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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 9:02 a.m., on April 10th, 2019.

REPORTED BY: SANDRA J. GRAN, RPR/CSR #424

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APPEARANCES

COMMISSION MEMBERS PRESENT:

CHAIRPERSON:	NANE ALULI
VICE-CHAIRPERSON:	ROY UMENO (9:05-9:24)
COMMISSIONERS:	LEON BOLOSAN
	ALBERTA DE JETLEY
	LESLIE ANN YOKOUCHI
	JERRYBETH DE MELLO

STAFF PRESENT:

FIRST DEPUTY CORPORATION COUNSEL:	GARY MURAI
DIRECTOR:	GLENN MUKAI (in 9:05)
DEPUTY DIRECTOR:	GEORGETTE TYAU
LIQUOR CONTROL OFFICER IV:	LAYNE SILVA
COMMISSION SECRETARY:	SALIKA KHANGSENGSING

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(April 10th, 2019, 9:02 a.m.)

* * *

CHAIR ALULI: (Gavel.) I'd like to call the liquor commission meeting for April 10th to order. Begin with the roll call, please. Maria.

MS. KHANGSENGSING: Maria Khangsensing, liquor control.

COMMISSIONER DE MELLO: Jerrybeth De Mello from Lahaina.

COMMISSIONER DE JETLEY: Alberta De Jetley, commissioner from Lanai.

MR. MURAI: Deputy corporation counsel Gary Murai.

CHAIR ALULI: Aloha. Nane Aluli.

COMMISSIONER BOLOSAN: Aloha. Leon Bolosan.

COMMISSIONER YOKOUCHI: Good morning. Leslie Yokouchi.

MS. TYAU: Georgette Tyau, liquor control.

MR. SILVA: Layne Silva, liquor control.

CHAIR ALULI: Thank you. You have before the agenda for today, April 10th. I'd like to have an approval for that agenda.

COMMISSIONER DE JETLEY: Mr. Chair, I move to approve the agenda.

COMMISSIONER BOLOSAN: Second.

CHAIR ALULI: All in favor?

1 (Response.)

2 CHAIR ALULI: The agenda has been approved.

3 We'll now move on to the minutes of the previous
4 meeting held on -- in March. Can I have a motion to approve
5 those minutes?

6 COMMISSIONER DE JETLEY: Mr. Chair, I move to
7 approve the minutes.

8 CHAIR ALULI: Can I have a second?

9 COMMISSIONER YOKOUCHI: Second.

10 CHAIR ALULI: It's been moved and second. Any
11 discussion?

12 COMMISSIONER DE JETLEY: Yes, Mr. Chair. We have
13 corrections to the minutes as submitted by -- to us on the
14 sheet. I'd like to add the discrepancies to the minutes.

15 CHAIR ALULI: Okay. I'd like to ask counsel if
16 there's anything that we need to address in addition to that?

17 MR. MURAI: Thank you, Mr. Chair. I'm looking at
18 a -- a list of changes to the minutes that I'm not sure who --
19 who prepared this, but they appear to be mainly to correct
20 typographical errors in the spelling of people's names and,
21 for example, when the commissioners made -- made motions,
22 sometimes the wrong commissioner was credited with making the
23 motion. So I believe these are all nonsubstantive changes and
24 I believe all the commissioners have a copy of the list of the
25 changes, so if the commissioners agree, they may incorporate

1 these corrections and approve the minutes as amended.

2 CHAIR ALULI: So any other questions or discussion
3 on that item?

4 (No Response.)

5 CHAIR ALULI: Okay. So may I have a motion to
6 approve the minutes as amended.

7 COMMISSIONER DE JETLEY: Mr. Chair, I move to
8 approve the minutes as amended.

9 COMMISSIONER YOKOUCHI: Second.

10 CHAIR ALULI: They've been moved and seconded. All
11 in favor.

12 (Response.)

13 CHAIR ALULI: Any denies?

14 (No Response.)

15 CHAIR ALULI: Minutes approved as amended.

16 Let the record reflect that Commissioner Roy Umeno
17 has joined us. Good morning, Roy.

18 COMMISSIONER UMENO: Good morning.

19 COMMISSIONER BOLOSAN: Good morning, Roy.

20 MS. TYAU: And also Director Mukai.

21 CHAIR ALULI: Oh, sorry, Director Mukai. I didn't
22 realize you were missing. I'm not paying attention. Sorry,
23 Glenn. Welcome.

24 Okay. We will now move on to General Licensing
25 Matters. Before you have the matter regarding Tanizaka's --

1 or Tanizaki's approval. Can I have motion to approve that
2 general licensing matter? It's Item A or -- let's see. Yeah,
3 Item A, Application -- yeah, Item A.

4 VICE CHAIR UMENO: So moved. Oh.

5 (Chair conferring with counsel.)

6 CHAIR ALULI: Okay. If there are -- if there's no
7 discussion on that, can I have an approval for the general
8 licensing matter for Tanizaki?

9 COMMISSIONER BOLOSAN: So moved.

10 COMMISSIONER YOKOUCHI: I so move.

11 CHAIR ALULI: Seconded?

12 COMMISSIONER DE MELLO: Second.

13 CHAIR ALULI: Any discussion?

14 (No Response.)

15 CHAIR ALULI: All in favor?

16 (Response.)

17 CHAIR ALULI: Any denials? No?

18 (No Response.)

19 CHAIR ALULI: Okay. The motion is approved.

20 Okay. We'll move on to public hearing issues,
21 Application No. 13, Serpico's Maui LLC.

22 MR. NAKAMURA: Good morning, Mr. Chair, Members of
23 the commission.

24 CHAIR ALULI: Good morning.

25 MR. NAKAMURA: Craig Nakamura, attorney on behalf of

1 the applicant. And with me is Mr. Charles Clarke. That's
2 Clarke with an E.

