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LIQUOR CONTROL ADJUDICATION BOARD
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 9:01, on September 5th, 2019.

Reported by: Sandra J. Gran, RPR, CSR 424

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APPEARANCES

BOARD MEMBERS PRESENT:

- Bruce U'u, Chairperson
- Zachary Helm, Vice Chairperson
- Herman Nascimento, Member
- Jason Williams, Member
- Lahela Aiwohi, Member (in at 9:09)
- Allan Almeida, Jr., Member
- Richard Bergson, Member

Staff present:

- Edward Kushi, First Deputy Corporation Counsel
- Gerald Enriques, Deputy Prosecuting Attorney
- Glenn Mukai, Director
- Georgette Tyau, Deputy Director
- Maria Khangsengsing, Secretary to Boards/Commissions

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SEPTEMBER 5TH, 2019; 9:01 A.M.

WAILUKU, MAUI, HAWAII

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CHAIR U'U: (Gavel.) The meeting of the liquor control adjudication board is now called to order. Will the board members and staff please introduce yourselves starting with our commission secretary.

MS. KHANGSENGSING: Maria Kangsengsing, department of liquor control.

MEMBER BERGSON: Richard "Chuck" Bergson, Lahaina.

MR. KUSHI: Ed Kushi, corp counsel.

CHAIR U'U: Bruce U'u, Paia.

VICE CHAIR HELM: Zach Helm, Molokai.

MEMBER NASCIMENTO: Herman Nascimento, Makawao.

MEMBER ALMEIDA: Alan Almeida, Wailuku.

MEMBER WILLIAMS: Jason Williams, Wailuku.

DIRECTOR MUKAI: Glenn Mukai, department of liquor control.

MS. TYAU: Georgette Tyau, department of liquor control.

MR. ENRIQUES: Gerald Enriques, department of the prosecuting attorney.

CHAIR U'U: Just for note, two members will be excused: Candice Ariaga and Gwen Ueoka. And we are awaiting Lahela Aiwohi.

1 We will now here Complaint and Accusation
2 No. 2019-31 against Wai Group LLC doing business as Wai Bar.
3 Thank you for stepping forward. Please state your
4 name and in what capacity you represent the respondent.

5 MR. JORGENSEN: Good morning, Chair U'u, Members of
6 the Board and Staff. My name is Dave Jorgensen, I'm the
7 attorney for respondent Wai Group doing business as Wai Bar.
8 With me this morning is Michelle Halcomb and Amanda Wilson,
9 two members of the members of the LLC. The third member,
10 Johnny Wilson planned to be here, but, unfortunately, their
11 son is very ill this morning, so he -- he stayed away, he's
12 taking care of Frankie, so... Good morning.

13 CHAIR U'U: Good morning.

14 At this time you have the option of having the
15 charges publicly read or you can waive the reading. What is
16 your preference?

17 MR. JORGENSEN: We'll waive the reading.

18 CHAIR U'U: Thank you. So, Mr. Jorgensen, for the
19 record, do you represent the respondent involved?

20 MR. JORGENSEN: Yes, I do.

21 CHAIR U'U: Do you understand the charges against
22 you?

23 MR. JORGENSEN: Yes.

24 CHAIR U'U: What is your plea to each count?

25 MR. JORGENSEN: Pursuant to an agreement with the

1 prosecuting attorney and the department, Counts 4 and 6 have
2 been dismissed, and I will defer to the prosecutor to confirm
3 that, but as to Count 1, Count 2, Count 3, and Count 5, my
4 client pleads no contest.

5 MR. ENRIQUES: That's correct. We've agreed to
6 dismiss Counts 4 and 6 in exchange for a no contest plea to
7 Counts 1, 2, 3, 5 along with a fine amount agreement.

8 CHAIR U'U: Okay. So does the board understand what
9 we're doing, what's happening? The counts -- just for the
10 record, so Counts 4 and 6 is dismissed and now Counts 1, 2, 3,
11 and 4 is pleading no contest.

12 MR. JORGENSEN: Five.

13 CHAIR U'U: And 5.

14 MR. JORGENSEN: Not 4.

15 CHAIR U'U: Just checking if you guys paying
16 attention, just getting it on record.

17 MEMBER WILLIAMS: Counsel --
18 Mr. Chair.

19 CHAIR U'U: Yes.

20 MEMBER WILLIAMS: So this is a plea agreement as far
21 as the fines too?

22 MR. ENRIQUES: Yes.

23 MR. JORGENSEN: No. My understand is it's a
24 recommendation --

25 CHAIR U'U: A recommendation, correct.

1 MR. JORGENSEN: -- from the prosecutor to the board.

2 CHAIR U'U: Ed, any clarification? Do you have
3 anything to add?

4 MR. KUSHI: No.

5 CHAIR U'U: Okay. Do you understand the violations
6 the department of the liquor control alleges against you?

7 MR. JORGENSEN: Yes, sir.

8 CHAIR U'U: Do you understand that you have the
9 right to plead not guilty?

10 MR. JORGENSEN: Yes, sir.

11 CHAIR U'U: Do you understand that by pleading no
12 contest, you waive the right to a hearing in which you could
13 present evidence and question witnesses on your behalf?

