

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LIQUOR CONTROL ADJUDICATION BOARD
COUNTY OF MAUI, STATE OF HAWAII

TRANSCRIPT OF PROCEEDINGS
REGULAR MEETING

Held at the County of Maui Service Center, Suite
212A Conference Room, 110 Alaihi Street, Kahului, Maui,
Hawaii, commencing at 9:01 a.m., on January 9, 2026.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RECORD OF ATTENDANCE

BOARD MEMBERS:

- Gary Y. Murai, Chair
- Rhonda I.L. Loo, Vice Chair
- Mark T. Honda, Member
- Janice Kalanhuia, Member
- Dustin Kaleiopu, Member
- John D. Kim, Member
- Lu Ann Lankford-Faborito, Member
- Randal N. Mahiai, Jr., Member

EXCUSED:

None

ABSENT:

None

OTHERS:

- Yukari Murakami, Deputy Corporation Counsel
- Richard Rost, Deputy Prosecuting Attorney
- Layne N. Silva, Director, Department of Liquor Control
- Jarrett Kahoochanohano, Deputy Director, Department of Liquor Control
- Cullen Kawano, Head of Enforcement Division, Department of Liquor Control
- Maria Khangsensing, Board Secretary

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

January 9, 2026, 9:01 a.m.

Kahului, Maui, Hawaii

-oOo-

CHAIR MURAI: Liquor Control Adjudication Board.

Today is Friday, January 9th, and it is 9:01 a.m. My name is Gary Murai, and I am the chair for this board; and I hereby call the meeting to order. I'm going to do a roll call. Pursuant to the Sunshine Law, members joining the meeting remotely, please indicate who, if anyone, is present with you at your location.

Vice Chair Loo.

VICE CHAIR LOO: Present.

CHAIR MURAI: Member Honda.

MEMBER HONDA: Present.

CHAIR MURAI: Member Kalanihuia.

MEMBER KALANIHUIA: Present, and also alone.

CHAIR MURAI: Okay. Thank you, Janice.

Member Kaleiopu.

MEMBER KALEIOPU: Present.

CHAIR MURAI: Member Kim.

MEMBER KIM: Here.

CHAIR MURAI: Member Lankford-Faborito.

MEMBER LANKFORD-FAVORITO: Here.

CHAIR MURAI: Member Mahiai.

MEMBER MAHIAI: Here.

1 CHAIR MURAI: Okay, thank you.

2 And chair is present as well.

3 I'd like -- the chair will also note the presence of
4 Deputy Corporation Counsel Yukari Murakami, who is standing in
5 for Ms. Trenholme today. Also present are Deputy Prosecuting
6 Attorney Richard Rost, Director Silva, Deputy Director
7 Kahoochanohano, and Chief of Enforcement Cullen Kawano.

8 Moving on to public testimony, pursuant to HRS
9 Section 92.6, no public testimony will be received on
10 adjudicatory matters. Testimony will be accepted for all
11 other agenda items. For oral testimony, each testifier will
12 be limited to two minutes on each agenda item with one minute
13 to conclude. Individuals may sign up to testify via video by
14 sending a direct message to a board staff in the chat
15 function, signifying your intention to testify and noting the
16 agenda item number. Testimony shall not be submitted within
17 the chat function. The chat function may not be used -- may
18 not be used to contact the board or other meeting
19 participants, to comment on agenda items, or other matters.
20 Individuals may be disconnected from the meeting for breaking
21 decorum. Testifiers are asked to mute their audio and video
22 when not testifying. Video testifiers will be called first,
23 followed by phone testifiers, and then in-person testifiers.

24 Maria, has anyone signed up to testify?

25 (No audible response.)

1 CHAIR MURAI: Thank you.

2 Are -- is there anyone in the room wishing to
3 testify?

4 (No response.)

5 CHAIR MURAI: Seeing none, as there is no one
6 wishing to testify, with no objections, I will close public
7 testimony.

8 (No response.)

9 CHAIR MURAI: Okay. Moving on to the Matters Before
10 the Board, Item A, Complaint and Accusation No. 2025-09, in
11 the matter of the accusation against Life's a Beach,
12 Incorporated, dba Hui's Life's a Beach, located at 1913 South
13 Kihei Road, Space E, Kihei, Maui, Hawaii. They hold a
14 Dispenser, Category C(ii) License No. 382.

15 Is there anyone here for -- is anyone here for
16 Life's a Beach?

17 MR. GRUNES: Yes, sir.

18 CHAIR MURAI: Will you please step forward and
19 identify yourself?

20 MR. GRUNES: Yes. Good morning. Happy New Year.
21 Happy Aloha Friday. My name is Howard Grunes. I am the
22 owner/president of Life's a Beach, Inc., doing business as
23 Hui's Life's a Beach.

24 CHAIR MURAI: I'm sorry, Mr. Grunes. Forgive me.
25 How do you spell your last name? G-R --

1 MR. GRUNES: G-R-U-N-E-S. Just like prunes with a
2 G, as my father used to always say.

3 CHAIR MURAI: I got it on the first try. Thank you.
4 And Mr. Grunes, are you here -- what's your
5 relationship to Haui's Life's a Beach?

6 MR. GRUNES: Oh, as I mentioned, I'm the sole
7 stockholder of Life's a Beach, Inc., I'm also the president of
8 the corporation, and the de facto CEO, I guess you would say,
9 but --

10 CHAIR MURAI: So you're authorized to be present and
11 speak on behalf of the licensee?

12 MR. GRUNES: Yes.

13 CHAIR MURAI: Okay. Mr. Grunes, when I reviewed the
14 file, initially I had seen a document, you know, indicating
15 that Life's a Beach intended to plead no contest and argue --
16 the only argument or case that would be presented would be as
17 to what the penalty should be. I was informed, you know, via
18 -- through Mr. Rost, the deputy prosecutor, that you've
19 changed your mind and wish to withdraw your no -- your
20 proffered no contest plea. And if that's the case, I presume
21 that you'd like to set this matter for a -- for a hearing. Is
22 that -- my understanding correct?

23 MR. GRUNES: Yeah. Well, yes, that is correct in
24 that my understanding is a no contest plea indicates that I
25 would be found guilty, so it is de facto saying guilty, even

1 though it's no contest, and I can't in good conscience do that
2 at this time after pretty extensive interviews with my staff
3 and actually the person that was involved in this and a number
4 of other people. I can't in good conscience plead guilty, so
5 I would like to change my plea to not guilty, yes.

6 CHAIR MURAI: Okay, all right. And I also presume
7 the other side of the coin, as far as changing your plea, is I
8 also presume you'd like to continue this matter for another
9 day so that you can --

10 MR. GRUNES: Not necessary -- I mean, I am happy to
11 do it today if you are prepared. I -- Mr. Rost said possibly
12 that would be not possible because you'd like to call a
13 witness, the police officer, but might I say that I've read
14 through the investigator's report and I have no objection to
15 anything there, so all of the statements by the police officer
16 and reports from the police officer I will accept completely.

