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| | <p>The licensee provided the certificate of liability insurance document. Director Rapozo noted for the record that the licensee had current liability insurance at the time of the violation.</p> | <p>Mr. Gibson seconded the motion. Motion carried 6:0.</p> |
| <p>2. Violation Hearing</p> | <p><u>THE POOL BAR</u>: Violation of Rule 7.8(a) Manager on duty, qualifications. Director Rapozo noted that due to an error on the Notice of Hearing, a new notice will be delivered and the hearing held at the next meeting.</p> | |
| <p>3. Public Hearings</p> | <p>a) <u>TAPS & HOPS EATERY</u>: Application No. 2019-079 was filed on April 11, 2019 for a transfer of Restaurant General License No. 2G-066 from Choy Village Inc. dba Island Palm Island Style Grill & Bar to Mee & Son Corp. dba Taps & Hops Eatery located at 4-885 Kūhi‘ō Highway, Kapaa, Kauai, Hawaii. The Commission accepted Application No. 2019-79 for publication and public hearing on April 18, 2019 and ordered to print notice of public hearing in The Garden Island newspaper on Wednesday, April 24, 2019, scheduling the public hearing on May 16, 2019 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu‘e Civic Center, Mo'ikeha Building, 4444 Rice Street, Līhu‘e, Kauai, Hawaii.</p> <p>Mr. Edwin Choy, General Manager, was present on behalf of the applicant.</p> <p>Up until the time of the hearing the department received no letters in support or opposition to the application.</p> <p>The public hearing for Application No. 2019-079 was closed.</p> | <p>Mr. Pacheco moved to approve Application No. 2019-079. Ms. Iida seconded the motion. Motion carried 6:0.</p> |
| | <p>b) <u>KAUAI DISTILLING COMPANY</u>: Application No. 2019-070 was filed on March 7, 2019 by LBD Coffee, LLC dba Kauai Distilling Company for a New Manufacturer Other Specified Liquor license at 5907 C Kawaihau Road, Kapaa, Kauai, Hawaii. The Commission accepted Application No. 2019-70 for publication and public hearing on March</p> | |

21, 2019 and ordered to print notice of public hearing in The Garden Island newspaper on Wednesdays, March 27 & April 3, 2019, scheduling the public hearing on May 16, 2019 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu‘e Civic Center, Mo‘ikeha Building, 4444 Rice Street, Līhu‘e, Kauai, Hawaii.

Chair Endo read the following procedures for the public hearing into the record:

- Each person who wishes to speak will wait until he or she is recognized by the Chair.
- Speakers will be called in the order that they signed in.
- Each person who speaks will state his or her name.
- Each person will be allowed 3 minutes to make a presentation.
- Testimony is to be directed to the Commission and not to the applicant or people in the audience.
- Please respect the person speaking and refrain from making comments while in the audience.
- Any person or persons who willfully disrupts the meeting will be removed in accordance with Section 92-3 of the Hawaii Revised Statutes.

Up until the time of the hearing the department received no letters in support, and 2 letters in opposition to the application.

Mr. Les Drent, owner, and Mr. Jacob Delaplane, counsel, were present on behalf of the applicant. Mr. Drent asked to make sure that the hearing stays on topic, reminding the commission and members of the public that this is an application for the manufacturing of bourbon, and is not about their cigar, coffee, chocolate, honey operation, farming practices, or political philosophies.

The Commission received public testimony from Nellie Bunao in opposition to the application. Ms. Bunao resides at 5923 Kawaihau Road Unit D. Ms. Bunao stated she opposes this application because of the adverse effects to the environment it will cause, adding that it is a detriment to the future of her family. Because she works shifts, she is concerned about the noise from traffic, and is concerned about the health issues. She feels a distillery does

not belong in their small neighborhood, and is in agreement with the other neighbors that are against it.

Commissioner Matsunaga asked if Ms. Bunao lives within the 500' radius to which she replied yes.

Vice Chair Akita asked if Ms. Bunao owns the property to which she replied yes.

The Commission received public testimony from Jetson Wakuta in opposition to the application. Mr. Wakuta resides at 5876 Kaapuni Road. Mr. Wakuta stated that he lives within the 500' radius, directly downwind from the proposed distillery. He is opposed to this application for the same reasons stated by Ms. Bunao, adding that his family has been there for a while, and is one of the few families that are still there since the pineapple cannery was in operation. He does not think a distillery should be in that area as there are too many families around. He does not feel that the manufacturing of bourbon should be allowed.

