

**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, February 14, 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  
Darryl Perry, Chief of Police, County of Kauai  
Jeffrey Owens, Industry Member  
Ray Galas, Public Member  
Rodney J. Tam, Deputy Attorney General  
Charlene L.K. Tamanaha, Executive Officer  
Christine Hironaka, Secretary

Excused: Edward Akiona, Industry Member

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 10:50 a.m. by Chairperson Inouye.

Additions to  
Or Deletions  
From the Agenda:

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

7. Legislation
  - a. Act 208 (S.B. No. 2165 and any matters relating to the implementation of Act 208
  - 5) Pacific Regional Disaster Preparedness Center's Curricula

Approval of the  
Board Minutes:

It was moved by Vice Chairperson Chief Yabuta, seconded by Chief Perry, and unanimously carried to approve the minutes and executive session minutes of the January 10, 2013 meeting as circulated.

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 at 10:51 a.m.

**EXECUTIVE SESSION**

Applications

a. Oral Interview for Licensure

1. Lorraine A. Keopuhiwa, Principal Guard  
SOS Security LLC

It was moved by Vice Chairperson Chief Yabuta, seconded by Chief Perry, and unanimously carried to reconvene to the Board's regular order of business at 10:59 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by Mr. Galas, seconded by Mr. Owens and unanimously carried to approve the above application pending a list of the states in which SOS Security LLC is licensed and a license verification from each state.

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 at 11:00 a.m.

**EXECUTIVE SESSION**

2. Robert A. Cravalho, Private Detective  
Sole

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 11:03 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Owens and unanimously carried to approve the above application subject to meeting all licensing requirements.

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 at 11:04 a.m.

**EXECUTIVE SESSION**

3. Paul C. Politt, Private Detective  
Sole

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 11:08 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by Chief Perry, seconded by Mr. Galas and unanimously carried to approve the above application subject to meeting all licensing requirements.

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 at 11:12 a.m.

**EXECUTIVE SESSION**

4. Alfred Ontiveros, Jr. Guard (GD-543)  
Principal Guard to Sole Proprietor

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 11:15 a.m. for the conclusion of the oral interview with the individual applicant.

It was moved by Chief Perry, seconded by Mr. Owens and unanimously carried to approve Mr. Ontiveros' status change request from principal guard to sole proprietor

Mr. Ontiveros, Jr. presented to the Board the badges he would be using and was asked to resubmit the badges because they were too similar to the badges used by the county of Hawaii.

It was moved by Chief Perry, seconded by Mr. Owens, and unanimously carried to waive any future oral interviews for those licensees changing status from a principal guard to a sole proprietor.

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 at 11:16 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 11:20 a.m.

b. Review for Examination

It was moved by Mr. Owens, seconded by Vice Chairperson Chief Yabuta, and unanimously carried to **approve** the following applications for examination:

1. Guard

- i. Kevin K. K. M. Wong  
Sole

2. Private Detective

- i. Michael C. MacDougall  
Maui Fire Investigations Inc.
- ii. Peggy Meyer-Ducheny  
Defense Investigators Group Inc.
- iii. Scott N. Romero  
Diversity Investigative Services Inc.
- iv. Kevin K. K. M. Wong  
Sole

It was moved by Mr. Owens, seconded by Vice Chairperson Chief Yabuta, and unanimously carried to **deny** the following application for examination for failure to demonstrate the requisite four years of full-time guard work experience pursuant to section 16-97-35, Hawaii Administrative Rules:

1. Guard

- i. Roy C. Sabalboro, Jr.  
Sole

c. Request for Dual Status

The Executive Officer indicated that Mr. Leiato owns 51% of both RSC Services Hawaii Inc. and High Life Security Corporation and therefore met the requirements of HAR section 16-97-7.2.

It was moved by Chairperson Inouye, seconded by Chief Perry and unanimously carried to **approve** the following application for dual status to be a principal guard of RSC Services Hawaii Inc. and High Life Security Corporation.

1. Guard

- i. Anthony Leiato (GD-827)  
RSC Services Hawaii Inc. (GDA-826)  
High Life Security Corporation (GDA-1023)

d. Ratification

The Executive Officer indicated that Mr. Tanabe was a sole proprietor and is now applying to be the principal guard of the corporation owned solely by Mr. Tanabe and the oral interview was waived for this reason.

