for
10 the two new applications and then it would be a public
11 hearing, I guess, for the -- for the change of -- change
12 of ownership structure for the -- for the third
13 application in -- again, in their as-is condition, without
14 requiring anything further. And that -- that will give us
15 a shot to -- to get on track and get this open.

16 My concern is if we simply -- and, again, it's
17 -- it's the Commission's, you know, prerogative to do --
18 to do what it will. My concern is if we don't -- if we
19 say, okay, yes, accept the applications without also
20 requiring that they be put on the February 8th agenda is
21 that we might run into a situation where, you know,
22 oftentimes -- you know, used to be, and sometimes it still
23 is, that if your paperwork is not in by the first Friday
24 of a month, you don't get on the next month's calendar.
25 The first Friday of January was a while ago. And so I'm,

1 you know, concerned if -- if we aren't able to -- to get
2 on -- you know, to -- to have the Commission direct, yes,
3 we want to see this on the February calendar --

4 Now, I'm not asking the Commission to make a
5 decision on our applications. You will have, you know, at
6 that time the -- the Department's report. You will be
7 able to view the application itself. It will be a normal
8 preliminary hearing. And the Commission can act on it or
9 -- or do what it will. We just want -- we just want a
10 shot.

11 And -- and we -- and, again, like I said, I've
12 never come directly to the Commission in my practice
13 before on something like this. And I -- I -- I don't take
14 it lightly. And I'm sorry to put the Commission in this
15 position, but that's -- you know, our request is that the
16 Commission takes its action.

17 I'm happy to answer questions. My clients are
18 here happy to answer questions, too, if there are any.

19 CHAIR TANAKA: Before -- before we ask any
20 questions, I see another person here. Are you here --

21 UNIDENTIFIED SPEAKER: Just observing as a
22 general public (inaudible).

23 CHAIR TANAKA: I was gonna open it to the public
24 for any public testimony.

25 COMMISSIONER KENNISON: That's her husband.

1 COMMISSIONER ALULI: Dawn's husband.

2 MR. HOROVITZ: Thank you.

3 CHAIR TANAKA: Oh, Dawn's husband. She should
4 introduce you. Okay. Thank you.

5 UNIDENTIFIED SPEAKER: Thank you.

6 CHAIR TANAKA: Peter, I have one question.

7 MR. HOROVITZ: Yes, sir.

8 CHAIR TANAKA: You're saying your application is
9 complete, ready for the Department?

10 MR. HOROVITZ: In -- in our view, it is complete
11 -- yeah, sorry.

12 CHAIR TANAKA: Let me ask. Vetting the 10,
13 other 10 people, are you in that process of trying to get
14 those guys vetted?

15 MR. HOROVITZ: No.

16 CHAIR TANAKA: Or are you depending on the
17 Commission to waive that requirement?

18 MR. HOROVITZ: As -- as of right now, I'm
19 depending on the Commission -- one, I don't believe it is
20 a requirement under -- under the law.

21 CHAIR TANAKA: Well, we -- we differ on that
22 situation, but, anyway.

23 MR. HOROVITZ: Yeah. I have two -- two -- two
24 options. And I could provide the Commission with an
25 option, but, again, it would require a little bit of -- of

1 discretion. My -- my read of the law -- and I know that
2 -- I mean, you know, others can differ. My read of the
3 law and what I believe we had worked out with Corporation
4 Counsel, and our communications indicated that, and what
5 my workings with the Department, up until last week
6 Thursday, were that those other 10 people -- and these are
7 at an upstream entity. These are not the licensed entity.
8 The only person -- the only manager on the licensed entity
9 is Angela Halladay.

10 CHAIR TANAKA: Well, the entity is still part of
11 the -- corporate structure.

12 MR. HOROVITZ: Right.

13 CHAIR TANAKA: I think what you should do, Peter
14 -- I wonder if they get some -- you can go to the
15 blackboard --

16 MR. HOROVITZ: Yeah.

17 CHAIR TANAKA: -- and you wanna show the
18 structure -- structure of all the corporations involved so
19 the Commission can -- can see where --

20 MR. HOROVITZ: Certainly. I think I might have
21 it here.

22 CHAIR TANAKA: -- where the problem exists.

23 MR. HOROVITZ: Let's see. It might even be in
24 the -- one of our letters, but let me just see if -- I
25 think I have it here.

1 CHAIR TANAKA: Well, we -- we have it here,
2 under FOH Hospitality, LLC.

3 MR. HOROVITZ: Right.

4 CHAIR TANAKA: Where you get Angela Halladay and
5 then Vistana in that -- as member of --

6 MR. HOROVITZ: That's right.

7 CHAIR TANAKA: -- the LLC.

8 MR. HOROVITZ: Right.

9 CHAIR TANAKA: Then, further on, you said they
10 hold certain percentage of this, certain percentage of
11 that. We wanna see where the thing -- where is that
12 connection?

13 MR. HOROVITZ: Yeah. There's no piece of chalk
14 over here. I don't see any chalk.

15 COMMISSIONER ALULI: Go to the Parks Department,
16 there's no chalk over there. Might be next door.

17 MR. HOROVITZ: I can -- I can sketch it out on
18 this. (Inaudible.) That'll give me an opportunity to
19 find my structure chart.

20 CHAIR TANAKA: Came to watch your wife?

21 COMMISSIONER BICOY: He's my ride back.

22 MR. HOROVITZ: You can't take her 'til we're --
23 'til we're done.

24 UNKNOWN SPEAKER: Be an interesting opportunity
25 to swear him in and ask him questions under oath.

1 MR. MURAI: Dawn, you can swear him in and ask
2 him questions under oath.

3 MR. HOROVITZ: You're -- you're gonna have to
4 excuse my handwriting, too. I could either have been a
5 doctor or a lawyer in my life.

