

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 9:03 a.m., on Wednesday, November 8, 2017.

Reported by: Tonya McDade, CSR, RPR, CRC
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APPEARANCES

- Robert Tanaka, Chairperson
- Nane Aluli, Commissioner
- Leon Bolosan, Commissioner
- Nicole DeRego, Commissioner
- Brenda Lee, Commissioner
- Roy Umeno, Commissioner
- STAFF PRESENT:
- Edward Kushi, Jr., First Deputy Corporation Counsel
- Glenn Mukai, Director
- Mark Honda, Deputy Director
- Karilee Yoshizawa, Liquor Control Officer IV
- Layne Silva, Liquor Control Officer III
- Gene Silva, Liquor Control Officer III
- Sharon Ito, Private Secretary

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(Wednesday, November 8, 2017, 9:03 a.m.)

* * *

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

MS. ITO: Sharon Ito, Liquor Control.

MS. YOSHIZAWA: Kari Yoshizawa, Liquor Control.

COMMISSIONER LEE: Brenda Lee.

COMMISSIONER UMENO: Good morning. Roy Umeno.

MR. KUSHI: Ed Kushi.

CHAIR TANAKA: Good morning. Bob Tanaka.

COMMISSIONER DEREGO: Nicole DeRego.

COMMISSIONER BOLOSAN: Aloha. Leon Bolosan.

DIRECTOR MUKAI: Glenn Mukai, Liquor Control.

DEPUTY DIRECTOR HONDA: Mark Honda, Liquor Control.

MR. LAYNE SILVA: Layne Silva, Liquor Control.

MR. GENE SILVA: Gene Silva, Liquor Control.

CHAIR TANAKA: Thank you. You have your agenda for November 8, 2017. If there's no questions or comments, may I have a motion for approval?

COMMISSIONER UMENO: So move.

COMMISSIONER DEREGO: Second.

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

(Response.)

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1 CHAIR TANAKA: Okay. You, also, have before you
2 your Liquor Commission minutes of October 11, 2017. If
3 there's no additions or corrections, may I have a motion
4 for approval?

5 COMMISSIONER UMENO: I move to approve.

6 COMMISSIONER DEREGO: Second.

7 COMMISSIONER LEE: Second.

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

10 (Response.)

11 CHAIR TANAKA: Okay. Motion carries. You,
12 also, have your Executive Session Summary of October 11,
13 2017. If there's no questions or comments, may I have a
14 motion for approval?

15 COMMISSIONER UMENO: I move to approve.

16 COMMISSIONER DEREGO: Second.

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

19 (Response.)

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

24 COMMISSIONER UMENO: I move to confirm General
25 Licensing Matters A through X.

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1 COMMISSIONER DEREGO: Second.

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

4 (Response.)

5 CHAIR TANAKA: Opposed, "no."

6 (No response.)

7 CHAIR TANAKA: Motion carried. Let's go on to
8 Licensing, Public Hearing. Application Number 32, Maui
9 Exclusive Partners. Going be Gene or Layne?

10 MR. GENE SILVA: Me.

11 CHAIR TANAKA: Okay, Gene.

12 MR. SILVA: Application Number 32 --

13 CHAIR TANAKA: Wait. Wait. Will you --

14 MR. JOHNSTON: Good morning.

15 CHAIR TANAKA: -- introduce yourself.

16 MR. JOHNSON: Shane Johnston, Member.

17 MS. JOHNSTON: Tracey Johnston, Member Agent.

18 CHAIR TANAKA: Thank you. Okay, Gene.

19 MR. GENE SILVA: Application Number 32, the
20 applicant is Maui Exclusive Partners, LLC doing business
21 as Ohana Seafood Bar & Grill. The proposed premises is
22 located at 1945 South Kihei Road, Suite C and D, Kihei,
23 Maui, Hawaii. This is a public hearing for a Dispenser
24 General License, Category C(ii).

25 The documents necessary for completing the

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1 remaining application requirements for a liquor license
2 are listed in the summary report.

3 Notice of public hearing was published in "The
4 Maui News" on September 20th and 27th of 2017. There are
5 a total of 113 owners and lessees situated within a
6 500-foot -- feet of the proposed premises. The Department
7 did not receive any protests.

8 CHAIR TANAKA: Thank you. Do you have anything
9 else to add?

10 MR. JOHNSTON: We've been in the community for
11 about two years now operating under a temporary license.
12 And I think we're a -- a -- a benefit to the community.
13 That's all I have to add.

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

20 COMMISSIONER UMENO: I move to approve
21 Application Number 32 conditioned upon the applicant
22 completing the remaining application requirements to the
23 satisfaction of the Department of Labor -- I mean Liquor
24 Control.

25 MR. JOHNSTON: You made me worried there for a

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1 second.

2 COMMISSIONER LEE: Second.

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

5 (Response.)

6 CHAIR TANAKA: Opposed, "no."

7 (No response.)

8 CHAIR TANAKA: Motion carried. Thank you.

9 MR. JOHNSTON: Thank you.

10 MS. JOHNSTON: Thank you.

11 MR. JOHNSTON: Thank you, Commission.

12 CHAIR TANAKA: Application Number 06, Margaret,
13 Inc.

14 COMMISSIONER UMENO: Just trying to see if
15 everybody was awake.

16 MR. JORGENSEN: Good morning, Chairman Tanaka,
17 Members of Commission and staff. My name is Dave
18 Jorgensen. I'm the attorney for Margaret, Inc. dba Nachos
19 Grande. With me this morning is Margaret Gerner, the
20 principal of Margaret, Inc.

21 CHAIR TANAKA: Thank you. Layne.

22 MR. LAYNE SILVA: Application Number 6, the
23 applicant is Margaret, Inc. doing business as Nachos
24 Grande. The proposed premises is located at 3350 Lower
25 Honoapiilani Road, Store Number 502 and 503, Honokowai,

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1 Maui, Hawaii. This is a public hearing for a Dispenser
2 General License, Category C(ii).

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

6 Notice of public hearing was published in "The
7 Maui News" on September 20th and 27th, 2017. There are a
8 total of 2232 owners and lessees situated within 500 feet
9 of the proposed premises. The Department received no
10 protests.

11 CHAIR TANAKA: Thank you. Dave, you got
12 anything else to add?

13 MR. JORGENSEN: Just that Ms. Gerner is -- this
14 is one where she lost the license because of the Federal
15 tax clearance issue. So she's been scrambling to catch
16 up. She had to put in a new -- will have to put in a new
17 grease trap, she has to put in a new urinal, she has to do
18 an enormous amount of stuff, but she's slowly working
19 through it. We have a couple of the documents that are
20 necessary.

21 And other than that, she's just hoping to be
22 able to get back to normal. We're available for any
23 questions.

24 CHAIR TANAKA: Okay. Thank you. Since this is
25 a public hearing, I'm gonna open it to the public for any

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1 public testimony. Anybody for or against this
2 application? Okay. Seeing none, any questions by the
3 Commissioners? If there's no questions, may I have a
4 motion?

5 COMMISSIONER UMEMO: I move to accept
6 Application Number 6, approve Application Number 6
7 conditioned upon the applicant completing the remaining
8 application requirements to the satisfaction of the
9 Department of Liquor Control.

10 COMMISSIONER LEE: Second.

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

13 (Response.)

14 CHAIR TANAKA: Opposed, "no."

15 (No response.)

16 CHAIR TANAKA: Motion carried.

17 MR. JORGENSEN: Thank you very much.

18 CHAIR TANAKA: Okay. Let's go on to Preliminary
19 Hearings. Application Number 33, Capu Maui Corporation.

20 MS. GARDE: Good morning.

21 MR. GARDE: Good morning.

22 MS. GARDE: My name is Melanie Garde, I'm the
23 Vice President of Capu Maui Corp.

24 MR. GARDE: I'm Teo Garde, Vice President -- or
25 President. I'm sorry.

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1 CHAIR TANAKA: Thank you. Layne.

2 MR. LAYNE SILVA: Application Number 33,
3 Dispenser General, C(ii), the applicant is Capu Maui Corp.
4 doing business as Wow-Wee Maui's Kava Bar & Grill applying
5 for a Dispenser General License, Category C(ii).

6 Officers, directors and stockholders of the
7 corporation are listed in the investigator's report.

8 Applicant has submitted a copy of a Standard
9 Lease Akaku Center by and between Akaku Holdings, LLC as
10 landlord and Capu Maui Corp. doing business as Wow-Wee
11 Maui -- Wow-Wee Maui's Kava Bar & Grill, tenant, effective
12 as of May 17, 2011.

13 The proposed premises is being operated as a
14 restaurant/bar consisting of approximately 1,580 square
15 feet, including a second-story mezzanine office, located
16 at 333 Dairy Road, Number 101A, Kahului, Maui, Hawaii.

