

PEA Committee

From: Dan Goncher <dgoncher@harveyrose.com>
Sent: Friday, November 30, 2018 8:03 AM
To: PEA Committee
Cc: Shelly K. Espeleta; James G. Krueger; Fred Brousseau
Subject: HMR Liquor Control Audit Presentation & Handout
Attachments: Maui DOLC Presentation.12.03.18.FINAL.pptx; Maui DOLC Presentation Handout.12.03.18.FINAL.pdf

Aloha Chair Sugimura,

We are looking forward to presenting the findings and recommendations from our performance audit of the Department of Liquor Control for the PEA committee on Monday morning. Our power point presentation and handouts are attached to this email.

Mahalo and please let us know if you have any questions.

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# **Performance Audit of the Department of Liquor Control**

Presented to the Maui County Council  
Policy, Economic Development, and Agriculture Committee  
by: Harvey M. Rose Associates, LLC

December 3, 2018

# Performance Audit Findings

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1. Oversight of Liquor Control
2. Commission Responsibilities
3. Staffing and Human Resource Issues
4. License and Permit Processes
5. Enforcement

# Overview: Department of Liquor Control



\$3.15 million annual budget FY 2017-18 (from licensee fees)

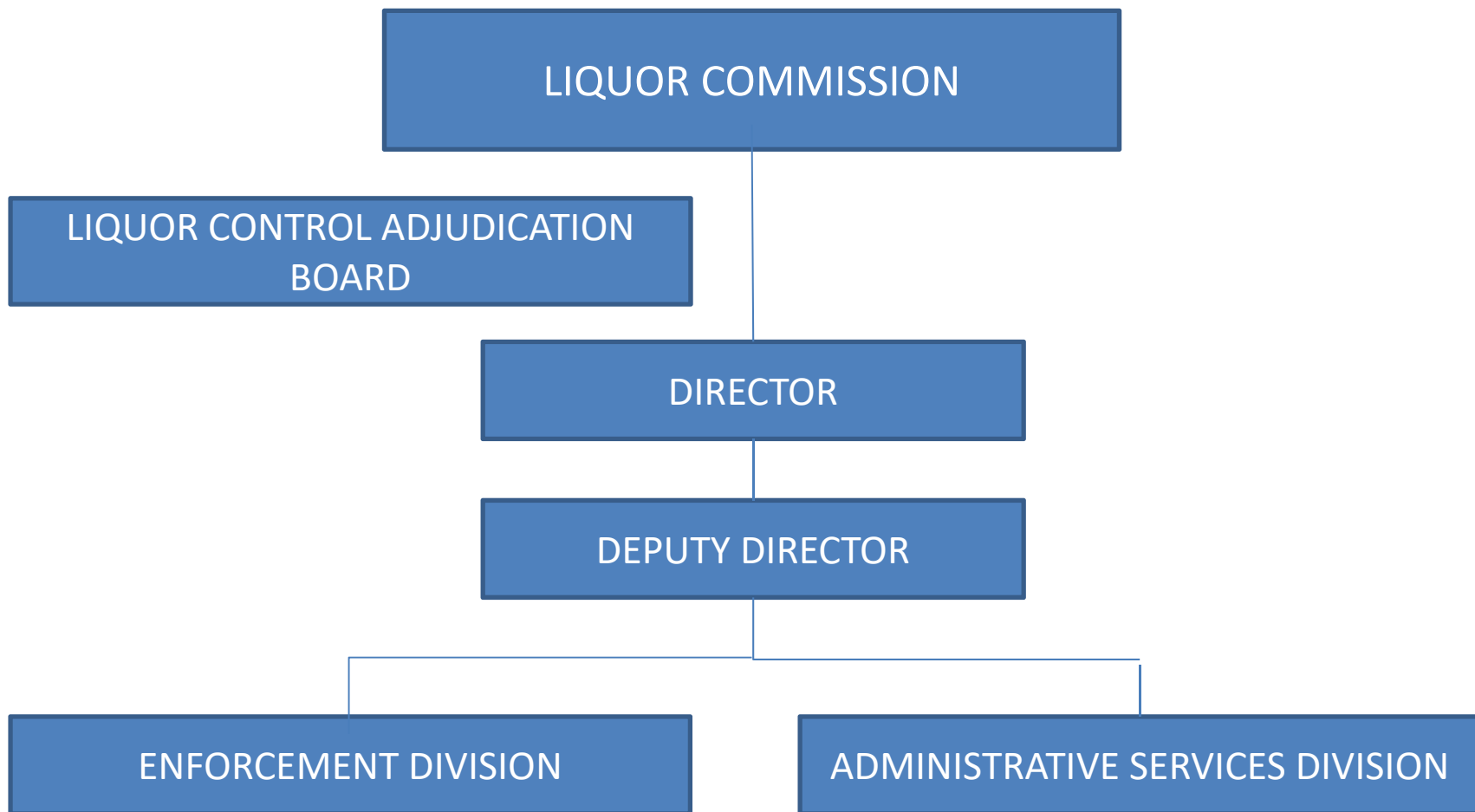
25 Full-time Equivalent positions FY 2017-18

