

APPROVED

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved with amendments see Open Session minutes of 7/14/22.

Board/Commission:	LIQUOR CONTROL COMMISSION	Meeting Date	June 23, 2022
Location	Pi`ikoi Building, Suite 300 4444 Rice Street, Lihue, HI 96766	Start of Meeting: 4:00 p.m.	End of Meeting: 4:53 p.m.
Present	Pro Tem Chair: Gerald Matsunaga, Members: Randall Nishimura, Lorna Nishimitsu and Tess Shimabukuro Also: Liquor Control Staff: Assistant Chief Investigator Stacy Iwasaki, Liquor Private Secretary: Malialani Kelekoma, Boards & Commission Administrator: Ellen Ching Deputy County Attorney Charles Foster		
Excused	Leland Kahawai, Dee Crowell, Director Leo Sandoval-Reyes		
Absent			

SUBJECT	DISCUSSION	ACTION
A. <u>CALL TO ORDER</u>		Pro Tem Chair Matsunaga called meeting to order @ 4:00 p.m.
	<u>NOMINATE PRO TEM CHAIR</u> Deputy County Attorney Charles Foster advised the Commission to nominate a Chair.	<u>Motion:</u> Mr. Nishimura moved to designate Commissioner Matsunaga as Pro Tem Chair. Ms. Nishimitsu seconded the motion. Motion carried 4:0.
B. <u>ROLL CALL</u>	Assistant Chief Investigator Iwasaki called roll, noting 4 members were present. Chair Dee Crowell and Vice Chair Kahawai is excused constituting a quorum.	
C. <u>ANNOUNCEMENTS:</u>	Next Scheduled Meeting: Thursday, July 14th, 2022 – 4:00 p.m. or shortly thereafter.	

SUBJECT	DISCUSSION	ACTION
	Details on the meeting will be forthcoming.	
<p>D.</p>	<p><u>APPROVAL OF AGENDA</u></p> <p>Pro Tem Chair Matsunaga asked are there any changes to the agenda.</p> <p>Commissioner Nishimura requested to defer Item K:</p> <p><u>DISCUSSION AND POSSIBLE DECISION MAKING ON DIRECTORS PHYSICAL RESIDENCY REQUIREMENTS AND SCHEDULE</u> (Human Resources Representative has been requested to be present)</p>	<p><u>Motion:</u></p> <p>Mr. Nishimura moved to defer item K. Discussion and possible decision making on Directors Physical residency requirements and schedule and approve the agenda as circulated. Ms. Nishimitsu seconded the motion. Motion carried 4:0.</p>
<p>E.</p>	<p><u>CONSENT AGENDA</u></p> <ol style="list-style-type: none"> 1. <u>APPROVAL OF MINUTES: June 9, 2022</u> 2. <u>DIRECTORS REPORT: June 1, 2022 – June 14, 2022</u> 3. <u>EMPLOYEES IN LICENSED PREMISES:</u> <p style="margin-left: 40px;">Managers and Assistant Managers Red/Blue Card exam list - See Attachment "A"</p> 4. <u>ACTIONS OF THE DIRECTOR:</u> <ol style="list-style-type: none"> a. REQUEST FOR FREE-ONE DAY SPECIAL LICENSE: <ol style="list-style-type: none"> 1. <u>NAWILIWILI YACHT CLUB dba NAWILIWILI YACHT CLUB:</u> Approval of Application No. Free 2022-37 filed on June 7, 2022, by Nawiliwili Yacht Club for a Free One- 	

