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LIQUOR CONTROL COMMISSION
DEPARTMENT OF LIQUOR CONTROL
COUNTY OF MAUI, STATE OF HAWAII

TRANSCRIPT OF PROCEEDINGS
REGULAR MEETING

Held via Blue Jeans video conference, commencing at
9:00 a.m., on October 7, 2020.

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

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APPEARANCES

COMMISSION MEMBERS PRESENT:

CHAIRPERSON: NANE ALULI
VICE CHAIR: LEON BOLOSAN
COMMISSIONERS: ROBERTO ANDRION, JR.
JAMIE BECRAFT
AARON BOSWELL
STANLEY RUIDAS
BRUCE U'U
LESLIE ANN YOKOUCHI

STAFF PRESENT:

DEPUTY CORPORATION COUNSEL: MIMI DESJARDINS
ACTING DIRECTOR: GEORGETTE TYAU
LIQUOR CONTROL OFFICER III: LAYNE SILVA
LIQUOR CONTROL OFFICER III: JARRETT KAHOOHANOHANO
COMMISSION SECRETARY: MARIA KHANGSENGSING

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(October 7, 2020, 9:00 a.m.)

* * *

CHAIR ALULI: Okay. Why don't we call the meeting to order. This is the liquor control commission board meeting for Wednesday, October 7th, 2020. I'd like to call the meeting to order starting with our roll call this morning. Roberto Andrion.

COMMISSIONER ANDRION: Here.

CHAIR ALULI: Jamie Becraft.

COMMISSIONER BECRAFT: Present.

CHAIR ALULI: Leon Bolosan.

VICE CHAIR BOLOSAN: Present.

CHAIR ALULI: Aaron Boswell.

COMMISSIONER BOSWELL: Present.

CHAIR ALULI: Jerrybeth De Mello is excused. Stan Ruidas.

COMMISSIONER RUIDAS: Present.

CHAIR ALULI: Bruce U'u.

COMMISSIONER U'U: Present.

CHAIR ALULI: Leslie Ann Yokouchi.

COMMISSIONER YOKOUCHI: Present.

CHAIR ALULI: Georgette Tyau.

ACTING DIRECTOR TYAU: Present.

CHAIR ALULI: Layne Silva. Layne?

COMMISSIONER ANDRION: He's on mute.

1 LCO LAYNE SILVA: Okay. I was on mute. Yeah.
2 Present.

3 CHAIR ALULI: Okay. Jarrett Kahooohanohano.

4 LCO KAHOOHANOHANO: Present.

5 CHAIR ALULI: Jarrett Kahooohanohano. Sorry.
6 Maria Khangsengsing.

7 MS. KHANGSENGSING: Present.

8 CHAIR ALULI: Okay. All present and accounted for.
9 Thank you very much. Is there anybody else from staff that's
10 on this call?

11 (No response.)

12 CHAIR ALULI: No. Okay. Thank you.

13 All right. I would like to get a motion to approve
14 the agenda for October 7th, 2020. Do I have a motion for
15 approval?

16 VICE CHAIR BOLOSAN: Mr. Chair, Leon Bolosan. I
17 move to approve the agenda for October 7, 2020.

18 CHAIR ALULI: Thank you, Leon. Do I have a second?

19 COMMISSIONER BECRAFT: Mr. Chair, Jamie Becraft. I
20 second.

21 CHAIR ALULI: Jamie Becraft. Thank you, Jamie. Any
22 further discussion?

23 (No response.)

24 CHAIR ALULI: All in favor?

25 (Response.)

1 CHAIR ALULI: Any opposed?

2 (No response.)

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

4 Okay. Let's move on to Item 4, the minutes. I
5 would like a motion for approval of the liquor commission
6 meeting minutes for September 3rd, 2020, and the September
7 9th, 2020, meeting minutes. Do I have a motion for approval
8 for those minutes?

9 COMMISSIONER YOKOUCHI: Chair, Leslie Yokouchi. I
10 so move to accept those meetings.

11 CHAIR ALULI: Minutes. Thank you.

12 COMMISSIONER YOKOUCHI: Minutes of the --

13 CHAIR ALULI: Thank you. Do I have a -- thank you.
14 Do I have a second?

15 COMMISSIONER U'U: Bruce U'u. Second.

16 CHAIR ALULI: Okay. Bruce, thank you very much.
17 Okay. Let's move on to --

18 COMMISSIONER BECRAFT: I think we need to vote,
19 Mr. Chair.

20 CHAIR ALULI: Okay. Yeah. I'm sorry. Yeah. Can I
21 have a motion for approval for the minutes? Sorry.

22 All in favor?

23 (Response.)

24 CHAIR ALULI: Any opposed?

25 (No response.)

1 CHAIR ALULI: Motion carries. Thank you.

2 COMMISSIONER BECRAFT: And, Mr. Chair, I believe
3 that --

4 CHAIR ALULI: Yes.

5 COMMISSIONER BECRAFT: -- corporation counsel is on
6 with us. We didn't recognize her.

7 And if we can ask this gentleman Paul Turner to turn
8 off his video so we can see --

9 CHAIR ALULI: Yeah, I think --

10 COMMISSIONER BECRAFT: -- corporation counsel.

11 CHAIR ALULI: Thank you, Jamie.

12 CORP COUNSEL DESJARDINS: Hi. Good morning,
13 everybody.

14 COMMISSIONER BECRAFT: Good morning.

15 CHAIR ALULI: Thank you, Mimi.

16 Yeah. Where's Paul? Did -- I think Paul -- did
17 Paul Turner turn himself off? No, he didn't. He's away from
18 his --

19 COMMISSIONER BECRAFT: No. He's away, apparently.
20 Paul, can you turn off your video.

21 CHAIR ALULI: Paul? Yeah, Paul. Could you mute
22 your video so we could see --

23 MR. TURNER: Let's see. I --

24 CHAIR ALULI: And your audio, please, for now.

25 COMMISSIONER BECRAFT: Scroll all the way to the top

1 of your screen, it should pop up some options of video to
2 click on and audio to click on. You can turn everything off.

3 MR. TURNER: Yeah. It's showing me as on. I'm
4 turning it off.

5 COMMISSIONER BECRAFT: There you go. Thank you.

6 MR. TURNER: Back on again. Is that working?

7 COMMISSIONER BECRAFT: No. You're on again.

8 MR. TURNER: All right. I'm sure what's going on.

9 CHAIR ALULI: I thought there was a way that I could
10 control that. Let me see.

11 COMMISSIONER BECRAFT: So if you take your cursor to
12 the top, it doesn't show you a video and a microphone?

13 MR. TURNER: How's that?

14 COMMISSIONER BECRAFT: You just turned --

15 CHAIR ALULI: No.

16 MR. TURNER: It's not.

17 CHAIR ALULI: I don't know if Lianne is on --

18 MR. TURNER: I see the little window on my computer
19 that shows my image.

20 MS. SUZUKI: Chair, I'm here.

21 CHAIR ALULI: Yeah. Can you -- is there a way that
22 you can mute Paul Turner.

23 MS. SUZUKI: I did.

24 CHAIR ALULI: Video and audio.

25 MS. SUZUKI: I did already.

1 CHAIR ALULI: Can you? Oh, you did.

2 MS. SUZUKI: I did.

3 CHAIR ALULI: But he's still on.

4 MS. SUZUKI: Yeah. Okay. He should be off now.

5 CHAIR ALULI: Can you mute everybody else except for
6 the commissioners and the staff?

7 MS. SUZUKI: I was trying to. Okay. I'll watch it
8 and do that.

9 CHAIR ALULI: Okay, all right. Thank you.

10 Okay. I'm going to take public testimony when we
11 get to each of the public hearing areas. I'll take public
12 testimony at that time, just before we start that section.
13 Okay?

14 So let's move on to Item No. 6, General Licensing
15 Matters, can I get a motion for approval for Items A and B?

16 CORP COUNSEL DESJARDINS: Chair.

17 CHAIR ALULI: Yes.

18 CORP COUNSEL DESJARDINS: This is Mimi.

19 CHAIR ALULI: Yes, Mimi.

20 CORP COUNSEL DESJARDINS: You need to ask for public
21 testimony before asking for the motion on the general
22 licensing matters.

23 CHAIR ALULI: Oh, I do? Oh, sorry.

24 CORP COUNSEL DESJARDINS: You said you were going to
25 take public testimony at the beginning of each section, so --

1 LCO KAHOOHANOHANO: Public hearings and get straight
2 to this.

3 CHAIR ALULI: Oh, okay.

4 CORP COUNSEL DESJARDINS: Section 6, General --

5 CHAIR ALULI: Okay. Yeah.

6 CORP COUNSEL DESJARDINS: -- Licensing Matters.

7 CHAIR ALULI: Yes. Okay. Thank you, Mimi.

8 Okay. So are there -- well, let me -- let me say --
9 let me ask this: If there is anybody that does want to sign
10 up for -- well, Maria, was there anybody that signed up for
11 public testimony today? If there is anybody that wants to
12 sign up for public --

13 MS. KHANGSENGSING: No, I don't --

14 CHAIR ALULI: -- testimony?

15 MS. KHANGSENGSING: I don't have a list. Nobody
16 signed up.

17 CHAIR ALULI: I don't -- if -- okay. If there is
18 anybody -- and I should've asked this at the beginning. If
19 there is anybody that does want to sign up for public
20 testimony, would they please do so in the chat area so that we
21 can see who you are and I can call you by name out of that
22 chat area. So if there's anybody that's on this call that
23 does want to sign up for public testimony, would you please do
24 so by signing up in the chat area on -- on BlueJeans. Thank
25 you.

1 So if -- is there any public -- I don't see anybody
2 signed up for public testimony for general licensing matters,
3 so, Mimi, I can close them individually; right, Mimi?

4 CORP COUNSEL DESJARDINS: You can, but it might be
5 more convenient, since you don't have anybody signed up, to
6 just ask for public testimony, see if there's any, and then
7 just close it generally --

8 CHAIR ALULI: Okay, all right.

9 CORP COUNSEL DESJARDINS: -- in the beginning, just
10 because it doesn't appear to be anybody to testify.

11 CHAIR ALULI: Anybody that signed up. Okay, all
12 right. Thank you.

13 Okay. That being said, if there is no one signed up
14 for public testimony at this point, I will, therefore, close
15 public testimony at this time and move on to Item No. 6,
16 General Licensing Matters, Items A through B. Can I get a
17 motion for approval for Items A and B.

18 COMMISSIONER ANDRION: Mr. Chair, Roberto Andrion.
19 Motion to move to approve No. 6, A and B.

20 CHAIR ALULI: Thank you very much. Do I have a
21 second?

22 COMMISSIONER YOKOUCHI: (Gesturing.)

23 CHAIR ALULI: Second, Leslie Ann Yokouchi. Thank
24 you, Leslie. Leslie, unmute yourself so that I -- you can be
25 heard. Okay?

1 COMMISSIONER YOKOUCHI: Yes.

2 CHAIR ALULI: Thank you.

3 Okay. Let's move on to Licensing Matters, Item
4 No. 7.

5 CORP COUNSEL DESJARDINS: Chair.

6 CHAIR ALULI: Yes, Leslie. Or --

7 CORP COUNSEL DESJARDINS: You still need to take a
8 vote.

9 CHAIR ALULI: I'm sorry.

10 CORP COUNSEL DESJARDINS: It's Mimi.

11 CHAIR ALULI: Oh, God. Yes, Mimi.

12 CORP COUNSEL DESJARDINS: Go ahead. Take a vote.

13 CHAIR ALULI: Yeah. Okay. Sorry. Can I have a
14 motion for approving for general licensing matters? Oh, I'm
15 sorry.

16 COMMISSIONER BECRAFT: You have a motion, Mr. Chair.

17 CHAIR ALULI: Yeah. Is there a motion for approval?

18 COMMISSIONER YOKOUCHI: We have a motion already.

19 CHAIR ALULI: I mean, can I have a -- oh, man.

20 COMMISSIONER U'U: Call for the vote.

21 CORP COUNSEL DESJARDINS: Call for the vote.

22 CHAIR ALULI: Call for the vote, yes. Wow. My --
23 anyways, yes, can I have a -- all in favor of approving the
24 motion for approval for Items A and B? All in favor, say aye
25 or raise your hands.

1 (Response.)

2 CHAIR ALULI: Anybody opposed?

3 (No response.)

4 CHAIR ALULI: Thank you. Motion carries.

5 Okay. Let's move on to Item No. 7, Licensing
6 Matters, Item A, Application No. 1.

7 MR. NAKAMURA: Good morning.

8 CHAIR ALULI: GW Manager LLC dba Makana. Jarrett,
9 you've got the floor.

10 LCO KAHOOHANOHANO: Okay.

11 CHAIR ALULI: I'm sorry. Yeah. Who's -- I mean,
12 who's here for the applicant?

13 MR. NAKAMURA: Hi. Good morning, Mr. Chair, Members
14 of the Commission, and Staff. This is Craig Nakamura,
15 attorney on behalf of the applicant. And I believe Bart
16 Santiago, who is the manager of the applicant LLC, should be
17 on the line.

18 Bart, are you there?

19 (No response.)

20 MR. NAKAMURA: Well, I don't know if he's on line.
21 Let's proceed, though, Mr. Chair, please.

22 CHAIR ALULI: Yeah. Go ahead. Go ahead, Craig.
23 Or, sorry, Layne. I mean Jarrett.

24 LCO KAHOOHANOHANO: Good morning. So Application
25 No. 1, this applicant is GW Manager LLC doing business as

1 Makana Gifts With Aloha. The proposed premises is located at
2 3850 Wailea Alanui Drive, Units D and E, Wailea, Maui, Hawaii.
3 This is a public hearing for a new retail general license.

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

7 Notice of public hearing was published in the Maui
8 News on August 19th and 26th, 2020.

9 There are a total of 169 owners and lessees situated
10 within 500 feet of the proposed premises.

11 The department did not receive any protests.

12 CHAIR ALULI: Thank you, Jarrett.

13 Craig, anything more to add to that?

14 MR. NAKAMURA: No. Just very briefly, Mr. Chair,
15 this is the public hearing. You might remember a couple
16 months ago we came in with a preliminary hearing. This is for
17 the Makana Gifts With Aloha, which is a new retail store at
18 the Grand Wailea Hotel.

19 CHAIR ALULI: Okay. Thank you.

20 Commissioners, any questions for Craig?

21 (No response.)