3 MR. CLARKE: Yes.

4 MR. NAKAMURA: Who is the principal of the
5 applicant.

6 CHAIR ALULI: Thank you.

7 Layne.

8 MR. SILVA: This is a public hearing for Application
9 No. 13. The applicant is Serpico's Maui LLC doing business as
10 Serpico's Maui. The proposed premises is located at 7 Aewa
11 Place, Unit No. 102, Makawao, Maui, Hawaii.

12 This is a public hearing for a new Restaurant
13 General License, Category B(ii).

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

17 Notice of public hearing was published in the Maui
18 News on February 20th and 27th, 2019.

19 There are a total of 88 owners and lessees situated
20 within 500 feet of the proposed premises.

21 The department did not receive any protests.

22 CHAIR ALULI: Thank you, Layne.

23 Craig, do you have anything further to add?

24 MR. NAKAMURA: Just very briefly. Most of you are
25 probably familiar with the Serpico's Restaurant Upcountry.

1 They've been in business for 13 years. It's an Italian family
2 restaurant and they're just trying to get a liquor license so
3 they can serve some beverages with their meals.

4 We'd be happy to answer any questions.

5 CHAIR ALULI: Thank you, Craig.

6 Commissioners, any questions of the applicant?

7 (No Response.)

8 CHAIR ALULI: If there aren't any questions, can I
9 have a motion for approval?

10 VICE CHAIR UMENO: So moved.

11 COMMISSIONER DE JETLEY: Second.

12 CHAIR ALULI: The motion has been -- and any --
13 All in favor?

14 (Response.)

15 CHAIR ALULI: Denials?

16 (No Response.)

17 CHAIR ALULI: No. Your request is approved.

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

19 MR. CLARKE: Thank you.

20 CHAIR ALULI: Thank you.

21 Okay. Let's move on to Preliminary Hearings.

22 Application No. 17, Haiku Town Beer Company LLC.

23 MS. DELINE: Hello.

24 CHAIR ALULI: State your name, please.

25 MS. DELINE: Erika Deline.

1 CHAIR ALULI: Thank you, Erika.

2 MS. DELINE: Just me.

3 CHAIR ALULI: Okay. Great.

4 Layne.

5 MR. SILVA: Application No. 17, class Small Craft
6 Producer Pub License, Category B. The applicant is Haiku Town
7 Beer Company LLC doing business as Haiku Town Beer Company
8 applying for a Small Craft Producer Pub License, Category B.

9 The member, manager, agent, and organizer of the
10 member-managed LLC; personal history statements; criminal
11 history statements; and lease agreement are all listed in the
12 investigator's report.

13 The proposed premises is a single-story structure
14 consisting of approximately 1,664 square feet, including an
15 outdoor lanai consumption area located at 824 Kokomo Road,
16 Haiku, Maui, Hawaii.

17 The restrooms are outside of the premises and they
18 are located 25 feet from the premises.

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

21 There is two dispenser general license within a radius of 500
22 feet, that's Nuka's and Colleen's.

23 There are two licenses of this class and kind
24 currently issued within Maui County.

25 Applicant initially plans to be open 7 days a week

1 from 8 a.m. to 2 a.m. the following day for on-premise
2 consumption and 7 days a week from 6 a.m. to 11 p.m. for off-
3 premises consumption.

4 Haiku Town Beer Company LLC doing business as Haiku
5 Town Company Beer Company plans to exercise the rights
6 provided under HRS 281 with regards to Class 18, Small Craft
7 Producer Pub License. This includes producing beer and
8 spirits. The applicant has obtained and submitted a Federal
9 TTB Clearance for beer, the brewer's notice.

10 As of the time of this report the applicant has not
11 submitted a DSP clearance for distilled spirits. The
12 applicant has indicated the intention to produce local craft
13 beer as well as whiskey and vodka.

14 The applicant is aware that they will need to submit
15 a DSP clearance for distilled spirits and receive approval
16 from the liquor commission in order to produce distilled
17 spirits and wine.

18 A site inspection needs to be scheduled for this
19 premises.

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

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

1 the investigator's report.

2 CHAIR ALULI: Thank you, Layne.

3 Erika, do you have anything further to add?

4 MS. DELINE: Not much, just it's going to be a very
5 small craft brewery, a small system and everything, not -- not
6 big scale at all. Just wanted to mention that since, you
7 know, you get to -- a lot more to brew than we are going to on
8 that license, so...

9 CHAIR ALULI: Okay. Thank you.

10 Since this is public testimony, is there any
11 testimony from the gallery at this point?

12 (No Response.)

13 CHAIR ALULI: No. Okay. Commissioners, do you have
14 any questions?

15 COMMISSIONER DE JETLEY: I do.

16 CHAIR ALULI: Yes, Alberta.

17 COMMISSIONER DE JETLEY: I see you -- you're going
18 to be producing distilled spirits, so is any of it going to be
19 from local produce?

20 MS. DELINE: Yes. Hopefully, we are going to be
21 using as much local ingredients as we can, even for the beer
22 as well, including fruits and, you know, all of that.
23 Possibly some grain, if we can find it. It's harder to grow
24 the grain. But starting off, we're not going to be distilling
25 right away, that's in the future plans, so for the first at

1 least whole year it's going to be just beer, so, hopefully, we
2 get to use as much as local for everything as we can, though.

3 COMMISSIONER DE JETLEY: Have you considered maybe
4 doing okolehao?

5 MS. DELINE: I have, yes. No, I've been hearing
6 about that and that would be amazing. I am just learning
7 about that myself, so... We're going to try to go into as
8 much of -- you know, branch out as we can in that craft
9 category 'cause it opens up the doors to get to do some of
10 that fun stuff as well.