435 licensees

12,429 inspections/year

| <b>Division</b>                         | <b>Authorized FTEs</b> |
|-----------------------------------------|------------------------|
| <b>Office of the Director</b>           | 4                      |
| <b>Administrative Services Division</b> | 9                      |
| <b>Enforcement Division</b>             | 12                     |
| <b>Total</b>                            | 25                     |

# Overview





# 1. Findings: Liquor Control Oversight

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- Existing County rules limit oversight of liquor control
  - Commission control; no role for Mayor and County Council to intervene if poor department performance.
  - Director selection process not transparent.
  
- Outdated operations manual
  - Has not been updated for 18 years.
  
- Absence of meaningful short- and long-term performance goals and measures for DOLC
  - No formal goals for addressing risks such as underage drinking and alcohol abuse in strategic plan; performance measures focus on outputs, not outcomes.

# Findings: Liquor Control Oversight

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- Inadequate Department consultation with key stakeholders prior to major changes
  - Need input from licensees, the public, advocacy groups.
  
- Corporation Counsel not ensuring compliance with State laws and County rules (public noticing, sunshine)



# Liquor Control Oversight Recommendations

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## Mayor and County Council

- Initiate annual review of *Commission*.
- Establish process to ensure more applicants for Director position; identify actions Mayor and County Council can take if performance issues.

## County Council

- Consider adoption of resolution to implement audit recommendations.

## Corporation Counsel

- Provide *annual* in-depth training to Commission; verify and report public noticing requirements and sunshine laws are met. Create a factsheet for the public with information on these laws.



# Liquor Control Oversight Recommendations (cont'd)

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## Liquor Control Commission

- Amend Maui County Liquor Control Rules:
  - Remove language allowing Commission to disregard Director selection process in rules.
  - Require that Director consult with licensees and stakeholders prior to rule and administrative changes.
  
- Direct Liquor Control Director: update operations manual used by Department staff.

# Oversight of Liquor Control Recommendations (cont'd)

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## Director

- Annually report historical trend statistics on the prevalence of issues such as underage drinking and alcohol abuse.
- Undertake an annual customer satisfaction survey of licensees and general public; share the results with the Commission.

## 2. Findings: Commission Responsibilities

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- Some Commissioners have poor attendance records
  - At least four of the total nine Commission members had six or more absences each fiscal year between July 2016 and July 2018 (4 allowed).
- Charter-required annual evaluations of Director not always conducted
  - No evaluations between 2014 and January 2018.
- Unclear what performance criteria used by Commission
  - Need for measurable, standardized performance outcomes.

# Commission Responsibilities Findings



January 2018 Director evaluation results at odds with performance reported by some staff, licensees and members of the public.

| Performance Evaluation Criteria                                                                             |
|-------------------------------------------------------------------------------------------------------------|
| 1) Provides Leadership                                                                                      |
| 2) Promotes a Positive Climate for Employees of the Department and Respect for all Members of the Community |
| 3) Maintains High Standards of Professionalism                                                              |
| 4) Manages the Full Scope of Liquor License Application, Enforcement, and Administrative Responsibilities   |
| 5) Personal and Professional Traits                                                                         |

# Commission Responsibilities Recommendations

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## Mayor and County Council

- Request that Liquor Control Commission Chair submit quarterly Commission attendance reports to the Mayor and County Council, along with formal written letters for any absences.
- Require Liquor Control Commission to consult with the Department of Management & develop standardized evaluation criteria & timeline for the annual Director performance evaluation.

