

APPROVED

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

See Open Session minutes of 11-12-21.

Board/Commission:	LIQUOR CONTROL COMMISSION	Meeting Date	October 14, 2021
Location	Tele Conference via Microsoft Teams Audio +1 469-848-0234, Conference ID: 441 228 033# https://bit.ly/3z154J0	Start of Meeting: 4:00 p.m.	End of Meeting: 5:47 p.m.
Tele Present	Chair William Gibson, Vice Chair Dee Crowell Members: Lorna Nishimitsu, Randy Nishimura, Gary Pacheco, Tess Shimabukuro Also: Liquor Control Staff: Director Leo Sandoval, Liquor Clerical Assistant Malialani TM Kelekoma; Ellen Ching Administrator Boards & Commission, Deputy County Attorney Charles Foster		
Excused	Leland Kahawai		
Absent			

SUBJECT	DISCUSSION	ACTION
A. <u>CALL TO ORDER</u>		Chair Gibson called meeting to order 4:00 p.m.
B. <u>ROLL CALL</u>	Director Leo Sandoval called roll, noting 6 members were present via Tele-Conference constituting a quorum. Commissioner Kahawai is excused.	
C. <u>ANNOUNCEMENTS:</u>	Next Scheduled Meeting: Thursday, October 28, 2021 – 4:00 p.m. or shortly thereafter.	

SUBJECT	DISCUSSION	ACTION
<p>D.</p>	<p><u>APPROVAL OF AGENDA</u></p> <p><u>Corrections to agenda:</u></p> <ol style="list-style-type: none"> 1. Application No. 2022-005 line #4 the Application Number does not match. Change to reflect 2022- 005 the same as the first line. 2. K. 1 Line #3 BAMF LLC Batters should read no live entertainment and no dancing. 3. Item N. 1. c. correction (love) should be live. 4. Footer of the document from page 2 to 7 reflects September 23rd and that should reflect today's date of October 14th. 	<p><u>Motion:</u> Mr. Nishimura moved to approve the agenda with amendments. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
	<p><i>Commissioner Nishimura entered the meeting at 10:04 a.m.</i></p>	
<p>E.</p>	<p><u>APPROVAL OF MINUTES:</u></p> <ol style="list-style-type: none"> 1. Open Session Minutes of August 12, 2021 2. Open Session Minutes of August 26, 2021 3. Open Session Minutes of September 9, 2021 4. Open Session Minutes of September 23, 2021 <p>Commissioner Nishimura recommended revisions for the Secretary and Staff to revisit pages 19 through 28. The September 9th meeting there seems to be a lot of typos and possible errors in there. For the minutes of September 23rd, 2021 need to review the discussion regarding the rules it did not make sense to me and request they review the minutes before sending them out internally.</p>	<p><u>Motion:</u> Mr. Nishimura moved to approve Open Session Minutes of August 12 and August 26, 2021, and defer the actions of September 9th and September 23rd, 2021. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
	<p>Commissioner Nishimitsu requested the minutes for September 9th on page 13 at the top line (7) it has the phrase poison life supremacist. Should be Employees in Licensed Premises.</p>	
<p>F.</p>	<p><u>PUBLIC HEARING:</u></p> <p>1. <u>KIIBO LLC dba KIIBO</u>: Application No. 2022-005 was filed on July 15, 2021 by KIIBO LLC dba Kiibo for a New Restaurant General license (Live Music, with No Dancing) located at 2991 Umi Street, Lihue, Kauai, Hawaii. The Commission accepted Application No. 2022-005 for publication and public hearing on August 12, 2021 and ordered to print notice of public hearing in The Garden Island newspaper on Wednesdays, August 18, and August 25, 2021, scheduling the public hearing on October 14, 2021, at 4:00 p.m. or shortly thereafter via Microsoft Teams conferencing only.</p> <p>Chair Gibson opened the Public Hearing for Kiibo Restaurant Application No. 2022-005. Is there a Department Report on this application? Is someone representing the applicant and if he received a copy of the Investigator’s Report and are there any questions?</p> <p>Mr. Kevin Exabe Manager was present to represent Kiibo LLC dba Kiibo. He responded yes to the Investigator’s Report and did not have any questions.</p> <p>Chair Gibson asked are there any questions. Hearing none. The Public Hearing is closed for Application No. 2022-005.</p>	<p><u>Motion:</u> Mr. Nishimura moved to approve Application No. 2022-005 Kiibo LLC dba Kiibo for a New Restaurant General license (Live Music with No Dancing). Mr. Pacheco seconded the motion. Motion carried 6:0.</p> <p><u>Roll Call Vote:</u> Shimabukuro – Aye Pacheco – Aye Nishimitsu – Aye Nishimura – Aye Vice Chair Crowell – Aye Chair Gibson - Aye</p>

