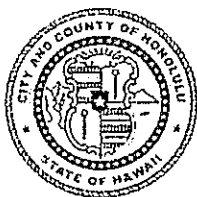


SB 1368

RELATING TO LIQUOR

Establishes conditions under which liquor may be sold at street closure events.

PSM, CPN



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 202
HONOLULU, HAWAII 96813-3065
TELEPHONE: (808) 768-5010 • FAX: (808) 768-5011

CAROL FUKUNAGA
HONOLULU CITY COUNCIL, DISTRICT 6
PHONE: 768-5008 FAX: 768-1199
EMAIL: cafukunaga@honolulu.gov

February 17, 2015

**TESTIMONY ON SENATE BILL 1368, RELATING TO LIQUOR
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL
AND MILITARY AFFAIRS
TUESDAY, FEBRUARY 17, 2015 • CONFERENCE ROOM 229**

Chair Espero and Members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs (PSM):

Thank you for the opportunity to submit testimony in support of Senate Bill 1368, *Relating to Liquor*, which closes an unanticipated loophole in the statewide regulation of alcohol sales.

During the past two years, Senator Chun Oakland, Representative Rhoads and I have worked with Downtown-Chinatown stakeholders to address community conflicts resulting from sales and consumption of alcohol on city streets and sidewalks during individual arts and entertainment street festivals.

This practice arose during the past few years as street sales of alcohol became an important means of partly financing such events as the 'Hallow-balloo' Festival (October) and 'Mardi Gras' or 'Fat Tuesday' Festival held in February each year.

While several of the events have been popular and have energized the Chinatown night entertainment scene, some have also been accompanied by significant noise and other impacts upon area residents. The larger events (e.g., over 5,000 attendees) require 30 or more private security and off-duty Honolulu Police Department personnel to monitor and prevent illegal activities (e.g., bringing open beer bottles into the festival area, underage drinking, fighting or other rowdy behavior), and to assure that public health and safety are maintained.

During 2013-2014, the area legislators requested post-event reports from street festival promoters and Honolulu Liquor Commission investigators, and convened "Joint Fact-finding Process" meetings in 2014 to develop a factual framework for the non-construction street closure events in the Downtown-Chinatown area. With the additional data, we sought to develop recommendations for community-friendly solutions.

The City Council contracted with facilitator-mediators Peter Adler and Keith Mattson of The **ACCORD 3.0 Network**, who led the discussions and worked with Mediation Center of the Pacific facilitators to produce a report, "*Honolulu Chinatown Non-Construction Street Closure Joint Fact Finding Process, Findings and Recommendations*" (attached to my testimony). I have also provided PSM Chair Espero with a copy of the voluminous *Appendices to the Report (pages 1-78)* to illustrate the joint fact-finding process in which the facilitation-mediation team worked to generate a community consensus on this issue.

During September-November 2014, the Final Report was circulated among participants in the JFF process discussions, and sets were transmitted to the Director of the Department of Transportation Services, to the Administrator of the Honolulu Liquor Commission, and to all members of the Downtown Neighborhood Board #13.

Area legislators asked Department of Transportation and Honolulu Liquor Commission whether the two agencies would be willing to draft rules to codify recommendations made in the Joint Fact Finding Report, and solicit public review/comment on the draft rules. Department of Transportation Services and Honolulu Liquor Commission declined to undertake rule-making at this stage, recommending that legislative solutions first be reviewed.

As such, Senate Bill 1368 incorporates one of the recommendations made in the report to address alcohol sales on the street (*Page 17, Proposal B*). It establishes a framework to regulate sales and consumption of alcohol in public areas in a manner that is consistent with practices that a number of liquor establishments have used successfully for fundraising events, and those practices used by other street market or outdoor entertainment venues. Finally, Senate Bill 1368 provides a flexible process that can be applied to a wide range of arts and entertainment events, heritage festivals and other activities that will improve the economic vitality of Honolulu's Downtown-Chinatown community.

I therefore urge your Committee to support Senate Bill 1368 by reporting it out of the PSM Committee for further review by the Senate Commerce and Consumer Affairs Committee. Thank you for the opportunity to submit comments on this measure.

Sincerely,



Carol Fukunaga
Councilmember, District 6

Honolulu Chinatown Non-Construction Street Closure

Joint Fact Finding Process

Findings and Recommendations

Submitted by:

Peter S. Adler, PhD

Keith Mattson, MCP

Submitted to:

Honolulu City Councilwoman Carol Fukunaga

Hawaii State Senator Suzanne Chun Oakland

Hawaii State Representative Karl Rhoads

August 12, 2014

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- B. Terms of Reference
- C. DTS Street Closure Permits for Chinatown Issued in 2012, 2013, and 2014 (YTD)
- D. Honolulu Liquor Commission Street Closure information for Chinatown, 2011 – 2014 (YTD)
- E. DTS and HLC permit approval processes
- F. Draft Revised DTS Street Closure Event Rules (Title 23 and Traffic Code)

I. Introduction

This paper reports on meetings of an independent “Joint Fact Finding Working Group” convened in June, July and August 2014. The purpose of this group, as further described, was to accelerate the search for practical solutions to three interrelated Chinatown problems: non-construction street closures, the number and impacts of festivals and other events, and the sale and consumption of alcohol at events held in public places.

