

BOARD OF PRIVATE DETECTIVES AND GUARDS

Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: Thursday, January 10, 2013

Time: 10:30 a.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, HI 96813

Present: Douglas Inouye, Public Member, Chairperson
Gary Yabuta, Chief of Police, County of Maui, Vice Chairperson
Edward Akiona, Industry Member
Jeffrey Owens, Industry Member
Ray Galas, Public Member
Rodney J. Tam, Deputy Attorney General
Charlene L.K. Tamanaha, Executive Officer
Christine Hironaka, Secretary

Excused: Darryl Perry, Chief of Police, County of Kauai

Guests: None

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor as required by §92-7, Hawaii Revised Statutes ("HRS").

Call to Order: There being a quorum present, the meeting was called to order at 10:43 a.m. by Chairperson Inouye.

Additions to
Or Deletions
From the Agenda:

It was moved by Mr. Galas, seconded by Vice Chairperson Chief Yabuta, and unanimously carried to add the following to the agenda:

4. Applications
 - a. Guard Instructors
 - 9) Kelly J. AH HEE
 - 10) Rodney H. KAHALEPUNA
 - 11) Rhapsody P. LUNES
 - 12) Keith S. SHIROMA
 - 13) Edward W. WOLF
 - b. Guard Instructor Ratification
 - 1) Albert B. DENIS

6. Ad Hoc Committee Members
 - a. Act 208 Committee
 - b. Applications Review Committee

Approval of the Board Minutes:

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Owens, and unanimously carried to approve the minutes and executive session minutes of the December 13, 2012 meeting as circulated.

It was also moved by Mr. Galas, seconded by Mr. Owens and unanimously carried to approve a correction on pages 4 and 5 of the November 8, 2012 meeting minutes under Legislation a. 1) HIGH SCHOOL EDUCATION OR ITS EQUIVALENT REQUIREMENT, deleting the "or" at the end of paragraph 1. and adding it to the end of paragraph 1. a. vi., before paragraph 2..

Executive Session:

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Owens, and unanimously carried to enter into executive session pursuant to HRS §§92-4 and 92-5, to consider and evaluate personal information relating to the applicant applying for licensure and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities and to consider sensitive matters related to public safety or security in accordance with HRS 92-5(a)(4) and (6) at 10:48 a.m.

EXECUTIVE SESSION

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Owens, and unanimously carried to reconvene to the Board's regular order of business at 11:00 a.m.

Applications:

- a. Guard Instructor

It was moved by Mr. Galas, seconded by Vice Chairperson Chief Yabuta, and unanimously carried to **approve** the following applications for Guard Instructor for posting to the Board's website:

Gary R. BELEN
Albert G. FLEMING
Harding C. Parrilla, Jr.
Keith S. SHIROMA
Mark M. WARRINGTON
Pauline YOUNG

It was moved by Chairperson Inouye, seconded by Mr. Owens, and unanimously carried to **approve** the following as Guard Instructors for posting to the Board's website pending receipt of additional documentation.

Christopher CHING – Pending proper notarization
Kelly J. AH HEE – Pending high school verification
Rhapsody P. LUNES – Pending application fee

It was moved by Mr. Owens, seconded by Mr. Galas, and unanimously carried to **defer** the following Guard Instructor applications for additional documentation to verify the requisite experience.

Abigail L. GALUTERIA
Francis B. G. HUNN, III
Rodney H. KAHALEPUNA
Edward W. WOLF

b. Guard Instructor Ratification

It was moved by Mr. Galas, seconded by Mr. Owens, and unanimously carried to **approve** and **ratify** the following Guard Instructors and dates of approval.

Albert B. DENIS – 1/10/13
Robert F. DOMBROWSKI – 12/20/12
Roger C. M. LAU – 12/7/12

Examination:

a. Review & Report

The Executive Officer distributed the following results of the Private Detectives' and Guards' examination:

Security Guard Exam (administered November 16, 2012)

Exams Administered	1
Successful	0
Unsuccessful	1

Private Detective Exam (administered November 16, 2012)

Exams Administered	1
Successful	0
Unsuccessful	1

Security Guard Exam (administered December 21, 2012)

Exams Administered	2
Successful	0
Unsuccessful	2

Private Detective Exam (administered December 21, 2012)

Exams Administered	2
Successful	1
Unsuccessful	1

Ad Hoc Committee
Members:

a. Act 208 Committee

The Executive Officer informed the Board that Mr. Owens was not formally appointed to the Ad Hoc Committee. Chairperson Inouye appointed Mr. Galas as chairperson of the Act 208 Committee and Mr. Owens and Mr. Akiona as committee members.

The Executive Officer explained that Board committees can have a maximum of three Board members because the number shall be less than a quorum. The Act 208 Ad Hoc committee was established to aid the Board in the implementation of Act 208.

b. Applications Review Committee

The Executive Officer explained that the Applications Review Committee was established to review applications in months the Board did not meet. The concurrence of two members shall constitute the authority to allow applicants to sit for the exam or to request additional information provided that if two members do not concur, the applicants would be deferred for the review of the full Board.

Chairperson Inouye appointed Mr. Owens and Mr. Akiona to the Applications Review Committee in addition to himself.

Legislation:

a. Act 208 (S.B. No. 2165) and any matters relating to the implementation of Act 208.