17 There are no schools or churches located within
18 a radius of 500 feet.

19 Amigo's Authentic Mexican Food II and McGrath's
20 Hang Loose Lounge are licensees of the same class and kind
21 located within a radius of 500 feet.

22 There are one Dispenser Beer and Wine and one
23 Retail Beer and Wine licenses within a radius of 500 feet.

24 There are 107 licenses of this class and kind
25 currently issued within Maui County.

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1 Applicant initially plans to be open seven days
2 a week, from 10:30 a.m. to 9:00 p.m. Monday through
3 Thursday, and 10:30 a.m. to 10:00 p.m. Friday and
4 Saturday, 10:30 a.m. to 5:00 p.m. on Sunday.

5 Teofilo Manubi Garde and Melanie Limon Garde
6 were officers, directors and stockholders of Capu Maui
7 Corp. doing business as Wow-Wee Maui's Kava Bar & Grill,
8 License Number 353, Dispenser General, Category C(ii).
9 Original license issued on March 11, 2005; license expired
10 on June 30th, 2017.

11 There were no reports of liquor law violations
12 at this location. A copy of their past history are
13 attached.

14 A site inspection was conducted of the proposed
15 premises on July 7, 2017. The investigator found that the
16 floor plan submitted was inconsistent with the floor plan
17 submitted within the application. The applicant has since
18 submitted an accurate floor plan.

19 Information contained within the DLC-006 Form
20 submitted by Teofilo Manubi Garde and Melanie Limon Garde
21 indicated that they had been convicted for violations of
22 law. Teofilo Manubi Garde and Melanie Limon Garde have
23 submitted letters of explanation.

24 All documents necessary for the issuance of a
25 liquor license have not been submitted. The applicant --

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1 these items are listed in the investigator's report.

2 CHAIR TANAKA: Thank you. Do you have anything
3 else to add?

4 MS. GARDE: None at this time.

5 CHAIR TANAKA: Okay. I'm gonna open it to the
6 public. Any public testimony on this application? Okay.
7 Seeing none, I get one question. Why -- why did they lose
8 their license on June? They didn't reapply?

9 MS. GARDE: It was the trademark issue. I
10 didn't realize that there was a financial statement that I
11 had to turn in. My previous partner used to do that. And
12 I didn't realize it was due. So I -- that's what
13 happened, something to do with the trademark.

14 CHAIR TANAKA: Well, it wasn't nothing to do
15 with tax clearance?

16 MS. GARDE: No. No. I've always been current
17 with the tax clearance.

18 And the violation that we're talking about was a
19 ticket for -- I think speeding ticket. And that was
20 cleared since.

21 CHAIR TANAKA: Okay. Any other questions by the
22 Commissioners?

23 COMMISSIONER LEE: Yeah, I -- I do. I'm not
24 really clear on why they didn't renew. Was it purely
25 because of a trademark?

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1 MR. LAYNE SILVA: Well, I don't have the facts
2 in front of me right now, but it was a renewal situation.

3 MS. GARDE: Okay. I did renew, but, apparently,
4 there was a problem with the trademark. Like, as I said,
5 there was a statement that was missing. And so I -- I --
6 in order for us to be on top of the trademark or in order
7 for us to retain the trademark that we had, there was
8 financial reports that we had to do.

9 COMMISSIONER LEE: To the State?

10 MS. GARDE: To -- yeah, to -- yes. And I didn't
11 know I needed to do that.

12 COMMISSIONER UMENO: This -- this occurs
13 annually?

14 MS. GARDE: It's every five years, apparently,
15 that particular financial statement.

16 COMMISSIONER LEE: So did you retain your
17 trademark?

18 MS. GARDE: Yes. I had to, actually, reapply
19 and -- and kept the same trademark.

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

22 COMMISSIONER UMENO: I move to approve
23 Application Number 33 for public hearing and to process
24 the application for publication.

25 COMMISSIONER DEREGO: Oh, second. Sorry.

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1 CHAIR TANAKA: Moved and second. All in favor,
2 say "aye."

3 (Response.)

4 CHAIR TANAKA: Opposed, "no."

5 (No response.)

6 CHAIR TANAKA: Motion carried. Thank you. You
7 operating on the temporary license now?

8 MS. GARDE: Yes.

9 CHAIR TANAKA: Okay. Let's go on to Application
10 Number 07, Sip Sommelier Services.

11 MR. ABAC: Good morning. Derrin Abac, Member.

12 CHAIR TANAKA: Okay. Gene. I mean Layne.

13 MR. LAYNE SILVA: Application Number 7, Sip
14 Sommelier Services LLC doing business as Sip Sommelier
15 Services LLC applying for a Retail General license.

16 Members and agent of the member-managed LLC is
17 listed in the investigator's report.

18 Applicant has submitted a copy of a Second
19 Amendment of Lease by and between Satoki Ikeda, Inc.,
20 landlord, and Sip Sommelier Services LLC, tenant, dated
21 September 26, 2017, and becoming effective on October 15,
22 2017.

23 The proposed premises, a single-story structure
24 with one entrance and exit and no windows to the outside,
25 consisting of approximately 270 square feet is located

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1 within the Paia Plaza, 71 Baldwin Avenue, Suite C-4, Paia,
2 Maui, Hawaii.

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

5 Paia Pit Stop is a license of the same class and
6 kind located within a radius of 500 feet.

7 There is one Hotel license located within a
8 radius of 500 feet. There are 142 licenses of this class
9 and kind currently issued within Maui County.

10 Applicant plans to be open seven days a week
11 from 8:00 a.m. to 11:00 p.m.

12 A site inspection was conducted of the proposed
13 premises on August 30th, 2017. The investigator found
14 that the floor plan submitted was inconsistent with the
15 floor plan submitted within the application. The premises
16 is currently undergoing construction.

17 Information contained within the DLC-006 Form
18 submitted by Jonathan Wyatt Adkisson and Derrin Kaiana
19 Abac indicated that he had been convicted for a violation
20 of law. Information received during the criminal history
21 background check revealed that Jonathan Wyatt Adkisson and
22 Derrin Kaiana Abac had been convicted for a violation of
23 law. Jonathan Wyatt Adkisson and Derrin Kaiana Abac have
24 submitted letters of explanation.

25 All documents necessary for the issuance of a

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1 liquor license have not been submitted. These items are
2 listed in the investigator's report.

3 There's a supplemental report to this
4 application, for Application Number 7, Sip Sommelier
5 Services LLC doing business as Sip Sommelier Services LLC
6 applying for a Retail General license.

7 Members and agents of the member-managed LLC is
8 listed in the investigator's report.

9 The proposed premises is a single-story
10 structure with one entrance and exit and no windows to the
11 outside, consisting of approximately 270 square feet, is
12 located within the Paia Plaza, 71 Baldwin Avenue, Suite
13 C-4, Paia, Maui, Hawaii.

14 A site inspection was conducted on August 30th,
15 2017, at which time the investigator had found the
16 entrance into Paia Plaza was locked. The investigator had
17 to call John Wyatt Adkisson, who unlocked the door from
18 the inside to allow access to the proposed premises.

19 On November 7, 2017, at the request of the
20 Department, the applicant -- the applicant submitted a
21 letter explaining the accessibility of the proposed
22 premises. The letter states that the building, Paia
23 Plaza, in which the premises is located shall remain
24 unlocked during business hours, identifying those hours as
25 10:00 a.m. to 8:00 p.m., Sunday through Monday, and that

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1 it will be accessible at all times during those hours.
2 The applicant reported that they have a key that allows
3 them access to the premises 24 hours a day.

4 Within the liquor license application, the
5 applicant indicated that they will be open for business
6 from 8:00 a.m. to 11:00 p.m.

7 This situation is unique in a way that no other
8 licensed premises within Maui County is located within a
9 secured building. The Department would not have access to
10 and the ability to conduct inspections of said premises
11 from 8:00 p.m. 'til 10:00 a.m. daily.

12 Rules and Laws: HRS, Section 281-20, general
13 right of inspection states: Any investigator may, at all
14 times, without notice and without any search warrant or
15 other legal process, visit and have immediate access to
16 every part of the premises of every licensee for the
17 purpose of making any examination or inspection thereof or
18 inquiry into the books and records therein, to ascertain
19 whether all of the conditions of the license and all
20 provisions of this chapter and Chapter 244D are being
21 complied with by the licensee.

22 HRS, Section 281-79, entry for examination;
23 obstructing liquor commission operations; and penalty
24 states: Every investigator shall, and any officer having
25 police power may, at all reasonable times, and at any time

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1 whatsoever, if there is any reasonable ground for
2 suspicion that the conditions of any license are being
3 violated, without warrant, enter into and upon any
4 licensed premises and inspect the same and every part
5 thereof, and any books or records therein, to ascertain
6 whether or not all conditions of the license and all
7 provisions of this chapter and Chapter 244D are being
8 complied with by the licensee.

