



## SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism  
No. 1 Capitol District Bldg., 250 South Hotel St. 5<sup>th</sup> Fl., Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Tel 808 586-2594  
Fax 808586-2572

Neil Abercrombie  
*Governor*

Richard C. Lim  
*Director, DBEDT*

Mary Alice Evans  
*Deputy Director, DBEDT*

### Members

Anthony Borge  
*Chairperson*  
*Oahu*

Craig Takamine  
*Vice Chair*  
*Hawaii*

Barbara Bennett  
*2<sup>nd</sup> Chairperson*  
*Kauai*

Kyoko Y. Kimura  
*Maui*

Harris Nakamoto  
*Oahu*

Richard C. Lim  
*Director, DBEDT*  
*Voting Ex Officio*

### AGENDA

**Wednesday, August 20, 2014 ★ 9:30 a.m.**  
**No. 1 Capitol District Building**  
**250 South Hotel Street - Conference Room 436**

- I. Call to Order**
- II. Approval of July 16, 2014 Meeting Minutes**
- III. New Business**
  - A. Discussion and Action on Amendments promulgated by the Department of Hawaiian Home Lands for HAR Title 10, Chapter 4, Section 3, General Lease; extension of term – See Exhibit 1
- IV. Administrative Matters**
  - A. Current update from Investigative Task Force regarding the possibility of transferring this Board to another suitable State department
- V. Next Meeting:** Scheduled for Wednesday, September 17, 2014, at 9:30 a.m., Conference Room 436, Capitol District Building, Honolulu, Hawaii
- VI. Adjournment**

If you require special assistance or auxiliary aid and/or services to participate in the public hearing process (i.e., sign language, interpreter, wheelchair accessibility, or parking designated for the disabled), please call (808) 586-2594 at least three (3) business days prior to the meeting so arrangements can be made.

# August 20, 2014 ~ SBRRB Meeting Checklist

Member Attendance				
	Airline Preference	From	Details	Attend
Anthony Borge, Chair <i>X</i>	NA	Oahu	Parking Pass	<input checked="" type="checkbox"/>
Craig Takamine, Vice Chair <i>X</i> <i>Travel</i>	HA	Hawaii	Parking Pass	<input checked="" type="checkbox"/>
Barbara Bennett <i>X</i> <i>Travel</i>	HA	Kauai	Parking Pass	<input checked="" type="checkbox"/>
Kyoko Kimura <i>X</i> <i>Travel</i>	HA	Maui	Parking Pass	<input checked="" type="checkbox"/>
Harris Nakamoto <i>X</i>	NA	Oahu	Parking Pass	<input type="checkbox"/>
Director's ex officio <i>Milton</i>	NA	Oahu	NA	<input checked="" type="checkbox"/>

Pre Meeting Checklist	
Conference Room #436 (Confirm each month)	<input checked="" type="checkbox"/>
Make 12 copies of rule packages for board packets - continuous	<input checked="" type="checkbox"/>
Poll board attendance - July 17th	<input checked="" type="checkbox"/>
Prepare TAF for Director's approval - ASAP (Linda)	<input checked="" type="checkbox"/>
Airline booking ASAP - Linda <i>Sent 8-11-14 Done</i>	<input checked="" type="checkbox"/>
Draft Agenda to Chair <i>LOIP OK'd LOIP</i>	<input checked="" type="checkbox"/>
Post approved agenda on SBRRB website & State Calendar & Lte. Governor's Office	<input checked="" type="checkbox"/>
Send Agendas to those people who requested it	<input checked="" type="checkbox"/>
Mail approved agenda to board members, M. Ahn	<input checked="" type="checkbox"/>
Mail board packets Tues or Wed. August 12 or 13	<input checked="" type="checkbox"/>
3-4 Days prior to meeting, send DAGS an email (or fax) re: Board members parking and attending SBRRB meeting - IMPORTANT <i>8-13-14</i>	<input checked="" type="checkbox"/>

