

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

December 7, 2004

State Office Tower, 235 South Beretania Street ROOM 405

I. **CALL TO ORDER:** Chair Woods called the meeting to order at 10:31 a.m., with a quorum present.

MEMBERS PRESENT:

- Lynne Woods
- Brian Zinn
- Dorvin Leis
- Joyce Edwards
- Jeanette Chang
- Phyllis Shea
- Donald Dymond
- Michael Yee
- Noelani Whittington

ABSENT MEMBERS:

- George Handgis
- Edward MacDowell

STAFF:

DBEDT

Dori Palcovich
Tom Smyth
Sonda Mullen

Office of the Attorney General

Margaret Ahn

GUESTS:

Senator Gordon Trimble
Representative Cynthia Thielen, State House of Representatives, and Women's Caucus
Legislature
Representative Galen Fox, State House of Representatives
Daniel Dinell, Executive Director, Hawaii Community Development Authority (HCDA)
Steve Miyamoto, Project Engineer, HCDA
James Kometani, Chairperson, HCDA
Jeffrey C. Dinsmore, Victoria Ward, Limited
Paul Kimura, Founding Director, Kakaako Improvement Association, Member, HCDA
Lee Ann Teshima, Department of Commerce and Consumer Affairs (DCCA)
Beverly Harbin, President, Employer's Chamber of Commerce, Kakaako Improvement Association
Kari Wheeling, Healthy Mothers
Nina Wu, Reporter, Pacific Business News
Annette Amaral, Planned Parenthood of Hawaii
Wally Weatherwax, Liquor Administrator, City and County of Honolulu, Liquor Commission
Daniel Arakawa, ASO, City and County of Honolulu, Liquor Commission
Anna Hirai, Assistant to the Administrator, City and County of Honolulu, and Liquor Commission
Robert MacDonald, Owner, Sunmac Hawaii, Ltd.
Jim Garcia, Co-Owner, Tropical Lamp & Shade Company
Dexter Okada, Owner, U. Okada & Company, Ltd.
Linda Kano, Interior Showplace
Bartt Tsuruda, Interior Showplace
Chuck Garner, Owner, Chuck's Corvette
Joseph Meccariello, Worldwide Furnishings
Neal Tamura, Owner, Ray's Transmission
Clifford Garcia, Co-owner, Tropical Lamp & Shade Company
Linda Holt, Jeans Warehouse
Theodore Uyeda, Owner, Queen's Fast Lube and Radiator
James Hardway, Assistant to the Director, Department of Labor and Industrial Relations (DLIR)
Jeri Kalana, Branch Manager, Department of Agriculture (DOA)
Randy Kamiya, Milk Specialist, DOA

WORKING LUNCH AS THE MEETING PROGRESSED

II. **APPROVAL OF MINUTES:** Minutes of the November 9, 2004 meeting were approved as presented.

III. **PUBIC COMMENTARY** – Public commentary may be included with each agenda topic discussed.

IV. OLD BUSINESS

- A. Report and discussion of Legislative items – Mr. Smyth discussed the recommendations and modifications made to the Small Business Bill of Rights bill from the Department of the Attorney General, Department of Taxation, Department of Land and Natural Resources, DCCA and DLIR; changes reflect philosophical comments, structural and formatting style, and word and typographical corrections. Much discussion ensued as to whether to include these changes into the bill or not. Chair Woods mentioned that if a decision is made that the Bill of Rights bill will not be included in DBEDT's Administrative Packet, the Board will request a Senator and/or Representative to introduce the bill; she further recommended that DBEDT staff continue with inputting the recommended changes into the bill; the Board unanimously agreed.

Mr. Smyth also reported that the Department of the Attorney General made wording and grammatical changes to the Regulatory Flexibility Act bill, which will be inputted by Mr. Smyth.