11 COMMISSIONER DE JETLEY: That would be nice.

12 MS. DELINE: Yeah.

13 COMMISSIONER DE JETLEY: Thank you.

14 MS. DELINE: You bet. Come by.

15 COMMISSIONER DE JETLEY: I don't drink.

16 MS. DELINE: Oh. Good for you.

17 CHAIR ALULI: Good.

18 MS. DELINE: Yeah.

19 CHAIR ALULI: Thank you, Erika. Any --

20 MS. DELINE: Yes.

21 CHAIR ALULI: Any further discussion?

22 (No Response.)

23 CHAIR ALULI: May I have a -- since there is no
24 further discussion, may I have a motion for approval.

25 COMMISSIONER DE JETLEY: Mr. Chair, I'd like to make

1 a motion to approve this permit.

2 COMMISSIONER BOLOSAN: Second.

3 CHAIR ALULI: All in favor?

4 (Response.)

5 CHAIR ALULI: Any -- I'm sorry.

6 MR. MURAI: Any discussion?

7 CHAIR ALULI: Oh, sorry. Any discussion? Any

8 further discussion?

9 (No Response.)

10 CHAIR ALULI: Okay. It has been moved and seconded.

11 All in favor?

12 (Response.)

13 CHAIR ALULI: It's been approved. And no denials.

14 Thank you very much.

15 MS. DELINE: Thank you so much.

16 DIRECTOR MUKAI: Excuse me, Chair.

17 CHAIR ALULI: Yes.

18 DIRECTOR MUKAI: You know, I just got a note that a

19 white Honda CRV license LHK is parked below this building and

20 is blocking the -- Sandra's car, so if they could move if

21 anyone in the audience have a CRV.

22 CHAIR ALULI: A CRV? No.

23 DIRECTOR MUKAI: A CRV. No?

24 CHAIR ALULI: No.

25 DIRECTOR MUKAI: Okay. Thank you.

1 CHAIR ALULI: Thank you.

2 Okay. Let's move on to the next item, which is Item
3 B, Application No. 18, Hawaiian Sea Spirits LLC.

4 Good morning.

5 MR. SMITH: Good morning, Chair, Commission. Shay
6 Smith, managing member of Hawaii Sea Spirits LLC.

7 CHAIR ALULI: Thank you, Shay.

8 Layne.

9 MR. SILVA: Application No. 18, Small Craft Producer
10 Pub, Category B. Applicant is Hawaii Sea Spirits LLC doing
11 business as Hawaii Sea Spirits LLC applying for a Small Craft
12 Producer Pub License, Category B.

13 Members, managers, agent, and organizer of the
14 limited liability company; personal history statements;
15 criminal history statements; and lease agreement are all
16 listed in the investigator's report.

17 The proposed premises is situated within an area of
18 240,000 square feet which include a wooden structure of 6,000
19 square feet for manufacturing, a wooden structure of 990
20 square feet for tasting, a wooden structure of 994 square feet
21 for retail sales, and a steel structure of 6,000 square feet
22 for storage located at 4051 Omaopio Road, Kula, Maui, Hawaii.

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

25 There are two licenses of this class and kind

1 currently issued within Maui County.

2 Applicant initially plans to be open 7 days a week
3 from 8 a.m. to 2 a.m. the following day for on-premises
4 consumption liquor sales, any hour of the day for manufacture
5 and wholesale, and 6 a.m. to 11 p.m. for off-premises retail
6 sales.

7 Hawaii Sea Spirits LLC doing business as Hawaii Sea
8 Spirits LLC plans to produce distilled spirits including, but
9 not limited to vodka, rum, gin, whiskey, other flavored
10 distilled spirits and low alcohol content products with
11 distilled spirits base.

12 A site inspection was conducted of the proposed on
13 March 15, 2019. The investigator found that the floor plan
14 submitted was inconsistent with the floor plan submitted
15 within the application. The premises is currently undergoing
16 construction.

17 Shay Macdonald Smith and Stephen Brian Graham are
18 both officers of Hawaii Sea Spirits LLC doing business as
19 Hawaii Sea Spirits LLC, License No. 083, Manufacturer Other
20 Liquors, original license issued on August 6, 2013.

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

25 All documents necessary for the issuance of a liquor

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

3 CHAIR ALULI: Thank you, Layne.

4 So you have anything further to add?

5 MR. SMITH: No, sir.

6 CHAIR ALULI: Any -- okay. This is -- I've got one
7 question. Are -- you are Ocean Vodka, I think, aren't you?

8 MR. SMITH: Yes, sir.

9 CHAIR ALULI: Oh, okay. All right. Thank you.

10 Is there any public testimony at this point for or
11 against the applicant?

12 (No Response.)

13 CHAIR ALULI: Any questions by any of the
14 commissioners?

15 COMMISSIONER DE JETLEY: Mr. Chair, yes.

16 Is this an agricultural lot?

17 MR. SMITH: It is. It's an 80-acre agricultural lot
18 and we do ag. processing, so it's actually a farm and
19 distillery combined.

20 COMMISSIONER DE JETLEY: But you're -- on your
21 applicant you say that you plan to be open from 8 a.m. to 2
22 a.m., but if it's an agricultural zone, how do you plan to do
23 that?

24 MR. SMITH: We will not be open until 2 a.m. in the
25 morning, that's just -- that's the parameters of -- of the

1 license.

2 CHAIR ALULI: The parameters, yeah.

3 COMMISSIONER DE JETLEY: Can we make it a condition
4 that they cannot be open until 2 a.m.?

5 CHAIR ALULI: I don't think -- Glenn, I'll turn to
6 you. I don't think we can, right, because it's within the
7 with confines of that particular application, isn't it?

8 COMMISSIONER DE JETLEY: Yes.

9 DIRECTOR MUKAI: Yeah.

10 COMMISSIONER DE JETLEY: Yes, but it's an
11 agricultural lot and although they'll be manufacturing there,
12 when you start running a bar operation, then it becomes a
13 commercial venture, so is it within the county codes for them
14 to be doing this?

