

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, June 7, 2017.

Reported 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

June 7, 2017 - Liquor Commission

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

- Robert Tanaka, Chairperson
 - Nane Aluli, Commissioner
 - Dawn Bicoy, Commissioner
 - Leon Bulosan, Commissioner
 - Nicole DeRego, Commissioner
 - Brenda Lee, Commissioner
 - Dana Souza, Commissioner
 - Roy Umeno, Commissioner (Out, 9:45 a.m.)
- STAFF PRESENT:
- Edward Kushi, Jr., First Deputy Corporation Counsel
 - Glenn Mukai, Director
 - Mark Honda, Deputy Director
 - Layne Silva, Senior Investigator
 - Sarah Cordeiro, Secretary to Boards/Commissions II

June 7, 2017 - Liquor Commission

1 (Wednesday, June 7, 2017, 9:00 a.m.)

2 * * *

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

5 MS. CORDEIRO: Sarah Cordeiro, Liquor Control.

6 COMMISSIONER BICOY: Good morning. Dawn Bicoy.

7 COMMISSIONER ALULI: Aloha. Nane Aluli.

8 COMMISSIONER DEREGO: Good morning. Nicole
9 DeRego.

10 MR. KUSHI: Ed Kushi.

11 CHAIR TANAKA: Good morning. Bob Tanaka.

12 COMMISSIONER SOUZA: Dana Souza.

13 COMMISSIONER LEE: Brenda Lee.

14 COMMISSIONER UMENO: Good morning. Roy Umeno.

15 COMMISSIONER BOLOSAN: Aloha. Leon Bolosan.

16 DIRECTOR MUKAI: Glenn Mukai, Liquor Control.

17 DEPUTY DIRECTOR HONDA: Mark Honda, Liquor
18 Control.

19 MR. SILVA: Layne Silva, Liquor Control.

20 CHAIR TANAKA: Okay. Thank you. You have your
21 agenda for June 7th, 2017. If there's no comments, may I
22 have a motion for approval?

23 COMMISSIONER SOUZA: So moved.

24 COMMISSIONER ALULI: Second.

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

June 7, 2017 - Liquor Commission

1 favor, say "aye."

2 (Response.)

3 CHAIR TANAKA: Opposed, "no."

4 (No response.)

5 CHAIR TANAKA: You also have your Commission
6 minutes of May 9 and May 10. If there's no comments or
7 questions, may I have a motion for approval?

8 COMMISSIONER SOUZA: So moved.

9 COMMISSIONER ALULI: Second.

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

12 (Response.)

13 CHAIR TANAKA: Motion carried. You also have
14 your Executive Session Summary of May 9 and May 10th. If
15 there's no comments or questions, may I have a motion for
16 approval?

17 COMMISSIONER SOUZA: So moved.

18 COMMISSIONER ALULI: Second.

19 CHAIR TANAKA: Okay. All in favor, say "aye."

20 (Response.)

21 CHAIR TANAKA: Okay, motion carried. Let's go
22 on to General Licensing Matters, Item A through V. If
23 there's no questions or comments, may I have a motion for
24 confirmation?

25 COMMISSIONER SOUZA: So moved.

June 7, 2017 - Liquor Commission

1 COMMISSIONER ALULI: Second.

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

4 (Response.)

5 CHAIR TANAKA: Motion carried.

6 We have, on your agenda, public testimony item.
7 We're gonna call public testimony on each -- each item as
8 they come up. Okay.

9 Let's go on to Licensing matters. Public
10 Hearing, Application Number 24.

11 MR. NAKAMURA: Good morning, Mr. Chair, Members
12 of the Commission. Craig Nakamura, attorney on behalf of
13 the applicant. With me is Mr. Garret Tokuda, that's
14 Garret with one T, G-A-R-R-E-T-T, Tokuda. He's the Vice
15 President -- excuse me -- Senior Vice President of Finance
16 and Treasurer of the licensee.

17 CHAIR TANAKA: Thank you. Layne.

18 MR. SILVA: Application Number 24, the applicant
19 is Lana`i Island Management, Inc., a registered Hawaii
20 corporation, doing business as Lana`i applying for a Tour
21 or Cruise Vessel License, Category 2.

22 Officers, directors and stockholder of the
23 corporation are listed in the investigator's report.

24 Applicant has submitted a Vessel lease by and
25 between Lana`i Kai II LLC, a Hawaii limited liability

June 7, 2017 - Liquor Commission

1 company, as the lessor, and Lana`i Island Management,
2 Inc., a Hawaii corporation, as the lessee, dated March
3 1st, 2017.

4 Applicant has submitted a U.S. Coast Guard
5 Certificate of Documentation dated February 15th, 2017.

6 The proposed premises is a 49-foot-eight-inch
7 auxiliary-powered sailing catamaran, authorized to carry
8 48 passengers, one masters and two deckhands. The vessel
9 will be docked at Manele Small Boat Harbor, Floating Dock,
10 Berth B, Lanai City, Lanai, Hawaii.

11 The men's toilet facilities are located within
12 the port hull and the women's toilet facilities are
13 located within the starboard hull, below the main deck.

14 Beverages will be dispensed from within the
15 cabin area located on the deck of the vessel.

16 There are 34 licenses of this class and kind
17 currently issued within Maui County.

18 Applicant initially plans to be open seven days
19 a week from 9:00 a.m. to 6:30 p.m.

20 A site inspection was conducted on the proposed
21 premises on May 17, 2017. This investigator found that
22 the floor plan submitted was inconsistent with the floor
23 plan submitted with the application.

24 As of the date of this report, the current
25 officers and directors of the following licenses are as

June 7, 2017 - Liquor Commission

1 follows: Kurt Kazuto Matsumoto as President, Secretary
2 and Director; Lesley Leiko Kaneshiro, Senior Vice
3 President-Operations and Director; Garret Osama Tokuda,
4 Senior Vice President-Finance and Treasurer.

5 Richard's Market Management, Inc. doing business
6 as Richard's Market, License Number 168, Retail General,
7 original license issued on October 1st, 2012, with no
8 violations.

9 Lana`i Island Management, Inc. doing business as
10 Views at Manele Golf Course, License Number 141,
11 Restaurant General, Category B(ii), original license
12 issued on February 15, 2007, with no violations.

13 Lana`i Island Management, Inc. doing business as
14 The Experience at Koele, License Number 179, Restaurant
15 General, Category B(ii), original license issued on
16 February 15, 2007.

17 Lana`i Island Management, Inc. doing business as
18 The Experience at Koele, License Number 179, did, through
19 its employee, sell, serve or furnish liquor to a minor as
20 defined -- defined in Section 281-1, HRS, and 08-101-5,
21 Rules of the Liquor Commission, contrary to Section
22 281-78(b)(1)(A), HRS, and Section 08-101-60(b)(1)(A),
23 Rules of the Liquor Commission. Conviction date was May
24 1st, 2008, with a \$2,000 fine with \$1,000 suspended one
25 year provided no same conviction.

June 7, 2017 - Liquor Commission

1 Lana`i Island Management, Inc. doing business as
2 Lana`i City Bar & Grille, License Number 191, Restaurant
3 General, Category B(ii), original license issued on
4 February 3rd, 2015.

5 Lana`i Island Management, Inc., doing business
6 as Lana`i City Bar & Grille did, through its employees,
7 sell, serve or furnish liquor to, or allow the consumption
8 of liquor by a patron who was at the time under the
9 influence of liquor, drugs or any combination thereof, as
10 defined in Section 281-1 of the Hawaii Revised Statutes
11 and Section 08-101-5 of the Rules of the Liquor
12 Commission, contrary to Section 08-101-60(b)(1)(B) of the
13 Rules of the Liquor Commission, County of Maui.