- B. Review and discussion of post public hearing statement HAR Chapter 15-20, "Relating to Improvement District 11" (HCDA) – Mr. James Kometani, Chairperson, HCDA, spoke about the HCDA Board's involvement with the proposed rules. Mr. Daniel Dinell, Executive Director, HCDA, presented and described HCDA's implementation plan for its Improvement District Program, which allows for the redevelopment of Kakaako. He discussed the issues and concerns with the construction process, the high assessments, the loss of parking, and the necessity of the project, and also discussion some alternatives. DBEDT Director Liu presented his perspective on government's role with the improvements of this project. The Board asked questions of Messrs. Dinell and Miyamoto for clarification. Following the presentation, several small business owners, impacted by these rules, presented testimony regarding their concerns and dissatisfaction with HCDA's proposal. Much discussion ensued with a period of questions and answers.

Upon reviewing these rules and hearing all of the testimony, Ms. Chang recommended that Chair Woods and Ms. Palcovich compose a draft memorandum to Governor Lingle encompassing the overall consensus of the members' comments; subsequently, each board member will review the draft and make any relevant changes. The Board unanimously agreed.

- C. Review and discussion of post public hearing statement HAR Chapter 16-95, "Pharmacists and Pharmacies" (DCCA) – Ms. Lee Ann Teshima, Executive Officer, DCCA, gave a status report of the public hearing; the testimony revealed no adverse commentary by those impacted small businesses. Chair Woods reported that the Board previously reviewed these rules noting no discernible business impact prior to public hearing, and as there are no changes to the rules after public hearing; she recommended that the rules be supported for adoption; the Board unanimously agreed.
- D. Review and discussion of post public hearing statement HAR Chapter 4-60, "Milk Control Rules" (DOA) – Mr. Randy Kamiya, Milk Specialist, DOA, indicated that the Governor has already signed and approved these rules for their adoption; the new rules will be effective January 1, 2005. Vice Chair Zinn stated there were no foreseeable problems with the rules, but suggested that the Board bring to the Governor's attention that the rule processing was "out of sequence." However, it was acknowledged that under the circumstances, because the milk industry needed the price increase, as the pricing had not been changed for quite some time, that it may have been necessary to approve these rules for adoption in an expeditious manner. Vice Chair Zinn recommended that the Board support the rules for adoption; the Board unanimously agreed.
- E. Legislative advocating strategy – Deferred until next month.

V. NEW BUSINESS

- A.** Review and discussion of proposed rules for Honolulu Liquor Commission - Ms. Anna Hirai, Assistant to the Administrator, City and County of Honolulu, Liquor Commission, indicated that the last time the Honolulu Liquor Commission undertook rule changes was in 1998; changes are reflected in 36 sections. Several questions were asked and concerns were voiced by the members. One concern posed by Mr. Dymond related to "licensee and manager in charge of premises" as it is contrary to the current law and would put an extraordinary burden on the smaller retail stores. Another concern by Mr. Dymond was that under the proposed rules, upon the application of a liquor license, a business is required to obtain zoning clearance, and if a business is unable to obtain a zoning clearance, they are unable to receive either a new or transferred license. Chair Woods recommended that the rules proceed to public hearing with these noted concerns; the Board unanimously agreed. Chair Woods also recommended that the Commission notify the licensed carriers and/or organizations and associations in writing to let them know where the public hearing will be and when. Ms. Harai indicated that the public hearing would be held on January 25, 2005.

VI. REVIEW OF THE FOLLOWING EXISTING ADMINISTRATIVE RULES – .

- A.** HAR Chapter 13-36, "Waikiki Marine Life Conservation District, Oahu" (DLNR) – Vice Chair Zinn indicated that these rules present no existing business impact and recommended that the Board continue to support these existing rules; the Board unanimously concurred.

VII. REPORT FROM THE CHAIR – Nothing was reported.

VIII. REPORT FROM COMMITTEES – Nothing was reported.

IX. REPORT AND UPDATE FROM BOARD MEMBERS – Nothing was reported.

- X. POLICES AND PROCEDURES** – Review and update on Policies and Procedures Manual
Chair Woods requested that members review the "draft" Policies and Procedures outline and report back to Ms. Palcovich with any proposed changes.

XI. ANNOUNCEMENTS – Nothing reported.

XII. NEXT MEETING: Tuesday, January 11, 2004 at 10:30 a.m.; No. 1 Capitol District Building, Room 410.

XIII. ADJOURNMENT: Chair Woods adjourned the meeting at 3:25 p.m.