## Commission Responsibilities Recommendations (cont'd)

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### Corporation Counsel

- Provide annual training to members of the Liquor Control Commission and the Commission Secretary on County and State laws, particularly State Sunshine Laws and public noticing requirements.

## Commission Responsibilities Recommendations (cont'd)

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### Liquor Control Commission

- Implement 1994 recommendations to use outcome-oriented performance measures for Director's evaluation.
- Require that the Department post online and in agendas the full text of any proposed rule changes and plain language descriptions of the changes in advance of public hearings on rule changes.
- Require that Commission members have no more than three unexcused absences each year, with removal as a potential penalty.

### 3. Staffing and Human Resource Findings

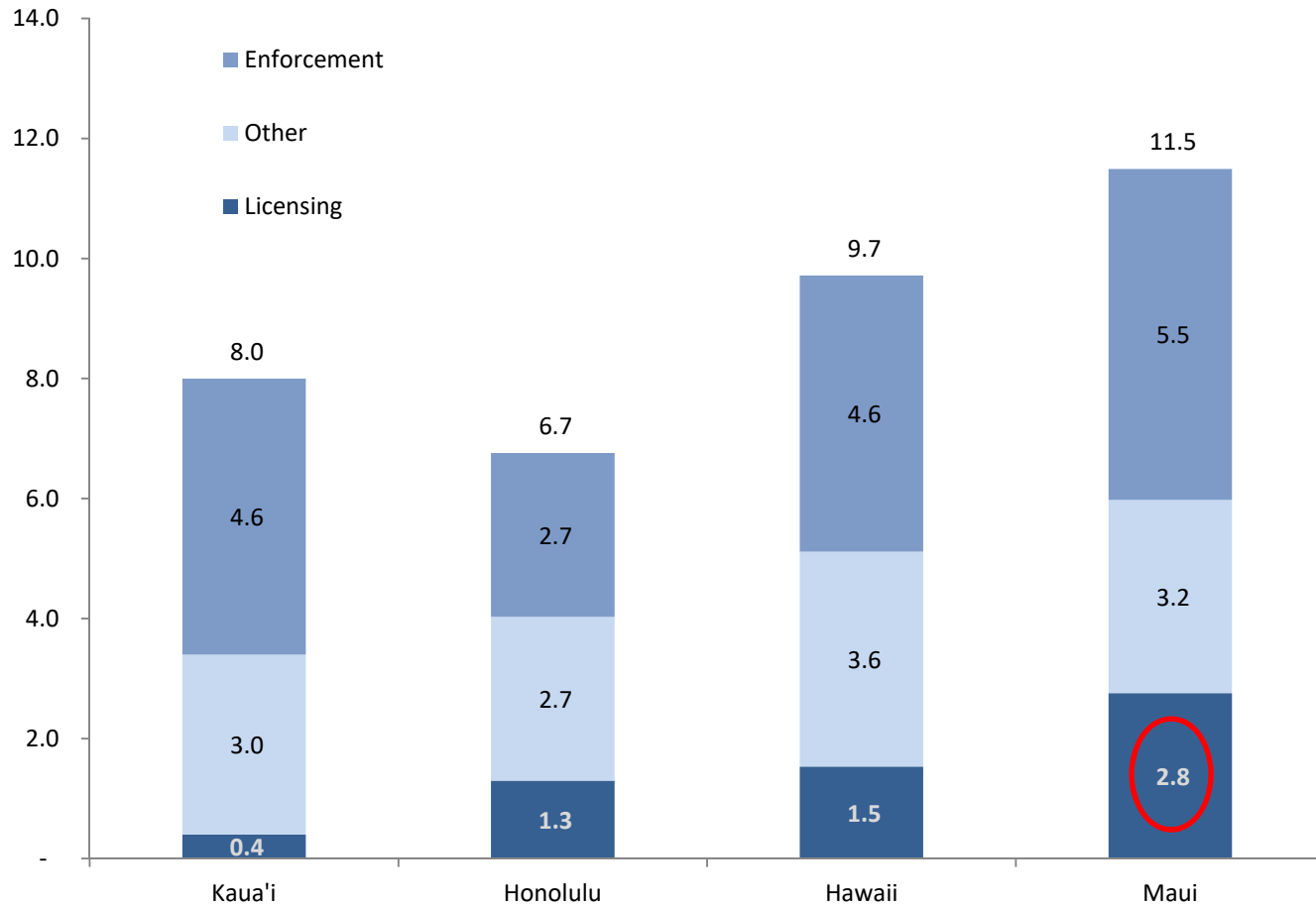
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- Staffing levels are high relative to peer counties.
- High vacancy rate with minimal impact on operational capacity.
- Department's proposed reorganization would unnecessarily increase licensing staffing level.
- Many employees perceive Department culture as retaliatory and not open to new ideas.
- Not all positions are appropriately utilized.
- County policies do not prevent employees from supervising family members.