14 Conviction date, March 2nd, 2017, with a \$2,000 fine with
15 1,000 suspended one year provided no same conviction.

16 Lana`i Island Management, Inc. doing business as
17 Lana`i City Bar & Grille, did, through its employee,
18 knowingly permit a patron who was at the time under the
19 influence of liquor, drugs or any combination there of, as
20 defined in Section 281-1 of the Hawaii Revised Statutes
21 and 08-101-5 of the Rules of the Liquor Commission to be
22 or remain in or on the licensed premises, contrary to
23 Section 08-101-60(b)(5) of the Rules of the Liquor
24 Commission, County of Maui. Conviction date, March 2nd,
25 2017, with \$100 fine.

June 7, 2017 - Liquor Commission

1 Lana`i Island Management, Inc. doing business as
2 Island of Lanai Gift Shop at Koele, License Number 366,
3 Retail General, original license issued on February 15,
4 2007, with no violations.

5 Lana`i Island Management, Inc., doing business
6 as Island of Lanai Gift Shop at Manele, License Number
7 072, Retail General, original license issued on February
8 15, 2007, with no violations.

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

14 Information contained within the DLC-008 Form
15 submitted by Garret Osamu Tokuda indicated that he had
16 been convicted for minor traffic violations. Garret Osama
17 Tokuda has submitted a letter of explanation.

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

21 And just to update the Commission, the applicant
22 has submitted an updated correct floor plan which has been
23 distributed to the Members for -- for review and approval.

24 CHAIR TANAKA: Thank you. Craig, you get
25 anything else to add?

June 7, 2017 - Liquor Commission

1 MR. NAKAMURA: Just very briefly. This is --
2 the company has obtained a catamaran that's going to be
3 operating tours out of Lanai. That's why we're applying
4 for this liquor license. Be happy to answer any questions
5 you might have.

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

12 COMMISSIONER SOUZA: I move to approve
13 Application Number 24 conditioned -- conditioned upon the
14 applicant completing the remaining application
15 requirements to the satisfaction of the Department of
16 Liquor Control.

17 COMMISSIONER ALULI: Second the motion.

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. NAKAMURA: Thank you very much.

25 CHAIR TANAKA: Thank you.

June 7, 2017 - Liquor Commission

1 MR. TOKUDA: Thank you.

2 CHAIR TANAKA: Okay, let's go into Preliminary
3 Hearings. I'm going to take Application TA-01 and TA-02
4 simultaneously because the players are the same, the
5 request is the same.

6 MR. ICHIKAWA: Good afternoon, Mr. Chairman,
7 Commissioners, Mr. Mukai. Robert Ichikawa on behalf of
8 Safeway Inc. and Lahaina Beverage LLC. To my right is
9 Davin Kinoshita, one of the store managers.

10 CHAIR TANAKA: Thank you. Layne.

11 MR. SILVA: Application Number TA-01, Lahaina
12 Beverage Management, Inc., a registered Hawaii
13 corporation, doing business as Safeway applying for a
14 transfer of a Retail General License from Safeway Inc.
15 doing business as Safeway Number 134.

16 Officers, directors and stockholder of the
17 corporation are listed in the investigator's report.

18 Applicant has submitted a copy of a Management
19 Agreement by and between Safeway Inc., a Delaware
20 corporation, as the owner, and Lahaina Beverage
21 Management, Inc., a Hawaii corporation, as the manager,
22 dated February 2nd, 2017.

23 Applicant has submitted a copy of transferor's
24 endorsement of transfer signed by Robert Allen Gordon,
25 Jr., the Senior Vice President and General Counsel and

June 7, 2017 - Liquor Commission

1 Secretary of Safeway Inc., dated February 2nd, 2017.

2 The proposed premises is a single-story
3 structure consisting of approximately 55,934 square feet,
4 is located at 277 Pi`ikea Avenue, Kihei, Maui, Hawaii.

5 There are no schools or churches located within
6 a radius of 500 feet.

7 Minit Stop, Number 224, and ABC Stores, Number
8 423, are licenses of the same class and kind located
9 within a radius of 500 feet. There are two Dispenser
10 General licenses located within a radius of 500 feet.
11 There are 144 licenses of this class and kind currently
12 issued within Maui County.

13 Plans of the applicant: Applicant initially
14 plans to be open seven days a week 24 hours a day.

15 A site inspection was conducted of the proposed
16 premises on April 17th -- April 18th, 2017.

17 Robert Allen Gordon, Jr. is the current officer
18 and director of Safeway Inc. doing business as Safeway,
19 Number 070 and 134.

20 Safeway Inc. doing business as Safeway, Number
21 070, Retail General, original license issued on December
22 19th, 1986.

23 Safeway Stores, Inc. doing business as Safeway
24 transferred a Retail General to Safeway Stores Holdings
25 Corporation doing business as Safeway, Number 070, on

June 7, 2017 - Liquor Commission

1 December 19th, 1986.

2 Safeway Stores Holdings Corporation doing
3 business as Safeway, Number 070, changed the name of the
4 corporation to Safeway Stores, Inc. on January 21st, 1987.

5 Safeway Stores, Inc. doing business as Safeway,
6 Number 070, used a sign to advertise liquor outside of the
7 licensed premises that did not conform with the sign
8 ordinances of the County of Maui, contrary to Rule 11-3(a)
9 and 281-44(b), HRS.

10 On August 16, 1989, Safeway Stores, Inc. doing
11 business as Safeway, Number 070, had been found guilty and
12 had received a reprimand.

13 Safeway Stores, Inc. doing business as Safeway,
14 070, advertised liquor by brand name outside of the
15 licensed premises, contrary to Rule 11-3(b).

16 On August 16, 1989, Safeway Stores, Inc. doing
17 business as Safeway, Number 070, had been found guilty and
18 had received a penalty of a \$500 fine.

19 Safeway Inc. doing business as Safeway, Number
20 070, did, through its employees, sell or furnish liquor to
21 a minor, as defined in Section 281-1, HRS, and contrary to
22 Section 281-78(b)(1)(A) HRS, and Section
23 08.01.60(b)(1)(A), Rules of the Department of Liquor
24 Control, County of Maui.

25 On October 3rd, 1996, Safeway Inc. doing

June 7, 2017 - Liquor Commission

1 business as Safeway, Number 070, had been found guilty and
2 had received a penalty of a \$250 fine.

3 Safeway Inc. doing business as Safeway, Number
4 070, did, through its employees, sell or furnish liquor to
5 a minor, as defined in Section 281-1, HRS, contrary to
6 281-78(b)(1)(A), HRS, and Section 08-101-60(b)(1)(A),
7 Rules of the Liquor Commission.

8 On November 1st, 2001, Safeway Inc. doing
9 business as Safeway, Number 070, had been found guilty and
10 had received a penalty of a \$2,000 fine with \$1,000
11 suspended for one year provided no same violation.

12 Safeway Inc. doing business as Safeway, Number
13 134, Retail General, original license issued on September
14 18, 2000.

15 Safeway Inc. doing business as Safeway, Number
16 134, did, through its employees, sell or furnish liquor to
17 a minor, as defined in Section 281-1, HRS, contrary to
18 Section 281-78(b)(1)(A), HRS, and Section
19 08-101-60(b)(1)(A), Rules of the Liquor Commission.

20 On November 1st, 2001, Safeway Inc. doing
21 business as Safeway, Number 134, had been found guilty and
22 had received a penalty of a \$2,000 fine with 1,000
23 suspended for one year provided no same conviction.

24 George Anthony Glukfeld and Robert Allen Gordon,
25 Jr. are the current officers and directors of Lahaina

June 7, 2017 - Liquor Commission

1 Beverage Management, Inc. doing business as Safeway,
2 Number 399 and Number 140.

3 Lahaina Beverage Management, Inc. doing business
4 as Safeway, Number 399, Retail General, original license
5 issued on March 7, 2006, with no violations.

6 Lahaina Beverage Management, Inc. doing business
7 as Safeway, Number 140, Retail General, original license
8 issued on August 23rd, 2013.

9 Lahaina Beverage Management, Inc. doing business
10 as Safeway, Number 140, did, through its employees, sell
11 or furnish liquor to a minor as defined in Section 281-1,
12 HRS, and Section 08-101-5 of the Rules of the Liquor
13 Commission, contrary to Section 281-78(b)(1)(A) of the HRS
14 and Section 08-101-60(b)(1)(A), Rules of the Liquor
15 Commission.

