

Small Business Regulatory Review Board

MEETING MINUTES November 21, 2024

ZOOM Meeting Recording

- I. **CALL TO ORDER:** Chair Shick called the meeting to order at 10:03 a.m., with a quorum present.

MEMBERS PRESENT:

- Jonathan Shick, Chair
- Mary Albitz, Vice Chair
- Sanford Morioka, 2nd Vice Chair
- Garth Yamanaka
- Tessa Gomes
- Nikki Ige
- Jennifer Salisbury
- Mark Ritchie

ABSENT MEMBERS:

- Robert Cundiff
- James (Kimo) Lee

STAFF: DBEDT

Jet'aime Ariola
Dori Palcovich

Office of the Attorney General

Alison Kato

II. **APPROVAL OF October 17, 2024 MINUTES**

Ms. Ige motioned to approve the October 17, 2024 meeting minutes, as amended. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

Chair Shick welcomed and introduced the Board's newest member, Dr. Jennifer Salisbury. Dr. Salisbury, who is in construction management and a business consultant, provided the members with a summary of her background and stated that she is delighted to serve on this Board.

III. **OLD BUSINESS**

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Chapter 82, Rule Section 3-82-38.15, Unlawful Discrimination, promulgated by City and County of Honolulu – Liquor Commission

Ms. Anna Hirai, Assistant Administrator from the City and County of Honolulu Liquor Commission, stated that the public hearing occurred on October 24, 2024 with no testifiers appearing in person. Six pieces of positive written testimony were received prior to the hearing.

Chair Shick responded that the level of outreach that was performed prior to the public hearing is testament to the positive feedback that the Liquor Commission received.

Mr. Ritchie motioned to pass the rules on to the Mayor for adoption. Mr. Morioka seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 4 Chapter 72, Plant and Non-Domestic Animal Quarantine Plant Intrastate Rules, promulgated by Department of Agriculture (DoAg)

Discussion leader Ms. Ige stated that this Board received several written testimonies in support of these rule changes prior to today's meeting with one written testimony received this morning from Mr. Eric S. Tanouye, President of Hawaii Floriculture & Nursery Association requesting clarification of some of the amendments.

Mr. Tanouye stood by his written testimony, and highlighted the following requests:

- A clear explanation on the impacts of harboring pests and any repercussions;
- An explanation of fees and how they will be implemented;
- How a quarantine would be enacted, administrated, and the steps to end the quarantine with a timeline of the steps needed; and
- A current list of regulated pests with their status being vetted, and the suggested actions by DoAg

Mr. Jonathan Ho, Branch Manager at the Plant Quarantine Branch, explained that DoAg is very much in-line with providing the industry with clear understanding of what is going to happen with regards to pests. A total ban is not good for industry and there needs to be reasonable measures to ensure that movement of material can occur while pest management is being performed.

The rules were created to manage flexibility of enacting quarantines and preventing the spread of pests. Pest management may be different depending on the location, the facility's structure, and access to equipment or capital to use pesticides. DoAg's stance has always been to "educate before you regulate." In response to Mr. Tanouye's concerns above, Mr. Ho explained, in part, the following:

Regarding "harboring of pests," no industry member who is in the business of agriculture is doing this, in general. This is because harboring pests would be averse to doing business and impedes upon production. If a company is spreading pests, it will eventually go out of business because no one will buy from them. In the statute, there is a criminal penalty tied to the harboring of pests.

The fees for inspection and certification were enacted by the Legislature in 2010 with regards to treatment and certification outside of the port of entry. DoAg has already been working with the industry to charge most of these fees. However, fees would be incurred if a quarantine situation implemented treatment to ensure that the businesses/nurseries are pest-free. Generally, most stakeholders understand the intent of the fees and the

eradication, which would cost up to \$50 per hour, and include mileage and possible overtime charges if treatment was needed during the nighttime. Mr. Ho added that a quarantine is not necessarily a ban, and he explained when a quarantine might occur on a step-by-step basis.

In terms of a list of “regulated” pests, he stated that there are two different lists regarding pests for eradication control. Both lists have pests that are incredibly widespread, such as the giant African land snail. If anyone has a yard, there is likely to be this type of snail living in it; so obviously, DoAg will not be quarantining these types of pests. However, the rules will not address this issue right now because guidance on these pests will change in the regulations and as a result, a conflict might occur.

Currently, the major targets for DoAg include the Koki Frog and the Coconut Rhinoceros Beetle. However, should there be another pest, DoAg has the ability to act on it, if necessary. Mr. Ho mentioned that the Board of Agriculture, at its last board meeting, requested that his branch provide an update on the State’s Guidance document, which Mr. Ho is currently drafting.

Mr. Tanouye responded to Mr. Ho by thanking him for the responses to his concerns, noting that his company and the industry are always looking to work closely with DoAg. Mr. Yamanaka also thanked Mr. Ho for his responses to the noted concerns.