1. Background

A number of outdoor festivals, parades, and races take place on the streets of Honolulu’s Chinatown neighborhood each year. These require certain streets to be closed to traffic using permits granted by the Department of Transportation (DTS). In some cases event organizers are granted temporary permits by the Honolulu Liquor Commission (HLC) allowing them to serve alcohol. There is a range of sentiment coming from Chinatown residents, property owners, business owners, and others about the appropriateness of street closure events. Organizers and supporters of these events believe they help improve Chinatown’s image and business environment by bringing in more visitors and patrons and by contributing to a more vibrant arts and entertainment life in the neighborhood. Others are concerned about the disruption caused by local access, noise, the use of public streets and resources for sometimes-private purposes, and other impacts to Chinatown residents, businesses, and landowners. A key issue is the impacts that the sale of alcohol at some events may have on crowd behavior, noise and other types of nuisance.

In an effort to address these and other Chinatown issues, elected officials City Councilwoman Carol Fukunaga, Senator Suzanne Chun Oakland, and Representative Karl Rhoads initiated a dialogue among a large group of Chinatown community stakeholders. As part of this process, the stakeholders agreed that a smaller Joint Fact Finding (JFF) exercise would assist the larger decision making processes regarding street festivals, street closures, and the outdoor sale of alcohol.

2. Joint Fact Finding (“JFF”)

JFF is a constructive consultative process that decision makers on different sides of an issue can use to prevent, manage, better inform or resolve controversies. Using a carefully designed smaller working group representing a range of stakeholders, JFF helps identify some of the key questions that are at the heart of a controversy and tries to develop areas of factual agreement that all parties can respect. JFF can enable everyone to better develop and analyze optional solutions to a controversy and build off of the best factual information available. These can then be fed into a larger decision making process.

JFF carves out key technical and scientific questions that may be at the heart of a controversy and maps areas of factual agreement. This often illuminates the underlying reasons for disagreement and puts those areas in a proper context, thus helping to build a platform for policy agreement. JFF can be embedded as part of a larger consensus-seeking effort or community conversation, or set up as a “stand alone” process tailored to accommodate particular circumstances.

3. The Chinatown JFF

The objectives for this Chinatown Street Festival JFF were to:

1. Narrow the issues and factual discrepancies over street closures and alcohol sales for festivals in Chinatown;
2. Identify potential solutions that can reduce the negative impacts from these activities; and
3. Analyze those options in a way that can lead to policy improvement.

The group also chose to explore some possible recommendations that are described in §-IV.

4. Organization and Project Management

Peter Adler, PhD and Keith Mattson, MCP, both members of a group called **The ACCORD3.0 Network**, were asked by Councilwoman Fukunaga to organize and facilitate the JFF process. Adler and Mattson began by undertaking interviews with individuals from Chinatown known to have long-standing knowledge and experience in the issues involved. Interviewees included local business people, landowners, residents, event organizers, and cultural group representatives. These interviews helped the facilitators to better understand the history of the issues and details behind the various street closure events. They also provided insight as to what kinds of voices and viewpoints might best serve on a JFF Working Group to ensure a reasonable range of perspectives.

Ten individuals were invited to serve on the JFF Working Group. These individuals were not asked to serve as organizational representatives but rather as holders of different kinds of knowledge, perspectives and information or data pertinent to the issues. Four three-hour meetings were held during June, July and August 2014.

The members of the Working Group were:

- Leonard Kam, Chinatown resident and businessperson
- Miki Lee, Chinatown resident and businessperson
- Steve Lohse, Chinatown resident
- Don Murphy, Chinatown businessperson
- Nicole Reid, Chinatown resident and businessperson
- Chu-Lan Shubert-Kwok, Chinatown resident and businessperson
- Elizabeth Stack, Chinatown property owner
- Christy Vicari-Coito, Chinatown property owner
- Burton White, Chinatown businessperson
- Stanford Yuen, Chinatown resident

Each member agreed to and signed the JFF Terms of Reference which in advance defined the purpose, objectives, and operating rules of the JFF process (see Appendix B). The Working Group met on June 2nd, June 11th, July 2nd at the law offices of Ashford and Wriston in downtown Honolulu, and on August 4th at The Hawaii Theater in Chinatown.

5. Consensus Polling Tool

At some meetings, the facilitators introduced a consensus-polling tool designed to roughly calibrate levels of group agreement. The tool was not for formal voting but more to help converge discussions and focus on the right issues. It worked as follows:

- 1 = Complete agree.
- 2 = Generally agree.
- 3 = OK.
- 4 = Don't fully agree but wouldn't stand in the way.
- 5 = Disagree and would oppose.

This polling tool was used in discussions about final recommendations in §-IV.

II. Initial Issues Examined

The Working Group first agreed to limit the geographic focus to the area bounded by Beretania Street, River Street, Nimitz Blvd., and the Fort Street Mall. This area was later adjusted to include only the Historic Core Precinct of Chinatown however the group remains divided on what boundaries should be used in conjunction with the ideas contained in this report.