6 CHAIR TANAKA: (Inaudible) entity --

7 MR. HOROVITZ: Yeah.

8 CHAIR TANAKA: -- and how it's connected, how is
9 it connected.

10 MR. HOROVITZ: Thank you. Okay. So I'll start
11 -- I'll start with the licensee at the top. In the
12 corporate structure, you'd invert it, anyway, you would
13 invert it, but I'll start with licensee at the top so you
14 can see. So up here is the licensee. And that is FOH
15 Hospitality. Okay. So FOH Hospitality is a limited
16 liability company that is a manager-managed limited
17 liability company. So Angela Halladay is the manager.
18 Okay. So she's the -- she's the sole manager of -- of the
19 limited liability company. This -- the only member -- the
20 only owner of the limited liability company is Vistana,
21 Vistana Signature Experiences, Inc. Okay. It's a
22 corporation. Okay. And then the owner of this entity is
23 ILG. Okay. And this is a publicly-traded company. And
24 the reason, you know, Act -- Act 12 of -- of the -- the
25 legislature last year, they said, look, if your upstream

1 entity -- if you're wholly owned at some point in your
2 corporate structure by -- by a publicly-traded company, we
3 don't need to vet all those people because the SEC does.
4 You know, the Fed -- the Feds vet those people, so we
5 don't need to do it ourselves. So what we -- and, also,
6 recognizes the fact that once you get to this level, like
7 I said, you've got vice presidents in Singapore and
8 whatever, who don't even know they have anything.

9 So it says what we're gonna do is we're gonna
10 allow the licensee to designate a responsible employee or
11 responsible manager or managers, it can be more than one,
12 and those are the people we're gonna vet. And it makes a
13 lot of logical sense because the point of the -- of the
14 vetting is to make sure that whoever is in control of
15 liquor here meets your requirements and is not a felon, is
16 not otherwise disqualified. And it also says there are --
17 there are people who have nothing to do with this who we
18 really don't (inaudible). Now, the issue -- and this is a
19 little bit of a change because what we -- what we used to
20 do -- what we -- the Department and the Commission has
21 licensed a number of times would be to insert another
22 limited liability company in the middle here somewhere, or
23 like in here, and make this person the same -- the manager
24 of that as well, because then you're even one more step
25 removed. That seemed -- that's been fine. I know it's

1 still fine. There -- there are licensees that, you know,
2 just become licensed that use that structure. But we were
3 relying on the new state law which allowed -- we don't
4 need that dummy middle company anymore, we can go -- we
5 can do this, you know, vet this person.

6 But recognizing that there was some confusion
7 and some disagreement over how the law was applied, before
8 we applied, we went and sat down with Corp Counsel, we
9 went and sat down with the Department. And, actually,
10 when we -- we -- we -- as part of the application, you
11 give a corporate structure certification and say this is
12 what our corporate structure is. So we give them this
13 map, okay, we show that, you know, if -- you know, we give
14 them this whole map and we certify it. And we were told,
15 you know, by the Department, face to face, we don't wanna
16 know. All we want are these people here, you know, this
17 person here. We don't wanna know.

18 So that's why it's such a shock that, last week,
19 they go now we wanna know all those people. So the
20 officers and directors, those 10 individuals, that we're
21 -- we're concerned about, those are people who are at this
22 level. So there -- you know, there's a vice president, a
23 secretary, or whatever, you know, various titles, but
24 they're here. But they don't have anything to do with
25 running this -- you know, this hotel, this -- I mean, up

1 the corporate chain, of course, everything ultimately gets
2 connected, but in terms of the day to day, the running the
3 -- you know, the responsibility for this premises, it's
4 Angela Halladay. And this is the same person who's been
5 vetted by the Department, approved by this Department for
6 properties next door, you know, that spun off to other --
7 to Marriott, we're changing her out, she's been approved
8 in this exact structure, this exact structure, you know,
9 by Kauai for four different -- four different licenses.

10 COMMISSIONER ALULI: Chair, I've got a question.
11 Peter, so are there stockholders of FOH Hospitality?

12 MR. HOROVITZ: No.

13 COMMISSIONER ALULI: No.

14 MR. HOROVITZ: Well, there's a member. So
15 within a limited liability company, you don't have stock,
16 you have membership.

17 COMMISSIONER ALULI: Membership.

18 MR. HOROVITZ: And the -- so FOH, the only
19 member is Vistana. So Vistana owns 100 percent of FOH.
20 And then Vistana itself only has one owner, and that is
21 ILG. And this is publicly-traded on -- you can go -- you
22 know, go to the SEC website and find them and buy stock.

23 COMMISSIONER ALULI: So FOH Hospitality, LLC is
24 a paper LLC, then?

25 MR. HOROVITZ: Well, no. I mean -- well, all

1 corporations are paper, but it --

2 COMMISSIONER ALULI: Right.

3 MR. HOROVITZ: It exists, it runs, it has its
4 own books. It -- it runs its own operational --

5 COMMISSIONER ALULI: The LLC, yeah. People who
6 run --

7 MR. HOROVITZ: Yeah.

8 COMMISSIONER ALULI: -- HOF Hospitality --

9 MR. HOROVITZ: FOH.

10 COMMISSIONER ALULI: -- LLC, so there are human
11 beings --

12 MR. HOROVITZ: Absolutely. Yeah.

13 COMMISSIONER ALULI: -- that are FOH
14 Hospitality, LLC.

15 MR. HOROVITZ: That's right. So Angela Halladay
16 is the manager of it. So she is the -- the one -- you
17 know, if you -- if you need a signature -- they can
18 authorize other people, but --

19 COMMISSIONER ALULI: Right.

20 MR. HOROVITZ: She is the, you know, either you
21 have members or managers of the LLC, members being owners,
22 managers being the -- what you would see in the
23 traditional corporation as officers. That's her role
24 here.

25 CHAIR TANAKA: So the Department is asking you

1 to vet those Vis -- Vistana people?