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	<p>day Special Dispenser license on June 24, 2022, at 2494 Niunalu Road, Lihue, Hawaii.</p> <p>b. <u>SPECIAL LICENSE APPLICATIONS:</u></p> <p>1. <u>NSPLL, LLC. dba North Shore Preserve:</u> Approval of Application No. 2022-077 for Special License No. SG 2022-04, filed by NSPLL, dba North Shore Preserve for a Special Dispenser license on June 23, 2022, at Common Ground, 4900 Kuawa Road, Kilauea, Kauai, Hawaii.</p> <p>5. <u>PERMANANT DECREASE OF PREMISES:</u></p> <p>a. <u>VAN WESCOMP HAWAII INC. dba Koa Kea Hotel & Resort: Request permanent decrease in premises approximately 650 square feet of space to include the front desk area and sundry area as diagramed to make space for a new retail general license that is proposed to utilize the space. Landlord clearance has been obtained and approved prior to the request.</u></p> <p>6. <u>AUTHORIZED AGENT:</u></p> <p>a. <u>Pride of America Ship Holding, LLC.: Authorization for Dawn A. Esuga and Alex M. Chun as Counsel and Authorized agent for Pride of America Ship Holding, LLC.</u></p>	

SUBJECT	DISCUSSION	ACTION
	<p>7. <u>CHANGE IN OFFICERS/DIRECTORS/MEMBERS:</u></p> <p>a. <u>Kawailoa Development LLP, dba Grand Hyatt Kauai Resort & Spa and Poipu Bay Clubhouse (12G-002 & 5G-028) reports the deletion of Hidetaka Hashimoto as Auditor, Jun Fukuda as Vice President, Kunihiro Nowatari as Treasurer and Toshiaki Shindo as Treasurer. Addition of Kohei Aso as Auditor, Jun Fukada as Executive Vice President, Toshiro Shindo as Vice President/Secretary and Hiroki Matsuda as Vice President/Treasurer.</u></p> <p>Commissioner Nishimitsu commented for the June 9th, 2022, minutes on page 1. it doesn't note the presence of Commissioner Nishimura. Deputy Director noted that there was a quorum.</p>	<p><u>Motion:</u></p> <p>Mr. Nishimura moved to accept the Consent Agenda as amended. Ms. Nishimitsu seconded the motion. Motion carried 4:0.</p>
<p>F.</p>	<p><u>PUBLIC TESTIMONY:</u></p> <p>Assistant Chief Investigator Iwasaki asked if there's anyone in the public who wishes to testify on any item of the agenda. You can step up to the microphone and identify yourself.</p> <p>No Public Testimony.</p>	
<p>G.</p>	<p><u>PUBLIC HEARINGS:</u></p> <p>1. <u>CLOROSHKO LLC. dba PACO'S TACOS CANTINA KAPAA:</u> Application No. 2022-035 was filed on July 20, 2021, by Cloroshko LLC. dba Paco's Tacos for a New Restaurant General (A) No live Entertainment and no dancing located at 4-1292</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Kuhio Highway, Kapaa, Kauai, Hawaii. Deposited \$450.00</p> <ol style="list-style-type: none"> a. <u>All legal requirements have been met for today's public hearing.</u> b. <u>The applicant has sent out notices to property owners or lessees of records within 500 feet of the proposed premises and up until the time of the public hearing the department has not received any letters in support or opposition to this application.</u> <p>Pro Tem Chair Matsunaga opened the Public Hearing for Application No.2022-035. Did you receive a copy of the departments report and do you have any comments? Do you agree, disagree any amendments that we should make?</p> <p><u>Summary:</u> Ms. Elizabeth Dias, Owner was present to represent Cloroshko LLC. dba Paco's Tacos. She received a copy of the report and had no questions or comments. Question from Commissioner Nishimitsu for the Deputy Director they are currently operating under a license that was for live entertainment and dancing, which the licensees said would not be occurring because of issues with the neighbors. That license is in effect and a brand-new license is being sought. Assuming that this license is granted, do we then need to take action to terminate the existent license? Recommend taking action regarding both licenses. For the record is there anyone in opposition or in favor of the application? Any questions to the applicant from the Commissioners? None in opposition or in favor of the application. Question from Commissioner Shimabukuro asked the applicant you have a map included here, is the 2nd floor part of the area that you are applying for are you intended to have public access? Ms Dias replied, no public access only for workers.</p> <p>The Public Hearing for Application No. 2022-035 is closed.</p>	<p><u>Motion:</u></p> <p>Mr. Nishimura moved to approve Application No. 2022-035 for Cloroshko LLC. dba Paco's Tacos Cantina Kapaa and any existing Liquor License attached to this property be forfeited at the time of issuance of the new license. Ms. Nishimitsu seconded the motion. Motion carried 4:0.</p>