STAFF				
Margaret Ahn	<input checked="" type="checkbox"/>			Yes
Dori Palcovich	<input checked="" type="checkbox"/>			Yes

Post Meeting Checklist	

# Visitors Sign-in-Sheet - Small Business Regulatory Review Board - August 20, 2014

	Name	Title	Organization	Email	Phone
1	Dre Kalili	Policy Analyst	DTHL	dreanalee.k.kalili@hawaii.gov	808-9486
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					

SBRRB - TASK FORCE COMMITTEE

DATE of Meeting - 8/20/14

In attendance: SBRRB Chair, Tony, Craig, Barbara and Dori

Minutes reported by Barbara Bennett

- A. What budget do we want?
  1. request to legislature
  2. start the process
  
- B. 2014 Election - Legislature
  1. With result of the primary, SBRRB needs to reach out to the candidates
  2. Reaching out –  
Sam Slom: New, Releases – Assigned to BB  
PBN – Assigned to Tony  
Dori contacted and sent “on the move”  
HI Bz. Magazine – David?
  
- C. Guest speaker – invited by Dori to SBRRB meeting, David Young, Head of Communications under DEBT
  1. Social Media as a way to keep in touch with agencies, etc.
  2. Web, Tweeter (drives the web), Email Blasts, Apps- Templates
  3. Send info or PR to Hi. Bz Magazine as well as PBN
  4. Pre-existing Lists from organizations, businesses to add to social media
    - a. Sam Slom list, Hotel lists, Bd. of Realtors,
  
- D. Dave Young comment – “Be careful what you ask for. Do we want more power?”

There are repercussions from getting to much attention  
He was reminding us that - “we are a statutory Board created by the Leg.  
We are an independent small business board to conduct business in the best interest of small business.

Submitted with respect

9/30/14

Barbara Bennett

## Small Business Regulatory Review Board

---

### MINUTES OF REGULAR MEETING

July 16, 2014

Conference Room 436 - No. 1 Capitol District Building, Honolulu, Hawaii

- I. **CALL TO ORDER:** Chair Borge called the meeting to order at 9:30 a.m. with a quorum present.

**MEMBERS PRESENT:**

- Anthony Borge
- Craig Takamine
- Barbara Bennett
- Kyoko Kimura
- Mark Ritchie

**ABSENT MEMBERS:**

- Harris Nakamoto

**STAFF:** DBEDT

Dori Palcovich

Office of the Attorney General

Margaret Ahn

### II. APPROVAL OF JUNE 18, 2014 MINUTES

Second Vice Chair Bennett made a motion to accept the June 18, 2014 minutes, as amended. Ms. Kimura seconded the motion, and the Board members unanimously agreed.

### III. NEW BUSINESS

- A. Discussion and Action on Proposed Amendments promulgated by Department of Commerce and Consumer Affairs (DCCA) for Hawaii Administrative Rules (HAR) Title 16, Chapter 85, Medical Examiners, Section 8, Examination and Re-examination

Ms. Constance Cabral, Executive Officer from DCCA, explained that the Hawaii Medical Board determined that the current rules are unreasonably restrictive as they bar physicians who would otherwise be qualified from being licensed in Hawaii. The current rules require applicants to pass all three steps of the required United States Medical Licensing Examination within seven years. Ms. Cabral stated that the State's Medical Board considered this rule to be excessively onerous because applicants not meeting this requirement must retake the steps to bring the applicants in-line with the seven-year rule in order to be licensed. Applicants are then faced with the cost of the examination and the time to prepare for it. In order to encourage qualified physicians to practice in Hawaii and to attempt to not exacerbate the shortage that Hawaii currently faces, the proposed amendments delete the subsection(s) of this chapter requiring that applicants must pass all three steps for this exam within seven years.

It was noted that rather than being an impact to small business, the amendments would be more of an advantage, and overall, beneficial as the rules are less restrictive, and are ultimately expected to encourage more, qualified physicians to practice in Hawaii.