Commissioner Matsunaga asked to clarify that Mr. Wakuta is within the 500' radius to which he replied yes, further noting that he does not access his property from Kawaihau, but rather from Kaapuni, and drives all the way in.

Commissioner Akita asked whether Mr. Wakuta knows the process of bourbon distilling to which Mr. Wakuta stated yes, that he has done some research on it, though there is probably more education he could receive on it. However, he has looked into things like bourbon mold, and things that could be released into the air.

The Commission received public testimony from Duane Wakuta in opposition to the application. Mr. Wakuta resides at 5433 Kuapapa Street. He noted that he is part owner of the property at 5876 Kaapuni Road. He stated that since this does not concern corn, chocolate, or the other things mentioned by Mr. Drent, it sounds to him like a commercial business. He

questioned whether the property is zoned commercial, or agriculture, noting he did not do any research on the property zoning. He stated if it is zoned agriculture then he feels it is okay to grown corn and such, but also feels that a business like a distillery should be in a commercial area.

Director Rapozo noted that according to the Planning Department, the property is zoned Agriculture, and that a distillery is a permitted use under that zoning.

Commissioner Akita noted that it is not within the Liquor Commission's purview to determine zoning, and what is permitted on Agriculturally zoned properties.

The Commission received public testimony from Muriel Morgan in opposition to the application. Ms. Morgan owns properties at 5898, 5898 A, 5906 B, and 5910 Kawaihau Road, which are all located across the street from the proposed distillery. Ms. Morgan noted that a packet had been submitted to the Commission prior to the hearing, and she would not be going through all of that again. However, she wished to share what she had found out within the last few days. Ms. Morgan read a statement from the Kauai Distilling website that provides information on Mānā Becks Lot No. 201907231-100, information about the Kapahi Bourbon and Virgin Kea Moonshine release dates as well as information on the hybrid corn being grown on the westside. She reads that an estimated 2,500 bushels of corn will be grown to produce another 100 barrels of Kapahi Bourbon as well as 10,000 cases of Virgin Kea Moonshine. Ms. Morgan noted that last year, Mr. Drent had 86 barrels, and this projection is for 225 barrels. She noted that the wastewater management report in 2017 shows that the system they have will handle 1,000 gallons per day of water; that year, they already showed they had between 840 and 940 gallons of water per day. Now he will be adding to that with three times as much processing. Ms. Morgan stated that the Beck's corn he uses is totally GMO, and 140,000 pounds of it will be processed across the street from their homes in a residential neighborhood. She stated that the residue left in the soil are taken by the bees, and contribute to colony collapse disorder, which kills bees. To put it

into perspective, Ms. Morgan explained that each acre has 30,000 stalks of corn, and Mr. Drent has over 30 acres. Ms. Morgan submitted a petition to the commission along with a corresponding map showing the property owners in opposition.

Commissioner Matsunaga asked how many people live within the 500' radius to which Ms. Morgan replied that there are 98 registered voters, and she has the names of the registered voters. When asked whether she has shared that list with the applicant Ms. Morgan replied no, questioning why she would give him anything, adding that Mr. Drent calls her all kinds of names and has said the worst thing about her.

Vice Chair Akita asked Deputy County Attorney Takamura what the process would be now that a petition has been submitted, which Ms. Morgan states has 71 percent of registered voters in opposition.

Director Rapozo stated the names will have to be verified. Attorney Takamura confirmed that the commission will still have to continue with the hearing. If the Commission wished to move forward with a possible automatic denial, the names have to first be verified. In that case, the hearing would have to be closed, and the commission has up to 90 days to verify the names on the petition.

The Commission received public testimony from Kamalani Kauai in opposition to the application. Ms. Kauai resides at 5893 B Kawaihau Road. Ms. Kauai shared her concern about what is proposed, noting it is right in her front yard, and she cannot imagine a distillery near their homes. She can look out her window and see where it will be built. Though there are claims that there is no hazard, she is concerned that alcohol will be kept there. If there is some kind of accident, there is risk of fire, and homes nearby can be greatly affected. Ms. Kauai stated she is starting her own family, and she wants to be able to live in a peaceful neighborhood, and believes that this distillery is causing much more contention in the neighborhood. She feels that contention will make it unsafe, and she does not want that in her neighborhood.