9 If any investigator or officer or any person
10 called by the investigator or officer to the
11 investigator's or officer's aid is threatened with the use
12 of violence, force or physical interference or obstacle,
13 or is hindered, obstructed or prevented by any licensee,
14 the licensee's employees, or any other person, from
15 entering into any such premises, or whenever any
16 investigator or officer is by any licensee, the licensee's
17 employees or any other person opposed, obstructed or
18 molested in the performance of the officer's duty in any
19 respect, the licensee, and licensee's employees, or any
20 other person, shall be find not more than \$2,000 or
21 imprisoned not more than one year, or both.

22 Whenever any investigator or officer, having
23 demanded admittance into any licensed premises and
24 declared the investigator's or officer's name and office,
25 is not admitted by the licensee or the person in charge of

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1 the premises, it shall be lawful for the investigator or
2 officers to forcibly and in any manner to break into and
3 enter the premises.

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

6 MR. ABAC: No, sir.

7 CHAIR TANAKA: Before we question the applicant,
8 I'm gonna open it to the public for any public testimony.
9 Okay. I have one question. How do you expect the
10 investigators to inspect your facilities during hours of
11 service with the doors closed?

12 MR. ABAC: During hours of service, we plan to
13 have a member of the Sip Sommelier Service present at the
14 facility to be able to have access to and to anybody who
15 would like to have access to the -- the space.

16 CHAIR TANAKA: They will be standing right by
17 the door when the guy come?

18 MR. ABAC: I mean, the door -- the door will be
19 opened. That front door will be able to be open and stay
20 open. We're working with the landlord to make sure that
21 we can keep that current so that there's access to the
22 building and we can grant to Sip Sommelier Services.

23 CHAIR TANAKA: So you're saying that the door
24 would always be open now?

25 MR. ABAC: Between the hours of -- business

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1 hours, so we can have someone there to allow access.

2 COMMISSIONER LEE: So there needs to be someone
3 there?

4 MR. ABAC: Correct.

5 CHAIR TANAKA: So you're saying during the
6 sale -- your business hours would -- would be, let me
7 understand it correctly, 8:00 to 11:00?

8 MR. ABAC: Yes, sir.

9 CHAIR TANAKA: And the -- it will be open always
10 from --

11 COMMISSIONER UMENO: Junior --

12 CHAIR TANAKA: Those period of times?

13 MR. ABAC: Yes, sir.

14 CHAIR TANAKA: 8:00 to 11:00. Well, this is a
15 retail.

16 COMMISSIONER UMENO: This is a liquor store?
17 This is a liquor store?

18 MR. KUSHI: General Dispenser.

19 CHAIR TANAKA: No, this is a Retail.

20 COMMISSIONER LEE: Retail license.

21 CHAIR TANAKA: Retail General.

22 MR. KUSHI: General Dispenser, right?

23 COMMISSIONER LEE: No.

24 CHAIR TANAKA: No. No.

25 MR. LAYNE SILVA: Retail.

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1 DIRECTOR MUKAI: Retail.

2 CHAIR TANAKA: Retail. Retail. Retail.

3 COMMISSIONER UMENO: So it's a --

4 CHAIR TANAKA: So you can sell liquor only up to
5 11:00 p.m. So everything will be open up to 11:00 p.m.?

6 MR. ABAC: Yes, sir.

7 CHAIR TANAKA: Okay. And you're gonna close at
8 11:00 p.m.? Any other questions by the Commissioners?

9 COMMISSIONER UMENO: I see that Derrin Abac has
10 two violations of a DUI.

11 MR. ABAC: Yes, sir.

12 COMMISSIONER UMENO: What is -- how -- is he in
13 control of operations?

14 MR. ABAC: In -- in terms of which type of
15 operations? Just in the business?

16 COMMISSIONER UMENO: Yeah.

17 MR. ABAC: Yeah, I mean, I think all three
18 members will be --

19 COMMISSIONER UMENO: Working.

20 MR. ABAC: Yeah. In control, yeah. I'm Derrin
21 Abac, by the way.

22 COMMISSIONER UMENO: Oh, you're -- you're
23 Derrin?

24 MR. ABAC: Yeah.

25 COMMISSIONER UMENO: Okay. Okay.

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1 COMMISSIONER LEE: Will you have any employees?

2 MR. ABAC: For now, we don't plan on having
3 employees, besides us three members, to be manning the
4 shop.

5 COMMISSIONER LEE: So the distance from the gate
6 to your -- your retail space is approximately what?

7 MR. ABAC: 15 feet from the door to where our --
8 our doors.

9 COMMISSIONER LEE: So how will you -- how will
10 you know if there is an inspector there?

11 MR. ABAC: The door at the front of the building
12 can be opened. And the door inside that leads to Sip
13 we'll just have open as well. Just -- just keep 'em both
14 open.

15 COMMISSIONER LEE: Is that acceptable to the
16 Department?

17 MR. LAYNE SILVA: Well --

18 DIRECTOR MUKAI: As long as --

19 MR. ABAC: When I mean open, I mean unlocked,
20 just propped, but unlocked.

21 DIRECTOR MUKAI: With their proposal on the
22 reports, it said they will be open, the doors will be
23 locked at 8:00 p.m.

24 MR. ABAC: Uh-huh.

25 DIRECTOR MUKAI: So from 8:00 p.m. to 11:00

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1 p.m., the investigator would have no accessibility.

2 COMMISSIONER LEE: Well, that's my concern.

3 CHAIR TANAKA: I thought you just told me it's
4 gonna be open.

5 MR. ABAC: We're working with the landlord to
6 make sure that the door will stay open until the closing
7 hours.

8 COMMISSIONER LEE: But that hasn't been
9 resolved?

10 MR. ABAC: Not yet, no.

11 CHAIR TANAKA: So can you resolve it before the
12 public hearing?

13 MR. ABAC: Yes, sir.

14 CHAIR TANAKA: Okay. Any other questions?

15 COMMISSIONER UMENO: And how will we know that?

16 CHAIR TANAKA: Well, if -- if he can resolve,
17 then the Commission can, at public hearing, put conditions
18 on his license. Either they don't sell alcohol from 8:00
19 on or have the door left open with a condition. If they
20 don't abide by it, then they won't have the license.

21 MR. ABAC: Correct.

22 CHAIR TANAKA: Okay. So we can put that
23 condition at the public hearing. Any other questions? If
24 not, may I have a motion?

25 COMMISSIONER UMENO: I move to approve

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1 Application Number 07 for public hearing and to process
2 the application for publication --

3 COMMISSIONER LEE: Conditioned upon --

4 COMMISSIONER UMENO: Conditioned upon --

5 COMMISSIONER LEE: With conditions.

6 COMMISSIONER UMENO: -- the front door being
7 resolved.

8 COMMISSIONER LEE: Front door issue being
9 resolved.

10 COMMISSIONER DEREGO: Second.

11 CHAIR TANAKA: Yeah, okay. We can -- we can put
12 the condition at the public hearing.

13 COMMISSIONER LEE: Okay.

14 CHAIR TANAKA: Okay. Any second?

15 COMMISSIONER DEREGO: Second.

16 COMMISSIONER LEE: Second.

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

19 (Response.)

20 CHAIR TANAKA: Opposed, "no."

21 (No response.)

22 CHAIR TANAKA: Motion carried. So get that
23 letter to us or something, some --

24 MR. ABAC: Right away.

25 CHAIR TANAKA: Otherwise, no license.

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1 MR. ABAC: Yes, sir. Thank you.

2 CHAIR TANAKA: Let's go on to Application Number
3 12.

4 MR. NAKAMURA: Good morning, Mr. Chair, Members
5 of the Commission. Craig Nakamura, attorney on behalf of
6 the applicant. And this is Mr. Morris Levy, L-E-V-Y, who
7 is an officer, director and shareholder of the applicant.

8 CHAIR TANAKA: Okay. Thank you. Gene.

9 MR. GENE SILVA: Liquor license Application
10 Number 12, Culinaria Restaurant Group Incorporated doing
11 business as The Pour House Kapalua applying for a
12 Dispenser General, Category C(ii).

13 Officers, directors and stockholders of the
14 corporation are listed in the investigator's report.

15 Applicant has submitted an Intent to Lease by
16 and between Maui Land & Pineapple Company, a Hawaii
17 corporation, landlord, and Culinaria Restaurant Group
18 Incorporated, tenant, dated June 15, 2017.

19 The proposed premises, containing approximately
20 2,213 square feet of floor space, 1,846 square feet indoor
21 and 367 square feet outdoor lanai, is located at 700
22 Office Road, Suite A-101, Kapalua, Maui, Hawaii.

23 Restroom facilities are located outside of the
24 premises, approximately 30 feet in the makai direction of
25 the premises. The Pour House Kapalua will have keys to

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1 both restrooms which will remain open at all times while
2 The Pour House Kapalua is open for business.