SUBJECT	DISCUSSION	ACTION
	<p>2. <u>CG HOSPITALITY, LLC. dba FARMSHOP COMMON GROUND</u>: Application No. 2022-058 was filed on April 1, 2022, for a New Restaurant General (B) Live Entertainment and Dancing located at 4900 Kuawa Rd. Kilauea, Kauai, Hawaii. Deposited \$450.00</p> <p>a. <u>All legal requirements have been met for today's public hearing.</u></p> <p>b. <u>The applicant has sent out notices to property owners or lessees of records within 500 feet of the proposed premises and up until the time of the public hearing the department has not received any letters in support or opposition to this application.</u></p> <p>Pro Tem Chair Matsunaga opened the Public Hearing for Application No. 2022-058 is now open, state your name and your affiliation with the applicant.</p> <p><u>Summary:</u> Adam Watten Director of Food Systems and Culinary Director for CG Hospitality was present. He is authorized to represent the applicant. He had no questions or comments on the report. He did not read the final report and was given the opportunity to read it. There was no opposition or anyone in favor of the application. Concerns from the Commissioners regarding noise, a question of either the Attorney or Deputy Director the applicant has said that if there were complaints regarding the noise, they would either lower the sound of the music or stop the entertainment altogether. How does that get implemented? If the complaint is not made to the department that is made only to the licensee? Mr. Foster replied when the department learns of it, they can take action and do a notice of violation.</p> <p>Mr. Watten agreed that they would lower the music or stop the entertainment. The diagram shows the entire property being licensed and how will they control liquor. Mr. Watten advised that the staff would be monitoring those areas and if needed post boundaries. Customers are served in plastic cups and may leave the licensed premise area; how do you enforce? It is a private property and gated we have control of</p>	<p><u>Motion:</u> Mr. Nishimura moved to approve Application No. 2022-058 for CG Hospitality, LLC. dba Farmshop Common Ground, as represented by the applicant with the condition that if there are any complaints for noise that they would either lower the sound or stop the entertainment altogether and that the department enforce</p>

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	<p>everyone that enters and exits.</p> <p>The Public Hearing for Application No. 2022-058 is closed.</p> <p>3. <u>GORDON LLC. dba TABLE AT POIPU</u>: Application No. 2022-051 was filed on February 4, 2022, by Gordon LLC. dba Table at Poipu for a New Restaurant (B) Live Entertainment, No Dancing License located at 2829 Ala Kalanikaumaka Street, Koloa, Kauai, Hawaii. Deposited \$450.00</p> <p>a. <u>All legal requirements have been met for today's public hearing.</u></p> <p>b. <u>The applicant has sent out notices to property owners or lessees of records within 500 feet of the proposed premises and up until the time of the public hearing the department has not received any letters in support or opposition to this application.</u></p> <p>Pro Tem Chair Matsunaga opened the Public Hearing for Application No. 2022-051 is now open, state your name and your affiliation with the applicant. <u>Summary:</u> John Paul Gordon, Owner was present he received the Investigator's Report and had no questions or comments. There was no one in opposition or in favor of the application. Question from Commissioners do you know if there are any other tenants within the project that have live entertainment and dancing license? The Shopping Center has live entertainment usually on Wednesday's and Merrimans on Thursday. Do you have any problems with lowering the sound or stopping the music if there are any complaints? Mr. Gordon replied no problem.</p> <p>The Public Hearing for Application No. 2022-051 is closed.</p>	<p>accordingly. Ms. Nishimitsu seconded the motion. Motion carried 4:0.</p> <p><u>Motion:</u> Mr. Nishimura moved to approve Application No. 2022-051 for Gordon LLC. dba Table at Poipu, as represented by the applicant with the condition that if there are issues with the sound or entertainment that they would lower the sound or cut the entertainment. Ms. Nishimitsu seconded the motion. Motion carried 4:0.</p>