The Commission received public testimony from Brandon Kauai in opposition to the application. Mr. Kauai resides at 5892 B Kawaihau Road. Mr. Kauai stated he opposes this business because he strongly, strongly disagrees with a business being built in his front yard. He has lived on the property for 23 years, which his father has worked hard on, and his been very generous and loving to let them reside there. Mr. Kauai stated he loves how peaceful and comfortable it is, and he believes that if this distillery is built it will progress in a way that is disrupts that. He also feels that it will influence other businesses to do the same thing. Mr. Kauai noted that he has been speaking with Mr. Drent, and he does respect him and understands that he wants to grow his crops, and raise his bees. However, he does not agree with the consumption or production of alcohol, and will not encourage it. He added that he gives much respect to Mr. Drent and his family as well as the workers employed by him. His intention is not to take anyone's job away because he understands it would be convenient for those that live in Kapaa and Wailua to work there. However, it would not be convenient for the neighbors. Mr. Kauai stated he knows Mr. Drent cares about the neighbors, but he feels it would be better to not have this type of business in their neighborhood.

The Commission received public testimony from Kerry Avery in opposition of the application. Mr. Avery resides at 5927 A Kawaihau Road. Mr. Avery stated that he does not know Mr. Drent as he just purchased his property less than a month ago. He explained that he and his wife came from an agricultural area and just sold their farm with the idea that they were moving to an area that would not have a business next door. They are shocked and dismayed that this would be possible. Mr. Avery stated he is obviously not opposed to agriculture, which he spent his whole life doing, but to have a distillery next door is shocking. They have invested a lot into the property to bring value into the neighborhood and the area. Mr. Avery stated he and his wife loves the area, and would hate to have to sell it. Though he is not opposed to agriculture he feels a distillery is going over the edge.

The Commission received public testimony from Kelly Morgan in opposition to the application. Ms. Morgan resides at 7243 Aina Pono Road. Ms. Morgan stated she used to live on one of the properties owned by Muriel Morgan. She is opposed to the distillery because from what she has read and heard, the owner has been very misleading to the public about the truth of the seed quality and the processes. She lived in Kapaa most of her life and grew up across the street from the LBD Coffee Company, commenting that the coffee roasting was a noxious presence there, and would always shut their doors and windows. Many times they thought it was a fire. Ms. Morgan feels there was no consideration by the owner about how his coffee roasting was negatively affecting neighbors, and no effort was made to make it better. He brother had asthma, which would be affected by the coffee roasting.

Vice Chair Akita asked to clarify whether Ms. Morgan was aware that this application was not for coffee. Ms. Morgan stated yes, but noted that it is the same business owner. Vice Chair Akita stated that Ms. Morgan may not want to disparage Mr. Drent at this hearing. Chair Endo added that the commission asks that testimony be about the current application for the distillery.

Ms. Morgan asked that the commission not allow the same business owner to create another inescapable disturbance in their community.

The Commission received public testimony from Joan Sable in support of the application. Ms. Sable resides at 6202 Kawaihau Road Unit A. Ms. Sable stated she does not live within the 500' radius of the distillery, but she does live next door to Mr. Drent's farm and residence where he currently processes his coffee and chocolate. Ms. Sable stated Mr. Drent does everything in a very responsible manner, and in her experience he has always been a very responsible farmer, and keeps his property immaculate. She stated that he is an organic farmer, though the corn is an exception, but the corn is not farmed at that site. The distillery would be a permitted use because it is an agriculture product.

The Commission received public testimony from Tom Gross in support of the application. Mr. Gross resides at 4605 Kuli Road in Kalāheo. Mr. Gross stated that he has known Mr. Drent for 13 years, and has worked with him in the past. He stated that he was excited to hear about this business because he knows how hard Mr. Drent works to work with the community and create good products. Bourbon is not something that the kids drink or creates havoc; it is a high end product that is ambassadorial to Kauai, just as Kōloa Rum is. Mr. Gross feels this type of product is important for the promotion of Kauai and will be something visitors will want to take home, and have fond memories of the island. He noted that this a product promotes sustainability as Mr. Drent utilizes crop grown on Kauai. Mr. Gross feels that moving forward with it is the right thing to do.