SUBJECT	DISCUSSION	ACTION
	<p>2. <u>THE ODOM CORPORATION dba THE ODOM CORPORATION</u>: Application No. 2022-009 was filed on July 26, 2021 by THE ODOM CORPORATION dba THE ODOM CORPORATION for a transfer of Wholesale Dealer General No. 3G-007 from Anheuser-Busch Sales of Hawaii, Inc. dba Anheuser-Busch Sales of Hawaii. The Odom Corporation located at 2955 Waapa Road, Lihue, Kauai, Hawaii. The Commission accepted Application No. 2022-009 for publication and public hearing on September 9, 2021 and ordered to print notice of public hearing in The Garden Island newspaper on Wednesday, September 15, 2021, scheduling the public hearing on October 14, 2021, at 4:00 p.m. or shortly thereafter via Microsoft Teams conferencing only.</p> <p>Chair Gibson opened the Public Hearing for The Odom Corporation dba The Odom Corporation Application No. 2022-009. Is there a Department Report on this application?</p> <p>Mr. Kenneth G.K.Hoo Counsel was present to represent the applicant along with Mr. Dana Leslie, CFO of the applicant. We have received a copy of the Investigator’s Report and have no comments.</p> <p>Chair Gibson asked the Commissioners are there any other questions. Hearing none the Public Hearing for Application No. 2022-009 is now closed.</p>	<p><u>Motion:</u> Mr. Nishimura moved to approve Application No. 2022-009 for the Odom Corporation dba The Odom Corporation for transfer of Wholesale Dealer General No. 3G-007 from Anheuser-Busch Sales of Hawaii, Inc. dba Anheuser-Busch Sales of Hawaii not sooner than October 29, 2021. Mr. Pacheco seconded the motion. Motion carried 6:0.</p> <p><u>Roll Call Vote:</u> Shimabukuro – Aye Pacheco – Aye Nishimura – Aye Nishimitsu – Aye Crowell – Aye Gibson – Aye</p>

SUBJECT	DISCUSSION	ACTION
<p>G.</p>	<p><u>VIOLATION HEARING:</u></p> <ol style="list-style-type: none"> 1. <u>BRICK OVEN PIZZA KALAHEO, INC.:</u> Violation of Rule 7.8 Manager on duty, qualifications. <ol style="list-style-type: none"> a. Brick Oven Pizza is licensed as a restaurant permitted to sell liquor for on-premises consumption. b. On September 3, 2021, at 6:34 P.M. Investigator Yoshida was conducting a normal inspection at the licensee. At the time of the inspection Investigator Yoshida noted there were approximately fifteen patrons inside of the establishment. When Investigator Yoshida asked to speak with a Blue Card Manager, he was informed that there was not one on duty, but they could be contacted by phone. Investigator Yoshida also confirmed with the establishments work schedule that there was not a Blue Card Manager scheduled. c. Rule 7.8 Manager on duty, qualifications (a) states: a person who is not less than twenty-one years of age and who is duly registered by the licensee as a manager and approved by the commission must be in active charge of any on premises establishment at all times when there is anyone who is not an employee in the premises. d. Prior violation history within a 12-month period includes: None 	<p><u>Motion #1:</u> Ms. Nishimitsu move that the Commission agree to impose a fine of \$500.00 for the violation. Mr. Pacheco seconded the motion.</p> <p><i>Ms. Nishimitsu removed her motion.</i> <i>Mr. Pacheco removed his second.</i></p> <p><u>Motion #2</u> Commissioner Nishimura as recommended by the Director I moved that we impose a fine of \$500.00 and suspend \$250.00 of the fine provided they do not have a recurrence of this in the next 12 months. Mr. Pacheco seconded the motion.</p>