# DOLC staffing level high compared to other Hawaii counties



Note: Positions for every 200 licensees

# Consistently high vacancy rate at DOLC last two years



| Report Date    | Vacancies by Division  |            |             | Total Vacancies | Authorized FTEs | Total Vacancy Rate |
|----------------|------------------------|------------|-------------|-----------------|-----------------|--------------------|
|                | Office of the Director | Admin Svcs | Enforcement |                 |                 |                    |
| 7/27/2016      | 1                      | 2          | 4           | 7               | 26              | 26.9%              |
| 9/27/2016      | 1                      | 3          | 5           | 9               | 26              | 34.6%              |
| 12/29/2016     | 0                      | 3          | 5           | 8               | 26              | 30.8%              |
| 3/15/2017      | 0                      | 3          | 3           | 6               | 26              | 23.1%              |
| 6/22/2017      | 0                      | 3          | 4           | 7               | 26              | 26.9%              |
| 9/17/2017      | 0                      | 4          | 2           | 6               | 26              | 23.1%              |
| 12/20/2017     | 0                      | 4          | 2           | 6               | 25              | 23.1%              |
| 3/20/2018      | 1                      | 4          | 2           | 7               | 25              | 28.0%              |
| 5/21/2018      | 1                      | 2          | 3           | 6               | 25              | 24.0%              |
| <b>Average</b> | 0.4                    | 3.1        | 3.3         | <b>6.9</b>      | <b>25.6</b>     | <b>26.7%</b>       |

## Department proposed reorganization uses 4 vacant positions



| Current Vacant Position         | LCO II           | Admin. Asst II         | LCO II             | LCO IV                                |
|---------------------------------|------------------|------------------------|--------------------|---------------------------------------|
| Proposed Position               | Account Clerk II | Administrative Officer | LCO II (no change) | LCO III                               |
| Current Division                | Enforcement      | Ofc. of Director       | Enforcement        | Licensing                             |
| Proposed Division               | Admin. Svs.      | Admin. Svs.            | Licensing          | Licensing (no change)                 |
| <b>HMR Audit Recommendation</b> | Approve          | Do not approve         | Do not approve     | Defer 1 year for process improvements |

→ Avoided costs: \$171,852 - \$225,175 (*current costs for vacancies recommended against*)