22 CHAIR ALULI: If there aren't any, can I have a
23 motion to approve?

24 COMMISSIONER U'U: Motion to approve. Bruce U'u.

25 CHAIR ALULI: Bruce. A second?

1 VICE CHAIR BOLOSAN: Second, Leon Bolosan.

2 COMMISSIONER ANDRION: I make a motion -- second.

3 CHAIR ALULI: Okay. Leon Bolosan seconded already.

4 All in favor?

5 (Response.)

6 CHAIR ALULI: Anybody opposed?

7 (No response.)

8 CHAIR ALULI: No opposition. Motion carries. Thank
9 you, Craig.

10 MR. NAKAMURA: Thank you very much. Thank you very
11 much.

12 CHAIR ALULI: Okay. Let's move on to Item B.

13 Layne, Application No. 2. Who's -- who's the -- who's
14 providing information?

15 LCO LAYNE SILVA: Application No. 2, it's for Valley
16 Isle Distilling Company, LLC. The requirements were not met
17 as stated in Hawaii Revised Statute --

18 CHAIR ALULI: Yeah, yeah.

19 LCO LAYNE SILVA: -- Section 281-57, so this public
20 hearing has been rescheduled to November 18th, 2020.

21 CHAIR ALULI: Okay, all right. Thank you, Layne.

22 Okay. So let's move on to Item C, Application
23 No. 3.

24 LCO LAYNE SILVA: Chair, I think Jamie might have a
25 question.

1 CHAIR ALULI: Yeah. Yes, Jamie. Yeah. Sorry.

2 COMMISSIONER BECRAFT: So it's been moved to the
3 18th, that's our next meeting; is that correct, Layne?

4 LCO LAYNE SILVA: Yes, it is.

5 CHAIR ALULI: Yes, it is.

6 COMMISSIONER BECRAFT: Okay. Chair, is it -- is it
7 because they need that much time?

8 I'm sorry. Layne, do they need that much time or
9 could they -- could we -- is this a situation where we could
10 have a special meeting if -- are they close? Is this
11 something that's going to cause them another month delay or
12 are they -- is this -- not to say whose error it is or not,
13 but I'm looking for if they're going to be ready earlier than
14 that, then maybe we can entertain having a special meeting.

15 LCO LAYNE SILVA: Well, the situation with this
16 applicant is there is the 45-day notification requirement is
17 what's pushing them back to November. Actually, I believe
18 November is -- typically, if the November meeting was gonna be
19 held on the second Wednesday, it would've been pushed back to
20 December. However, this particular applicant is trying to
21 obtain a temporary license also, which would allow them to be
22 licensed even prior to the November 18th hearing. So I think
23 they're still on track as far as what their plans are, but,
24 yeah, the 45-day notification requirement would need to take
25 place.

1 COMMISSIONER BECRAFT: When does that -- their 45
2 day -- when do they complete that number?

3 LCO LAYNE SILVA: Well, it's basically -- it's based
4 on their publications in the Maui News. I would have to check
5 with Maria to know the exact cut-off date where their 45 days
6 would take place, but I do believe that November 18th is the
7 soonest.

8 COMMISSIONER BECRAFT: Okay. I guess if we can
9 ask -- Mr. Chair, if we can revisit that, because, obviously,
10 they must've already published in the newspaper, right, 'cause
11 November 18th is within 45 days from now.

12 ACTING DIRECTOR TYAU: The 45-day notification was
13 based on the November 18th meeting and I believe their mail
14 out had to be done by October 4th. So everything was based on
15 that November 18th meeting.

16 COMMISSIONER BECRAFT: Okay. I guess what I'm
17 asking is if we can verify when their -- their mail out was so
18 that we know. I understand --

19 ACTING DIRECTOR TYAU: We believe it was
20 October 4th.

21 COMMISSIONER BECRAFT: You believe they did do it on
22 October 4th?

23 ACTING DIRECTOR TYAU: They had to do by October
24 4th. The 45-day notification was based on the November 18th
25 meeting.

1 COMMISSIONER BECRAFT: I understand that. I'm
2 asking what specific day did they publicize? I'm not asking
3 what should've, could've, or this is what it's based on. I'm
4 asking if they've already done it and if it was done prior to
5 October 4th so that we as the committee -- commission can
6 entertain whether or not we can have a special meeting to help
7 move this along.

8 LCO LAYNE SILVA: Well, like I said, they're --
9 they're gonna be receiving a temporary license, which will
10 happen well before the November 18th hearing, in order move
11 this along.

12 COMMISSIONER BECRAFT: Okay. So they're -- okay.
13 So they're going to be receiving one, they're not applying, so
14 we already know that that's gonna happen?

15 LCO LAYNE SILVA: Yes. We're waiting for one final
16 document from them in order for them to meet that requirement
17 in order to issue that license. They still do need to come
18 before the commission for their public hearing, which is
19 what's being pushed forward, but they'll be getting their
20 temporary license well prior to that.

21 COMMISSIONER BECRAFT: Okay. And is there anybody
22 here representing them that's on -- on this BlueJeans meeting?

23 (No response.)

24 COMMISSIONER BECRAFT: No. Okay. Thank you, Layne,
25 I appreciate -- I think I follow. If they're getting a

1 special -- if they're getting a --

2 CHAIR ALULI: They're getting a temporary. He's
3 saying they're getting a temporary license; right, Layne?

4 LCO LAYNE SILVA: Yes.

5 CHAIR ALULI: Which basically gives -- will give
6 them the ability to start their business, then; correct?

7 LCO LAYNE SILVA: Absolutely, yes.

8 COMMISSIONER BECRAFT: If yes, then it should
9 be (inaudible) to our meeting.

10 CHAIR ALULI: Right.

11 COMMISSIONER BECRAFT: So I guess that answers that.
12 Okay. Thank you.

13 CHAIR ALULI: Yeah. Okay, all right. Thank you,
14 Layne.

15 All right. Let's move on to Item C, Application
16 No. 3, Wailuku Distillery. Who's here representing them?
17 Anybody?

18 LCO LAYNE SILVA: I believe that's Paul. Paul
19 Turner, I believe.

20 MR. TURNER: I am.

21 LCO LAYNE SILVA: And maybe David Jorgensen.

22 MR. JORGENSEN: Yeah. Dave Jorgensen. Dave
23 Jorgensen appearing on behalf of Waikulu Distillery LLC and
24 Paul Henry Turner, who is the principal of Waikulu is also
25 present this morning on Zoom. Good morning.

1 CHAIR ALULI: Thank you, Dave.

2 Layne.

3 LCO LAYNE SILVA: Okay. Public hearing for Waikulu
4 Distillery LLC, Application No. 3. The applicant is Waikulu
5 Distillery LLC doing business as Waikulu Distillery LLC. The
6 proposed premises is located at 3275 Baldwin Avenue, Makawao,
7 Maui, Hawaii. This is a public hearing for a new Manufacturer
8 (D), Other Specified Liquor.

9 The documents necessary for completing the remaining
10 application requirements for a liquor license are listed in
11 the summary report.

12 Notice of public hearing was published in the Maui
13 News on August 19th and 26th, 2020.

14 There are a total of 13 owners and lessees situated
15 within 500 feet of the proposed premises.

16 The department did not receive any protests.

17 CHAIR ALULI: Okay. Thank you, Layne.

18 Dave or Paul, anything further to add to that?

19 MR. JORGENSEN: Just that we have -- have obtained
20 the federal TTB permit a while ago and are -- Paul is working
21 his way through the county requirements. We're hopeful -- it
22 seems to be bogged down a bit at the water department, but I
23 talked to the director yesterday and we're optimistic it'll
24 move along.

25 Mr. Turner has had discussions with several of the

1 neighbors in the area. I know Commissioner U'u had asked
2 last -- at the last meeting about the activities there because
3 it is below the cemetery. There will be a tasting room, but
4 there is not going to be any restaurant or bar or anything
5 like that. And the neighbors that Mr. Turner's spoken to were
6 very supportive.

7 Other than that, I guess I -- we would ask -- you
8 know, I always hate to ask, but just in the overabundance of
9 caution, if we could request to have one year to exercise the
10 license instead of six months just because with COVID and
11 everything else. Every time Mr. Turner succeeds in getting
12 something out of one department, then it's held up in another
13 department and there was an issue with the backflow preventers
14 that he had to redo because of time lapse. So, again, out of
15 an overabundance of caution, we would ask for one year to
16 exercise the license.

17 Other than that, we're -- Mr. Turner and I are both
18 available for any questions.

19 CHAIR ALULI: Okay. So my question, Layne, would
20 be: The commission could give them the one year okay on this
21 application, couldn't we? Can't the commission do that?

22 LCO LAYNE SILVA: Yes.

23 CHAIR ALULI: Yeah. And we could do it at this
24 meeting; correct?

25 LCO LAYNE SILVA: Yes.

1 CHAIR ALULI: Yeah. Okay, all right. Any other
2 questions by -- any questions by any of the commissioners?
3 Yes, Leslie.

4 COMMISSIONER YOKOUCHI: Are we able to taste the
5 tequila?

6 (Laughter.)

7 MR. JORGENSEN: Not right this minute, but we're
8 sure at some point.

9 CHAIR ALULI: Yeah. Yeah. Okay.

10 COMMISSIONER YOKOUCHI: (Inaudible.)

11 MR. JORGENSEN: We're awaiting to taste the tequila.

12 CHAIR ALULI: Bruce, yeah. Bruce.

13 MR. JORGENSEN: I'm sorry.

14 CHAIR ALULI: Yeah, Bruce.

15 COMMISSIONER U'U: I've got a question. I've got a
16 question. So why are you guys asking, for clarification,
17 about the six months to a year, just so I know in case this
18 comes up again? Please, Dave.

19 MR. JORGENSEN: When we -- if the commission
20 approves this application, the licensee has six months to
21 complete all the other requirements and actually have the
22 department satisfied and issue the license. So there's
23 approval of the license and then issuance of the license.
24 Because, as we all know, it frequently happens that some
25 requirements take longer to get done for whatever reason with

1 the county, if we get to six months and it's not issued, the
2 department always been very -- you know, been helpful, but in
3 theory, we've gotta go back to square one or we have to have
4 come in the meeting before the six months expires to request
5 an extension of time. So we're asking for the one year now
6 rather than need to maybe come back in five months to request
7 an extension.

8 CHAIR ALULI: Okay. Yes, Bruce.

9 COMMISSIONER U'U: I'd like to make a motion that we
10 give them the one year.

11 COMMISSIONER BECRAFT: I second that motion.

12 COMMISSIONER YOKOUCHI: Second.

13 CHAIR ALULI: Okay, all right. It's been moved and
14 seconded. All in favor?

15 (Response.)

16 MR. JORGENSEN: I think technically -- technically,
17 please approve the license first and then -- then the one
18 year.

19 CHAIR ALULI: Sorry. Sorry. Yes.

20 MR. JORGENSEN: Just want to make sure that part is
21 done.

22 CHAIR ALULI: Right, right, right. Yes. Okay. So
23 can I get a -- Mimi, that has to be two separate motions;
24 right?

25 CORP COUNSEL DESJARDINS: You can just do it in one

1 motion.

2 COMMISSIONER U'U: We (inaudible) --

3 CORP COUNSEL DESJARDINS: (Inaudible.)

4 CHAIR ALULI: Wait. Hold, Bruce.

5 CORP COUNSEL DESJARDINS: Just one year. Yeah,
6 yeah, Bruce. I think Bruce has got it.

7 CHAIR ALULI: Okay, all right. Sorry. Go ahead,
8 Bruce.

9 COMMISSIONER U'U: So mine will be an amendment to
10 the -- just a one year amendment to the original motion, so I
11 guess we could tack it together.

12 COMMISSIONER BECRAFT: More original, yeah. Just do
13 'em again. Yeah, more original. Just do them again, Bruce.

14 COMMISSIONER U'U: As one motion. As one motion.

15 CHAIR ALULI: So your motion is to approve the
16 extension for one year.

17 COMMISSIONER U'U: Approve it and -- and with the
18 extension for one year.

19 CHAIR ALULI: Yeah. Approve the license and the
20 extension for a year; correct?

21 COMMISSIONER U'U: Yeah.

22 CHAIR ALULI: Okay.

23 COMMISSIONER BECRAFT: I second the motion.

24 CHAIR ALULI: All in favor of the motion?

25 COMMISSIONER BECRAFT: I second the motion.

1 CHAIR ALULI: Okay. I'm sorry. It's been moved and
2 seconded by -- moved by Bruce U'u, seconded by Jamie Becraft.
3 Okay. Discussion? Any further discussion?

4 (No response.)

5 CHAIR ALULI: Okay. All in favor?

6 (Response.)

7 CHAIR ALULI: Anybody opposed?

8 (No response.)

9 CHAIR ALULI: Okay. The motion carries. Thank you
10 very much.

11 MR. JORGENSEN: Thank you very much. Have a great
12 day. Be safe.

13 MR. TURNER: Thank you.

14 CHAIR ALULI: Thank you.

15 Okay. Let's move on to Item D, Application
16 No. TA-01, GW Manager LLC.

17 MR. NAKAMURA: Good morning, Chair and Members of
18 the Commission.

19 CHAIR ALULI: That's you again; right, Craig?

20 MR. NAKAMURA: Yeah. Good morning, Mr. Chair,
21 Members of the Commission. Craig Nakamura, attorney on behalf
22 of the applicant.

23 And is Bart Santiago on the line yet?

24 (No response.)

25 MR. NAKAMURA: No, I guess not.

1 CHAIR ALULI: No. So it's --

2 MR. NAKAMURA: He just emailed me, he said he was in
3 a meeting, so he'll be -- he'll be in calling in shortly. But
4 we can proceed, Mr. Chair. Thank you.

5 CHAIR ALULI: Okay, all right. Jarrett.

6 LCO KAHOOHANOHANO: All right. This is a public
7 hearing for GW Manager LLC, Application No. TA-01. The
8 applicant is GW Manager LLC dba or doing business as Cafe
9 Kula. The proposed premises is located at 3850 Wailea Alanui
10 Drive, Wailea, Maui, Hawaii. This is a public hearing for a
11 transfer of a retail license.

12 The documents necessary for completing the remaining
13 application requirements for the liquor license are listed in
14 the summary report.