3 There are no schools located within 500 feet.

4 Sacred Hearts Church is located within 500 feet.

5 There are no licenses of the same class and kind
6 located within 500 feet.

7 There is one Restaurant General license and one
8 Retail General license located within 500 feet.

9 There are 123 licenses of this class and kind
10 currently issued within Maui County.

11 Applicant initially plans to be open seven days
12 a week from 3:00 p.m. to 10:00 p.m.

13 A site inspection was conducted of the proposed
14 premises on September 26, 2017. The investigator found
15 that the premises was inconsistent with the floor plan
16 submitted within the application. The applicant has since
17 submitted an accurate floor plan.

18 Information contained within the DLC-006 Form
19 submitted by Morris Marco Levy indicated that he had been
20 convicted for a violation of law. Morris Marco Levy has
21 submitted a letter of explanation.

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

25 There's also an amendment to the application for

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1 liquor license. Applicant -- Culinaria Restaurant Group
2 Incorporated doing business as the Pour House Kapalua.

3 Officers, directors, stockholders of the
4 corporation are listed in the investigator's report.

5 A site inspection was conducted on September 26,
6 2017. The investigator found that the premises was
7 inconsistent with the floor plan submitted within the
8 application.

9 During the site inspection, it was found that a
10 doorway leading to a storage area on the mauka side of the
11 premises was not there, resulting in there being no access
12 to the proposed storage area. Further inspection revealed
13 that the storage area indicated on the floor plan did not
14 exist, causing the requested area to be reduced by a total
15 of approximately 196 square feet.

16 The applicant has submitted a letter amending
17 the square footage of the proposed premises. The square
18 feet of the proposed premises has changed from 2,213
19 square feet to 2,017 square feet of floor space, 1,650
20 square feet indoor and 367 square feet outdoor lanai. The
21 applicant has submitted an accurate floor plan attached to
22 amendment.

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

24 MR. NAKAMURA: Just very quickly, Mr. Chair.

25 This application is for an existing restaurant space.

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1 It's called -- I'm sorry, I can't -- The Wine -- The Wine
2 Palette. Sorry, I can't read my own writing. And the
3 amendment was due to the fact that the original lease was
4 for this premises as well as a little storeroom space next
5 door. But that hasn't been built out -- built out yet.
6 So there's no doorway leading to that space. So we didn't
7 include it in the -- it's not included in the licensed
8 premises. So that's why there was a reduction in the
9 space, because we haven't built out the storeroom yet.
10 And we're going to have to submit an application for a
11 permit later on, once that storeroom is built, the door,
12 basically.

13 I'd be happy to answer any questions.

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

18 COMMISSIONER UMENO: Move to approve Application
19 Number 12 for public hearing and to process the
20 application for publication.

21 COMMISSIONER DEREGO: Second.

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

24 (Response.)

25 CHAIR TANAKA: Opposed, "no."

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1 (No response.)

2 CHAIR TANAKA: Motion carried.

3 MR. NAKAMURA: Thank you very much.

4 CHAIR TANAKA: Application Number 13, AGB
5 Enterprises Inc.

6 MS. IDE: Good morning. My name is Rungtiwa
7 Ratan Ide. I am the President of AGB Enterprises Inc.

8 CHAIR TANAKA: Thank you. Gene.

9 MR. GENE SILVA: Liquor License Application
10 Number 13, AGB Enterprises Inc. doing business as
11 Tradewinds Mart & Deli applying for a Retail General
12 license.

13 Officer, director and stockholder of the
14 corporation are listed in the investigator's report.

15 Applicant has submitted a copy of a standard
16 commercial lease by and between Jadine Y.C. London
17 Revocable Living Trust, dated 11 -- July 11, 1997, Curtis
18 K.L. Yee, Bruce K.M. Yee, and Deron K.S. Yee Revocable
19 Living Trust, dated November 9th, 1994, landlord, and AGB
20 Enterprises Inc., tenant, dated June 1st, 2016. The lease
21 term to commence on June 15, 2016, and will terminate on
22 midnight, May 31st, 2021.

23 The proposed premises contains approximately
24 1,217 square feet of floor space, located at 20 Hauoli
25 Street, Unit 101, Maalaea, Maui, Hawaii.

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1 There are no schools or churches located within
2 a radius of 500 feet.

3 There are no licenses of the same class and kind
4 located within a 500-foot radius.

5 There are four Dispenser General licenses
6 located within a 500-foot radius.

7 There are 138 licenses of this class and kind
8 currently issued within Maui County.

9 Applicant initially plans to be open seven days
10 a week from 6:00 a.m. to 8:00 p.m.

11 A site inspection was conducted of the proposed
12 premises on October 4th, 2017.

13 Rungtiwa Ratana Ide was an officer and director
14 of AGB Enterprises Inc. doing business as Tradewinds Mart
15 and Deli, License Number 051, Retail General. Original
16 license issued on July 16, 2004; license expired on June
17 30th, 2017. There were no reports of liquor law
18 violations at this location. A copy of their past history
19 are attached.

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

25 All documents necessary for the issuance of a

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1 liquor license have not been submitted. Those items are
2 listed in the investigator's report.

3 CHAIR TANAKA: Thank you. Do you have anything
4 else to add?

5 MS. IDE: No, sir.

6 CHAIR TANAKA: Thank you. I'm gonna open it to
7 the public for any public testimony. Okay. Seeing none,
8 I have one question. Why did you -- what was the reason
9 you couldn't renew your license?

10 MS. IDE: I purchased the business from the
11 previous owners and didn't realize that -- until I went to
12 renew the license, that they failed to file the employee's
13 withholding taxes. So I couldn't get the tax clearance in
14 time. Since then, I contacted the previous owner. Took
15 about two months to get them to resolve the issue with the
16 State of Hawaii and the federal tax.

17 CHAIR TANAKA: Thank you. Any other questions
18 by the Commissioners? Okay. If not, may I have a motion?

19 COMMISSIONER UMENO: I move to approve
20 Application Number 13 for public hearing and to process
21 the application for publication.

22 COMMISSIONER DEREGO: Second.

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

25 (Response.)

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1 CHAIR TANAKA: Opposed, "no."

2 (No response.)

3 CHAIR TANAKA: Motion carried. Thank you.

4 MS. IDE: Thank you, sir. Thank you.

5 CHAIR TANAKA: Application Number 15.

6 MR. NAKAMURA: Good morning, Mr. Chair. Craig
7 Nakamura, attorney on behalf of the applicant. This is
8 Mr. Michael Grier -- G-R-I-E-R -- who is the
9 member-manager of the applicant LLC.

10 CHAIR TANAKA: Okay.

11 MS. YOSHIZAWA: Application Number 15, the
12 applicant is Pauwela Store LLC, a registered Hawaii
13 limited company, doing business as Pauwela Store applying
14 for a Retail General license.

15 The manager, member and agent of the
16 manager-managed LLC is listed in the investigator's
17 report.

18 The applicant has submitted a copy of a
19 Warehouse/Office Building Lease by and between Pauwela
20 Cannery LLC, landlord, and Pauwela Store LLC, tenant,
21 dated March 8, 2017. The term of this lease shall be for
22 a period of four years, 11 months, commencing on April
23 1st, 2017 to February 28, 2022.

24 The proposed premises contains approximately
25 1,583 square feet of floor space located at 375 West

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1 Kuiaha Road, Unit 35, Haiku, Maui, Hawaii.

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

5 There are no other licenses located within a
6 radius of 500 feet.

7 There are 139 licenses of this class and kind
8 currently issued within Maui County.

9 Applicant initially plans to be open seven days
10 a week from 8:00 a.m. to 10:00 p.m.

11 A site inspection was conducted of the proposed
12 premises on October 16, 2017.

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

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 CHAIR TANAKA: Thank you. Anything else to add?

22 MR. NAKAMURA: This is for a Retail license for
23 a grocery store at the Pauwela Cannery. The applicant has
24 not has been operating for several months now and is now
25 applying for a liquor license.

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1 CHAIR TANAKA: Okay. I'm gonna open it to the
2 public. Any public testimony on this item? Okay. Seeing
3 none, any questions by the Commissioners?

4 COMMISSIONER LEE: Motion.

5 CHAIR TANAKA: If no questions, may I have a
6 motion?

7 COMMISSIONER UMENO: I move to approve
8 Application Number 15 for public hearing and to process
9 the application for publication.

10 COMMISSIONER LEE: Second.

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

13 (Response.)

14 CHAIR TANAKA: Opposed, "no."

15 (No response.)

16 CHAIR TANAKA: Motion carried.

17 MR. NAKAMURA: Thank you very much.

18 MR. GRIER: Thank you.

19 CHAIR TANAKA: Okay. Let's go on to Other
20 Licensing Matters. Mid Pac Petroleum.

21 MR. PROVENZA: Good morning, Commissioners,
22 Members of the Maui Department. Gabriel Provenza on
23 behalf of Mid Pac Petroleum, LLC.