## DOLC turnover higher than County average, FYs 2015-16 – 2017-18

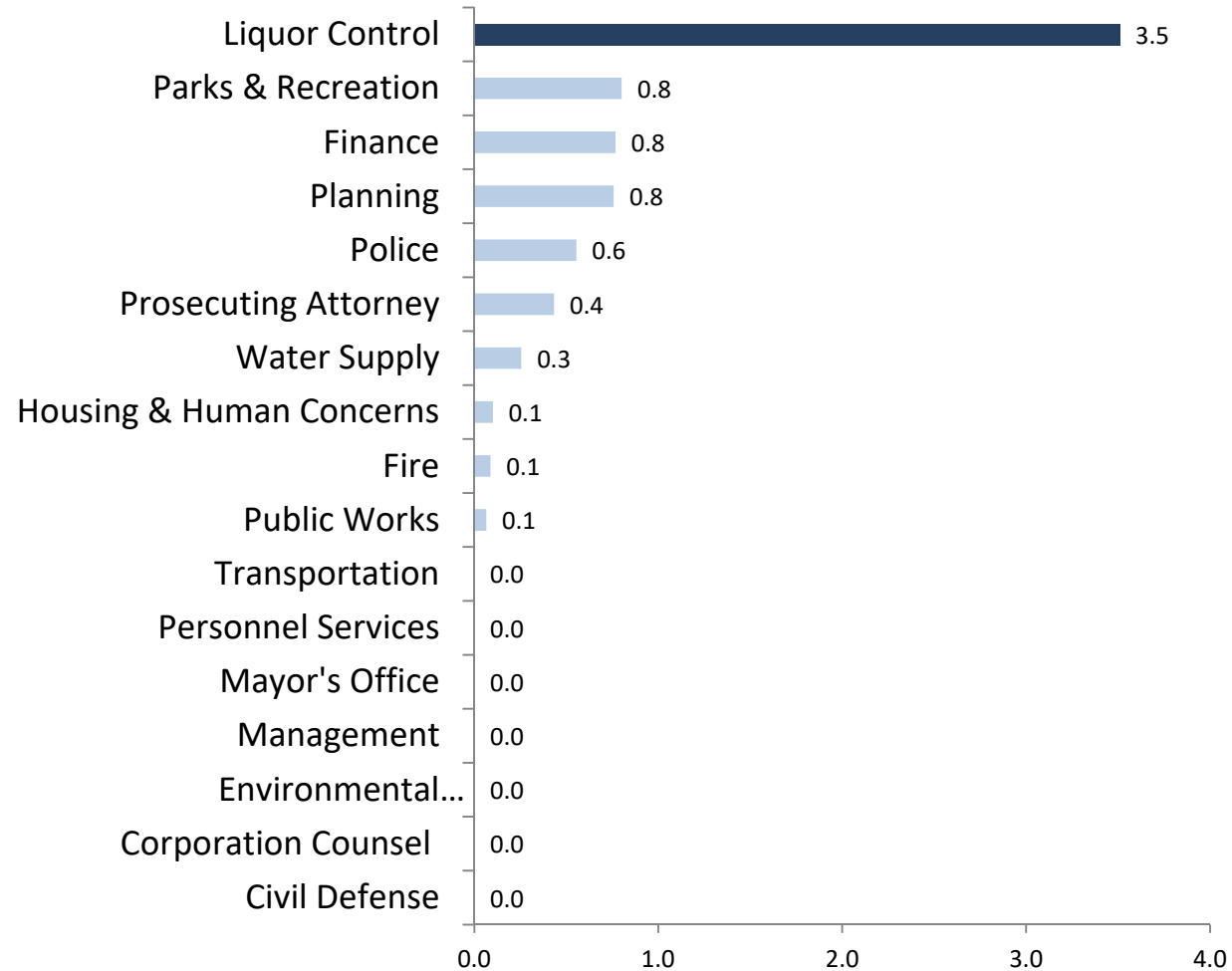


| Department                  | Average Turnover Rate |
|-----------------------------|-----------------------|
| Emergency Management Agency | 20.0%                 |
| <b>Liquor Control</b>       | <b>15.8%</b>          |
| Housing & Human Concerns    | 10.4%                 |
| Management                  | 10.3%                 |
| Parks & Recreation          | 9.5%                  |
| Prosecuting Attorney        | 9.3%                  |
| Environmental Management    | 8.9%                  |
| Mayor's Office              | 7.7%                  |
| Personnel Services          | 7.6%                  |
| Planning                    | 7.6%                  |
| Water Supply                | 7.5%                  |
| Police                      | 7.0%                  |
| Finance                     | 6.9%                  |
| Public Works                | 6.6%                  |
| Fire                        | 6.1%                  |
| Corporation Counsel         | 4.6%                  |
| Transportation              | 4.2%                  |
| <b>Total</b>                | <b>7.8%</b>           |

# Low morale, retaliatory culture cited at Department



No. of Step 2 Grievances per 50 FTEs, FYs 2015-16 – 2017-18



# Staffing and Human Resource Recommendations

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## County Council

- Request Commission direct Director to:
  - a. Develop and implement annual departmental hiring & retention plans to reduce turnover and improve employee morale.
  - b. Report to Commission annually on vacancy levels, turnover, and grievances.
  
- Work with Department of Personnel Services on policy regarding hiring family members and relatives & whether they can supervise one another.

## Staffing and Human Resource Recommendations (cont'd)

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### County Council

- Delete 2 vacant positions proposed for reallocation to: 1 vacant LCO I and 1 vacant LCO II. Savings = \$135,815.
- Defer decision to delete vacant LCO IV position for one year, pending process improvements for Licensing and Permitting. *Potential* annual savings = \$89,360.

\$225,175 total

- Deny proposed reallocation of one Administrative Assistant II to an Administrative Officer position but retain Admin. Asst. II.