The Working Group's discussions first focused on the following issues and questions:

1. ***Number And Frequency Of Non-Construction Street Closures: Are There Too Many?***

Chinatown has long hosted many cultural, ethnic, and arts outdoor festivals that attract a wide range of Hawaii residents and tourists. There is wide agreement that longstanding cultural festivals such as Chinese New Year celebrations are valued and desirable events that celebrate Chinatown's unique character and history. The development of an Arts District within Chinatown stimulated the creation of 'First Friday' and other

street festivals and events to attract residents and visitors to galleries, boutiques, restaurants, and nightclubs in the neighborhood. While these events appear to have been well received initially, opposition to them has increased over time as some residents and business owners resent their frequency and collateral impacts, i.e. noise, disruption to bus routes, the abuse of alcohol by some. Others point out that First Fridays enhance Chinatown's economic vitality by bringing in new patrons for local boutiques, restaurants, and nightclubs.

2. *Street Event Noise: Is It Excessive?*

Chinatown is one of Honolulu's busiest neighborhoods with a mix of commercial, entertainment, and other activities occurring throughout the day and night. It is also a residential area. Traffic flowing throughout Chinatown's narrow and dense street network creates an ambient level of noise while buses and emergency vehicle sirens can add to it at virtually all hours of the day or night. Chinatown's substantial homeless population and certain nightclubs also sometimes generate disturbing noise late at night.

Against these typical patterns, street festivals add additional noise that is viewed as excessive by some people. Noise complaints are primarily from residents of Chinatown Gateway Plaza (CGP), which does not have central air conditioning thus requiring residents to leave their windows open for air circulation. Amplified music from festivals on Hotel Street or other nearby streets can easily be heard by CGP residents, especially deep and lower frequency bass sounds that carry strong vibrations. DTS permits require festival music to stop by 10:00 p.m., however crowd noise often seems to continue after that. A key factor is how quickly and orderly a crowd disperses after the music stops.

3. *Local Access: Do Non-Construction Street Closures Significantly Disrupt Access To Stores, Residences, And Buses?*

DTS permits allow for the closure of streets to traffic during events except during the hours of 5:30 – 8:30 a.m. and 3:30 – 6:00 p.m. Monday – Friday (except on holidays). Streets may also be closed in order to set up before an event and to clean up after the event is over. Sidewalks are not supposed to be closed to pedestrian traffic however the practice of placing

event equipment and supplies on sidewalks for some street closure events may effectively impede or block pedestrian circulation.

Anecdotal evidence suggests that street events can either increase or decrease patronization of businesses along streets closed to host them. On one hand, additional foot traffic from events like First Friday are believed to generate greater customer interest in galleries, boutiques, restaurants, and bars in the Arts District. On the other hand, merchants in the area with more of a daytime customer base may lose business on event days since patrons may be unable to park near stores or on closed streets. There are no known sources of independently collected data to document either claim.

Buses normally traveling on closed streets must usually be rerouted during events. Because streets like Hotel Street serve as key conduits for several bus routes serving the Chinatown/Downtown area, the number of buses rerouted can be substantial. For example, DTS estimates that 320 buses need to be rerouted during the 6:00 p.m. to 12:00 a.m. period during First Friday events. The actual impacts on bus ridership depend very much on how much closer or farther the rerouted stops are from travel origins or destinations. Riders remaining on the bus throughout the rerouted sections may or may not experience longer overall travel times, depending on the additional distance travelled and/or the additional traffic congestion experienced.

4. Alcohol Sales At Street Events: Does This Result In Disruptive Crowd Behavior Or Other Negative Impacts?

Outdoor event organizers sometimes sell alcohol at events to enhance crowd ambience and generate income to help cover event expenses and/or provide funds for other purposes, usually nonprofit donations. There are conflicting claims as to whether alcohol sales sometimes generate profits for event organizers. Without access to privately controlled financial data, it is impossible to verify if event organizers experience profits, losses, or break evens.

The sale of alcohol outdoors by an event organizer is subject to the permit granting authority of the Honolulu Liquor Commission (HLC). Event organizers who secure DTS street closure permits may apply for Non-Profit Special Permits for the temporary sale of alcohol (not to exceed 3

days). Existing liquor license holders may apply for Temporary Extensions of their premises, enabling them to sell alcohol at outdoor events near their establishments.

HLC reported 30 temporary liquor sale permits granted for Chinatown events during 2012-2014. Seven were Non-Profit Special Permits and the remaining 23 were Temporary Extension Permits for existing liquor license holders.

Several individuals have commented that outdoor alcohol sales have contributed to unruly crowd behavior; public drunkenness; urination on streets, sidewalks, parks etc.; underage drinking; and vandalism to buildings. The only official data regarding these claims is from HPD and HLC reports. HLC reported a total of 11 violations and warnings for the 30 permits granted during 2012-2014. Six of the violations/warnings pertained to excessive noise or overcrowding while the other five were for liquor-related issues (employees drinking on duty and underage possession). Two of these five were pending adjudication as of April 15, 2014.