The Commission received public testimony from Treyvyn Pless in support of the application. Mr. Pless resides at 4925 Pelehu Road. Mr. Pless is not within the 500' radius, but he has worked for Mr. Drent for almost 8 years. He stated that no one in the company would be involved with this if they felt it would harm, or have detrimental effects to the community around it. He stated that Mr. Drent is a family man before he is a business man, and everyone involved in the company has deep roots in the community.

The Commission received testimony from Adam Killerman in support of the application. Mr. Killerman resides at 5356 Waha Road in Hanapēpē Valley. Mr. Killerman stated he has been involved in agriculture for over 40 years on Kauai, and is currently growing some corn for Mr. Drent as well as sugar cane for Kōloa Rum. He feels that there are serious problems with diversified agriculture on Kauai because of water issues, parrots, pigs, pheasants, etc. He feels Kauai is at a crossroads where value added products are needed, and agriculture needs to be supported. Without people like Mr. Drent or Kōloa Rum as well as other agriculture ventures, Kauai is in trouble. We need to stay green to keep the visitors coming to the garden island. He noted that when you live in an agricultural area, there is usually going to be dust and agriculture operations.

Les Drent, owner wished to introduce Don Poppenroth who Mr. Drent had on speakerphone.

Mr. Drent stated that he is a farmer, and he makes farm products. Everything they do is online.

Commissioner Pacheco noted a statement made by Mr. Drent in a Facebook exchange that read: "If people don't want us there, we are more than willing to sell that land for a profit and let someone else exploit Kauai agricultural land.", and asked how much water this statement holds. Mr. Drent replied that it is something that he has discussed with his family, and has thought about selling one of the farms and consolidating, possibly moving down to where the distillery would be. He noted that he would consider selling the land if he could sell the building that the distillery would be housed in. He noted that at the advice of his counsel, he was told they would not have any opposition to this distillery and would not be shut down because they do have a right to farm, which is protected under both State and Federal law. Mr. Drent further expressed his dismay at the state of agriculture here on Kauai, and does not feel it is possible for a young farmer to get going on this island. He reiterated that the statement he made does hold a lot of water, and he stands by what he said.

Commissioner Pacheco asked to clarify that Mr. Drent recently acquired land in Līhu'e behind Eisenberg Tract. Mr. Drent stated that is incorrect, and clarified that he has a 16-acre lease from Grove Farm for 9 years where they are growing tobacco, and corn that has since been turned into whiskey, which was distilled in Spokane, Washington. They gave up a 4 year lease in Kekaha that they were going to expand and grow more corn, but things never materialized. Mr. Drent stated that Adam Killerman grew some corn for them in Kōloa last year, and Beck's hybrid has been an incredible asset to them, and have been growing 6 acres of hybrid corn for him. Mr. Drent stated he is also the owner of 3 certified organic farms, and he supports all agriculture. He noted that cattle farmers have been waiting years to collect the spent mash from their distillery because it's a high value feed for the cows. He noted that the State Department of Health insisted they take all of that mash to waste at Kauai Nursery and Landscaping, who they have to pay

to dispose of it. He explained that the wastewater system they have is way over what they need. When they decided to put in a 1,000 gallon still setup, they did it so they could be running the distillery for 3 months a year, and have visitors come to farm to see how the process works. He expressed his frustration that he cannot have his honey farm there because people have complained about the bees, he can't do coffee there because people have complained about the smoke.

Mr. Delaplane commented that the County of Kauai General Plan was recently updated, and it covers this particular area in Kapahi, and the vision for it being a mixed-use village type area include a mix of residential and service uses. He stated that what is being proposed fits right into that general plan, and noted that there are a whole host of other things they could do that would not require this commission's approval such as a piggery, a chicken farm, or many other things that make a lot of loud noise, and generate smells which would all be generally distasteful to a residential area. He added that instead the applicant has come up with a clean idea of a distillery. Mr. Delaplane shared a visual plan of the proposed distillery. He stated his concern is that much of the opposition has been focused on the idea that what is being proposed is a big factory. He commented that this has been well planned out, thoughtful, and will likely raise property values around it without being a nuisance. Mr. Delaplane stated that the legislature has passed a whole bunch of laws to try and encourage new ways of having sustainable agriculture that does not ruin the land, and create animal waste. He stated that his proposal fits directly into that and is sensitive to all the issues. This is a small family operation that is set to fit in with the kind of area it is in. Mr. Delaplane pointed out that the entire area is zoned agriculture, and it was even stated by some of the testifiers that it used to be farm land. Over time, it has become more residential in nature, but the land is intended for, both in the General Plan and in the zoning, is for agriculture.