17 CHAIR MURAI: You know what, Mr. Grunes? I guess
18 our problem here is that while it's possible for us to just
19 proceed today, I think it's a little bit unwieldy. There's a
20 lot that happens between you, as a licensee, and the
21 department and the prosecutor that really don't directly
22 involve us as the board, and those are probably better handled
23 outside of the hearing.

24 MR. GRUNES: Okay.

25 CHAIR MURAI: And these would be, like, logistical

1 things, like, you know, when to come back, who your witnesses
2 are going to be, and, you know, I know that you've indicated
3 that you've read it and some things you agree on and some
4 things you don't agree on, I would probably caution you
5 against, you know, discussing the merits of your case now.
6 And, you know, this brings me to another side of this
7 question: Are you considering retaining an attorney to assist
8 you with this matter?

9 MR. GRUNES: No. I will represent myself pro se.

10 CHAIR MURAI: And that's fine. And I only raise
11 that because if you were -- you know, if you were thinking
12 about it, then there are certain things that I might, you
13 know, defer or, you know, put off until you have an attorney
14 to deal with them.

15 MR. GRUNES: I don't see -- I don't see any reason
16 for an attorney in this matter, no.

17 CHAIR MURAI: Okay. And that's your choice. If you
18 want to proceed without an attorney, that's perfectly okay. I
19 just need to know that to help me, you know, talk.

20 MR. GRUNES: So might I say, then, that, you know,
21 I've -- I've been in this business for about 17 years there in
22 Kihei and this particular entity for about a little over ten
23 years. And a number of years ago and because of some personal
24 issues in my family, I relocated back to California most of
25 the time. I come back every few months, so I'm here -- I'm

1 ending about a four-week, five-week visit right now.

2 CHAIR MURAI: Okay.

3 MR. GRUNES: I'm going to be going back next week.
4 I intend to be back at the end of April, beginning of May, so
5 if it were convenient for the board, that would be a good time
6 for me to redo.

7 CHAIR MURAI: Okay. You know, our meetings are
8 usually held on the first Thursday of the month, and I don't
9 know when the first Thursday in May is, but it's --

10 MS. KHANGSENGSING: The 7th.

11 CHAIR MURAI: May 7th. Would you be prepared on May
12 7th?

13 MR. GRUNES: Yes, that would be suitable for me.

14 CHAIR MURAI: Mr. Rost, would that be acceptable to
15 you?

16 PROSECUTOR ROST: Yes.

17 CHAIR MURAI: Okay, Members -- so, you know what,
18 Mr. Grunes? I'm going to -- I'm going to take your position
19 -- well, you've already indicated that you wish to withdraw
20 your initial plea, and that's fine, that's your right, and
21 it's so noted. As far as the continuance goes, I believe,
22 Yukari, that's done by motion, right, a motion and discussion,
23 and vote?

24 CORP COUNSEL MURAKAMI: Yes.

25 CHAIR MURAI: Okay. So I'll -- I'll construe your

1 request as a motion to continue this matter to the -- to the
2 board's hearing in May, on May 7th.

3 And Members, any discussion?

4 (No response.)

5 CHAIR MURAI: Any questions for the licensee?

6 VICE CHAIR LOO: Can I ask Mr. Grunes a question?

7 CHAIR MURAI: Sure.

8 VICE CHAIR LOO: When did you decide that you were
9 going to fight this matter or contest it?

10 MR. GRUNES: Well, I think it was -- it's a little
11 bit of a long, drawn -- a little bit of a drawn-out story, but
12 I had -- I was not on island when the paperwork came in for
13 this case, and my manager accepted it. And very quickly, he
14 said, Well, everybody pleads no contest; can we just do that?
15 I said okay kind of quick, a quick decision, but after looking
16 at what that really meant, I decided it wasn't a good idea.
17 And I immediately called Mr. Rost --

18 VICE CHAIR LOO: So my question -- if I may direct
19 you back to the focus of my question.

20 MR. GRUNES: Yeah.

21 VICE CHAIR LOO: When did you decide that you would
22 like to contest the matter? Because initial -- when we got
23 the initial notice of violation, excuse me, there was an
24 indication there of no contest, and that was December 2nd,
25 2025, with your signature on it.

1 MR. GRUNES: Right, right.

2 VICE CHAIR LOO: So --

3 MR. GRUNES: Which I faxed over to my --

4 VICE CHAIR LOO: I understand.

5 MR. GRUNES: Yeah, yeah.

6 VICE CHAIR LOO: So the problem is -- I understand
7 what you're saying, I'm sure most of us understand as well.
8 I'm just wondering how come at this last juncture you decide
9 to ask for a continuance, and you couldn't have tried to
10 contact --

11 MR. GRUNES: Well, I did.

12 VICE CHAIR LOO: -- Mr. Rost or --

13 MR. GRUNES: I think I contacted Mr. Rost maybe a
14 week after that or less than a week after that. And I've got
15 -- we've got documents of the phone calls for that. And he
16 told me that he would talk to the department heads and get
17 back to me about that. And I didn't hear back, but then I --
18 so I was -- before -- then I came to Maui, and I found a
19 notice about the hearing, and there was a thing at the bottom
20 that says not guilty with -- licensees have to do this other
21 -- these certain things, which I did. So I assumed from that
22 document that we had changed it to not guilty. It was my
23 mistake. After talking to Mr. Rost again, that was just
24 standard, boilerplate wordage. And I was surprised, actually,
25 when I saw the agenda, and it said no contest. So it was a

1 confusing matter, and I apologize for whatever mistakes I made
2 in that, but I did try to change it very quickly after signing
3 that piece of paper.

4 VICE CHAIR LOO: Can you explain, Mr. Rost?

5 PROSECUTOR ROST: Yeah. We had a conversation not
6 long after the plea was submitted.

7 VICE CHAIR LOO: December 2nd.

8 PROSECUTOR ROST: Yes. And Mr. Grunes indicated --
9 well, my understanding of what he was telling me is he was
10 contemplating changing his plea because he wasn't comfortable
11 with the no contest plea that had been submitted.

12 VICE CHAIR LOO: Back to not guilty?

13 PROSECUTOR ROST: Right. And I told him,
14 essentially, that if he wanted to do that, he had two options
15 that I could think of, which was, one, submit something in
16 writing ahead of time saying he wanted to change his plea and
17 not -- and plead not guilty, or that he could show up and
18 simply tell the board that he wanted to plead differently than
19 what he had submitted. And I suggested submitting something
20 in writing ahead of time. I didn't hear anything further from
21 him for a while and I guess that's -- as he said, because he
22 got the notice of hearing, which has the language about if you
23 -- for licensees who pleaded not guilty, and he interpreted
24 that as meaning he -- the board specifically was -- was
25 proceeding as if he had already pleaded not guilty, which I

1 could see how someone might make that mistake.