1. Transcend, Inc. Security Guard Training Curricula
(Deferred from the December 13, 2012 meeting).

Mr. Owens presented the Transcend, Inc. Security Guard Training Curricula to the Board. The Executive Officer asked Mr. Owens what happens if someone fails the course? Mr. Owens replied that 70% or more will pass the course and it is basically up to the instructor to determine if an individual passes or fails.

It was moved by Vice Chairperson Chief Yabuta, seconded by Chairperson Inouye, with Mr. Owens recusing himself and Mr. Galas and Mr. Akiona voting to approve the Transcend, Inc. Security Guard Training Curricula to be posted on the Board's Important Announcements web

page under Board Approved Security Guard Training Curricula.

2. Pacific Regional Disaster Preparedness Center (“PRDPC”) Security Guard Training Course

The Board reviewed the Security Guard Training Course submitted for approval from PRDPC.

The Executive Officer noted that while the curriculum appears to list the required elements, the lesson plan submitted does not reflect the items indicated as being covered.

The Board had concerns that the program addressed “Implied Consent” instead of the required element of “Implied Arrest.” In addition the Board instructed the Executive Officer to advise the curriculum provider that the program need not track the same order as the Board’s approved curricula; but it should cover all of the required elements the minimum time frames established and if not in the same order, the Board should be notified as to where the required element is covered in their plan.

It was moved by Mr. Owens, seconded by Vice Chairperson Chief Yabuta, and unanimously carried to defer the approval of the PRDPC Security Guard Training Course until the curriculum meets the training requirements of Act 208.

3. Criminal Convictions (Deferred from the December 13, 2012 meeting)

This issue was deferred to the next meeting pending Deputy Attorney General Tam’s clerk’s completion of the review of the criminal convictions list submitted by Mr. Owens.

Vice Chairperson Chief Yabuta asked if the Board is able to revoke a license. The Executive Officer replied that the Board only has jurisdiction over guard employees and guard agencies but not hotels and associations and the Board will get a list of disciplinary actions.

Mr. Galas asked if the Board could get a list of complaints from RICO. The Executive Officer replied that the Board will be notified only of unlicensed judgments from RICO. The Board has delegated its investigative function to RICO. Board members should not be tainted by complaint

information not brought before the Board or Hearings Office as it raises an issue of bias, prejudice or violation of due process.

The Executive Officer stated that felony convictions on guard employee registration applications should be reviewed by the Board. Deputy Attorney General Tam also stated that the Executive Officer can administratively approve applications to be ratified by the Board but the Board must review convictions related to the profession.

4. Definitions of Guard and Acting in a Guard Capacity

The Board reviewed the following proposed Definition of a Guard and Acting in a Guard Capacity by Mr. Owens:

“Guard means a uniformed or non-uniformed person who for compensation, reward, or by employment acts in a guard capacity.

"Acts in a guard capacity" means being physically present and having a responsibility that includes to deter, detect, observe and report behaviors and conditions that put persons, property or assets at risk of harm, damage, theft, or loss; or infraction of premises rules.

Acting in a guard capacity does not include persons stationed at the ingress or egress of retail or commercial establishments for the purpose of verifying membership, the accuracy of purchases or status of items being removed from the premises; persons who manage contracts on behalf of residential and commercial property owners, owners associations and condominium properties so long as they are not responsible to act in a guard capacity; parking lot attendants whose responsibility is limited to controlling ingress and egress to a parking facility, and, persons whose responsibility is limited to performing water safety and rescue services at a swimming location.”

Deputy Attorney General Tam stated that there already is a definition in the statute of a guard and thus cannot amend it without statutory amendment. He does agree that the Board may define, “acting in a guard capacity” pursuant to Act 208.

Mr. Galas asked if the definition would include volunteers who are compensated? Deputy Attorney General Tam responded that the definition implies compensation and thus may subject those "volunteers" if compensated to Act 208. Chairperson Inouye added that organizations should be cautious when using volunteers as security and should seek the advice of their legal counsel.

The definitions of guard acting in a guard capacity was deferred pending Deputy Attorney General Tam's review.

5. Guard Employee Registration Form & Instructions

The Board reviewed the Guard Employee Registration Form & Instructions. Deputy Attorney General Tam stated that question #3a. on the Application for Guard Employee Registration should be revised to ask whether an applicant is currently or presently suffering from a psychological or psychiatric disorder. It should not ask whether the applicant has suffered any psychological or psychiatric disorder in the past.

The Guard Employee Registration Form & Instructions will be posted on the Board of Private Detective and Guard's Applications Forms & Publications web page upon Deputy Attorney General Tam's revisions.

6. Notarized Statement of Educational Background

The Executive Officer stated that the Notarized Statement of Educational Background can be used by employers to attest to the high school education equivalency of their employees who cannot produce verification of a high school education.

The Notarized Statement of Educational Background is a part of the application and will also be available on the Board of Private Detective and Guard's Applications Forms & Publications web page with the Guard Employee Registration Form & Instructions.

Next Meeting: Thursday February 14, 2013
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813

Adjournment: There being no further business to discuss the meeting adjourned at
12:33 p.m.

Reviewed and approved by:

Taken by:

/s/ Charlene L.K. Tamanaha
Charlene L.K. Tamanaha
Executive Officer

/s/ Christine Hironaka
Christine Hironaka
Secretary

2/8/13

- Minutes approved as is.
 Minutes approved with changes; see minutes of _____.