5. Public Purpose of Street Events: *Do All Of Them Serve A Legitimate Public Purpose?*

Because there are externalized costs to the public, the general sentiment among the stakeholders interviewed for the JFF process is that street closure events should serve a public or community purpose whether or not they involve the sale of alcohol. Justifiable purposes included assisting bona fide non-profit organizations, raising funds for local neighborhood improvements, increasing overall business activity in Chinatown, or raising awareness of specific issues of public concern.

The City's Administrative Rules Title 23 establishes the policies, rules, and procedures for granting permits to temporarily close streets for events. The DTS Director has the discretion to grant permits providing applicants meet all necessary criteria. These include that the event serves a 'public purpose' that is adequate in the DTS Director's judgment, and that any accompanying private benefits are 'incidental to the public purpose'. Title 23 doesn't offer significant details as to what constitutes a public purpose or provide criteria, thresholds, or examples to guide the DTS Director's decisions. (Title 23 does state that events cannot be for the sole purpose

of promoting individual businesses or political candidates). The Mayor of Honolulu is allowed to issue a limited number of discretionary permits.

Street festivals in Chinatown often involve a non-profit group's participation, either as the sole organizer or in association with for-profit entities. However, the DTS and HLC permit rules do not require non-profit participation as a requirement for obtaining permits. Furthermore, involvement of a non-profit organization may not guarantee sufficient public purpose according to some interviewees who might consider a non-profit's role in the event as insignificant or incidental, or who might consider the actual proceeds raised for the non-profit as insufficient to warrant a public purpose.

6. *Disproportionate Impacts: Are Certain Streets More Frequently Closed Than Other Streets? Does The Chinatown Neighborhood Have More Non-Construction Street Closures Than Other Neighborhoods?*

Street festivals are done on specific streets in Chinatown, and the positive and negative impacts are experienced most strongly by those merchants and residents along the closed streets, or in close proximity to them. Residents of Chinatown Gateway Plaza appear to be the area residents most impacted by noise due to their proximity to performance stages for events along Hotel Street and Nu'uaniu Avenue.

Certain streets are more frequently used for street festivals and other events involving street closures. Over the past three years, Hotel Street (56 closures) has been the most frequently closed street, followed by Nu'uaniu Avenue (23 closures), Pauahi Street (23 closures), and Merchant Street (16 closures). Other streets, such as Maunakea (6 closures), Bethel Street (3 closures), and Smith Street (10 closures) are less frequently used for events.

7. *Public Safety: Do Street Events Make Chinatown More Or Less Safe, Or Are There Any Significant Differences From Other Nights?*

By their nature, street festivals are intended to bring large numbers of people to Chinatown who don't live, work, or own businesses in the neighborhood. The numbers can be significant for larger events like St.

Patrick's Day, Chinese New Years, Hallowballoo, and Mardi Gras. Some of the stakeholders interviewed for the JFF process argue that this has increased certain types of crimes such as vandalism, graffiti, public drunkenness, assaults, and disorderly conduct. Other stakeholders contend that street festival events make Chinatown safer by bringing more people to the neighborhood whose presence deters the types of crimes that occur when others are not looking.

HPD provided statistics of reported crimes in the Chinatown district and its sectors by year, which does not address the question of whether there are relatively more or fewer crimes during street closure events. Some stakeholders noted that some crimes go unreported, possibly because many people may be unwilling to file official police reports.

HPD stated that there are between 10 and 35 special duty police officers assigned to street closure events, in addition to the regular patrol officers on foot, in HPD cars, or undercover in Chinatown. With the exception of one large altercation occurring after a street closure event in late 2012, there were no other reports of significant crimes during street closure events between 2012 and 2014. The lack of more detailed HPD information and the lack of chronic criminal behavior at the events relegated this issue to less of a pressing concern than the other issues raised, though the issue is one where better data collection may be warranted in the future.

In general, the data available on the issues covered in this report are informative but of limited use in terms of pointing directly to robust conclusions.