14 MR. JORGENSEN: Yes, sir.

15 CHAIR U'U: Is your plea of no contest voluntary and
16 not the result of force, threats, or of promises apart from
17 any plea agreement?

18 MR. JORGENSEN: Yes, sir.

19 CHAIR U'U: Do you understand that on each count, if
20 the board accepts your plea of no contest, you'll be found
21 guilty and that the board may issue a reprimand or assess and
22 collect a penalty of up to \$2,000 or revoke any license at any
23 time or suspend the right of the licensee to use the
24 licensee's license?

25 MR. JORGENSEN: Yes, sir, we do.

1 CHAIR U'U: Do you wish -- do you still wish to
2 plead no contest?

3 MR. JORGENSEN: Yes, sir.

4 CHAIR U'U: The board hereby finds that the licensee
5 has entered a knowing and voluntary plea of no contest. The
6 board accepts your plea and finds you guilty of Counts, 1, 2,
7 3, and 5 reflected in Complaint and Accusation No. 2019-31.

8 Will the department present a summary of the case.

9 MR. ENRIQUES: I'm sorry. Just a quick
10 clarification, is it 2019-31 complaint number or is it
11 2018-31?

12 MR. JORGENSEN: 2018. 2018-31.

13 CHAIR U'U: I have --

14 MEMBER WILLIAMS: We have 2019-31.

15 CHAIR U'U: We have 2019-31 and I do have my glasses
16 on this time, so you tell me, my friend.

17 MR. ENRIQUES: I believe it's 2018-31.

18 MEMBER ALMEIDA: It's on the agenda. Because the
19 case happened in 2018; correct?

20 MR. ENRIQUES: Yes.

21 MR. JORGENSEN: Yes.

22 MEMBER ALMEIDA: Okay. So it's not '19.

23 MEMBER WILLIAMS: So this is wrong.

24 CHAIR U'U: Okay.

25 MEMBER ALMEIDA: So are we just gonna cross it out

1 at this point?

2 CHAIR U'U: Well, move --

3 VICE CHAIR HELM: Amend it.

4 MR. KUSHI: Yeah. I think you should make a motion
5 to amend.

6 CHAIR U'U: Make a motion to amend the motion.

7 MEMBER ALMEIDA: Amend the agenda.

8 MEMBER WILLIAMS: Motion.

9 MEMBER HELM: I second.

10 CHAIR U'U: So we have a motion to amend the agenda
11 from 2019-31 to 2018-31.

12 MEMBER WILLIAMS: Yeah.

13 CHAIR U'U: The motion was made by Jason, seconded
14 by Zach. Any discussion?

15 (No response.)

16 CHAIR U'U: Hearing none, I call for the vote. All
17 those in favor, say "aye."

18 (Response.)

19 CHAIR U'U: All those opposed?

20 (No response.)

21 CHAIR U'U: Motion carries.

22 MR. KUSHI: Mr. Jorgensen, do you have any problems
23 with that?

24 MR. JORGENSEN: None at all, sir.

25 MR. ENRIQUES: As far as the factual basis goes, on

1 or about May 25th, 2018 at approximately 11:33 p.m. officers
2 from the Maui Police Department requested the assistance of
3 the department of liquor control enforcement office at the
4 premises of Wai Bar located at 45 North Market Street, Unit D
5 in Wailuku in response to a disorderly conduct/assault-type
6 incident.

7 At approximately 11:44 p.m. Liquor Control Officer
8 Cullen Kawano and Liquor Control Trainees Salika Khangsengsing
9 and Marc Velasquez arrived at the premises. LCO Kawano
10 described the area as "chaotic," observing multiple police
11 officers on scene with many individuals leaving the area or
12 waiting in line to enter the premises.

13 Maui Police -- Maui Police Officer Janae Balag
14 informed LCO Kawano that the assault situation was being
15 handled, but the Wai Bar premises appeared to be well over its
16 occupational capacity. Officer Balag explained that she
17 contacted the fire chief and was informed that the maximum
18 capacity was 49.