It was moved by Mr. Owens, seconded by Vice Chairperson Chief Yabuta and unanimously carried to **ratify** the approval of the following application for licensure.

1. Guard Agency

- i. Miles A. Tanabe (GD-987)  
Blue Knight Services Hawaii Inc.

e. Guard Instructor

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

Misty-Leigh L. CARTER  
Charles V. SAWYER

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

Terrence R. NAKAMURA – Pending high school  
verification

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Owens, and unanimously carried to **defer** the following Guard Instructor applications:

Ernesto A. GAGARIN JR. – Pending high school and additional employment verification  
Regis W. SNATCHKO – Pending high school and additional employment verification  
Todd K. TA'A – Pending additional employment verification

f. Guard Instructor Ratification

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

Charles F. DUBOYCE – 02/07/13  
Wayne A FERNANDEZ – 02/07/13  
Joy T. T. W. HODEL – 02/07/13

g. Guard Employee

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Galas and unanimously carried to approve the following guard employee applications.

Charles T. LAURICIO  
Keith P. NAONE

It was moved by Vice Chairperson Chief Yabuta, seconded by Mr. Galas and unanimously carried to accept verification of a foreign high school education and will accept foreign documents provided it is translated into English.

Examination:

a. Review & Report

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

Security Guard Exam (administered January 18, 2013)

Exams Administered	2
Successful	1
Unsuccessful	1

Private Detective Exam (administered January 18, 2013)

Exams Administered	2
Successful	0
Unsuccessful	2

**Chairperson Inouye announced he was taking the agenda out of order**

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

2. Definitions of guard and Acting in a Guard Capacity (Deferred from the January 10, 2013 meeting)

Deputy Attorney General Tam informed the Board that HRS section 463-10.5(a) requires “all guards, and all agents, operatives, and assistants employed by a guard agency, private business entity, or government agency who act in a guard capacity shall apply to register with the board...” and the current definitions of a “guard” are:

HRS section 463-1 Definitions...“Guard” means a registered uniformed or nonuniformed person responsible for the safekeeping of a client's properties and persons within contractually prescribed boundaries, and for observation and reporting relative to such safekeeping. “Guard” shall not include any active duty federal, state, or county law enforcement officers or personnel.”

HAR section 16-97-2 Definitions...“Guard” means a uniformed or nonuniformed person who for compensation, reward, or by employment, is responsible for the safekeeping of a client's person and property within contractually prescribed boundaries, and for observation and reporting relative to the safekeeping of that person or property. This includes companies that respond to alarms by sending out employees or assistants to physically safeguard and secure the premise or property. “Guard” includes individuals, persons, corporations, partnerships, or agencies who provide guard services to associations of apartment owners, provided an employer-employee relationship does not exist between the association of apartment owners and the individual guarding the property. Association of apartment owners means all of the apartment owners acting in accordance with the association's bylaws and declaration.

The term does not include a person employed solely by an employer in connection with the affairs of the employer **[note: this exemption (i.e., the in-house guard) was deleted in HRS section 463-13 by Act 208]**; nor does it include any lawful activity of any board, body, commission, agency, state, territory or possession of the United States, or any political subdivision thereof.”

Deputy Attorney General Tam presented the following proposed definition of "Act in a guard capacity":

"Act in a guard capacity" or "acting in a guard capacity" means a uniformed or nonuniformed person who performs safekeeping, observation, and reporting functions for the person's employer that are substantially similar to that of a guard; provided that the term excludes a person who performs safekeeping, observation, and reporting functions only incidentally to the person's primary job functions and responsibilities including but not limited to the following persons:

- (1) A person stationed at the entrance or exit of a retail or commercial establishment whose primary function is to verify a customer's membership with and the accuracy of purchases from the retail or commercial establishment;
- (2) A parking lot attendant whose primary responsibility is to control the ingress and egress of the parking lot, facility, or structure;
- (3) A person whose responsibility is limited to performing water safety and rescue services at a swimming pool, beach, or other bodies of water;
- (4) A person whose responsibility is limited to taking tickets from customers at an entertainment or sporting event, and a person who acts as an usher at those events; and
- (5) A residential or commercial property manager who performs only incidental safekeeping, observation, and reporting functions for the subject property.