16 On April 7, 2016, Lahaina Beverage Management,
17 Inc. doing business as Safeway, Number 140, had been found
18 guilty and had received a penalty of a \$2,000 fine with
19 \$1,000 suspended one year provided no same conviction.

20 Lahaina Beverage Management, Inc. doing business
21 as Safeway, Number 140, did, through its employee, fail to
22 properly check the identification of a minor, as defined
23 in Section 281-1, HRS, and Section 08-101-5 of the Rules
24 of the Liquor Commission, contrary to Section 08-101-61(c)
25 of the Rules of the Liquor Commission.

June 7, 2017 - Liquor Commission

1 On April 7, 2016, Lahaina Beverage Management,
2 Inc. doing business as Safeway, Number 140, had been found
3 guilty and had received a penalty of a \$1,000 fine with
4 \$500 suspended for one year provided no same conviction.

5 A copy of their past history is attached.

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

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

14 CHAIR TANAKA: Thank you. Anything else to add,
15 Robby?

16 MR. ICHIKAWA: No. We're open for questions, if
17 there are any.

18 CHAIR TANAKA: I'm going to open it to the
19 public for any public testimony on these item. Okay.
20 Seeing none, any questions by the Commissioners?

21 COMMISSIONER LEE: Yeah, I got a question.

22 CHAIR TANAKA: Brenda.

23 COMMISSIONER LEE: Can you explain to me how
24 Lahaina Beverage fits into the Safeway picture?

25 MR. ICHIKAWA: Okay. Sure. Lahaina Beverage

June 7, 2017 - Liquor Commission

1 Management, Inc. is like a management company that is
2 authorized to hold and operate the license. And by way of
3 management agreement, then there's two stores that are
4 currently being managed by Lahaina Beverage Management.
5 And what we're doing is putting the remaining two stores
6 into the same licensee.

7 COMMISSIONER LEE: If that's the case, what is
8 the extent of their actual participation as far as --

9 MR. ICHIKAWA: I think it's more of a executive
10 management oversight. So like one of the executives is
11 based in Hawaii. So that they're the ones that will
12 receive any type of issues or accountability, if you will,
13 on the licensed premises.

14 COMMISSIONER LEE: So if there's any violations,
15 do the violations get assessed to Lahaina Beverage or to
16 Safeway?

17 MR. ICHIKAWA: It would be Lahaina Beverage.

18 COMMISSIONER LEE: Okay. Okay. Thank you.

19 COMMISSIONER SOUZA: I have a question. So
20 there's a lot of stuff going on, seem like, there. And so
21 what are they doing to correct some of these problems, I
22 guess?

23 MR. ICHIKAWA: Oh. You mean the past
24 violations?

25 COMMISSIONER SOUZA: Yeah.

June 7, 2017 - Liquor Commission

1 MR. ICHIKAWA: Yeah. Well, the two other
2 violations, one was in 1996.

3 COMMISSIONER SOUZA: Yeah.

4 MR. ICHIKAWA: And 2001. So for two of the
5 locations, it's been 16 years, you know, since -- since a
6 violation occurred. Safeway goes to a lot of safeguards
7 and training, because they take it very seriously, as far
8 as sale to minors. And then, most recently, they had one
9 on a different location, on April 1st of -- was it --
10 2016. So as far as the four stores go, they've been --
11 over the period of the licenses, just three violations.
12 And I think Davin and his group have worked very hard to
13 make sure that the employees are properly trained, that
14 the computer systems do have safeguards that pop up. And,
15 you know, if a employee violates the -- the rules and --
16 and regulations, then I believe, in those cases, they're
17 terminated.

18 COMMISSIONER SOUZA: Thank you.

19 MR. ICHIKAWA: Sure.

20 CHAIR TANAKA: Any other questions?

21 MR. KUSHI: Mr. Chair? So -- Robert, so all
22 four Safeway Stores on Maui are now under Lahaina Beverage
23 Management?

24 MR. ICHIKAWA: Two are. And this transfer is
25 going to transfer two to Lahaina Beverage.

June 7, 2017 - Liquor Commission

1 MR. KUSHI: So all four -- at the end of the
2 day, all four?

3 MR. ICHIKAWA: Correct. Correct.

4 MR. KUSHI: But they're all different license
5 numbers?

6 MR. ICHIKAWA: Correct.

7 MR. KUSHI: The next item on the agenda is the
8 merger of Safeway by Albertson's?

9 MR. ICHIKAWA: Yes.

10 CHAIR TANAKA: Any other questions? I think you
11 confused everybody, anyway.

12 MR. ICHIKAWA: Well, what we're, actually,
13 trying to do is simplify it. And that's why we're going
14 through this process where four licenses will be under
15 just one entity.

16 CHAIR TANAKA: We'll get to the merger thing at
17 a later item on the agenda.

18 MR. ICHIKAWA: Yes.

19 CHAIR TANAKA: This is strictly a transfer from
20 Safeway to Lahaina Beverage?

21 MR. ICHIKAWA: Correct.

22 CHAIR TANAKA: You know, it seems like it's
23 transferring from Safeway to Safeway, anyway.

24 MR. ICHIKAWA: Correct. Correct.

25 CHAIR TANAKA: Okay. Any other questions by the

June 7, 2017 - Liquor Commission

1 Commissioners? If not, may I have a motion?

2 COMMISSIONER SOUZA: I move to approve
3 Applications Number TA-01 and TA-02 for public hearing and
4 to process the application for publication.

5 COMMISSIONER ALULI: Second.

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

8 (Response.)

9 CHAIR TANAKA: Opposed, "no."

10 (No response.)

11 CHAIR TANAKA: Motion carried. Robert, on the
12 public hearing time -- item, we gonna take these items
13 separately because they're two different locations.

14 MR. ICHIKAWA: Okay.

15 CHAIR TANAKA: I took it together because it's
16 preliminary one.

17 MR. ICHIKAWA: I appreciate it. Thank you.

18 CHAIR TANAKA: Okay. Let's go to to Application
19 Number 27, MPK3.

20 MR. KAWAGISHI: Chairman Tanaka and Members of
21 the Liquor Commission, Michael Kawagishi on behalf of
22 MPK3, LLC. And with me is Sara Hill, who is the General
23 Counsel for the company.

24 CHAIR TANAKA: Thank you. Layne.

25 MR. SILVA: Application Number 27, MPK3, LLC, a

June 7, 2017 - Liquor Commission

1 registered Hawaii corporation, doing business as Monkeypod
2 Kitchen by Merriman applying for a Dispenser General
3 License, Category C(ii).

4 Managers of the manager-managed LLC are listed
5 in the investigator's report.

6 Applicant has submitted a copy of a Whaler's
7 Village Fine Shops & Restaurants lease by and between WV
8 Sub, LLC, a Delaware limited liability company, as the
9 landlord, and MPK3, LLC, a Hawaii limited liability
10 company, as the tenant, dated May 28, 2015. Landlord has
11 submitted a letter stating that the lease between WV Sub,
12 LLC and MPK3, LLC will be amended to reflect the change in
13 the lessee name of MPK3, with no comma, LLC to MPK3, with
14 a comma, LLC.

15 The proposed premises is a multilevel concrete
16 structure and is located at 2435 Kaanapali Parkway, Store
17 Number 101, Kaanapali, Maui, Hawaii. The floor area of
18 the premises contains approximately 9,108 square feet.
19 Following completion of the applicant's initial build-out
20 of the premises, the landlord may remeasure the actual
21 floor area of the premises. The applicant has reported
22 that the premises, as depicted on the floor plan
23 submitted, will not change and there will be no change to
24 the 500-foot radius.

25 There are no schools or churches or licenses of

June 7, 2017 - Liquor Commission

1 the same class and kind located within a radius of 500
2 feet.

3 There are three Restaurant General, one Hotel
4 General and two Retail General licenses located within a
5 radius of 500 feet. There are 121 licenses of this class
6 and kind currently issued within Maui County.