15 Notice of public hearing was published in the Maui
16 News on August 19th and 26th of 2020.

17 There are a total of 160 owners and lessees situated
18 within 500 feet of the proposed premises.

19 The department not receive any protests.

20 CHAIR ALULI: Okay. Thank you, Jarrett.

21 Craig, anything further to add to that?

22 MR. NAKAMURA: Yeah, Mr. Chair. Similar to the
23 previous one, this is for the Cafe Kula at the Grand Wailea
24 Hotel, which is the deli.

25 CHAIR ALULI: Okay. Thanks.

1 Commissioners, any questions of Craig?

2 (No response.)

3 CHAIR ALULI: If there aren't any questions, can I
4 get a motion for approval?

5 COMMISSIONER U'U: Motion to approve.

6 CHAIR ALULI: Bruce U'u made the motion to approve.
7 Jamie, you're -- Jamie, you're muted, I can't --

8 Oh. Leon, you seconded it?

9 VICE CHAIR BOLOSAN: Yes.

10 CHAIR ALULI: Okay, all right. Any further
11 discussion?

12 (No response.)

13 CHAIR ALULI: All in favor?

14 (Response.)

15 CHAIR ALULI: Anybody opposed?

16 (No response.)

17 CHAIR ALULI: Motion carries. No opposition.

18 Motion carries. Thank you very much, Craig.

19 MR. NAKAMURA: Thank you very much. Thank you very
20 much.

21 CHAIR ALULI: Okay. Let's move on to Item E,
22 Culinaria Restaurant Group. Who's this?

23 MR. NAKAMURA: Good morning, Mr. Chair. Craig
24 Nakamura.

25 CHAIR ALULI: Oh, Craig, yes, you again.

1 MR. NAKAMURA: Yeah. Craig Nakamura again on
2 behalf -- attorney on behalf of the applicant. And,
3 hopefully, on the line is Mr. Morris Levy, who is the officer
4 and director of the applicant.

5 Morris, are you there?

6 MR. LEVY: I am here.

7 MR. NAKAMURA: Thank you.

8 CHAIR ALULI: Okay. Thank you. Layne.

9 LCO LAYNE SILVA: Okay. Change of class of license.
10 The applicant is Culinaria Restaurant Group Incorporated doing
11 business as the Pour House Kapalua, Dispenser General License,
12 Category C(ii).

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

15 The licensee is requesting commission approval to
16 change to a Class 2 Restaurant General License, Category
17 B(ii).

18 The rules of the liquor commission: The rules
19 governing the change in class and category is listed within
20 the investigator's report.

21 A financial report was submitted by the licensee on
22 September 21st, 2020. The department reviewed the 12-month
23 financial report. It is found that the licensee does meet the
24 requirements in which at least 30 percent of the
25 establishment's gross revenue is derived from the sales of

1 foods for a Class 2 Restaurant License and all other
2 requirements have been met.

3 CHAIR ALULI: Okay. Craig, anything more to add to
4 that?

5 MR. NAKAMURA: Just a brief explanation, Mr. Chair.
6 You know, at the time -- this -- this license and -- or this
7 licensee has had this license for several years. At the time
8 that he applied for this license, I believe there was no -- we
9 weren't able to get a restaurant license. Everyone had to
10 apply for a dispenser license and then operate for one year to
11 meet the financial requirements before being able to transfer
12 or convert to a restaurant license. So now that year has
13 passed, Mr. Levy wants to get a restaurant license. A
14 restaurant license also gives the licensee the flexibility
15 to -- to do catering, which I think helps him in these
16 financial times with COVID and so forth. So on that, we
17 appreciate your assistance and hope you can approve this, this
18 conversion. Thank you.

19 CHAIR ALULI: Okay, Craig.

20 Commissioners, any questions of Craig or Mr. Levy?

21 (No response.)

22 CHAIR ALULI: If there aren't any questions, can I
23 get a motion for approval?

24 COMMISSIONER BECRAFT: Mr. Chair, Jamie Becraft. I
25 motion to approve.

1 CHAIR ALULI: Do we have a second?

2 COMMISSIONER U'U: Second. Bruce U'u.

3 CHAIR ALULI: Moved and seconded. Any further
4 discussion?

5 (No response.)

6 CHAIR ALULI: All in favor of approving this
7 application?

8 (Response.)

9 CHAIR ALULI: Anybody opposed?

10 (No response.)

11 CHAIR ALULI: No opposition. Motion carries.

12 Thanks, Craig.

13 MR. NAKAMURA: Thank you very much.

14 CHAIR ALULI: Thank you, Mr. Levy.

15 MR. NAKAMURA: Thank you. Thank you, Morris.

16 MR. LEVY: Thank you. Thank you so much.

17 CHAIR ALULI: Okay. Let's move on to Preliminary
18 Hearings, Item A, Application No. 4, Maui Nui Corporation.

19 MR. NAKAMURA: Good morning again.

20 CHAIR ALULI: Craig, you. Okay, Craig.

21 MR. NAKAMURA: Yeah. Good morning again, Mr. Chair.
22 Craig Nakamura, attorney on behalf of the applicant. And
23 hopefully on the line is Michael Abee, who is the officer and
24 director of the applicant.

25 Mike, are you there?

1 MR. ABEE: Yes.

2 MR. NAKAMURA: Great. Thank you.

3 CHAIR ALULI: Okay. Good.

4 All right, Jarrett.

5 LCO KAHOOHANOHANO: Okay. This is for Application
6 No. 4, a Dispenser General C(ii) Liquor License. The
7 applicant is Maui Nui Corporation doing business as Sunsets
8 Bar & Grill applying for a Dispenser General License, Category
9 C(ii).

10 Officers, directors, stockholder, and agent of the
11 corporation; personal history statements; criminal history
12 statements; and lease agreement are listed in the
13 investigator's report.

14 The premises: The proposed premises contained --
15 containing approximately 5,381 square feet of floor space is
16 located at 470 Lipoa Parkway, Kihei, Maui, Hawaii.

17 Restroom facilities are located outside of the
18 proposed premises approximately 58.3 feet from the mauka side
19 exit/entrance of the building. The landlord reports that the
20 employees and patrons will have the right to use the common
21 area restrooms during all hours of operation.

22 There are no schools or churches located within a
23 radius of 500 feet.

24 There are no licensees located within a radius of
25 500 feet.

1 There are 109 licensees of this class and kind
2 currently issued within the County of Maui.

3 Plans of the Application: Applicant initially plans
4 to be open seven days a week from 10:00 a.m. to 10:00 p.m.

5 Information contained within the D -- within the DLC
6 006 form submitted by Michael Abee indicated that he had not
7 been convicted for a violation of law.

8 Information received from the criminal history
9 background check revealed that Michael Abee had been convicted
10 of -- for a violation of law.

11 Michael Abee has submitted a letter of explanation.

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

15 CHAIR ALULI: Okay, Jarrett. Thank you.

16 Craig, anything further to add to that?

17 MR. NAKAMURA: Just as a little bit of background,
18 Mr. Chair, Commissioners, this is the restaurant at the Maui
19 Nui Golf Course in Kihei and the applicant is applying for
20 this license for that restaurant. We'd be happy to answer any
21 questions if you have any. Thank you.

22 CHAIR ALULI: Okay. Commissioners, any questions of
23 either Mr. Nakamura or Mr. Abee?

24 Yes, Jamie.

25 COMMISSIONER BECRAFT: I just have one question.

1 Jarrett, with -- I didn't see the law violation and that's on
2 me, I'm sorry. Can you just let me know if it was a
3 serious -- if it was a felony or a misdemeanor?

4 CHAIR ALULI: I can't -- I can't -- oh, you're
5 asking Jarrett that?

6 COMMISSIONER BECRAFT: I'm asking Jarrett.

7 LCO LAYNE SILVA: Jamie, this is Layne. I believe
8 because of confidentiality, I'm not sure if those -- the
9 results are being forwarded to the commission. I could tell
10 you that if -- a felony would be a disqualifying factor.

11 COMMISSIONER BECRAFT: Okay. Well, that's all I
12 really wanted to know. But I guess we can ask Mimi, just for
13 your guys clarification, anything you've been arrested for is
14 public information. So if you've been arrested, I can Google
15 anybody and find out what they're -- what they've been
16 arrested for. You can do it right at the Maui Police
17 Department, they have a computer there for you.

18 Am I wrong about that, Mimi?

19 CORP COUNSEL DESJARDINS: No, you're correct, but in
20 terms of it funneling through into an application, it's not
21 normally disclosed in the application itself. Unless like
22 they said, it's a felony, and then you wouldn't be hearing the
23 application, so --

24 COMMISSIONER BECRAFT: Okay. I'm fine. I didn't
25 know about the felony part. So that's really all I really

1 wanted to know, but I do know arrests are public information.

2 Thank you.

3 CHAIR ALULI: All right. So can I get a motion for
4 approval?

5 COMMISSIONER U'U: Motion to approve. Bruce U'u.

6 CHAIR ALULI: Okay. Do I have a second?

7 COMMISSIONER YOKOUCHI: Second.

8 CHAIR ALULI: Second by Leslie Yokouchi. Any
9 further discussion?

10 (No response.)

11 CHAIR ALULI: All in favor?

12 (Response.)

13 CHAIR ALULI: Okay. Anybody opposed?

14 (No response.)

15 CHAIR ALULI: Okay. No opposition. Motion carries.
16 Thank you very much. Application approved.

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

18 MR. ABEE: Thank you very much.

19 CHAIR ALULI: Okay. Let's move on to Item B,
20 Application No. 5. Who's here representing the applicant?

21 (No response.)

22 CHAIR ALULI: Is anybody here representing R&P
23 Longhi, LLC dba Longhi's Wailea.

24 MR. LONGHI: Yes.

25 CHAIR ALULI: Oh, okay. Please identify yourself.

1 MR. LONGHI: I'm Peter Longhi.

2 CHAIR ALULI: Oh, Peter. It's Peter Longhi. Okay.
3 Peter, can you unmute your --

4 MR. LONGHI: There you go.

5 CHAIR ALULI: -- audio? There you are. Okay.
6 Great. Thank you.

7 MR. LONGHI: I didn't know it was R&P Longhi until
8 you said it. I didn't know -- I don't have a list of what's
9 on the agenda.

10 CHAIR ALULI: Okay. All right, Peter. Sorry.
11 Okay. Jarrett.

12 LCO KAHOOHANO HANO: All right. This is Application
13 No. 5, Restaurant General License, Category B(ii). The
14 applicant is R&P Longhi, LLC doing business as Longhi's Wailea
15 applying for a Restaurant General License, Category B(ii).

16 The manager, members, agent, and organizer of the
17 manager-managed limited liability company; personal history
18 statements; criminal history statements; and lease agreement
19 are all listed in the investigator's report.

20 The proposed premises consists of approximately
21 6,160 square feet located within The Shops at Wailea at 3750
22 Wailea Alanui Drive, B22, Wailea, Hawaii 96953.

23 There are no schools located within a radius of 500
24 feet.

25 Wailea Seaside Chapel is located within a radius of

1 500 feet.

2 Cheeseburger Grille and Tap Room, Tommy Bahama's
3 Tropical Cafe, and The Pint & Cork are licenses of the same
4 class and kind located with a radius of 500 feet.

5 There is one hotel, two dispenser general, and three
6 retail general licenses located within a radius of 500 feet.

7 There are 84 licenses of this class and kind
8 currently issued in the Maui -- county of Maui.

9 Applicant initially plans to open from 8:00 a.m. to
10 2:00 a.m. seven days a week.

11 A site inspection was conducted of the proposed
12 premises on September 17th, 2020.

13 Past history are listed -- past history is listed in
14 the investigator's report.

15 Information contained within DLC 006 submitted by
16 Peter Louis Longhi indicated that he had been convicted of a
17 violation of law.

18 Information received during the criminal history
19 background check revealed that Peter Longhi had been convicted
20 of a violation of law.

21 Peter Louis Longhi has submitted a letter of
22 explanation.

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

1 CHAIR ALULI: Okay. Thank you, Jarrett.

2 Peter, do you have anything further to add to that?

3 MR. LONGHI: Yeah. I was convicted for setting --
4 setting off fireworks which I had left over from July 4th in
5 1986 or '7. I think I paid a \$70 fine, I don't really
6 remember.

7 I just want to make one statement. I've had a
8 license in Wailea for 20 years. With the whole COVID, we shut
9 down May 21st, I had no staff whatsoever. My tax clearance --
10 we're usually ahead of the game on this and it -- we got it in
11 March and unbeknownst to me, and this is my fault, it expired
12 on June about 12th, it could be within a few days of that. I
13 submitted my application on June 29th, on the 30th I was told
14 it was rejected because I didn't have a tax clearance. At the
15 same time licenses were being issued without additionally
16 insured for the county and the liquor control, which seems
17 like a bigger deal.

18 I got the clearance on the 5th, brought it on the
19 6th of July, I was told I had to do all my reconciliation for
20 the year, give them a check. They would not tell me that --
21 if I was getting a license or not. At which point I gave them
22 a license (sic), they told me that I would have to -- I had no
23 license. I gave them the money, they told me I had no
24 license, I'd have to reapply for one.

25 This is extreme punitive. It's cost me thousands of

1 dollars and it's just not right. I then requested for my
2 file. Eight days later I was told that it had been destroyed,
3 all the maps, everything. I submitted maps that had been
4 approved in 2020, which were rejected. I made a list of a
5 hundred feet and 500 feet, took me 16 hours, and that was
6 rejected because they -- and I used the boundaries of The
7 Shops of Wailea, they wanted the boundaries of the restaurant,
8 so it was a smaller amount of people.

9 And I think I should get a license, a full license
10 today and it's just not right what they did. It's really --
11 I've renewed 75 to a hundred licenses and -- anyway, that's
12 all I've got.