24 CHAIR TANAKA: Okay.

25 MS. YOSHIKAWA: The applicant is Mid Pac

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1 Petroleum, LLC doing business as Mako's Mart, Number 107
2 and Number 340, pursuant to the Rules of the Liquor
3 Commission, requesting Commission approval to change the
4 existing trade name to Nomnom.

5 The member of the member-managed LLC is listed
6 in the investigator's report.

7 Rules of the Liquor Commission, Section
8 08-101-36, Unauthorized use of trade name, change. (a), A
9 new licensee or transferee shall have a trade, however
10 such trade name must be registered with the State
11 Department of Commerce and Consumer Affairs. (b), Any
12 licensee desirous of changing an existing trade name shall
13 submit to the commission a certificate of registration of
14 trade name issued by the State Department of Commerce and
15 Consumer Affairs showing approval of such registration.
16 (c), Use of any trade name without prior approval of the
17 Commission is prohibited. Any publication or advertising
18 or sign within -- with an unauthorized trade name will be
19 considered prima facie evidence of use of such trade name.

20 CHAIR TANAKA: Do you have anything else to add?

21 MR. PROVENZA: Nothing to add.

22 CHAIR TANAKA: Okay. I'm gonna open it to the
23 public. Any public testimony on this item? Okay. Seeing
24 none, any questions by the Commissioners? Basically, you
25 just changing your trade name?

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1 MR. PROVENZA: Yeah.

2 CHAIR TANAKA: Okay. If there's no questions,
3 may I have a motion?

4 COMMISSIONER UMENO: I move to approve the
5 change in name.

6 CHAIR TANAKA: Any second?

7 COMMISSIONER LEE: Second.

8 COMMISSIONER DEREGO: Second.

9 CHAIR TANAKA: Moved and second. All in favor,
10 say "aye."

11 (Response.)

12 CHAIR TANAKA: Opposed, "no."

13 (No response.)

14 CHAIR TANAKA: Motion carried. Thank you.

15 MR. PROVENZA: All right. Thank you.

16 CHAIR TANAKA: Goose's Edge.

17 MR. GUSTAVSON: Good morning. Matthew
18 Gustavson, VP Operations Agent, Goose's Edge.

19 CHAIR TANAKA: Thank you. Kari.

20 MS. YOSHIZAWA: Goose's Edge, Inc. doing
21 business as Dairy Road Express Mart, Number 028, pursuant
22 to the rules of the liquor is requesting Commission
23 approval to change the existing trade name to Dairy Road
24 76.

25 The officers, directors and stockholders of the

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1 corporation is listed in the investigator's report.

2 The Rules of the Liquor Commission regarding the
3 unauthorized use of trade name change is listed in the
4 investigator's report.

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

7 MR. GUSTAVSON: No, sir.

8 CHAIR TANAKA: Changing trade name again.

9 COMMISSIONER UMENO: I move to approve trade
10 name change.

11 COMMISSIONER LEE: Second.

12 CHAIR TANAKA: Before -- before we get on to the
13 motion, any public testimony on this item? Okay. Seeing
14 none -- motion already made?

15 COMMISSIONER UMENO: Yeah.

16 COMMISSIONER LEE: Second.

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

19 (Response.)

20 CHAIR TANAKA: Opposed, "no."

21 (No response.)

22 CHAIR TANAKA: Motion carried. Thank you.

23 MR. GUSTAVSON: Thank you.

24 CHAIR TANAKA: Okay. Let's go on to Freshies
25 Maui Corporation.

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1 MR. NAKAMURA: Good morning, Mr. Chair. Craig
2 Nakamura on behalf of the applicant. Oh, I'm sorry.
3 Eric.

4 MR. ULMAN: Erik Ulman, Freshies Maui Corp.

5 CHAIR TANAKA: Thank you. Kari.

6 MS. YOSHIZAWA: Freshies Maui Corp. doing
7 business as Freshies Maui, Dispenser Beer and Wine
8 license, Category C(ii).

9 The officers, directors and stockholders of the
10 corporation is listed in the investigator's report.

11 The applicant is requesting Commission approval
12 to extend their hours of operation to 7:00 a.m. to serve
13 food. There will be no liquor service until 8:00 a.m.

14 Rules of the Liquor Commission: Section
15 08-101-25, Hours for sale, service and consumption of
16 liquor in licensed premises. (a), Hours during which
17 licensed premises may be open for the transaction of
18 business shall be as follows: (1), Dispensers,
19 restaurants, clubs, transient vessels, tour or cruise
20 vessels, and specials: Any hour of the day from 8:00 a.m.
21 to 2:00 a.m., the following day. (c), There shall be no
22 sale, service or consumption of liquor on or within any
23 licensed premises before or after the hours prescribed by
24 the Commission. (e), Licensee may operate or be open for
25 business for other than the sale, service or consumption

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1 of liquor prior to or beyond the hours prescribed by the
2 Commission, upon submitting an application and obtaining
3 prior approval from the commission.

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

5 MR. NAKAMURA: Nothing further. Be happy to
6 answer any questions.

7 CHAIR TANAKA: Okay.

8 MR. KUSHI: Question. Mr. Nakamura, does your
9 client want to extend an hour one -- one hour before,
10 instead of 8:00 a.m. to 7:00, 7:00 a.m.?

11 MR. NAKAMURA: No. I think the issue is that
12 the rules allow service only from 8:00 a.m., for hours of
13 operation, only from 8:00 a.m. And he's, actually, going
14 to be open for breakfast so he's going to open at 7:00
15 a.m. So the Department is requiring that we come in for
16 this request.

17 MR. KUSHI: Okay. From 7:00 a.m. to 8:00 a.m.
18 does he have an employee with a liquor license card,
19 liquor card?

20 MR. NAKAMURA: Yes.

21 MR. KUSHI: Are you sure?

22 MR. NAKAMURA: Yes.

23 CHAIR TANAKA: Okay. Any public testimony on
24 this item? Okay. Seeing none, any questions by the
25 Commissioners? If not, may I have a motion?

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1 COMMISSIONER UMENO: I move to approve the
2 extension of hours.

3 COMMISSIONER DEREGO: Second.

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

6 (Response.)

7 CHAIR TANAKA: Opposed, "no."

8 (No response.)

9 CHAIR TANAKA: Motion carried. Thank you.

10 MR. NAKAMURA: Thank you very much.

11 MR. ULMAN: Thank you.

12 CHAIR TANAKA: Lahaina Beverage Management, Inc
13 Let's take Item D and E together, same facilities, only
14 different address.

15 MR. PROVENZA: Good morning, Commissioners.
16 Gabriel Provenza on behalf of the Lahaina Beverage
17 Management, Inc. On my right I have Robin Truxal, who is
18 store director and authorized agent.

19 CHAIR TANAKA: Thank you. Kari.

20 MS. YOSHIZAWA: Lahaina Beverage Management,
21 Inc. doing business as Safeway, Retail General License, at
22 277 Piikea Avenue, Kihei, Maui, Hawaii, requesting an
23 extension to exercise the liquor license pursuant to
24 Section 08-101-34(c) of the Rules of the Liquor
25 Commission, County of Maui. License granted by the

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1 Commission on July 12, 2017; to expire on January 7, 2018.
2 The applicant is requesting a six-month extension.

3 Lahaina Beverage Management, Inc. doing business
4 as Safeway, Retail General License, at 170 East Kamehameha
5 Avenue, Kahului, Maui, Hawaii, requesting an extension to
6 exercise the liquor license pursuant to Section
7 08-101-34(c) of the Rules of the Liquor Commission, County
8 of Maui. License granted by the Commission on July 12,
9 2017; to expire on January 7, 2018. The applicant is
10 requesting a six-month extension.

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

12 MR. PROVENZA: No. Just to clarify what is
13 going on, we have this transfer applications pending and
14 we're just in the process of fulfilling the conditions.
15 So for the Kihei location, we're very close. I think
16 we're down to maybe just the final inspection by the
17 Commission so that one should happen quickly. And then
18 for the Kahului location, we still have two inspections
19 outstanding. And we're just working to resolve those.

20 CHAIR TANAKA: This is the County inspection
21 you're talking about?

22 MR. PROVENZA: Correct.

23 CHAIR TANAKA: Okay. Any public testimony on
24 this item? Okay. Seeing none, any other questions by the
25 Commissioners?

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1 COMMISSIONER LEE: I have a question.

2 MR. PROVENZA: Yes.

3 COMMISSIONER LEE: Can you explain to me, I
4 guess, the -- the responsibilities of Lahaina Beverage
5 versus the responsibilities of Safeway and who owns the
6 inventory?