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

9 William Paul Terry is a current manager and
10 member, and Peter Lee Merriman is a current member of IP
11 1, LLC doing business as Monkeypod Kitchen by Merriman,
12 Number 033, Dispenser General, Category C(ii), original
13 license issued on February 10, 2011.

14 There were no reports of liquor law violations
15 at this location.

16 Peter Lee Merriman is a current member of Duke's
17 Maui, LLC doing business as Duke's Beach House, Number
18 048, Hotel, original license issued on December 11, 2009.

19 There were no reports of liquor law violations
20 at this location.

21 Peter Lee Merriman is a current officer and
22 director of T S Merriman, Inc. doing business as Hula
23 Grill, Number 112, Restaurant General, Category B(ii),
24 original license issued on June 7, 1994.

25 T S Merriman, Inc. doing business as Hula Grill

June 7, 2017 - Liquor Commission

1 did, through their employee(s), sell or furnish liquor to,
2 or allow the consumption of liquor by a patron upon who
3 was at the time under the influence of liquor, as defined
4 in Section 281-1, HRS, as defined in Section 08-101-5,
5 Rules of the Liquor Commission, or any combination
6 thereof, contrary to 281-78(b)(1)(B), HRS, and Section
7 08-101-60(b)(1)(B), Rules of the Liquor Commission.

8 On February 6, 2003, T S Merriman, Inc. doing
9 business as Hula Grill had been found guilty and had
10 received a penalty of a \$2,000 fine with \$1,000 suspended
11 one year provided no same violation.

12 T S Merriman, Inc. doing business as Hula Grill
13 did, through their employee(s), fail to exercise due care,
14 as defined in Section 08-101-5, Rules of the Liquor
15 Commission, in determining whether the patron was under
16 the influence of liquor as defined in Section 281-1, HRS,
17 and Section 08-101-5, Rules of the Liquor Commission,
18 contrary to Section 08-101-60(b)(11), Rules of the Liquor
19 Commission.

20 On February 6, 2003, T S Merriman, Inc. doing
21 business as Hula Grill had been found guilty and had
22 received a penalty of a \$2,000 fine.

23 Peter Lee Merriman is the current officer,
24 director and stockholder of BC Restaurant Operator Inc.
25 doing business as Merriman's Kapalua, Number 281,

June 7, 2017 - Liquor Commission

1 Restaurant General, Category B(ii), original license
2 issued on June 13, 2008.

3 There were no reports of liquor law violations
4 at this location.

5 A copy of their past history is attached.

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

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

14 CHAIR TANAKA: Thank you. Michael, anything to
15 add?

16 MR. KAWAGISHI: Yes. In regards to the
17 investigators's report, the first page where the applicant
18 has reported that the premises as depicted in the floor
19 plan submitted will not change and there will be no change
20 to the 500-foot radius, I would like to point out that, as
21 with any ongoing business, changes are inevitable to -- or
22 may be inevitable to the floor plan. Depending as
23 operation proceeds on the letter that was submitted
24 saying -- states the exterior boundary of the premises as
25 depicted in the floor plan submitted with the application

June 7, 2017 - Liquor Commission

1 will not change, and there will be no change to the
2 500-foot radius. Because this is a new construction,
3 there may be changes to the interior floor plan. I
4 understand that if the exterior limits of the premises
5 changes, that we need to follow the Department's procedure
6 as to a increase or decrease in the size of the licensed
7 premises, but I just wanted to mention that there may be
8 floor plan changes as construction proceeds.

9 COMMISSIONER ALULI: I've got a question. Isn't
10 the construction finished now on that portion of Whaler's
11 Village?

12 MR. KAWAGISHI: No. Actually, just started.

13 COMMISSIONER ALULI: At Whaler's Village?

14 MR. KAWAGISHI: Well, at Whaler's Village, the
15 construction is ongoing. But specifically for the
16 restaurant space --

17 COMMISSIONER ALULI: Hmm.

18 MR. KAWAGISHI: The exterior of the building is
19 pretty much complete.

20 COMMISSIONER ALULI: Right.

21 MR. KAWAGISHI: But my --

22 COMMISSIONER ALULI: But the inside is not
23 finished yet?

24 MR. KAWAGISHI: But the interior work has just
25 begun.

June 7, 2017 - Liquor Commission

1 COMMISSIONER ALULI: Okay.

2 CHAIR TANAKA: You expect it to change?

3 MR. KAWAGISHI: There may be changes to the
4 interior floor plan.

5 CHAIR TANAKA: As they construct, they gonna
6 change it. Normally, you get an architect who design the
7 thing.

8 MR. KAWAGISHI: Right.

9 CHAIR TANAKA: He gonna build 'em to exactly
10 what it is, yeah.

11 MR. KAWAGISHI: No. But the Department has been
12 requiring things like permanent shelving that went up to
13 be included in the floor plan. And I just wanted to point
14 out that there may be changes such as that.

15 CHAIR TANAKA: But as changes go, you're gonna
16 be resubmitting plans to the Department?

17 MR. KAWAGISHI: If there are changes, yes.

18 CHAIR TANAKA: Yeah. Okay. Well, I'm gonna
19 open it to the public for any public testimony.

20 MR. GARCIA: I worked for Peter Merriman for
21 many, many years and --

22 CHAIR TANAKA: If you get anything to say,
23 please go to the podium, state your name, and you have
24 three minutes.

25 MR. GARCIA: I won't take all three minutes. My

June 7, 2017 - Liquor Commission

1 name is Tim Garcia. I worked for T S Restaurants and
2 Peter Merriman specifically for many, many years. And I
3 think all of their projects are outstanding and they do a
4 lot for the community. I recommend it gets passed.

5 CHAIR TANAKA: Thank you. Okay. Any other
6 questions by the Commissioners?

7 COMMISSIONER ALULI: Yeah, I've got a question.
8 What's the relationship between T S Restaurants and
9 Merriman's?

10 MR. KAWAGISHI: They're separate entities.

11 COMMISSIONER ALULI: They are separate entities,
12 right? So this is a T S Merriman restaurant? No? It's
13 gonna be a Merriman Monkeypod, right?

14 MR. KAWAGISHI: Right. MPK3, LLC, which is a
15 separate entity.

16 COMMISSIONER ALULI: But isn't -- in your
17 application, it says there's a relationship between
18 Merriman's and Hula Grill. Isn't Hula Grill a T S
19 restaurant? What's the relationship between Merriman's
20 and Hula Grill?

21 MS. HILL: Peter Merriman personally is a member
22 and part of Hula Grill, but Merriman's as a company, BC
23 Operator, which is Merriman's Kapalua, is a separate legal
24 entity from all T S restaurants. And each of those T S
25 restaurants and Merriman's restaurants are separate legal

June 7, 2017 - Liquor Commission

1 entities from Monkeypod Kitchen by Merriman. So they are
2 different partnership structures in each of those
3 entities, but Peter Merriman is personally involved in
4 each of them in different capacities.

5 COMMISSIONER ALULI: And so the Monkeypod
6 restaurant that's going in Kaanapali -- in Whaler's
7 Village is going to be specifically Peter Merriman's,
8 right under the --

9 MS. HILL: Peter Merriman and Bill Terry are 50
10 percent -- 50-50 partners in Monkeypod. And it is --
11 Monkeypod Kitchen is in no way legally related to T S
12 Restaurants or Merriman's Restaurants.

13 COMMISSIONER ALULI: Okay. Okay.

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

16 COMMISSIONER SOUZA: I move to approve
17 Application Number 27 for public hearing and to process
18 the application for publication.

19 COMMISSIONER ALULI: I second.

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

22 (Response.)

23 CHAIR TANAKA: Opposed, "no."

24 (No response.)