19 Upon entering the premises and attempting to
20 navigate towards the back of the establishment, LCO Kawano and
21 Trainees Khangsengsing and Velasquez found that the large
22 amount of patrons inside made it considerably difficult to
23 navigate or walk. As he made his way through the crowd, LCO
24 Kawano counted over 70 (seven zero) patrons within the
25 premises, while Trainee Velasquez observed eight employees who

1 appeared to be on duty at the time. LCO Kawano did not
2 observe any clear aisles or walkways within the premises, and
3 further observed the lack of aisles or walkways forced both
4 patrons and employees to use the dance floor area to and from
5 the bar with drinks in hand. He also observed several patrons
6 consuming what appeared to be liquor-based drinks on the dance
7 floor. In the meantime, Trainee Velasquez noticed a sign on
8 the wall next to bar stating that the maximum occupational
9 capacity of the premises was 47 persons.

10 (Member Aiwohi entered the room.)

11 MR. ENRIQUES: LCO Kawano observed that the majority
12 of the tables inside the premises had a considerable --
13 considerable amount of drinks in different states of
14 consumption, with so many drinks visible that he was unable to
15 accurately count them. He further observed that the patrons
16 were still being served drinks without the previous drink
17 containers being cleared from the table, and that employees
18 did not begin clearing drinks from the tables until well after
19 he had arrived.

20 They also observed two patrons begin dancing on the
21 stairs leading to the storage room and did not observe any
22 attempts by employees to limit the dancing to the marked dance
23 floor.

24 CHAIR U'U: Thank you.

25 At this time any questions, any questions from the

1 board?

2 MEMBER WILLIAMS: I have a question. The 49 people,
3 that's inside and outside, the outside area now, or only is
4 that only inside.

5 MR. ENRIQUES: The capacity?

6 MEMBER WILLIAMS: Yeah.

7 MR. ENRIQUES: I believe it's inside. I'm not a
8 hundred percent sure about that, though.

9 MEMBER WILLIAMS: And so with the addition of the
10 outside, does that increase the occupancy or --

11 MR. ENRIQUES: The occupancy --

12 MEMBER WILLIAMS: Or with the additional outside
13 area now, are they able to have more people because of the
14 outside, the back area, you know, that -- that was converted?
15 Is that --

16 MR. ENRIQUES: I'm not -- I'm not personally
17 familiar with these particular premises, I'm looking solely on
18 what the report said as far as what they observed inside the
19 establishment. And I don't recall if -- I don't recall there
20 being any activity outside --

21 MEMBER WILLIAMS: Gotcha.

22 MR. ENRIQUES: -- in those areas, but I -- I can't
23 speak to that.

24 MEMBER WILLIAMS: Sure. Okay. Thank you.

25 MR. KUSHI: Mr. Chair, for clarification, I

1 believe -- this happened in 2018, I believe they applied for
2 an extension and now they have outside areas.

3 MEMBER WILLIAMS: Oh, okay.

4 MR. KUSHI: But at that time only -- you could only
5 drink inside.

6 MEMBER WILLIAMS: Gotcha.

7 MR. JORGENSEN: Yeah. The capacity is approximately
8 80 now with the -- the outdoor area, but on May 25th, 2018,
9 the outdoor area had not yet been approved.

10 MEMBER WILLIAMS: Gotcha.

11 MR. JORGENSEN: It was an ongoing and -- I can talk
12 a little bit more about the capacity, but that's what you
13 asked.

14 CHAIR U'U: One second. Any more questions by any
15 board member?

16 MEMBER ALMEIDA: I have one.

17 CHAIR U'U: Go ahead.

18 MEMBER ALMEIDA: Who manages who's entering and
19 exiting, physically counting?

20 MR. JORGENSEN: Oh, there's security and people at
21 the door.

22 MEMBER ALMEIDA: And they're physically counting?

23 MR. JORGENSEN: Yes.

24 MEMBER ALMEIDA: Can a manager go up to those
25 security officers and say, Hey, how many people do we have in

1 the bar?

2 MR. JORGENSEN: Yes.

3 MEMBER ALMEIDA: And they can get an accurate
4 reading?

5 MR. JORGENSEN: Yes. I mean, people -- because of
6 the back area, the bathrooms in the back, at any one time the
7 number of people in the bar may be different than the count,
8 because some people may have gone to the restroom now with the
9 back area. But people coming into -- and that's the only
10 controlled access, that's the entrance access, then yes.

11 MEMBER ALMEIDA: And one person counting. Okay.
12 Thank you.

13 CHAIR U'U: Okay. Mr. Jorgensen, you now have the
14 opportunity to make a statement regarding this case. You may
15 also inform the board of any mitigating circumstances which
16 may or may not apply to sentencing.

