

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 9:04 a.m., on Wednesday, February 14, 2018.

Reported by: Tonya McDade, CSR, RPR, CRC
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February 14, 2018

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APPEARANCES

Robert Tanaka, Chairperson

Nane Aluli, Commissioner

Leon Bolosan, Commissioner

Roy Umeno, Commissioner

Leslie-Ann Yokouchi, Commissioner

STAFF PRESENT:

Edward Kushi, Jr., First Deputy Corporation Counsel

Glenn Mukai, Director

Georgette Tyau, Deputy Director

Gene Silva, Liquor Control Officer III

Layne Silva, Liquor Control Officer III

Karilee Yoshizawa, Liquor Control Officer IV

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1 (Wednesday, February 14, 2018, 9:04 a.m.)

2 * * *

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

6 MS. YOSHIZAWA: Kari Yoshizawa, Liquor Control.

7 COMMISSIONER YOKOUCHI: Yes, here.

8 CHAIR TANAKA: Our new Commissioner Leslie-Ann.

9 MS. YOSHIZAWA: Yokouchi.

10 MR. KUSHI: Ed Kushi.

11 CHAIR TANAKA: Bob Tanaka.

12 COMMISSIONER UMENO: Good morning. Roy Umeno.

13 COMMISSIONER ALULI: Aloha. Nane Aluli.

14 COMMISSIONER BOLOSAN: Aloha. Leon Bolosan.

15 DIRECTOR MUKAI: Glenn Mukai, Liquor Control.

16 And may I introduce Georgette Tyau who is the
17 new Deputy Director of the Department. She has -- she's
18 well-versed in the operation of the Department, she served
19 in the Department over 20 years, been an Account Clerk
20 III, a Liquor Control Auditor for the Department as well
21 as served as Liquor Control Officer and Administrative
22 Assistant. And she's a graduate of University of Seattle,
23 majoring in accounting.

24 COMMISSIONER BOLOSAN: Welcome.

25 DEPUTY DIRECTOR TYAU: Georgette Tyau, Liquor

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1 Control.

2 MR. GENE SILVA: Gene Silva, Liquor Control.

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

4 CHAIR TANAKA: Okay. Thank you. You have your
5 agenda for February 14, 2018. If there's no questions or
6 comments, may I have a motion for approval?

7 COMMISSIONER UMENO: So moved.

8 COMMISSIONER ALULI: Second.

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

11 (Response.)

12 CHAIR TANAKA: Motion carried. You, also, have
13 your Liquor Commission minutes of January 10, 2018. If
14 there's no comments or questions, may I have a motion for
15 approval?

16 COMMISSIONER UMENO: So moved.

17 COMMISSIONER ALULI: Second.

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

20 (Response.)

21 CHAIR TANAKA: Opposed, "no."

22 (No response.)

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

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1 confirmation? You guys found it?

2 COMMISSIONER UMENO: So move.

3 COMMISSIONER ALULI: Second.

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

6 (Response.)

7 CHAIR TANAKA: Motion carried. Okay. Licensing
8 Matters. Public Hearing, Application Number 16, Aumakua
9 Holdings Inc.

10 MR. MARRERO: Aloha, Garrett Marrero for Aumakua
11 Holdings, Maui Brewing.

12 CHAIR TANAKA: Thank you. Okay, Layne.

13 MR. LAYNE SILVA: Public hearing for Maui
14 Brewing Company. Application Number 16, the applicant is
15 Aumakua Holdings Inc. The proposed premises is located at
16 605 Lipoa Parkway, Kihei, Maui, Hawaii. This is a public
17 hearing for a new Small Craft Producer Pub License,
18 Category B.

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

22 Notice of public hearing was published in "The
23 Maui News" on December 20th and 27th of 2017. There are a
24 total of 14 owners and lessees situated within 500 feet of
25 the proposed premises. The Department did not receive any

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1 protests.

2 CHAIR TANAKA: You have anything else to add?

3 MR. MARRERO: No. I did submit today our
4 approved Federal Basic Wine Permit. So that'll be
5 something that we'll come in front of the Commission later
6 for. That will allow us to exercise all the rights under
7 Class 18.

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

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

18 COMMISSIONER ALULI: Second.

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

21 (Response.)

22 CHAIR TANAKA: Opposed, "no."

23 (No response.)

24 CHAIR TANAKA: Motion carried. Thank you.

25 MR. MARRERO: Thank you so much. Happy

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1 Valentine's Day.

2 CHAIR TANAKA: Application Number 18, Shaka
3 Sushi Maui.

4 MR. KAWAGISHI: Good morning, Chairman Tanaka,
5 Members of the Liquor Commission. Michael Kawagishi as
6 authorized agent for Shaka Sushi Maui, Inc.

7 CHAIR TANAKA: Thank you. Gene.

8 MR. GENE SILVA: Public hearing for Shaka Sushi
9 Maui. Application Number 18, the applicant is Shaka Sushi
10 Maui, Inc. The proposed premises is located at 658 Front
11 Street, 140, Lahaina, Maui, Hawaii. This is a public
12 hearing for a new Dispenser General License, Category
13 C(ii).

14 The documents necessary for completing the
15 remaining application requirements for a liquor license
16 are listed in the summary report.

17 Notice of public hearing was published in "The
18 Maui News" on December 20th and 27th of 2017. There are a
19 total of 166 owners and lessees situated within 500 feet
20 of the proposed premises. The Department did not receive
21 any protests.

22 CHAIR TANAKA: Thank you. Michael, you get
23 anything else to add?

24 MR. KAWAGISHI: Nothing else at this time.

25 CHAIR TANAKA: Okay. Since this is a public

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1 hearing item, I'm gonna open it to the public. Anybody
2 for or against this application? Okay. Seeing none,
3 public hearing closed for this item. Any questions by the
4 Commissioners? Okay. If there's no questions, may I have
5 a motion?

6 COMMISSIONER UMENO: I move to approve
7 Application Number 18 conditioned upon the applicant
8 completing the remaining application requirements to the
9 satisfaction of the Liquor Control.

10 COMMISSIONER ALULI: 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. KAWAGISHI: Thank you.

18 CHAIR TANAKA: Thank you. Application Number
19 20, West Side Charters L.L.C.

20 MR. LAPRADE: Good morning. Aloha. Zach for
21 West Side Charters L.L.C., Zachary Laprade, member.

22 CHAIR TANAKA: Thank you. Layne.

23 MR. LAYNE SILVA: Application Number 20, Tour or
24 Cruise Vessel, Category B, West Side Charters L.L.C. doing
25 business as Quicksilver applying for a Tour or Cruise

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1 Vessel License, Category B.

2 Members, organizer and agent of the
3 member-managed LLC are listed in the investigator's
4 report.

5 Applicant has submitted a U.S. Coast Guard
6 Certificate of Documentation dated August 23rd, 2017.

7 Applicant has submitted a Management Agreement
8 by and between West Side Charters L.L.C., the Manager, and
9 Sumner H. Bates, Inc. the Company, dated April 28, 2017.

10 The initial term of this agreement shall
11 commence on the date the Boating Division issues a
12 commercial mooring permit to company that identifies
13 Quicksilver or its replacement vessel as the vessel
14 operating the commercial commencement date, and shall
15 continue through April 30th, 2021. The term may be
16 renewed for an additional five-year term provided the
17 Manager gives Company written notice by certified mail of
18 the terms on which it proposes to renew. Such proposed
19 terms will be delivered no later than April 30th, 2020.
20 If Company does not object in writing to the new terms
21 within 30 days, the Company shall be deemed to have
22 accepted the renewal terms.

23 The proposed premises is an aluminum catamaran
24 measuring approximately 1,430 square feet and authorized
25 to carry 149 passengers, one master, two deckhands, total

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1 persons allowed is 152. The vessel is moored at Lahaina
2 Roadstead Offshore Area B, Number 21, Lahaina, Maui,
3 Hawaii.

4 The men's and women's toilet facilities are
5 located within the central rear part of the lower deck.

6 Beverages will be dispensed from within the
7 cabin area located on the lower deck of the vessel.

8 There are 34 licenses of this class and kind
9 currently issued within Maui County.

10 Applicant initially plans to be open seven days
11 a week from 7:30 a.m. to 8:00 p.m. The applicant is aware
12 of the hours for which the sale, service and consumption
13 of liquor is allowed and that they will need to submit an
14 application for permit to be open outside of those hours.

15 Christopher Phillip Kasper is an officer and
16 Zachary Lee Laprade is an officer and General Counsel of
17 Idle Wild Charters, Inc. doing business as Malolo
18 Charters, number 154, Tour or Cruise Vessel, Category 2.
19 Original license issued on August 18, 2004.

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

22 Christopher Phillip Kasper is an officer and
23 director and Zachary Lee Laprade is an officer and General
24 Counsel of Kahikolu, Ltd. doing business as Calypso,
25 Number 412, Tour or Cruise Vessel, Category 2. Original

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1 license issued on August 17, 2017.

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

4 Christopher Phillip Kasper is an officer and
5 director and Zachary Lee Laprade is an officer and General
6 Counsel of Kahikolu, Ltd. doing business as Quicksilver,
7 Number 424, Tour or Cruise Vessel, Category 2. Original
8 license issued on May 13, 2004.

9 There were no reports of liquor law violations
10 at this location. Copies of their past histories are
11 attached.

12 A site inspection was conducted of the proposed
13 premises on January 12, 2018. The investigator found that
14 the floor plan submitted was inconsistent with the floor
15 plan submitted within the application. The applicant has
16 since submitted an accurate floor plan.

17 Information contained within the DLC-006 Form
18 submitted by Christopher Phillip Kasper and Zachary Lee
19 Laprade indicated that they had been convicted for
20 violations of law. Information received during the
21 criminal history background check revealed that
22 Christopher Phillip Kasper and Zachary Lee Laprade had
23 been convicted for violations of law. Christopher Phillip
24 Kasper and Zachary Lee Laprade Pratt have submitted
25 letters of explanation.

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

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

6 MR. LAPRADE: No.

7 CHAIR TANAKA: Okay. Since this is a cruise
8 vessel license, there's no preliminary hearing on this
9 item, so this is, basically, public hearing. I'm gonna
10 open it to the public. Any public testimony for or
11 against this application? Okay. Seeing none, any
12 questions by the Commissioners?

13 COMMISSIONER ALULI: I just got one question.
14 Are you gonna be harbored out of Lahaina or --

15 MR. LAPRADE: Lahaina.

16 COMMISSIONER ALULI: Lahaina, okay.

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

19 COMMISSIONER UMENO: I move to approve Applicant
20 Number 20 conditioned upon the applicant completing the
21 remaining application requirements to the satisfaction of
22 Liquor Control.

23 COMMISSIONER ALULI: Second.

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

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1 (Response.)