25 CHAIR TANAKA: Motion carried.

June 7, 2017 - Liquor Commission

1 MR. KAWAGISHI: Thank you.

2 CHAIR TANAKA: Okay. Let's go on to Other
3 Licensing Matters. Safeway Inc. again.

4 MR. ICHIKAWA: Good morning, Mr. Chairman,
5 Commissioners, Mr. Mukai. Robert Ichikawa on behalf of
6 Safeway Inc.

7 CHAIR TANAKA: Okay. Layne.

8 MR. SILVA: Safeway Inc. doing business as
9 Safeway, Number 070 and Number 134, notifying the
10 Commission of a change of officers, directors and
11 requesting Commission approval for the merger of entities
12 within the corporation. Robert Lynn Edwards, Larree Moro
13 Renda, Kelly Paul Griffith, Peter James Bocian, Barry Jay
14 Libenson, David Richard Stern, Donald Peter Wright, David
15 Fredrick Bond, Russell Mark Jackson, Melissa Campbell
16 Plaisance and Jerry Norman Tidwell withdrew as officers of
17 the corporation.

18 William Young Tauscher, Mohanbir Singh Gyani,
19 Janet Elaine Grove and George James Morrow withdrew as
20 directors of the corporation.

21 Robert Allen Gordon, Jr. changed titles within
22 the corporation.

23 Albertson's Holdings LLC was merged into
24 Albertson's Companies, LLC on December 21st, 2015,
25 resulting in Albertson's Companies, LLC becoming the owner

June 7, 2017 - Liquor Commission

1 of 100 percent of the outstanding capital stock of Safeway
2 Inc.

3 Officers, director and stockholder of the
4 corporation are listed in the investigator's report.

5 Section 08 -- 281-41(k) states, "The conversion
6 of an entity into any other form of entity or the merger
7 or any entity with any other entity shall not be deemed a
8 transfer of the license; provided that the licensee, prior
9 to the date of the conversion or merger, shall apply for
10 and secure the approval of the Commission without any
11 requirement for publication of notice. The foregoing
12 shall not preclude compliance with Subsection (d) upon a
13 change in any of the partners or members, or with
14 Subsection (i) upon change of any shareholders, officers
15 or directors of any entity occurring concurrently with a
16 conversion or merger."

17 Applicant has submitted a copy of a
18 certification of stockholder and officers and directors of
19 Safeway Inc. dated April 19, 2017, which reflects the
20 changes.

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

June 7, 2017 - Liquor Commission

1 CHAIR TANAKA: Thank you. Robby.

2 MR. ICHIKAWA: Yes.

3 CHAIR TANAKA: Can you explain to the Commission
4 what's going on? Seems like Safeway Inc. doing business
5 as Safeway merge into each other. So Safeway is merging
6 into Safeway?

7 MR. ICHIKAWA: Well, it's just a related entity.
8 It was part of a overall restructuring that they did
9 above. So Safeway Inc. remained the same. It's just that
10 as a result of a merger between Albertson Holdings above
11 and Albertson Companies that the surviving company was
12 Albertson companies. So it was really more of a -- it's
13 all the same entities related, common ownership. The
14 licensee wasn't changed at all. It was just that as a
15 result of a corporate restructuring that one company above
16 merged into the other.

17 CHAIR TANAKA: So, basically, Lahaina Beverage
18 Management is not involved in this at all?

19 MR. ICHIKAWA: That's correct, it's not involved
20 in this at all.

21 CHAIR TANAKA: Any questions by the
22 Commissioners?

23 COMMISSIONER LEE: Yeah, I have a question.
24 Sounds to me like we need a roadmap that takes us from
25 Lahaina Beverage to all of these individual Safeway

June 7, 2017 - Liquor Commission

1 entities to get to Albertson's, Inc.

2 MR. ICHIKAWA: So Lahaina Beverage is the
3 licensee right now for two stores. And what we want to do
4 is create a clear roadmap so it's much simpler for
5 everyone to follow and we know where the licensees are.
6 So once we get all the licenses under Lahaina Beverage,
7 then they would then be the one that has the four licenses
8 on Maui. Then Safeway Inc., above, will be the one that
9 owns Lahaina Beverage. And above that is these -- the
10 Albertson Holding Company.

11 COMMISSIONER LEE: So there's direct ownership
12 of Lahaina Beverage --

13 MR. ICHIKAWA: Correct.

14 COMMISSIONER LEE: -- by Safeway?

15 MR. ICHIKAWA: Correct.

16 COMMISSIONER LEE: My question to you, then, is
17 what is the limitation of liability on Lahaina Beverage?

18 MR. ICHIKAWA: Well, Lahaina Beverage would be
19 responsible for the license, but, as a parent company of
20 Lahaina Beverage, Safeway Inc. will ultimately be
21 responsible for what that company will be doing.

22 COMMISSIONER LEE: Right. How many layers are
23 there between Lahaina Beverage and Safeway?

24 MR. ICHIKAWA: None.

25 COMMISSIONER LEE: None? There will be none is

June 7, 2017 - Liquor Commission

1 what you're --

2 MR. ICHIKAWA: Correct.

3 COMMISSIONER LEE: -- saying?

4 MR. ICHIKAWA: Correct.

5 COMMISSIONER LEE: Okay. Thank you.

6 MR. ICHIKAWA: Yes.

7 CHAIR TANAKA: Any other questions? I think you
8 kind of confused us a little bit more.

9 MR. ICHIKAWA: We're trying to simplify it so
10 that it's -- your question was a very good one, that it's,
11 basically, just that two entities right there.

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

14 COMMISSIONER SOUZA: I move to approve of the
15 merger of entities within the corporation.

16 COMMISSIONER ALULI: Second.

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

19 (Response.)

20 CHAIR TANAKA: Opposed, no.

21 (No response.)

22 CHAIR TANAKA: Motion carried.

23 MR. ICHIKAWA: Thank you.

24 CHAIR TANAKA: Okay. Before we go into
25 Administrative Affairs, let's have a 10-minute recess.

June 7, 2017 - Liquor Commission

1 (Recess, 9:38 a.m. to 9:46 a.m.)

2 CHAIR TANAKA: Liquor Commission meeting called
3 back to order. Administrative Affairs, Director's Monthly
4 Report, Special License Workshop. Okay. We have
5 indicated that there are public testimony on this item.
6 Layne, anybody?

7 MR. SILVA: Buck Joiner.

8 CHAIR TANAKA: Please state your name, if you
9 represent any association or any organization. And you
10 have three minutes.

11 MR. JOINER: Good morning. Mahalo nui loa to
12 all of you Commissioners. I recognize you are volunteers
13 and very much appreciate your participation.

14 I have been a volunteer on a number of county
15 boards. I am passing out a sheet of paper here, which
16 only is -- is sort of my credentials. This is not
17 testimony. This is simply my volunteer resume. I want
18 you to know that I have been active and helpful to this
19 community. And I'm speaking on behalf of myself.

20 I have put a lot of sweat, blood and an
21 incredibly amount of love on -- in the Maui nonprofits.
22 And my testimony is based on the articles in "The Maui
23 News". I have not been given any documents from the
24 Liquor Department.

25 I believe that the new rules proposed for the

June 7, 2017 - Liquor Commission

1 nonprofits are diabolical beyond description for a one-day
2 liquor license.

3 The review by other departments is -- serves
4 only one purpose, to harass, complicate and delay the --
5 the application. There are other applications for the
6 other departments to deal with.

7 The fact that all board members must submit a
8 listing of all employment since the age of 18 is
9 absolutely preposterous. What difference does it make
10 what jobs people have had before a one-day liquor license
11 is requested? What is the criteria for that? Are you
12 going to reject an application because of somebody's job
13 30 years ago? That's ridiculous.

14 Board members must list all traffic tickets more
15 than \$25. Excuse me. I'm 75 years old. And what
16 difference does it make if I got a ticket, traffic ticket,
17 57 years ago? What the -- what is the criteria or
18 justification for considering a liquor application?

19 Fingerprinting and a complete background check.
20 Again, for what purpose? Councilmember Elle Cochran is
21 known to have a criminal background. Are you going to
22 deny a one-day liquor license because Elle Cochran is on
23 the board of directors of an applicant for -- for a
24 license? Ridiculous.