17 MR. JORGENSEN: Thank you. Again, the question
18 Mr. Williams asked was -- is very relevant as far as the
19 history and the efforts of my clients with the premises.
20 It's, you know, one of the only places to go in Wailuku, so
21 there are times when there's more people wanting to get in
22 than we can -- than can be handled. The back area, the open
23 area, the lanai is part of the leased premises, but it was not
24 part of the licensed premises for some time due to county
25 permitting issues and approvals. Even the capacity as it had

1 been set was lower than would normally be set because of the
2 back -- you know, there's two entrances, but because of the
3 situation in the back, only the front was considered. So my
4 clients, particularly Ms. Halcomb, were working for months to
5 get that resolved.

6 But on the issues that were presented by
7 Mr. Prosecutor, there -- there have been problems that my
8 client has been working on. The dancing outside the dance
9 area is an issue that I know the board has heard before, the
10 liquor commission has heard before. Sometimes it's hard, you
11 know, if people are going up the stairs to go to the restroom
12 and they're dancing on the way up the stairs, sometimes it's
13 just -- it's hard to have enough time to go make somebody stop
14 dancing.

15 But from the beginning, security has been amped up,
16 ramped up, you know, as necessary. As it has become obvious
17 and necessary to have more security personnel, they've hired
18 more security. The crew that's there right now, several -- a
19 few of them have been in there a long time and, as I said,
20 people were added as necessary.

21 The capacity issue, the capacity is approximately 80
22 now including the back area. So if the inside area is full,
23 you know, people are either shuttled to the back or they
24 naturally go in the back because it's fresh air and it's a
25 nice area back there.

1 As far as the glasses, again, it's an ongoing
2 process where, you know, everybody -- all the employees are
3 trained to clear if they go by a table and there's empty
4 glasses or people are gone, clear the glasses, grab the
5 glasses, take them. Sometimes the table has glasses on it
6 that are half full, but there's nobody there, then it turns
7 out they went out front to smoke a cigarette and there's been
8 times when, you know, you cleared -- the glasses were there by
9 themselves and nobody at the table, you clear them away and
10 people come back looking for their glasses and you've gotta
11 give them another glass of beer because you took their beer.

12 So it's an ongoing process, but my client is working
13 hard to make sure that all the rules are followed. The
14 dancing outside the dance area is just something we just have
15 to stay on. Dancing inside the dance area with a glass in
16 their hand, that's -- you know, that's not acceptable and
17 it's -- as soon as it's seen, people are stopped from doing
18 that.

19 So, you know, my client is -- has made a lot of
20 efforts to improve all these situations. There are things
21 that -- you know, obviously these are four of the rules,
22 there's a lot of rules and they're doing -- I would submit,
23 doing pretty darn good in complying with -- with all the
24 rules, but some of these things have in the past slipped
25 through the cracks and they're hopeful and optimistic and

1 confident that they can keep them from happening in the
2 future.

3 So myself, Ms. Halcomb, and Ms. Wilson are all --
4 are all available for any questions you might have.

5 CHAIR U'U: Any questions by the board?

6 MEMBER WILLIAMS: I had a question. I know the
7 dance floor area and the -- the taped area and -- and the
8 individuals served food, you know, it's going to (inaudible)
9 wait staff and, of course, bartenders who go around. When
10 people are dancing and the -- and they're right next to the
11 bar, where do they put their glasses while they're dancing?
12 Because -- you know, 'cause -- because I know if someone's
13 there and they want to dance and, you know, your -- your
14 bouncer came by said, Hey, you can't be on the dance floor
15 with that, and then they put it down on the side next to
16 somebody else where there's a glass, hey, how are you guys
17 dealing with that?

18 MR. JORGENSEN: Well, there's -- there's a shelf
19 against the wall, the Kihei side wall, there's -- they can put
20 them on the bar. They cannot put them on the stage --

21 MEMBER WILLIAMS: Right.

22 MR. JORGENSEN: -- so it's -- it's complicated. I
23 mean, sometimes the bouncer will take the drink from the
24 patron and put it on the counter, the service counter or the
25 bar. There's things that are a concern that we don't want a

1 customer's drink on the service bar area, but better there
2 than in their hand on the dance floor. So, you know, they're
3 asked to -- they're told they can't have the drink. If they
4 don't leave the dance floor with the drink, then they have to
5 put the drink down somewhere, on the nearest table, on
6 somebody else's table, on the bar, or on that -- on that
7 shelf.

8 MEMBER WILLIAMS: Okay.

9 MEMBER ALMEIDA: So pretty much they're policing
10 themselves, then, the customers?

11 MR. JORGENSEN: No.

12 MEMBER AIWOHI: No.

13 (Multiple speakers.)