13 CHAIR ALULI: Okay, Peter.

14 Commissioners, any questions of Mr. Longhi?

15 COMMISSIONER BECRAFT: Mr. Chair, Jamie Becraft.

16 CHAIR ALULI: Yes, Jamie.

17 COMMISSIONER BECRAFT: I just want to clarify. So
18 what you're applying for today is not your full license?

19 MR. LONGHI: I have a temporary now.

20 COMMISSIONER BECRAFT: And you're here --

21 MR. LONGHI: That I was forced to apply for, go
22 through all -- and now we're applying for a permanent one,
23 which, you know, for -- you know, I've been closed since
24 March 21st, there was no -- we served no alcohol, we didn't
25 open on -- on July 1. And so we're going through all of this,

1 sitting around wasting your time, my time for a license I've
2 had for 20 years and -- anyway, I'm applying for --

3 COMMISSIONER BECRAFT: I understand that. I'm just
4 clarifying. It was my understanding that you are -- this is
5 what this meeting is for, to get you a full license, get you
6 off the temporary and get you back where everything is --

7 MR. LONGHI: That's correct.

8 COMMISSIONER BECRAFT: Okay. Thank you.

9 That's all, Mr. Chair. I've got -- I misunderstood
10 what he had said earlier.

11 CHAIR ALULI: Yeah. So this is for getting his --
12 if the understanding is correct, Jarrett, he's -- this is an
13 application for his full license; correct?

14 LCO KAHOOHANOHANO: Yes, sir.

15 CHAIR ALULI: Yeah. Okay, all right.

16 Okay. Any further questions of Mr. Longhi?

17 (No response.)

18 CHAIR ALULI: If there aren't any further questions,
19 can I have a -- yes, Leslie, go ahead.

20 COMMISSIONER YOKOUCHI: I'm just wondering, is this
21 typical of a restaurant to have so many fines? I mean, a lot
22 of them are small, but it's dated back since the '80s. So is
23 this typical of these fines that restaurants get?

24 MR. LONGHI: Are you asking me or the -- or Jarrett?

25 COMMISSIONER YOKOUCHI: Anybody. Maybe even

1 Georgette might be able to answer. I see a lot of small
2 fines, but a number of them, so is this typical of a
3 restaurant or is --

4 MR. LONGHI: This is -- this is two restaurants that
5 you're looking at.

6 COMMISSIONER YOKOUCHI: Yeah, but I --

7 MR. LONGHI: That's over 60 years worth of being in
8 business. So 888 and 888 Front Street LLCs are both Longhi's
9 Lahaina. Longhi's Wailea had, I think, one, possibly.

10 ACTING DIRECTOR TYAU: To answer your question, it
11 just depends on what was brought before the liquor control
12 adjudication board. We do have -- I mean, it's a wide range,
13 but we also have licenses that don't have anything that was
14 ever brought before the liquor control adjudication board.

15 COMMISSIONER YOKOUCHI: Okay. That's all I'm
16 asking, if this was typical or -- yeah, out of the ordinary
17 or -- yeah. Thank you.

18 CHAIR ALULI: Okay. Any further questions by any of
19 the commissioners?

20 (No response.)

21 CHAIR ALULI: Okay. Not seeing any, can I have a
22 motion for approval?

23 COMMISSIONER U'U: Motion for approval.

24 CHAIR ALULI: Okay. Motion by Bruce.

25 VICE CHAIR BOLOSAN: (Gesturing.)

1 CHAIR ALULI: Second by Leon Bolosan. Okay. Any
2 further discussion?

3 (No response.)

4 CHAIR ALULI: Okay. All in favor of approving the
5 license?

6 (Response.)

7 CHAIR ALULI: Any opposed?

8 (No response.)

9 CHAIR ALULI: Motion carries. Thank you very much,
10 Peter.

11 MR. LONGHI: Thank you.

12 CORP COUNSEL DESJARDINS: Chair, this is Mimi.

13 CHAIR ALULI: Yes, Mimi.

14 CORP COUNSEL DESJARDINS: I just want to note for
15 the record for this vote as well as I believe Application
16 No. 4 that Mr. Ruidas is not on the line any longer. I think
17 he's probably having connection issues. You have a conform,
18 that's fine, but just to --

19 COMMISSIONER RUIDAS: Can you hear me? I can see
20 you.

21 CORP COUNSEL DESJARDINS: Oh, are you on?

22 CHAIR ALULI: Yes.

23 COMMISSIONER RUIDAS: I'm not on the name because I
24 explained is to Maria that my Spectrum has been dead for the
25 last week and the whole island has been having problems, so

1 I'm on Verizon.

2 CORP COUNSEL DESJARDINS: Oh, there you are. Okay.
3 I'm sorry.

4 COMMISSIONER RUIDAS: Yeah. This is another Blue
5 Jeans thing.

6 CHAIR ALULI: Yeah.

7 CORP COUNSEL DESJARDINS: Okay. Mahalo.

8 CHAIR ALULI: Yeah, and he -- when -- okay. Thanks.
9 Thanks, Mimi.

10 Thanks, Stan, for coming back and letting us know.

11 Okay, all right. The application was approved.

12 Okay. Let's move on to Item C, Application

13 No. TA-2. This is, again, GW Manager LLC dba Grand -- Grand
14 Wailea.

15 Craig, you're on for that, I'm assuming; right?

16 MR. NAKAMURA: Yes, Mr. Chair. Good morning.

17 CHAIR ALULI: Okay.

18 MR. NAKAMURA: Craig Nakamura, attorney on behalf of
19 the applicant. And I believe Bart Santiago is now called in.

20 Bart, are you there, Bart?

21 MR. SANTIAGO: Yes, I'm here. I apologize, I missed
22 another two items, Chair.

23 MR. NAKAMURA: Thank you.

24 CHAIR ALULI: Okay. Jarrett.

25 LCO KAHOOHANO HANO: All right. This is Application

1 No. TA-02, it's a Hotel License. Applicant is GW Manager LLC
2 doing business as Grand Wailea, A Waldorf Astoria Resort,
3 applying to -- for a transfer of a hotel license from 90210
4 Management Company LLC doing business as Grand Wailea, A
5 Waldorf Astoria Resort.

6 Manager, member, organizer, and agent of the limited
7 liability company; personal history statements; criminal
8 history statements; and management agreement are all listed
9 within the investigator's report.

10 Consent to transfer: The applicant was -- has
11 submitted a copy of transferor's endorsement of transfer
12 signed by William Steven Standefer, manager of 90210
13 Management Company, LLC dated March 5th, 2020.

14 The proposed premises consists of approximately
15 six -- 761 guest rooms, restaurant, bars, and banquet
16 facilities which is situated on the property approximately
17 36.603 acres, located at 3850 Wailea Alanui Drive, Wailea,
18 Maui, Hawaii.

19 There are no schools located within a radius of 500
20 feet.

21 Wailea Seaside Chapel is located within the proposed
22 premises.

23 There is one license of the same class and kind
24 located within a radius of 500 feet.

25 There are two restaurant general, two dispenser

1 general, and four retail general licenses located within the
2 radius of 500 feet.

3 There are 21 licenses of this class and kind
4 currently issued within Maui County.

5 The applicant initially plans to be open seven days
6 a week, 24 hours a day.

7 A site inspection was conducted on September 10th,
8 2020.

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

14 All necessary -- all documents necessary for the
15 issuance of the liquor license that have not been submitted
16 are listed in the investigator's report.

17 CHAIR ALULI: Okay. Thanks, Jarrett.

18 Craig, anything further?

19 MR. NAKAMURA: Yeah, Mr. Chair, thank you. The
20 Grand Wailea Hotel has three liquor licenses, the one for --
21 the two that we did previously, which are for the gift shop
22 and the deli, and this is the final license for the entire
23 hotel premises and so this is the final license application
24 we'll be submitting on this matter. I'll be happy to answer
25 any questions that you have.

1 CHAIR ALULI: Okay. Commissioners, any questions of
2 Mr. Nakamura or Mr. Santiago?

3 (No response.)

4 CHAIR ALULI: Okay. Not seeing any, can I have a
5 motion for approval?

6 VICE CHAIR BOLOSAN: (Gesturing.)

7 CHAIR ALULI: Leon, you make the motion to approve.
8 May I -- can I get a second?

9 COMMISSIONER U'U: Second.

10 CHAIR ALULI: Second by Bruce U'u.

11 Any further discussion?

12 (No response.)

13 CHAIR ALULI: Okay. All in favor of approving this
14 application?

15 (Response.)

16 CHAIR ALULI: Anybody opposed?

17 (No response.)

18 CHAIR ALULI: No opposition. Motion carries.

19 Thanks, Craig. Thank you, Mr. Santiago.

20 MR. NAKAMURA: Just one last matter, Mr. Chair.

21 CHAIR ALULI: Yeah.

22 MR. NAKAMURA: We're asking for a -- we're asking
23 for a temporary license on this -- on this application also,
24 so we would ask the staff to try and expedite that as much as
25 possible. Thank you.

1 COMMISSIONER BECRAFT: I have a question, Mr. Chair.

2 CHAIR ALULI: Yeah, Jamie.

3 COMMISSIONER BECRAFT: Does he need a temporary
4 license right now? I thought we just approved --

5 CHAIR ALULI: Yeah, I don't think --

6 COMMISSIONER BECRAFT: I think you're good, period;
7 right?

8 CHAIR ALULI: Yeah, that's what I thought.

9 Isn't that the case, Jarrett? He doesn't need a
10 temporary license.

11 LCO KAHOOHANOHANO: This is the initial preliminary
12 hearing, yeah. We still have to go -- we've still got one
13 other hearing before we can get the license approved.

14 LCO LAYNE SILVA: This is preliminary.

15 LCO KAHOOHANOHANO: This is preliminary. We need to
16 receive all their clearances, so as soon as we get all of that
17 together, we'll contact Mr. Nakamura.

18 MR. NAKAMURA: Yeah. This is -- this is the
19 preliminary hearing. We do need a temporary license,
20 Mr. Chair.

21 CHAIR ALULI: Which you're going to get after he
22 gets all the necessary information; right, Jarrett?

23 MR. NAKAMURA: That's correct.

24 CHAIR ALULI: Yeah. Okay. Okay.

25 COMMISSIONER BECRAFT: Can we ask --

1 COMMISSIONER ANDRION: Mr. Chair, a question.
2 Roberto Andrion.

3 CHAIR ALULI: Yes.

4 COMMISSIONER ANDRION: So what did -- what did we
5 just approve? Is it a temporary license or is it the full
6 license?

7 COMMISSIONER U'U: Preliminary.

8 COMMISSIONER ANDRION: A preliminary license.

9 COMMISSIONER BECRAFT: Preliminary to the step of
10 getting a full license, it's just part of the process of
11 getting a full license.

12 CHAIR ALULI: Right.

13 COMMISSIONER ANDRION: And so -- so just so that
14 I'm -- I follow what's going on here, so the approval was for
15 a preliminary license to step up to -- I mean, a preliminary
16 hearing to get to a real license?

17 CHAIR ALULI: A full license.

18 COMMISSIONER ANDRION: So don't we have to approve
19 one for a temporary license or am I just confused?

20 COMMISSIONER BECRAFT: I don't know. That was going
21 to be my question. I don't believe that's in our court, I
22 think that's in the court of Georgette. So Georgette can
23 probably explain that to us.

24 ACTING DIRECTOR TYAU: The law requires steps to be
25 taken. This is a preliminary hearing and then they have to do

1 the 45-day notification, then they'll go to public hearing.
2 In the meantime, because there was a license of the same class
3 and kind within 90 days of them filing this application, they
4 do qualify to run on a temporary license. So once all the
5 documents needed for the temporary is received, they'll be
6 issued a temporary license. And then the full license can be
7 given when all clearances are received and public hearing is
8 completed.

9 COMMISSIONER ANDRION: Thank you.

10 COMMISSIONER BECRAFT: So, Georgette, I have a
11 question. So you said that all documents have to be
12 submitted. Are they still missing documents for the temporary
13 permit or temporary license?

14 ACTING DIRECTOR TYAU: When I last spoke with
15 licensing, they were missing something for the temporary, yes.
16 So once that is received, the minimum requirements for a
17 temporary license, it will be issued.

18 COMMISSIONER BECRAFT: So then the question
19 becomes -- let's theoretically say they were able to get that
20 last document in today, what type of timeframe would they be
21 looking at to be getting issued their temporary?

22 ACTING DIRECTOR TYAU: Once licensing is completed
23 with their portion. So, Layne -- or did you get everything
24 in?

25 LCO LAYNE SILVA: It looks like -- I'm looking at

1 the report right now and it looks like -- and, again, this is
2 at face value just going off of the report, it looks like the
3 only document missing for the issuance of a temporary license
4 would be the liquor liability insurance. However, I don't --
5 I'm gonna have to go back and -- I don't have a copy of the
6 application in this packet right now.

7 Craig, did you guys request a temporary license in
8 this application?

9 MR. NAKAMURA: Yes, we did.

10 LCO LAYNE SILVA: Then that would be all that's
11 remaining, I believe, would be the liquor liability insurance.

12 MR. SANTIAGO: I had the plumbing department show up
13 at 9:00 this morning to do an inspection. We had the fire
14 department last week. I believe the electrical department
15 needs to be scheduled still.

16 MR. NAKAMURA: Yeah, those -- Bart, those issues are
17 before issuance of the permanent license, not the temp.

18 MR. SANTIAGO: Okay. Great.

19 MR. NAKAMURA: But one -- one question that I had
20 while we're discussing this is do -- is the process now that
21 we need to go through the preliminary hearing before we can
22 get a temporary license?

23 COMMISSIONER BECRAFT: No.

24 MR. NAKAMURA: Because that was never the process
25 before.

1 LCO LAYNE SILVA: No.

2 MR. NAKAMURA: No?

3 LCO LAYNE SILVA: No, it's not.

4 MR. NAKAMURA: Okay. Thank you. So I think that
5 clears -- I think we understand, Mr. Chair, and we'll get
6 whatever is necessary and we'll get it in as soon as possible
7 so that we can have the temporary license issued.

8 CHAIR ALULI: Right. Okay.

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

10 CHAIR ALULI: Yeah.

11 COMMISSIONER BECRAFT: Mr. Chair, I have a question.

12 CHAIR ALULI: Jamie, you have a question.

13 COMMISSIONER BECRAFT: Yes, for Craig. So were you
14 guys notified on what you were short of?

15 MR. NAKAMURA: Yeah, we're -- we're in -- I don't
16 know -- my assistant handles those things, so I don't know
17 specifically what or when we were told, but I know that we are
18 in constant contact with the licensing staff and they're very
19 good about giving us information and following through and
20 letting us know what we need. So they have been very helpful
21 and I know that we can get them whatever they need to get that
22 license issued. I appreciate it. Thank you.

23 COMMISSIONER BECRAFT: Then I'll ask Layne. Layne,
24 did they get notified of the -- that they need that -- the
25 insurance portion, the last portion?