25 This is a four-hour permit. It's not really

June 7, 2017 - Liquor Commission

1 one-hour. The functions are just four hours.

2 I would like to ask, did any of you, anybody on
3 that side of the podium, have to jump through these hoops
4 to get the position that you hold right now? Did you have
5 to be fingerprinted to complete background -- criminal
6 background check, all of your employment? It's
7 ridiculous.

8 To say that there are no donations are allowed
9 by liquor distributors or sellers, giving help is not a
10 crime. Caring is not a crime. I'm opposed to that.

11 From the viewpoint by Harlan Hughes in Sunday's
12 paper, all items that are going to be listed in auction or
13 silent auction have to be submitted two weeks prior to an
14 event. Why do you care what is being auctioned off? And
15 I want to tell you, we're collecting items up until the
16 very last minute of -- of an event.

17 A list of all volunteers' full names, Social
18 Security numbers must be submitted two months in advance.
19 Excuse me? Do you know how many volunteers we have for a
20 function two months in advance? Zero. It doesn't happen
21 that way.

22 The requirement to sell script for -- you know,
23 you can only give away two drinks at a function, that's
24 ridiculous.

25 To me, your function is to protect the health,

June 7, 2017 - Liquor Commission

1 safety, welfare of the general public, by regulating
2 control of liquor, blah, blah, blah. These rules are not
3 doing that. The effect of these rules, as I have seen in
4 "The Maui News," is to totally obliterate and eliminate
5 nonprofit fundraisers not held in a licensed establishment
6 and to clearly destroy nonprofit organizations.

7 There are many wonderful, spectacular people who
8 serve on the board of directors of nonprofits. And they
9 donate money and enormous amounts of time and love. And
10 they will not submit themselves to these draconian rules.

11 I tried looking through the internet. I tried
12 to find names for Glenn Mukai or Mark Honda on nonprofit
13 organizations' boards. And I can't find them. Doesn't
14 mean that you guys haven't, but I can -- I could tell you
15 that these rules tell me that you have never been on a
16 nonprofit, trying to raise money. It is gruesome, very,
17 very difficult.

18 Alcohol sales in Maui County are approximately
19 \$350 million a year. The nonprofit portion of that
20 amounts to less than one-tenth of one percent, but these
21 rules would have a disastrous impact on -- on nonprofits.

22 I have never heard of any difficulty at a
23 nonprofit fundraiser involving alcohol. People don't pay
24 150 to 200 dollars to go to a fundraiser to cause trouble.
25 Okay.

June 7, 2017 - Liquor Commission

1 I hope that the -- the rules, I recognize that
2 they're not actually going to be issued until Friday, two
3 days from now. And I hope that they do not include any of
4 these evil obstructions.

5 Malama pono. Mahalo.

6 CHAIR TANAKA: Thank you. Any other testimony?

7 MR. LAYNE SILVA: Tim Garcia.

8 MR. GARCIA: My name is Tim Garcia. I'm an
9 artist, former manager of restaurants on the island.
10 That's how I know Peter Merriman from the past. And since
11 I've left the restaurant business, I've been doing my art,
12 but working mostly in many, many nonprofits in many, many
13 different capacities. And I would like to thank Buck for
14 his testimony.

15 One of the things that I first see is what do
16 the Maui nonprofits do? We fill holes that take care of
17 the community where our Maui County government can't.
18 Whether it be homeless, whether it be the arts, whether it
19 be the dog shelter, whether it be the children's fund for
20 kids at risk, that's what Maui nonprofits do. They
21 provide support where our County government can't do it.
22 Most of these nonprofits are staffed by a very skeleton
23 and small crew of people who are very, very dedicated and
24 are volunteers as such as are you.

25 So every dime that we raise, every dime that's

June 7, 2017 - Liquor Commission

1 donated is accounted for and is, hopefully, going to the
2 cause, whether it be kids at risk, whether it be getting
3 scholarships for art, whether it be books from the book
4 trucks that go into the schools. So every dime that is
5 being taken out of by some of these new rules, whether it
6 be the background checks and the cost of doing all that is
7 going to hurt Maui County. These rules are going to hurt
8 the children of Maui County, the adults of Maui County
9 that need this help.

10 I find the fingerprinting -- and some of these
11 rules that supposedly have been on the books for a while,
12 but never been enforced. And I've been on Maui nonprofits
13 for 13 years and I've never been fingerprinted. So I know
14 some of these actions are new as the script is not
15 allowing Tedeschi Maui Winery to donate wine to us
16 anymore. These are new things.

17 All of these are costs that are going to go
18 straight to the bottom line of every single nonprofit on
19 Maui. So you realize that what is being done by some of
20 these things is going to affect children, adults and the
21 community on Maui in a very, very big way.

22 I find it unique that luaus, brunches and tour
23 boats are exempt on some of these things that you're now
24 taking away from -- from the -- from the nonprofits, the
25 scripts, the two-drink minimum and that.

June 7, 2017 - Liquor Commission

1 When I see a nonprofit and it says "open bar,"
2 it does not mean all you can drink. It, basically, to me,
3 means that we have different types of alcohol besides beer
4 and wine. It doesn't mean it's a free-for-all. And as
5 Buck said, most of these events are 150, 250 dollars.
6 It's up at (inaudible) Yamaguchi's house, it might be down
7 at Jimmy and Honeybun's house, it could be at the Hui
8 Noeau, it could be at Tedeschi Winery, some of our big
9 community players. And these are special events where a
10 lot of these people come to raise money to support this
11 Maui County community.

12 So I think it's very important that we really
13 step back for a moment, take a look. I know everything's
14 probably been done with good intent, but I think some of
15 these laws -- I don't know if there was any input from
16 some of the nonprofit community, but I would like to see
17 that.

18 I know one more thing I would like to say, as
19 far as going to the board of directors, on the ones that I
20 have been on, a lot of our board of directors are not
21 full-time residents here on Maui, they come, they go.
22 This is going to be very hard on that. And I think it's
23 really gonna hurt recruiting for nonprofits. It's really
24 gonna hurt recruiting quality members to do it.

25 Some of the things that happen when we have

June 7, 2017 - Liquor Commission

1 these off-island people, Carolyn Schaefer, as an example,
2 I'll use her name, they donate large sums of money to this
3 community. And I doubt that they will want to be involved
4 as much as they are if they do not -- if they have to go
5 there some of these measures.

6 I just really hope you think and take a look at
7 that and, really, rescind it. There hasn't been a problem
8 in the past, to my knowledge. And I hope we won't have
9 any problems in the future.

10 Thank you all for your time. I know you're
11 volunteers. And I appreciate it very much. Mahalo.

12 CHAIR TANAKA: Thank you. Any other --

13 MR. SILVA: That's all that's listed.

14 CHAIR TANAKA: Okay. Anybody else? Yeah.

15 MR. KUSHI: Mr. Chair, if I may, can I ask Mr.
16 Joiner a question? Buck, can you -- Buck, can you return
17 to the podium? Yes. You testified that there's some
18 rules or new rules gonna be issued this Friday?

19 MR. JOINER: I don't hear very well. Speak up.

20 MR. KUSHI: You testified that, in a couple
21 days, there's gonna be some rules or new rules to be
22 issued?

23 MR. JOINER: That was my understanding. I'm
24 looking -- as I said, my testimony is based on the
25 articles in "The Maui News" and the viewpoint by Harlan

June 7, 2017 - Liquor Commission

1 Hughes on Sunday. I called yesterday and I asked to have
2 a copy of these, and I was told that they were not going
3 to be available until Friday.

4 MR. KUSHI: Oh.

5 MR. JOINER: Two days from now. I don't know
6 what's happening. I really don't. As I said, I'm basing
7 all of my testimony on the articles and information in
8 "The Maui News".

9 MR. KUSHI: Okay. Thank you.

10 MR. JOINER: Thank you.

11 CHAIR TANAKA: Thank you. Okay. Any other
12 questions to the testifiers? If not, Glenn, I wonder if
13 you can shed some light on what -- what's been happening
14 and what we see in the paper and what this guy --
15 nonprofit is accusing the Commission of and -- and what
16 are we mandated by?