SUBJECT	DISCUSSION	ACTION
	<p><u>Summary:</u></p> <p>Ms. Kimberly Gummerus, Manager of Brick Oven Pizza was present to represent Brick Oven Pizza. She was not represented by Counsel, she swore to tell the truth. She understood and admitted to the charges for Rule 7.8 manager on duty qualifications. She explained she was on vacation and on her return she got sick and had to do a COVID test and didn't return to work to the 6th. While I was on vacation and I was supposed to be back on the first but I got sick had to do a COVID test and I didn't return to work to the 6. Manager on duty for the night made his own switch on the schedule without notifying her, with someone who did not have a Blue Card. That is no excuse, and the employee is no longer working with them.</p> <p>Recommendations from Department is that this, violation on this particular location has not had a history within 12 months, the standard fine charge of \$500.00.</p> <p>Details of this discussion are available upon request.</p>	<p><u>Roll Call Vote:</u> Shimabukuro – Aye Pacheco – Aye Nishimura – Aye Nishimitsu – Aye Crowell – Aye Gibson – Aye</p>
<p>H.</p>	<p><u>DIRECTOR'S REPORTS:</u></p> <ol style="list-style-type: none"> 1. <u>DIRECTOR REPORT:</u> <ol style="list-style-type: none"> a. September 24 - October 7, 2021 2. <u>INVESTIGATORS ACTIVITY REPORTS:</u> 3. <u>EMPLOYEES IN LICENSED PREMISES:</u> <ol style="list-style-type: none"> a. Managers and Assistant Managers Red/Blue Card exam list - See Attachment "A" <p>Details of this discussion are available upon request.</p>	<p><u>Motion:</u> Mr. Pacheco moved to accept the Directors Report of September 24th to October 7th to include 1. a. through 3. a. Mr. Nishimura seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
<p>I.</p>	<p><u>ACTIONS OF THE DIRECTOR:</u></p> <p>1. <u>HOLLAND AMERICA LINE N.V.:</u> Approval of One Day Transient Vessel License for the vessel ms Zuiderdam, which will arrive at Nawiliwili Harbor, Pier 2, on December 15, 2021 8:00 a.m. and depart on the same day at 6:00 p.m.</p>	<p><u>Motion:</u> Ms. Nishimitsu moved to accept the Actions of the Director for Holland America Line N.V. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
<p>J.</p>	<p><u>INFORMATIONAL MATTERS:</u></p> <p>1. Letter from Charter Review Commission – Proposed Amendments</p> <p><u>Summary:</u></p> <p>Forward ballot questions to the Council by June. For proposals, a simple one paragraph explanation of what you want change and why you want to change it, forward to Charter Review Commission. Once they have that on the agenda, they will ask someone from the Commission to appear to provide more explanation. They will determine whether to move anyone of them forward. They would be requesting detailed explanation and the Ramseyer a format of what you want to change.</p>	<p><u>Motion:</u> Mr. Nishimura moved to receive the Letter from the Charter Review Commission for any Proposed Amendments. Ms. Nishimitsu seconded the motion. Motion carried 6:0.</p>
<p>K.</p>	<p><u>NEW LICENSE:</u></p> <p>1. <u>BAMF LLC dba BATTERS UP:</u> Application 2022-008 was filed on August 5, 2021, by BAMF LLC dba Batters Up for a New Restaurant General (A) (No Live entertainment and no dancing) license located at 1639 Haleukana Street, Lihue, Kauai, Hawaii. Deposited \$450.00</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Director Leo Sandoval stated BAMF LLC dba Batters Up Application No.2022-008 was filed on August 5th, 2021, by BAMF LLC dba Batters for a New Restaurant General (A) (No Live entertainment and no dancing) license located at 1639 Haleukana Street, Lihue, Kauai, Hawaii Deposited \$450.00. Chair Gibson if there's no discussion item K. 1. License for BAMF LLC dba Batters Up, can be accepted with a motion do so for Publication and Public Hearing.</p>	<p><u>Motion:</u> Mr. Nishimura moved to accept Application No. 2022-008 for BAMF LLC dba Batters Up for a New Restaurant General (No Live entertainment and no dancing) for Publication and Public Hearing. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
<p>L.</p>	<p><u>PERMANENT INCREASE:</u></p> <p>1. <u>SGF CORP dba ROB’S GOOD TIMES GRILL:</u> Request for permanent increase of premises to add permanent outdoor seating approximately 100’ X 10’ encompassing the sidewalk area immediately in front of Rob’s Good Times Grill for table dining. The use of this additional area is to expand seating. The appropriate staff as well as the manager on duty will monitor all areas.</p> <p style="text-align: center;"><i>Commissioner Nishimura rescind his motion. Commissioner Nishimitsu rescind her second.</i></p> <p><u>Summary:</u> Concerns from the Commission ADA (Americans with Disabilities Act) how they will address it.</p> <ol style="list-style-type: none"> 1. Is there space between the tables and the sidewalk? 2. Will the Commission be liable for giving them an extension of premises? 3. COVID expansions were permitted. 4. Upon approval to comply with State, Federal and County requirements. 	<p><u>Motion #1:</u> Mr. Nishimura moved to approve SGF Corp dba Rob’s Good Times Grill request for Permanent outdoor seating expansion 100 feet by 10 feet as stated in their application. Ms. Nishimitsu seconded the motion.</p>