2 MR. HOROVITZ: On Thursday, about 3:45 --

3 CHAIR TANAKA: Right.

4 MR. HOROVITZ: -- we were told we needed all
5 those people vetted.

6 CHAIR TANAKA: And -- and you're saying that Act
7 12 eliminates that?

8 MR. HOROVITZ: That is my read of Act 12, yes.

9 CHAIR TANAKA: Well, (inaudible).

10 DEPUTY DIRECTOR HONDA: Can I address --

11 MR. HOROVITZ: I know -- I know there's a
12 difference of opinion on that.

13 CHAIR TANAKA: Let Mark explain the Department's
14 side.

15 DEPUTY DIRECTOR HONDA: If you don't mind my
16 standing.

17 The Department clearly objects to Peter's
18 recitation of the facts and law. The Department has
19 always been firm, even three weeks ago. I have -- he
20 probably didn't check his emails correctly, or his
21 partner's. We have a email in a string of emails dated
22 July 29th, this past summer, from Karilee Yoshizawa to
23 Kristine Tsukiyama, the other attorney with Peter on this
24 case, Subject, Re: FOH Hospitality dba Westin Kaanapali
25 Ocean Resort - Change in Ownership. Morning, Kris. Okay,

1 we connect next week. I did review your question and we
2 can discuss further next week. Yes, Act 12 does now
3 require that a publicly-traded corporation report and
4 clear the decision-maker regarding the purchase and sale
5 of liquor. Please keep in mind, though, that although
6 that person is designated, all officers and directors for
7 a publicly-traded corporation would still need to be
8 reported and cleared. The language in HRS 281-45 was not
9 amended to allow a publicly-traded corporation to now only
10 clear the "decision-maker regarding the purchase and sale
11 of liquor." All officers and directors of any corporation
12 would have to be cleared individually. That's this past
13 summer, July.

14 Now, here's the other thing -- I have here Act
15 12. Okay. The language here, although we can debate what
16 the intent was -- and for argument sake, let's suppose
17 that we agree that they were going to forgive it -- the
18 draftspeople for the finished product of Act 12 did not
19 excise the language. So all your officers, directors and
20 shareholders of 25 percent or more need to be vetted for
21 criminal check, fingerprint and the whole nine yards.

22 On behalf of our Department, I did attend the
23 opening session of the legislature. And there were
24 discussions and a movement to see if certain lobbying was
25 going to be conducted to clean up the language. In

1 essence, you can read Act 12, they still have the
2 requirements in there. It's almost like a football game
3 where you think the guy went over the goal line, and,
4 through instant replay, he didn't. So Mr. Horovitz's
5 reading of Act 12 and the Department's are two different
6 versions. He claims they scored a TD, we claim they
7 didn't.

8 MR. HOROVITZ: If --

9 DEPUTY DIRECTOR HONDA: And, additionally, in
10 the filings on January 6th, they do put Angela Halladay,
11 Vistana, Inc. or Entertainment, Inc., named as a
12 corporation, so they're gonna have to put who their
13 officers, directors, 25 percent shareholder.

14 Our Department has always been consistent. We
15 never hold back on our reading (inaudible). We tell 'em
16 the same thing for -- every time.

17 They mention in that letter that Layne conceded
18 to it. You can ask him if he said okay. I think he was
19 real upset about this.

20 So that's pure and simple. So the Department
21 took this position and (inaudible).

22 MR. HOROVITZ: If I might? Sorry. You know, my
23 records should -- I -- I know the email he's talking
24 about, the July -- I don't need a copy. I have a copy.
25 And -- and that was exactly what I had said. We had

1 started the discussion with the Department back in July
2 about this. Yes, they initially said our read is that
3 we've gotta do this.

4 I would point out that when Act 12 came up, the
5 Honolulu liquor folks wrote a very supportive letter to
6 the legislature saying this will be great, this is exactly
7 what we need, so that we don't have to vet anyone beyond
8 this. Maui County Liquor Department said, yes, we think
9 it does -- does exactly what I described. It did not -- I
10 -- I've read it. I understand that there's confusion on
11 it. And they're trying to fix that, but -- let me -- just
12 a minute.

13 So in July, that is exactly what the
14 Department's position was, that, hey, we need all these 10
15 people. We didn't think that was right. And then we sat
16 down and met with Corporation Counsel. And we further met
17 with the Department. I have an email August 22nd of us to
18 Karilee Yoshizawa that confirmed our -- our discussions
19 with Ed Kushi and Pat Wong, and that they were going to
20 then be speaking with -- and I'm be happy to provide this.
21 It might even be in your -- in your letters, I believe.
22 It says Pat -- Pat and Ed understood and agreed to go with
23 the Act 12 requirements of the legislature until they can
24 correct the inconsistency, Ed mentioned he would talk to
25 your Department, we should get Angela Halladay's

1 information submitted to you ASAP, which we did.

2 After that -- no, so after we had met with Ed
3 and -- and Pat, and they said, well, yeah, we agree with
4 you and we're gonna go talk with the Department, the
5 Department then dropped, for all intents and purposes, any
6 requirement that we asked that we -- that we vet anyone
7 further. It was after those meetings that they said take
8 off -- you know, take off these entities above.

9 You know, if -- if there's confusion, fine, but
10 when we're told to do one thing and we do it -- there's
11 nothing between, you know, this -- this time in August and
12 last week Thursday that said we needed 10 more people,
13 this application that they reviewed five or 10 times.

14 Now I'm happy do a couple of things. I mean, my
15 -- my first request -- and -- and I -- I -- I do not mean
16 to imply that my reading of the law is the only reading of
17 the law. I'm not that arrogant. And -- and so I -- you
18 know, I respect -- I respectfully disagree with the Deputy
19 Director's, you know, read of the law, respectfully
20 disagree. I'm here to try to solve a problem. We've got
21 about -- like I said, about 300 people who are gonna be
22 out of work. We have applications that we feel are fully
23 complete.

