

## Small Business Regulatory Review Board

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### MINUTES OF REGULAR MEETING

August 20, 2008

Conference Room 410 - No. 1 Capitol Building, Honolulu, HI

- I. **CALL TO ORDER:** Chair Woods called the meeting to order at 10:30 a.m., with a quorum present.

#### MEMBERS PRESENT:

- Lynne Woods
- Sharon L. Pang
- Michael Yee
- Dorvin Leis
- Charles Au
- Peter Yukimura
- David S. De Luz, Jr.

#### ABSENT MEMBERS:

- Donald Dymond
- Richard Schnitzler
- Bruce Bucky

<b>STAFF:</b>	<u>DBEDT</u>	<u>Office of the Attorney General</u>
	Dori Palcovich	Margaret Ahn
	Steve Bretschneider	
	Pearl Imada-Iboshi	

### WORKING LUNCH AS THE MEETING PROGRESSED

#### II. APPROVAL OF MINUTES

Minutes of the August 20, 2008 board meeting were approved as presented. Chair Woods indicated that going forward an administrative change to remove the "list of guests" from future minutes will be made in order to reduce the time in performing the minutes. The Board has asked DBEDT to look into having a transcription service prepare the minutes.

#### III. OLD BUSINESS

- A. Review and discussion of **post public hearing statement** of HAR Chapter 16-53, "Fees Relating to Boards and Commissions" (DCCA) – Chair Woods notified the members that the rules were previously signed by the Governor and adopted. She stated that when the members originally reviewed these rules prior to public hearing, it was proposed that some of the fees were to be reduced; thus, no further action is needed at this point in time given that the rules are already adopted. She noted that the agency's transmittal letter stated that the "after public hearing statement" was sent concurrently to the Governor's office and this Board for approval. This process will be addressed when the Board's "working group" convenes to review the statute that governs this Board, 201M, HRS.
- B. Follow-up, discussion and recommendation of the following:
- i. Memorandum of Agreement between DOA and DLNR regarding non-agricultural park lands program – Deferred until the September meeting. Mr. De Luz questioned the reasons for not accepting certain leases and what potential value the leases would have had, and also noted that some of the leases are expiring. These questions and concerns will be relayed to the discussion leader, Mr. Schnitzler. Chair Woods requested that representatives from DOA and DLNR be invited to attend the next board meeting to assist in answering these questions.
  - ii. HAR Chapter 4-158, "Non-Agricultural Lands Program Rules" – Deferred until the September meeting.

#### IV. NEW BUSINESS

- A. Review and discussion of HAR Title 6, "Employee's Retirement System," HAR Chapter 6-20, Public Records and Information; Adoption, Amendment, or Repeal of Rules: Declaratory Ruling, Costs of Rules, HAR Chapter 6-22, "Certifications and Findings of the Medical Board," HAR Chapter 6-23, "Contested Case Hearings," HAR Chapter 6-24, "Election of Members and Retirant of the System to the Board of Trustees," and HAR Chapter 6-26, "Application for Retirement Benefits; Proof of Age and Computation of Age" (DBF) – Mr. Brian Aburano, Deputy Attorney General, explained that the rules were last modified in

1989; therefore, the proposed amendments will update the rules, in particular, the contested cases. He noted that the amendments do not directly affect or benefit small businesses. Any business impact relates indirectly to benefiting law firms and employee-organizations which assist members, retirants and their beneficiaries by clarifying the ERS's (Employee's Retirement System) medical board, contested cases and declaratory ruling requirements and procedures. The major impact to small business entails paying for copies of government records as small businesses will be charged up to fifty cents per paper. Upon review, Mr. Au recommended the proposed rules proceed to public hearing and because the rules entail minimal small business impact that the rules are not required to come back to this Board for after public hearing review; the members unanimously agreed.

- B. Review and discussion of proposed amendments to HAR Chapter 15-150, "Rules Governing Special Management Areas and Shoreline Areas within Community Development Districts and Practice and Procedures before the Office of Planning" (DBEDT) – Mr. Douglas Tom, Planning Program Manager of the Office of Planning's Coastal Zone Management Branch Office, explained that this area oversees the special management areas for the State; one such area is Kaka'ako, which is currently ready for development. The proposed rules represent mostly housekeeping measures and explained that the rules allow for the Office of Planning to waive the requirement of a shoreline certification in specific instances where the shoreline has been hardened and fixed by an artificial structure, for which engineering drawings exist to locate the interface between the shoreline and the structure. He stated that his agency is planning to propose additional rules for the legislature's approval next year. He discussed at length land use policies and the entities that are responsible for the policies. Upon review and discussion, Mr. Yukimura recommended that the amendments proceed to public hearing; the Board unanimously agreed.
- C. Review and discussion of proposed amendments to HAR Chapter 17-1714 through 17-1730, under Subtitle 12, Med-QUEST Division (DHS) - Ms. Aileen Befitel, Coverage Supervisor of DHS's Med-QUEST Division, explained that the proposed rule amendments are largely housekeeping measures as they clarify existing polices and also reflect the federal regulations and current Medicaid State plans. Two of the eight amended rule sections will impact small business, section 17-1728, "QUEST-Net" and section 17-17-28.1, "QUEST-Adult Coverage Expansion (ACE)"; both are expected to have a positive effect on the medical providers. She mentioned that the provider listing is very large and in February there will be an even larger arena because DHS is adding two more QUEST plans in conjunction with the current plans. After much discussion, Vice Chair Pang recommended that the proposed rule amendments proceed to public hearing; the Board unanimously agreed.
- D. Discussion of HB2843 HD2 SD2 CD1, "Relating to Invasive Species," Act 3 – 2008 Special Session, and SB2843 SD2 HD3 CD1, "Relating to Electronic Device Recycling" Act 13 - 2008 Special Session – Chair Woods explained that Act 3 and Act 13 are laws that were passed by the legislature during a special session that overrode the Governor's veto. Both acts entail large business impact. The rule-making agencies have been instructed to create rules which will eventually come to this Board. Regarding the "invasive species" act, she stated that there is quite a bit of vagueness in the wording, and in order to sell electronic devices, a business has to register with the State by paying a \$5,000 fee. She believes that the legislation is very restrictive and that the legislators went way beyond their authority