Deputy Attorney General Tam further explained that he removed the words "detect" and "deter" from the previous proposed draft because the words are not included in the law and that a universal description is difficult. Deputy Attorney General Tam recognizes that the Board has concerns about including individuals whose primary function do not include "acting in a guard capacity", but asked the Board what if the guard calls in sick and the resident manager must secure the property.

Mr. Owens commented that he felt the sentence should end at "employer" because he had concerns with "substantially similar to that of a guard" and "reporting functions only incidentally". He felt the phrases are

unclear, subjective and subject to interpretation by the employer and that Act 208 does not quantify time and degree.

Mr. Dolak suggested the Board post a list of jobs that are subject to or not to Act 208 on the Board's website. In response to Deputy Attorney General Tam's question about the resident manger, if the guard is not present, the resident manager cannot act in a guard capacity without being registered with the state.

Mr. Galas suggested that "substantially similar" be removed from the proposed definition as well as "primary" as these terms are subjective and unclear.

Mr. Owens suggested that #2) be amended to state "a parking lot attendant whose responsibility is limited to controlling ingress and egress." Chief Perry suggested that #4 be amended to state "A person whose responsibility is limited to taking tickets from customers at an event." Mr. Owens also suggested that #5 exempt those property managers who oversee a security contract and do not physically perform any guard functions.

Deputy Attorney General Tam will redo the language to reflect the Board's comments.

Vice Chairperson Chief Yabuta asked if the definition in HAR section 16-97-2 can be referenced without officially outlining everything. It could; however for ease of reading by the public it may be prudent to set out the definition.

5) Pacific Regional Disaster Preparedness Center ("PRDPC")  
Curricula

Kelvin Ogata, training program manager and Jessica Stratford from PRDPC appeared before the Board to answer any questions the Board members may have regarding the submitted curricula. Mr. Ogata informed the Board that PRDPC is a federally recognized 501(C)(3), and State of Hawaii non-profit organization that coordinates and delivers FEMA-certified Incident Command System ("ICS") and National Incident Management System ("NIMS") training to first responders and civilians throughout the Pacific Region.

The Executive Officer asked if anyone from the organization has been approved to be a guard instructor. Mr. Ogata responded that someone will apply to be a guard instructor.

Mr. Owens informed Mr. Ogata that the Board had to search for the required elements of training and had concerns that the program addresses "Implied Consent" instead of the required "Implied Arrest". Mr. Ogata indicated that law enforcement he spoke with was not aware of this term "Implied arrest". Mr. Owens explained that it is the point at which a reasonable person feels they are being detained.

Vice Chairperson Chief Yabuta left the meeting at 12:15 p.m.

It was moved by Mr. Galas, seconded by Mr. Owens, and unanimously carried to defer the approval of the PRDPC Security Guard Training Course until the Board can further review the curriculum to determine it meets the requisite requirements of the Board's approved curricula.

Scope:

- b. Email requesting determination if retired Hawaii police officers acting as a security guard or protection agent are subject to Act 208.

Mr. Owens stated that the law does not provide an exemption for retired Hawaii police officers acting as guard or protection agents and therefore are subject to Act 208. The Executive Officer indicated the email also requests a determination as to whether a current active police officer who works part-time for a guard agency or other employer performing guard work is exempt.

Further discussion on this request was deferred to the March 14, 2013 meeting.

- a. Email requesting determination if job duties are subject to Act 208.

This issue was deferred to the March 14, 2013 meeting.

**Chairperson Inouye announced he was returning to the order of the agenda.**

Legislation:

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

1. Criminal Convictions (Deferred from the January 10, 2013 meeting)

This issue was deferred to the March 14, 2013 meeting

3. Guard Employee Registration Form & Instructions

The Board reviewed the Guard Employee Registration Form & Instructions that has been posted on the Board's website as Guard Employee Registration for Act 208 at

[http://hawaii.gov/dcca/pvl/boards/private/application\\_publications](http://hawaii.gov/dcca/pvl/boards/private/application_publications).

4. 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 and is part of the Guard Employee Registration application posted on the Board's website.

b. 2013 Legislation

Discussion on the following bills was deferred to the March 14, 2013 meeting.

HB323/SB506 Relating to Professional and Vocational Licensing

HB718/SB965 Relating to Professional and Vocational Licensing

HB1381 Relating to Professional and Vocational Licensing

SB1232 Relating to Private Guards

Next Meeting:

Thursday March 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  
12:25 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

3/8/13

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