24 I see two paths forward. And I'm happy with
25 either one. The first is what I ask, that we move -- that

1 we accept these as is, waive any -- waive any further
2 requirement that someone may feel is required, and we move
3 these onto the February agenda. The second thing that
4 I'm, again, happy with, if I might, would be to go back to
5 the old system which, actually, is currently -- is still
6 used by the Department, and was recently been approved by
7 the Department in the past couple of -- of meetings. And
8 if this works, then great. Is to insert another limited
9 liability company in here with Angela Halladay as the sole
10 manager of that. So now your 100 percent stockholder of
11 FOH is whatever this LLC is, Angela Halladay is the
12 manager of both. And then we're off at that level.

13 We've already been told to get rid -- they don't
14 want to see anything at this level, so we're moving it to
15 here. This structure is currently approved by the
16 Department for a number of licenses, has recently been
17 approved by a number of licenses.

18 We can do that with one caveat because I can --
19 if -- if the Commission is happy -- is comfortable with
20 that, I can have that LLC created and inserted this week,
21 this upcoming week. The DCCA records, which the
22 Department falls back to, they don't operate that quick.
23 They're not gonna change on their website that FOH is now
24 -- the member of FOH is now not Vistana, it's this entity.
25 It's not gonna be on the website. I will have the

1 paperwork to prove that that is the case. But I have --
2 I've had applications rejected when the paperwork doesn't
3 match what's on the DCCA website, which could be dated.
4 So I'll need some faith that, yeah, this is -- I will have
5 the actual stamped, you know, paperwork that that is the
6 case, but the DCCA, I don't know how long it'll take 'em
7 to update their website. I'm happy to do that, but that's
8 a -- that's a structure that has been approved, it's
9 currently used. I'm happy to do it. I'm not looking to
10 make waves or -- or, you know, pound a round peg into a
11 square hole. I'm here to try to get these licenses moving
12 so that we can, hopefully, get them -- get them licensed.

13 We've been working on this -- this -- you know,
14 these licenses since last July. It's taking longer than I
15 would have hoped. But we are -- we are at the end line
16 here. We are at a point where they're gonna have the
17 hotel ready. And the question is can they open the doors.

18 So I'm just looking to -- to -- again, I'm happy
19 with either solution. I don't want to put the Department
20 in a bad spot. I don't want to put the Commission in a
21 bad spot. I'm happy to do the legwork, but we do need
22 some consideration that, okay, the DCCA record might not
23 be updated, but -- but it'll be in place -- it will be
24 updated in due time. It will be updated probably before
25 the -- before the February hearing. It will definitely be

1 updated before the public hearing. It won't be updated
2 next week if they accept the application or if the
3 Commission directs them to accept the application.

4 CHAIR TANAKA: Okay. I get -- I get two
5 questions. Number one, what Peter said, he said he talked
6 to Corp Counsel, Corp Counsel (inaudible). Was what he
7 said correct?

8 MR. MURAI: Mr. Chair, I don't know, because I
9 -- wasn't me involved in those meetings. However, I have
10 spoken with Mr. Kushi and Mr. Wong about it. And I can't
11 say I asked them specifically whether they confirmed it,
12 but they never said that -- that they recommended one way
13 or the other. I -- I -- I think that most -- as I've seen
14 in the correspondence from Mr. Horovitz so far, the best I
15 can glean is that they may have agreed -- they may have
16 agreed as to the intent of what Act 12 is, but not
17 necessarily opine as to its effect.

18 CHAIR TANAKA: Yeah, I can see that. We like to
19 see Act 12 pass in its entirety and correctly, but --

20 MR. HOROVITZ: Yeah.

21 CHAIR TANAKA: -- according to what the law
22 states now, it's not the situation. That's my
23 interpretation. Mark, I get a question. What Peter is
24 saying about putting another LLC in between there, where
25 -- where -- where was that approved?

1 DEPUTY DIRECTOR HONDA: Where was that?

2 CHAIR TANAKA: Yes. What -- what entity was
3 approved?

4 MR. HOROVITZ: Well, you've done it for this
5 one, the -- the old Westin -- Western Host ones. We've
6 used it for -- I've used it for a multitude of
7 restaurants. I believe -- I believe you just -- the one
8 -- the Roy's restaurants that were just -- just approved
9 --

10 DEPUTY DIRECTOR HONDA: I'm not sure what he's
11 talking about because it's a brand new what if I cut this
12 out here. So --

13 CHAIR TANAKA: Yeah.

14 DEPUTY DIRECTOR HONDA: -- we're gonna have to
15 take it back, and he's gonna have to submit it, and we're
16 going to have to do the due diligence on it. So I'm not
17 sure what he's asking, if you guys approve it conditioned
18 upon these things.

19 CHAIR TANAKA: Well, he's saying that they can
20 put another LLC in between there and the Department has
21 already approved situations like that.

22 MR. HOROVITZ: We just -- we just assisted on
23 the processing, I believe it was the Roy -- the Roy's
24 restaurant and the new -- the new one down in Makena, my
25 father-in-law was working on that one. That's the

1 structure there. And it was the structure we've used for
2 all sorts of licensees.

3 CHAIR TANAKA: That the Marriott one?

4 MR. HOROVITZ: Marriott, yeah.

5 CHAIR TANAKA: Is that the Marriott one where
6 Roy came in and --

7 MR. HOROVITZ: Right.

8 CHAIR TANAKA: -- asked for a Dispenser General.

9 MR. HOROVITZ: Right. The -- the --

10 CHAIR TANAKA: -- within the premises.

11 MR. HOROVITZ: Yeah. And the -- the issue --
12 the issue -- the issue -- yes, exactly, that's the one.

13 CHAIR TANAKA: Yeah, I don't see -- I don't see
14 any (inaudible).

15 MR. HOROVITZ: The -- the issue is that you have
16 -- the issue is that you have entities or people beyond,
17 you know, who have nothing to do with licensing. And the
18 question is always how -- you know, how far up the chain
19 does -- does the Department go. I mean, years ago, when
20 -- when I -- this issue first came up, I think I was -- I
21 was licensing a hotel. And, literally, if you followed
22 the corporate chain, you had the Delaware State Teacher's
23 Retirement Fund owning a piece of this thing.