**V. Discussion of Board's Fiscal 2009 Goals and Recommendation(s) of Task force(s), if necessary, for the following projects:**

- A. RegAlert Project – Chair Woods referred the members to the RegAlert Business Plan Outline and noted that most of the major chambers have been contacted and agreed to partner with this Board in the RegAlert project, with the exception of the Kona-Kohala Chamber of Commerce. Mr. De Luz agreed to contact the president of this chamber to request its participation in the project as well as KIAA (Kanoelehua Industrial Area Association), which deals with blue-collar vocational industries; its president is Nimr Tamini. Mr. Bretschneider suggested that every time an "alert" is done, that a press release be posted on DBEDT's website, of which this Board was amenable to. Chair Woods suggested that each respective agency should be notified of the testimonies received from the small businesses after the RegAlerts have been sent out. Mr. De Luz suggested that the counties be part of this project, therefore, the Board needs to be apprised of who in each county should be notified of the RegAlerts, such as the County Managing Directors.

Chair Woods indicated that she would like to see the Governor's office have a press conference with the Board members in attendance; communication will also be sent to the State agencies. She further discussed the mechanics of the RegAlert process and the outreach of this project. It was explained that after the Board reviews the small business testimonies that a memorandum is sent back to the small business organizations in regards to the result of this Board. Mr. Leis recommended that the Board proceed with the RegAlert project; the Board unanimously agreed. It was noted that the next step is to contact DBEDT Director Liu and request a press conference with the Governor's office.

- B. Administrative Assistant Position – Ms. Imada-Iboshi stated that there are additional barriers due to budgetary problems but she believes that the approval of the position should come through.
- C. Public Outreach Project – Chair Woods explained that some of the chambers that this Board has partnered with in the RegAlert Project have requested that presentations be made to its members such as the Maui Chamber of Commerce, National Federation of Independent Business, and Small Business Hawaii. Chair Woods volunteered to do the presentation on Maui, Mr. Yukimura volunteered to do the presentation on Kauai and Mr. Yee volunteered for the presentation on Oahu.
- D. Bill of Rights/Impact Statement – HB 2781, HD2 SD2 CD1 “Relating to Small Business” – Act 230 – Chair Woods explained that his bill includes the Bill of Rights, a review of the Board's statute and the redevelopment of the small business impact statement, the requirement that a report is submitted to the legislature twenty days prior to the beginning of the 2009 legislative session. She noted that a group of nine members have been proposed to be the working group which includes four Board members, Chair Woods, Vice Chair Pang, and Messrs. Dymond and De Luz, Mr. Tim Lyons, Ms. Dale Evans, Representative Kyle Yamashita, Mr. Paul Yuen, DCCA representative, and Ms. Melissa Pavlicek, President of NFIB. In addition, the Board will request from Director Liu that Ms. Palcovich be appointed as the DBEDT representative on the working group.

Chair Woods explained that the working group be broken out into two sub-groups where one group will work on the small business impact statement and one group will work on the remaining sections of the statute; Ms. Ahn clarified that each sub-working group, which would be governed by Sunshine Law, would need to report back to the full “working group” and provide any recommendations, however, she will confirm this arrangement with the Board. The working group will meet the first Wednesday of each month from 1:30 to 5:00. It was proposed that the working group's final product be presented to this Board in November for final approval. Mr. De Luz recommended that the members of the working group be approved as noted and that a memorandum is sent to Director Liu requesting a DBEDT representative be appointed; the Board unanimously agreed.

**VI. REPORT FROM CHAIR AND BOARD MEMBERS:** Nothing was reported.

**VII. ANNOUNCEMENTS:** Chair Woods stated that Hawaii Business Magazine has requested that she be part of an ongoing monthly article where Chair Woods will interview a small business owner. The article will begin running in September.

Vice Chair Pang indicated that the rules that govern the vendors that work on weddings on the beaches have recently surfaced although the rules had been previously dormant. This has caused problems with the vendors that deal in weddings such as the hotels, the florists, the limousine companies, etc. She stated that the vendors are now required to have permits that govern certain time periods as well as designates certain square footage and other regulations. Chair Woods explained that if any of the small businesses are interested in making a formal complaint, it should be reminded of this Board's petition process.

**IX. NEXT MEETING** – Wednesday, September 17, 2008, 250 South Hotel Street, Honolulu, HI, Conference Room 410, 2:00 p.m.

**X. ADJOURNMENT** – Chair Woods adjourned the meeting at 12:15 p.m.