2 I didn't -- until I saw his prehearing statement
3 that raised -- that essentially says the licensee is innocent,
4 etc., etc., I -- when I saw that, I reached out to him again,
5 I believe, and I -- to try to -- because that was obviously
6 contradictory. And then we had another conversation, and he
7 told me he, again, was sort of ambivalent as to what he was
8 going to do. We briefly discussed whether some sort of plea
9 agreement could be reached. He then got back to me shortly
10 thereafter and said, No, I'm going to stick with switching my
11 plea to not guilty. But at that point, it had already -- we
12 had already become -- gotten too close to the hearing for me
13 to subpoena my witnesses and prepare a case because up until
14 that point, there hadn't been a change of plea, and I didn't
15 know that -- that that's what he was intending to do. So I
16 told him, you know, I won't object to you changing your plea,
17 but we're not going to be able to proceed because we haven't
18 subpoenaed the police officer and submitted our own prehearing
19 statement, etc. So that's -- that's sort of the overview of
20 what happened.

21 CHAIR MURAI: Okay. Any other questions?

22 (No response.)

23 CHAIR MURAI: Members, are -- if we're ready to vote
24 -- Yukari, do I have to do a roll call or can I just do a show
25 of hands?

1 CORP COUNSEL MURAKAMI: Maybe, Chair -- if you
2 think, Chair, a show of hands is okay, I --

3 CHAIR MURAI: Okay, all right. So there's a request
4 before the board to continue this matter and reset it for a
5 contested hearing at our May 7th meeting. All in favor of
6 approving the motion, please signify by raising your hand or
7 saying aye.

8 (Response.)

9 CHAIR MURAI: Okay. Any --

10 MEMBER KALANIHUIA: Aye.

11 CHAIR MURAI: Any opposed?

12 (Response.)

13 CHAIR MURAI: Chair -- Vice Chair Loo.

14 All right. The motion -- the count is seven ayes,
15 one no; motion carries.

16 So, Mr. Grunes, between now and May, please -- my
17 suggestion is that you familiarize yourself with the rules of
18 this board, especially on contested hearings, which is what
19 this is. And also, remember that you'll need to submit a
20 prehearing statement and that goes to Mr. Rost, and -- 'cause
21 he'll probably be doing the same thing and serving one on you
22 as well.

23 VICE CHAIR LOO: And there are deadlines for that,
24 so you need to follow the deadlines.

25 MEMBER HONDA: Excuse me. I have a point here.

1 CHAIR MURAI: Yeah.

2 MEMBER HONDA: And I defer to corp counsel for the
3 opinion, but we, as a board, have to file our own motion,
4 second, and vote. I don't believe a licensee can move. He
5 can request, but then one of the board members should propose
6 a motion to continue.

7 CHAIR MURAI: I don't know. Yukari?

8 MEMBER HONDA: I can stand corrected.

9 CHAIR MURAI: Can -- is the way we did it okay, or
10 does a board member have to make the motion on behalf of the
11 licensee? Because what if nobody wants to make the motion?

12 MEMBER KIM: I'll make the motion if that's
13 necessary.

14 MEMBER HONDA: I second.

15 CHAIR MURAI: Oh.

16 MEMBER HONDA: It's just a technical point.

17 CHAIR MURAI: Okay, all right. How about we do
18 this? Let's do a do-over. The chair will entertain a motion.

19 MEMBER KIM: I'll move that we continue this matter,
20 Complaint Number --

21 CHAIR MURAI: 2025-09.

22 MEMBER KIM: -- 2025-09 to May 7th.

23 VICE CHAIR LOO: Do we know what our May 7th
24 schedule is like before we continue him to that date?

25 CHAIR MURAI: I don't think we have anything on it

1 yet.

2 VICE CHAIR LOO: Are we clear on May 7th so far?

3 PROSECUTOR ROST: Yes.

4 DIRECTOR SILVA: Yeah.

5 PROSECUTOR ROST: We don't have anything at this
6 point.

7 VICE CHAIR LOO: (Inaudible.)

8 CHAIR MURAI: So we have a motion.

9 MEMBER HONDA: I second.

10 CHAIR MURAI: Seconded by Honda. Any further
11 discussion?

12 MEMBER KIM: My -- I make the motion because,
13 obviously, the parties will not have any witnesses. All we
14 have before us are the written reports, which is -- makes it
15 hearsay at this point, except for the fact that the owner did
16 say that he would stipulate to whatever was in the report. So
17 we don't have the inspector who did the investigation at this
18 time, so -- I'd like to hear some of the facts that -- as can
19 be developed by the witnesses, so that's the reason for the
20 motion. Thank you.

21 CHAIR MURAI: Okay. Any other discussion?

22 (No response.)

23 CHAIR MURAI: Hearing no further discussion, let's
24 vote again. All in favor of -- all in favor of the motion to
25 continue this matter, please indicate by saying aye or raising

1 your hand.

2 (Response.)

3 CHAIR MURAI: Okay. Any opposed?

4 VICE CHAIR LOO: (Gesturing.)

5 CHAIR MURAI: Vice Chair Loo.

6 The motion carries. This matter is continued.

7 Thank you, Mr. Grunes. We'll see you in May.

8 MR. GRUNES: Thank you very much.

9 CHAIR MURAI: Okay. Next matter, Item B, Complaint
10 and Accusation No. 2025-10, in the matter of the accusation
11 against PRC LLC dba Fuego Argentinean Steakhouse located at
12 1333 Maui Lani Parkway, Kahului, Maui, Hawaii. They hold a
13 Restaurant General, Category B(ii) License No. 135.

14 Sir, will you please step forward and state your
15 name?

16 MR. MARTINEZ: Ruben Marcias Martinez.

17 CHAIR MURAI: And Mr. Martinez, what is your
18 relationship with Fuego Argentinean Steakhouse?

19 MR. MARTINEZ: I'm representing Pablo Santiensanio
20 as a representative in the liquor commission.

21 CHAIR MURAI: Okay. So you are authorized --

22 MR. MARTINEZ: Yeah.

23 CHAIR MURAI: -- on behalf of the licensee?

24 MR. MARTINEZ: Correct.

25 CHAIR MURAI: All right. The parties to this

1 hearing are the Department of Liquor Control, the licensee --
2 and the licensee.

3 Deputy Prosecutor -- Deputy Prosecuting Attorney
4 Richard Rost, are you representing the department?

5 PROSECUTOR ROST: Yes.

6 CHAIR MURAI: Mr. Martinez, I'm going to swear you
7 in now, so if you would please raise your right hand and
8 repeat after me. Or no, don't repeat after me, just agree at
9 the end.

10 MR. MARTINEZ: Yeah.

11 CHAIR MURAI: Do you solemnly swear or affirm that
12 the testimony you give before this board today in connection
13 with this case will be the truth, the whole truth, and nothing
14 but the truth?

15 MR. MARTINEZ: Yes.

16 CHAIR MURAI: Thank you. Mr. Martinez, does Fuego
17 -- do you have legal counsel? Do you have an attorney who is
18 going to assist you with this matter?

19 MR. MARTINEZ: I don't.

20 CHAIR MURAI: You understand, though, that you do
21 have the right to have an attorney present or available to
22 advise you?