15 MR. MURAI: Well, this -- this commission doesn't
16 enforce any other zoning codes.

17 CHAIR ALULI: Right.

18 MR. MURAI: So if -- if there is -- I don't know
19 whether there are limitations placed by any -- by -- you know,
20 that come with being zoned for agriculture.

21 COMMISSIONER YOKOUCHI: In my experience, a lot of
22 agriculture-zoned properties, there are many things which you
23 can do with it, including even having a restaurant on it.

24 COMMISSIONER DE JETLEY: Oh. I can understand the
25 restaurant, but for myself, I would -- I'd like to put a

1 condition that it cannot be open because Omaopio Road is a
2 very, very dangerous road and to have any kind of liquor sales
3 there after midnight would be very dangerous, I would not be
4 able to support it. But I like -- I like the idea of your
5 business and I think --

6 MR. SMITH: We would be open to that same thing.
7 We -- we're not looking to have that sort of an establishment,
8 we're -- you know, we would be open to having like a normal
9 hour, you know --

10 COMMISSIONER DE JETLEY: Yeah. I think --

11 MR. SMITH: -- ten o'clock or something that's more
12 like goes with the county ordinances for sound and noise
13 and -- and the like.

14 COMMISSIONER DE JETLEY: I think that you'd get a
15 lot of customers coming up to see how you produce Ocean Vodka,
16 because it's extremely popular in -- in retail outlets, so I'm
17 in fair of your operation, but --

18 Counsel, can we do that? Can we put that condition
19 on it that they will not have liquor sales after twelve
20 o'clock?

21 MR. MURAI: You can, I mean, if the -- if the
22 commission, if it's supported by a majority of the commission.
23 Of course --

24 MR. SMITH: We will voluntarily do that, that's not
25 a -- that's not an issue whatsoever on our side, so if

1 that's -- that's an amendment on -- on it that we can do, then
2 we'll do it on our side voluntarily, no problem.

3 COMMISSIONER DE JETLEY: So may I make a motion
4 then?

5 CHAIR ALULI: Yes. I --

6 COMMISSIONER DE JETLEY: If there's no -- if nobody
7 has anything --

8 (Multiple speakers.)

9 CHAIR ALULI: You can make a motion for approval
10 with this condition.

11 Is that right, Counsel? We can do that; right?

12 MR. MURAI: Mm-hmm.

13 COMMISSIONER DE JETLEY: I -- I'd like to see if
14 anybody else has any other --

15 MR. MURAI: Well, you've got to make your motion
16 first so you can be -- and it has to be seconded so you can
17 discuss it.

18 CHAIR ALULI: Discuss it, right.

19 COMMISSIONER DE JETLEY: Okay. I move to approve
20 this application by Hawaii Sea Spirits with a condition that
21 they can not have liquor sales after midnight.

22 COMMISSIONER BOLOSAN: Second.

23 CHAIR ALULI: It's been moved and seconded.

24 Let's -- let's have a discussion on it. What further
25 discussion is there at this point? Any whatsoever?

1 COMMISSIONER DE MELLO: I have a question.

2 Glenn, can -- can this be amended under the ruling,
3 like what you just said that because the -- this licensee has
4 already put it -- put in for the license, so can that timing
5 be amended?

6 CHAIR ALULI: Counsel has already advised us that it
7 can, yes.

8 COMMISSIONER DE MELLO: Okay.

9 CHAIR ALULI: So there is a motion on the floor.
10 Okay. Can I have approval of that motion? Or all in favor,
11 say "aye."

12 (Response.)

13 CHAIR ALULI: Any restrictions? No?

14 (No Response.)

15 CHAIR ALULI: Okay. The motion carries. You do
16 have approval with the condition that you close at 12
17 midnight, close by 12 midnight.

18 MR. SMITH: For -- for sales; correct?

19 CHAIR ALULI: Yes.

20 MR. SMITH: Okay. Thank you very much.

21 CHAIR ALULI: Thank you very much.

22 Okay. All right. Let's move on to Item C,
23 Application No. 20, Fond Restaurant Maui LLC.

24 MR. VASQUEZ: Aloha. Good morning, everyone. My
25 name is Lowel Vasquez. I am the chef and owner of Fond

1 Restaurant Maui LLC.

2 CHAIR ALULI: Layne.

3 OFFICER LAYNE SILVA: Application No. 20, Restaurant
4 General, Category B(ii). Applicant is Fond Restaurant Maui
5 LLC doing business as Fond, A Neighborhood Eatery applying for
6 a Restaurant General License, Category B(ii).

7 The manager, member, agent, and organizer of the
8 manager-managed LLC; personal history statements; criminal
9 history statements; and lease are all listed in the
10 investigator's report.

11 The proposed premises consisting of approximately
12 4,599 square feet is located at 5095 Napili Hau Street, Suite
13 115, Lahaina, Maui, Hawaii.

14 There are no schools located within a radius of 500
15 feet.

16 Honolua United Methodist Church is located within a
17 radius of 500 feet.

18 There is no license of the same class and kind
19 located within a radius of 500 feet.

20 And there are 72 licenses of this class and kind
21 currently issued within Maui County.

22 Applicant initially plans to be open 7 days a week
23 from 8 a.m. to 2 a.m.

24 A site inspection was conducted for the proposed
25 premises on March 5, 2019. This investigator found that the

1 floor plan was consistent with what was submitted with the
2 application.

3 Information contained within DLC-006 indicated that
4 Lowel John Vasquez had been convicted for a violation of law
5 other than a minor traffic violation. Results from the
6 criminal history background check revealed that Lowel John
7 Vasquez has been convicted for a violation of law. Lowel John
8 Vasquez has submitted a letter of explanation.