2 CHAIR TANAKA: Opposed, "no."

3 (No response.)

4 CHAIR TANAKA: Motion carried. Thank you.

5 MR. LAPRADE: Wish somebody would have told me
6 it was Valentine's Day.

7 COMMISSIONER UMENO: It's Valentine's Day.

8 MR. LAPRADE: You should have called me. I'm in
9 trouble.

10 MR. GENE SILVA: I'm in trouble?

11 CHAIR TANAKA: You forgot to something to your
12 wife? Okay. Let's go on to Other Licensing Matters. S&A
13 Hospitality doing business as Koa's Seaside Grill.

14 MR. KAWAGISHI: Chairman Tanaka, Members of the
15 Liquor Commission, Michael Kawagishi on behalf of S&A
16 Hospitality, LLC.

17 CHAIR TANAKA: Thank you. Gene.

18 MR. GENE SILVA: S&A Hospitality, LLC doing
19 business as Koa's Seaside Grill, pursuant to the Rules of
20 the Liquor Commission, is requesting Commission approval
21 to change existing trade name from Koa's Seaside Grill to
22 Koa 156.

23 Members of the member-managed LLC are listed in
24 the investigator's report.

25 Rules of the Liquor Commission: 08-101-36,

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1 Unauthorized use of trade name; change.

2 (a), A new licensee or transferee shall have a
3 choice of trade name, however, such trade name must be
4 registered with the State Department of Commerce and
5 Consumer Affairs.

6 (b), Any licensee desirous of changing an
7 existing trade name shall submit to the commission a
8 certificate of registration of trade name issued by the
9 State Department of Commerce and Consumer Affairs showing
10 approval of such registration.

11 (c), Use of any trade name without prior
12 approval of the Commission is prohibited. Any publication
13 or advertising or sign with an unauthorized trade name
14 will be considered prima facie evidence of use of such
15 trade name.

16 CHAIR TANAKA: Thank you. Anything to else --
17 add, Mike?

18 MR. KAWAGISHI: No. And it is Koa 156 Degrees.

19 COMMISSIONER UMENO: What was that?

20 MR. KAWAGISHI: It's Koa -- the new trade name
21 that is requested is Koa 156 Degrees.

22 CHAIR TANAKA: It's an unusual name.

23 MR. KAWAGISHI: Yes, it is, but 156 is the --

24 CHAIR TANAKA: It's the way it is.

25 MR. KAWAGISHI: Yeah.

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1 COMMISSIONER UMENO: Address?

2 COMMISSIONER ALULI: Latitude.

3 MR. KAWAGISHI: Longitude.

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

8 COMMISSIONER UMENO: I move to approve -- huh?

9 CHAIR TANAKA: Change in name.

10 COMMISSIONER UMENO: Oh, change in name.

11 COMMISSIONER ALULI: Second.

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

14 (Response.)

15 CHAIR TANAKA: Opposed, "no."

16 (No response.)

17 CHAIR TANAKA: Motion carried. Thank you.

18 MR. KAWAGISHI: Thank you.

19 CHAIR TANAKA: Vietnamese Cuisine, Inc.

20 MR. KAWAGISHI: Chairman Tanaka, Members of the
21 Liquor Commission, Michael Kawagishi on behalf of
22 Vietnamese Cuisine, Inc. And with me is Wenxiao Liu who
23 is the officer of the company.

24 CHAIR TANAKA: Thank you. Layne.

25 MR. LAYNE SILVA: Vietnamese Cuisine, Inc. doing

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1 business as Vietnamese Cuisine requesting Commission
2 approval for a change of stockholder and notifying the
3 Commission of a change of officer and director within the
4 corporation. Nhung Thi Carpenter and Vincent Dam
5 Carpenter withdrew as officers and directors within the
6 corporation. Forgive me if I butcher this, but Wenxiao
7 Liu was admitted as an officer and director within the
8 corporation.

9 Nhung Thi Carpenter withdrew as 100 percent
10 stockholder and Wenxiao Liu will be admitted as 100
11 percent stockholder of the corporation effective upon the
12 approval of the Liquor Commission.

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

15 Applicant has submitted a copy of a
16 Certification of Vietnamese Cuisine, Inc., dated December
17 4, 2017, which reflect the changes.

18 Information contained within the DLC-006 Form
19 submitted by Wenxiao Liu indicated that he had been
20 convicted for a violation of law. Information received
21 during the criminal history background check revealed that
22 Wenxiao Liu had not been convicted for violation of law.
23 Wenxiao Liu has submitted a letter of explanation.

24 CHAIR TANAKA: Okay. Mike, anything else to
25 add?

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1 MR. KAWAGISHI: Nothing to add at this time.

2 CHAIR TANAKA: So you bought Nhung out?

3 MR. LIU: Yeah.

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

8 COMMISSIONER UMENO: I move to approve the
9 change in ownership of the corporation.

10 COMMISSIONER ALULI: Second.

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

13 (Response.)

14 CHAIR TANAKA: Opposed, "no."

15 (No response.)

16 CHAIR TANAKA: Motion carried. Thank you.

17 MR. KAWAGISHI: Thank you.

18 CHAIR TANAKA: Okay. Lahaina Sushi Ko.

19 MR. EGAN: Christopher Egan, Lahaina Sushi Ko.

20 CHAIR TANAKA: Thank you. Gene.

21 MR. GENE SILVA: Lahaina Sushi Ko, LLC, doing
22 business as Maui Dog House, Dispenser General License,
23 Category C(ii).

24 Members of the member-managed limited liability
25 company are listed in the investigator's report.

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1 Requesting Commission approval to utilize the
2 common area restrooms located on the Kaanapali side
3 outside of the premises, 61 feet to the women's restroom
4 and 68 feet to the men's restrooms, pursuant to the Rules
5 of the Liquor Commission, Section 08-101-94.

6 Rules of the Liquor Commission: 08-101-94,
7 sanitation.

8 (a), All licensed premises authorized to sell
9 and serve liquor for consumption on premises shall contain
10 separated and adequate toilet facility for males and
11 females which have been approved by the State Department
12 of Health, provided the Commission may approve the use of
13 toilet facilities located outside the licensed premises if
14 located within a reasonable distance from the licensed
15 premises. The entire walkway to the approved outside
16 bathroom facilities shall be properly well lighted.

17 Approval of use of toilet facilities located outside of
18 the licensed premises shall be subject to the applicant or
19 licensee obtaining the necessary clearances from the State
20 Department of Health and other governmental agencies.

21 (b), Toilet facilities for males and females
22 shall be available for use at all times during the hours
23 the licensed premises is open for business and be kept in
24 a clean and sanitary condition.

25 CHAIR TANAKA: You have anything else to add?

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1 MR. EGAN: No, sir.

2 CHAIR TANAKA: Okay. Any public testimony on
3 this item? Okay. Seeing none, any questions by the
4 Commissioners? One question I have.

5 MR. EGAN: Sure.

6 CHAIR TANAKA: According to your sketch here,
7 you're gonna have to walk all the way around the courtyard
8 to get to the back?

9 MR. EGAN: Well, it's -- basically, it's --
10 we've got -- we have stanchion poles that will be around
11 it. And you just have to go out one way and just around
12 to get to the bathrooms. The bathrooms are literally only
13 15 feet away, but you just have --

14 CHAIR TANAKA: Yeah.

15 MR. EGAN: -- to walk.

16 CHAIR TANAKA: Looks like -- if you just go
17 straight to it, looks like it's right there.

18 MR. EGAN: Yeah.

19 CHAIR TANAKA: But your arrow goes all the way
20 around the courtyard.

21 MR. EGAN: Because that's where the opening for
22 the entrance will be.

23 CHAIR TANAKA: Okay. Any other question by the
24 Commissioners? Okay. If there's no questions, may I have
25 a motion?

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1 COMMISSIONER UMENO: I move to approve the use
2 of toilet facilities outside the licensed premises.

3 COMMISSIONER ALULI: Second.

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

6 (Response.)

7 CHAIR TANAKA: Opposed, "no."

8 (No response.)

9 CHAIR TANAKA: Motion carried. Thank you.

10 MR. EGAN: Thank you.

11 CHAIR TANAKA: MTP Operating Company, Mill
12 House.

13 MR. GEIGER: Good morning, Chair, Commissioners.
14 James Geiger on behalf of the Ducks Unlimited, Maui
15 Chapter. Roland Porgatorio -- and I mispronounce his name
16 every time I've done that -- who is with Maui Tropical
17 Plantation, authorized representative is, also, here.

18 CHAIR TANAKA: Thank you. Layne.

19 MR. LAYNE SILVA: Request for auction to include
20 prohibited items. MTP Operating Company, LLC, a
21 registered Hawaii limited liability company, doing
22 business as Mill House, 338, Restaurant General License,
23 Category B(ii).

24 Manager and agent of the manager-managed LLC is
25 within the investigator's report.

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1 Request for approval to hold a live and silent
2 auction for the Maui Chapter of Ducks Unlimited, Inc. to
3 include firearms within the premises on February 28, 2018,
4 from 6:00 p.m. to 9:30 p.m.

5 The applicant has indicated within the request
6 that there will be no ammunition allowed at the event and
7 that the persons who are the high bidders will not take
8 possession of the firearms at the event.

9 In the letter detailing the event, the applicant
10 plans to secure all firearms with trigger locks or other
11 devices to prevent any of the firearms from being fired,
12 and that the Federal Firearms Licensee, Karl Kubo, will
13 attend the function and have the trigger lock keys in his
14 possession at all times.

15 The applicant later stated that the firearms
16 will be secured with trigger locks.

17 The applicant indicated that the high bidders
18 will be required to go to the Federal Firearms Licensee's
19 business, provide proof of his or her ability to acquire
20 the firearm in accordance with Hawaii state law, complete
21 the Federal forms necessary to obtain possession of the
22 firearm, and then register the firearm with the Maui
23 Police Department.

24 There will be no minors under 21 years of age
25 attending this function.

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1 Background information: Current conditions
2 placed on permits for auctions are:

3 A. Permits shall be readily available on the
4 licensed premises for inspection at all times.

5 B. No liquor and other prohibited items,
6 firearms, explosives, ammunition, et cetera, will be
7 included in any gift certificate package, et cetera.

8 Licensee shall obtain necessary clearances from
9 other governmental agencies and comply with all State and
10 County laws, ordinances and Administrative Rules.

11 CHAIR TANAKA: Mr. Geiger, anything else to add?

12 MR. GEIGER: No, unless the Commission has
13 questions.

14 CHAIR TANAKA: Oh, okay. I'm gonna open it to
15 the public. Any public testimony on this item? Okay. I
16 get one question. I know at one time, if I recall, we
17 allowed this, but you supposed to take out the firing pin.
18 Was that -- I think Glenn wasn't here.