23 MR. MARTINEZ: Correct, yes.

24 CHAIR MURAI: Okay. And are you, then, waiving your
25 right to be represented by an attorney, and are you willing to

1 proceed without an attorney today?

2 MR. MARTINEZ: Yes.

3 CHAIR MURAI: Mr. Martinez, at this time, you have
4 the option of having the charges read publicly to you, or you
5 can waive the reading of the charges. What would you prefer?

6 MR. MARTINEZ: I can waive it.

7 CHAIR MURAI: Okay, thank you.

8 MR. MARTINEZ: That's fine.

9 CHAIR MURAI: So, Mr. Martinez, do you understand
10 the accusations made against Fuego Argentinean Steakhouse by
11 the Department of Liquor Control?

12 MR. MARTINEZ: Yes. (Inaudible.)

13 CHAIR MURAI: And I understand that you have -- you
14 intend to enter a plea. Do you have the paperwork in front of
15 you?

16 MR. MARTINEZ: I didn't, but I -- we plead no
17 contest.

18 CHAIR MURAI: Okay. Well --

19 MR. MARTINEZ: We know -- we know that (inaudible)
20 there.

21 CHAIR MURAI: Well, in that case, if you don't have
22 it in front of you, I'm going to go through each of them one
23 by one.

24 MR. MARTINEZ: Okay.

25 CHAIR MURAI: Count 1: On October 27th, 2024, Fuego

1 Argentinean Steakhouse sold, served, or furnished liquor to,
2 or allowed the consumption of liquor, by a patron who was at
3 the time under the influence of liquor, drugs, or any
4 combination thereof, contrary to the Rules Governing the
5 Manufacture and Sale of Intoxicating Liquor of the County of
6 Maui. And what is your plea to Count 1?

7 MR. MARTINEZ: No contest.

8 CHAIR MURAI: Okay, thank you. As to Count 2, the
9 same date, October 27th, 2024, Fuego Argentinean Steakhouse
10 failed to exercise due care in determining whether a patron
11 was under the influence of liquor, drugs, or any combination
12 thereof, contrary to the Rules Governing the Manufacture and
13 Sale of Intoxicating Liquor of the County of Maui. What is
14 your plea to Count 2?

15 MR. MARTINEZ: No contest, sir.

16 CHAIR MURAI: Count 3: On October 27th, 2024, Fuego
17 Argentinean Steakhouse failed to have available on the
18 licensed premises a time sheet showing in English the legal
19 first name and surname of all employees, including and not
20 limited to managers, assistant managers, and employees
21 approved by the director, when such employee is on duty,
22 contrary to the Rules Governing the Manufacture and Sale of
23 Intoxicating Liquor of the County of Maui. And what is your
24 plea to Count 3?

25 MR. MARTINEZ: No -- no contest, sir.

1 CHAIR MURAI: Thank you. And so, Mr. Martinez, you
2 also understand that you do have the right to plead not
3 guilty?

4 MR. MARTINEZ: Yes.

5 CHAIR MURAI: And you understand by pleading no
6 contest, you waive the right to a hearing in which you could
7 present evidence and question witnesses on your behalf?

8 MR. MARTINEZ: Yes.

9 CHAIR MURAI: Is your plea of no contest voluntary
10 and not the result of threats, coercion, or of promises
11 besides, you know, any plea agreement?

12 MR. MARTINEZ: It's voluntary, yeah.

13 CHAIR MURAI: Do you understand that on each count,
14 if the board accepts your plea of no contest, you will be
15 found guilty, and the board may issue a reprimand or assess
16 and collect a penalty of up to \$2,000 -- I'm sorry, \$5,000, or
17 revoke and suspend your license?

18 MR. MARTINEZ: Yes, I understand.

19 CHAIR MURAI: And knowing all of this, is it still
20 your wish to plead no contest?

21 MR. MARTINEZ: Yes, sir.

22 CHAIR MURAI: Okay. The board hereby finds that the
23 licensee has entered a knowing and voluntary plea of no
24 contest to Counts 1, 2, and 3. The board accepts your plea
25 and finds you guilty of Counts 1, 2, and 3 as reflected in

1 Complaint and Accusation No. 2025-10 against Fuego Argentinean
2 Steakhouse.

3 Members, have you all reviewed the violation/
4 incident report in this matter?

5 (Response.)

6 CHAIR MURAI: Does anyone need more time?

7 (Response.)

8 CHAIR MURAI: Seeing none, no -- no need, okay.

9 Mr. Rost, you may proceed with a statement.

10 PROSECUTOR ROST: Thank you, Mr. Chair.

11 On October 27th, 2024, at about 1:35 a.m., Police
12 Officer Stephen Kelly of the Maui Police Department pulled
13 over a vehicle on South Kihei Road that had been weaving,
14 essentially, and failing to stay in its own lane. He
15 approached the driver, who was identified as Daniel Ochoa.
16 Ochoa had a strong smell of liquor coming from his breath and
17 red, watery eyes. Officer Kelly asked him to complete the
18 field sobriety tests, which he wasn't able to do. Officer
19 Kelly placed Mr. Ochoa under arrest for driving under the
20 influence of an intoxicant. He was given a blood test, which
21 resulted in a blood alcohol level of 0.197, or almost two and
22 a half times the legal limit of 0.08.

23 Following this incident, the Department of Liquor
24 Control conducted an investigation. Liquor Control Officer
25 Jency Synder contacted Ochoa, and Ochoa's English is

1 apparently limited, so his girlfriend was also on the phone
2 and she was able to translate what he was saying.
3 Essentially, Ochoa said they had gone to Fuego Argentinean
4 Steakhouse. They had arrived at about 10:30 p.m. on the 26th
5 and left at about 1:00 a.m. on the 27th. He drank -- he said
6 he drank approximately five Corona beers.

7 LCO Synder did some further investigation. She got
8 the credit card receipt -- she got a credit card receipt that
9 showed a time of purchase of 11:19 p.m., and a checkout -- the
10 time the check was closed out was 1:21 a.m. with seven Corona
11 beers and four margaritas on it. Part of that investigation
12 showed that the server listed was -- on the employee
13 timesheets was identified as No. 86 Bartender without a name.
14 That was determined to be a violation of the requirement that
15 the time sheets have the employee's first and last name. And
16 this particular time sheet, which is attached to the report,
17 shows every -- essentially, everyone's name but the bartender,
18 but the bartender's name has to be on there, so --

19 After getting that receipt, LCO Synder contacted
20 Ochoa again. She asked if he drank all seven of the Corona
21 beers. He said he drank five of them; two others were drunk
22 by unnamed friends of his. The margaritas were -- according
23 to his girlfriend, she drank one of the margaritas, and her
24 mother, who was there, drank one of the other margaritas. So
25 he was -- Ochoa was saying he drank five of the seven Coronas

1 and not the margaritas.