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

12 CHAIR ALULI: Thank you, Layne.

13 Lowel, do you have anything further to add?

14 MR. VASQUEZ: No, sir.

15 CHAIR ALULI: Thank you.

16 Since this is open for the public testimony, is
17 there anybody from the gallery that wants to give testimony at
18 this time?

19 (No Response.)

20 CHAIR ALULI: I'm not seeing any. Comments from
21 the -- or concerns from the commission?

22 (No Response.)

23 CHAIR ALULI: Okay. May I have a motion for
24 approval.

25 VICE CHAIR UMENO: I move to approve Application

1 No. 20.

2 COMMISSIONER DE JETLEY: Second.

3 CHAIR ALULI: Any discussion?

4 (No Response.)

5 CHAIR ALULI: The motion has been approved. Thank
6 you very much.

7 MR. VASQUEZ: Thank you, everyone.

8 COMMISSIONER DE JETLEY: Thank you.

9 CHAIR ALULI: Okay. Isn't this usually where we
10 take a 10-minute break at this point? Okay. So let's take --
11 let's take a 10-minute break.

12 (Pause in Proceedings: 9:24 a.m.-9:37 a.m.)

13 (Commissioner Umeno is not present.)

14 CHAIR ALULI: (Gavel.) I call the commission
15 meeting back into order. We have a sick commissioner,
16 unfortunately, but we have quorum, so we will move forward.

17 Let's move on to Other Licensing Matters, Papa
18 Nicholas Incorporated dba Colleen's.

19 MR. NICHOLAS: Good morning.

20 MS. NICHOLAS: Good morning. I'm Colleen Nicholas,
21 owner of Colleen's. This is my brother.

22 MR. NICHOLAS: I'm Richard Nicholas.

23 CHAIR ALULI: Thank you.

24 Layne.

25 MR. SILVA: A request for modification and extension

1 of licensed premises. The applicant is Papa Nicholas
2 Incorporated doing business as Colleen's, Dispenser General
3 License, Category C(i).

4 The officer, director, and stockholder of the
5 corporation is listed in the investigator's report.

6 The Nature of the Request: The request for approval
7 to extend the existing premises approximately 1,300 square
8 feet in the Hana direction to include the neighboring unit,
9 Unit 103.

10 Licensee requesting approval to modify the existing
11 premises by creating two openings in the existing wall on the
12 Hana side of the licensed premises to connect to Unit 103 as
13 plans submitted.

14 Background Information: The original application
15 for a Dispenser General, Category C(i), which was filed on
16 July 29, 2002 for a premises located at 810 Haiku Road,
17 Building A, Unit 101, Haiku, Maui, Hawaii. The premises
18 consists of approximately 2,200 square feet. Original floor
19 plan is attached.

20 A public -- public hearing for this application took
21 place on November 13, 2002. There were 64 property owners and
22 lessees of record situated within 500 feet of the proposed
23 premises. The department received 4 protests at that time.

24 A lease by and between Haiku Marketplace, LLC, a
25 Hawaii limited liability company, as the landlord and Papa

1 Nicholas, Incorporated, a Hawaii corporation, as the tenant,
2 dated March 25, 2015 indicates that the licensee has the use
3 and exclusive control of the area being requested.

4 Rules and Laws: Section 08-101-46 Reduction or
5 increase in area of referenced premises. The commission may,
6 in its discretion, permit the reduction or the increase in the
7 area of the licensed premises of any licensee without
8 publication of notice at a public hearing; provided that,
9 where an increase in premises may significantly impact the
10 public, the commission may require hearings pursuant to
11 Sections 281-39.5 and 281-57 to 281-60, HRS. The licensee
12 shall be subject to notice requirements of Sections 281-57,
13 -58, and -59, HRS, whenever there is a substantial increase of
14 the licensed premises and there are any owners or lessees of
15 real estate of record or owners of record of shares in a
16 cooperative apartment or individuals on the list of owners as
17 provided by the managing agent or governing body of the
18 shareholders association situated within a distance of 500
19 feet from the nearest point of the premises for which the
20 extension is asked to the nearest point of such real estate or
21 cooperative apartment that were not previously notified.
22 Whenever any reduction or increase is permitted, the same
23 shall be endorsed in some appropriate manner upon the license.

24 Section 08-101-98 Modification of the licensed
25 premises.

1 (a) Modification to the licensed premises other than
2 that -- what was submitted to the commission at the time of
3 application is strictly prohibited.

4 (b) Extension of premises shall not be granted
5 unless such area requested is adjacent to and connected to the
6 licensed premises and meet all governmental requirements.

7 Recommendation: The department is recommending
8 approval of this request with the condition that the licensee
9 submit all necessary clearances from other governmental
10 agencies.

11 CHAIR ALULI: Thank you, Layne.

12 Elizabeth, do you have anything further to add to
13 that?

14 MS. NICHOLAS: Well, we've been open for 22 years
15 and we've had our liquor license for 16 and we haven't had any
16 problems. And it's going to be a little bit more upscale of a
17 place than the existing restaurant and, you know, I don't
18 anticipate any problems. It's an interior space, so I don't
19 think it's going to affect the neighborhood. And that's about
20 it.

21 CHAIR ALULI: Good. Thank you very much.

22 Since this is public testimony, is there anybody in
23 the public that wants to give testimony?

24 I see one stepping forward. Will you please mention
25 your name and you have 3 minutes. Thank you.

1 MS. WRIGHT: Great. Good morning. My name is
2 Sharon Wright. I'm here testifying on behalf of my husband
3 Michael and myself.

4 We are in full support of Papa Nicholas's
5 application. Colleen has been our tenant at our ohana for
6 over 10 years and I kind of want to just give you a little
7 testimony about her character. She is one of the hardest
8 working small business owners that we've ever known. She's
9 honest, sincere, and always displays an immense amount of
10 integrity with her decision making. Excuse me. She's an
11 active owner/manager of the current restaurant and we're
12 continually impressed by her dedication, her care of her
13 employees, and her ongoing management skills.