Table 1: SUMMARY OF INFORMATION AND DATA GATHERED

Issue	Data Source	Relevant Information
Number & Frequency of Non-Construction Street Closures	DTS	DTS has granted a total of 92 permits from 2012 – 2014 (to date) for events within the area of Fort St – River St & Nimitz – Beretania (see Appendix C). On average, there is one street closure event every 1.7 weeks in the Chinatown area, although more than one-third of these were monthly First Friday events on Hotel Street. Other events vary by size, duration, and purpose.
Noise	HPD, HLC	HLC reported 3 'excessive noise' violations pertaining to 2 of the 30 events during 2012-2014 where alcohol sales have been permitted (see Appendix D). All 3 violations occurred in 2013. Some of the noise complaints raised by members of the JFF Working Group are from nightclubs on nights when there are no street closure events.
Disruption to Local Access	DTS	No parking signs are posted 24 hours before events, but cars can be parked up until posted no parking hours. Per City rules, merchants are allowed to use 18 inches of sidewalk in front of their stores to display items for sale. DTS estimates 320 buses are rerouted for typical First Friday events.
Alcohol Sales	HLC	30 temporary liquor sale permits granted for Chinatown events during 2012-2014 to date (see Appendix C). 7 were Non-Profit Special Permits, and 23 were Temporary Extension permits. HLC reported 11 violations or warnings during 2012 – 2014. 5 of these were for liquor-related issues (including 2 awaiting adjudication as of April 15, 2014).
Public Purpose	DTS	Title 23 requires that applicants state a public purpose for permit requests for street closures (see Appendix D). Events can't be for sole purpose of promoting individual businesses, and private benefits must be 'incidental to the public purpose.' Permit approval discretion lies with DTS Director.
Disproportionate Impacts	DTS	Hotel Street was closed 52 times during 2012-2014. Other more frequently closed streets include Nu'uaniu (23 closures), Pauahi St., (23 closures), and Merchant St (16 closures). No other streets were closed more than 10 times.
Public Safety	HPD	HPD does not have readily accessible information that could address whether the Chinatown neighborhood is relatively more safe or less safe on nights when street closures occur, particularly when alcohol is served at outdoor events.

In addition to the data and information summarized in Table 1, DTS and HLC administrators provided information about the rules and application processes for the following types of permits (See Appendix D):

- 1) Parade/Motorcade or Special Event Permits (DTS reviews these for street closure requests)
- 2) Temporary Liquor Sales Permits (HLC reviews these)
 - a) Temporary Extension of Premises (for current licensed vendors to expand sales area)
 - b) Catering Off the Licensed Premises (for current licensed vendors to sell at remote events)
 - c) For Profit Special License (for private business non-Licensees to temporarily sell alcohol)
 - d) Non Profit Special License (for nonprofit non-Licensees to temporarily sell alcohol)

While all of the key issues were discussed, the Working Group focused the greatest amount of its attention on:

1. Whether street closure events should be allowed to serve alcohol and if so, under what circumstances
2. Whether it's appropriate or inappropriate for private entities to obtain permits to close City streets for events, particularly when they are able to generate a net profit on the event.
3. Whether the City should distinguish between nonprofit and for profit street closure events and enforce different requirements and fees for each type
4. Whether street closure permit applications were properly reviewed by City staff, existing rules were consistently applied and enforced, and events were sufficiently monitored by DTS and HLC staff.

III. Policy Options Considered

The JFF Working Groups key mission was to gather data and as fairly as possible analyze policy options. After discussion at the second meeting,

members were split into smaller teams and asked to develop policy options to address the following issues:

1. Sale of alcohol at street closure events
2. Limiting the number of street closure events per year and per quarter or trimester
3. Creating a tiered application and permit system for different types of events (nonprofit vs. for profit, block parties vs. festivals, etc.)
4. Revision of the DTS street closure rules based on the current rules used for Waikiki district street closure events.

A summary matrix of the different teams' work was prepared to focus the discussion of these optional policies at the third meeting, as follows:

Table 2: Summary of Initial Policy Options Considered

	Purpose	Who Enacts	Pros	Cons
Revised Street Closure Rules based on draft DTS rules, and including ban on alcohol being sold as per Waikiki. Limit public purpose events to 501(c)3 organizations only.	Equal treatment of neighborhoods; ensure public purpose & public benefits; preserve nature of Chinatown Historic District	DTS (with approval of City Council)	Reduces number of closures; reduces potential for fights & disturbances; stops branding of Chinatown as place to drink on street; recognizes Legacy events; strengthens public purpose & clarifies non-profit beneficiaries	Possibly fewer attendees. Some Legacy events may not qualify as 501 [c] 3 organizations. Some events may not survive without alcohol sales.
Ban on alcohol sales at public street closure events; potential allowance of alcohol sales south of King St on a 'case by case' basis. Alcohol sales permitted on private lots.	Reduce community disruption and public subsidies for private profit; Increase control & management of alcohol sales;	DTS and HLC (with approval of City Council)	Clarity of DTS rules and procedures	May unfairly punish responsible events. May be inconsistent with Kakaako policy. Allowance of events only south of King St may be discriminatory.
Apply different policies for public vs private street closure events. Limit public events to 501[c]3 applicants only.	Ensure that public resources are only used for public events. Require private events to cover public costs.	DTS, and (in certain cases) HLC, NB 13,	Eliminate confusion regarding public purpose.	Uncertain if policies would reduce overall noise, disruption to access, or noise.
Tiered Event Permit System	Differentiate rules and permit application requirements by type of event, based on models from other cities	DTS/ HLC City Council	Ability to charge higher rates for privately sponsored events to reduce public costs; streamline application process	

In addition, the facilitators summarized a set of DTS draft revised rules for street closures for the Central Business District (CBD) including Chinatown that had been prepared under the previous Mayoral administration (see Appendix E), but never enacted. If enacted as written, the draft DTS rules would:

1. Establish that if an event is for 'fundraising', all proceeds shall go to a nonprofit organization.
2. Limit street closure events in the CBD to eight per trimester (24 total per year)
3. Allow up to three street closure events per trimester to serve alcohol (nine total/per year)
4. Define 'Legacy events' as those held annually for at least the previous 15 years, and provide system for other events to achieve legacy status
5. Create a lottery system if the number of requested events exceeds eight per trimester (but 'Legacy events' are exempt from the lottery)
6. Exempt 'First Amendment' activities and events requiring less than five hours of street closures, and up to ten 'Mayor's Waiver' events from the trimester limitation rules.
7. Require Street Closure Permit applicants to notify community & businesses affected by closure, and to seek and report comments received to DTS.