2 LCO Synder spoke with Officer Kelly, who said that,
3 among other things, based on his training and experience,
4 Ochoa would have been showing the signs of intoxication, such
5 as the red watery eyes, the -- and the strong smell of
6 alcohol, the unsteadiness on his feet, he would have been
7 showing those at least 45 minutes beforehand, before Officer
8 Kelly encountered him, so he would have been showing those
9 signs while he was at Fuego. Ochoa also denied drinking
10 before arriving at Fuego and denied drinking after leaving
11 Fuego. He said they were just going straight home.

12 So on that basis, Fuego was cited for Count 1, which
13 is they -- Fuego's sold, served, or furnished liquor to a
14 patron who was under the -- at the time under the influence of
15 liquor. And also, related to that, Count 2, Fuego failed to
16 exercise due care in determining whether a patron was under
17 the influence of liquor or drugs. Based on what Officer Kelly
18 says, based on his training, he clearly -- Ochoa clearly would
19 have been showing these signs prior to departing Fuego. And
20 then, as I mentioned, Count 3 was the result of not having the
21 bartender's full first and last name on the time sheet.

22 And so, the department has a penalty recommendation
23 which I'll -- I can offer after the licensee has their
24 opportunity.

25 CHAIR MURAI: Okay, thank you. Any questions for

1 Mr. Rost?

2 (No response.)

3 CHAIR MURAI: Okay. Seeing none, Mr. Martinez, this
4 is your opportunity to, you know, present, you know,
5 information to the board regarding what the penalty in this
6 case should be. What's already happened is, you know, Fuego
7 Argentinean Steakhouse has admitted to the violations through
8 the no-contest plea. This phase of the hearing is, okay, now
9 that, you know, we've resolved whether -- you know, the
10 culpability or the liability for it, what should the penalty
11 be? So this is your opportunity to tell the board, you know
12 -- you know, your side, the restaurant's side of the story,
13 and have us consider those facts in determining what the
14 appropriate penalty should be. So if you'd like to do that,
15 you can go ahead.

16 MR. MARTINEZ: Well, we pled no contest because, I
17 mean, everything that happened is true. And we was a little
18 new in the business, so -- we had a special event, and we got
19 new bartenders coming in, so they -- obviously, a lack of
20 knowledge on them. So, I mean, we have no -- no contest at
21 all. I mean, that was our mistake. So we've been fixing a
22 little by little everything, so -- but I'm here for the
23 (inaudible).

24 CHAIR MURAI: So I know -- I heard you say that you
25 had some new bartenders, and it sounds like maybe they needed

1 a little bit more training.

2 MR. MARTINEZ: They definitely did.

3 CHAIR MURAI: And more experience. What kinds of
4 things have you done to step up, you know?

5 MR. MARTINEZ: We -- we fixed everything on the --
6 on the names and everything. Also, we got -- we stop by 11:00
7 now. We know our times -- and that time was a special event,
8 so we can, you know, run out of hands because there was a lot
9 of people, and the time that we close bills and everything was
10 too late. So, like I said, we needed a lot more training and
11 experience. But we've been then so far okay, so -- after
12 that, so --

13 CHAIR MURAI: Good. Members, any questions for the
14 licensee?

15 VICE CHAIR LOO: I have a question.

16 CHAIR MURAI: Vice Chair.

17 VICE CHAIR LOO: Yes. Mr. Martinez, you said that
18 because of lack of knowledge by bartenders, that's one of the
19 reasons.

20 MR. MARTINEZ: It's on ours, correct.

21 VICE CHAIR LOO: Okay.

22 MR. MARTINEZ: Yeah, that's --

23 VICE CHAIR LOO: That particular night, No. 86, you
24 were No. 86. You're No. 86?

25 MR. MARTINEZ: I'm --

1 VICE CHAIR LOO: Is that -- is that your employee --
2 I'm sorry, employee number or something?

3 MR. MARTINEZ: Yeah, yeah. I usually put my name on
4 it. So when I logged in, is that what it said?

5 VICE CHAIR LOO: So, according to the report I have
6 in front of me, it says that Bartender No. 86 -- so you were
7 working that night. You're the one who was working that
8 night.

9 MR. MARTINEZ: I'm just kind of looking out. Yeah,
10 I was in there, definitely.

11 VICE CHAIR LOO: So, as -- so you're not a new
12 bartender.

13 MR. MARTINEZ: No, no. I'm not a bartender. Yeah,
14 yeah.

15 VICE CHAIR LOO: Okay. So I -- that's why I'm
16 having a hard time with this, because you were not an
17 inexperienced bartender, you were a manager, and yet No. 86 is
18 your number.

19 MR. MARTINEZ: Right.

20 VICE CHAIR LOO: And yet on the time sheets, there's
21 no name, and it's supposed to be a name.

22 MR. MARTINEZ: Correct.

23 VICE CHAIR LOO: Am I mistaken, or is that correct?

24 MR. MARTINEZ: No, no, no. That's correct, yeah.

25 VICE CHAIR LOO: Okay. But you're the manager, so

1 -- slash bartender slash do everything.

2 MR. MARTINEZ: Correct.

3 VICE CHAIR LOO: So, of all people, you're not new,
4 so I don't understand why your name, of all people, was not on
5 that employee list that night.

6 MR. MARTINEZ: I'm kind of new in the kind of events
7 that happened that day. So like I said, was so much people
8 that day that we just went out of hands. There's nothing else
9 I can say. So it's just -- we try to close as fast as we can
10 the tabs and everything, but like I said, that day was a lot
11 of people.

12 VICE CHAIR LOO: How long have you been employed
13 with Fuego's?

14 MR. MARTINEZ: Since we opened.

15 VICE CHAIR LOO: Which is?

16 MR. MARTINEZ: Three years ago. We're in three
17 years now.

18 VICE CHAIR LOO: Three years now, so it would have
19 been two years in 2024.

20 MR. MARTINEZ: The second year, that's correct.

21 VICE CHAIR LOO: Okay. And you've been -- and
22 you've been a manager and a bartender that evening?

23 MR. MARTINEZ: Actually, I'm not a bartender, so I'm
24 not -- I'm not a bartender.

25 VICE CHAIR LOO: Okay. But according to this, the

1 report, it says you stated that No. 86 bartender is you, and
2 you clock in as if you were helping behind the bar when it
3 gets really busy. Is that right?