14 As frequent patrons ourselves to the restaurant,
15 we're very excited about the addition of the current facility.
16 Having these types of dining options in the Haiku Town are a
17 great benefit to all of the residents that live there.

18 We respectfully request your approval of this
19 subject. Thank you.

20 CHAIR ALULI: Thank you.

21 Is there any other testimony?

22 (No Response.)

23 CHAIR ALULI: Seeing none, are there any questions
24 on any of the commissioners' part?

25 (No Response.)

1 CHAIR ALULI: Okay. If not, may I have a motion to
2 approve.

3 COMMISSIONER BOLOSAN: Move to approve.

4 COMMISSIONER DE MELLO: Second.

5 CHAIR ALULI: Any further discussion?

6 (No Response.)

7 CHAIR ALULI: It is moved and second and approved.
8 Thank you very much.

9 MS. NICHOLAS: Thank you.

10 MR. NICHOLAS: Thank you.

11 CHAIR ALULI: Also, excuse me, I just want to add to
12 the record, there were three letters of recommendation in
13 favor of you getting this license, so I just want to make sure
14 that gets put in the record also.

15 Okay. Let's move on to Item B, Nabee, Inc. dba
16 Poni.

17 MS. CALHAU: Good morning.

18 CHAIR ALULI: Good morning.

19 MS. CALHAU: Julie Calhau, owner of Poni.

20 MS. DEL AILES: Hi. Hannah Del Ailes, manager of
21 Poni.

22 CHAIR ALULI: Thank you.

23 Layne.

24 MR. SILVA: Request for a modification and extension
25 of licensed premises. The applicant is Nabee Inc. doing

1 business as PONI, Dispenser General License, Category C(ii)/D.
2 Officer, director, and stockholder of the
3 corporation is listed in the investigator's report.

4 Nature of the Request: Request for approval to
5 extend the existing premises approximately 687 square feet
6 into the Iao direction to include the neighboring unit, Unit
7 109-B.

8 Licensee requesting approval to modify the existing
9 premises by removing the wall on the Iao side of the licensed
10 premises to create an access to Unit 109-B, modify the
11 existing men's room and storage space and to install an
12 additional bar countertop as plans committed.

13 Background Information: Original application for a
14 Dispenser General, Category C(ii)/D, which was filed on June
15 29, 2017, for a premises located at 1063 Lower Main Street,
16 C--108 and C-109A, Wailuku, Maui, Hawaii. The premises
17 consists of approximately 1,225 square feet. Original plan is
18 attached.

19 A public hearing for this application took place on
20 October 11, 2017. There were 526 property owners and lessees
21 of record situated within 500 feet of the proposed premises.
22 The department received 4 protests.

23 There are currently 515 property owners and lessees
24 of record situated within 500 feet of the proposed premises.

25 A lease by and between Puuone Development, a Hawaii

1 limited liability partnership as the lessor and Nabee Inc.
2 doing business as PONI, a Hawaii corporation as the lessee,
3 dated March 25th, 2019, indicates that the licensee has the
4 use and exclusive control of the area being requested.

5 CHAIR ALULI: Okay. Thank you, Layne.

6 Do you have anything further to add?

7 MS. CALHAU: No.

8 CHAIR ALULI: No? Okay.

9 Since this is public testimony, is there anybody in
10 the public that wants to give testimony?

11 (No Response.)

12 CHAIR ALULI: Seeing none, are there any questions
13 by any of the commissioners?

14 (No Response.)

15 CHAIR ALULI: Since there is -- there are no
16 questions, may I have a motion for approval.

17 COMMISSIONER DE MELLO: Motion to approve.

18 COMMISSIONER BOLOSAN: Second.

19 CHAIR ALULI: All in favor.

20 (Response.)

21 CHAIR ALULI: Any discussion? Sorry.

22 Okay. Any denial?

23 (No Response.)

24 CHAIR ALULI: Motion carries. Thank you very much.

25 MS. CALHAU: Thank you.

1 CHAIR ALULI: Okay. Let's move on to Administrative
2 Matters and what I'd like to do here -- we are going to have
3 to go into executive session, but before we do that, let's
4 discuss the two items that can be discussed in open session.

5 Want to turn that over to you, Glenn. That's Item 1
6 and -- or 2 or just -- yeah, 2 and 3 -- or 1 and 3; right? We
7 have to go into executive session for Item 2 and Item 4.

8 DIRECTOR MUKAI: Yeah. On Item A on the
9 Administrative Affairs, Approval of Forms, basically this is
10 for the gross sales report. From 1 to No. 11, what the
11 department is doing is we're removing the name and title of
12 person preparing report and phone number. It's not required
13 by any HRS or rules, so we will eliminate that portion. And
14 we are adding the phone number of the licensee and
15 authorization. And also they must print their full legal name
16 pursuant to Section 0811-30K requires they provide their full
17 legal name. So the department is requesting the commission
18 approve.

19 CHAIR ALULI: Okay. So can I have a motion for
20 approval of these -- these are just the forms; right? These
21 forms here; right?

22 DIRECTOR MUKAI: Yes.

23 CHAIR ALULI: Yeah.

24 COMMISSIONER DE MELLO: Motion to approve.

25 COMMISSIONER YOKOUCHI: Second.

1 CHAIR ALULI: Any discussion?

2 (No Response.)

3 CHAIR ALULI: So all in favor?

4 (Response.)

5 CHAIR ALULI: Any denials?

6 (No Response.)