14 MEMBER ALMEIDA: -- putting it down?

15 MEMBER AIWOHI: No.

16 MR. JORGENSEN: No.

17 MEMBER AIWOHI: Sorry.

18 MEMBER ALMEIDA: If I'm gonna go up and dance --

19 (Multiple speakers.)

20 MR. KUSHI: One at a time.

21 MEMBER ALMEIDA: I'm sorry. Go ahead.

22 MR. JORGENSEN: If you're on -- if you're on the
23 dance floor with a drink, somebody from the bar will come up
24 and say, Sorry, you can't dance with a drink in your hand.

25 MEMBER ALMEIDA: Okay.

1 MR. JORGENSEN: And they ask you to go put it
2 somewhere.

3 MEMBER ALMEIDA: Okay.

4 MR. JORGENSEN: Or we're gonna take it from you,
5 but, you know, we don't want that confrontation, so --

6 MEMBER ALMEIDA: Right.

7 MR. JORGENSEN: -- they'll be asked to leave the
8 dance floor or go put the drink down somewhere.

9 MEMBER ALMEIDA: Okay.

10 MR. JORGENSEN: And there's been times when they
11 have turned and put it on the stage, but you can't have it,
12 you know, you can't have a drink on the stage, so they'll be
13 told to put it somewhere else. But the customers are not
14 self-enforcing, I mean, we're enforcing, telling them they
15 can't do it, but as far as solving the problem, yes, we prefer
16 the customer go put their drink, you know, back at their table
17 would be good.

18 MEMBER ALMEIDA: Right. So there's a security
19 officer stationed there at the dance floor monitoring all --

20 MR. JORGENSEN: Usually -- somebody's usually
21 standing up -- there's stairs in the corner that go to the ice
22 room.

23 MEMBER ALMEIDA: Oh, okay.

24 MR. JORGENSEN: There's somebody usually standing up
25 there in addition to other places. And the -- the security,

1 bouncers, doormen, or whatever, they, you know, walk back and
2 forth periodically --

3 MEMBER ALMEIDA: So --

4 MR. JORGENSEN: -- to keep the aisles clear as best
5 we can and to monitor for -- you know, for glasses and to
6 check IDs.

7 MEMBER ALMEIDA: Thank you.

8 CHAIR U'U: Any other questions?

9 VICE CHAIR HELM: Yes, Chair.

10 David, so is your -- your waitresses or waiters are
11 trained to inform the customers when they are purchasing
12 liquor not to take the liquor on the dance floor when -- when
13 there's music? I mean, I'm just saying that because you have
14 the bouncer, you have the security, so they are pretty much
15 the ones to tell the person that has got the liquor --

16 MR. JORGENSEN: Yeah.

17 VICE CHAIR HELM: -- while dancing, but what about
18 your -- your waitress and waiters?

19 MR. JORGENSEN: Well, two things -- and that's a --
20 that's a good question, but it -- honestly, right now -- and
21 they can -- my clients will consider it. When a waitress
22 brings drinks to the table, right now, honestly, they don't
23 say, And by the way, don't go on the dance floor with this
24 drink, but they are trained to not let people be on the dance
25 floor with a drink. I mean, it's just -- for the customer

1 experience, they don't go up and say, Okay, you know, you
2 can't go in the rest -- you know, here's your drink, but you
3 can't go in the bathroom with the drink, you can't go on the
4 dance floor, you know. That doesn't happen, but they are
5 trained, all the staff is trained to prevent people from going
6 on the dance floor with drinks. And if they see somebody
7 there, they go and -- they go address that.

8 MEMBER WILLIAMS: Is there any signage? Is there
9 any signage that says, you know, no -- no alcohol on the dance
10 floor, no alcohol on the stage?

11 MR. JORGENSEN: That I don't know.
12 Is there?

13 MS. HALCOMB: We do have a sign on the stage that
14 says no drinks on the dance floor. We don't have a sign that
15 posts all of the rules, though. We could --

16 MEMBER WILLIAMS: Well -- okay. But not all the
17 rules, but really the violations are more about -- you know,
18 really the things that are being violated, those are the ones
19 you want to post.

20 MR. JORGENSEN: And I -- I apologize for not being
21 aware, but apparently there is a sign on the -- on the stage
22 saying no drinks. And the stage is right fronting the dance
23 floor.

24 MS. HALCOMB: We also the DJ to announce it a couple
25 times during the night, because it's -- it is hard to

1 communicate that to everybody at all times.

2 CHAIR U'U: Any more questions by the board?

3 I have a question. So you do have someone stationed
4 in the front as to monitor people going in?

5 MR. JORGENSEN: In and -- in and out, but in, yes.

6 CHAIR U'U: In and out, so -- and the capacity is at
7 47?

8 MR. JORGENSEN: No.

9 MEMBER WILLIAMS: 49.

10 MR. JORGENSEN: The capacity is approximately 80
11 now.

12 CHAIR U'U: Eighty now, but at the time --

13 MR. JORGENSEN: Because of the back area and other
14 things that have been done, the total capacity for the
15 premises is 80.