19 MR. GEIGER: We've never removed the firing
20 pins.

21 CHAIR TANAKA: What is this trigger lock?

22 MR. GEIGER: A trigger lock -- it's -- actually,
23 all firearms that are sold now come with a trigger lock or
24 other device from the manufacturer so that it's attached
25 to 'em so that they cannot be fired. And that's just

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1 standard now with firearms that come from manufacturers.

2 CHAIR TANAKA: Okay. As long as they can't --
3 you can't fire that.

4 MR. GEIGER: No.

5 COMMISSIONER ALULI: Yeah.

6 CHAIR TANAKA: Okay. Any other questions by the
7 Commissioners?

8 COMMISSIONER ALULI: I'm sorry. Yeah. Just out
9 of curiosity, where did you have this last year?

10 MR. GEIGER: We've had it at the same place for
11 a number of years. We've, actually, been before the
12 Commission once before --

13 COMMISSIONER ALULI: Right.

14 MR. GEIGER: -- on this thing. And prior to
15 that, we had not had to come to the Commission, but we
16 have, you know, gone to the Department, informed them what
17 we were doing and -- and that's what we --

18 COMMISSIONER ALULI: Okay. Okay.

19 COMMISSIONER YOKOUCHI: So how does this work?
20 You need to get your permit to be able to buy a firearm
21 prior to the event or after the event?

22 MR. GEIGER: No. You can attend the event. If
23 you have your permit to acquire, that's fine. If you
24 don't have your permit to acquire, you can obtain your
25 permit to acquire after the event. You cannot get the

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1 firearm until you go to the Federal Firearms Licensee with
2 the permit to acquire. And then they transfer to you and
3 you then have to register with the --

4 COMMISSIONER YOKOUCHI: How long does this
5 permit process take?

6 MR. GEIGER: Well, that's a good question. The
7 permit to acquire usually takes, they tell you, between --
8 up to 21 days, I believe, but, usually, it's 14 days. It
9 involves fingerprinting, photographing, background checks
10 in, I think, three different databases. And, also, in
11 Hawaii now, for about the last two years, we are part of a
12 national database system so that if you're -- if you have
13 a permit to acquire since, I think it was December of
14 2016, you're in the national database.

15 COMMISSIONER YOKOUCHI: And who regulates the
16 firearm when the permit is given?

17 MR. GEIGER: Well, it's the State of Hawaii
18 first, County of Maui to get the --

19 COMMISSIONER YOKOUCHI: No, what I mean is --

20 MR. GEIGER: -- permit to acquire.

21 COMMISSIONER YOKOUCHI: At the time of the
22 auction and you win the auction item, who makes sure that
23 the permit is all legal and everything is fine with it?

24 MR. GEIGER: Oh, that's the Federal Firearms
25 Licensee's requirement. If you or anyone else wished to

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1 obtain a firearm other than through a private sale, you
2 have to acquire through a Federal Firearms Licensee. He
3 has certain paperwork -- or she -- or it has paperwork
4 that they have to fill out and turn in, including a
5 Federal form. And so there are a number of steps you have
6 to go through.

7 COMMISSIONER YOKOUCHI: So who makes sure that
8 the permit is accurate before the firearm is transferred
9 to the winning bid?

10 MR. GEIGER: The Federal Firearms Licensee
11 makes --

12 COMMISSIONER YOKOUCHI: So they have --

13 MR. GEIGER: -- sure that there's --

14 COMMISSIONER YOKOUCHI: -- the -- they have
15 the --

16 MR. GEIGER: -- a permit to acquire.

17 COMMISSIONER YOKOUCHI: They have the guns and
18 firearms in their possession?

19 MR. GEIGER: Yes, until somebody shows up with a
20 permit to acquire.

21 COMMISSIONER YOKOUCHI: Okay.

22 MR. KUSHI: Question, Mr. Chair. Staff, this is
23 a one-day deal?

24 MR. LAYNE SILVA: Yes.

25 MR. KUSHI: It's one day, so -- but it's not a

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1 special license, is it?

2 MR. LAYNE SILVA: No, it's not. It's a permit
3 for an existing license.

4 MR. KUSHI: So -- so this would apply to the
5 licensee?

6 MR. LAYNE SILVA: Yes.

7 CHAIR TANAKA: Yeah. Any other question? Okay.

8 COMMISSIONER YOKOUCHI: One more. Sorry. Why
9 would a nonprofit that takes care of wetlands and all of
10 that would want to have guns at an auction?

11 MR. GEIGER: Okay, you get the Ducks Unlimited
12 pitch. Ducks Unlimited was formed in 1937.

13 CHAIR TANAKA: The ducks.

14 MR. GEIGER: It was formed by a bunch of duck
15 hunters.

16 COMMISSIONER YOKOUCHI: Oh, to --

17 MR. GEIGER: Because they were worried about not
18 having ducks to hunt. And so they started raising money,
19 they acquired lands in Canada, they've restored over five
20 million acres of wetlands in the United States alone.
21 Hawaii has not raised very much money, but, nationally,
22 they've raised a lot of money. And Ducks Unlimited has
23 put a lot of money into Hawaii, in various projects on
24 most islands. They've put money here in Maui, they've put
25 money on Oahu. And I think, last year, Ducks Unlimited

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1 had about 5,000 of these events, local events like we're
2 having, and I think they raised somewhere around 200
3 million. So a lot of the money goes back into the ground,
4 into projects to conserve wetlands so that there can be
5 the -- the ducks and the shorebirds and the other animals
6 that live in the wetlands, so they will have them.

7 COMMISSIONER YOKOUCHI: But are there other ways
8 to earn money besides having guns and --

9 MR. GEIGER: We sell --

10 COMMISSIONER YOKOUCHI: -- firearms at --

11 MR. GEIGER: Well, the --

12 COMMISSIONER YOKOUCHI: -- the auction?

13 MR. GEIGER: -- firearms are very -- the
14 firearms are a very small part of the auction. We sell
15 decoys, we sell artwork, we have various other items,
16 plaques, metal signs, flags, all sorts of things.

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

19 COMMISSIONER UMENO: I move to approve the
20 allowing of firearms --

21 CHAIR TANAKA: Firearms.

22 COMMISSIONER UMENO: -- at a one-day event.

23 COMMISSIONER ALULI: Second.

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

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1 (Response.)

2 CHAIR TANAKA: Opposed, "no."

3 COMMISSIONER YOKOUCHI: Me, I oppose.

4 CHAIR TANAKA: Therefore, motion did not pass,
5 then. There's no majority. We have five votes.

6 MR. KUSHI: Yeah. Mr. Chair, you have two
7 options; one, you could defer it or, one, you can have --
8 entertain a motion to disapprove.

9 CHAIR TANAKA: Well, the motion -- motion for
10 approval did not pass. So any motion for disapproval?

11 COMMISSIONER YOKOUCHI: Well, I just -- I have
12 an issue with guns at any level.

13 CHAIR TANAKA: You want to entertain a motion to
14 defer?

15 COMMISSIONER UMENO: When is the event?

16 MR. GEIGER: The event is scheduled for February
17 28th.

18 CHAIR TANAKA: Oh. Then you won't be able --

19 MR. GEIGER: Yeah.

20 CHAIR TANAKA: -- to make --

21 MR. GEIGER: So a deferral would not do us any
22 good. You know, all I can tell you is we've had this
23 event on Maui for -- since the eighties. We have had
24 firearms at the events. These are sporting firearms.
25 They're, you know, for hunting. They are not for other

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1 types of shooting. And we have had zero issues over the
2 40 years.

3 COMMISSIONER UMENO: Usually, these are trap
4 shooting guns?

5 MR. GEIGER: Well, I can tell you what they are.
6 There are two rifles that you would use for deer hunting.
7 There is a shotgun that you would use for like birds.

8 COMMISSIONER UMENO: Birds.

9 MR. GEIGER: You know, pheasant or francolin.
10 And there is a handgun that literally is a display

11 handgun. I don't think anybody would ever use it to --

12 COMMISSIONER UMENO: So there's only three
13 items?

14 MR. GEIGER: There are four items.

15 COMMISSIONER UMENO: Four items.

16 MR. GEIGER: Three long guns and one handgun.

17 COMMISSIONER YOKOUCHI: So a handgun is not
18 usually for hunting.

19 MR. GEIGER: No, but this particular handgun is
20 more of a collector's item. Most of the Ducks Unlimited
21 firearms are acquired by people not to use in the field or
22 not to use for hunting, but are used for collection and
23 sale, resale to collectors.

24 COMMISSIONER ALULI: So, Jim, your primary
25 purpose is for conserving land as opposed to really

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1 hunting the ducks?

2 MR. GEIGER: Correct. It is a conservation
3 organization.

4 COMMISSIONER ALULI: It's a conservation effort.

5 MR. GEIGER: It -- it is. And it was formed by
6 people who were hunters, but it's conservation. We
7 have -- I would say the majority of the people who attend
8 never hunt and probably are mostly conservationists.

9 CHAIR TANAKA: I get one question. Leslie, if
10 they take out the handgun from the auction, would you be
11 agreeable to that?

12 MR. GEIGER: We could do that if that's the
13 Commission's view.

14 COMMISSIONER YOKOUCHI: I'll agree to that.

15 CHAIR TANAKA: Okay.

16 MR. GEIGER: We'll be happy to remove the
17 handgun from the auction.

18 CHAIR TANAKA: Can you --

19 COMMISSIONER ALULI: Remove the handgun, yeah.

20 COMMISSIONER UMENO: So I move to approve the
21 firearms excluding the handgun.

22 COMMISSIONER ALULI: Second.

23 CHAIR TANAKA: Okay, 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.

4 MR. GEIGER: Thank you very much.

5 MR. PORGATORIO: Thank you.

6 CHAIR TANAKA: Okay. Haolepinos of Maui.

7 MR. JORGENSEN: Good morning, Chairman Tanaka,
8 Members of the Commission and staff. My name's Dave
9 Jorgensen. I'm the attorney and authorized agent for
10 Haolepinos of Maui, Inc. dba 7 Pools Lounge. And with me
11 this morning is Unchin Vaughn who is the principal of the
12 applicant of the licensee.

13 CHAIR TANAKA: Layne.

14 MR. LAYNE SILVA: Haolepinos of Maui, Inc.,
15 doing business as 7 Pools Lounge requesting clarification
16 on a condition imposed by the Liquor Commission on its
17 license. A letter and all the information was included in
18 your packets.

19 CHAIR TANAKA: Okay. Thank you. Dave, you get
20 anything?

21 MR. JORGENSEN: I was just checking to see. I
22 mean, I made copies of the minutes from the August 2015
23 meeting. I understand from staff that the minutes are
24 already included in your -- your packets, so I won't
25 bother handing those out.