1 LCO LAYNE SILVA: Yes.

2 COMMISSIONER BECRAFT: They were. So then I guess
3 ask you then that if they were able to handle that today and
4 get that sent over to you guys, what type of timeframe would
5 we be looking at for them to be approved?

6 LCO LAYNE SILVA: Well, once we receive the missing
7 documents, then whatever amount of time it takes to review it,
8 to make -- to have the license created and signed. Typically,
9 it could happen within two days.

10 COMMISSIONER BECRAFT: Okay. Thank you. I
11 appreciate that.

12 MR. NAKAMURA: That would be great. Thank you very
13 much.

14 CHAIR ALULI: Okay.

15 MR. SANTIAGO: Great.

16 CHAIR ALULI: We already approved the -- did we
17 vote -- we did vote on that; right?

18 MR. NAKAMURA: Yes, we did. Thank you.

19 CHAIR ALULI: Yes. Yeah.

20 COMMISSIONER BECRAFT: And I don't -- and I don't --
21 and I think how we got here is we were wondering if we are
22 voting on the temporary license, but I don't believe that
23 that's within our -- within our --

24 CHAIR ALULI: Purview.

25 COMMISSIONER BECRAFT: Right. I think that's on the

1 department and I think we answered pretty much all of that.

2 Thank you to Layne and Craig for that.

3 CHAIR ALULI: Okay.

4 MR. NAKAMURA: Thank you very much.

5 CHAIR ALULI: All right. All right. Thanks, Craig.

6 All right. Let's move on to Item No. 8,

7 Administrative Affairs. Georgette.

8 ACTING DIRECTOR TYAU: Good morning. Okay. So
9 Gross Liquor Sales were completed and the percentage fee is
10 now -- the cost of a liquor license is the basic fee that a
11 licensee pays and 70 cents for every \$100 of gross liquor
12 sales already earned. So it's 70 cents for every hundred
13 dollars of gross liquor sales already earned, that is the cost
14 of a liquor license.

15 As far as Liquor Administrators Meeting, the
16 National Conference of State Liquor Administrators will be
17 virtual conference held on November 9, 10, and 12. I believe
18 information was forwarded. If you are interested in doing
19 this virtual conference, please contact Lianne.

20 And then the Update on the Public Health Emergency
21 Rules, it has been clarified by the mayor's office that the
22 mayor's -- the mayor's emergency rules do not waive liquor
23 laws, so extension of premises, as discussed previously, would
24 still need to meet the requirements of the liquor rules and
25 laws.

1 COMMISSIONER BECRAFT: I'm sorry.

2 ACTING DIRECTOR TYAU: And as I stated --

3 COMMISSIONER BECRAFT: I'm sorry. Georgette, could
4 you repeat the last part again, please? I'm sorry.

5 ACTING DIRECTOR TYAU: The mayor's Public Health
6 Emergency Rules don't waive liquor laws, according to the
7 mayor's office, so the way we've been doing the extension of
8 premises would still continue to be done that way.

9 COMMISSIONER BECRAFT: Okay. My backup to -- my
10 next question to that is even though it doesn't waive it, does
11 it give us the ability to waive it, to make alterations?
12 Because that's my understanding of this thing, so when I read
13 it, it was my understanding that they're giving us the ability
14 to do so, but not telling us that the laws are gone and that
15 we are not able to enforce the laws should we choose.

16 ACTING DIRECTOR TYAU: If you -- if you're talking
17 about Exhibit 1A, the parking stalls, the parking stalls is on
18 their end if it's county, if it's a county park stalls, but
19 like in previous extension of premises that we've given that
20 didn't come before the commission, if the parking stall
21 belongs to someone privately, then they would still need
22 authorization from whoever owns those parking stalls.

23 So that one in Exhibit 1A, that is they
24 expediting -- they're expediting their issuance of giving them
25 the usage of parking stalls that the county has authority

1 over. But anybody who has -- is requiring like an extension
2 of premises into a private parking stall area, they still need
3 approval from whoever owns that parking stall. So we've given
4 out extension of premises, not everything goes before the
5 commission.

6 COMMISSIONER BECRAFT: Okay. I just want to make
7 sure I understood because the way I heard what you said was
8 because they didn't say we were going to waive it, that they
9 waive the laws, that we're not gonna bend. So I just want to
10 make sure that we understand that we have the ability to bend
11 during this COVID time and they're just leaving that up to us
12 on --

13 ACTING DIRECTOR TYAU: No. I don't think I
14 understand your question. They would still follow the same
15 requirements that we've been doing where they're providing us
16 the floor plan, providing us the use and exclusive control of
17 the area for extension. You wouldn't just be able to say --
18 my understanding is you wouldn't be able to just say go ahead
19 and have it, they would still need to meet the requirements
20 that we've been doing where they submit the floor plan, they
21 have authorization for the area that they want, and so forth.
22 So liquor rules still apply, so the way we've been doing
23 extension of premises -- and we've done several already --
24 would still continue to be done that way.

25 COMMISSIONER BECRAFT: Okay. So let -- so when

1 we're doing an extension of premises, you're saying that if
2 they're gonna put chairs in a parking stall or are you saying
3 because they've extended, they need more parking stalls.

4 ACTING DIRECTOR TYAU: Their extension of premises
5 can be anywhere, not just parking stalls. I am mentioning
6 parking stalls because in the mayor's Exhibit 1A, Exhibit A,
7 No. 1, they mention parking stalls and that is just to
8 expedite on their end parking stalls that the county does have
9 authority over.

10 COMMISSIONER BECRAFT: And so for that we're --

11 ACTING DIRECTOR TYAU: An extension of premises is
12 not necessarily only parking stalls. We can have extension of
13 premises like the one you saw in August, the Three -- the
14 Three's Bar. It doesn't necessarily have to be parking
15 stalls.

16 COMMISSIONER BECRAFT: Right. So I guess what I'm
17 trying to get across is that we can give this without
18 coming -- there's just leeway that that -- I hear what you --
19 I think I heard what you said, but I want to make sure that
20 we're not doing this. Because the mayor has said that they're
21 not waiving laws does not mean that we're not able to -- some
22 of the COVID exemptions have been set out there so that we can
23 make things easier, so there are gonna be things, and it may
24 not be for -- definitely not for someone's privately owned
25 parking stall, I understand that, but there are rules and

1 stuff that we're going to be able to -- I don't know what
2 word -- I guess I'm gonna use the word go around because of
3 the -- it's not really going around, because it's been written
4 out that we're allowed to make changes during this time to try
5 and help people that are struggling. So I just want to make
6 sure that -- that we have the same understanding that, you
7 know, just because someone says you have the ability, but
8 we're not going to make you, doesn't mean we're not going to.

9 I'm sorry. Go ahead. Maybe Bruce can explain what
10 I'm saying better.

11 ACTING DIRECTOR TYAU: I guess the -- let me just
12 clarify, though, what I'm saying is that any extension of
13 premises still goes through our permitting process and we're
14 still following that, that procedure that we've been
15 following.

16 COMMISSIONER BECRAFT: Then I guess --

17 ACTING DIRECTOR TYAU: So the progress is set in
18 rules. If you're asking about any authority you have to
19 override that, that would be for corporation counsel.

20 COMMISSIONER BECRAFT: I guess what I'm -- I guess
21 that's an easier way -- angle. I want to make sure that we're
22 trying, that our mind set is, What can we do to help, not what
23 are we gonna do that -- you know, I hear what you're saying
24 that we're still following it. If we -- I'm saying I'm
25 encouraging our department to try and look at it from the

1 angle of in this situation, what can I do to try and alleviate
2 during this time, this crisis time. So I'm hearing you saying
3 that you are still following the same process. I'm just
4 asking that if it's possible, that we consider all angles to
5 make things easier at this time and not to just fall back on,
6 Well, this is the way we used to do it and that's why we're
7 going to stick it. I'd just like to hope that we're -- we're
8 trying to look for angles to be helpful because we have the
9 ability through the new COVID and what the mayor has said.

10 Go ahead, Bruce. I'm sorry.

11 ACTING DIRECTOR TYAU: Okay. But what I'm saying is
12 that it's not about -- the things that we're collecting, use
13 and exclusive control, that is so that -- exclusive control is
14 to ensure the licensee is responsible for anything that occurs
15 within it, so that is basically what the permits are. And as
16 far as us expediting, once they have everything in, one of it
17 being -- we couldn't issue an extension of premises into a
18 parking lot previously because the person didn't have the
19 authority to do so by the license -- by whoever owned it. So
20 what I'm saying is that use and exclusive control is
21 important. You need the authority so that someone is going to
22 be responsible for what happens within that licensed premises.
23 The floor plans are needed so we can define the area. We need
24 to know what is the licensed premises so that you can -- you
25 know what the use and exclusive control is for and who's

1 responsible for what happens within.

2 So as far as making it easier, a lot of the times
3 it's the licensee not providing us the information and we
4 cannot just go ahead -- because someone wants to extend their
5 premises maybe into your garage, we're not gonna say, Oh,
6 yeah, go ahead and do it. I mean, we need the use and
7 exclusive control to determine. So what I'm saying is that
8 the base -- just those basic information that has always been
9 required. We've issued extension of premises already, it's
10 just that certain documents are needed, like the floor plan,
11 like a lease or a letter of authorization giving use and
12 exclusive control, those things are not being waived, so just
13 those basic. But a lot of the times it's the licensee who's
14 not providing -- or the applicant who is not providing what is
15 needed, but it's clear on what is needed and it is so that the
16 public safety is ensured.

17 COMMISSIONER BECRAFT: I understand that.

18 Go ahead, Bruce. I'm sorry.

19 CHAIR ALULI: Yeah, Bruce. Go ahead.

20 COMMISSIONER U'U: Yeah. Thank you.

21 Yeah. And I -- some of the clarification, too, I
22 was looking for was I remember that last meeting -- and I kind
23 of going along with Jamie saying -- and I take into -- I take
24 into what you're saying about we've gotta take care of our
25 people on the outside and not just the licensee, but the time

1 in COVID where we need to extend outdoor seating or just the
2 spacing between the seating -- and I think the last meeting it
3 was brought up by -- by someone saying that the last
4 administration prior to -- the word they said was substantial,
5 substantial, so I think there was no definition or
6 clarification of what is substantial. I think someone said it
7 was less than half or less than half of -- or 50 percent more
8 would be substantial where there was an other route they could
9 take.

10 I understand what you're bringing them up about the
11 parking lot, but what if you still own that same area and you
12 extending that area and my -- and, again, I bring up Paia Fish
13 Market, I think they own that area -- and I could be wrong,
14 but it's just that -- it's like 20 feet or 15 feet more, I
15 just wanted -- and, again, the license has -- they have --
16 they're a licensed owner, they're the owners, and what is --

17 For me when you say we're doing the same thing, but
18 for me, I don't know what is the same thing. And the meeting
19 again two months ago, the verbiage was substantial, the
20 difference between what is substantial then to now. So what
21 is substantial? My answer is: And what are we doing to help
22 these people get employed? And I think the biggest difference
23 is I don't know, one, about the process, so I'm trying for
24 educate myself. But I do believe a lot of people are
25 unemployed and we here -- I'm here as a commissioner of trying

1 to help people get employed.

2 So, again, what is the process, if you may ask -- I
3 may ask, and what is the difference between your definition of
4 substantial and the last term's substantial, please.

5 ACTING DIRECTOR TYAU: It's not about -- like I
6 said, if it's going into a parking or anything -- the last one
7 was brought before you is because in the investigator's
8 report, it was founded that the 500-foot radius notification,
9 there was a substantial amount that wasn't notified. And that
10 is what it's based on, the 500-foot notification, if this
11 premises extends into an area where now it affects more
12 people. And the last one was brought to you, if you go back
13 and read the report, that there was a substantial amount that
14 wasn't notified previously, so this extension was being -- was
15 being brought to the commission if they had re-notify.

16 But as far as extensions into areas, we've given out
17 a lot, so it's just a matter of in the investigation, while
18 they're doing the licensing report, if they find that the 500-
19 foot radius is affected and that is when it's brought before
20 the commission to decide if they need to re-notify and that is
21 part of state law.

22 CHAIR ALULI: Roberto, you -- Bruce you have any --
23 Roberto, you had your hand up. Yes, Roberto.

24 COMMISSIONER ANDRION: I know we're talking about --
25 we're talking about the law, we're talking about the arms of

1 the commission. Now, we -- we know we're all in COVID
2 situation, but I guess the question or where I'm unclear on is
3 if the license department is following what is law to the
4 extent to where they are following it in that sense, but is
5 it -- do the commission, which is this group, has it over-
6 reached to go outside of the law to say, Hey, you know what,
7 it's COVID, let's -- let's bend it a little bit? Are we --
8 are we venturing into that?

9 COMMISSIONER BECRAFT: Roberto.

10 CHAIR ALULI: I would turn to -- I would turn to
11 Mimi for that question, because there are -- there are rules
12 and there are laws. There are the Hawaii statutes, which
13 we're not dealing with here. I think the issue that Georgette
14 is addressing is the mayor's Public Health Emergency Rules
15 only; correct, Georgette? It's the mayor. We're not talking
16 about HRSS, we're talking about the mayor's emergency rules;
17 correct?

18 ACTING DIRECTOR TYAU: No. I'm talking about
19 everything, because what I'm saying is that the commission
20 cannot just say, as far as my understanding, that you want
21 this area, you can have it. They still -- we're still doing
22 it by the permit process and getting the proper documentation,
23 is what I'm saying. We still need that proper documentation.
24 Not all extension of premises go before the commission. Like
25 I said, if you read the report, it was extensive on why it was

1 brought before the commission, but not all extension of
2 premises go before the commission. We issued extension of
3 premises even before COVID. It's only if like Hawaii Revised
4 Statute states if it substantially might affect the 500-foot
5 radius, that is why it was brought before the commission. So
6 the explanation was there. You don't get every single
7 extension of premises, is what we're saying. We're just
8 abiding by HRS when it does seem to affect the 500-foot radius
9 notification.

10 And I wanted to just clarify that it was clarified
11 that Exhibit A, Item 1, was for them -- their authority over
12 parking lots that they have the authority over. They're
13 expediting their end so that we can -- so the licensee may get
14 the approval of using that space. And that's what we're
15 looking at: Do you have the approval to use that space?

16 CHAIR ALULI: When you -- when you use the -- the
17 word "they," are you talking about the ownership of that piece
18 of property?