7 MR. PROVENZA: So there's a management agreement
8 on file --

9 COMMISSIONER LEE: Uh-huh.

10 MR. PROVENZA: -- with the Department. And
11 Lahaina Beverage Management, Inc. is the person in
12 control, it's the entity in control of the premises,
13 holding the license and the inventory. So --

14 COMMISSIONER LEE: They -- they purchase the
15 inventory for Safeway?

16 MR. PROVENZA: I -- that's my understanding.

17 COMMISSIONER LEE: So they inventory the stock,
18 and, at the end of the year, they file the inventory
19 report?

20 MR. PROVENZA: Correct. Is that --

21 COMMISSIONER LEE: Is that correct?

22 MR. PROVENZA: -- consistent with your
23 understanding?

24 MR. TRUXAL: As far as I understand.

25 COMMISSIONER LEE: So there are no invoices

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1 directly billed to Safeway?

2 MR. PROVENZA: I'm hesitant to confirm that at
3 this point without actually confirming with both entities.

4 COMMISSIONER LEE: Could you clarify that,
5 please?

6 MR. PROVENZA: Yes, I will.

7 COMMISSIONER LEE: Thank you.

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

10 COMMISSIONER UMENO: I move to approve the
11 extension of six months for the applicant.

12 CHAIR TANAKA: Second? Any second?

13 COMMISSIONER DEREGO: Second.

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

16 (Response.)

17 COMMISSIONER DEREGO: Just to clarify, this is
18 for E and F, yeah?

19 CHAIR TANAKA: Yeah, D and E.

20 COMMISSIONER DEREGO: D and E. Sorry.

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

22 (Response.)

23 CHAIR TANAKA: Opposed, "no."

24 (No response.)

25 CHAIR TANAKA: Motion carried. Okay. Let's go

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1 on to Item F, Safeway Inc.

2 MR. PROVENZA: Gabriel Provenza on behalf of the
3 Safeway Inc. And Robin Truxal, Store Director, Authorized
4 Agent on my right.

5 CHAIR TANAKA: Kari.

6 MS. YOSHIZAWA: The applicant is Safeway Inc.
7 doing business as Safeway, Number 070 and Number 134,
8 requesting Commission approval for a change in stockholder
9 within the corporation. Contingent upon the approval of
10 the Liquor Commission, Albertson's Companies, LLC will no
11 longer own 100 percent of the outstanding corporate stock
12 effective December 3rd, 2017.

13 Contingent upon the approval of the Liquor
14 Commission, Albertson's Companies Inc. will own 100
15 percent of the outstanding corporate stock.

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

18 Applicant has submitted a copy of the
19 certification of Safeway Inc. dated October 3rd, 2017
20 which reflects the changes.

21 In the opinion of the 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.

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1 CHAIR TANAKA: Anything else to add?

2 MR. PROVENZA: Nothing to add.

3 CHAIR TANAKA: Okay. Any public testimony on
4 this item? Okay. Seeing none, any questions by the
5 Commissioners? If there's no questions, may I have a
6 motion?

7 COMMISSIONER UMENO: I move to approve the
8 change in stockholders.

9 COMMISSIONER DEREGO: Second.

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

12 (Response.)

13 CHAIR TANAKA: Opposed, "no."

14 (No response.)

15 CHAIR TANAKA: Motion carried. Thank you.

16 MR. PROVENZA: Thank you.

17 CHAIR TANAKA: Okay. Let's have a five-minute
18 recess.

19 (Recess, 9:48 a.m. to 9:56 a.m.)

20 CHAIR TANAKA: Liquor Commission meeting called
21 back to order. Let's go on to Administrative Affairs.

22 Item A, Department proposed rules for Commission
23 consideration. You have in your packet before you all the
24 proposed Commission rules that -- you know, it's for your
25 information only for now. We will hold a public hearing

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1 on these changes on December the 15th. So at that time,
2 after the public hearing, then whatever changes Commission
3 feel need changes. And at that time we'll -- we can make
4 a decision to approve or not approve. Okay. So,
5 basically, it's for your information only. So study that
6 hard.

7 Okay. Let's go on to Item B.

8 MR. KUSHI: Mr. Chair?

9 CHAIR TANAKA: Yes.

10 MR. KUSHI: For the record, not only for your
11 information, but for your action, to direct the staff to
12 publish --

13 CHAIR TANAKA: Yeah.

14 MR. KUSHI: We included on your agenda a summary
15 of the proposed rules. And they're fairly simple.
16 They're not administrative in nature, not housekeeping,
17 but it is -- it's, basically, a -- I would -- I would term
18 it pro -- pro applicant, pro licensee rule changes.

19 If there's any questions, you can ask me or the
20 staff, but we need action by the Commission to proceed to
21 rulemaking.

22 CHAIR TANAKA: Okay. Any questions by the
23 Commissioners? If not, we'll proceed with a public
24 hearing on December 13th for the rule changes.

25 Okay. Let's go on to Item B, the Annual Review

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1 and Evaluation Performance of the Director of Department
2 of Liquor Control. Commission was requested to turn in
3 all the evaluation summary to me. What I will do is I
4 will tabulate the results of the evaluation and present to
5 the Commission at the December 13 meeting, when we will
6 discuss the results and come to a conclusion and make our
7 presentation to the Mayor. Anybody get any questions or
8 have any comments on what we're proposing to do?

9 Okay. Let's go on to Item C, the Director's --

10 MR. COUCH: Are we allowed to have public
11 testimony on that?

12 CHAIR TANAKA: Sure, if you want. Go ahead.
13 You also have public -- chance to public testimony on
14 December 13 meeting, also.

15 MR. MOSS: My name is Richard Moss, I'm the
16 Quartermaster for VFW Post 3850 here on Maui.

17 CHAIR TANAKA: Yeah.

18 MR. MOSS: I'm here, basically --

19 CHAIR TANAKA: You have three minutes. Go
20 ahead.

21 MR. MOSS: Okay. We were denied a permit for
22 our luau which we had last weekend because we couldn't
23 comply with some of the requirements that are -- the new
24 requirements that are on the checklist. And we've been
25 holding these events and serving alcohol at them for many,

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1 many years on this island without any incidents. We're
2 always inspected by Liquor Control. We've never had an
3 incident. We've always been in compliance. But for this
4 year, because of the new requirements, we fell short on a
5 couple of the items.

6 And I think that the Liquor Control Director has
7 implemented these new requirements, I think they're
8 excessive. I was told during the process that it's
9 because it's State law. Well, it's State law, but it's,
10 also, discretionary on the part of each county as to
11 whether or not they want to follow the State law or not.
12 And it's my understanding that neither Kauai nor Hawaii
13 island have implemented requirements of the State law, but
14 they've been implemented here on Maui.

15 And it's very onerous for nonprofits. It feels
16 like the intent is to discourage nonprofits from having
17 fundraisers where they serve alcohol because it's
18 extremely difficult to meet the requirements.

19 And so, I guess, this relates to the evaluation
20 of the Director because he's the one that made the
21 decision that these requirements should be met by all the
22 nonprofits on Maui. And I just think they're overboard.

23 CHAIR TANAKA: Okay. That's it?

24 MR. MOSS: That's it. You only gave me three
25 minutes, so --

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1 CHAIR TANAKA: Okay. Thank you. Maybe what we
2 can do is ask the Director. What was the problem?

3 DIRECTOR MUKAI: Kari.

4 MS. YOSHIZAWA: They did not obtain their
5 Federal tax clearance. They're asking us to waive -- the
6 Department to waive the Federal tax clearance requirement.

7 CHAIR TANAKA: And --

8 COMMISSIONER UMENO: Is that it?

9 MS. YOSHIZAWA: I believe --

10 MR. GENE SILVA: And middle names on the forms.

11 MS. YOSHIZAWA: Full legal names of the officers
12 and directors. And that's it, I believe.

13 MR. GENE SILVA: Off the top of my head.

14 MS. YOSHIZAWA: There was a, I guess, concern
15 from the applicant on the Department requiring them to
16 separate the minors from the adults, but that was never
17 the Department's stance. So we're not sure -- I could
18 never clarify with the applicant on why they felt that the
19 Department was requiring that because it's not required
20 per rule.

21 CHAIR TANAKA: Federal tax clearance --

22 MR. MOSS: I provided a letter from the
23 Federal -- from the IRS --

24 CHAIR TANAKA: Excuse me. Excuse me. Just a
25 minute. Federal tax clearance, is that a Commission rule

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1 or a State law?

2 MS. YOSHIZAWA: State law.

3 MR. KUSHI: It's not the Federal tax clearance;
4 it's the Federal Nonprofit Certification, isn't it?

5 DIRECTOR MUKAI: No. It's the tax clearance
6 itself.

7 CHAIR TANAKA: All these -- all these years, VFW
8 was getting a permit.

9 MR. MOSS: Yes.

10 CHAIR TANAKA: You weren't issuing a Federal tax
11 clearance?

12 MR. MOSS: What I got was a letter of
13 affirmation from the IRS, you know, certifying our
14 nonprofit status. I mean, we've been certified with the
15 IRS as a nonprofit for many, many, many years. But that
16 wasn't the letter they wanted. They wanted -- you know, I
17 made it clear, we don't pay Federal taxes. We're a
18 nonprofit organization, we pay no Federal taxes. And I
19 get -- I got them a letter of affirmation from the IRS
20 which came directly from the IRS, but they said that's not
21 what they wanted. They wanted -- they wanted something
22 different.