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1 Back in August 2015, there was a hearing, my
2 client requested approval to be open from 2:00 a.m. to
3 4:00 a.m. without liquor for customers to come in, drink
4 soup, coffee, whatever. As part of that process, there
5 was a condition placed on the license, if there was any
6 violations that the license would be automatically
7 revoked. My understanding, and I believe the minutes are
8 clear, that the intent was if there was any violations of
9 the liquor laws during that two-hour period, the license
10 would be automatically revoked, not if there was any
11 violations ever during the normal business operations.

12 Unfortunately -- and I'll accept the blame for
13 it -- when the license -- when the motion was made and
14 when the condition was put on the license, it simply says,
15 "The license shall terminate immediately upon any
16 conviction of the licensee of any of the Rules of the
17 Liquor Commission."

18 So my client has a couple pending violations
19 that are coming up in April, I believe, for moving a wall
20 without a permit, for video games without a permit. If
21 she's convicted of those, she would lose her license for
22 the whole business because of this condition. And so our
23 request is to clarify what I believe is clear in the
24 minutes. And I would like to refer you to a couple lines
25 in the minutes that I believe make it very clear, that

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1 when the condition was discussed and imposed, it was
2 intended to be -- if there was any violation of any liquor
3 laws during that two-hour period, when there could not be
4 any liquor being served, that that's what would trigger an
5 automatic termination. Not if something, you know, what I
6 would term, relatively minor, modifying the premises
7 without a permit, happened during normal business hours.

8 In the minutes, on Page 292, for instance,
9 starting at Page 9, the dialogue between Director Silva
10 and Chairman Tanaka, you know, was -- was making it clear
11 that during that time, that all liquor laws would be
12 enforced. Obviously, all liquor laws enforced all the
13 time against the bar, but for this specific condition, I
14 believe it was clear that the two-hour period was what was
15 being discussed.

16 So our request is to modify, to the extent
17 necessary, Condition 5 on the license, somehow working in
18 there that for any violation occurring during the 2:00 to
19 4:00 a.m. period.

20 And just for your information, she's never
21 started the 2:00 a.m. to 4:00 a.m. It's never -- you
22 know, that's never happened. There were some other things
23 that would have to happen as a result, you know, with
24 discussions with the Department as far as securing the
25 liquor and different things like that. And it's just

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1 never been something that's been pursued.

2 COMMISSIONER UMENO: I guess you're going to
3 pursue it.

4 MR. JORGENSEN: She may. We're gonna deal with
5 these other issues first, but the question is whether it
6 makes any sense, you know, it's -- financially. But it is
7 a possibility, which is why the request has never been,
8 you know, totally withdrawn.

9 CHAIR TANAKA: Okay. Before I ask the
10 Commission for any questions, are there any public
11 testimony to this item? Okay. Seeing none, any questions
12 by the Commissioners? I think two -- two or three -- Nane
13 were you here?

14 COMMISSIONER ALULI: No, I wasn't.

15 CHAIR TANAKA: Yeah. So, basically, only Roy
16 and I was --

17 COMMISSIONER ALULI: Yeah.

18 CHAIR TANAKA: -- on the Commission at that
19 time. But just to inform the other Commissioners,
20 basically, the intent was that if she had any violation
21 within that additional two-hour period, you know, then the
22 license revocation would take into effect. The intent was
23 not any -- any other violation. Basically, we gave
24 that -- gave her an exception for the two-hour period,
25 that no violation occurs within that two-hour period.

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1 That's the intent. I guess the minutes shows that it says
2 if any violation happened, then automatic revocation.

3 There was nothing --

4 COMMISSIONER ALULI: So no violation took place
5 even outside that two-hour period, though, right?

6 MR. JORGENSEN: No. There -- there are a couple
7 violations that are pending --

8 COMMISSIONER ALULI: Oh, that -- okay.

9 MR. JORGENSEN: -- to be resolved. They were
10 scheduled for January for Adjudication Board, but because
11 of this issue, in discussions with the Department, it was
12 agreed to defer that hearing --

13 COMMISSIONER ALULI: Right.

14 MR. JORGENSEN: -- until April --

15 COMMISSIONER ALULI: Right.

16 MR. JORGENSEN: -- so we could come here and get
17 clarification from the Commission first.

18 CHAIR TANAKA: So that was, basically, the
19 intent.

20 COMMISSIONER ALULI: But you -- I'm sorry.

21 CHAIR TANAKA: No violation with the two --

22 COMMISSIONER ALULI: You've never, actually, put
23 into place that two-hour period, though?

24 MS. VAUGHN: Never did yet.

25 COMMISSIONER ALULI: Yeah. Okay.

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1 CHAIR TANAKA: Well, there was some questions
2 about use of the restroom, that's why. So she had to
3 clarify that issue. And I guess --

4 COMMISSIONER ALULI: Okay.

5 CHAIR TANAKA: -- it was never done.

6 MR. KUSHI: Mr. Chair, clarification, for staff
7 or Mr. Jorgensen, if a allegation of a violation occurs,
8 let's say, 1:00 a.m., during the regular time, and the
9 Liquor Board, for whatever reason, suspends the license
10 based on that violation, are you saying that they can
11 still open from 2:00 to 4:00?

12 MR. JORGENSEN: Well --

13 MR. KUSHI: The license is the entire, including
14 the extended time period.

15 MR. JORGENSEN: No, I'm not saying that at all.
16 I mean, number one, she's not open from 2:00 to 4:00, but
17 if --

18 MR. KUSHI: If she was.

19 MR. JORGENSEN: If she implemented that, if --
20 if a violation happens during -- like one of the
21 violations is pending for moving a wall. If --

22 MR. KUSHI: Right.

23 MR. JORGENSEN: -- the Adjudication Board
24 suspends the license, that would cover the whole license.
25 The issue we're talking about is if a violation like that

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1 happens, whether she automatically loses her license
2 totally.

3 MR. KUSHI: Oh, okay.

4 MR. JORGENSEN: Whether the license is
5 terminated for a normal business hours violation because
6 of this condition, which I believe the intent was a
7 violation happening during the two hours. But, no, if a
8 -- if a violation happens during normal business hours,
9 then there is a suspension or other penalty that would
10 apply to whatever total operations are going on at that
11 time.

12 MR. KUSHI: Okay. I'll remember that when you
13 come up to bat.

14 MR. JORGENSEN: Okay.

15 COMMISSIONER ALULI: That's inclusive of the two
16 hours, right? Yes?

17 MR. JORGENSEN: If that opposite happened.

18 COMMISSIONER ALULI: Correct.

19 MR. JORGENSEN: Yes.

20 COMMISSIONER ALULI: Okay.

21 MR. JORGENSEN: Yes. I mean, if the penalty --
22 independent of this condition --

23 COMMISSIONER ALULI: Right.

24 MR. JORGENSEN: If the penalty imposed on a
25 normal operating hours violation --

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1 COMMISSIONER ALULI: It would affect --

2 MR. JORGENSEN: -- whatever that is would affect
3 the whole thing --

4 COMMISSIONER ALULI: Yes.

5 MR. JORGENSEN: -- including the --

6 COMMISSIONER ALULI: Two hours.

7 MR. JORGENSEN: -- two hours, if she was --

8 COMMISSIONER ALULI: Right.

9 MR. JORGENSEN: -- doing that.

10 CHAIR TANAKA: Well, basically -- basically, the
11 intent was any violation within the two hours, additional
12 two hours. And we -- we -- we did that because we were
13 giving her an exemption of opening the facilities for that
14 additional two hours. So, basically, that's -- that's a
15 clarification. You don't need a motion to that effect
16 because we're only clarifying whatever the intent was.

17 MR. JORGENSEN: Well, if -- I mean, if the staff
18 is okay with that. The condition on the license is -- you
19 know, is exactly what the motion said, "The license shall
20 terminate immediately upon any conviction of the licensee
21 of any of the Rules of the Liquor Commission." It doesn't
22 say --

23 CHAIR TANAKA: So you're asking --

24 MR. JORGENSEN: -- during those --

25 CHAIR TANAKA: You're asking -- you're asking

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1 for that condition to be changed?

2 MR. JORGENSEN: To be modified, to make it clear
3 a violation occurring during the two hours.

4 CHAIR TANAKA: Okay.

5 DIRECTOR MUKAI: Commission, it's more
6 clarification, your motion should be. Because if you
7 modify or amend any condition, then 08-101-47 will come in
8 effect. And that would require a public hearing by the
9 licensee, notification of the neighborhood.

10 CHAIR TANAKA: So --

11 MR. JORGENSEN: Yeah. We don't want to do that.

12 CHAIR TANAKA: You don't wanna do that. So
13 why --

14 MR. JORGENSEN: If it's clarified and the
15 Department understands that --

16 CHAIR TANAKA: Yeah.

17 MR. JORGENSEN: -- and accepts that
18 clarification --

19 COMMISSIONER ALULI: Right.

20 MR. JORGENSEN: -- then we're fine with that.

21 CHAIR TANAKA: Fine. That's it. So we don't
22 need a motion to that effect. So it's clarified. You can
23 take my word for it.

24 MR. JORGENSEN: Thank you very much. Happy
25 Valentine's Day.

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1 MS. VAUGHN: Thank you.

2 CHAIR TANAKA: Okay. Let's go on to Lahaina
3 Beverage Management, Inc.

4 MR. PROVENZA: Good morning, Chairperson Tanaka,
5 Members of the Commission and staff. Gabriel Provenza on
6 behalf of Lahaina Beverage Management, Inc., licensee.
7 And to my right is Bobby Galapon, the Store Director of
8 the licensed premise.

9 CHAIR TANAKA: Thank you. Okay. Gene.

10 MR. GENE SILVA: Lahaina Beverage Management,
11 Inc. doing business as Safeway, License Number 399, Retail
12 General license.

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

15 Nature of request: Request for approval to
16 extend the existing premises to approximately 26,868
17 square feet in the Olowalu direction. This would increase
18 the square footage of the premises to approximately 64,519
19 square feet.

20 For the terms of the First Lease Modification
21 Agreement, Section 1, landlord and tenant agree that the
22 final area of expansion premises may be more or less than
23 26,868 square feet of floor area and that either party
24 shall have the right to measure the floor area of the
25 expansion area within 60 days following substantial

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1 completion.

2 Licensee requesting approval to modify the
3 existing premises by removing the existing wall on the
4 south side of the licensed premises to connect to the
5 neighboring space as plans submitted.

6 Original application for a transfer of a Retail
7 General license, which was filed on August 3rd, 2005, for
8 a premises located at 1221 Honoapiilani Highway, Units 7
9 and 8, Lahaina, Maui, Hawaii. The premises consists of
10 approximately 36,500 square feet. Original floor plan is
11 attached.