Ms. Kimura made a motion to move the proposed amendments to public hearing. Second Vice Chair Bennett seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on Proposed Amendments promulgated by DCCA for HAR Title 16, Chapter 110, Physical Therapy

Mr. Alan Taniguchi, Executive Officer from DCCA, explained that the main purpose of the amendments is to allow the State to license physical therapist assistants (PTA's), as TPA's are currently unlicensed. Hawaii is only one of two states that currently does not have regulations licensing PTA's.

Chair Borge stated that the effect on business looks to be positive.

Ms. Kimura made a motion to send the proposed changes to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on Proposed Amendments promulgated by Department of Business, Economic Development and Tourism (DBEDT) for HAR Title 15 Chapter 6, Enterprise Zones

Mr. Ritchie stated that the area in which he works at DBEDT, Business Development and Support Division, handles the Enterprise Zones' administrative rules. Mr. Wayne Thom, Community Economic Development Manager, is the manager of these rules. Mr. Thom discussed the history of the rules and noted that since 1997 when he began with the division, the rules have not been changed; therefore, the proposed changes are to bring the rules up-to-date.

The enterprise zone program creates and determines what zones in the counties, chosen by the state, are economically depressed areas. These areas allow businesses to be eligible for a reduction in income taxes and the businesses would be required to create a certain percentage in jobs. There are currently about 270 businesses in this program. Overall, this program only enhances and benefits small business; there is no negative aspect of these rules or of the program itself.

Testifier, Mr. Thomas Smyth, stated that he helped create these rules in 1986 when he worked for the state, and encouraged this Board to support the changes to the rules. He noted that in 1993, Maui was the first county to "opt in" the program with specific census tracts. This program is the only program in the state where the counties have a major role in setting up the program with each county has its own enterprise zone coordinator.

Chair Borge stated that this is a good business program as it encompasses a vast array of industries and assists the economy in creating jobs.

Vice Chair Takamine made a motion to send the proposed changes to public hearing. Ms. Kimura seconded the motion, and the Board members unanimously agreed.

#### **IV. ADMINISTRATIVE MATTERS**

##### **A. Review of Board Member Discussion Leader Assignments for the State Departments and Counties' Administrative Rule Review**

Chair Borge stated that in regards to this Board reviewing the rules from the rule-drafting agencies, he thought it best to align the agencies' rules with the expertise and business background of each board member. He distributed a list with suggested agency assignments, noting that it will change when more members come on board; there are also no back-up discussion leaders yet assigned. The proposed list is, as follows:

- Chair Borge – Governor's Office, Attorney General's Office, Department of Accounting and General Services
- Vice Chair Takamine - Department of Land and Natural Resources, Lieutenant Governor's Office, University of Hawaii
- Second Vice Chair Bennett – Department of Agriculture, Public Utilities Commission, Department of Hawaiian Home Lands
- Ms. Kimura – Department of Transportation, Department of Commerce and Consumer Affairs, Department of Labor and Industrial Relations
- Mr. Nakamoto – Department of Health, Department of Human Services, Department of Human Resources Development
- Mr. Ritchie – Department of Public Safety, Department of Taxation, Department of Defense, Department of Business, Economic Development and Tourism, Department of Budget and Finance

**V. NEXT MEETING** – Scheduled for Wednesday, August 20, 2014, 250 South Hotel Street, Honolulu, HI, Room 436.

**VI. ADJOURNMENT** – Second Vice Chair Bennett made a motion to adjourn the meeting and Ms. Kimura seconded the motion; the meeting adjourned at 10:30 a.m.

# Exhibit 1

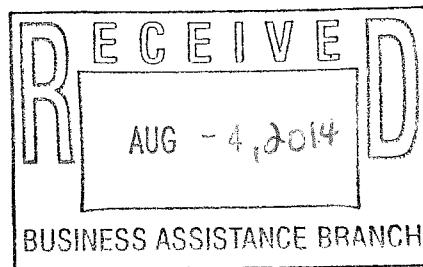


Amendment to Chapter 10-4, Hawaii Administrative Rules

\_\_\_\_\_, 2014

SUMMARY

1. A new §10-4-3 is added.



§10-4-3 General lease; extension of term. (a) The department may extend the term of a general lease of Hawaiian home lands for commercial or multipurpose projects to make improvements to the leased property, or obtain financing for the improvement of the leased lands. Such extension requires approval by the department of a written agreement proposed by the general lessee, or the general lessee and developer, as provided by section 228 of the act.