23 COMMISSIONER UMENO: So that -- so the previous
24 years, did you have that clearance?

25 MR. MOSS: The previous years, we got --

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1 COMMISSIONER UMENO: Wasn't required?

2 MR. MOSS: Like I said, we have three events
3 every year that we get -- that we sell alcohol. And for
4 the last several years, we have always been able to get
5 our Liquor Control permits. So we've submitted the
6 documentation that's been required in the past, but, this
7 year, there's more documentation than has been required in
8 the past. And, for some reason, the letter that I got
9 from the IRS wasn't the letter that they were looking for.

10 COMMISSIONER LEE: Mr. Moss, what section are
11 you exempted from as a --

12 MR. MOSS: 501(c)(19).

13 CHAIR TANAKA: So -- so, basically, what you --
14 what you're saying is that this is a requirement?

15 MS. YOSHIZAWA: Yes.

16 CHAIR TANAKA: Federal tax clearance?

17 MS. YOSHIZAWA: State law -- State law reads any
18 applicant for a liquor license is required to submit a
19 State and Federal tax clearance certificate or the
20 Certificate of Vendor Compliance.

21 CHAIR TANAKA: Under -- under -- under our
22 recent rule change where we exempt nonprofits, were these
23 people included in that?

24 UNIDENTIFIED SPEAKER: Yes.

25 DIRECTOR MUKAI: Were included, but we cannot

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1 waive State law on tax clearances.

2 CHAIR TANAKA: So -- so you're saying -- he's
3 saying that Big Island and Kauai is circumventing the law?

4 DIRECTOR MUKAI: I have no information --

5 CHAIR TANAKA: You said that they don't require
6 tax clearance.

7 MR. MOSS: I don't know the specifics of what
8 they require. I just know that they do not require the
9 extent that is required here. For example, you mentioned
10 the middle names. We've always submitted our
11 application -- we have to list our officers and the folks
12 that are going to be serving the alcohol. We have to list
13 their names. In the past, we listed their first and last
14 name and middle initial. I don't know the middle names of
15 any of those people because we're not required to have
16 middle names for our purposes. But the -- but the Liquor
17 Control said, well, I'm sorry, middle initial isn't good
18 enough, you have to give us everybody's middle name. Now,
19 I don't -- I really don't understand the purpose of that.
20 It makes no sense to me. And they -- they denied our
21 license because we couldn't give them a middle name of the
22 people that were on the form.

23 CHAIR TANAKA: Is he correct on that?

24 MS. YOSHIZAWA: The application was not accepted
25 because they did not meet the requirements for the Federal

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1 tax clearance. The application does state that full legal
2 names are required. And I guess there was an issue or
3 concern from the applicant regarding the separation of
4 minors, which we were not able to address as the applicant
5 left the office.

6 MR. MOSS: I don't understand what she means by
7 separation of minors.

8 CHAIR TANAKA: Well, with -- with the rule
9 change we just recently passed that all you gotta do is
10 list the minors' names. They don't have to be --

11 MS. YOSHIZAWA: No. This --

12 CHAIR TANAKA: I mean entertainers right?

13 MS. YOSHIZAWA: No. This is the guests of the
14 event. Maybe Gene could better -- because he sat with the
15 applicant --

16 MR. GENE SILVA: I guess what it was, was -- and
17 I don't know it was an issue. I know that was one of the
18 arguments we had before they left, was they didn't know
19 why they had to separate the minors, but at no point did I
20 tell them they needed to separate the minors. What
21 happened was that the floor plan that was submitted had a
22 section that had the minors separated. What I did tell
23 them was that if you're going to separate the minors, I
24 would like the dimensions of the area that you're gonna
25 have for the minors. That was it.

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1 MR. MOSS: So we've always had a separate area
2 for minors, it's always been designated on our plan.
3 We -- on the drawing that we submit, it shows the area
4 where the minors would sit. The only thing we hadn't
5 included in the past was the dimensions of the area, which
6 I did bring back at one of my -- it took me three
7 meetings, three times coming to Liquor Control. And after
8 three separate times, still couldn't get the liquor
9 license. But then the last time I came, I did bring the
10 dimensions of the area where the minors would be sitting.

11 CHAIR TANAKA: So, basically, the permit was
12 denied based on, you're saying, the State -- I mean, the
13 tax clearance, nothing else?

14 MS. YOSHIZAWA: The application was not accepted
15 because the applicant did not meet the requirements for
16 the State law for the Federal tax clearance, he obtained
17 his State tax clearance, but not the Federal, as well as
18 the full legal names of the officers and directors as
19 required on the application.

20 MR. KUSHI: How do you get a Federal tax
21 clearance if you don't need to pay Federal taxes?

22 MS. YOSHIZAWA: If you look at the A6 Form for
23 the tax clearance, the State tax clearance, it says, on
24 Number 4, the tax clearance is required for, and the
25 applicant would check off liquor license. And there's an

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1 asterisk next to liquor license. And below that, it says
2 if there's an asterisk, IRS approval stamp is only
3 required for the purposes indicated by the asterisk. On
4 the back of the A6 form, it indicates, Number 7, for
5 liquor licensing, initial renewal, transfer seller,
6 transfer buyer, special event. And Number 11, it says tax
7 exempt organization, where they would have to provide the
8 IRS with their tax exemption status. Ask them additional
9 questions regarding their filing of Federal Form 990T, as
10 well as the organization (inaudible) Federal Form 990. So
11 this would be up to the Federal Government to determine if
12 they're in compliance.

13 MR. MOSS: I brought in copies of our 990 which
14 we submit every year. That's the report. Even though we
15 don't pay Federal taxes, I still have to submit a tax
16 report to the -- to the Federal Government every year and
17 on -- IRS on a 990 Form. I brought in a copy of that to
18 show that, you know, here's our 990 from last year. That
19 wasn't adequate.

20 I asked to see a copy of what specific form
21 they're looking for from the IRS. They said they couldn't
22 show me a copy because the ones they had had other
23 agencies' names on it and, therefore, they were
24 confidential, and they would not show me a copy of the
25 exact form that they were looking for.

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1 See, this is the kind of stuff that -- I'm
2 sorry. I'm getting upset. This is the kind of stuff that
3 is just way over the top. We've been doing this for
4 years, we've had no issues. We're a nonprofit agency.
5 We've been on this island since after World War II. And
6 all of a sudden, we can't get a Liquor Control permit to
7 have our luau and serve some beer for four or five hours.
8 It just is completely unrealistic, unacceptable.

9 CHAIR TANAKA: Question. What happened to last
10 year when VFW came for a permit?

11 MS. YOSHIZAWA: These items were not required at
12 the time.

13 CHAIR TANAKA: Now you saying it's required?

14 DIRECTOR MUKAI: State law, we have to enforce.
15 If we don't enforce, then the County, Liquor Commission
16 members and --

17 CHAIR TANAKA: And when -- when the State law
18 came into effect, if -- if that's the case? Because last
19 year, I kind of remember they came -- VFW came for a
20 permit and then we issued the permit.

21 DIRECTOR MUKAI: The problem with VFW the last
22 several times was -- last time was that because they
23 weren't included in the 501 series for special license,
24 the Commission passed the -- amended the rule to
25 include --

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1 CHAIR TANAKA: Yeah. Yeah.

2 DIRECTOR MUKAI: In the meantime, Mr. Couch was
3 the one applying for they license.

4 COMMISSIONER LEE: So why couldn't we have done
5 the same thing this year?

6 DIRECTOR MUKAI: Because they are applying --

7 COMMISSIONER LEE: This application.

8 DIRECTOR MUKAI: -- their own -- under their
9 name.

10 COMMISSIONER UMEMO: That's the difference?

11 CHAIR TANAKA: So if Mr. Couch applies for it
12 and VFW applies for it, the end result is the same thing.

13 DIRECTOR MUKAI: Yes.

14 MS. YOSHIZAWA: Yeah.

15 CHAIR TANAKA: So -- so why couldn't we give
16 them the permit? Because when Mr. Couch applied for it --
17 Mr. Couch, do you have -- did you get a tax clearance?

18 MR. COUCH: No, I did not get a tax clearance.
19 It was -- apparently, you don't need one if you have a
20 candidate committee, political candidate committee,
21 according to your rules or the other rules.

22 CHAIR TANAKA: So what -- what -- why don't you
23 use Mr. Couch's application again? Oh, you're not a
24 political candidate.

25 MR. KUSHI: Not yet.

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1 MR. COUCH: Actually, my campaign is still open.

2 CHAIR TANAKA: Yeah.

3 MR. COUCH: So --

4 CHAIR TANAKA: So you're still gonna --

5 MR. COUCH: The only reason I did it before is
6 because, all of a sudden, they said 501(c)(19)s weren't
7 allowed, when they have been for the last 30 years that
8 these guys have been doing that.