19 ACTING DIRECTOR TYAU: If the license has the
20 authority to use the space, any space, whether it's a parking
21 lot or -- any area that they want to extend into, they need to
22 have use and exclusive control. That is how a licensed
23 premises is determined, by use and exclusive control.

24 COMMISSIONER ANDRION: So, Georgette, just to
25 clarify that, when you say the 500, the 500 radius, so -- and

1 I'm gonna use one of the -- the TA-02 and I guess the premises
2 which says there is no school located within the radius of 500
3 feet and the same kind of location within a radius of 500
4 feet. So if that extension violates that 500 feet, then
5 that's what you guys are looking at?

6 ACTING DIRECTOR TYAU: Yes. 'Cause what happens is
7 you do need to do it -- state law requires that you do it from
8 the premises, not the property. So wherever the edges of the
9 premises -- that's the requirement of state law, not the
10 department. And you go out from the premises, but what
11 happens is when you do an extension, if it even clips another
12 parcel -- it's not about where it overlaps in the parcel, it's
13 about you're hitting that parcel, so everybody within that
14 parcel now has a say, so sometimes it increases. And the one
15 that you saw in August, there was, I believe, more than 50
16 percent that weren't notified in the original notice and that
17 is why it was brought before the commission --

18 COMMISSIONER ANDRION: Thank you.

19 ACTING DIRECTOR TYAU: -- to decide if they had to
20 be re-notified so that they could also have a say now.

21 CHAIR ALULI: Okay. Leslie. You had a question,
22 Leslie.

23 COMMISSIONER YOKOUCHI: No. I'm just making it
24 clear, there's so much misunderstanding, I think. What you're
25 saying is that we have to follow the state laws, not -- even

1 with COVID happening; right, Georgette? We need to follow the
2 state laws even with COVID; right?

3 ACTING DIRECTOR TYAU: Corp. counsel can answer
4 that.

5 CORP COUNSEL DESJARDINS: So I've been following the
6 conversation and I can tell that you on October 1st the mayor
7 issued its most recent version of the COVID rules which were
8 approved by Governor Ige and Rule No. 6 states -- and these
9 are rules that are in place during COVID, so in some respects
10 they limit people's ability to travel, they limit people's
11 ability to be in social gatherings, they have -- you have to
12 wear a mask, I mean, there's all kinds of rules in here.

13 Rule 6 specifically says that Exhibit A details
14 specific requirements for certain businesses and activities;
15 for example, restaurants, bars, cafes, and other food
16 establishments. Okay? So then you pop down to Exhibit A and
17 Exhibit A-1, which is what Georgette's referring to, says that
18 businesses may request reconfiguration of the customer usage
19 area, such as expansion of table seating or merchandise
20 display into a business's parking lot in order to provide for
21 adequate physical distancing by letter to the mayor's office.
22 Such reconfiguration shall not exceed the scope of the use
23 pre-COVID. So that's the requirement.

24 So if somebody wants to request reconfiguration,
25 they can do that simply by writing a letter to the mayor's

1 office. Okay? Now, I don't know what kind of conversations
2 take place between the liquor department and the mayor's
3 office on this because I -- that's not my assignment, but I
4 can find out exactly what is the next step. Because when you
5 read this, it appears that somebody can apply for a
6 reconfiguration simply by writing a letter to the mayor.

7 The governor has suspended certain portions of the
8 Hawaii Revised Statutes. So I understand what Georgette is
9 saying, which is they have to comply with state law, but the
10 real question is: Was this special rule intended and approved
11 by the governor to allow for a short fast track of redesigning
12 and reconfiguring? And if that was the intent, to simply
13 write a letter to the mayor and you can reconfigure, then that
14 needs to be looked at. And I don't have the answer to that
15 'cause I didn't realize it was an issue. Okay.

16 COMMISSIONER YOKOUCHI: But I would assume -- this
17 is on the assumption that you own that parking space that
18 you're configuring into, not by -- not owned by someone else.

19 CORP COUNSEL DESJARDINS: Well, they call it -- they
20 call it into a business's parking lot, yes. But if that
21 parking lot is owned by somebody else and in the request for
22 reconfiguration that person brings in some kind of letter
23 saying, I own the parking lot and I'm going to allow the
24 extension into the parking lot, that shouldn't be the holdup
25 if they -- if they have permission. I totally agree with

1 Georgette, if they don't own the parking lot, they can't just
2 say --

3 CHAIR ALULI: Yeah.

4 CORP COUNSEL DESJARDINS: -- I'm going to extend
5 into the parking lot.

6 COMMISSIONER YOKOUCHI: Right.

7 CORP COUNSEL DESJARDINS: They have to have
8 something to tie that up. But my understanding of the rule
9 was that it was -- it was a fast track method to go to the
10 mayor's office and try to get these folks out the door. But
11 if there are concerns with the liquor department about whether
12 they're violating state law by allowing that, then we need
13 to -- corp. counsel needs to look into making sure that
14 those -- you know, everything is in its right place because it
15 may require us to ask permission to amend the rules again --
16 and, remember, the governor signs off on these. It's not just
17 Mayor Victorino, it's Governor Ige approves these rules by
18 law. So they should all be in sync, is what I'm saying, and
19 if it's not, then that's our job to let them know there's a
20 problem, we need to fix it.

21 CHAIR ALULI: Yeah, Bruce.

22 COMMISSIONER U'U: Yeah, yeah. I read that last one
23 about the parking lot, I actually passed by and seen how it
24 did gain a lot of ground, the Mala one. But what about if you
25 get one extension of 10 to 12 feet and the radius, the 500

1 feet is basically the same when you -- you're going 10 to 15
2 feet and you own it and we're talking about a radius that's
3 not gonna change, it will be 510 feet, what is the difference
4 then? Do you use the existing licensed, I guess, 500-foot
5 radius when they applied and update it or what is needed for
6 those?

7 Again, I walked into the Paia Fish Market, I don't
8 know if they got them or not, but it's been a while that
9 they've been open and, again, they told me, Oh, you can't pass
10 the imaginary line. And for me, just -- and, again, I'm
11 clueless about the process, but I understand it's about 10 to
12 15 feet. I don't think the 500 radius would change. I think
13 more businesses closed than open, so if you needed information
14 about the existing license around there, with most things
15 closed, how would that -- how can we help people? Are we
16 using the same process as -- as the parking lot in Lahaina for
17 the same one in Paia? What's the difference, is my question?

18 ACTING DIRECTOR TYAU: Well, I cannot speak on that
19 one specifically, I don't know the details of that, but as far
20 as, like I said, defining a premises, what licensees may tell
21 you out there might not always be what is actually. So all I
22 can say is the premises does need to be defined. The other
23 thing is, like I said, we have given in to parking lots or
24 outdoors, it just depends on when they're finding it. So
25 we've done a lot of extension of premises being in the parking

1 lot once they had the approval of who owned it and other
2 things, so not all of them is -- if they find in their report
3 that it does affect, that's the only time it's been brought
4 forth, but a lot of them just get extension of premises
5 permits. There are always permits, but it's just riding on
6 their license and it allows them to expand for whatever time
7 period they may have authorization for.

8 So, for instance, we even had some where the parking
9 lot -- and this is for the county, they can only use it until
10 the other businesses around them open, because you need so
11 many parking stalls or so forth. So it just depends on how
12 long they get the authorization for and they'll have the
13 permit for that amount of time also.

14 CHAIR ALULI: Okay. Any -- any further questions
15 for Georgette? Yes. Yes, Leslie.

16 COMMISSIONER YOKOUCHI: So, Georgette, from what I'm
17 hearing today, it seems like your department is getting to
18 understand the licensees a little better and working with them
19 and --

20 ACTING DIRECTOR TYAU: We've always had extension of
21 premises. My thing is that we cannot issue something if they
22 don't have the proper documents.

23 COMMISSIONER YOKOUCHI: Right. I understand.

24 ACTING DIRECTOR TYAU: Like I said, when -- in the
25 last one --

1 COMMISSIONER YOKOUCHI: I understand that.

2 ACTING DIRECTOR TYAU: -- said he wants the
3 temporary to be expedited. Well, we cannot do a temporary
4 until you have all of the documents necessary for a temporary.
5 So once we do have it -- there are certain things that are
6 needed to protect the health, safety, and welfare of the
7 public in order to us -- for us to issue something. So a lot
8 of times it's just -- we're just waiting on them to submit the
9 required documentation.

10 COMMISSIONER YOKOUCHI: All I'm saying is I'm glad
11 to hear that you guys are working with the licensees a little
12 better and, of course, the public is our first concern, the
13 public safety is our first concern, and we cannot use this
14 COVID emergency any way that is not proper and I think we all
15 understand that. And we're try to --

16 ACTING DIRECTOR TYAU: Well, I've been asked by
17 licensees --

18 COMMISSIONER YOKOUCHI: Pardon.

19 ACTING DIRECTOR TYAU: I have been asked by
20 licensees if I could disregard the rules because it's COVID,
21 so --

22 COMMISSIONER YOKOUCHI: Oh, no. We all know that
23 should not be done. And I think maybe for us a lot of
24 clarification needs to be done, Mimi, with questions that kind
25 of came up today. Maybe you could help us.

1 CORP COUNSEL DESJARDINS: Sure. And I'm happy to
2 talk to the mayor's office as well because they issued the
3 emergency rule that allows them by letter to expand the
4 premises. I'm not sure why that's not just happening
5 automatically through the mayor's office.

6 COMMISSIONER YOKOUCHI: Yeah.

7 CORP COUNSEL DESJARDINS: So I will talk with them
8 and see how they're -- they're handling that.

9 COMMISSIONER YOKOUCHI: Thank you, Mimi.

10 CORP COUNSEL DESJARDINS: So maybe we can put that
11 back on the agenda --

12 COMMISSIONER YOKOUCHI: Okay.

13 CORP COUNSEL DESJARDINS: -- for the next meeting
14 and talk about it.

15 CHAIR ALULI: Okay. Yeah, Jamie.

16 COMMISSIONER BECRAFT: I have another question. So
17 if we -- if we are trying to work with the licensees and do
18 what we can using the mayor's proclamation and the new powers
19 that have been handed down, I would ask how many -- because
20 you mentioned earlier that, you know, some of the extensions,
21 they have to come to us and you explained why. So I'm asking
22 how many extensions in the last two to three months have been
23 issued without it coming to the commission?

24 ACTING DIRECTOR TYAU: I believe maybe around four
25 or five. But nobody has been denied an extension if they had

1 their documents. And like I said, if it wasn't given inhouse
2 without going to commission, then it would've been brought to
3 commission.

4 COMMISSIONER BECRAFT: And I guess -- I guess I'm
5 just going to close with my whole point of me bringing this up
6 is I just want to make sure that we're trying to use the
7 mayor's proclamation to the best of our ability to help
8 everyone out there. There's other things in this
9 proclamation, you know, about how to shut down -- how to shut
10 down a bar and we -- we went over that last -- I know well it
11 came out in public testimony and stuff and a letter that was
12 sent out and I don't -- I want to make sure that we're not
13 just looking to be heavy-handed and only see that side of it.
14 I want to -- I want to make sure that we're seeing both sides.

15 You know, there's -- the thing about wearing masks
16 and things that, you know, we ought to try and enforce that
17 and help keep -- keep people doing that. But we also in the
18 same token if the -- if the mayor's intention, which I believe
19 it is, and the governor's intention is to try to be helpful
20 during this time, I want to make sure that we're looking at it
21 from those eyes, let me see how I can use this to help. I'm
22 not looking to -- I definitely am not one that's going to skip
23 a law, I'm definitely all about black and white, the law is
24 the law, period, but this is no longer a period any more
25 because of the proclamation or the proclamations that have

1 come out. So I just want to make sure we're there. That was
2 the only point I brought it up, is 'cause that wasn't -- that
3 just wasn't what I was hearing. Thank you.

4 ACTING DIRECTOR TYAU: Okay. I was gonna clarify
5 Rule 10 -- and just to be clear, that was not a statement made
6 from the department. That was a press release that was read
7 that was done by the mayor's office. So regarding Rule 10,
8 the mayor's office did a press release, which was read and was
9 implied that it came from the department. But that press
10 release was done by the mayor's office regarding liquor
11 control enforcing Public Health Emergency Rules, which the
12 department was given the responsibility through Rule 10. And
13 this -- if you review -- if you review the minutes of the past
14 meeting, it was said that we were supposed to just do it
15 without promulgating future rules. But as I stated
16 previously, we were not trying to promulgate future rules,
17 what we did was we met so that we could establish procedures,
18 yeah. So procedures were reviewed by the mayor's office, MPD,
19 corporation counsel, and prosecutors and have been established
20 to implement the 24-hour shutdown if needed for licensed
21 premises to come into compliance. But the department has been
22 tasked with this responsibility through Rule 10. It wasn't
23 something that the department just took upon itself to do, we
24 have been tasked with that responsibility.

25 CORP COUNSEL DESJARDINS: And is everybody familiar

1 with what Rule 10 says? Anybody need clarity on that?

2 COMMISSIONER BECRAFT: I'm familiar, but please read
3 it if you have it.

4 COMMISSIONER ANDRION: Would you read it out,
5 please.

6 CHAIR ALULI: Yeah, you might want to --

7 CORP COUNSEL DESJARDINS: Sure.

8 CHAIR ALULI: -- just read it, Mimi.

9 CORP COUNSEL DESJARDINS: Okay. So Rule 10, Rule 10
10 says, Liquor control officers shall have the authority to
11 enforce emergency rules at any establishment licensed to sell
12 alcohol pursuant to HRS 281. An establishment that is not in
13 compliance with these rules, including those listed in
14 Exhibit A attached hereto, shall be subject to immediate
15 closure for a period of 24 hours effected by the Maui Police
16 Department and/or liquor control officers. Liquor licensees
17 not in compliance with the requirements of these rules shall
18 also be subject to penalties enforceable pursuant to the
19 liquor laws of Hawaii, Hawaii Revised Statute Chapter 281,
20 which may include a reprimand, fine, suspension, and/or
21 revocation of the liquor license.

22 So Rule 10 allows liquor control officers to enforce
23 the entire set of rules that were promulgated by the mayor.
24 And I could tell you this document's like 64 pages long,
25 there's a lot of rules here, and they have to do with all

1 kinds of things like social distancing, mask wearing. So it's
2 not just strictly liquor-related things, but other things that
3 could be occurring in bars and restaurants that are covered
4 under these rules that are used to try to safeguard the public
5 during this pandemic. And so in a sense, under emergency
6 basis broadens liquor control officers or the police
7 department's ability to go in and shut a place down if they
8 see a violation. It doesn't have to be related to liquor, it
9 has to be related to pandemic safety concerns.