7 CHAIR ALULI: Okay. Motion's approved.

8 DIRECTOR MUKAI: The Director's Monthly Report, Item
9 B.1, State Legislature. We did provide the commissioners with
10 a list, a liquor legislature watch list. As you can see,
11 slowly, slowly dwindling because the legislature is not taking
12 any action on those bills. But there is one bill, Senate Bill
13 638, which was passed by the senate and the house and sent to
14 the governor. So the governor, in essence, has 10 days to
15 either return it to the legislature; if he doesn't, then what
16 would happen, it would become law with or without his
17 signature. And basically the bill makes it -- makes the
18 manufacture or sale of liquor without a liquor license a Class
19 C felony, before it was a misdemeanor, and also lumps it into
20 the racketeering section of Hawaii Revised Statutes. That's
21 on Item 1.

22 On Item 2, Update on the Intermediate Court of
23 Appeals Decision Regarding Justin Dobbs vs. County of Maui.

24 CHAIR ALULI: Wait, wait. Before you go into it, we
25 have to go into executive session.

1 DIRECTOR MUKAI: Yes, on this one we have to go into
2 executive session.

3 CHAIR ALULI: Okay. So let's -- okay, okay. That
4 and Item 4; right?

5 DIRECTOR MUKAI: Yes.

6 CHAIR ALULI: The Item 3, Preview of County of Maui
7 Violence in the Workplace Action Plan. We don't need to go
8 into executive session on that; right?

9 DIRECTOR MUKAI: No.

10 CHAIR ALULI: Okay.

11 DIRECTOR MUKAI: So Item 3 --

12 CHAIR ALULI: Yeah.

13 DIRECTOR MUKAI: -- if the corporation counsel
14 can...

15 CHAIR ALULI: Gary, do you want to give us any --

16 MR. MURAI: Yeah.

17 CHAIR ALULI: -- input on that?

18 MR. MURAI: Oh, which one? The --

19 CHAIR ALULI: The County of Maui Violence in the
20 Workplace --

21 MR. MURAI: Oh, okay.

22 CHAIR ALULI: -- Action Plan. You got a copy of
23 that --

24 MR. MURAI: Okay.

25 CHAIR ALULI: -- in your packets.

1 MR. MURAI: Why don't I face you guys.

2 CHAIR ALULI: You're what?

3 MR. MURAI: I'm going to sit at the table --

4 CHAIR ALULI: Oh, okay.

5 MR. MURAI: -- and face you guys.

6 CHAIR ALULI: Okay.

7 MR. MURAI: Okay. So I've been asked to make a
8 brief presentation on the County of Maui's Workplace --
9 Violence in the Workplace Action Plan. This is the policy
10 that protects county employees; county officers, which would
11 include board and commission members; elected officials; as
12 well as members of the public. What it does is it prohibits
13 all acts of violence and it defines what they are and they
14 would be what you'd expect: punching, slapping, hitting, all
15 the way up to murder. But surprising -- people are surprised
16 to learn that it also precludes acts that are -- well, it also
17 includes threats, both the actual violence and threats of
18 violence; as well as things like harassment, including sexual
19 harassment.

20 In fact, I think most of our complaints that are
21 processed involve harassment and, you know, we define
22 harassment as, you know, an unwelcome course of conduct that
23 bothers or disturbs and does not serve any useful purpose. So
24 if any employee is subjected to violence, threats of violence,
25 or harassment, they may make a complaint. If a member of the

1 public is subjected to any -- any violation of this policy,
2 they may make a complaint.

3 If a complaint is made, it's usually made to your
4 supervisor; but if it's your supervisor who's the perpetrator,
5 then it would be the person above that, the supervisor,
6 whether it's the department head, deputy director. And if
7 it's the director or deputy director, then the complaint --
8 then -- that's, you know, alleged to have committed the act,
9 then the complaint would go to the managing director's office.

10 Now, so when a -- when the supervisor or above
11 receives a complaint of workplace violence, they have a duty
12 to respond, to act. They need to -- they need to investigate
13 the matter, if appropriate. And another thing is if it's
14 anything that involves any kind of threat or violence, one
15 other requirement is that we call -- we notify the police.
16 Now, of course, we cannot control what the -- what the police
17 does -- or do, but we are obligated to report it.

18 Now, another major feature of the workplace violence
19 action plan is it protects the reporter, the person who
20 complains of violence, from retaliation. So whenever someone
21 gives us a complaint of workplace violence, we tell them that
22 they are protected from retaliation and if they detect any
23 retaliation against them, they must report it. And the person
24 who's doing retaliating, who's committing retaliation, can be
25 disciplined as well.

1 So where does this protect us? Well, it says all
2 work sites and one thing that's unique about the operations
3 of, say, the department of liquor control is our liquor
4 control officers work in the public, they work in restaurants,
5 bars, and liquor-licensed establishments; so the workplace
6 violence action plan controls their behavior and protects them
7 even if they are out in the field.

8 So, you know, obviously the -- the goal of the
9 workplace violence action plan is to provide a safe workplace
10 for -- not only for us as employees and officers -- and as I
11 said earlier, board and commission members are considered
12 officers of the county, so you are protected and you are also
13 prohibited from committing any acts or threats of violence.

14 And, you know, that's about it, you know. The
15 handout you were given is the policy itself. It also contains
16 a complaint form that, you know, that we ask the people to
17 fill out. This is submitted to your supervisor and,
18 ultimately, as I said, it goes to the managing director.

19 Any questions about anything, anything to do with
20 the workplace violence action plan?

21 CHAIR ALULI: Director, any questions? No?
22 Thank you, Gary.

23 COMMISSIONER DE JETLEY: Wait, wait.

24 CHAIR ALULI: Oh, sorry, Alberta.

25 COMMISSIONER DE JETLEY: So this whole thing,

1 harassment thing is so difficult to really understand because
2 as a supervisor, if you tell an employee -- if you do a job
3 valuation and you tell an employee that he's not performing up
4 to the standards that you are expecting, he can immediately
5 turn around and report you for harassment.