9 CHAIR TANAKA: Well, we changed the rule to
10 allow --

11 MR. COUCH: But then you changed the rule to
12 allow 501(c)(19)s, so I figured I didn't have to do it
13 anymore. And they went through that process and -- and --

14 CHAIR TANAKA: So, basically, this is the first
15 time you're applying for that permit, then?

16 MR. COUCH: Under the new rules.

17 MR. MOSS: Under the new rules. We've been --
18 like I said, we've been doing this for many, many years.
19 We have three events. I applied for a liquor license
20 every year, we were always granted. We never have any
21 issues at the events. And now, all of a sudden, we're not
22 eligible.

23 COMMISSIONER LEE: Mr. Moss, have you ever
24 submitted one of those tax -- Federal tax clearances?

25 MR. MOSS: What --

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1 COMMISSIONER LEE: Did you submit one?

2 MR. MOSS: I filed one of those for the State.

3 COMMISSIONER LEE: Yeah, but my question is, did
4 you file one for Federal?

5 MR. MOSS: I didn't file one for Federal.

6 COMMISSIONER LEE: Okay. So we don't know. I
7 mean, you could have gotten the letter --

8 MR. MOSS: I got a letter of affirmation from
9 the IRS, basically, certifying our status as a, you know,
10 licensed nonprofit agency with the IRS. But that,
11 apparently, wasn't good enough.

12 COMMISSIONER UMENO: Yeah, because it's not a
13 tax -- tax deal, right?

14 COMMISSIONER LEE: It's just affirming that he's
15 a nonprofit.

16 MR. MOSS: But we're -- yeah. The -- the thing
17 that's confusing is we don't pay Federal taxes, so I don't
18 know why we need some kind of a certification about our
19 Federal taxes that we don't pay.

20 CHAIR TANAKA: Glenn, how can we circumvent
21 this?

22 MR. COUCH: Mr. Chair?

23 DIRECTOR MUKAI: Well, we can change the State
24 law. We can submit the proposed bill to change it. I
25 believe one association, during our review, had -- I

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1 believe Maui Hotel Association will be submitting a bill
2 to eliminate the State law. And I believe at the State
3 conference it was, also, discussed on the problems on the
4 Federal tax law, the requirements. Because Hawaii is the
5 only state that requires it. So it would require a
6 legislative change.

7 CHAIR TANAKA: (Inaudible). I'm gonna ask the
8 Corp Counsel, can the -- can the Commission exempt based
9 on the rule change on nonprofit?

10 MR. KUSHI: I haven't looked at the specific
11 issue about State tax clearance or State requirements, but
12 aside from that, if it's State law, that's one thing, if
13 it's within the discretion of this Commission, you can.

14 Mr. Chair, his testimony is based on the
15 evaluation on the agenda, which is part of the record.
16 The issues, I think, that they bring up can be better
17 addressed when we review the forms, which is the next
18 agenda item. We're gonna go over Special License
19 Application Checklist, License Application Checklist,
20 Personal History Statements, Application for Liquor
21 License. We may get to it today, we may not. At that
22 point in time, you can knock out issues such as full
23 middle names, why do they need full middle names when they
24 don't even check 'em, that kind of issues.

25 But, again, this is strictly testimony on

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1 evaluation of the Director. Like your answer?

2 CHAIR TANAKA: Not really, but -- not really,
3 but let me -- let me say this, that, okay, you brought --
4 you have -- you know, based on your testimony here, you
5 brought this kind of questions to the Commissioners. We
6 will review all the requirements with our checklist forms
7 and, hopefully, we can resolve whatever problems you know
8 it's creating.

9 MR. MOSS: Our next event coming up is in late
10 January. So I'm hoping that we don't --

11 CHAIR TANAKA: Don, file that permit application
12 so -- so no problem. Well, we'll -- we'll look in to it.

13 MR. MOSS: I thank you for your time.

14 CHAIR TANAKA: Okay. Thank you.

15 COMMISSIONER DEREGO: Thank you.

16 CHAIR TANAKA: Okay. Let's go on.

17 MR. COUCH: Mr. Chair, I would like to testify
18 as well.

19 CHAIR TANAKA: Sure. Go ahead.

20 MR. COUCH: Thank you, Mr. Chair. I just wanted
21 to mention -- and something was brought up in the last --
22 in the questioning the last thing, about youth, kids being
23 intermingled with the guests. My concern is there have
24 been some significant changes in the way the laws were
25 interpreted or enacted. Whether they're right or wrong,

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1 just to let you know that there have been significant
2 changes.

3 For instance, the Boys and Girls Club, we have a
4 Little Chef Big Chef event. And every year, until this
5 year, we were allowed to have the kids, the little chefs
6 with the big chefs to give food to the -- the guests. And
7 the guests were allowed to have their drinks as they wait
8 in line and talk to the kids. This year, we were required
9 to have them separate, out of a different room. And,
10 normally, we would bring the kids up and -- when they get
11 their awards. Everybody got the people's award and then
12 there were different awards. So the kids were able to
13 come on stage and talk. We weren't allowed to do that
14 this year.

15 MR. KUSHI: Is this a special event?

16 MR. COUCH: Yes, it's a special event. We
17 weren't allowed to do that this year. So my concern is
18 just that the interpretation of the laws are -- appear to
19 be either different, more strict, I'm not sure. But in
20 your consideration, take a look at what was happening
21 until just this last year or two.

22 And I know you guys made some rule changes that
23 were controversial as well, so it's kind -- there's a mix.
24 And the poor guy probably has mixed messages coming to
25 him.

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1 So I am just saying that -- take a look at the
2 operations of the Department, take a look at the public.
3 We are getting so many calls at the Mayor's Office about
4 changes in rules. You know, some businesses have to --
5 have had to close for a while. It appears that it's less
6 nonprofit friendly and less business friendly.

7 Now, I know you have some things coming up that
8 are -- that may make it a little bit more business
9 friendly, but there's something that needs to be looked
10 at, and -- and very closely, in my opinion.

11 And just so you know, the IRS office on Maui is
12 closed now. So you can't get a stamp on anything. In
13 essence, they say it's open every Wednesday, but then
14 they've said to all people who call, we're not even open
15 on Wednesdays anymore, even though it's listed that they
16 are there on Wednesdays. So -- so -- just so you know.

17 Thank you.

18 CHAIR TANAKA: Thank you. Okay. Any more
19 testimony on our agenda items? Okay. Seeing none, let's
20 go on with our agenda.

21 DIRECTOR MUKAI: The Director's Monthly Report.
22 The State Conference for Liquor Commission and Industry
23 Members was held on October 22nd and 25th, 2017, in Kona.
24 The conference was very informative and educational. And
25 all these items that are brought forth about tax clearance

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1 were discussed, Hawaii Compliance did present -- did a
2 presentation on this tax clearance and how to make it
3 easier.

4 Number two is the Small Business Review and
5 Advisory Committee met on October 30, 2017. They reviewed
6 all the proposed rules that will be heard on December 13,
7 and they're fully supportive of it.

8 Number 3, GPS, the global position system, are
9 being installed within Department vehicles to be in
10 compliance with the County of Maui and the Managing
11 Director directive.

12 Side note: The Liquor Commission Liquor
13 Education Fund budget was passed out of Budget and Finance
14 Committee meeting (inaudible) first reading before the
15 County Council.

16 And the last item, the annual Christmas party
17 for Members of the Commission, Board and Department staff
18 will be held on December 13, 2017, at the conclusion of
19 Commission December meeting.

20 On the Adjudication Board, there was no hearing
21 because of staff shortage. And we do anticipate a
22 December and January Adjudication Board hearings.

23 CHAIR TANAKA: Okay. Let's go on to the forms
24 here, approval of forms. What -- since one of our
25 Commissioners would have to go, we can discuss it, but no

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1 action will be taken. Nicole, you may be excused.

2 COMMISSIONER DEREGO: Thank you.

3 MR. KUSHI: You can't even discuss it, Chair.

4 CHAIR TANAKA: You can't even discuss it.

5 MR. KUSHI: You can only have public

6 testimony --

7 CHAIR TANAKA: Okay.

8 MR. KUSHI: -- if she leaves.

9 CHAIR TANAKA: Let's defer this item until our
10 next meeting. And I'm gonna open it to the public, if any
11 public testimony on this forms. Okay. Seeing none, then
12 if there's no -- no other questions, may I have a motion
13 for adjournment?

14 COMMISSIONER UMENO: So moved.

15 COMMISSIONER LEE: Second.

16 CHAIR TANAKA: Okay. Moved and seconded.

17 Meeting adjourned. (Gavel.)

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

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CERTIFICATE

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

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

DATED this 4th day of December, 2017.

/s/ Tonya McDade

Tonya McDade
Certified Shorthand Reporter #447
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