10 ACTING DIRECTOR TYAU: Yes. Prior to Rule 10,
11 liquor control was not enforcing Public Health Emergency
12 Rules, it wasn't in our authority.

13 COMMISSIONER BECRAFT: I have a question about that,
14 on how that's gonna be done, because -- so the other day I
15 walk into Ace and I'm on my -- I'm on my phone -- and here's
16 why you shouldn't be on your phone to drive, because it's
17 distracting. So I'm walking into Ace and I 100 percent forget
18 my mask. I'm walking by and I keep hearing people, whoa,
19 whoa, whoa and all this, I don't think they're talking to me.
20 I got -- I don't know, I got around their counters and
21 everything down in Kihei before one of their employees got
22 my -- that they're trying to talk to me and they're like, Your
23 mask. And I'm like -- 'cause it looked like I was doing it
24 deliberately. And I was like, Oh -- it just freaked me out.
25 I'm like, Oh, my God, I apologize immensely. I covered my

1 face, ran outside, got my mask, came back in and apologized
2 again 'cause that -- it clearly wasn't my intention to do
3 that.

4 So I know that liquor rules that have come out, that
5 would be a violation that could shut them down, so I'm
6 wondering how we're handling that in the sense of -- again,
7 I -- you know, there's always a fine balance between what the
8 law's for and, you know, the spirit of the law and the letter
9 of the law. I would -- I just want to know how we're -- how
10 we're instructing our -- our people out on street. Are we
11 telling them, Hey, you see any violation, you shut these folks
12 down? Because to me a violation like that, I could -- my
13 understanding is I got -- if I were at a bar, I'd have to sit
14 at the bar, I can take off my mask. If I stand up to go to
15 the restroom, I have to put on my mask. If I forget to, you
16 know, take -- put my mask on and there's one person -- I can
17 guarantee you every single bar that that's happening,
18 particularly that you have drinking and talking, people just
19 are gonna forget. I forgot just from being on my cellphone.
20 I walked into a public place with no -- with no thought. So
21 my question is, are we -- are we shutting them down or are
22 we -- or are we looking for this bar's clearly telling
23 everybody you don't need to do anything or whatever. I mean,
24 what are we doing with that?

25 CORP COUNSEL DESJARDINS: Well, let -- before

1 Georgette answers, let me also read to you the specific
2 requirements for bars that are contained in the -- in the most
3 recent rules. So all bars have to follow these rules on top
4 of the rest of them and that is, they can't have -- they are
5 limited to no more than 50 percent of the maximum occupant
6 load of the bar. Okay? They have to limit groups within the
7 bar to a maximum of ten individuals per group. They have to
8 ensure that groups within the bar maintain at least six feet
9 of separation from other groups. They have to prohibit people
10 within those groups in the bars from intermingling. Designate
11 areas to separate groups at least six feet apart, for example,
12 through ropes or other types of separation for standing areas
13 or the seating of guests at separate tables or both. Ensure
14 individuals in different groups maintain a minimum of six feet
15 of physical distance from each other to the greatest extent
16 possible. Require all employees to wear face covers. Ensure
17 all customers wear face coverings when entering and leaving
18 the bar, but allow customers to remove the face covering while
19 within the bar. Okay? Those are specific to bars.

20 So there's a lot of rules that are designed to
21 separate people anyways, because this is what happened, I
22 think, mostly on Oahu and the reason why they ended up with
23 such high COVID numbers is because the bars were crawling with
24 people who were not social distancing, they were spreading the
25 virus. And so the effort here is to try to do that, but

1 that's a lot to manage. But if people aren't gonna do it and
2 they're gonna drink enough alcohol so they lose their
3 inhibitions and they're walking around talking to other
4 people, this is why places get shut down and that's why
5 there's an emergency rule that allows them to say we're not
6 going to allow that kind of behavior.

7 So, I mean, it's a little off the wall, but I hear
8 the public's concern, but I also sympathize with the LCOs
9 because, I mean, we are -- the law as stated requires us to
10 take care of public safety and health and to shut these places
11 down if they are not complying with the rules. I don't know
12 how to sugarcoat that, you know, how to make that more user
13 friendly, but that is a very drastic rule that will expire the
14 minute that these COVID declarations are lifted.

15 COMMISSIONER BECRAFT: Mimi, thanks, but I want to
16 clarify, the law -- I don't believe the law says that we must
17 shut them down for any violation we see.

18 CORP COUNSEL DESJARDINS: Well, it says, close to --
19 it's not really discretionary, the way I read it. If an
20 establishment is not in compliance, and I'm reading from Rule
21 10, they shall be subject to immediate closure for 24 hours.
22 Okay? So although it says they shall not -- they shall be
23 subject, I think the intent and spirit of such a drastic, you
24 know, sort of martial law kind of rule is to ensure public
25 safety, not to go in and go, Well, I won't do it again -- I

1 mean, I don't know. I'm not gonna make those judgments, but
2 I'm just saying --

3 COMMISSIONER BECRAFT: Yeah. I'm gonna have to say
4 that the word they shall be subject is something that, from my
5 realm of my career -- you know, people are subject to arrest,
6 that's in the verbiage of the Maui Police Department for
7 certain violations. Being subject to something doesn't mean I
8 have to arrest you, it means I have the ability to do so. So
9 that's -- that's how I read that. So it doesn't say that they
10 shall be shut down, you know, like -- again, I use my career
11 all the time, but we had rules that were very clear also and
12 written based upon law and if it said we come across a DUI,
13 somebody's drunk driving, they shall be arrested. There
14 wasn't no subject to arrest, they shall be arrested, because
15 the law does apply -- you can actually issue a citation if you
16 wanted to, by the law, but our rules were very clear, it said,
17 no, they shall be arrested, we weren't going to do that.

18 So I still read that as they're subject to, because
19 I just would have a hard time -- I would hate that -- I don't
20 feel like we're making a lot of movement towards, you know,
21 using the proclamation to do a lot of over -- I just -- my
22 personal take is we're not doing a lot of effort to help, but
23 I would hate to see us turn around and have an LCO sitting
24 there waiting and somebody stands up and takes five steps to
25 the bathroom and forgets their -- forgets their mask and the

1 barkeeps -- you know, they can only do so much and if they're
2 really trying to do the rest -- if they're following all these
3 other rules and they go, You're shut down, 24 hours, I would
4 have a hard time with that.

5 Now, if you walk in and they're not doing -- you
6 know, they've got 70 percent capacity, they're not doing any
7 social distancing, you know, they've got groups of whatever,
8 and they're -- and you stand there and watch and they're not
9 doing anything, you know, that's -- to me, that's more overt
10 and that's clearly you can see what's happening in front of
11 you and you're not applying to the rules, you know. But, you
12 know, that's my take. So I'm wondering what we're doing and
13 I'm very a hundred percent on that this is an optional thing,
14 it's not -- it's not a shall. We're not forced to shut them
15 down.

16 So back to Georgette, I'm wondering what it's gonna
17 take, where are we headed with this, what do we -- what's the
18 marching orders? 'Cause if the marching orders are to shut
19 'em down no matter what for everything, I'd like the licensees
20 to know that now. I don't want anybody getting surprised,
21 especially they're already taking a financial hit.

22 ACTING DIRECTOR TYAU: Again, I think I would defer
23 to corporation counsel, because it's not -- if you want -- it
24 seems like your question is if we're gonna pick and choose and
25 determine, but the mayor's proclamation -- the mayor's Public

1 Health Emergency Rules has just tasked us with that -- with
2 that responsibility. We don't have the authority to change
3 his Public Health Emergency Rules, we just have the
4 responsibility to enforce it. And I cannot speak on any
5 particular hypothetical situation that might take place, but
6 that is why the mayor, I believe, did the press release, so
7 that they would -- in addition to already having being
8 notified that this is the Public Health Emergency Rules,
9 that's why the press release was done, so that they would be
10 warned again. But we have been tasked with that
11 responsibility and I don't know what a situation may be like
12 when they go in, but they would still -- it would still be up
13 to the board. If it goes by way of the adjudication board,
14 they would have their chance to present whatever evidence
15 and -- or if it goes by way of the prosecutor's office, that
16 would be up to the prosecuting department to determine if
17 they're going to move forward on a shutdown.

18 COMMISSIONER BECRAFT: But they would -- you would
19 already have shut them down. It's shut down instantaneous,
20 it's not shut down later on by the board. They've already
21 suffered the financial loss. And so whether they won it at
22 the adjudication board or not wouldn't change the fact that
23 they would be -- they would already have suffered that
24 financial loss for the day, for the 24 hours.

25 ACTING DIRECTOR TYAU: I think this is something

1 that would need to be clarified with the mayor's office with
2 the Public Health Emergency Rules. We don't have the
3 authority to pick and choose which portions.

4 CORP COUNSEL DESJARDINS: Just -- if you -- if you
5 don't mind, a real quick comment and that is that I agree with
6 you totally, Mr. Becraft, that there is some wiggle room for
7 discussion here the way this is written, but I also don't
8 think that it's wrong for the liquor department to say, you
9 know, we can shut you down for these violations. Okay?

10 COMMISSIONER BECRAFT: But I'm asking -- yeah.

11 CORP COUNSEL DESJARDINS: There's some room for
12 wiggle, but the -- but it's clear, the law is clear that they
13 have -- they shall be subject to the possibility of being
14 closed down. The 24-hour shutdown is a quick 24-hour
15 punishment, that I don't see going before any liquor
16 adjudication board ever. That's just a fast on the street,
17 let's give you -- you know, let's (inaudible) a little bit so
18 you stop violating this. But there may be other violations of
19 the law that occur simultaneously to that 24-hour shutdown and
20 this rule says that that -- you can also be subject to further
21 violations and those, of course, would go before the liquor
22 adjudication board. But the 24 hour, you're correct, is not
23 going to go before the liquor adjudication board.

24 COMMISSIONER BECRAFT: And, Mimi, I -- everything
25 you said, I'm a hundred percent with you, that -- I have the

1 same exact understanding you do. But what I'm hearing from
2 Georgette is -- and it's not answering it directly, but her
3 verbiage is that she doesn't have the authority to supersede
4 them. So that means she has an opinion of what it is and if
5 I'm hearing it correctly, her opinion is, is that it's
6 steadfast, any violation, they're shutting them down. But she
7 won't answer the question. So my question again is: Are
8 they -- is the instructions for the LCOs on the street that if
9 they see any violations -- and I'll use the example of a
10 person gets up from the bar, everything else is in compliance,
11 gets up and walks to the bathroom, forgets their mask, they
12 don't have their mask on, they're shutting them down.

13 ACTING DIRECTOR TYAU: Okay. So when we establish
14 procedures, like we've been doing prior to this 24-hour
15 shutdown, they get written up under 281, that would follow the
16 process of the liquor control adjudication board. So that is
17 considered like a warning already, if you get written up for
18 281-38, Public Health Emergency Rules. If it happens again,
19 you are subject to the 24-hour shutdown and that would not go
20 before the liquor control adjudication board. Those write-ups
21 would get sent directly to the prosecuting department because
22 I believe that's like a misdemeanor or something else and that
23 would be up to them to deal with whatever happens then. And
24 the 24-hour shutdown is so that the licensee can come into
25 compliance with the rules.

1 COMMISSIONER BECRAFT: So if I'm hearing you
2 correctly, if I were to ask the LCOs that are out on the road
3 at night that are doing the checkups, they're gonna say that
4 they were told that they have discretion, that they can use
5 discretion in regard to this. They can write it up and maybe
6 share the information or they could issue a ticket and not
7 shut them down or they could shut them down, it's totally up
8 to them. Is that correct?

9 ACTING DIRECTOR TYAU: Like any -- like any
10 violation or alleged violation, it's what they see and
11 whatever is gonna be put into their investigation. But as far
12 as Public Health Emergency Rules, we are writing them up first
13 under 281-38 and that would follow the normal adjudication
14 process. Should it happen a second time with the same place
15 that has already been written up, then they would be subject
16 to the 24-hour shutdown. These are procedures that I have
17 worked with and has been reviewed by MPD, corp. counsel, the
18 prosecutor's office, and the mayor's office, so this is the
19 procedure that's being done. They've been warned through
20 press releases by the mayor informing them that we've been
21 subjected -- but if they first have a violation, I would think
22 it depends also -- I'm not there, so whatever evidence they
23 collect and they see like any other violation, they'll write a
24 notice. The first one would be through 281-38 and would go
25 through the normal adjudication process before the board. If

1 it happens a second time, we would subject them to the 24-hour
2 shutdown and that would be --

3 CHAIR ALULI: Roberto, you had a --

4 ACTING DIRECTOR TYAU: -- the prosecutor's office.

5 CHAIR ALULI: Roberto, you've got a question?

6 COMMISSIONER ANDRION: From what I hear -- from what
7 I hear the question on Commissioner Becraft and what Georgette
8 is saying, is that there is discretion then as far as giving
9 them warning first. I know you're shaking your head, Jamie,
10 but you need to -- we need to take a look at it from -- from
11 both sides, we can't -- we can't crucify the people that's
12 upholding the law and say, You know what, you guys get a free
13 reign. I don't think they do have free reign. If what I hear
14 Georgette is saying, Georgette is saying is that if there is a
15 warning and it persists, then they have that right. But I
16 think that -- and I'm just going on what I'm hearing, is that
17 I believe that the LCOs will -- will have to provide that --
18 that warning, that's what I'm hearing what Georgette is
19 saying. Now what, happens out there, okay, we're hearing from
20 one side, we need to actually see it from the other side. We
21 can't take extreme measures and say, Yeah, we'll believe, this
22 but not believe the other. Well, I'll -- and that's just
23 my -- my point from what I'm -- what I'm seeing. So if they
24 have that and it does say that, you know what, they're subject
25 to -- well, it's interpreted. It may be that corp. counsel

1 should go back and say, What is the full meaning of this?
2 Because if it says shall, okay, it's a done deal, they have to
3 do it, but from what I hear Georgette is saying -- I mean,
4 Georgette is saying is that they're giving them a warning
5 first. So I see what you're saying as far as your -- your
6 example, I think that's -- that's a little extreme of one
7 thing, I don't -- we don't know if that exists or not. Maybe
8 it's been told and so we're taking that as -- as gospel,
9 that's just my take on what's -- what I'm hearing so far.