## Staffing and Human Resource Recommendations (cont'd)

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### Director

- Reassign or assign job duties to better align with job descriptions.
  - a. Instruct the Liquor Control Auditor to perform quarterly random audits of licensees, rather than clerical work.
  - b. Send applications that need corrections via e-mail or certified mail instead of via delivery by enforcement staff.





## 4. License and Permit Process Findings

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- Department of Liquor Control website provides limited information.
- Maui enforces more onerous rules for license applicants vs. other counties.
- Licensees perceive renewal process as unfair as rejections spiked.
- Performance measures don't measure licensing efficiency.

# Limited information on DOLC website



| License/Action                                    | City and County of Honolulu | Hawaii | Kauai | Maui |
|---------------------------------------------------|-----------------------------|--------|-------|------|
| New Liquor License (Other than Transient Vessels) | ✓                           | ✓      | ✓     |      |
| New Transient Vessel Liquor License               | ✓                           | ✓      | ✓     | ✓    |
| License Renewal                                   | ✓                           | ✓      | ✓     | ✓    |
| Transfer Liquor License                           | ✓                           | ✓      | ✓     |      |
| Temporary Liquor License                          | ✓                           | ✓      | ✓     |      |
| Special License                                   | ✓                           | ✓      | ✓     |      |
| Change in License Category/Class & Kind           | ✓                           | ✓      | ✓     |      |
| Change in Licensed Trade Name                     | ✓                           |        | ✓     |      |
| Change in Licensee Name                           | ✓                           |        | ✓     |      |

# Maui has more onerous application rules



| Maui <i>General</i> License application requirements not required by at least two other Hawaiian counties       | Maui <i>Special</i> License application requirements not required by at least two other Hawaiian counties   |
|-----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| (1) a copy of Social Security cards for persons owning or controlling ≥ 25 percent of outstanding capital stock | (1) Corporate minutes                                                                                       |
| (2) certificate of mailing for public hearing notices as verified by the United States Postal Service           | (2) Organization by-laws                                                                                    |
| (3) corporate minutes                                                                                           | (3) Affidavit attesting that no prohibited items will be auctioned at the event                             |
| (4) bond or personal guaranty                                                                                   | (4) 8 ½” x 11” site plan drawn to scale                                                                     |
| (5) 8 ½” x 11” site plan drawn to scale                                                                         | (5) organizational report filed with State Campaign Spending Commission for political parties or candidates |
| (6) certificate of occupancy                                                                                    | (6) Building permits                                                                                        |
| (7) miscellaneous inspection reports                                                                            | (7) Fire Department clearance                                                                               |
| (8) clearance from the Fire Department                                                                          | (8) DCCA current certificate of good standing                                                               |
| (9) wastewater clearance                                                                                        | (9) Zoning clearance                                                                                        |

# Renewal Process Complaints & Rejections



| Year Renewed | Year to be Used | Number of Non-Renewals | Reasons (provided by Department)                                                                                               |
|--------------|-----------------|------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| 2015         | FY 2015-16      | 9                      | 9- "Do Not Recall"                                                                                                             |
| 2016         | FY 2016-17      | 17                     | 8- "Do Not Recall"<br>5- Premises Closed<br>2- Chose not to renew<br>1- Officer Listing Issue<br>1- Missed Deadline/Tax Issues |
| 2017         | FY 2017-18      | 22                     | 13- Missed Deadline<br>3- New entity<br>2- Officer Listing Issue<br>1- Licensee withdrew<br>1- Chose not to renew              |



# Performance Measure Weaknesses

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- Do not adequately measure goal of a “fair and efficient process”
- No measure of elapsed time from when an application is received to when a license or permit is issued
- Applications not time stamped until after the second appointment with the Department
- Applications are not assigned a consistent point of contact

# License and Permit Process Recommendations

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## Deputy Director of Liquor Control

- Work with the Administrative Services Division supervisor to review, collect, and post up to date application materials to the Department's website.
- Post the Department's updated Operations, Policies, and Procedures Manual on the Department's website.
- Establish and maintain a database or list of email addresses of licensees and other stakeholders to disseminate updates to the licensing and permit application processes.