17 DIRECTOR MUKAI: Okay. The concerns that's been
18 raised in the newspaper and by nonprofit organization are
19 requirements that are set forth by state law. It had
20 nothing to do with the rules. In a way, it does because
21 we have to enforce all rules and laws. Criminal
22 background check, all necessary clearances from other
23 government agency, listing of all officers and directors
24 of person and entity are required by state law, not rules.

25 And, also, the newspaper said that Maui County

June 7, 2017 - Liquor Commission

1 is the only one that requires these things. And if you
2 look at the passout that we provided, the first page is
3 Class 10 Special Workshop, the second page, you have the
4 Honolulu Liquor Commission, what they require. It's the
5 same thing as Maui County, or similar, to be in compliance
6 with the rules. They have to list all officers, directors
7 and persons in the entity and, also, have to do a personal
8 history, they have to do a criminal history check,
9 fingerprints. And that's by state law. We cannot waive
10 those state law.

11 The Commission may adopt rules that are more
12 restrictive, but not contrary to state law. The
13 Department does not have any authority or discretion to
14 take any action that is contrary to state law or rules of
15 Liquor Commission.

16 The Commission and Department are required to
17 comply with the Hawaii Revised Statutes and the Rules of
18 the Liquor (inaudible). Failure to comply may subject the
19 County of Maui, Commission, the Department and/or its
20 employees to civil or criminal liabilities. And we also
21 have to be very careful on what we do in the -- in
22 complying with state law.

23 Like, recently, an investigator from the State
24 Attorney General office came to our office to do an
25 investigation. He look at all our investigation report,

June 7, 2017 - Liquor Commission

1 all our application to make sure that we are processing
2 properly. And that was in regards to, I believe, a felony
3 investigation on the non -- for profit organization that
4 was issued a license by the Department and the fundraising
5 event that they held. So they take everything we have,
6 they review and they go forward from that.

7 And many of these nonprofits stated that the
8 wait -- the waiver for various requirement have been
9 granted in the past for one-day fundraising event. They
10 may be referring to -- and look at your passout again, on
11 third page, it was a, Section 281-32.3, HRS, where it
12 states one-day special license for fundraising events,
13 notwithstanding any other section of this chapter to the
14 contrary, the commission may adopt rules to streamline
15 procedures, including the waiving of hearing, fees,
16 notarization of documents, submission of floor plans and
17 other requirements to provide for issuance of special
18 license for sale of liquor for a period not to exceed one
19 day for fundraising events by nonprofit organizations
20 established by the commission. The commission shall adopt
21 rules to facilitate the issuance of such license through
22 mail.

23 But this section in the HRS was repealed by the
24 legislators in 2008, thus making special license applicant
25 like any other licensed applicant to comply with the rest

June 7, 2017 - Liquor Commission

1 of the state laws.

2 The nonprofit organization can go back to the
3 legislature to either amend the current rules or laws to
4 fit their needs or try to readopt what was repealed.
5 That's all we have.

6 And I believe the -- one of the things that Mr.
7 -- one of the speaker that say that Maui Wine cannot
8 donate, the Commission has a rule that says manufacturers
9 and wholesalers can donate. So I have no idea what he's
10 speaking about.

11 CHAIR TANAKA: Okay. Any other questions for
12 the Director?

13 COMMISSIONER LEE: I have a question. On the
14 donation, is there a limitation of what they can donate?

15 DIRECTOR MUKAI: No.

16 COMMISSIONER LEE: Okay.

17 COMMISSIONER BICOY: So I have a question. So
18 if this was in place all this time, why are these people
19 now concerned? Has something changed or did we -- was it
20 not being done in the past? Or why is -- why is -- why is
21 the concern happening now?

22 DIRECTOR MUKAI: Well, I believe we are going
23 into fingerprinting, like we told the Commission, to make
24 sure, do the background checks, comply with the state law.

25 COMMISSIONER BICOY: So that wasn't being done

June 7, 2017 - Liquor Commission

1 before or -- I'm trying to understand why, all of a
2 sudden, the impetus is happening.

3 COMMISSIONER ALULI: Is it because --

4 COMMISSIONER BICOY: Yeah.

5 COMMISSIONER ALULI: Is it because of the new
6 fingerprinting machine that you just got?

7 DIRECTOR MUKAI: Yes. We'll discuss it down the
8 road, in the next --

9 COMMISSIONER ALULI: Right. Because you had
10 mentioned that in our last meeting.

11 DIRECTOR MUKAI: Yes.

12 COMMISSIONER ALULI: That you just acquired this
13 new fingerprinting machine.

14 DIRECTOR MUKAI: Yes.

15 COMMISSIONER ALULI: And is that one of the
16 reasons for --

17 DIRECTOR MUKAI: No.

18 COMMISSIONER ALULI: -- requiring the
19 fingerprinting now, because it's easier to do?

20 DIRECTOR MUKAI: No. To be in compliance with
21 state law.

22 COMMISSIONER ALULI: Okay.

23 CHAIR TANAKA: Maybe -- maybe I can explain.

24 DIRECTOR MUKAI: Because we -- we -- oh, excuse
25 me.

June 7, 2017 - Liquor Commission

1 CHAIR TANAKA: Evidently, we -- we had some of
2 these problems way back when. Commission -- Commission
3 made some changes and removed some of the requirements
4 under HRS. And I don't know why the legislature --
5 somebody must have petitioned the legislature, in 2008, to
6 go back to all these new requirements. And, evidently, it
7 was not being done until -- until such time within the
8 past couple years, and this requirement came about. And I
9 think that was initiated by the problems the Department
10 had when the Attorney General sent somebody to check our
11 records and to see if, you know, nonprofit had a criminal
12 person running a function. So that's where all now
13 everything went back to HRS. The Commission hands are
14 pretty much tied here because we cannot change the state
15 law, even though we want to, you know. And that's where
16 we stand right now. And I don't think the public realizes
17 that we are mandated by the HRS.

18 COMMISSIONER DEREGO: He has a question.

19 MR. KUSHI: You used your three minutes already.

20 CHAIR TANAKA: Go ahead.

21 MR. GARCIA: May I ask a question?

22 CHAIR TANAKA: Sure.

23 MR. GARCIA: Okay. You said this was started in
24 2008, the law changed, correct?

25 DIRECTOR MUKAI: Yes.

June 7, 2017 - Liquor Commission

1 MR. GARCIA: That's when the --

2 COMMISSIONER BICOY: Repealed.

3 COMMISSIONER ALULI: Repealed.

4 MR. GARCIA: Repealed.

5 CHAIR TANAKA: Repealed, yeah.

6 MR. GARCIA: So wouldn't the requirements which
7 required now for fingerprinting and so forth, if that's
8 what I'm understanding -- I -- I was on boards in 2009,
9 2010, 2011, 2012, '13, 2014, 2015. I retired from the Hui
10 Noeau's board in 2015, as I had termed out. I was also on
11 the Book Trust Board, I was on the Whale Trust Board. And
12 I was never fingerprinted once. I was never asked to make
13 a background check of any nature. I never had to do any
14 of these things. So I've been on three different boards,
15 which all do events, and not once was I asked.

16 CHAIR TANAKA: Yeah, because the Department was
17 never requiring it at that time, even though they were
18 mandated by the Hawaii Revised Statutes. So you were
19 lucky.

20 MR. GARCIA: So, I guess, we were lucky then and
21 now --

22 CHAIR TANAKA: Yeah, but now, because of the
23 investigations and whatever has been happening, you know,
24 we're required to go by the state law.

25 MR. GARCIA: So it was more about the

June 7, 2017 - Liquor Commission

1 investigation that -- that we haven't been doing it here
2 in Maui County, not that we had crooks like Jimmy Haynes
3 running our nonprofit parties?

4 CHAIR TANAKA: I wouldn't say that.

5 MR. KUSHI: You said it.

6 MR. GARCIA: Yeah, I did. I went to his
7 granddaughter's party the other day. Anyways, they're
8 good people. I appreciate that update. Thank you.