4 MR. MARTINEZ: No. Could have been -- maybe it's a
5 different name, Giovanni, could be Giovanni, could be.

6 VICE CHAIR LOO: So, wait, Giovanni was the --

7 MR. MARTINEZ: Yeah. I'm Ruben.

8 VICE CHAIR LOO: Okay. So, sorry. So you're not --
9 you're not 86. You are No. 86, your employee number is 86?

10 MR. MARTINEZ: Could be, yeah, yeah.

11 VICE CHAIR LOO: Could be?

12 CHAIR MURAI: (Inaudible.)

13 VICE CHAIR LOO: Right. I'm just wondering how come
14 No. 86 is your number -- your number, is that right?

15 MR. MARTINEZ: I don't remember my number, but I'm
16 an assistant, though, definitely.

17 VICE CHAIR LOO: Okay. So you're saying No. 86 is a
18 different bartender. You weren't the bartender that night.

19 MR. MARTINEZ: Yeah.

20 VICE CHAIR LOO: But No. 86 is your number.

21 MR. MARTINEZ: No. Giovanni.

22 VICE CHAIR LOO: Oh, okay. So it's not your number.
23 You were working. You were not working that night?

24 MR. MARTINEZ: Like I said, I was working, but --
25 I'm a partnership with Pablo.

1 VICE CHAIR LOO: Okay.

2 MR. MARTINEZ: So I'm the half owner with the
3 restaurant.

4 VICE CHAIR LOO: So you were there that night?

5 MR. MARTINEZ: I was there, yes.

6 VICE CHAIR LOO: You were not working?

7 MR. MARTINEZ: I was not working.

8 VICE CHAIR LOO: You were there?

9 MR. MARTINEZ: I was there, yes.

10 VICE CHAIR LOO: You're saying No. 86 was a new
11 bartender?

12 MR. MARTINEZ: A little bit, yeah. He's working for
13 us for a little bit. Giovanni Marcias, which is my nephew.

14 VICE CHAIR LOO: Okay. And how long was Giovanni
15 working there?

16 MR. MARTINEZ: Maybe a few months. The only thing
17 that makes -- a little mixed because we never make those
18 events. We bring some big event and it's how it happened.

19 VICE CHAIR LOO: Yet, there's -- almost everybody
20 else's name is on here except his, so --

21 MR. MARTINEZ: It should be there. Giovanni
22 Marcias.

23 VICE CHAIR LOO: Hang on.

24 CHAIR MURAI: (Inaudible.)

25 VICE CHAIR LOO: You're saying --

1 CHAIR MURAI: He's there.

2 VICE CHAIR LOO: (Inaudible.)

3 CHAIR MURAI: Any other questions?

4 VICE CHAIR LOO: The bartenders weren't trained.

5 MEMBER HONDA: Yeah, I have a few.

6 CHAIR MURAI: Member Honda.

7 MEMBER HONDA: What event was it? Was it a private
8 event, or was it something like Cinco de Mayo?

9 MR. MARTINEZ: No, no, no. It was a private event.

10 MEMBER HONDA: Okay. How many people?

11 MR. MARTINEZ: We have it in the back room. We have
12 a special room to do events.

13 MEMBER HONDA: About how many guests or people
14 attended?

15 MR. MARTINEZ: I would say like 160, 150.

16 MEMBER HONDA: Okay. Thank you. Thank you for your
17 honesty.

18 MR. MARTINEZ: No problem.

19 CHAIR MURAI: Yeah, I -- any further questions?
20 Janice, do you have anything? I don't mean to
21 ignore you.

22 MEMBER KALANIHUIA: No. I'll speak up if I need to.
23 Thank you. I'm good.

24 CHAIR MURAI: Thank you. Okay. If there are no
25 further questions, are we ready to move into deliberation?

1 PROSECUTOR ROST: Mr. Chair, I would like to offer
2 the department's recommendation.

3 CHAIR MURAI: Oh, I'm sorry. Yeah, I jumped the
4 gun. Thank you, Mr. Rost.

5 PROSECUTOR ROST: Thank you. Count 1 has a
6 mandatory minimum fine. In this case, the licensee has no
7 prior violations, so the mandatory minimum is \$1,000.

8 VICE CHAIR LOO: That's the minimum, a thousand?

9 PROSECUTOR ROST: Yes. And that is the department's
10 recommendation, a thousand-dollar fine on Count 1. Count 2,
11 given that it's for similar conduct as Count 1, but it is a
12 slightly different offense, the department's going to
13 recommend a \$1,000 fine on that count as well, with \$500
14 suspended on the condition of no further violations for one
15 year. And Count 3, the time sheet violation, the department's
16 going to recommend a fine of \$500.

17 CHAIR MURAI: I'm sorry, Richard. What is the
18 recommendation as to Count 1 again?

19 PROSECUTOR ROST: Count 1 is a \$1,000 fine is the
20 recommendation.

21 CHAIR MURAI: Okay, all right. Mr. Martinez, you've
22 heard the deputy prosecutor's recommendation as to what the
23 department wants the fine to be.

24 MR. MARTINEZ: Correct.

25 CHAIR MURAI: You have an opportunity to argue what

1 you think the fine should be. Do you have any argument, or do
2 you want to tell us what you think the penalty should be?

3 MR. MARTINEZ: I'd say I'm in your hands right now
4 because that was our fault, I mean, so it's basically what you
5 guys put it to me is what's going to happen.

6 CHAIR MURAI: Oh, so you're leaving it to our --

7 MR. MARTINEZ: Yes.

8 CHAIR MURAI: -- our discretion?

9 MR. MARTINEZ: Pretty much, yeah.

10 CHAIR MURAI: Okay, all right.

11 MR. MARTINEZ: Like I said, we're trying to fix
12 everything we can and with time, hopefully we can get it where
13 we need it.

14 CHAIR MURAI: Okay.

15 MR. MARTINEZ: So I'm in your hands today. So I
16 have no contest because everything happened was true.

17 CHAIR MURAI: Okay, thank you. The chair will now
18 entertain a motion to go into closed session for the purpose
19 of deliberation on Complaint and Accusation No. 2025-10. Can
20 I have a motion, please?

21 VICE CHAIR LOO: (Inaudible.)

22 CHAIR MURAI: Okay. Moved by Vice Chair Loo,
23 seconded by Member Kim, that we go into closed session for
24 deliberation. Any discussion?

25 (No response.)

1 CHAIR MURAI: Hearing no discussion, I'll call for a
2 roll call vote on going into deliberation.

3 Vice Chair Loo.

4 VICE CHAIR LOO: Aye, yes.

5 CHAIR MURAI: Member Honda.

6 MEMBER HONDA: Yes.

7 CHAIR MURAI: Member Kalanihuaia.

8 MEMBER KALANIHUIA: Aye.

9 CHAIR MURAI: Member Kim.

10 MEMBER KIM: Aye.

11 CHAIR MURAI: I skipped Dustin. Member Kaleiopu.

12 MEMBER KALEIOPU: Yes.

13 CHAIR MURAI: Member Lankford-Faborito.

14 MEMBER LANKFORD-FABORITO: Yes.

15 CHAIR MURAI: Member Mahiai.

16 MEMBER MAHIAI: Yes.

17 CHAIR MURAI: Okay. The motion carries unanimously.

18 It is 9:44, and we are now in recess.

19 (Pause in proceedings: 9:44 a.m.-10:08 a.m.)

20 CHAIR MURAI: Maui County Liquor Control

21 Adjudication Board back to order. It is 10:08 a.m. on

22 Thursday, January -- Friday, January 9th, and --

23 VICE CHAIR LOO: Wait for -- here he is.

24 CHAIR MURAI: Okay. I'll do a quick roll call of

25 the members who are present.