IV. Conclusions and Recommendations

At its final meeting, the Working Group discussed at length a set of optional policy recommendations. The Working Group did not reach broad consensus on some of the key issues and potential solutions, but did reach a general consensus on the following recommendations:

POLICY RECOMMENDATIONS

1. Use a tiered permit application system to clearly differentiate

between nonprofit (as defined by having a 501 (c)3 status) and for-profit events & applicants. Charge higher fees to for-profit events to cover City's costs for staff time used and other City expenses. Allow only IRS-recognized 501[c]3 organizations to apply for nonprofit event permits. Allow such nonprofits to partner with private operators for event organization and management, as permitted under applicable IRS 501(c)3 laws and regulations.

2. Require street closure permit applicants to conduct and document a thorough public outreach process to notify businesses and residents affected by the proposed street closure, and to submit such documentation to the DTS at the time they apply for a street closure permit.
3. Improve enforcement of existing DTS and HLC rules regarding street closure events.
4. Seek commitment from DTS, HLC, HFD, and HPD along with area elected officials to revise the DTS & HLC street closure statutes and rules based on these recommendations.
5. Require area legislators, DTS, and HLC to update Neighborhood Board #13 regarding progress on revision of street closure statutes and rules.

ALCOHOL SALES

The JFF Working Group did not achieve consensus on whether or not alcohol could be sold and consumed at street closure events, but forwarded the following two options for consideration:

- A. Do not allow alcohol sales within public rights of way (e.g., streets and public sidewalks).
- B. Allow alcohol to be sold at street closure events only if organized and run by vendors with HLC liquor licenses using trained, certified servers. Require HLC to monitor the events with a sufficient number of inspectors. Eliminate the use of HLC 'Special Permits' allowing entities without existing liquor licenses to serve alcohol at street closure events in Chinatown. Require all alcohol sales and consumption to be contained within designated 'beer garden' areas. Require alcohol permittees to

report gross alcohol sales to HLC.

V. Next Steps

This report is transmitted by the facilitators to (1) Councilmember Carol Fukunaga; (2) Senator Suzanne Chun Oakland; (3) Representative Karl Rhoads; and convener/facilitator Tracey Wiltgen of the Mediation Center of the Pacific for their use in determining specific follow-on activities.

**LIQUOR COMMISSION
CITY AND COUNTY OF HONOLULU**

711 KAPIOLANI BOULEVARD, SUITE 600, HONOLULU, HAWAII 96813-5249
PHONE (808) 768-7300 • FAX (808) 768-7311
INTERNET ADDRESS: www.honolulu.gov/liq • E-MAIL: liquor@honolulu.gov



KIRK CALDWELL
MAYOR

MICHAEL S. YAMAGUCHI
CHAIRMAN

WESLEY F. FONG
CO-VICE CHAIR

JOSEPH V. O'DONNELL
CO-VICE CHAIR

JOSEPH M. MAGALDI, JR.
COMMISSIONER

NARSI A. GUZON
COMMISSIONER

FRANKLIN DON PACARRO, JR.
ADMINISTRATOR

ANNA C. HIRAI
ASSISTANT ADMINISTRATOR

February 16, 2015

Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair
Committee on Public Safety, Intergovernmental and Military Affairs

Hearing: Tuesday, February 17, 2015
1:05 p.m.; Room 229

Position: Support Intent of SB 1368, Relating to Liquor

Dear Chair Espero, Vice Chair Baker, and Members:

The Liquor Commission, City and County of Honolulu (Commission), supports the intent of Senate Bill 1368, Relating to Liquor. Our experience with liquor licensed street closure events is that they all involve sharply felt positive and negative impacts by both area residents and businesses. The situation is made somewhat confusing to both groups by the fact that this type of street closure event is subject to regulation by different agencies, each with different standards. Accordingly, a definitive state law addressing the liquor licensing or permitting process should help to make this process more transparent, with more predictable regulatory results.

If the proposed measure is passed out of this committee, we wish to suggest for further discussion the limitation contained in the first subsection of the proposed measure, to wit: that Class 10 Special licensees are ineligible to conduct a street closure event with liquor sales. Requirements with respect to usage of trained servers, restricting sales and consumption to "beer gardens", and reporting of gross liquor sales to the Commission could be made applicable to a Class 10 Special licensee, and said Special licensee would be subject to Commission jurisdiction for any state law or Commission rule violations, or license denial at future events for irresponsible operations. In other words, a Special licensee could be made accountable just as a "regular" licensee would.

The Liquor Commission supports the intent of Senate Bill 1368, Relating to Liquor, and appreciates the opportunity to provide comments.