## License and Permit Process Recommendations (cont'd)

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### Deputy Director of Liquor Control

- Work with Administrative Services Division supervisor to review license application requirements and make recommendations to Commission to streamline the application process.
- Consult with the Director and Corporation Counsel to determine if it would be feasible to implement rolling deadlines for liquor license renewals.

## License and Permit Process Recommendations (cont'd)

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### Director of Liquor Control

- Eliminate the requirement that applicants must meet with Department staff in order to obtain application materials.
- Recommend to the Commission to revise the Liquor Control rules to conform with the new restrictions on what liquor control departments may require from non-profit special license applicants.



## License and Permit Process Recommendations (cont'd)

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### Director of Liquor Control

- Revise the Department's performance measures by adding a measure of the amount of time required to approve license applications.
- Direct the Administrative Services Division supervisor to assign a consistent point of contact (liquor control officers) for all license applications.



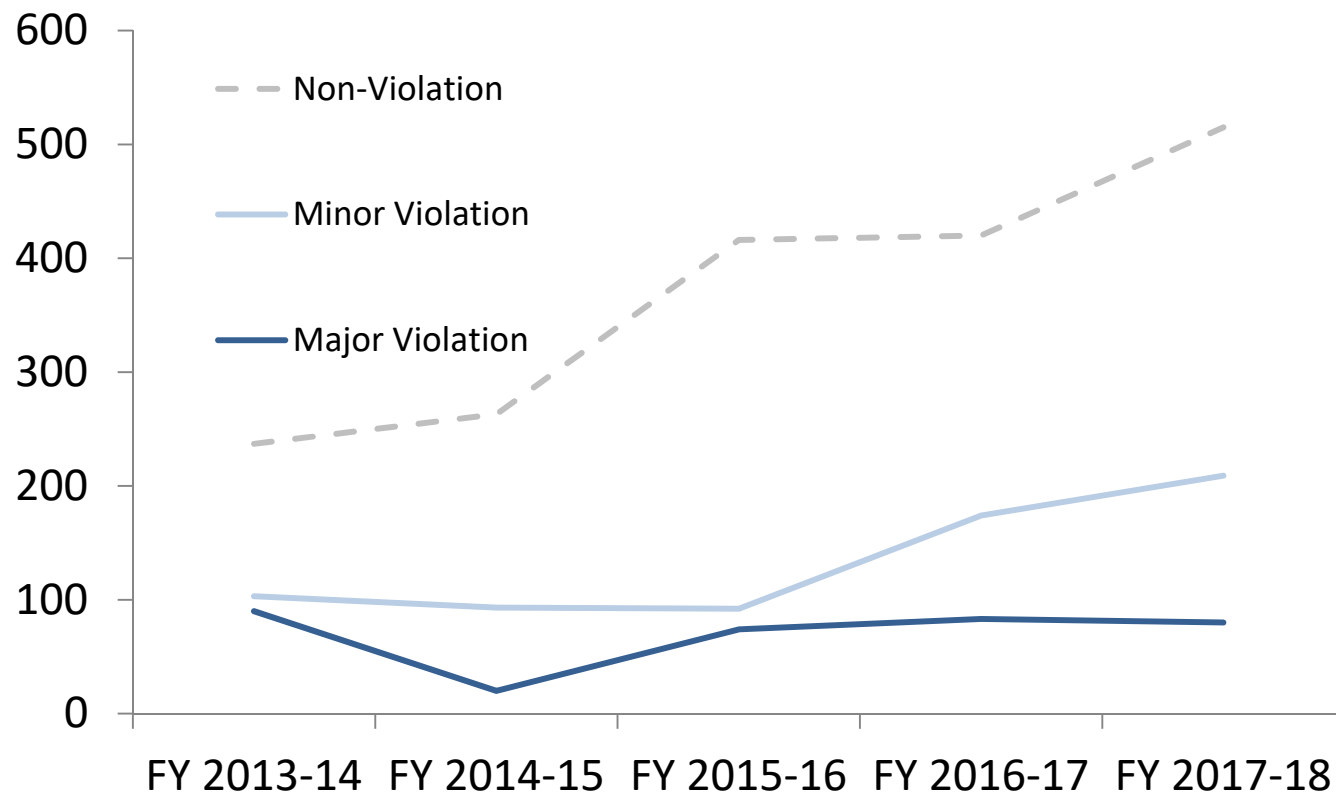
## 5. Enforcement Findings

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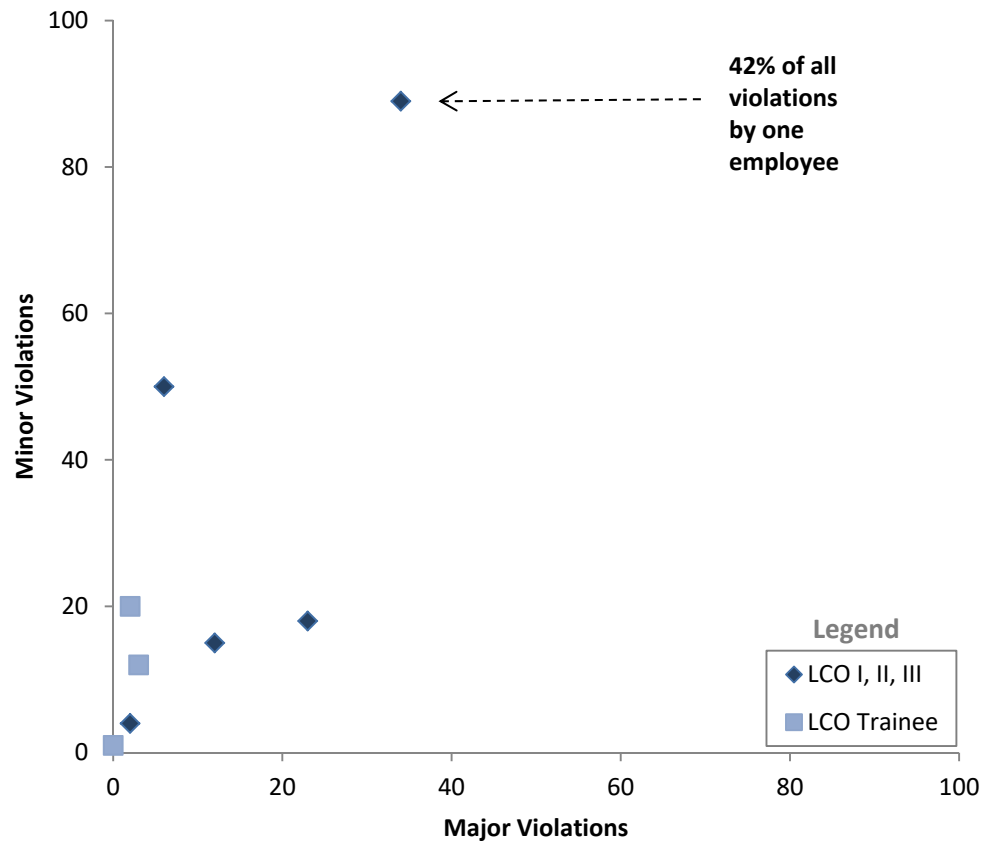
- Due to outdated rules, staff is spending more time on minor or non-violations that do not pose major risk to health and safety.
- The Division has weak and outdated procedures for conducting inspections and investigations.
- Enforcement goals are not tied to public health outcomes.