24 CHAIR TANAKA: (Inaudible).

25 MR. HOROVITZ: You know. And -- and -- yeah,

1 and -- and the question is, I mean, do you really need to
2 vet if that one turns out to be thousands of people. And
3 the answer is no. The question is -- so how do you create
4 a structure that says, all right, this is where -- this is
5 who runs this, this is who we care about, this is who is
6 responsible to us as the Department.

7 CHAIR TANAKA: So when the Department came to
8 you and said, "Vet the 10 guys," why didn't you come up
9 with something like that to rectify it?

10 MR. HOROVITZ: We --

11 CHAIR TANAKA: And --

12 MR. HOROVITZ: Frank -- well, first of all, we
13 were in shock. We -- we -- this was last Thursday. This
14 was last Thursday afternoon.

15 CHAIR TANAKA: I -- I would think at that point,
16 you know, to try and get this thing going, you would have
17 --

18 MR. HOROVITZ: Well --

19 CHAIR TANAKA: -- tried to vet the 10 guys
20 already before -- before you came to us, before you wrote
21 the letter to me.

22 MR. HOROVITZ: It's -- it's -- I can tell you
23 it's impossible. It would take -- it would take at least
24 two, probably three months to -- to vet all those people.
25 Just based on -- on current experience of how long it

1 takes to get the paperwork together in a form acceptable
2 to the Department, we're talking two or three months. So
3 to answer your question, you know, I needed to try to get
4 before you. My initial -- what I thought up until
5 Thursday at 3:45 was, that actually, I was gonna be here
6 on a preliminary -- preliminary licensing matter if the
7 Department had -- had made the decision, yes, we're gonna
8 process this. That was my thought. It was in error.
9 Okay. I'm not gonna argue that I was right or wrong on
10 that because I'm, obviously, not here on a preliminary.
11 But I -- but there's simply -- you know, I needed to try
12 to be before you in some way to say, look, how can we --
13 how can we move this forward. The -- the ability to get
14 10 people vetted by the Department, impossible in a week,
15 absolutely impossible. Even if they were sitting beside
16 me today and I had the forms, it's not gonna happen.

17 CHAIR TANAKA: You're sure about that?

18 MR. HOROVITZ: Absolutely.

19 CHAIR TANAKA: You're sure you're gonna open by
20 April 15th?

21 MR. HOROVITZ: Huh?

22 CHAIR TANAKA: You're sure you're gonna open by
23 April 15th?

24 MR. MAEDA: Construction is -- actually, they're
25 -- they're targeting 1st of April.

1 CHAIR TANAKA: Yeah, but you need a CO now.

2 MR. HOROVITZ: Yes, we do.

3 CHAIR TANAKA: And I worked with the County for
4 many years, and, you know, getting that CO is something
5 else.

6 MR. MAEDA: (Inaudible.)

7 CHAIR TANAKA: Mark.

8 DEPUTY DIRECTOR HONDA: Yes.

9 CHAIR TANAKA: What -- what Peter is saying, how
10 long would -- would you be able to find out if that route
11 he's saying, where he put that other LLC in between --

12 DEPUTY DIRECTOR HONDA: Well, I think it's kind
13 of a trick question to (inaudible) all honesty. I don't
14 know what the name of the entity or in what shape, form,
15 who's gonna be a member and all that --

16 MR. HOROVITZ: I could tell you exactly what it
17 is.

18 DEPUTY DIRECTOR HONDA: Stop it. So it's -- why
19 doesn't he file it, then we go do our investigation? I
20 don't wanna pre-commit to him on a letter correspondence
21 that he's trying to get A, B, C, D today (inaudible).

22 CHAIR TANAKA: So you're saying that it's been
23 done before?

24 MR. HOROVITZ: Oh, yes.

25 CHAIR TANAKA: So you're pretty sure you can do

1 it that way?

2 MR. HOROVITZ: I -- I know -- I know for an
3 absolute fact that that structure, the -- with the -- with
4 the -- an LLC in the middle has been approved by the
5 Department and the Commission. I know that for an
6 absolute fact. I've been -- I've been processing them for
7 years. I helped come up with it, frankly, you know, years
8 and years --

9 CHAIR TANAKA: So -- so it's been approved by
10 the Department?

11 MR. HOROVITZ: Absolutely. Absolutely. But my
12 concern, frankly, and I'll be trying to be -- my concern,
13 frankly, is that we have a deadline. And based on recent
14 experiences, the oh, well, why don't you submit it and
15 we'll take a look and get back, we're gonna -- we're not
16 gonna make February.

17 We were told that the -- the rejection -- we
18 received a couple rejections on these applications. One
19 we received on December 29th. And that -- that's probably
20 in the file somewhere. We received a rejection on
21 December 29th for a couple of what I think are -- were
22 fairly minor issues that we corrected. We were told two
23 weeks ahead of that time that the -- that the application
24 were rejected, the letter had been prepared and it would
25 just needed to be reviewed. Two weeks. So I -- I wish I

1 had the time to just say, okay, let's just look, but --
2 but we don't.

3 I know that that structure has been approved. I
4 can get that in place. What I would ask is that we be --
5 the Department say, all right, if he gets that to you
6 within a week -- the DCCA is not gonna be updated, but
7 I'll get you the corporate paperwork that shows this
8 person's there -- that the applications be accepted and
9 put on the February 8 calendar. Because if -- if we don't
10 come out of here with -- with some direction, we're gonna
11 get kicked down the road and we're gonna miss February,
12 we're probably gonna miss March. And I'm just basing that
13 on my -- my recent personal experience. And I hate to
14 have to say it, but that is what it is.