10 COMMISSIONER BECRAFT: Roberto, I appreciate what
11 you're saying, but I think what Georgette actually said was
12 they're issuing a citation, their version of a citation, and
13 then she attached the words, that's their warning. I don't
14 believe she said they're getting a warning, they're getting an
15 official act.

16 And I can ask her to clarify that. Is there such a
17 thing as someone going, Hey, have they been told go out there
18 and you can just say, Guys, you got a violation in the corner
19 and just get a warning for that and the LCO walks away?

20 ACTING DIRECTOR TYAU: Okay. Like I said before, I
21 met on this with the mayor's office, MPD, corp. counsel, and
22 the prosecutors reviewed it also on the procedures and it was
23 determined that they've already been notified through Public
24 Health Emergency Rules, they've already been notified through
25 the press release and so forth, but, in addition, if there is

1 a violation, then it would -- an alleged violation, it would
2 be done under our notice of violation under 281, which
3 violating any kind of rules, and that would be considered a
4 warning again. And then if it happens again, it would be
5 subject to the 24-hour shutdown.

6 COMMISSIONER BECRAFT: And, again, you've answered
7 it with you're doing an official act, you're gonna give
8 them -- you're gonna enforce the rules and you're considering
9 enforcement a warning. That's like me giving you a ticket for
10 speeding and telling you, Your fine is \$240 and there's your
11 warning.

12 ACTING DIRECTOR TYAU: I guess I don't understand
13 your question because like any other notice, any other rules,
14 the enforcement division is tasked up with writing up alleged
15 violations. And if it's not proven, then it's up to the
16 board. It feels like you want to us to pick and choose. I
17 cannot tell them to pick and choose, but that is why
18 procedures were developed and approved.

19 COMMISSIONER BECRAFT: Yeah, I'm done. I'm done
20 getting answers to that.

21 ACTING DIRECTOR TYAU: That's all I have to say.

22 COMMISSIONER ANDRION: Just --

23 COMMISSIONER BECRAFT: Okay.

24 COMMISSIONER ANDRION: Just for clarification, if I
25 could, Mr. Chair.

1 CHAIR ALULI: Yeah. Yeah, Roberto.

2 COMMISSIONER ANDRION: So if a citation is given as
3 a warning, is there -- is there always going to be monetary
4 clipped on to that? This is -- Georgette, if you could answer
5 that question.

6 ACTING DIRECTOR TYAU: It would just run the process
7 of going through the prosecutor's office for determination on
8 whether or not it would go before the liquor control
9 adjudication board.

10 COMMISSIONER ANDRION: But is it --

11 ACTING DIRECTOR TYAU: It's up to them to make the
12 determination after hearing both sides.

13 COMMISSIONER ANDRION: Okay. So it's -- so
14 sometimes it could be a warning and then basically not be
15 given a fine depending on how the --

16 ACTING DIRECTOR TYAU: Well, we don't give out fines
17 at the department level. What they do is they write up notice
18 of violations. And like I said, this process was already
19 reviewed and this is how it was brought about. This is
20 collaborative effort that --

21 COMMISSIONER ANDRION: I just wanna (inaudible) --

22 ACTING DIRECTOR TYAU: -- was approved. So what I'm
23 saying is that like any other alleged violation, the liquor
24 control officer writes it up and it runs the process and if it
25 does go before the liquor control adjudication board, that

1 would be up to the prosecutor after they review on whether or
2 not they're going to send it to the liquor control
3 adjudication board.

4 CHAIR ALULI: Yeah, Leslie.

5 COMMISSIONER YOKOUCHI: Chair, I think there's two
6 things going on here. The COVID emergency rule and ordinarily
7 how we cite our licensees; right? The COVID emergency rule,
8 there's that automatic shutdown of one -- one day if the rule
9 is broken and the other is our everyday kind of ruling where
10 people are cited and you go before the two boards. The
11 emergency rule I think needs to be held to the highest
12 standard 'cause I myself feel bars are the number -- they're
13 finding that bars are high risk, one of the high risk areas.
14 And like Georgette mentioned, they were given warning through
15 the media, through the mayor, and through everybody else and I
16 think bars with the 50 percent lower patrons, they should be
17 able to watch people more carefully wearing their masks and
18 doing social distancing and that kind of stuff. And they're
19 given the warning through the -- through news almost every day
20 they're talking about bars and how high risk they are. So I
21 think it is -- I think in that case we need to be a little
22 more stringent and be careful, 'cause the COVID affects --
23 it's gonna affect everybody in our community and I think we
24 need to be really aware of that and be really cognizant of
25 this COVID. And as far as the other kind of rulings, I think

1 maybe we can address that later with maybe more training to
2 our L -- LCs and, you know, other things like that. But as
3 far as COVID, I think we need to talk about COVID and the
4 impact of that and what we are gonna do as far as watching our
5 licensees.

6 CHAIR ALULI: Okay. Jamie, anything -- Jamie.

7 COMMISSIONER BECRAFT: I have a question. So on the
8 24-hour shutdown, the one you said that was -- they did the --
9 not -- yeah, the press release was from the mayor's office; is
10 that correct, Georgette?

11 ACTING DIRECTOR TYAU: Yes.

12 COMMISSIONER BECRAFT: Okay. Was that press
13 release, did you guys get a chance to see it before it was
14 sent out? Were you part of those discussions? Because you
15 keep saying you're part of these discussions with everybody, I
16 do want to make note for everybody's watching (inaudible) --

17 ACTING DIRECTOR TYAU: We were notified that it was
18 going out.

19 COMMISSIONER BECRAFT: Did you get to see it, I
20 asked.

21 ACTING DIRECTOR TYAU: Yes. We were notified that
22 it was going out.

23 COMMISSIONER BECRAFT: Okay. Notified and reading
24 it are two different things. So you got read it; correct?

25 ACTING DIRECTOR TYAU: Yes. And we got to give some

1 feedback.

2 COMMISSIONER BECRAFT: Okay. So we're not gonna
3 just pass it off on the mayor, so you guys had input on this?

4 ACTING DIRECTOR TYAU: No, we don't -- we didn't --
5 the final say is not ours.

6 COMMISSIONER BECRAFT: Concur. But you had -- like
7 you said, your word was feedback, I said you had some say.

8 ACTING DIRECTOR TYAU: Yeah.

9 COMMISSIONER BECRAFT: The two mean the same.

10 ACTING DIRECTOR TYAU: No.

11 CHAIR ALULI: Okay.

12 ACTING DIRECTOR TYAU: Concurring and feedback is
13 two different things.

14 COMMISSIONER BECRAFT: I didn't say concur.

15 CORP COUNSEL DESJARDINS: Can I interrupt for a
16 second, because --

17 CHAIR ALULI: Yeah, Mimi.

18 CORP COUNSEL DESJARDINS: -- the other thing that I
19 want to make clear is that under these emergency rules, you
20 cannot shut a bar down if -- I guess if that's shall be
21 subject to immediate closure if it's gonna be read to construe
22 that there's some discretion, but, honestly, if you're
23 violating any of these rules, that is a misdemeanor in and of
24 itself, so it -- I mean, you can get a citation as a
25 misdemeanor charge which will go to the prosecutors for

1 prosecution. It's a serious penalty to violate. So you can
2 violate a rule, get a citation for that, and not get shut down
3 maybe the first time. I'm just throwing it out there, because
4 I don't know that everybody's clear that just violating one of
5 these rules -- you or I being seen in public without a face
6 mask are subject to a misdemeanor, so these rules apply to
7 everybody and they -- and they -- so if you violate it at a
8 bar, you don't follow these rules, you're subject to a
9 misdemeanor.

10 COMMISSIONER BECRAFT: And I -- and that's what I'm
11 trying to bring up. I just violated it going into Ace.

12 CORP COUNSEL DESJARDINS: Correct.

13 COMMISSIONER BECRAFT: I would hate to see Ace get
14 shut down for 24 hours because I'm on the phone -- and I'll
15 tell you, I'm a --

16 CORP COUNSEL DESJARDINS: But Ace isn't subject to
17 that.

18 COMMISSIONER BECRAFT: I understand, but it's a good
19 example because I'm a high risk person, I try to do my best
20 not to be out in public that -- you know, I don't want to get
21 it, so I know I could have done that at a bar. I'm just
22 saying there's -- there's innocent violations and then
23 there's -- there's overt violations.

24 And just for Roberto, so that -- Roberto, I'm just
25 gonna clarify this again, even though she keeps saying it's a

1 warning, on your scenario where you're saying that it's just a
2 ticket and you're saying do they always get prosecuted or
3 fined, the same thing as me giving you a speeding ticket. It
4 says for 240 bucks, I send it up, the prosecutors may not take
5 it, you don't always get fined. But the point is the process
6 is that there's no leeway, that you're getting the ticket.
7 And so what I'm trying to bring up here and I wish we would
8 have been consulted with this, there seems to have been a lot
9 of meetings that went on, but we -- I know I was never told
10 and I haven't missed a meeting -- is that if we could've had
11 this discussion prior to behind the closed doors so we could
12 have tried to make something a little bit what I would call
13 user friendly, a little bit more compassionate, that -- and I
14 wish that this would be readdressed, Georgette, immediately.
15 I can't make you do it, but I can encourage that there is
16 some -- some discretion here, because you can see there's
17 clearly overt and there's -- and there's, Oh, my God, yeah,
18 that's gonna happen anywhere.

19 Now, if they're overserving, we can change the
20 scenario and make it really bad, but I'm talking about
21 innocent scenarios like it's, you know, somebody just -- you
22 know, whatever, there's multitude of innocent scenarios. But,
23 you know, they've got -- you walk in there and they've got a
24 party of 50 people in a bar that can only hold 40, I mean,
25 obviously, there's some other obvious total disregards. But

1 in my belief right now is --

2 (Change of video section.)

3 COMMISSIONER BECRAFT: -- get up from their table
4 and just walk five feet to a restroom and it was seen, I
5 believe that bar would be cited and I just -- my personal
6 belief is whether that -- that is within the letter of the
7 law, yes, I do not believe that's the spirit of the law, so I
8 would hope that that gets put in place. And I'm going to drop
9 it from here no matter what else is said. I thank you for
10 your time.

11 CHAIR ALULI: Okay, all right. Any further
12 questions of Georgette? If not, we'll --

13 (No response.)

14 CHAIR ALULI: I don't see any. We'll move on to,
15 let's see, liquor adjudication board. That meeting was
16 canceled; right? Georgette, you want to continue with that?

17 ACTING DIRECTOR TYAU: Yes. The October meeting was
18 canceled for the liquor control adjudication board.

19 CHAIR ALULI: Okay, all right. Thank you. Our next
20 scheduled meeting is November 18th, 2020.

21 Yes, Leon.

22 VICE CHAIR BOLOSAN: Mr. Chair, I just have a minor
23 question. Referring to the liquor control adjudication board,
24 what causes their meetings always being canceled most of all
25 the time? What causes that? I mean --

1 ACTING DIRECTOR TYAU: There wasn't any cases to
2 present.

3 VICE CHAIR BOLOSAN: Oh, I see. Okay, all right.
4 But as far as fines, who set those fines then if they don't
5 have no meetings?

6 ACTING DIRECTOR TYAU: The liquor control
7 adjudication board is who determines fines and any kind of
8 punishment. The department's job is just to write up alleged
9 violations and process the case and it's up to the prosecutor
10 to see if it goes forward or not.

11 VICE CHAIR BOLOSAN: Okay.

12 ACTING DIRECTOR TYAU: So the department's job is
13 just to write up alleged violations and present the case. And
14 then the prosecutor would decide on whether or not it goes
15 forward and the liquor control adjudication board would be
16 like your judge and jury to make a determination once hearing
17 both sides. So it's not in the authority of the department to
18 be the judge and the jury, it's the responsibility of the
19 department to write up alleged violations. And that is how
20 you have checks and balances, that has -- that is how you have
21 accountability. We don't determine at this level whether or
22 not we get rid of somebody's violation or we ignore somebody's
23 violation. At this level, we're to write it up and present it
24 and that is for accountability purposes, to keep the integrity
25 of this department.

1 VICE CHAIR BOLOSAN: Okay. Thank you.

2 CHAIR ALULI: Okay.

3 CORP COUNSEL DESJARDINS: I have a question just to
4 help clarify the situation. If you refer those to the
5 prosecutors, the only way that you have cases to present to
6 the adjudication board is if the prosecutor's office forwards
7 them for a hearing; is that correct?

8 ACTING DIRECTOR TYAU: Well, the head of enforcement
9 will review all cases and give his recommendation and the
10 recommendation is either -- the ones that he choses that met
11 the requirements and there was enough evidence and so forth,
12 gets forwarded to the office of the director either by -- and
13 this is by departmental orders, these procedures -- either by
14 a written caution to be issued by the director's office, or
15 for a complaint and accusation to be forwarded to the
16 prosecutor. Once the prosecutor gets those, he or she will
17 review it and determine if there's enough evidence or what
18 they want to do with it and then they'll say, Okay, let's do a
19 complaint and accusation, or they may say, No, we're dropping
20 this one or do a written caution. But they would make the
21 determination, that way it keeps the department -- the
22 department doesn't make any plea agreements or anything, it's
23 all done at the prosecutor level so nothing is done -- so that
24 everything is level and it's the prosecutor who decides
25 whether something goes forward. Any plea agreements would be

1 made with the prosecuting office and not the department.

2 CHAIR ALULI: Okay. Any further questions on that?

3 (No response.)

4 CHAIR ALULI: Okay. Thank you, Georgette.

5 If there aren't any further questions, I did advise
6 you that our next meeting is on the 18th. I would like to ask
7 for a motion to adjourn. Do I have a motion for adjournment?

8 COMMISSIONER YOKOUCHI: I so move.

9 CHAIR ALULI: Okay, Leslie. Leslie makes -- makes
10 the motion.

11 Bruce, you second?

12 COMMISSIONER U'U: Second.

13 CHAIR ALULI: Okay. All in favor?

14 (Response.)

15 CHAIR ALULI: Any opposed?

16 (No response.)

17 CHAIR ALULI: Motion carries. Thank you. We're
18 adjourned.

19 (The proceedings were adjourned at 10:58 a.m.)
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