12 A public hearing for this application took place
13 on October 5th, 2005.

14 The license was transferred from Safeway, Inc.
15 doing business as Safeway, License Number 340, on March 7,
16 2006.

17 Notification of property owners and lessees of
18 record situated within a 100 and 500-foot radius was not
19 required per 281-41A, transfer of licenses, notice of
20 change in officer director, and stockholders of corporate
21 licenses, partners of a partnership license, and members
22 or managers of a limited liability company license
23 penalty.

24 A First Lease Modification Agreement lease
25 between Lahaina Cannery Retail Owner, LP, a limited

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1 partnership, lessor, and Safeway, Inc., a Delaware
2 corporation, lessee, dated November 6, 2015, indicates
3 that the licensee has the use and exclusive control of the
4 area being requested.

5 Rules and laws: 08-101-46, reduction or
6 increase in area of licensed premises. The Commission
7 may, in its discretion, permit the reduction or the
8 increase in the area of licensed premises of any licensee
9 without publication of notice at a public hearing.

10 Provided that where an increase in premises may
11 significantly impact the public, the Commission may
12 require hearings pursuant to Section 281-39.5 and 281-57,
13 to 281-60 of the HRS. The licensee shall be subject to
14 notice requirements of Section 281-57, 58 and 59 of the
15 HRS.

16 Whenever there is a substantial increase of the
17 licensed premises and there are any owners or lessees of
18 real estate of record or owners of record of shares in a
19 cooperative apartment or individuals on the list of owners
20 as provided by the managing agent or governing body of the
21 shareholders association, situated within a distance of
22 500 feet from the nearest point of the premises for which
23 the extension is asked to the nearest point of such real
24 estate or cooperative apartment that were not previously
25 notified. Whenever any reduction or increase in -- is

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1 permitted, the same shall be endorsed in some appropriate
2 manner upon the license.

3 08-101-98, modification or extension of licensed
4 premises. (a), modification to the licensed premises
5 other than what was submitted to the Commission at the
6 time of application is strictly prohibited; (b), extension
7 of premises shall not be granted unless such area
8 requested is adjacent to and connected to the licensed
9 premise and meet all governmental requirements.

10 CHAIR TANAKA: You have anything else to add?

11 MR. PROVENZA: Nothing to add. We're available
12 to answer any questions the Commission might have.

13 CHAIR TANAKA: Is there any public testimony on
14 this item? Okay. Seeing none, any questions by the
15 Commissioners?

16 COMMISSIONER ALULI: Yeah, just one question.
17 So this is the expansion that's, actually, going to go
18 into the area where Lulu's was, Lulu's and ABC Store was,
19 is that right?

20 MR. PROVENZA: Correct.

21 MR. GALAPON: Lulu's was on the other side, so
22 Lulu's is not part of it. It's just on the ABC side.

23 COMMISSIONER ALULI: Oh, just on the ABC side.

24 MR. GALAPON: Yes.

25 COMMISSIONER ALULI: Oh, okay.

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1 DIRECTOR MUKAI: It's gonna expand all the way
2 to the back of the stage, the current stage area.

3 COMMISSIONER ALULI: Oh, yeah. Okay. Where
4 that real estate office used to be?

5 MR. GALAPON: Yes.

6 COMMISSIONER ALULI: So you're not taking Lulu's
7 out?

8 MR. GALAPON: No. Actually, they're not in
9 business anymore.

10 COMMISSIONER ALULI: Right. I know they're
11 closed.

12 MR. GALAPON: But, yeah, I don't know where --
13 who is going to go there.

14 COMMISSIONER ALULI: Okay.

15 CHAIR TANAKA: Okay. Any other questions? If
16 there's no other questions, may I have a motion?

17 COMMISSIONER UMENO: I move to approve the
18 expansion.

19 COMMISSIONER ALULI: Second.

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

22 (Response.)

23 CHAIR TANAKA: Opposed, "no."

24 (No response.)

25 CHAIR TANAKA: Motion carried. Thank you.

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1 MR. PROVENZA: Thank you very much.

2 CHAIR TANAKA: Okay. Before we go to
3 Administrative Affairs, let's have a 10-minute recess.

4 (Recess 9:53 a.m. to 10:03 a.m.)

5 CHAIR TANAKA: Okay. Liquor Commission meeting
6 called back to order. Administrative Affairs. Okay.
7 Director's Monthly Report.

8 DIRECTOR MUKAI: Good morning. The Director's
9 Monthly Report, there's several item.

10 The State Legislature is in session. There is
11 an enormous amount of liquor-related bills that were
12 introduced. So the State -- the liquor administrators
13 from all the counties are tracking many of these bills. I
14 believe there's 20-plus already bills we're tracking.

15 Some of the bills that is more priority is the
16 Hotel Association introduced a bill to elimination of
17 Federal tax requirement. Also, there's the requirement
18 for personal -- well, actually, criminal history check and
19 fingerprinting yearly for all commission and board members
20 and any attorneys that they hire. That bill, the
21 administrator did submit a --

22 MR. KUSHI: Who introduced that?

23 DIRECTOR MUKAI: Mr. Agaran. So that bill was
24 heard in the House and the administrator did submit their
25 testimonies. So it was held in committee. But there is,

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1 also, a companion bill in the Senate that we are watching.

2 Also, Mr. Agaran -- actually, Debbie Cabebe of
3 MEO and the nonprofits introduced a bill to Agaran to
4 reinstate the State bill that was repealed many years ago
5 which would allow the Commission to waive the requirements
6 of some of the State law which, you know, Commission have
7 been supportive of.

8 And there's a whole, like I said, slew of bill
9 that we are watching.

10 Secondly on the agenda for Director's Report is
11 Department Enforcement Division has been conducting minor
12 decoy operation. So they did it for four nights. 56
13 licensed premises was checked, three of the premises sold
14 the liquor to the minor decoy. So it comes out to be
15 about five percent of licensed premises are selling to the
16 minor decoy.

17 You may have noticed, there was a press release
18 about the Liquor Commission funding, the \$20,000 funding
19 that you provided for Maui Youth and Family Services for
20 their Underage Drinking Prevention Program. I believe it
21 was published in "Maui News" last week.

22 Also, we have a parking map again. It appears
23 that the Board members are having a hard time finding
24 parking when they have their Board meeting. And we are
25 urging them to park in the gravel lot right above Ichiban.

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1 Normally, there's sufficient parking there. So make sure
2 you put your placard when you park there so that you won't
3 get ticket or your car will be towed away.

4 The Department has received from the publisher
5 the new rule book. The new rule book has all the updated
6 rules of the Commission, Chapter 101, 102, plus the Hawaii
7 Revised Statutes. It's the purple book. So the purple
8 book is your copy, you can take home for -- as a reference
9 to anything that's on the agenda.

10 And sixth item is the National Conference of
11 State Liquor Administrator will be held in June 17 to 20th
12 at the Hilton Waikaloa Village in Hawaii. All of the
13 members are invited to attend. Pursuant to County travel
14 policy, you have to make your own room reservation and the
15 Department will reimburse you for the excess room charges,
16 because I believe you have \$90 per diem per day. \$50 is
17 for the room. Anything over \$50 for your room we can
18 always reimburse you. And, please, any Member that's
19 planning to attend, notify Kari so -- because Kari will be
20 making you guys' travel arrangements for the airfares.

21 And that's all we have.

22 CHAIR TANAKA: Question. The Financial
23 Disclosure, when is it due?

24 COMMISSIONER ALULI: April.

25 MS. YOSHIKAWA: April 15th.

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1 CHAIR TANAKA: April 15th.

2 DIRECTOR MUKAI: Yes, we put in there
3 distribution of Financial Disclosure Form, the
4 distribution of Board of Ethics memorandum Campaign
5 Restrictions for all County officers and employees, the
6 distribution of the County of Maui Travel Policy and
7 Procedures.

8 Item E is approval of Form DLC-001, License
9 Application Checklist. Gene.

10 CHAIR TANAKA: What -- Gene, what's the change
11 in that?

12 MR. GENE SILVA: If you turn to Page 3 -- I
13 believe you guys' one is highlighted in yellow -- where it
14 says State and Federal Tax Clearance or Certificate of
15 Compliance, we've removed 60 days and changed it to 90
16 days. So the State and Federal Tax Clearance and
17 Certificate of Compliance expires 90 days from issue date
18 instead of 60 days from issue date.

19 CHAIR TANAKA: So, hopefully, the legislature
20 give the Commission the power to eliminate the Federal tax
21 clearance, then. Public, please go testify to the
22 legislature so we can eliminate all this bullshit.

23 Okay. Let's go on to Unfinished Business,
24 Approval of Forms. I see Marge there. You want to
25 testify?

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1 MS. SCHAEFER: Yes, please.

2 CHAIR TANAKA: Can you -- can you -- can I ask
3 you to specifically, when you testify, on which item
4 you're testifying on?

5 MS. SCHAEFER: The special license.

6 CHAIR TANAKA: Application?

7 MS. SCHAEFER: Application, and, also, the
8 checklist.

9 CHAIR TANAKA: Okay.

10 MS. SCHAEFER: I need a clarification. There is
11 a marked-up copy that's yellow and there are some items
12 that are bracketed and some that are not. Is everything
13 in yellow to be --

14 CHAIR TANAKA: I think it's all eliminated.

15 MS. SCHAEFER: It's all eliminated?

16 MR. GENE SILVA: Everything in the brackets has
17 been eliminated and anything that is underlined has been
18 added.

19 MS. SCHAEFER: Okay. But there's some things I
20 noticed in the checklist that -- let me get -- well, when
21 I get to it, I'll --

22 CHAIR TANAKA: Well, you have yours colored in
23 yellow?

24 MS. SCHAEFER: Yes.

25 CHAIR TANAKA: Yeah. That's all eliminated.

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1 MS. SCHAEFER: Okay. So you're not asking for
2 board members' names anymore? Okay. I'm talking about,
3 first of all --

4 CHAIR TANAKA: Where you talking about?

5 MS. SCHAEFER: -- the application. I'm on the
6 application.

7 CHAIR TANAKA: Okay.

8 MS. SCHAEFER: On -- on the fourth page of the
9 application, the yellow is the legal name of the
10 directors.

11 MR. LAYNE SILVA: That's Page 3.

12 MS. SCHAEFER: Well -- 3.

13 COMMISSIONER ALULI: Of the Application for
14 Special Liquor License, right, Marge?

15 MS. SCHAEFER: Yes.

16 MR. LAYNE SILVA: The yellow -- what -- what has
17 happened to the form is, instead of being three separate
18 lines to address the first, last and middle name, it's
19 just been made into one line.

20 MS. SCHAEFER: Okay. All right. So I'd like
21 to -- and -- and I -- I think, Mr. Chair, you raised the
22 issue of -- at the last meeting about not putting in the
23 middle -- full middle name, but using the initial.