Respectfully submitted,


FRANKLIN DON PACARRO, JR.
Administrator

FDP:ACH

February 16, 2015

Senator Will Espero, Chair
Committee on Public Safety, Intergovernmental and Military Affairs
Hawaii State Senate
State Capitol
450 S. Beretania Street
Honolulu, HI 96837

RE: SB1368

Dear Chair Espero,

While I serve as the President of the Chinatown Improvement District, a 501(c)3 organization, I am writing as an individual business and property owner in Chinatown who has been directly impacted for years by area street closures with alcohol sales.

I support the intent of SB1368 *only with* the following amendments:

Amendments:

1. Liquor sales and consumption at street events shall only be permitted on or within private property and premises.

Reason1: *Precedent*: it has been done this way in Waikiki for about 16 years or longer having had no Waikiki Neighborhood Board vote on the matter, but apparently a petition opposing alcohol sales and consumption on public property. Waikiki organizations have spoken of the BAN on alcohol in public places in Waikiki – yet there is no ordinance or law outlining such a ban. Why is Chinatown being treated differently?

Reason2: A broad government forum including this issue was sponsored by Legislators Chun Oakland, Rhoads and Council Member Fukunaga. This forum also included a select stakeholder group which further investigated the facts and issues. Two options emerged from that select stakeholder forum: beer gardens and no alcohol sold on the streets.

Reason3: Chinatown Community opposition to liquor sales and consumption in the street. The Downtown Neighborhood Board, at its vote on the latest Hulabaloo Street Festival with liquor *defeated an amendment for proposed street beer gardens* and chose to oppose alcohol sales and consumption on the street, period (the other option put forward by the select stakeholder group). The Downtown Neighborhood Board represents over 22,000 resident property owners and lessees in the area.

Reason4: *Limits liability*: liquor sales and consumption on private property limits liquor liability incidents to that specific property owner and vendor and not other owners in the area whose properties abut the public streets. Incidents are easier to manage and it is easier to determine liability.

Reason5: A Chinatown petition of over 500 signatures by people with strong ties to the area also shows the extent of opposition to sales and consumption on public streets in the area.

Reason6: This is a simple fix which was instituted in Waikiki years ago in response to community opposition. It still allows groups to hold events and raise funds.

2. Any street closure events shall submit a profit and loss statement of the event (not just liquor sales) to the HLC and DTS. Employees, contractors, investors and members of event promoters and sponsors shall be disclosed on event application forms.

Reason1: *Conflict of Interest*. This provision limits the ability of businesses and employees to support such events at public forums without disclosing that they have a financial stake in such events.

Reason2: *Private purposes*. Without disclosure and transparency, there is no way for the government and the community to know if proceeds of events go to benefit the community or just a few individuals.

Reason3: *False claims*. Claims can be made as to losses and the need for additional time to sell alcohol, leeway and government funds without any evidence required to demonstrate that such claims are true.

3. Public Purpose. Street closures should only be granted to 501(c)3 organizations with a clear public purpose as defined and ruled eligible by the Internal Revenue Service.

Reason1: *Objective Standard*. 501(c)3 organizations have a clearly stated and vetted public purpose. Such an unwritten requirement used to be in effect in Honolulu but recently changed to allow 501(c)4 organizations and private businesses to hold street festivals with alcohol. Such a change harms the people of Honolulu and increases neighborhood tensions.

Reason2. *Lobbying*. Without any transparency or accountability, 501(c)4 organizations and private businesses can use proceeds from alcohol sales at public spaces (neighborhood streets) to lobby politicians for more concessions concerning alcohol events to the known detriment of the surrounding community (as SB490 points out). 501(c)4 organizations and private businesses are usually organized to benefit their members and owners and not the broader community. This can increase neighborhood tensions.

Reason3. *Political Favoritism & Corruption*. Without clear guidelines and definitions, rules are subject to political favoritism, manipulation and corruption. This harms the people of Honolulu and their right to fair and equitable treatment.

Reason4: Other public places like Parks have a no-alcohol, unwritten 501(c)3 requirement.

Sincerely,

E. Lee Stack
3 N Pauahi Street
Honolulu, HI 96817

Written Testimony Supporting the INTENT of SB1368

To: The House Committee on Public Safety, Intergovernmental and Military Affairs (PSM)
Tuesday, February 17, 2015, 1:05 pm – Conference Room 229

From: The Chinatown Gateway Plaza Tenant Association (CGPTA)
Contact: Steve Lohse, CGP.Tenant.Association@gmail.com, (808) 499-5406

Re: Supporting the INTENT of SB1368, Relating to Liquor, to establish conditions under which liquor may be sold at street closure events

Aloha e Chair Espero, Vice Chair Baker, and Members of PSM:

My name is Steve Lohse, I represent the Chinatown Gateway Plaza Tenant Association (CGPTA). CGP is a 27-story, 200-unit resident high-rise at the intersection of Nuuanu and Hotel in Chinatown. Residents organized the CGPTA in 2006 to keep ourselves informed and engaged in matters concerning our CGP community. Liquor sales at numerous street closure events directly beneath our CGP windows deeply concern us.