16 CHAIR U'U: Okay. The total capacity for the
17 premises is 80, so --

18 MR. KUSHI: But not -- not in 2018.

19 MEMBER WILLIAMS: Not at the time.

20 MR. JORGENSEN: No. Well, you -- I'm sorry. You
21 asked do we have.

22 CHAIR U'U: Okay.

23 MR. JORGENSEN: At this time we did have somebody at
24 the door monitoring.

25 CHAIR U'U: Okay.

1 MR. JORGENSEN: But the capacity at that time was
2 47.

3 CHAIR U'U: Okay. And when they say all liquor
4 consumption is on service areas on the -- for the dancing --
5 so there is a sign that's saying no liquor permitted on the
6 dancing floor right now?

7 MR. JORGENSEN: Yes.

8 CHAIR U'U: So the permitted dancing areas in not
9 designated, that was on the stairs, is that --

10 MR. ENRIQUES: It was -- that wasn't a permitted
11 dancing area, is my understanding.

12 CHAIR U'U: Okay.

13 MR. JORGENSEN: You mean the violation?

14 CHAIR U'U: The violation.

15 MR. JORGENSEN: My understanding is that was -- the
16 violation for dancing outside the permitted area was for
17 people dancing on the stairs that were observed. As they were
18 going up the stairs, they were -- they were dancing.

19 CHAIR U'U: Okay. So just -- so I've been there
20 twice, that stairs, what steps are we talking about? Is the
21 steps in the back as you exit out to go to the restroom?

22 MR. JORGENSEN: That's --

23 MR. ENRIQUES: I believe it was in the back.

24 MR. JORGENSEN: That is my understanding, the stairs
25 going up to the bathroom. The other stairs go up to the ice

1 room and there's -- you know, try to discourage people from
2 being --

3 CHAIR U'U: I'm saying there's one when you enter,
4 there's a step when you enter the bar; correct?

5 MEMBER NASCIMENTO: One step off the sidewalk.

6 MR. JORGENSEN: It's more of a ramp.

7 CHAIR U'U: A ramp. And then you've got one that
8 goes up to the dance floor?

9 MEMBER ALMEIDA: To the left of the stage.

10 CHAIR U'U: To the left of the stage.

11 MEMBER WILLIAMS: There's one outside the restrooms,
12 the restrooms area.

13 MR. JORGENSEN: There's maybe six --

14 MEMBER AIWOHI: Oh, yeah.

15 MR. JORGENSEN: -- eight steps up to the bathrooms.

16 MEMBER WILLIAMS: Yeah, right.

17 CHAIR U'U: Okay.

18 MEMBER WILLIAMS: And those are the only real steps
19 that they would stand on. The other ones go to the ice room
20 and in front is a ramp.

21 CHAIR U'U: Yeah. I'm just trying to fully envision
22 how people dance on that steps area.

23 MR. JORGENSEN: That was more -- and, again, this is
24 the issue that the department and the commission and board
25 have been dealing with for a long time, what constitutes

1 dancing.

2 CHAIR U'U: Yeah.

3 MR. JORGENSEN: But if somebody's going up the
4 stairs and kind of bopping, that's considered dancing.

5 CHAIR U'U: I just was curious, that's why I was
6 asking that.

7 MR. JORGENSEN: Yeah, so -- but that's -- people are
8 not allowed to stand on the stairs and have a drink and dance
9 or whatever. I mean, the stairs are to go up and out the back
10 area or to the bathrooms and come back down.

11 CHAIR U'U: And is the stairs a permitted place to
12 have a drink or it's not? It's within the designated area, is
13 what I'm asking.

14 MR. JORGENSEN: Currently it's part of the
15 consumption area -- well, I guess I'd let the department
16 answer that. My understanding is now because the back area
17 and the inside area are both consumption areas, that the
18 stairs -- you can walk up the stairs with a drink in your hand
19 and go to the back area.

20 CHAIR U'U: Okay.

21 MR. JORGENSEN: But --

22 MEMBER ALMEIDA: You've gotta keep moving.

23 MR. JORGENSEN: You've got to keep moving, right.

24 MEMBER WILLIAMS: And -- but back then, if the
25 fellow was walking to the door, but not out the door, that

1 still --

2 MR. JORGENSEN: There was a sign at that time?

3 MEMBER WILLIAMS: Is that still an area they can
4 have a drink?

5 MR. JORGENSEN: Pardon me.

6 MEMBER WILLIAMS: Going -- if someone's going up the
7 stairs, but not outside, is that still an area that they can
8 drink?