In response to Mr. Yamanaka’s concerns about future staffing, specifically on the Island of Hawaii, Mr. Ho stated that a recent bill that passed in the last legislative session added 22 new positions; equating to a 25% increase. Currently, there are 85 people fully-staffed throughout the state. Specifically, six of these new positions will work out of Hawaii Island; five in Hilo and one in Kona.

Testifier, Ms. Stephanie Easley, from the Coordinating Group on Alien Pest Species, stated that her group is very excited about DoAg moving forward with these rules. The changes will provide a tool if there is merchandise with pests to stop the sale to the public, as currently there is no mechanism to stop a sale. She explained that the provision on harboring pests is in the current rules with the exact same restrictions and penalties in the proposed draft; the difference is that this section is now numbered differently.

Testifier and Senator Jarrett Keohokalole, representing Kaneohe and Kailua and is the Chair of the Consumer Protection Committee, is in favor of the proposed rule amendments. Changes are necessary because there must be a set of consumer protection rules for pests that move through commerce. He added that there are known instances in the community on Oahu’s windward side where businesses previously took precautions; however, because of a lack of care for various reasons, negative results have occurred.

Further, when these pests are spread from the businesses into the communities, there is no recourse or authority to remediate or require any type of compliance; as a result, there is no accountability. Because of this and other reasons, Senator Keohokalole fully believes that DoAg needs to be completely restructured. Unless there is an immediate harm to human health situation, there are limited mechanisms to require people to comply.

Testifier Mr. Wayne Tanaka of the Sierra Club of Hawaii echoes the support for these proposed rule changes. He believes these rules all relate to small businesses, i.e., nurseries, etc., and that the businesses will do the right thing and comply in order to avoid devastating consequences due to an invasion of pests.

Ms. Ige noted that based on the discussion from DoAg and the testifiers, there has been a lot of positive communication and interaction. Ultimately, this makes the processes more beneficial and meaningful.

Vice Chair Albitz motioned to pass the rules on to the Governor for adoption. Chair Shick seconded the motion, and the Board members unanimously agreed.

IV. ADMINISTRATIVE MATTERS

A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes (HRS)

1. Discussion and Action on the Board's Draft 2024 Annual Report Summary for submission to the Hawaii State Legislature under Section 201M-5(f), HRS

Ms. Ige motioned to approve the Board's draft 2024 *Annual Report Summary* for submission to the Hawaii State Legislature pending any changes from the December 2024 board meeting. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

2. Update and Discussion on the Business Revitalization Taskforce's October 29th meeting pursuant to Act 142 (Sessions Law Hawaii 2024, Senate Bill 2974 Relating to Economic Development)

Mr. Yamanaka noted that although the meeting was scheduled for October 29th, due to not posting the meeting notice within the appropriate timeframe, it was cancelled. A new meeting will be scheduled soon.

3. Review of the Board's 2023-2024 Strategic Goals and Discussion and Action on Upcoming 3-5 Year Plan

Deferred until the December meeting.

4. Update and Discussion on Becker Communications, Inc., regarding the Board's Small Business Outreach

Program Specialist, Ms. Ariola, thanked all the members who submitted short biographies requested by Becker Communications. She is still waiting for Chair Shick's, Ms. Gomes' and Ms. Ige's biographies. Once she receives these, she will forward them to Becker for posting on DBEDT's social media publications.

5. Presentations to Industry Associations

Chair Shick is expecting to attend the Hawaii Chamber of Commerce Business After Hours event in December. Ms. Gomes presented the wedding industry's State of the Industry report earlier this month, which entails all small businesses.

Mr. Yamanaka noted that the "2030 Blueprint" report by the Chamber of Commerce of Hawaii might be something this Board would be interested in learning more about as it is related to improving Hawaii's overall business and economic ratings and rankings. It is not yet clear how or when the Chamber will roll the Blueprint out.

Vice Chair Albitz and Dr. Salisbury recently attended Maui Chamber's Business after Hours. They were asked if this Board has any current Legislation it would like the Maui Chamber's support on; if it does, the Board was asked to send it through Vice Chair Albitz. Ms. Ige serves as a board member on the Kauai Chamber of Commerce and is planning to attend an upcoming meeting on December 12th.

6. Staff's Small Business Outreach

Ms. Ariola recently attended an event that launched *Kapolei Magazine*, sponsored by the Kapolei Chamber of Commerce. On behalf of this Board, she joined as a member of this Chamber. This is expected to be a great opportunity to assist with outreach in the Kapolei area.

- V. **NEXT MEETING** – Thursday, December 12, 2024, at 10:00 a.m., via Zoom and in conference room 405 at Leiopapa A Kamehameha Building – State Office Tower – 235 S. Beretania Street, Honolulu, HI 96813.
- VI. **ADJOURNMENT** – Mr. Ritchie motioned to adjourn the meeting and Mr. Morioka seconded the motion; the meeting adjourned at 11:08 a.m.