(b) The general lessee, or the general lessee and general developer, shall meet and satisfy all requirements as referenced in Section 228 of the act.

(c) The lease extension shall be based upon the improvement made or to be made, shall be no more than twenty years, and shall be granted only once.

(d) Before the written agreement is approved, the lessee, or the lessee and developer, shall submit to the department the plans and specifications for the proposed development. The department shall review the plans, specifications, and the written agreement and determine:

- (1) Whether the development is of sufficient value and meets the priorities of the commission to justify an extension of the lease;
- (2) The estimated time needed to complete the improvements and expected date of completion of the improvements; and
- (3) The minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the Department, and percentage rent where gross receipts exceed a specified amount.

(e) The approval of any extension shall be subject to the following:

- (1) The demised premises are used in a manner substantially consistent with the use and purpose for which they were originally leased;
- (2) The rental shall not be less than the rental for the preceding term; and

- (3) Any additional terms and conditions set forth by the commission and deemed prudent and responsible. [Eff \_\_\_\_\_] (Auth: HHC Act §222) (Imp: HHC Act §228)

The amendment of chapter 10-4, Hawaii  
Administrative Rules, on the summary page dated  
\_\_\_\_\_ were adopted on \_\_\_\_\_  
following a public hearing held on \_\_\_\_\_,  
after public notice was give in \_\_\_\_\_ on  
\_\_\_\_\_.

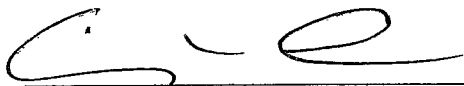
The amendments shall take effect ten days after  
filing with the Office of the Lieutenant Governor.

---

NEIL ABERCROMBIE  
GOVERNOR  
STATE OF HAWAII

Dated:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy Attorney General

---

Filed

DEPARTMENT OF HAWAIIAN HOME LANDS  
Amendment and Compilation of Chapters 10-4.

\_\_\_\_\_, 2014

1. Chapter 4 of Title 10, Hawaii Administrative Rules, is amended by adding a new section to read as follows:

**"§10-4-3 General lease; extension of term. (a)**

The department may extend the term of a general lease of Hawaiian home lands for commercial or multipurpose projects to make improvements to the leased property, or obtain financing for the improvement of the leased lands. Such extension requires approval by the department of a written agreement proposed by the general lessee, or the general lessee and developer, as provided by section 228 of the act.

(b) The general lessee, or the general lessee and general developer, shall meet and satisfy all requirements as referenced in Section 228 of the act.

(c) The lease extension shall be based upon the improvement made or to be made, shall be no more than twenty years, and shall be granted only once.

(d) Before the written agreement is approved, the lessee, or the lessee and developer, shall submit to the department the plans and specifications for the proposed development. The department shall review the plans, specifications, and the written agreement and determine:

(1) Whether the development is of sufficient value and meets the priorities of the commission to justify an extension of the lease;

(2) The estimated time needed to complete the improvements and expected date of completion of the improvements; and

(3) The minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the Department, and percentage rent where gross receipts exceed a specified amount.

(e) The approval of any extension shall be subject to the following:

(1) The demised premises are used in a manner substantially consistent with the use and

- purpose for which they were originally leased;
- (2) The rental shall not be less than the rental for the preceding term; and
- (3) Any additional terms and conditions set forth by the commission and deemed prudent and responsible. [Eff \_\_\_\_\_ ] (Auth: HHC Act §222) (Imp: HHC Act §228)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. The amendment to chapter 10-4, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_, and filed with the Office of the lieutenant Governor.

\_\_\_\_\_  
Jobie M. K. Masagatani  
Chairman  
Hawaiian Homes Commission

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy Attorney General