15 CHAIR TANAKA: Well --

16 MR. HOROVITZ: If we don't -- if we don't get it
17 -- you know, if you give me a deadline, hey, get this in
18 to them by next week, you know, the paper -- the
19 paperwork, if I don't get it, that's on me. But I would
20 like some direction that if I do -- if -- if that is
21 acceptable to the Commission, and if I do get that in that
22 the application -- the applications, the three of them, be
23 put on the -- on the calendar.

24 CHAIR TANAKA: Well, you gotta get it in to the
25 Department, and the Department gotta give the approval.

1 MR. HOROVITZ: They've -- they have seen the
2 entire -- the only reject -- the reason it was rejected
3 was because of those 10 individuals. They've reviewed --
4 my understanding and they can correct me if I'm wrong, but
5 they've reviewed the entire -- the rest of the
6 application, you know.

7 CHAIR TANAKA: So -- so you're saying that
8 Vistana will be eliminated from that chart?

9 MR. HOROVITZ: No. It would be moved down. So
10 Vistana stays. You still have the publicly-traded, you
11 still have Vistana, you're now inserting another -- the
12 issue, problem is that you've got officers and directors,
13 about 10 of 'em, of Vistana. And then say hey, we need
14 all those people. So how do we not need all those people.
15 We add another limited liability company in here, then it
16 is the 100 percent owner of this. So now Vistana --
17 Vistana no longer owns the licensee. Vistana owns this
18 intermediate one. This intermediate one owns FOH. And
19 Angela is the only person, the only manager of both. That
20 has been approved by the Department for years, years.

21 CHAIR TANAKA: So you're saying that Roy's is
22 owned by a publicly-traded company?

23 MR. HOROVITZ: No, no. Roy's is not
24 publicly-traded, but -- but it's -- but you're -- you're
25 setting -- you're -- you have structures where the

1 responsible people are -- are in the levels that the
2 Department is vetting, and then you might have investors
3 far, far away who have nothing to do. That -- that's been
4 approved by the -- by the -- by the Department and the
5 Commission. And there's no hiding the ball on that.

6 We're --

7 COMMISSIONER ALULI: Chair, I have a question.

8 CHAIR TANAKA: Go ahead.

9 COMMISSIONER ALULI: That LLC, Peter, that
10 you're saying that you would insert --

11 MR. HOROVITZ: Yes.

12 COMMISSIONER ALULI: -- between Vistana and FOH,
13 if I heard you correctly, perhaps I didn't, did you say
14 that that structure is the structure that you used for the
15 other four -- or three licenses that Angela's named on?

16 MR. HOROVITZ: Well, the -- the ones in Kauai
17 approved that the structure without that LLC. They've
18 approved the FOH, Vistana, ILG.

19 COMMISSIONER ALULI: On -- on Kauai?

20 MR. HOROVITZ: On Kauai. And every -- every
21 county is different, so I'm not gonna hold, you know, this
22 county to that because everyone has their own rules.

23 COMMISSIONER ALULI: Angela holds the licenses
24 for the two other entities here on Maui?

25 MR. HOROVITZ: Well, she -- she was the vetted

1 person for Western Host, which is the -- which was the
2 Westin Maui. That was until the Marriott split. And now
3 she's, you know -- now -- and now she's out -- out of
4 there. She is the person who's gonna be, you know, on
5 these two -- these two licenses and then the -- the other
6 -- the other one that we're restructuring.

7 COMMISSIONER ALULI: You didn't create that LLC
8 insertion that you're talking about to --

9 MR. HOROVITZ: We -- we -- yeah. Sorry, go
10 ahead.

11 COMMISSIONER ALULI: You did not -- Angela -- or
12 you did not create that LLC for -- for the reasons of
13 getting the license.

14 MR. HOROVITZ: No.

15 COMMISSIONER ALULI: And eliminating the need to
16 have Vistana vetted?

17 MR. HOROVITZ: No. I mean, we -- we --

18 COMMISSIONER ALULI: She got it directly without
19 having to go through that process.

20 MR. HOROVITZ: No, no, no. She's -- she --
21 she's -- the licenses are in the entities' name. She is
22 just the individual who is -- who is responsible --

23 COMMISSIONER ALULI: Right.

24 MR. HOROVITZ: -- and vetted.

25 COMMISSIONER ALULI: Right.

1 MR. HOROVITZ: The reason, on this one, why we
2 did it -- you know, why -- you know, first they went
3 through a corporate restructuring. And this is how they
4 wanted to restructure. And then we said, all right, how
5 does this new change in the law apply. We felt it applied
6 one way. We felt reasonably comfortable that others
7 agreed with us. We understand that they don't. And I'm
8 not here to argue the law on it. It is what it is. But
9 we are happy to go back to the structure that the
10 Department has and continues to approve if that would move
11 this forward. And I can get that done immediately, but I
12 need to know it's gonna work. You know, it will be that,
13 it will be -- Angela will be the only person at the two
14 levels, the only person. And that's -- that's the
15 structure that was the existing for Western Host, that's
16 the structure that's been, you know -- you know, number --
17 numerous restaurants and entities that I've -- I did a
18 license before the Department. We've never hidden the
19 ball on it. We're always up front on what it is.

20 And at some point -- and I think this is correct
21 on the Department's point. At some point, they say here's
22 where we draw the line, you know, beyond that, we don't
23 need to know who the vice president in Singapore is, we
24 don't need to know who the person in D.C. is, you know, we
25 need to know who's -- who's -- who's on the ground here

1 and responsible for us. And so the question is where do
2 we draw that line.