9 MR. KUSHI: Mr. Chair, if I may. If the
10 Commission wants to get involved with this, I would
11 suggest the following. The Department has a lot of forms
12 to fill out and applications, X, Y, Z. Have the
13 Department produce for the Commission the form, if there
14 is one, specific to special licenses. Like City and
15 County has one in your handout. And if the Commission
16 feels obligated to change the requirements, I think it's
17 within their jurisdiction. Your argument about state --
18 state law and what the Commission does is gonna be taken
19 under consideration, but, at this point in time, I believe
20 the Commission should review what you guys are requiring
21 from the public.

22 DIRECTOR MUKAI: Okay. We'll submit it.

23 MR. KUSHI: And we can start from there.

24 CHAIR TANAKA: Yeah. Then if we have to go to
25 the State Legislature and request a change, we will if

June 7, 2017 - Liquor Commission

1 it's -- you know, if it's not fair. Okay. Any -- any
2 other questions? Okay.

3 Let's go on to electronic fingerprinting
4 scanner. Glenn.

5 DIRECTOR MUKAI: Yeah. The electronic
6 fingerprint scanner Live Scan was installed in the
7 Department on June 1st, 2017. The Licensing staff did
8 undergo training in its use. The Department -- Hawaii
9 Criminal Justice Data Center is requiring additional
10 documents to list of those who are trained and what role
11 they will be playing. And, also, they have to go to a
12 security awareness training. So -- but we are utilizing
13 the electronic scanner as of yesterday.

14 The Department also receive approval to utilize
15 Fieldprint. Kari has sent instruction on its use to Maui
16 Hotel Association applicants represented --
17 representatives of applicants. If you look at the
18 printout that we handed out, it shows the Fieldprint and
19 what is required that we gave to the applicants. There
20 are over 1,000 locations located nationwide where the
21 applicants can now utilize an electronic fingerprint
22 scanner. Basically, once the -- once they go to that
23 locations and enter our code, the fingerprints will be
24 sent directly to the Hawaii Criminal Justice Data Center
25 and the Department will be notified via computer of the

June 7, 2017 - Liquor Commission

1 results. The Department received the result in a day for
2 the first two person that utilized the system. So now
3 it's one day instead of that one month, two month, three
4 months.

5 And the cost of processing the fingerprint are
6 paid to Hawaii Criminal Justice Data Center or the
7 Fieldprint by the applicant, cost that is charged included
8 in your packet. Also, in the passout.

9 And, also, we found out -- Kari, actually, found
10 out, since we have a portable fingerprint scanner, it's
11 not limited to here. So if, let's say, a board has a
12 meeting, maybe Maui Arts & Culture, or wherever, and they
13 request if we provide the service, we can go down with
14 that, disconnect it from here, go down, fingerprint
15 everybody, come back, and we can just send it to the
16 Hawaii Criminal Justice Data Center. So it's not limited
17 to just our office now since we have the scanner. So it
18 will be a great service.

19 That's all I have on the fingerprint scanner.

20 On the liquor license renewal --

21 COMMISSIONER SOUZA: I have a question on that
22 one.

23 DIRECTOR MUKAI: Yeah.

24 COMMISSIONER SOUZA: So if you -- if the guy
25 gives his fingerprint, that's like his criminal history is

June 7, 2017 - Liquor Commission

1 checked?

2 DIRECTOR MUKAI: Yeah.

3 COMMISSIONER SOUZA: That's done, that's one
4 step?

5 DIRECTOR MUKAI: It goes there and comes back.

6 COMMISSIONER SOUZA: In one day, that is --

7 DIRECTOR MUKAI: Usually, one day, yes.

8 COMMISSIONER SOUZA: Okay. So that will take
9 care of -- that's what's taking care of the criminal
10 history record check?

11 DIRECTOR MUKAI: Yeah. No more roll and print
12 and send it, mail it and back and forth.

13 COMMISSIONER SOUZA: Once that that guy is
14 cleared, how long do you keep his name in that system or
15 your system to say okay, next time they apply, these guys
16 are -- want another license, we can go back and check, or
17 do you check 'em every time?

18 DIRECTOR MUKAI: Well, on the past -- these
19 February rules that the Commission passed -- the previous
20 rule was one year.

21 COMMISSIONER SOUZA: One year.

22 DIRECTOR MUKAI: The Commission extended it to
23 two years.

24 COMMISSIONER SOUZA: I see.

25 DIRECTOR MUKAI: So if the Federal Rap Back

June 7, 2017 - Liquor Commission

1 program comes into effect, then it's lifetime. So we're
2 waiting for the Federal Rap Back program to kick in.

3 COMMISSIONER SOUZA: So that way, if -- so, say,
4 they got fingerprinted this year and then, next year, they
5 do a crime, it will show up that -- somewhere along the
6 line or that's why, every two years, you gotta fingerprint
7 'em again?

8 DIRECTOR MUKAI: Right.

9 COMMISSIONER SOUZA: So that something may have
10 happened between that time?

11 DIRECTOR MUKAI: Yes. Once the Federal Rap Back
12 program comes back and they on the system -- once they get
13 fingerprint, it's lifetime, but any time they commit a
14 crime.

15 COMMISSIONER SOUZA: That's lifetime. That
16 stays.

17 DIRECTOR MUKAI: It will come right back to us,
18 whatever crime they did.

19 COMMISSIONER LEE: At the time it occurred?

20 DIRECTOR MUKAI: Yeah.

21 COMMISSIONER LEE: Oh, good.

22 DIRECTOR MUKAI: And as soon as they input it,
23 it will come back, tell us. So they don't have to be
24 fingerprinted again 'cause it's always --

25 COMMISSIONER SOUZA: It's telling you they

June 7, 2017 - Liquor Commission

1 cannot no more.

2 COMMISSIONER LEE: It's updating.

3 COMMISSIONER SOUZA: Thank you.

4 DIRECTOR MUKAI: Okay. On the liquor license
5 renewal, as of June 6, yesterday, there were 180 of 445
6 licenses not renewed. In other words, 265 renewed. The
7 Department had a reminder of liquor license renewal
8 published in "The Maui News" to remind the licensees.
9 And, also, the Licensing Section has been calling each
10 individual licensee who have not submitted or have not
11 renewed to remind them of renewal date, please come in to
12 renew it before it expires.

13 That's all we have.

14 And on the Liquor Adjudication Board, the
15 summary is before you in your packet.

16 COMMISSIONER SOUZA: That was on a minor sting
17 operations?

18 DIRECTOR MUKAI: Yes.

19 COMMISSIONER SOUZA: Thank you.

20 CHAIR TANAKA: It's the -- Glenn, this Dog &
21 Duck, what violation is that?

22 DIRECTOR MUKAI: Dog & Duck was --

23 CHAIR TANAKA: Second violation?

24 DIRECTOR MUKAI: Minor violation.

25 CHAIR TANAKA: Yeah, but --

June 7, 2017 - Liquor Commission

1 DIRECTOR MUKAI: Second.

2 CHAIR TANAKA: Second one?

3 DIRECTOR MUKAI: Second.

4 COMMISSIONER SOUZA: Must be 'cause nothing
5 suspended.

6 CHAIR TANAKA: So next time, they out?

7 DIRECTOR MUKAI: No. The third within a five
8 years -- five-year period is suspension.

9 CHAIR TANAKA: Suspension.

10 DIRECTOR MUKAI: The fourth is --

11 CHAIR TANAKA: Fourth is automatic revocation.

12 DIRECTOR MUKAI: Automatic.

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

16 COMMISSIONER SOUZA: So moved.

17 COMMISSIONER ALULI: Seconded.

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

20 (Response.)

21 CHAIR TANAKA: Meeting adjourned. Thank you.

22 (Gavel.)

23 (Meeting adjourned, 10:16 a.m.)

24

25

June 7, 2017 - Liquor Commission

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 23rd day of June, 2017.

/s/ Tonya McDade

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