1 Vice Chair Loo.

2 VICE CHAIR LOO: Present.

3 CHAIR MURAI: Member Honda.

4 MEMBER HONDA: Present.

5 CHAIR MURAI: Member Kalanihuia.

6 MEMBER KALANIHUIA: Present.

7 CHAIR MURAI: Member Kaleiopu.

8 MEMBER KALEIOPU: Present.

9 CHAIR MURAI: Member Kim.

10 MEMBER KIM: Here.

11 CHAIR MURAI: Member Lankford-Faborito.

12 MEMBER LANKFORD-FABORITO: Here.

13 CHAIR MURAI: Member Mahiai.

14 MEMBER MAHIAI: Here.

15 CHAIR MURAI: And the chair notes his presence as
16 well.

17 We are on -- we've just come out of deliberation on
18 Complaint and Accusation No. 2025-10 in the matter of the
19 accusation against Fuego Argentinean Steakhouse. We've
20 received the recommendations from the department and the
21 licensee. Members, is there anyone who would like to make a
22 motion as to what the penalty should be in this matter?

23 MEMBER KIM: Mr. Chair.

24 CHAIR MURAI: Member Kim.

25 MEMBER KIM: At this time I move that under

1 Complaint and Accusation No. 2025-10, that Count 1, the
2 mandatory minimum fine of \$1,000 be imposed; on Count 2, a
3 fine of \$1,000 be imposed; on Count 3, a \$500 fine be imposed,
4 however, suspend that \$500 for a period of one year on
5 condition that there is no further similar violation. Yeah.

6 VICE CHAIR LOO: Second.

7 CHAIR MURAI: Okay. It's been moved by Member Kim.

8 MEMBER HONDA: Second.

9 CHAIR MURAI: And seconded -- seconded by Vice Chair
10 Loo.

11 Sorry, Mark, she beat you to it.

12 VICE CHAIR LOO: Sorry.

13 CHAIR MURAI: And the motion is to impose a fine of
14 \$1,000 for Count 1, \$1,000 for Count 2 -- with no part of that
15 suspended, correct, Mr. Kim?

16 MEMBER KIM: That's correct.

17 CHAIR MURAI: And \$500 for Count 3 with \$500
18 suspended, assuming that there are no further or similar
19 violations -- no same or similar violations within a period of
20 one year. Any discussion?

21 MEMBER KIM: I make the motion with Count 1 being
22 from the prosecutor's office that a mandatory minimum \$1,000
23 fine be imposed on Count 1. On Count 2, I believe for a party
24 of 160, is what we heard, that the licensee should have
25 considered the span of control for their wait staff.

1 MR. MARTINEZ: Yes, yes.

2 MEMBER KIM: And, you know, for 160, you should have
3 wait staff watching your patrons.

4 MR. MARTINEZ: Yeah.

5 MEMBER KIM: And so that -- you know, enough so
6 where there's at least maybe a span of control for one -- one
7 wait person, 20 people, so they can keep an eye on instead of
8 just going back and forth, back and forth --

9 MR. MARTINEZ: Yeah.

10 MEMBER KIM: -- serving, serving liquor. And so
11 part of their job is -- the service is to also observe their
12 behavior between taking orders for liquor.

13 MR. MARTINEZ: (Inaudible.) Yes.

14 MEMBER KIM: And as far as Count 3, I believe that
15 this was -- you're fairly new and there was a human resources
16 problem about putting all the names of the employees for that
17 night, that particular night for the special event, and that
18 from this event -- from this particular complaint, that
19 Fuego's has learned that once we hire new people, that
20 immediately --

21 MR. MARTINEZ: Yes, I don't (inaudible).

22 MEMBER KIM: -- needs to be put into the computer.

23 MR. MARTINEZ: After that, actually, we've been --
24 we've been (inaudible) doing that.

25 MEMBER KIM: So that's the reason for my motion.

1 CHAIR MURAI: Okay. Any further discussion?

2 (No response.)

3 CHAIR MURAI: If there's no further discussion, are
4 -- Members, are we ready for the vote?

5 MEMBER KIM: Yes.

6 CHAIR MURAI: Okay. So the motion, I'll repeat it
7 again, is for Count 1, \$1,000 fine; Count 2, \$1,000 fine;
8 Count 3, \$500 fine with \$500 suspended, assuming no same or
9 similar conviction within one year. I'll do -- I'll do this
10 by roll call vote.

11 Member -- Vice Chair Loo, what is your vote?

12 VICE CHAIR LOO: Yes, aye.

13 CHAIR MURAI: Member Honda.

14 MEMBER HONDA: Aye.

15 CHAIR MURAI: Member Kalanihuia.

16 MEMBER KALANIHUIA: Aye.

17 CHAIR MURAI: Member Kaleiopu.

18 MEMBER KALEIOPU: Aye.

19 CHAIR MURAI: Member Kim.

20 MEMBER KIM: Aye.

21 CHAIR MURAI: Member Lankford-Faborito.

22 MEMBER LANKFORD-FABORITO: No.

23 CHAIR MURAI: Okay. Member Mahiai.

24 MEMBER MAHIAI: Aye.

25 CHAIR MURAI: Okay. The chair votes aye.

1 The motion carries by seven ayes, one opposed. The
2 motion carries.

3 Thank you, Mr. Martinez. Someone will notify you
4 when payment is due.

5 MR. MARTINEZ: Okay, thank you.

6 CHAIR MURAI: Thank you. We appreciate your coming,
7 we appreciate your candor --

8 MR. MARTINEZ: I recognize --

9 CHAIR MURAI: -- and your honesty with us.

10 MR. MARTINEZ: Like I said, it's a learning process,
11 and we're going to definitely be better.

12 CHAIR MURAI: I don't think it was -- I don't think
13 we'll see you back here now.

14 (Laughter.)

15 MR. MARTINEZ: Thank you, guys.

16 CHAIR MURAI: Take care.

17 Okay. Moving on to Administrative Affairs,
18 Continued discussion and action on proposing an amendment to
19 Liquor Administrative Rule 08-102-92, paragraph 2, regarding
20 the rules governing administrative practices and procedures of
21 the Liquor Commission and Liquor Control Adjudication Board of
22 the County of Maui. So, folks, this was the matter that we
23 had started last week.

24 VICE CHAIR LOO: Last month.

25 CHAIR MURAI: Last month, rather, where I had

1 submitted -- I had submitted proposed amendments to our
2 hearing rules which would have replaced words like guilty with
3 admit or -- and, you know, in other words, remove -- remove
4 criminal terms from what is an administrative proceeding. And
5 I think the consensus was, well, people wanted more time to
6 think about it, and so here we are, we're back. If -- does
7 anyone --

8 And again, just to recap, I'd suggested, you know,
9 right now our rules say that when someone comes before the
10 board, they will either plead -- they'll plead guilty or no
11 contest, there is no -- there is no not guilty plea in our
12 rules. People will plead not guilty because it's a term
13 that's used in our form, but technically, the rules don't even
14 allow a not guilty plea. So what -- what my suggestion would
15 -- you know, and again, this is not -- this would be a
16 request. We're not -- we cannot make our own rules. This
17 would be a request to the liquor commission to consider
18 amending the rules to replace terms that are typically found
19 in criminal proceedings, like guilty/not guilty, and replace
20 them with terms that are used in administrative proceedings.
21 Like, in other words, in criminal cases, you go to trial; in
22 civil cases, you go to a -- or administrative cases, you go to
23 an adjudication hearing. In a criminal case, you're found
24 guilty, and here, you are adjudicated, and instead of pleading
25 guilty, you admit. Instead of pleading not guilty, you deny.