3 I'm happy to -- happy to go back to the old way,
4 if that's -- if that's the preference, but, you know, we
5 need to find a way to move forward.

6 CHAIR TANAKA: That's the only alternative I can
7 see because the law specifically states that you gotta vet
8 -- vet those guys.

9 MR. HOROVITZ: And I'm -- and I'm happy to do
10 that if -- if that would do it.

11 CHAIR TANAKA: So other than that, I don't see
12 any way else you can do it.

13 MR. HOROVITZ: I'm -- I'm happy to do that, but,
14 again, my concern stands. It seems we've been stymied for
15 odd things at odd times and I -- I'm concerned that if I
16 get -- get this in next week, it's gonna take -- even if
17 it's acceptable, wow, it's gonna take a long, long time to
18 review and sorry you can't make the February calendar. So
19 we need -- you know, I would love -- if -- if this is
20 what, you know, is -- is acceptable and is -- I don't see
21 why it's not, I would like some direction, look, Peter,
22 you get this in, you know, you get that paperwork, except
23 for the DCCA thing which I can't control how -- when they
24 press send on their -- their website, but you get -- you
25 get that paperwork in by -- give me a deadline, next week

1 Friday, okay, and then we wanna see this on the -- on the
2 agenda. And if it's -- you know, if the Commission at
3 that point doesn't want to, you know, take action on it,
4 they can't, but at least I'm on on trying.

5 CHAIR TANAKA: Mark, question. If Peter submits
6 the change, how long would it take to (inaudible).

7 DEPUTY DIRECTOR HONDA: Well, that I'm not sure.
8 My main concern what Peter saying this is (inaudible)
9 process. (Inaudible) through DCCA. If they don't update
10 and post (inaudible) we don't get the official (inaudible)
11 official check and balance. That's the part that scares
12 me. I don't have a problem (inaudible) Commission has to
13 put them on the calendar, give them deadlines, then when
14 (inaudible) submits (inaudible) jeopardize (inaudible)
15 Sunshine Law (inaudible). You know, if he can say this,
16 it was duly registered with DCCA, that there's none of
17 this (inaudible) LLC and then we go through our protocol,
18 then I don't see a problem. And we can make a
19 determination at that time. But I don't want to get some
20 email in lieu of DCCA.

21 MR. HOROVITZ: No.

22 DEPUTY DIRECTOR HONDA: I would (inaudible)
23 DCCA.

24 MR. HOROVITZ: I know what I --

25 DEPUTY DIRECTOR HONDA: It's registered in the

1 State of Hawaii.

2 MR. HOROVITZ: Here's -- here's what I can get
3 to that. I -- I understand that. And I appreciate that,
4 because you shouldn't be taking it on just an email from
5 me that, oh, yeah, this is all done. My guess is that LLC
6 would be formed, you know, back in corporate -- you know,
7 Delaware or Florida, who knows where. Okay. What you see
8 at the DCCA, if you went to the DCCA website and typed in
9 FOH Hospitality, LLC, you're gonna see that, you'll see
10 some information about where the member -- or where it's,
11 you know, you mail stuff to, and then you will see a tab
12 where you can say who are the members and who are the
13 managers, click on that, and it will list Angela Halladay
14 as the -- as the manager and, currently, it will list
15 Vistana as -- as the -- the -- as the -- as the member.
16 Sorry. What we're looking to do is replace Vistana as the
17 member.

18 Now, I don't know, you know, how long it's gonna
19 take the DCCA to update their website, but what I can get
20 -- okay, what -- what I would be submitting to the DCCA is
21 -- is an amendment form, okay, on this, an official form
22 of the Department of Commerce and Consumer Affairs, not
23 something I create, okay, that says here is the change in
24 this entity, Vistana is no longer the member, whatever the
25 LLC is is now the member. I take that to the DCCA, I pay

1 my \$25 fee, and they will stamp it. Okay. And now it is
2 official. I've done it. It might take them a week to
3 update their website. It might take 'em a month. You go
4 onto the court websites now, you're not gonna find
5 anything, you know -- you know, filed this week. I can
6 get that official stamped form to the Department if they
7 will accept the official State stamped form as proof that
8 we've done exactly what we've said we're going to do. The
9 website is -- is not an official form. I mean, that --
10 the actual form I'm talking about, I can give it to them.

11 DEPUTY DIRECTOR HONDA: Mr. Chair, I don't want
12 the Department to assume the responsibilities of DCCA to
13 say this is a certified copy. I don't know. I'm not
14 DCCA. I'm waiting for DCCA to approve it, register it,
15 then we tap in, they've cleared it. We're not the
16 clearinghouse for DCCA. So I don't want the liability and
17 responsibility to get some hand-delivered certification
18 saying --

19 MR. HOROVITZ: It's not gonna --

20 DEPUTY DIRECTOR HONDA: -- DCCA. We still have
21 to go through DCCA. It's getting real hairy and dangerous
22 now with these suggestions. And granted, he's here on a
23 communication and he's asking for the world (inaudible).

24 COMMISSIONER BICOY: What's the vetting process
25 of DCCA? Once you --

1 MR. HOROVITZ: They'll just --

2 COMMISSIONER BICOY: (Inaudible.)

3 MR. HOROVITZ: There is no vetting. They --
4 they -- we tell them what we -- who we are.

5 COMMISSIONER BICOY: That's it?

6 MR. HOROVITZ: And it's -- they -- they don't
7 approve it or disapprove it. They file it.

8 COMMISSIONER BICOY: And that's the official
9 form?

10 MR. HOROVITZ: Yeah. That's -- that's the form.
11 The website is -- I can go down to court and file a motion
12 for summary judgment, or something, a pleading in a case,
13 they stamp it, it's now -- it is filed, it exists. You
14 can go to the court website and search the case, you won't
15 find it because it takes 'em about a week or so to get it
16 from -- from -- from -- from there to whoever enters in,
17 the clerk. Same thing at the DCCA. We're not asking them
18 to take any liability. This is -- the State accepts the
19 form. It is -- I'm not -- I'm not -- (inaudible) not
20 gonna take my word for it, take the -- take the actual
21 form, I'll give it to 'em. I'll keep a copy myself. I
22 don't need it.