24 CHAIR TANAKA: Yeah. They're -- they gonna
25 accept the middle initial.

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1 MS. SCHAEFER: Okay. That's not indicated on
2 this. So --

3 CHAIR TANAKA: Well, if -- if they want to put
4 they middle name, fine, they'll put middle initial, that's
5 fine, too.

6 MS. SCHAEFER: Okay.

7 CHAIR TANAKA: It's going to be accepted either
8 way.

9 MS. SCHAEFER: Okay. So just to make it clear,
10 I think it should be middle name or middle initial for --
11 for the -- the nonprofits that have to do this.

12 CHAIR TANAKA: Well --

13 MS. SCHAEFER: And --

14 CHAIR TANAKA: Yeah.

15 MS. SCHAEFER: They want to get it right.

16 CHAIR TANAKA: But maybe somebody wants to put
17 the middle name.

18 MS. SCHAEFER: Well, they can.

19 CHAIR TANAKA: Yeah.

20 MS. SCHAEFER: They can, but they can, also, put
21 their middle initial.

22 CHAIR TANAKA: Yeah.

23 MS. SCHAEFER: But the line may not be long
24 enough for the middle name.

25 CHAIR TANAKA: Yeah. The -- the Department will

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1 accept it.

2 MS. SCHAEFER: Okay. So what -- what I would
3 like to go to is on Page 3 -- wait a second. I want to
4 back up for a minute. May I back up for a minute?

5 CHAIR TANAKA: Yeah. Can you start from the
6 first page?

7 MS. SCHAEFER: Yeah, I can.

8 CHAIR TANAKA: If you don't have any comments,
9 just say so.

10 MS. SCHAEFER: So I would like to say this: I
11 met with Layne Silva. It was a very productive meeting.
12 I -- I think I brought fresh eyes to the application in
13 terms of how the public, who doesn't deal with this all
14 the time, how it reads to them. He spent, I think, two
15 hours with me. And we -- we came up with some good
16 solutions, some of which were adopted and -- and are
17 reflected in this -- this new application and particularly
18 in the -- in the checklist. So I'm really appreciative of
19 Layne and his willingness to see how, I think, the public
20 perceives the information on this application.

21 So moving right along on the application, I
22 support the -- all of the changes.

23 Now, I'm presuming that the past history is
24 eliminated. Is that correct?

25 MR. GENE SILVA: No.

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1 MS. SCHAEFER: Past history is underlined.

2 That's -- that's in? That's still in?

3 MR. LAYNE SILVA: Yes.

4 MS. SCHAEFER: Okay. We talked about this.

5 And -- and -- well, the first question seems logical. The
6 second question, what does that have to do with a
7 nonprofit getting a one-day liquor license? "Does the
8 applicant have any direct or indirect interest in any
9 other liquor license business in or outside of Hawaii. If
10 yes, explain." So if a -- I don't see how that relates.
11 I can see how that relates to a commercial license, but
12 not -- not for a nonprofit. And I think the shorter this
13 form is, the less intimidating it is and more
14 user-friendly it is.

15 And then, moving to Page 3 of 4, which is the
16 corporate -- the list of the corporations and the
17 employees. This -- this -- in the certification on the
18 application, on Page 4, it states that -- that the
19 applicants are -- are 21 years, the board of directors,
20 whatever, are 21 years of age or older and have not been
21 convicted of a felony and are not pardoned. So why do you
22 need the age here for the trustees? You're certifying --
23 the applicant is certifying that the trust -- that
24 everyone is over 21. So you know how I feel about the age
25 thing. And I appreciate that you moved from birthdate to

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1 age, but then, when you read the certification that's
2 notarized, it says that all persons are 21 years of age or
3 older. So I would say, if -- if I could be queen for a
4 day, I would take the corporations -- I would just list
5 the name of the board of directors and their titles, and
6 skip the whole age thing.

7 I would, also, remove -- it says, at the top,
8 corporations, full legal name of officers, directors,
9 members, managers. Someone could perceive that with the
10 members as listing that you have to list all the members.
11 So I would remove the word members from that.

12 Okay, moving right along. On the employees --
13 this goes back to the issue that we talked about, listing
14 of the employees who will be serving liquor at this
15 function. This is a legitimate -- legitimate question,
16 but the problem is the timing because most of the
17 charities use -- the nonprofits use contractors. And
18 those contractors use people who are moonlighting from
19 their regular jobs and don't know their schedules until
20 sometimes two weeks out. So if this could be required 14
21 days before, that would be very logical. If you have to
22 do it with the application, which I think the application
23 has -- is supposed to be submitted 60 days --

24 MR. LAYNE SILVA: Six weeks.

25 MS. SCHAEFER: Six weeks before. So just for a

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1 practical purpose, if -- either move it out of the
2 application, which has to be done six weeks, and put it on
3 the checklist, which those items could be submitted up to
4 14 days. How am I doing?

5 CHAIR TANAKA: (Inaudible).

6 MS. SCHAEFER: So do you all understand what I'm
7 talking about? Licensed bartenders, et cetera, they don't
8 know who they are going to be until probably 14 days
9 before. So moving that whole employee section, the
10 checklist, so it would be to 14 days instead of six -- six
11 weeks.

12 Okay. Moving to the Special License Application
13 Checklist. The -- the bylaws of the organization, I
14 think -- well, I know when you do the certificate, when
15 you get the tax clearances, you have to provide the bylaws
16 of your organization. So why are you requiring them again
17 if the State already requires them in -- in order to get
18 that letter of compliance?

19 CHAIR TANAKA: Well, we're trying to get the
20 Federal Government -- I mean, we're trying not to have tax
21 clearance. So if that happens, what then?

22 MS. SCHAEFER: Okay, you're right. That's a
23 very good point. I'll give you that one.

24 CHAIR TANAKA: Maybe it's applicable. If you
25 have it, it's easier just to give it.

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1 MS. SCHAEFER: Okay.

2 CHAIR TANAKA: Right? If it's applicable. If
3 you don't have it, then fine, just say, "I don't have it."

4 MS. SCHAEFER: Okay. So it's not necessary?

5 CHAIR TANAKA: Yeah.

6 MS. SCHAEFER: It says, "Items required for
7 filing."

8 CHAIR TANAKA: Because they gonna -- they going
9 to certify to that, anyway.

10 MS. SCHAEFER: Exactly. Okay. So -- and
11 then -- let's see. Go down to the floor plan drawn to
12 scale, I think that's all fine.

13 And I appreciate the change to 90 days.

14 And that whole tax clearance thing is up in the
15 air.

16 CHAIR TANAKA: That -- that -- hopefully, that
17 becomes moot.

18 MS. SCHAEFER: Exactly.

19 CHAIR TANAKA: After the legislature.

20 MS. SCHAEFER: Exactly. And then, moving to
21 Page 3 of 3, the wastewater clearance, the health
22 clearance and the silent auction deletions, those two
23 departments are going to be very happy that people aren't
24 calling them and asking. So I think deleting that was --
25 was correct.

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1 And there was one other thing. Because this has
2 become such a hot button, I -- I would really hope that
3 you all would instruct the Department, if any changes are
4 made to this form, that, before they're made, they have to
5 come back to the Commission for approval.

6 CHAIR TANAKA: They have to, anyway.

7 MS. SCHAEFER: Okay.

8 CHAIR TANAKA: Yeah.

9 MS. SCHAEFER: All right.

10 CHAIR TANAKA: The Commission would have to
11 approve it.

12 MS. SCHAEFER: Okay. Great. I think that's it.

13 I -- I can't tell you how much I appreciate the
14 time that the Department spent, that Layne spent with me
15 to, I think, make this a better form and make it more
16 user-friendly. So I hope you all will adopt all these
17 changes. Thank you.

18 CHAIR TANAKA: Okay. Any questions by the
19 Commissioners? Okay. So, basically -- basically, the
20 Special License Application Checklist, you have no changes
21 on it, right?

22 MS. SCHAEFER: No. I mean, I have -- I -- I
23 agree with all the changes.

24 CHAIR TANAKA: Yeah. Okay. You have a couple
25 items on the special license, liquor license, and,

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1 basically, the age? You don't want to tell your age,
2 right?

3 MS. SCHAEFER: Right. I'm not ashamed to admit
4 that. I'm just not gonna tell you how old I am.

5 CHAIR TANAKA: Maybe -- maybe I want to tell my
6 age.

7 MS. SCHAEFER: Well, then you can put it in.

8 CHAIR TANAKA: Yeah. So -- so we can just put
9 it optional, right?

10 MS. SCHAEFER: Yes.

11 DIRECTOR MUKAI: Mr. Chair, some of this -- this
12 was reviewed by --

13 COMMISSIONER ALULI: Corp Counsel.

14 DIRECTOR MUKAI: -- Corp Counsel.

15 MR. KUSHI: When?

16 DIRECTOR MUKAI: Where's Kari? It was sent to
17 Gary. And Gary met with staff.

18 MR. KUSHI: I got a couple questions. On the
19 application, license application, why do you need age for
20 the directors or members?

21 DIRECTOR MUKAI: It requires (inaudible).

22 CHAIR TANAKA: Which one? This one?

23 DIRECTOR MUKAI: Yeah, we cannot --

24 CHAIR TANAKA: Yeah, we taking 'em all out.

25 MR. KUSHI: No. We're adding.

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1 COMMISSIONER ALULI: Taking it out.

2 COMMISSIONER UMENO: Taking it out.

3 DIRECTOR MUKAI: The license, yeah.

4 MR. GENE SILVA: Anything that's underlined is
5 being added.

6 MR. KUSHI: Added.

7 MR. GENE SILVA: Everything bracketed is being
8 taken out.

9 MR. KUSHI: Adding -- adding the age.

10 MR. GENE SILVA: That one was just to show you
11 guys where we -- where we at on the page, yeah. It's just
12 highlighted. That's all.

13 MS. SCHAEFER: So they added age.

14 MR. KUSHI: Right. That's my question.

15 CHAIR TANAKA: I believe that was --

16 MR. LAYNE SILVA: It changed from date of birth
17 to age.

18 MR. KUSHI: Why do you even need that?

19 COMMISSIONER YOKOUCHI: Why do you need age?

20 DIRECTOR MUKAI: Because 2145 requires that any
21 licensee should -- the officers, directors and everything
22 have to be an adult, 21 years of age.

23 MS. SCHAEFER: But you certify that.

24 MR. KUSHI: When they sign the application,
25 they're attesting to that.

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1 COMMISSIONER YOKOUCHI: Certifying that. That's
2 not discriminating law when you ask somebody their age?