SUBJECT	DISCUSSION	ACTION
		<p><u>Motion #2</u> Mr. Nishimura moved to approve the permanent increase request for SGF Corp dba Rob’s Good Times Grill and to reference Rule 2.5 (K) in the approval letter. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
<p>M.</p>	<p><u>REQUEST TO REMOVE LICENSE FROM SAFEKEEPING:</u></p> <ol style="list-style-type: none"> 1. <u>DHC Food & Beverage dba The Market:</u> <ol style="list-style-type: none"> a. DHC Food & Beverage Corporation dba The Market is requesting to remove their license from safekeeping. b. License No. 4G-038 was placed in safekeeping during the time of renovations being done to the licensed premises. Those renovations are now completed. c. Hawaii Revised Statutes – HRS 281-41 (k) states: (k) The Conversion of an entity into any other form of entity or the merger of any entity shall not be deemed a transfer of the license; provided that the licensee, prior to the date of the conversion or merger, shall apply for and secure the approval of the Commission without any requirement for publication of notice. The foregoing shall not preclude compliance with subsection (d) upon a change in any of the partners or members, or with subsection (j) upon change of any shareholders, officers, or directors of any entity occurring concurrently with a conversion or merger. 	<p><u>Motion:</u> Mr. Nishimura moved to approve the removal of Licenses from Safekeeping. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
<p>N.</p>	<p><u>90 DAY TRIAL PERIOD:</u></p> <ol style="list-style-type: none"> 1. <u>Request for a one-time 90-day trial period to provide live entertainment.</u> <ol style="list-style-type: none"> a. Tru Protection, Inc. dba Japanese Grandma’s Café License No. 2G-036, currently holds a Restaurant General License with no live entertainment and no dancing. b. True Protection, Inc dba Japanese Grandma's Café is requesting a one-time 90-day trial period to provide live entertainment starting October 15, 2021. c. HRS 281-47 Standard bar; music and dancing available. States Any standard bar establishment may provide facilities for dancing patrons, including a dance floor and love or recorded music, if establishment is located in a commercial district and obtains the approval of the Commission to provide such services on a one-time trial basis to exceed ninety days, provided that the music and dancing shall be allowed only during the trial period. d. Tru Protection, Inc. dba Japanese Grandma’s Café is currently in the process to change the Class and Kind of the existing license from Restaurant General Class A no live entertainment and no dancing to Restaurant General Class B live entertainment and dancing. 	<p><u>Motion:</u> Mr. Nishimura moved to approve 90-day trial for Tru Protection, Inc. dba Grandma’s Café license No. 2G-036. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
<p>O.</p>	<p><u>AUTHORIZED AGENT:</u></p> <ol style="list-style-type: none"> 1. <u>MPK MANAGEMENT COMPANY LLC dba BEACH HOUSE RESTAURANT:</u> Authorization for Robert Arthur Ueoka as the attorney and Authorized Agent for MPK MANAGEMENT COMPANY LLC dba Beach House Restaurant for Restaurant General Liquor License No. 2G-045 located at 5022 Lawai Road, Koloa, Kauai, Hawaii. 	<p><u>Motion:</u> Mr. Nishimura moved to MPK Management Company LLC DBA Beach House restaurant authorization for Robert Arthur Ueoka as the Attorney and Authorized agent for NPC Management company LLC DBA Beach</p>