23 CHAIR TANAKA: Okay. Our time is kind of
24 running out, so we gonna have to wrap this thing up. Any
25 other questions from the Commissioners? Peter, I would

1 suggest, if that's the route you wanna do, you go ahead
2 and do it on that basis and let the Department --

3 MR. HOROVITZ: I can guarantee you it's not
4 gonna happen. I mean, I will do this, but I -- I have --
5 I, unfortunately, have no faith that it's gonna get
6 processed in time. That's just based on my -- my current
7 experience. And I'm sad to say it, but it's true.

8 CHAIR TANAKA: I don't think the Commission
9 (inaudible) to circumvent what the Department is saying.

10 MR. HOROVITZ: Respectfully, I'm not asking the
11 Commission to circumvent anything. I'm asking the
12 Commission to say, look, go ahead and do this, get the
13 application in, and we would like to see it on the -- on
14 the February agenda.

15 CHAIR TANAKA: (Inaudible) that's why I'm
16 suggesting you go ahead and do it. And if you can get it
17 in time, fine. You know, we don't wanna put any deadline
18 or -- if the DCCA and that's what Department (inaudible)
19 that burden (inaudible) they gotta have it done
20 (inaudible). Any other comments?

21 COMMISSIONER KENNISON: Yeah. I think -- I think
22 it's a good (inaudible).

23 MR. HOROVITZ: I'm sorry?

24 COMMISSIONER KENNISON: You have to go that
25 route, anyway.

1 CHAIR TANAKA: It seems like (inaudible).

2 MR. HOROVITZ: We're -- we're simply looking for
3 some -- again, I'm happy to do it, but I know -- I know
4 the issues. The issues are, even if they like it, they
5 say, well, sorry, didn't get it in by first Friday. We've
6 been at it in front for months, you know. And -- and,
7 again, it was -- it was a absolute shock to us last week
8 when -- when this additional, you know, vetting
9 requirement was -- it was --

10 CHAIR TANAKA: Yeah, I don't think I wanna put
11 the Commissioners in a position where they say you do this
12 and put it on the prelim -- on the calendar for February
13 and the Department is not ready to accept it the way it
14 is, you know.

15 MR. HOROVITZ: Perhaps I -- I --

16 CHAIR TANAKA: (Inaudible) incomplete file and
17 go on the preliminary.

18 MR. HOROVITZ: I respect that. Maybe -- maybe
19 what we could do -- again, it's up to you, but perhaps
20 what we could do is say -- is say, look, if we get it in,
21 we would like the Department to waive its -- and, again, I
22 won't say normal practice because it's not always normal
23 practice, but waive the issue that our application was not
24 in by the first Friday of January to make the February
25 calendar, that that not be the roadblock. If I -- I can

1 get this in, in a week, and I will. And if -- you know,
2 if they look at the -- you know, if they look at their
3 other licensees and say, yes, this is a -- and I know -- I
4 know this is -- this is what is -- they're comfortable
5 with. If they look and say, yes, we're comfortable with
6 it, we don't want to be rejected for the February calendar
7 because the application wasn't received by January, the
8 first Friday in January. I think that's -- that's
9 reasonable.

10 CHAIR TANAKA: Well, I would suggest you get the
11 -- the thing in, go through DCCA, and make sure that DCCA
12 process the thing right away.

13 MR. HOROVITZ: It's not going to be on the
14 website, though.

15 CHAIR TANAKA: You know, it's the same thing,
16 you coming to us to ask that put this on, do it right
17 away. You can ask DCCA to do the same thing. So that the
18 Department can get that verification that is there, then
19 fine.

20 MR. HOROVITZ: I will have -- sorry. I will
21 have -- I will have the forms. I have no faith that I can
22 get the DCCA tech person to update their website. I will
23 submit the forms to the Department, to -- to the
24 Department. I guess I'm going to have to take it on faith
25 that they will accept an official State form versus a

1 website which, frankly, is -- has disclaimers on it saying
2 this is not official. I don't know what else to do. But
3 -- but this is the issue we're facing, is we're getting
4 these -- these sort of last-minute things that are -- are
5 fairly significant roadblocks and are -- are gonna create
6 some pretty -- you know, I don't mind doing the work. I
7 have -- you know, if I had known back in August-September,
8 hey, now, wait, we -- we are gonna require those 10 folks,
9 I'd do it. I don't mind doing that, the work. I'm not
10 looking for -- for an easy way out. But when we're told,
11 no, we don't -- we don't need this, and every response,
12 every communication back -- you know, we get sent back for
13 other things, but never mention of this. And that's the
14 shocking bit, but it is what it is.

15 CHAIR TANAKA: That's all we can suggest. We're
16 running out of time, so I would suggest you go that route.
17 Any other comments or questions? Okay. I'm sorry, Peter,
18 this the route you gonna have to go. Okay. Can I have a
19 motion for adjournment?

20 VICE-CHAIR LOPEZ: So moved.

21 CHAIR TANAKA: Second?

22 COMMISSIONER ALULI: Second.

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

25 (Response.)

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(Meeting adjourned, 1:22 p.m.)

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CERTIFICATE

I, TONYA MCDADE, Certified Shorthand Reporter, do hereby certify that the electronically-recorded proceedings contained herein were, after the fact, taken by me in machine shorthand and thereafter was reduced to print by means of computer-aided transcription; proofread under my supervision; and that the foregoing represents, to the best of my ability, a true and accurate transcript of the electronically-recorded proceedings provided to me in the foregoing matter.

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

DATED this 30th day of January, 2017.

/s/ Tonya McDade

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