3 MR. KUSHI: No, it's not.

4 COMMISSIONER YOKOUCHI: It's not.

5 MR. KUSHI: For a license. But if they
6 certified that everybody involved is 21 or over,
7 that's note of it.

8 COMMISSIONER ALULI: Yeah, that stands. That
9 person is taking on that liability.

10 MS. SCHAEFER: See, it's not --

11 MR. KUSHI: Mr. -- Mr. Chair, the other one is,
12 why you -- why do you need a full middle name?

13 MS. SCHAEFER: Yeah.

14 MR. KUSHI: Can just an initial be okay?

15 COMMISSIONER UMENO: That's what -- that's what
16 Bobby said.

17 CHAIR TANAKA: Yeah.

18 MR. KUSHI: No, but --

19 CHAIR TANAKA: We can --

20 MR. KUSHI: This happened before. When they
21 don't comply with staff, they don't issue the license and
22 it's too late.

23 COMMISSIONER ALULI: The best thing probably
24 would be to clarify either initial or full name.

25 MS. SCHAEFER: Yes.

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1 COMMISSIONER ALULI: As opposed to just saying
2 middle, because the person is automatically going to think
3 it's their entire middle name.

4 MS. SCHAEFER: That would --

5 COMMISSIONER ALULI: That's the -- that's the
6 reaction to it.

7 MR. KUSHI: Okay. My other concern is on Page 4
8 of 4, past history. Why do you need those two statements?

9 MR. LAYNE SILVA: Page 4, that's to identify
10 that if there may be any history involved with the
11 applicant.

12 MR. KUSHI: Number 1, has the applicant been
13 withdrawn, denied or suspended.

14 MR. LAYNE SILVA: Yes.

15 MR. KUSHI: The applicant is the --

16 MR. LAYNE SILVA: As well as Number 2.

17 MR. KUSHI: The applicant is a nonprofit now.

18 MR. LAYNE SILVA: Yeah.

19 DIRECTOR MUKAI: But the applicant, also, is
20 considered the officers and directors.

21 MR. KUSHI: No. The applicant is a nonprofit
22 entity; it's not the individual members. Second one, does
23 the applicant have any direct or indirect interest in a
24 liquor license. The applicant is the entity, not the
25 members, now. You may have board of director members who

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1 are licensees, too. Why should that prevent the -- you
2 know, the nonprofit from -- from getting a special
3 license. Those are my concerns, Mr. Chair.

4 MR. LAYNE SILVA: I believe those were issues
5 that were brought up with Corp Counsel.

6 MR. KUSHI: Well, I'm bringing it up again.

7 MR. LAYNE SILVA: That -- that's you guys.

8 CHAIR TANAKA: Can't we just eliminate 'em?

9 COMMISSIONER ALULI: Yeah.

10 MS. SCHAEFER: Yeah.

11 COMMISSIONER YOKOUCHI: Uh-huh.

12 MR. KUSHI: Call for Executive Session. Talk to
13 Gary.

14 CHAIR TANAKA: Okay. Can I have a motion to go
15 into Executive Session?

16 COMMISSIONER ALULI: So moved.

17 COMMISSIONER UMENO: Second.

18 CHAIR TANAKA: We can discuss this with our
19 attorney.

20 MR. COUCH: Are you going to have more public
21 testimony on this?

22 MR. KUSHI: No.

23 CHAIR TANAKA: No, not yet.

24 MR. KUSHI: But after Executive Session, please.

25 MS. SCHAEFER: Could I ask a question, Ed?

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1 Mr. Kushi?

2 CHAIR TANAKA: After -- after -- after the Exec
3 Session.

4 MS. SCHAEFER: Okay.

5 MR. KUSHI: Mr. Chairman, Mr. Murai -- request
6 Mr. Murai and staff.

7 CHAIR TANAKA: Okay, let's go into Executive
8 Session.

9 (Executive Session, 10:27 a.m. to 10:46 a.m.)

10 CHAIR TANAKA: Okay, Liquor Commission meeting
11 back to order. Okay. Any other public testimony on this
12 Application for Special Liquor License or Special License
13 Application Checklist?

14 MS. SCHAEFER: I'm back.

15 CHAIR TANAKA: You had your chance already.

16 MS. SCHAEFER: No, no, no. You gotta -- you
17 gotta give me points for hanging in there.

18 CHAIR TANAKA: Go ahead.

19 MS. SCHAEFER: Okay. So is that question
20 about -- are those two questions going to stay in?

21 CHAIR TANAKA: Well, after you give your
22 testimony --

23 MS. SCHAEFER: Okay.

24 CHAIR TANAKA: -- Commission will make whatever
25 changes --

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1 MS. SCHAEFER: Okay.

2 CHAIR TANAKA: -- we discuss.

3 MS. SCHAEFER: So a couple of things were
4 pointed out to me, further things.

5 There is a requirement on the checklist that
6 there be a copy of the deed or -- letter. I'm looking for
7 it. I guess it's -- Page 2. Thank you. Okay. So it
8 requires a copy -- why am I looking at Page 2? Executed
9 copy of agreement, okay. So we're talking about items
10 required for filing, Page 2 of 3, executed copy of
11 agreement of sale, lease, rental agreement, et cetera,
12 which states the applicant has the use and exclusive
13 control of the property. If the applicant owns the
14 property --

15 COMMISSIONER UMENO: They just need a letter
16 saying I own it.

17 MS. SCHAEFER: Just -- well, a deed was shown,
18 they wouldn't accept it.

19 COMMISSIONER YOKOUCHI: What?

20 MS. SCHAEFER: A deed to the property was shown
21 showing the ownership, and it wasn't accepted.

22 COMMISSIONER ALULI: Wow.

23 CHAIR TANAKA: It wasn't accepted? Why?

24 COMMISSIONER YOKOUCHI: Was it held in a trust
25 or something?

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1 MS. SCHAEFER: No. They said that they required
2 that there be a letter from the person that's -- that
3 signed the original deed. This is a nonprofit that
4 owns -- okay. So what I'm pointing out to you is just
5 some of the things that --

6 COMMISSIONER UMENO: When did this happen, you
7 know?

8 MS. SCHAEFER: It doesn't matter when it
9 happened. The fact is it happened.

10 CHAIR TANAKA: It matters.

11 COMMISSIONER UMENO: It matters.

12 CHAIR TANAKA: It matters, Marge.

13 MS. SCHAEFER: It happened.

14 CHAIR TANAKA: It happened

15 COMMISSIONER UMENO: When?

16 CHAIR TANAKA: -- 20 years ago?

17 MS. SCHAEFER: It happened recently, very
18 recently.

19 CHAIR TANAKA: Okay.

20 MS. SCHAEFER: Okay. Second -- okay. So I'm --
21 what I'm giving you is I'm giving you a look at what it's
22 like for an applicant to go through.

23 Second thing, auction item was a cruise, it was
24 a donated cruise. Because there was booze served on the
25 cruise -- available on the cruise, they would not allow it

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1 as an auction item.

2 CHAIR TANAKA: Well, that's all gonna change
3 now. It's all eliminated.

4 MS. SCHAEFER: Okay.

5 CHAIR TANAKA: According to this, all gonna
6 change. You can -- you can auction anything you want.

7 MS. SCHAEFER: I understand that, but I'm just
8 telling you that --

9 CHAIR TANAKA: Okay.

10 MS. SCHAEFER: -- that -- you're saying that
11 tomorrow -- if they had done this tomorrow, that wouldn't
12 have been an issue?

13 CHAIR TANAKA: Well, soon as the Commission
14 approves this --

15 MS. SCHAEFER: Yeah.

16 CHAIR TANAKA: -- that's it.

17 MS. SCHAEFER: Okay. The font size on an
18 auction item had to be redone. There was no font size
19 indicated, but that's going to go away, too. But that's
20 the level -- that's harassment. Okay.

21 And, last, but not least, if you are -- if you
22 are chair -- let's say I'm chair of a charity event and
23 we're serving liquor, I would have to get a liquor
24 license, a liquor card, even though I'm not serving
25 liquor, I have a -- a -- I have a company, a contractor,

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1 doing all the liquor service, I won't be dealing with the
2 liquor at all, I'm just the chair of the event. And the
3 coordinator has to get a liquor card, I'm told.

4 CHAIR TANAKA: You mean a certification card,
5 you're saying?

6 MS. SCHAEFER: Yes.

7 CHAIR TANAKA: Okay.

8 MS. SCHAEFER: Why?

9 CHAIR TANAKA: I don't know. You tell me.

10 MS. SCHAEFER: Well, that's what I'm asking you.
11 Why --

12 CHAIR TANAKA: Well, we'll --

13 MS. SCHAEFER: -- would the coordinator of the
14 event --

15 CHAIR TANAKA: Yeah, we'll question the staff.

16 MS. SCHAEFER: Okay.

17 CHAIR TANAKA: Yeah. Go ahead.

18 MS. SCHAEFER: All right. Thank you.

19 Mr. Chair, you've been very patient with me and I do
20 appreciate it. And some day, we're gonna get this all
21 worked out and I will never --

22 CHAIR TANAKA: Oh, today --

23 MS. SCHAEFER: -- darken your door.

24 CHAIR TANAKA: -- we get it all worked out.

25 MR. KUSHI: No. She'll still be around.

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1 CHAIR TANAKA: Okay. Anybody else?

2 MR. COUCH: Good morning, Chair and Members of
3 the Commission. My name is Don Couch, I'm Executive
4 Assistant to Mayor Alan Arakawa.

5 And on the application -- this kind of combines
6 two items, the application and the State Legislature stuff
7 that the Director brought up. There is a -- a bill out
8 there that it sounds like you guys are in support of, and
9 so are we. It's a House Bill 2414, which, basically, says
10 give the nonprofits a lot of leeway.

11 I just want to say if there are any other bills,
12 too, by the way, that you want the Mayor's Office to
13 support, both the Department and the Commission, please
14 let us know, or oppose, please let us know. My -- my --
15 you have my email address. Please give me a list of the
16 ones because I go and testify a lot.

17 On H -- House Bill 2414, I'm not sure if you
18 guys are aware, they've removed something. Number 5, way
19 down at the bottom section -- section -- I don't know. Do
20 you have House Bill -- that House Bill in front of you?

21 COMMISSIONER ALULI: Not 2414.

22 MR. COUCH: Oh, you don't.

23 COMMISSIONER ALULI: Not 2414.

24 MR. COUCH: There is a -- there is a section
25 that I think they removed. I think they wanted to remove

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1 it just for nonprofits, but it looks like it removes it
2 for all licenses. And I don't know that you really want
3 that to happen. So maybe if I can work with --

4 CHAIR TANAKA: Remove what?

5 MR. COUCH: It says -- they removed a line, "Any
6 other consideration deemed by the commission to affect the
7 matter of the application, the issuance or exercise of a
8 license applied for," which gives you guys a lot of leeway
9 to scrutinize licenses. I think they wanted to pull that
10 out just for the -- the special permit, but I'm not sure
11 that they -- they're pulling it out for all the other
12 licenses as well. So if -- if we can work to see if you
13 guys are okay with that being removed, if -- or if we put
14 the language just for a special 10 license.