SUBJECT	DISCUSSION	ACTION
		House restaurant. Mr. Pacheco seconded the motion. Motion carried 6:0/
P.	<p><u>NEW SOLICITOR’S PERMIT:</u></p> <p>1. <u>MASAKI MIYAZAWA: Application No. 2022-019 was filed on September 30, 2021, by Masaki Miyazawa for a Solicitor’s Permit in the County of Kauai to represent Wismettac Asian Foods, a Wholesale Dealer General licensee in the City & County of Honolulu. Deposited \$180.</u></p>	<p><u>Motion:</u> Mr. Nishimura moved to approve Application No. 2022-19 for a New Solicitor’s Permit for Masaki Miyazawa. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
Q.	<p><u>DISPOSITION OF AMOUNT FINE HELD N SUSPENDED STATUS (9/23/2021):</u></p> <p>1. <u>Viva Kai LLC dba Kai Bar Coffee Roasters: Discussion and possible decision making on the collection of the fine amount held in suspended status from June 17th, 2021 Commission hearing on a violation that originally occurred on May 28th, 2021 with conditions set. (Continued from 9/23/2021 Commission Meeting)</u></p> <p><u>Summary:</u></p> <p>1. Viva Kai LLC dba Kai Bar Coffee Roasters, collect amount of fine held in suspended status:</p> <p>a. 1st occurrence on May 28, 2021 b. 2nd occurrence on June 8th, 2021</p>	<p><u>Motion:</u> Ms. Nishimitsu moved to instruct the Director to collect the suspended portion for the fine that was imposed for the event of May 28th, 2021. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
<p>R.</p>	<p><u>2021 PROPOSED RULE AMENDMENTS FOR COMMISSION REVIEW (9/23/2021):</u></p> <p><u>Summary:</u></p> <ol style="list-style-type: none"> 1. Chart of fines be adopted by the Commission or internally by the Department. In the rule amendments would there be maximums for the first, second and third violation maximum. It Does the Commission have the discretion to impose less, and to be part of rulemaking after public notice to the public. 2. Director Leo Sandoval will start a second set of rules and start the process again. 	<p><u>Motion:</u> Mr. Nishimura moved to receive the 2021 Proposed Amendments. Ms. Nishimura seconded the motion. Motion carried 6:0.</p>
<p>S.</p>	<p><u>EXECUTIVE SESSION:</u></p> <p>Pursuant to HRS §92-4, §92-5(a)(4), §92-9(a)(1-4) and (b), the purpose of this Executive Session is for Commission to approve or amend the Executive Session Minutes of August 12, 2021, August 26, 2021, September 9, 2021 and to consult with its attorney on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities as they may relate to this item.</p> <ol style="list-style-type: none"> 1. <u>APPROVAL OF MINUTES:</u> <ol style="list-style-type: none"> a. <u>Executive Session Minutes of August 12, 2021</u> b. <u>Executive Session Minutes of August 26, 2021</u> c. <u>Executive Session Minutes of September 9, 2021</u> <p>Pursuant to HRS §92-7(a), the Commission may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4 and shall be limited to those items described in HRS §92-5(a).</p>	<p><u>Motion:</u> Mr. Pacheco moved to go into Executive Session. Ms. Nishimitsu seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
T.	<u>RETURN TO OPEN SESSION</u>	Commissioner's return to Open Session @ 5:45 p.m.
U.	<u>ROLL CALL FOR THE RETURN TO OPEN SESSION</u> Director Leo Sandoval called roll, noting 6 members were present via Tele-Conference constituting a quorum.	
V.	<u>RATIFY THE ACTIONS TAKEN IN EXECUTIVE SESSION</u>	<u>Motion:</u> Mr. Nishimura moved to ratify the actions taken in Executive Session. Ms. Shimabukuro seconded the motion. Motion carried 6:0.
W.	<u>ADJOURNMENT</u> With no further business to conduct, Chair Gibson called for a motion and a second to adjourn the meeting.	<u>Motion:</u> Mr. Pacheco moved to adjourn the meeting. Mr. Nishimura seconded the motion. Motion carried 6:0. Meeting adjourned @ 5:47 p.m.

Liquor Control Commission
Open Session
October 14, 2021

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Submitted by: _____
Malialani TM Kelekoma, Liquor Clerical Assistant

Reviewed and Approved by: _____
William Gibson, Chair

() Approved as circulated.

(X) Approved with amendments. See minutes of 11-12-21 meeting.