9 MR. JORGENSEN: At that time the stairs were a
10 consumption area, but they had to lose their beer at the --

11 MEMBER WILLIAMS: Right.

12 MR. JORGENSEN: -- door and then --

13 MEMBER WILLIAMS: Right.

14 MR. JORGENSEN: -- there's nowhere to put it up
15 there, so, you know.

16 MEMBER WILLIAMS: Right.

17 MR. JORGENSEN: They would have to go back down and
18 put the drink down and then go back to the bathroom.

19 MEMBER WILLIAMS: Right.

20 CHAIR U'U: Yeah.

21 VICE CHAIR HELM: David, how many customers can that
22 back area hold?

23 MR. JORGENSEN: Forty-nine.

24 VICE CHAIR HELM: How far is it from that back area
25 to the dance floor?

1 MR. JORGENSEN: Oh, about 20 feet, 30 feet.

2 VICE CHAIR HELM: Okay. So you don't have problems
3 people dancing between the dance floor and the back area,
4 yeah?

5 MR. JORGENSEN: Well, I mean -- no, we don't, but
6 that's kind of -- somebody dancing as they're going up the
7 stairs is something hard to -- you know, hard to prevent and
8 depending where the security is to say, Hey, stop, stop
9 dancing while you're walking. But that doesn't really happen
10 that often that people are, you know, dancing and twirling,
11 although there are some people that insist on doing that.

12 CHAIR U'U: Any more questions?

13 MR. KUSHI: Mr. Chair, a couple, if I may. I'm not
14 sure for the department or the --

15 The maximum capacity for any kind of premises,
16 that's set by the fire department; right?

17 MR. JORGENSEN: Yes.

18 MR. KUSHI: Okay. So in this case, you know, it's
19 like 47 or -- or let's say 40 and they had 80 people there,
20 just that fact alone, is that a violation of the liquor rules
21 or is it a violation of the fire code?

22 MR. ENRIQUES: I believe the fire code. I think in
23 this -- the ones that was charged here was specifically the
24 failure to maintain the walkways, clear walkways.

25 MR. KUSHI: Okay. Another question is like drinking

1 liquor on a dance floor, the department -- the liquor
2 commission just passed a new rule saying that if the dance
3 floor is not being used as a dance floor, then you can.

4 MEMBER ALMEIDA: Consumption.

5 MR. KUSHI: For future reference.

6 CHAIR U'U: Any other -- thank you, by the way.

7 Any other questions?

8 MR. JORGENSEN: Part of the problem with that, if I
9 may, is that -- and then that's -- that's correct and that is
10 welcome news to all the licensees. The problem is somebody is
11 there just having a conversation and drinking a beer and
12 there's background music, DJ, whatever, somebody comes up out
13 of the blue and starts dancing, all of a sudden you're in
14 violation, so it's still a --

15 MR. KUSHI: That's still being used as dance floor,
16 that's why. But if you cut off the music, then --

17 MR. JORGENSEN: That's right. If there's no
18 music --

19 MR. KUSHI: Unless in your head you're --

20 (Laughter.)

21 (Multiple speakers.)

22 CHAIR U'U: Any other questions? Any --

23 MR. JORGENSEN: No. Again, if the board has any
24 other questions, we're available, but that's -- that's all we
25 have for now.

1 CHAIR U'U: One last question: It seemed like a
2 busy night, what was the occasion there? Was it a First
3 Friday?

4 MR. JORGENSEN: It wouldn't have been First Friday,
5 it's the end of the month.

6 CHAIR U'U: End of the month.

7 MR. JORGENSEN: May 25th.

8 MEMBER AIWOHI: Last day of school.

9 (Multiple speakers.)

10 MEMBER WILLIAMS: Graduation.

11 MR. JORGENSEN: Or it might've been --

12 MEMBER AIWOHI: Yeah, all the graduations.

13 MR. JORGENSEN: No. It might've been after Art Mix
14 at the MACC.

15 MEMBER AIWOHI: Aaah.

16 MR. JORGENSEN: And just on that point, 'cause
17 this -- this came up, it was a sore point with -- not the
18 MACC, but the Art Mix people. You know, there's times when
19 people -- if my client schedules an event, then they schedule
20 extra workers, they -- you know, they take -- they make
21 preparations. There's times when people like Art Mix will
22 say, Oh, after party at Wai Bar, and don't tell anybody. And
23 so the bar still has its capacity, you know, people show up,
24 but then they're irate because they were told there's an after
25 party and they can't get in, but -- you know, it puts the bar

1 in a difficult spot. But my understanding and my client
2 refreshed my recollection that it -- that was, I believe, an
3 Art Mix night where after -- this was 11:30, around 1130, and
4 Art Mix ends like 10:00, 10:30, so that's why there was more
5 people in there than normal.