Please, AMEND the following SB1369 provisions, as follows:

(4) All sales and consumption of liquor are contained within licensed establishments or within designated "beer garden" areas on private property. Liquor shall not be sold or consumed on public streets or sidewalks.

(5) All county-permitted street closure events with county-permitted outdoor alcohol service shall be strictly accountable to ensure a clear Public Purpose, including evidence, oversight, follow-up, and full public accounting of BOTH the gross liquor sales AND the distribution of liquor sales proceeds.

Background. Public resources are maintained at public expense for clear public purposes. Clear public purposes for our public streets include freedom of movement for people and goods and unhindered access to our homes and businesses. Both state and county law require a clear Public Purpose for any use of our public resources, including repurposing our public streets for street closure events.

Problems. Currently in Chinatown, event promoters claim Public Purpose to secure street closure permits from the Honolulu Department of Transportation Services (DTS) and street liquor sales permits from the Honolulu Liquor Commission (HLC) with no evidence, no oversight, no follow-up, and no accountability to ensure any actual Public Purpose. In fact, dubious claims of Public Purpose were debunked recently during an extended Joint Fact Finding event hosted by Carol Fukunaga, Karl Rhoads, and Susie Chun Oakland.

In addition, after years of requests, our community remains unable to discover WHERE IS THE MONEY from liquor sales in our public streets. We certainly cannot make responsible, consistent, or even legal decisions of Public Purpose if we cannot know where the money goes!

While Public Purpose remains dubious, Chinatown suffers from very real negative impacts as a result of outdoor alcohol service. These impacts include increased noise, public urination, trash, and disorderly behavior. A large amount of resources is expended by the C&C of Honolulu to address these issues.

SOLUTION. Please, amend SB1368 as requested above. Please, give us responsible, consistent, clear public policy to help ensure the safe and healthy livability of the Chinatown area for its estimated 10,000 residents!

Aloha no,
Steve Lohse



Testimony in opposition to SB 1368

2/15/15

From Bill Comerford, Spokesman for the Hawaii Bar Owners Association

Honorable Chairman Espero and Vice Chair Baker

Dear Senators,

I must submit testimony in opposition to this bill as it appears to seek more regulation for a system that is not broken. It is only more rules and regulations to compound the generation of an event.

The vast majority of these events benefit a non-profit through a special license. This bill appears to remove the ability for non-profits to run an event and puts it solely in the hands of licensed operators. There is a class of license by law that provides for that circumstance. This seeks to override the issuance of licenses to those non-profits.

There has been ongoing issues of multiple matters in the Chinatown area that need a community solution but I am not sold on this bill as a solution. As an operator involved in Street events we already follow all of the points asked for in the bill as licensees.

We have are a fully licensed establishment extending our license.

We have registered employees with the liquor commission who hold serving jobs elsewhere.

We define the space where we will be serving alcohol to the Liquor Commission at application.

We report our sales to the liquor commission through out the year.

So it would not effectively effect my personal business but I foresee this bill virtually stopping all non-profit activity which is fully allowed by law. For a local problem they are seeking a statewide solution.

This removes the ability to have expedient events that benefit very worthy causes, as such benefits for the employees of Aloha Airlines upon their closure, a benefit for victims of the hurricane in the Philippines, the victims of the Asian tsunami and the Japanese earthquake and tsunami.

The current circumstance allows for immediate relief events like those above, that under this bill will be taken away.

Defer this bill to another year so the matter has a chance to be solved locally and the bill may accommodate non-profits and their currently very legal special license.

Senators I ask you to defer this action by opposing SB 1398.

Thank you,

A handwritten signature in black ink that reads "Bill Comerford". The signature is written in a cursive, flowing style.

Bill Comerford

Spokesman for the Hawaii Bar Owners Association

10 Marin Lane

Honolulu, HI 96817

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 15, 2015 2:08 PM
To: PSMTestimony
Cc: lynnehi@aol.com
Subject: Submitted testimony for SB1368 on Feb 17, 2015 13:05PM

SB1368

Submitted on: 2/15/2015

Testimony for PSM on Feb 17, 2015 13:05PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Oppose	No

Comments: The public streets belong to the people. They are not to be used for alcohol sales. This bill should be amended to prohibit the sale and consumption of alcohol on public streets. Those who wish to imbibe can do so on private property and in licensed liquor establishments--bars, restaurants, etc. There is no sane or logical reason for people to be carousing on public streets and getting drunk. They can be better controlled in private locations set up for that reason. Allowing alcohol sales and use on the public streets in diverting the use of the streets from the public. I live in Downtown where this outrageous activity has gone on for years, with the Honolulu Liquor Commission turning a blind eye to those who live and own property in the area and would like some semblance of normal life instead of drinking parties with all their attendant noise. The keiki don't need this. The seniors don't need htis. Hard working people don't need this. Please either kill this bill or prohibit the sale and consumption of alcohol on the public streets. Lynne Matusow 60 N Beretania, #1804 Honolulu, HI 96817 531-4260

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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