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<p>H.</p>	<p><u>PRELIMINARY HEARINGS (NEW LICENSE):</u></p> <ol style="list-style-type: none"> <li data-bbox="407 483 1482 630"> <p><u>1. VAN WESCOMP HAWAII INC. dba VAN WESCOMP HAWAII INC.: Application No. 2022-073 was filed on May 26, 2022, by Van Wescomp Hawaii Inc. dba Van Wescomp Hawaii Inc. For a Retail Dealer General license located at 2251 Poipu Road, Koloa, Kauai, Hawaii. Deposited \$450.00</u></p> <li data-bbox="407 1078 1493 1224"> <p><u>2. AG AVALON, LLC. dba AVALON GASTROPUB: Application No. 2022-074 was filed on June 7, 2022, by AG AVALON, LLC. dba AVALON GASTROPUB for a New Restaurant General (B) with Live Entertainment and Dancing located at 2555 Ala Namahana Parkway, Kilauea, Kauai, Hawaii Deposited \$450.00</u></p> 	<p><u>Motion #1</u> Mr. Nishimura moved to accept Application No. 2022-073 Van Wescomp Hawaii INC. dba Van Wescomp Hawaii INC. for a Retail Dealer General License and that the site plans, be verified prior to Public Hearing and schedule for Public Hearing and Publication. Ms. Shimabukuro seconded the motion. Motion carried 4:0.</p> <p><u>Motion #2</u> Mr. Nishimura moved to accept Application No. 2022-074 AG Avalon, LLC dba Avalon Gastropub for a General License (B) and that the department and applicant resolve the site plan requirements. Schedule for Publication and Public Hearing. Ms. Shimabukuro seconded the motion. Motion</p>

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	<p>3. <u>AG AVALON, LLC. dba AVALON WHISKEY SHOP: Application No. 2022-075 was filed on June 7, 2022, by AG AVALON, LLC. dba AVALON WHISKEY SHOP for a New Retail Dealer General license located at 2555 Ala Namahana Parkway, Kilauea, Kauai, Hawaii, Deposited \$ 450.00</u></p> <p>Commissioner Nishimura asked the department on the site map page 111 out of 163 this is for the two Avalon applications I don't see any reference to the street address that's noted on the application on the site map. If that can be addressed prior to the public hearing.</p> <p>Commissioner Shimabukuro commented on the diagram for Van Wescomp Hawaii INC. is very confusing. Request that the department ask the applicant to provide a clearer diagram prior to the public hearing.</p>	<p>carried 4:0.</p> <p><u>Motion #3</u> Mr. Nishimura moved to accept Application No. 2022-075 AG Avalon, LLC dba Avalon Whiskey Shop for a Retail Dealer General License and that the department and applicant resolve site planning issues; Publish and schedule for Public Hearing. Ms. Shimabukuro seconded the motion. Motion carried 4:0.</p>
<p>I. <u>VIOLATION REPORT:</u></p>	<p>1. <u>KENJI BURGER KAPAA dba Kenji Burger Kapaa: Violation of rule 3.12 Commission Orders.</u></p>	<p><u>Motion #1</u> Mr. Nishimura moved to accept the departments Violation report for ET & WT LLC Kenji Burger dba Kenji Burger Kapaa and schedule for an Adjudication Hearing. Ms. Nishimitsu seconded the motion. Motion carried 4:0.</p>

