



## DEPARTMENT OF THE CORPORATION COUNSEL

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### POWERS, DUTIES, AND FUNCTIONS

The Department of the Corporation Counsel (COR) serves as the chief legal adviser and legal representative of all city agencies, the City Council, and all officers and employees of the city in matters relating to their official powers and duties. The department represents the city in all legal proceedings and performs all other legal services required by the Revised Charter of the City and County of Honolulu or other laws.

Under the Charter, the Ethics Commission is attached to the Department of the Corporation Counsel for administrative purposes only.

#### Counseling and Drafting Division

The Counseling and Drafting Division (C&D) comprises four sections: (1) Finance; (2) Infrastructure and Community Services; (3) Real Estate and Land Use; and Personnel and Public Safety.

C&D provides legal advice to the Mayor, the city departments and agencies, the City Council and its committees, and the city boards and commissions. In this advisory capacity, C&D renders oral and written opinions; drafts and reviews bills and resolutions for submission to, or being considered by, the City Council or the state legislature, advances and presents testimony on the city's position on legal issues presented in state legislation; reviews and approves as to form and legality legal documents to which the city is a signatory; attends meetings of the City Council, the Council committees, and the city boards and commissions; provides legal representation on behalf of the city in state and city administrative proceedings and in selected court proceedings, such as real property tax appeals, eminent domain proceedings, quiet title proceedings, partitions of land court property, administrative appeals, foreclosures, bankruptcy actions, interpleader actions for the return of seized property, certain specialized litigation, and other matters as maybe assigned.

#### Litigation Division

The Litigation Division (LIT) provides certain legal representation of the city, and its officers and employees acting within the course and scope of their official duties, in state and federal courts in the State of Hawaii, including the trial and appellate courts. LIT processes and, if necessary, litigates certain claims by or against the city and such officers and employees, including tort, contract, civil rights, employment, and collection claims. LIT prosecutes liquor law violations before the Liquor Commission and advises and represents the Honolulu Police Department with regard to subpoenas duces tecum.

#### Honolulu Ethics Commission

The mission of the Ethics Commission (Commission) is to ensure that city officers and employees understand and follow the standards of conduct governing their work for the public. The Commission's main focus is to deter conflicts of interest and the misuse of government resources or positions by city personnel. The Commission implements its objectives through a balance of training programs, advisory opinions, enforcement actions and legislation.

The seven Commission members are appointed by the Mayor and confirmed by the City Council. Commissioners serve staggered five-year terms.

### ACCOMPLISHMENTS

- COR assisted with various city efforts to protect Oahu's island environment and conserve its natural resources, including: securing and complying with appropriate permits for the city's wastewater and solid waste facilities; promulgating rules to require that construction and other land-based activities incorporate measures to protect water quality; and contracting, rulemaking, and permitting to promote alternative modes of transportation such as bike share, car share and vanpooling;
- Continued to provide legal advice regarding the Honolulu Authority for Rapid Transportation (HART), its powers, duties and procedures, and the 2016 amendments to the charter provisions governing the organization; HART's agreements with utilities, government entities, and third parties; real estate acquisitions and eminent domain proceedings; project financing, and state and city legislation related to the rail project;
- Assisted with interpretation and implementation of Charter amendments resulting from the 2016 General Election including preparation of new edition of charter, extent of prosecutor's control over budget, new requirements for Grants-in-Aid process and Clean Water and Natural Land Fund expenditures, and duties of new Department of Land Management;
- Assisted the Department of Information Technology (DIT) with terms and conditions for HNL Info, the go-to website and mobile app for city services and information, including the city's emergency alerts;
- COR successfully defended the city in a number of tort cases and has developed a reputation for preparation and results in arbitrations within the Court Annexed Arbitration Program; COR is also spearheading the city's efforts to preserve records and evidence when litigation is imminent, and has given numerous Litigation Hold Presentations to various

departments and their employees to stress the importance of preserving records and preventing the spoliation of evidence;

- The Ethics Commission embarked on strategic planning and delivered an exposure draft at its June 2017 meeting; the draft plan, which sets out a long-term strategy until 2027, is based on discussions held in Fiscal Year 2017 and will be revisited periodically over the next several years; based on articulated assumptions about the next ten years, the Commission's strengths, weaknesses, opportunities, and challenges were identified and analyzed; and founded upon this analysis, the Commission established the following priority objectives: to review and align its key ordinances, rules and standard operating procedures; strengthen and expand city ethics training; strengthen internal procedures; and develop and implement effectiveness measures;
- The Commission began the fiscal year with two staff, but filled its complement of five budgeted staff by fiscal year end, and commenced training on sunshine law and government records, core computer applications, management development, and conducting interviews and investigations; additionally, four interns assisted with ethics work related to their course of study.

<b>COUNSELING &amp; DRAFTING</b>	Outstanding C&D Requests as of 7/1/2016	New Requests Received FY 2017	Total Request Workload FY 2017	Requests Completed and Closed FY 2017	Outstanding C&D Requests as of 6/30/2017 <sup>2</sup>
Requests for Legal Services	5,031	1,201	6,232	919	5,313
Requests for Review and Approval of Legal Documents	1,758	7,298	9,056	7,247	1,809
Pre-lawsuit Cases <sup>1</sup>	251	43	294	66	228
State and Federal Court Cases	1,572	484	2,056	311	1,745

<sup>1</sup> Adversarial proceedings before city or state administrative bodies.

<sup>2</sup> Gross amount due to backlog of cases that are ready to be closed that have not yet been closed.

<b>LITIGATION</b>	Outstanding LIT Requests as of 7/1/2016	New Requests Received FY 2017	Total Request Workload FY 2017	Requests Completed and Closed FY 2017	Outstanding LIT Requests as of 6/30/2017
Pre-lawsuit Cases <sup>3</sup>	577	579	1,156	430	726
State and Federal Court Cases	123	45	168	83	85
Subpoena Duces Tecum Requests	113	384	497	339	158

<sup>3</sup> Claims filed with and handled by the COR claims investigators.

<b>ETHICS</b>	Outstanding Matters as of 7/1/2016	New Matters Received FY 2017	Total Workload FY 2017	Matters Completed and Closed FY 2017	Outstanding Matters as of 6/30/2017
Requests to the Ethics Commission/ Staff for Ethics Advice	15	182	197	192	5
Investigations into Misconduct Complaints	50	86	136	71	65