Mr. Drent stated that when he first had Tai Erum come to represent the company the first time, he thought it was going to be ministerial in nature. They did not send out any personal letters, and from the notices that were sent out, only four property owners showed up. Mr. Drent stated that the attorney that was representing the commission at that time suggested a

Mr. Matsunaga moved to hold the decision

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| | <p>continuance to meet with the neighbors, which he did not want to initially do. An attempt was made to go out and meet with the neighbors, and personal letters were sent out, and this is the outcome.</p> <p>The application on Application 2019-070 was closed.</p> | <p>making for this hearing in abeyance pending verification of the signatures on the petition submitted in opposition. Ms. Akita seconded the motion. Motion carried 6:0.</p> |
| <p>4.</p> | <p><u>DIRECTOR’S REPORTS:</u></p> <p>a) <u>INVESTIGATOR’S REPORTS:</u></p> <p>b) <u>INCOMING COMMUNICATIONS:</u></p> <ul style="list-style-type: none"> (1) From Sweepstakes Consulting (2) From Arrowhead Promotion & Fulfillment Co. (3) From Avid Marketing Group <p>c) <u>OUTGOING COMMUNICATIONS:</u></p> <ul style="list-style-type: none"> (1) To Arrowhead Promotion & Fulfillment Co. (2) From Avid Marketing Group, (3) To All Wholesale Licensees, Re: Transfer Liquor License Kauai Beach Resort <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u></p> <p>Managers and Assistant Managers – See Attachment “A”</p> <p>e) <u>ACTIONS OF THE DIRECTOR:</u></p> <ul style="list-style-type: none"> (1) FOODLAND PRINCEVILLE (2) KILOHANA (3) MERRIMAN’S KAUAI (4) PRINCEVILLE WINE MARKET (5) SAFEWAY KAPAA (6) TORTILLA REPUBLIC (7) WRANGLER’S RESTAURANT (8) THE WINE SHOP (9) KAUAI CHAMBER OF COMMERCE | <p>Mr. Pacheco moved to approve Items 4(a)</p> |

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| | f) <u>INFORMATIONAL MATTERS:</u> | through f. Ms. Akita seconded the motion. Motion carried 6:0. |
| 5. | <u>CHANGE IN FIRM NAME:</u> <u>TRAVEL TRADERS HOTEL STORES, INC.:</u> Change of firm name on Retail Dealer General License No. 4G-063 from “Travel Traders Hotel Stores, Inc.” to “Travel Traders #939”. | Ms. Akita moved to approve the change in firm name. Mr. Pacheco seconded the motion. Motion carried 6:0. |
| 6. | <u>CHANGE IN CORPORATE OFFICERS:</u> <u>SEVEN-ELEVEN HAWAII, INC.:</u> Removal of Kazuki Furuya as Director; addition of Fumihiko Nagamatsu as Director. | Ms. Iida moved to approve the change in corporate officers. Mr. Gibson seconded the motion. Motion carried 6:0 |
| 8. | <u>CLOSED MEETING FOR THE PURPOSE OF THE COMMISSION EXERCISING ITS ADJUDICATORY FUNCTIONS PURSUANT TO HAWAI’I REVISED STATUTES SECTIONS 92-6 AND 91-9 REGARDING:</u> a) <u>7-ELEVEN STORES (LIHUE):</u> Violation of HRS 281-31(s) Licenses, classes. b) <u>7-ELEVEN STORES (HANAMAULU):</u> Violation of HRS 281-31(s) Licenses, classes. c) <u>7-ELEVEN STORES (LAWAI):</u> Violation of HRS 281-31(s) Licenses, classes. | The Commission entered into a closed meeting at 5:07 p.m. |
| Return to Open Session | | The Commission resumed in open session at 5:46 p.m. |
| Announcements | Next Scheduled Meeting: Thursday, June 6, 2019 – 4:00 p.m., Mo’ikeha Building, Meeting Room #3. | |

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| Adjournment | | Vice Chair Akita adjourned the meeting at 5:46 p.m. |
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Submitted by: _____
Cherisse Zaima, Private Secretary

Reviewed and Approved by: _____
Paul Endo, Chair

- () Approved as circulated.
- () Approved with amendments. See minutes of _____ meeting.