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	<p>2. <u>NAWILIWILI TAVERN dba Nawiliwili Tavern: Violation of rule 7.13 Fight and Disturbance Reports.</u></p> <p><u>Summary:</u> Commission suggested that when the Notice of Violation is sent out for publication and it, correctly identifies the licensee versus the DBA. It should state the person appearing must either be a member, officer an attorney of record or a written authorization for a substitute to appear. This should be handled by administration.</p>	<p><u>Motion #2</u> Mr. Nishimura moved to accept the departments Violation report for Geffert & Apo dba Nawiliwili Tavern and schedule for an Adjudication Hearing. Ms. Nishimitsu seconded the motion. Motion carried 4:0.</p>
<p>J.</p>	<p><u>ADJUDICATION HEARINGS:</u></p> <p>1. <u>COLOROSKO LLC. dba Paco’s Tacos (Kalaheo) 2G-073: Violation of rule 7.8(a)Manager on duty, Qualifications.</u></p> <p>a. <u>Cloroshko LLC. Is licensed as a restaurant permitted to sell liquor for on-premises consumption.</u></p> <p>b. <u>On April 5, 2022, at 3:45PM, Investigator Berry entered the location to conduct a routine inspection. At the time of the inspection the location did not have a blue card holder on duty.</u></p> <p>c. <u>Violation History within 24 months: No prior violation at this location or the others under the same DBA.</u></p> <p>Pro Tem Chair Matsunaga asked Ms. Elizabeth Diaz if she was the owner and to raise her right hand and swear to tell the truth, the whole truth and nothing but the truth. She responded yes, she waived her rights to the reading of the charges and admitted to</p>	

SUBJECT	DISCUSSION	ACTION
	<p>the charge. Ms. Diaz explained to the Commission that the blue card holder had to be rushed to the hospital and was there for three days. There were no similar violations for this licensee. There were no questions from the Commissioners. The department recommended a \$500.00 fine. Ms. Diaz presented a doctor’s note to the Commission however she did not give the note to the department.</p> <p>Commissioner Nishimura recommended a letter of reprimand that they take the necessary measures, even if someone has to go to the hospital. You are now put on record that you need to have someone with a blue card to replace that person.</p> <p>Commissioner Nishimitsu commented I’m not going to second that motion because if there is a subsequent violation it wouldn't appear necessarily on the record as a violation, but merely as a reprimand. I can support imposing the recommended fine \$500 and suspending all \$500 worth of it.</p> <p style="text-align: center;"><i>Mr. Nishimura withdrew his motion.</i></p>	<p><u>Motion #1:</u> Mr. Nishimura recommended a letter of reprimand that they take the necessary measures, even if someone has to go to the hospital. You are now put on record that you need to have someone with a blue card to replace that person.</p> <p><u>Motion #2</u> Ms. Nishimitsu recommended to issue a fine of \$500.00 and suspend \$500.00 for a period of one year, provided you do not commit the same offense, or you will have to pay the \$500.00 plus additional sanctions. Mr. Nishimura seconded the motion. Motion carried 4:0.</p>
K.	<p><u>DISCUSSION AND POSSIBLE DECISION MAKING ON DIRECTORS PHYSICAL RESIDENCY REQUIREMENTS AND SCHEDULE</u> (Human Resources Representative has been requested to be present)</p> <ol style="list-style-type: none"> 1. <u>Discussion of physical residency requirements of the Director of Liquor Control.</u> 2. <u>Discussion about a possible hybrid physical/teleworking work schedule for the</u> 	Deferred to July 14, 2022

SUBJECT	DISCUSSION	ACTION
	<u>Director of Liquor Control.</u>	
L.	<p><u>EXECUTIVE SESSION:</u></p> <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>1. <u>APPROVAL OF EXECUTIVE SESSION MINUTES: June 9, 2022</u></p>	<p><u>Motion:</u></p> <p>Mr. Nishimura moved to defer Executive Session Minutes of June 9, 2022 to July 14, 2022. Ms. Nishimitsu seconded the motion. Motion carried 4:0.</p>
M.	<p><u>ADJOURNMENT</u></p>	<p><u>Motion:</u></p> <p>Mr. Nishimura moved to adjourn meeting. Ms. Nishimitsu seconded the motion. Motion carried 4:0.</p> <p>At 4:53 pm meeting was adjourned.</p>

Submitted by: _____
 Malialani Kelekoma, Private Secretary

Reviewed and Approved by: _____
 Leo Sandoval-Reyes, Director of Liquor Control

- () Approved as circulated.
- (X) Approved with amendments. See 07/14/2022 meeting.