6 CHAIR U'U: Any questions? Anybody else?

7 (No response.)

8 CHAIR U'U: Seeing none, at this time we'll take the
9 director's argument as to a penalty.

10 MR. ENRIQUES: The original license for this
11 licensee was issued back in September 2017. There were five
12 prior violations stemming from a single incident in February
13 2018, with four of those violations being identical to what
14 they were cited for in this incident; however, the plea
15 agreement in this matter was drafted to take into account
16 those violations and fine amounts as well as to provide a
17 second warning to the licensee to take appropriate measures to
18 avoid similar violations in the future. I'm not aware of any
19 currently pending cases involving similar violations and,
20 notably, this occurred I think back in -- was it March 2018?

21 MR. JORGENSEN: May.

22 MR. ENRIQUES: Excuse me. May 2018. So in light of
23 that, we're recommending the following:

24 For Count 1, a \$1,000 fine with \$250 suspended for
25 one year on the condition that another violation does not

1 occur within that year.

2 Count 2, a \$500 fine with \$350 suspended for one
3 year on the condition that another violation does not occur
4 within that year.

5 Count 3, a \$500 fine with \$350 suspended for one
6 year on the condition that another violation does not occur
7 within that year.

8 And for Count 5, a \$500 fine with \$300 suspended for
9 one year on the condition that another violation does not
10 occur within that year.

11 CHAIR U'U: Okay. So just for clarity: Count 1, a
12 \$1,000 fine with \$200 -- \$250 suspended.

13 Clarity with the board: Five -- Count 2, \$500 fine
14 with \$350 suspended.

15 Count 3, a \$500 fine with 350 being suspended.

16 And Count 5 at \$500 fine and \$300 being suspended.

17 Is that correct?

18 MR. ENRIQUES: That's correct.

19 CHAIR U'U: Any questions from the board?

20 MEMBER WILLIAMS: Quick question. And both sides
21 agreed to this?

22 MR. ENRIQUES: Yeah.

23 MR. JORGENSEN: Yes.

24 CHAIR U'U: The board will take this matter into
25 consideration. I would entertain a motion to go into

1 deliberations.

2 MEMBER WILLIAMS: Move.

3 CHAIR U'U: We have a motion.

4 MEMBER AIWOHI: Second.

5 CHAIR U'U: Second. Discussion?

6 (No response.)

7 CHAIR U'U: Hearing none, call for the vote. All
8 those in favor?

9 (Response.)

10 CHAIR U'U: (Gavel.)

11 (Pause in Proceedings: 9:31 a.m.-10:03 a.m.)

12 CHAIR U'U: (Gavel.) The board is back, is now back
13 in open session. After our deliberation, careful
14 deliberation, I will read you the fines.

15 On Count 1, the fine is a \$1,000 fine with \$500 of
16 that being suspended provided there is conviction for the same
17 offense for a period of one year.

18 Count 2, a fine of \$500 with \$350 being suspended,
19 again, providing there is conviction for the same offense for
20 a period of one year.

21 MR. JORGENSEN: 350?

22 CHAIR U'U: 350, yeah.

23 MR. JORGENSEN: Thank you.

24 CHAIR U'U: \$500 fine with \$350 of that --

25 MR. JORGENSEN: Yeah.

1 CHAIR U'U: -- being suspended, Count 2.

2 Count 3, \$500 fine with \$350 being suspended
3 providing there is conviction for the same offense for a
4 period of one year.

5 And Count 5, a \$500 fine with \$500 of that being
6 suspended providing there is conviction for the same offense
7 for a period of one year.

8 Anybody have any questions?

9 MR. JORGENSEN: No.

10 CHAIR U'U: Seeing none, the department will notify
11 you when payment is due. Thank you for your time.

12 MR. JORGENSEN: Thank you very much.

13 MS. HALCOMB: Thank you so much.

14 MS. WILSON: Thank you. Appreciate it.

15 CHAIR U'U: Anything else for the board?

16 DIRECTOR MUKAI: Just a reminder, the new rules are
17 in front of you, that's your take-home copy. It is effective
18 August.

19 MEMBER WILLIAMS: And the website is easier to read.

20 CHAIR U'U: Do I have a motion to adjourn?

21 VICE CHAIR HELM: So moved.

22 CHAIR U'U: Second?

23 MEMBER ALMEIDA: Second.

24 CHAIR U'U: All those in favor, say "aye."

25 (Response.)

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CHAIR U'U: (Gavel.)
(The proceedings were adjourned at 10:05 a.m.)