1 So, like I say, our rules already provide for
2 denial. If you don't agree with the charges, you enter a
3 denial, that's in the rules. There's no -- there is no not
4 guilty plea in our rules, there's only denial. However, there
5 is no admission in our rules. We cannot admit to anything;
6 we've got to plead guilty. So we are the only board in the
7 state that uses terms like guilty, you know, not guilty;
8 everybody else says, you know, admit or deny. So that's all,
9 you know. If -- if people think that, oh, that's maybe
10 something that the adjudication -- I mean, that the commission
11 should consider, then we can -- you know, I can write them a
12 letter saying, you know, when you guys are doing your rule
13 revisions, please consider this. Or something else if -- if
14 the board wants. And -- or, you know, I don't know, you guys
15 could say --

16 MEMBER KIM: I have a question.

17 CHAIR MURAI: Yeah.

18 MEMBER KIM: Would you get rid of the no contest?

19 CHAIR MURAI: Well, you know, that's up --
20 personally, I would get rid of no contest. I know that the
21 prosecutor finds a no contest option useful or valuable in
22 securing, you know, a plea.

23 MEMBER KIM: An admission.

24 CHAIR MURAI: Yeah. And I suppose -- and, you know,
25 so Richard has a valid point. I can see how it works. You

1 know, psychologically, people will plead, you know, no contest
2 before they plead guilty because somehow it's just not as bad.
3 But, you know, in an administrative proceeding where there is
4 no -- in our cases, nobody goes to jail, right? And so --

5 MEMBER KIM: Isn't the no contest plea useful in
6 civil matters, especially if we're adjudicating an event and
7 for liability purposes, civil liability purposes, the licensee
8 doesn't want to admit or deny and just said, okay -- they use
9 the no contest plea so that they can -- they can fight another
10 battle in civil court instead of having to admit in front of
11 an adjudicatory board.

12 MEMBER HONDA: Yes, I agree with J.D. Kim. If there
13 is an incident where there's overservice, the guy drives out,
14 kills somebody; administratively, if he pleads guilty, then
15 the civil case is a cakewalk. In a civil liability wrongful
16 death/personal injury case, two things, you need liability and
17 you need damages. And liability, if he's found guilty or
18 pleads guilty, admits, it's just in a civil case, go for
19 damages. And I learned this well from Mr. Rost's grandpa and
20 father when they hired me in 1977. So there is a tremendous
21 impact.

22 CHAIR MURAI: Well, here's the thing.

23 MEMBER HONDA: No, but I have another question --

24 CHAIR MURAI: Why --

25 MEMBER HONDA: We're -- we're an adjudication board.

1 I did some research as to our rules and regs, and I can't see
2 voting on rule changes. That is under the Maui --

3 CHAIR MURAI: We're not voting on a rule change.

4 MEMBER KIM: We're suggesting.

5 VICE CHAIR LOO: We're requesting.

6 CHAIR MURAI: We're requesting.

7 MEMBER HONDA: Well, even requesting, I don't see
8 that in our jurisdiction.

9 VICE CHAIR LOO: We can make a request.

10 MEMBER HONDA: Yeah.

11 CHAIR MURAI: Okay. You know what, if any -- if you
12 folks don't want to do this, vote it down.

13 VICE CHAIR LOO: Or table it.

14 CHAIR MURAI: Yeah, tabling -- tabling means that
15 unless it's brought up, it's pau.

16 MEMBER KIM: Yeah.

17 CHAIR MURAI: Do you want to table it?

18 VICE CHAIR LOO: Yes.

19 CHAIR MURAI: 'Cause here's the thing, I'll probably
20 make the request on my own as an individual.

21 MEMBER HONDA: Yeah, you can, but, you know, as a
22 board, I don't see the legalities of a motion and, you know,
23 (inaudible) forth for the adjudication board.

24 CHAIR MURAI: Well, nobody told me that before.

25 We've been talking about this for a long time.

1 VICE CHAIR LOO: (Inaudible) I don't see
2 (inaudible).

3 CHAIR MURAI: Yeah.

4 MEMBER HONDA: I don't see it.

5 CHAIR MURAI: The adjudication board has no business
6 telling the liquor commission what rules are problematic for
7 us, what rules, you know, are difficult to apply or enforce;
8 we have no role in that?

9 MEMBER HONDA: Well, I think -- well, I defer to
10 corp counsel for the legal thing, but that's my reading. I
11 don't see how I can vote on rule changes or admin stuff.

12 CHAIR MURAI: You know, it's not a rule change.

13 VICE CHAIR LOO: It's just a suggestion.

14 MEMBER HONDA: You're looking for a rule change,
15 though.

16 CHAIR MURAI: Okay, we're looking for a rule change.
17 Here's what I'm saying, I'm saying, Liquor Commission, using
18 terms like guilty under parentheses -- I mean, I'm sorry,
19 there are quotation marks. Why are they in quotation marks?
20 Guilty/no contest, those come from criminal cases. We saw
21 here today there was even some kind of -- with the first guy,
22 you know, there was some like, Wow, man, you know, I thought
23 about it and no contest, hey, that means I did it, you know,
24 so we should -- you know, if they -- if you guys want to keep
25 no contest, fine, or if the department wants to keep no

1 contest, that's fine. But we are the only administrative
2 board that I'm aware of that uses terms like guilty to -- when
3 they find someone culpable.

4 VICE CHAIR LOO: Statewide?

5 CHAIR MURAI: Statewide. I've asked to do -- you
6 know, to do further research, and I -- when I asked corp
7 counsel to do research, they couldn't find any board that uses
8 terms like guilty. You know, in fact -- and it kind of bleeds
9 over to our other, you know, records or our terminology when
10 we ask for -- we also talk about prior convictions, you know.
11 So all -- all I wanted to do was align the language we use
12 with the language the rest of the world uses. If you guys
13 like it, fine, end of story. Motion to table?

14 VICE CHAIR LOO: Motion to table.

15 MEMBER KIM: Second.

16 CHAIR MURAI: All in favor?

17 (Response.)

18 CHAIR MURAI: Okay. The chair votes no.

19 Motion carries.

20 Okay. Moving on, Announcements: Next meeting is
21 February 5th, Thursday, 9:00 a.m.

22 MEMBER KALANIHUIA: I will see you there.

23 MEMBER KIM: Yeah, I look forward to that, Janice.

24 VICE CHAIR LOO: You won't be alone.

25 CHAIR MURAI: Okay. If there's no other business

1 before the board, the orders of the day call for us to
2 adjourn. We are adjourned at 10:23.

3 (The proceedings were adjourned at 10:23 a.m.)
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