15 CHAIR TANAKA: I will -- I personally would like
16 to see the Commission have the authority to exempt
17 whatever.

18 MR. COUCH: Correct.

19 CHAIR TANAKA: Make -- make it easier for
20 everybody.

21 MR. COUCH: That --

22 CHAIR TANAKA: Especially your Federal --

23 MR. COUCH: That's the --

24 CHAIR TANAKA: -- tax clearance.

25 MR. COUCH: -- intent of this law. But this one

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1 thing might be affecting the other laws that I don't --
2 the other types of licenses that I don't think you guys
3 really want removed. I know. It's up to you guys. If
4 you -- if you like that deletion in there all the way,
5 we'll support that as well, but I just wanted to call that
6 to your attention, that that may be an issue that --
7 that -- unintended consequences to affect the way you guys
8 do your business on all the other licenses. So if we can
9 kind of work on that.

10 CHAIR TANAKA: Makes it easier for the licensee,
11 especially the Federal tax clearance.

12 MR. COUCH: Well, yeah, the Federal tax
13 clearance, I got that one. We'll support that with you.
14 But if there's -- like you said, there's a big list of
15 them, so if you could let me know which ones you support
16 and oppose, and then we can work together on doing the
17 testimony on that. Because I have testified on 2414
18 already and will continue to do so, so -- when it comes
19 up. Okay?

20 CHAIR TANAKA: Okay.

21 MR. COUCH: So that's, basically, what I was
22 trying to get to you on the State Legislature. Okay.

23 CHAIR TANAKA: Thank you.

24 MR. COUCH: Thank you.

25 CHAIR TANAKA: Thank you. Okay. Let's go back

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1 to our forms. Any other testimony?

2 MS. ABDUL: Yes.

3 CHAIR TANAKA: Oh, go ahead.

4 MS. ABDUL: Good morning. Cassandra Abdul,
5 Executive Director with Na Hale O Maui, affordable housing
6 in perpetuity. I'm, also, Director of the Maui Nonprofit
7 Directors Association. And because Debbie Cabebe, our
8 President, was not available today, she asked if I would
9 come in her place.

10 We wanted to, also, comment on the bills before
11 the legislature. We are in support of SB 2549, which I
12 think there's a double referral to CPH and Judiciary. CPH
13 is commercial -- commerce, consumer, protection and
14 health. And the House companion 2414, HD1, and that is
15 with Judiciary, I believe, at this point, but we are in
16 favor of it. And it helps the position of the nonprofits
17 here in Maui County, especially smaller nonprofits that
18 really need help and need the Class 10 liquor licenses to
19 have their fundraisers and have 'em effective.

20 The second bill is SB 2612 and the companion.
21 And it speaks specifically about Class 10 Special
22 Licenses. I don't -- the House Bill is 2292. So that's
23 the companion bill. And the description is a little
24 misleading because it says, "Waives fees and other
25 requirements." Our concern are the other requirements.

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1 We think that those are important.

2 The other two bills don't look like they are
3 going to go anywhere.

4 And all of these four bills were sponsored by
5 Senator Agaran.

6 And, finally, we wanted to just reiterate, Maui
7 Nonprofit Directors, we want transparency. We want to
8 make sure everybody knows up front what's expected of them
9 so that they don't get back 10 or 15 times trying to
10 provide the information that's required.

11 Madge mentioned a couple of examples of how that
12 had happened. We would like to steam -- streamline the
13 process, and we appreciate the fact that you're doing so,
14 so that it's not so cumbersome and it does not put a
15 burden on profits -- on nonprofits who don't have the
16 resources to spend up to 60 hours of time to process an
17 application for a one-day event.

18 We'd like it all to be user friendly. And one
19 of the things that would really help with this is allowing
20 the nonprofits the forms ahead of time without actually
21 having to come down to the office. Many of our forms in
22 the state are available by website or can be emailed. So
23 we'd appreciate if you would consider that, also.

24 We do appreciate all you've done, your
25 consideration. Thank you very much.

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1 CHAIR TANAKA: Thank you. Anybody else? Okay.
2 Seeing no testimony -- you are through, Marge?

3 MS. SCHAEFER: I think so.

4 CHAIR TANAKA: Okay. Let's -- let's go on to
5 the checklist items. We wanna -- we wanna get these forms
6 approved so they can start using it and eliminate all
7 these requirements. So, basically, the Special License
8 Application Checklist, I don't think the public has any
9 objections to what we have here, what we eliminated. So
10 if there's no other comments, may I have a motion for
11 approval on -- is that application for special liquor
12 license --

13 MR. KUSHI: Checklist.

14 COMMISSIONER ALULI: So moved.

15 CHAIR TANAKA: -- checklist.

16 COMMISSIONER UMENO: 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: Okay. Now Application for
23 Special Liquor License, Commission made some changes.
24 Middle initial on your corporations, LLC, LLP, would --
25 would be optional. The age requirement would be

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1 eliminated. Okay. And the past history, first sentence
2 would remain, but the second sentence would be eliminated.
3 And that's it. What's that?

4 MS. SCHAEFER: Employees, moving that checklist
5 so it's a 14-day requirement instead of a six-week.

6 CHAIR TANAKA: We already have that, yeah?

7 MR. LAYNE SILVA: It's part of the application.

8 CHAIR TANAKA: It is part of the application.

9 MS. SCHAEFER: Which reads required to be six
10 weeks ahead.

11 CHAIR TANAKA: I don't see that.

12 MR. LAYNE SILVA: That's on the bottom of Page
13 3.

14 CHAIR TANAKA: I don't see that. Page 3 of
15 the --

16 MR. LAYNE SILVA: Page 3 of the application, the
17 bottom half of the page is identifying the employees of
18 the (inaudible).

19 MR. KUSHI: So are you saying that the special
20 license application checklist says got to apply six weeks,
21 right, six weeks before the event?

22 MR. LAYNE SILVA: Yes.

23 MR. KUSHI: And you want to have the listing of
24 employees for the event 14 days?

25 MS. SCHAEFER: Right.

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1 MR. KUSHI: But you won't get your license until
2 you provide that list?

3 MS. SCHAEFER: Right.

4 MR. KUSHI: Up to you. And if you don't provide
5 that list, you're not getting the license.

6 MS. SCHAEFER: You can't -- the -- like
7 Celebrations, whatever, they can't provide a list, that's
8 a problem. They can't provide it because --

9 MR. KUSHI: If you don't provide the list of
10 employees, you're not getting your license.

11 MS. SCHAEFER: So I understand that. The
12 checklist, everything doesn't have to be -- it's my
13 understanding, help me here, that what has to be submitted
14 first is this application.

15 MR. KUSHI: In six weeks.

16 MS. SCHAEFER: Then the checklist -- the -- the
17 items on the checklist need to be provided prior to the
18 issuance of the license. I'm just recognizing the
19 practical side, asking you to recognize the practical
20 side, is if you submit this four-page application and you
21 leave this blank, because the contractor can't give you
22 the names of the employees, indicate that it can be
23 submitted up to 14 days before or up to a week before or
24 whatever, but don't stop the process because --

25 MR. KUSHI: But they won't issue a license on

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1 a -- on that condition.

2 MS. SCHAEFER: I understand that.

3 MR. KUSHI: Okay.

4 MS. SCHAEFER: This is six weeks -- this is
5 between six weeks and the issuance of the license.

6 MR. KUSHI: If you wish -- if you provide that
7 list 13 days before the event, you don't have the license.

8 MS. SCHAEFER: Why?

9 MR. KUSHI: Because you haven't met the 14-day
10 threshold.

11 MS. SCHAEFER: So a license has to be issued 14
12 days before the event?

13 MR. KUSHI: The license is not complete unless
14 you give the listing of the employees.

15 MS. SCHAEFER: And once it's complete, how long
16 does it take to issue the license?

17 MR. LAYNE SILVA: On the issuance, I couldn't
18 tell you. The final requirement would need to be
19 submitted no later than 14 calendar days prior to your
20 function. The issuance would take place sometime between
21 that 14th day and the function.

22 MS. SCHAEFER: Yeah.

23 MR. KUSHI: What is this six weeks?

24 MR. LAYNE SILVA: Six weeks is on the
25 application itself. On the checklist, on Page 3 of 3,

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1 there is a section that includes required items that can
2 be submitted up to 14 calendar days prior to the scheduled
3 event. As long as all of those requirements are met
4 within the time allowed, license can be issued prior to
5 the function.

6 CHAIR TANAKA: So you're asking for this
7 employees -- a statement to say submit it 14 days prior?

8 MS. SCHAEFER: Yes.

9 CHAIR TANAKA: Oh, that's not -- no harm to
10 that.

11 MR. KUSHI: So, Mr. Silva, are you saying on the
12 checklist --

13 MR. LAYNE SILVA: (Inaudible).

14 MR. KUSHI: Page -- Page 3 of 3 --

15 MR. LAYNE SILVA: Yes.

16 MR. KUSHI: -- add in the employees?

17 MR. LAYNE SILVA: That would affect the
18 checklist, yes.

19 MS. SCHAEFER: Yeah. And then that gives
20 them -- I mean, that's practical. That's a practical
21 solution to a practical --

22 MR. KUSHI: Okay.

23 MS. SCHAEFER: -- problem.

24 MR. KUSHI: I apologize. I didn't understand
25 your question.

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1 MS. SCHAEFER: I'm sorry. That's okay.

2 MR. KUSHI: I'll recommend that you put the list
3 of employees.

4 CHAIR TANAKA: Yeah. Fine. Okay. You
5 understand what we -- so you make that change in here.
6 Okay. If there's no other questions, may I have a motion
7 to approve DLC -- shee, getting blind -- 030, Special
8 License Application Checklist.

9 COMMISSIONER ALULI: So moved.

10 COMMISSIONER UMENO: Second.

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

13 (Response.)

14 CHAIR TANAKA: Thank you. So all those changes
15 will be made. And --

16 MS. SCHAEFER: And when will that new
17 application become effective?

18 CHAIR TANAKA: Soon as they -- well, it's
19 effective now --

20 MS. SCHAEFER: Fabulous.

21 CHAIR TANAKA: -- because it was approved.

22 MR. KUSHI: When they get to it.

23 CHAIR TANAKA: Yeah, or when they get to it.

24 Okay. If there's no any other comments or questions, may
25 I have a motion for adjournment?

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1 COMMISSIONER UMENO: So move.

2 COMMISSIONER ALULI: Second.

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

5 (Response.)

6 CHAIR TANAKA: Okay. Meeting adjourned.

7 (Meeting adjourned, 11:08 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 6th day of March, 2018.

/s/ Tonya McDade

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