- New administrative requirements have decreased time and attention spent on enforcement field activities.
- Department does not adequately enable voluntary compliance with liquor laws; is seen as punitive by many licensees.



## Violations issued, FYs 2013-14 – 2017-18



# Minor & Major Violations by LCO, FY 2017-18 (as of 6/25/18)





# Enforcement Recommendations

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## Director of Liquor Control

- Solicit input from the Commission, the advisory committee, licensees, and public health organizations and use it to update County liquor rules.
- Update the Operations Manual for enforcement to explicitly define the goals and scope of enforcement activities. Report on these changes to the Liquor Commission.
- Direct the Deputy Director to work with the Enforcement Supervisor to improve the inspection counting process and adopt an electronic tracking system for inspections.
- Direct Enforcement Supervisor to establish criteria for when detailed case reports needed for minor violations; reestablish one-page notice of violation paper report for most minor violations.



## Enforcement Recommendations (cont'd)

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### Director of Liquor Control

- Improve communication with licensees to enable voluntary compliance.
- Establish a process for licensees to submit anonymous feedback or complaints regarding enforcement.
- Provide Enforcement Officers mobile access to licensee database.
- Establish a quarterly meeting between the Enforcement Division Supervisor and the Maui Police Chief to improve referral coordination.

# Questions?

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## Performance Audit of the Maui Department of Liquor Control

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