6 MR. MURAI: Anyone -- Alberta, here's the beauty
7 about this being the United States of America: Anybody can
8 complain --

9 CHAIR ALULI: About anything.

10 MR. MURAI: -- about anybody else and about any
11 thing. You can complain, but that doesn't mean that it would
12 be, number one, accepted for investigation or even that an
13 investigator would conclude that it is a threat or it is
14 harmful or it is harassment. Remember, now, harassment means
15 that it's something that seriously alarms or disturbs that has
16 no useful purpose. So while, like I said, if you are
17 conducting a review of an employee and that employee says,
18 Because my boss said my performance was substandard, that's
19 harassment; that doesn't necessarily mean that, you know, it
20 would -- it is -- would deemed to be harassment. So we would
21 treat it seriously, we'd assess it, and if appropriate,
22 investigate it; but in my opinion, it'd be highly unlikely
23 that a supervisor who is legitimately counseling their
24 employee how they can be a better employee would be deemed
25 harassed. Now, that's not to say that the employee might not

1 feel like they're harassed, but that doesn't mean it's
2 harassment.

3 COMMISSIONER DE JETLEY: There's no room here for
4 mediation at all?

5 MR. MURAI: Well, it's not --

6 COMMISSIONER DE JETLEY: Outside mediation.

7 MR. MURAI: It's not part of the --

8 COMMISSIONER DE JETLEY: It's not part of --

9 MR. MURAI: -- the action plan, but, you know,
10 generally speaking, in my opinion, mediation is not
11 necessarily -- you know, if it's truly a situation of violence
12 or threats of violence, mediation may not be the best thing.
13 But if the parties agree to mediate, sure, why not? If the
14 county feels that mediation or, you know, some form of
15 counseling might be appropriate, then certainly the -- I've
16 seen the county offer that to employees in the past.

17 CHAIR ALULI: All right. Any other questions?

18 (No Response.)

19 CHAIR ALULI: Okay. Thank you. Gary, thank you.

20 MR. MURAI: Okay.

21 CHAIR ALULI: Glenn, are there any other open or
22 public parts of your monthly report? No? That's it, huh?

23 DIRECTOR MUKAI: No.

24 CHAIR ALULI: Okay. So can I have a motion to go
25 out of public session and we're going to go into executive

1 session? So can I have a motion to come out of public
2 session?

3 COMMISSIONER DE JETLEY: Mr. Chair, I make a motion
4 to go into executive session.

5 COMMISSIONER BOLOSAN: Second.

6 COMMISSIONER DE JETLEY: So moved.

7 CHAIR ALULI: It has been moved and seconded. We're
8 going to go into executive session. (Gavel.)

9 (Pause in Proceedings: 9:59 a.m.-10:23 a.m.)

10 CHAIR ALULI: We're now back into open session.
11 Do we need a motion for that?

12 MR. MURAI: Well, yeah, you could move --

13 CHAIR ALULI: Right.

14 MR. MURAI: Well, no. You can just say we are --
15 regular session is reconvened.

16 CHAIR ALULI: Okay. Regular session is reconvened.
17 Thank you. (Gavel.) So --

18 MR. MURAI: We can just see if there's anyone
19 outside.

20 CHAIR ALULI: Okay. Was that --

21 COMMISSIONER DE JETLEY: Was the coalition going to
22 present --

23 CHAIR ALULI: Yeah. Was he going to make -- was
24 that gentleman -- what's his name, the guy that was here?

25 COMMISSIONER DE JETLEY: He's from the coalition;

1 right?

2 DIRECTOR MUKAI: Yeah, he's from the coalition.

3 MS. TYAU: Yeah, I forgot his name. I only remember
4 Tyrone normally comes, but I don't think he has anything.
5 They usually just sit in to kind of follow along.

6 CHAIR ALULI: Oh, okay.

7 MS. TYAU: But I'll check. Can I let everybody back
8 in then?

9 CHAIR ALULI: Yes. Yeah.

10 MS. TYAU: Okay. You guys can come back in.

11 (Inaudible discussion.)

12 COALITION: I have nothing to present today, by the
13 way. I just wanted to talk to you and congratulate you.

14 CHAIR ALULI: Okay, all right.

15 COALITION: But I'll until we're done.

16 CHAIR ALULI: All right. Thank you.

17 Okay. So are there any further items for
18 discussion, Glenn?

19 DIRECTOR MUKAI: Yes. On Item C, the Liquor Control
20 Adjudication Board. The summary was committed to the
21 commission members --

22 CHAIR ALULI: Okay.

23 DIRECTOR MUKAI: -- on the April 4th, 2019 hearing.

24 CHAIR ALULI: That's in our packet; right?

25 DIRECTOR MUKAI: Yes.

1 CHAIR ALULI: Yeah. Were there any questions on
2 that adjudication summary?

3 (No Response.)

4 CHAIR ALULI: Okay. Not having anything further, I
5 just want to make one other comment and announcement. I just
6 want to welcome Jerrybeth De Mello to the commission.
7 Jerrybeth.

8 COMMISSIONER DE MELLO: Thank you.

9 CHAIR ALULI: Jerrybeth, it's nice -- nice to have
10 you on board.

11 COMMISSIONER DE MELLO: Thank you.

12 CHAIR ALULI: We honor your service. We appreciate
13 that.

14 And with that, I'd like to have a motion to adjourn
15 our commission meeting.

16 COMMISSIONER DE MELLO: So moved.

17 COMMISSIONER DE JETLEY: Second.

18 CHAIR ALULI: All in favor?

19 (Response.)

20 CHAIR ALULI: (Gavel.) Motion carries. Meeting
21 adjourned. Thank you very much, everyone.

22 (The proceedings were adjourned at 10:26 a.m.)
23
24
25

