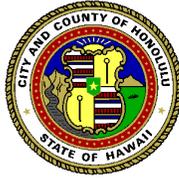


ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



CHARLES W. TOTTO
EXECUTIVE DIRECTOR & LEGAL COUNSEL

June 9, 2016

TO: CHAIR VICTORIA MARKS, VICE CHAIR MICHAEL LILLY AND
MEMBERS OF THE ETHICS COMMISSION

FROM: CHARLES W. TOTTO, EXECUTIVE DIRECTOR AND LEGAL COUNSEL

SUBJECT: AGENDA ITEMS FOR THE JUNE 15, 2016 MEETING, **OPEN SESSION**

I. CALL TO ORDER

II. NEW BUSINESS

A. For Action: Motion to Approve the Open Session Minutes of the May 18, 2016 Meeting.

B. Executive Director and Legal Counsel's Administrative Report. (Written)

1. Reports from Staff Members.

a. Legal Clerk I Krissy Bigornia. **6-15-16 Agenda Item II.B.1.a., OPEN-1 [Bigornia's Monthly Report]**

b. Legal Clerk Lisa Parker. **6-15-16 Agenda Item II.B.1.b., OPEN-2 [Parker's Monthly Report]**

c. Executive Director and Legal Counsel, Chuck Tutto.

- Communications on proposed amendments to the Charter regarding gifts and working with the Charter Commission;
- Answering requests for advice;
- Reviewing Staff work product;
- Responding as needed re EC investigations;

- Drafting response to EEOC complaint.

2. General Statistics: Complaints and Requests for Advice as of the end of last month.

REQUEST FOR ADVICE & COMPLAINTS

	Total	Responses, Referral, Withdrawn or No Action	Under Review	Under Review – Net change from last report
July 1, 2014 – June 30, 2015	398	366	29	<i>Closed 0</i>
FY 15 TOTAL				
July 1, 2015 – May 31, 2016	329	280	49	<i>Closed 12</i>
FY16 TOTAL				

These statistics show the total number of Requests for Advice and Complaints Requiring Investigation for each fiscal year. They also show the outstanding requests and complaints at the end of the last month and the net reduction in cases during the last month. The vast majority of outstanding matters are complaints because they take much longer to investigate and respond to than do the requests for advice.

Please note that the last column shows the number of requests for advice and complaint investigations closed during the preceding month.

Pending requests for advice and complaints requiring investigation are stated in **6-15-16 Agenda Item II.B.2., OPEN-3 (CONFIDENTIAL) [Pending Cases as of May 31, 2016]**

FY16 website hits through 4/30/16: 5,405.

FY16 New Employee Ethics Training through 4/30/16: 645

3. Fiscal Year 2016 Budget Issues.

Staff was directed by the Commission to ensure that \$18,000 was kept available to pay for an outside investigator to be hired as a result of a conflict of interest. However, it turns out that the funds for the outside investigator will not be coming from the EC’s budget. Therefore, the EC will not use about \$18,000 from its investigation fund. If the EC asks for more money for the FY18 operating budget, this unexpended amount will be considered by the Department of Budget and Fiscal Services as evidence that the EC does not need additional investigative funds.

4. Fiscal Year 2017 Budget.

The Council added \$6,000 to the EC budget for the purpose of the Mindflash ethics training program.

5. Move to Kapalama Hale.

Staff has sent its concerns about the size and lay-out of the new offices to the Department of Design and Construction, but have not received a response yet. The unofficial move date is August. Please keep in mind that the office will not be able to operate as normal for at least 1 week before and 1 week after the move.

6. Charter Commission Proposed Amendments Regarding Gifts.

There have been no changes to the last version of Proposal 39 regarding the EC's attorneys' salaries. See, 4-20-16, OPEN-4, Agenda Item II.B.6 [EC's Lawyers' Salaries].

Attached is my statement on behalf of the EC (requested by the Managing Director) to the Charter Commission on Proposal 153 regarding gifts. **6-15-16, Agenda Item II.B.6., OPEN-4 [Gift Law].**

C. For Discussion and Action: Modification of Personnel Evaluation Form for the Executive Director and Legal Counsel. (2-11-16 Agenda Item II.A, OPEN-1)

This agenda item is continued from the February 11, 2016 meeting.

Should you have any questions on these matters, please contact me.

6-15-16

OPEN – 1

Agenda Item II.B.1.a., Pg. 1
[Bigornia's Monthly Report]

To: Ethics Commission
From: Kristine Bigornia, Legal Clerk I
Date: June 9, 2016
Subject: Report from May 1, 2016 – June 8, 2016

I. MEETING MATERIALS

- A. Filed meeting agendas and gathered meeting materials
- B. Drafted the May 18, 2016 meeting minutes of open session, and sent to Legal Clerk Parker for review.

II. PREPARING FOR THE MOVE TO KAPALAMA HALE

- A. CONTINUATION: There are nine (9) boxes in the office that needs to be prepped for DIT to scan and then archive.
- B. CONTINUATION: Scanning and shredding documents
- C. During the week of May 30, Legal Clerk Parker and I worked on gathering and preparing most of the unused office equipment to dispose for the Recycling event on June 3rd that the City and County of Honolulu was hosting. On June 3, 2016, the EDLC and I dropped the unused equipment in front City Hall for disposal.

III. OTHER ADMINISTRATION DUTIES

- A. Answering phone calls from both members of the public and city employees regarding various matters.
- B. Updating the EC website, including an updated Registered Lobbyist list
- C. Updating the financial disclosure list for next calendar year with new City employees' filing their initial form throughout the year.

6-15-16

OPEN – 2

Agenda Item II.B.1.b., Pg. 1
[Parker's Monthly Report]

LISA PARKER'S WORKLOAD REPORT – MAY-JUNE 2016

- I continued my duties in keeping the office running by performing my usual administrative P-Card duties, as well as my normal duties of sorting and filing incoming pleadings and mail, finalizing letters and other documents from this office, as well as worked with COR's administrative services officer and administrative support agencies on other fiscal and personnel matters.
- I continued to have daily discussions with Kristine "Krissy" Bigornia about the potential move to Kapalama Hale, in order to determine a strategic plan for packing, disposing, moving and/or storing all the office files and equipment. Krissy and I have also discussed how we would work together to make the relocation to Kapalama Hale a smooth and positive transition, and at the same time performing our day-to-day duties in order to uphold the standards of a well-functioning Ethics Commission office.
- I coordinated and had several discussions with the Department of Facility Maintenance (DFM), regarding the parking situation for Kapalama Hale, as well as processed staff's application requests for parking onsite.
- I prepared and sent an email to the Department of Design and Construction (DDC), about the latest office floor plan at Kapalama Hale, and asked that they confirm that there would be enough office space for our 5-drawer lateral file cabinet, one credenza and two work tables.
- I coordinated and assisted Krissy with the disposal of 37 unwanted, unused and non-functioning office equipment. I prepared and processed the necessary Memorandum and Certificate of Disposal with Budget and Fiscal Services
- I assisted the EDLC in receiving, as well as responding to inquiries from the various departments or divisions with regard to training, financial disclosures, etc. and also assisted with a few initial in-take complaints and requests, received via telephone, email and in person.
- I drafted an "email" response to Mr. Nick Grube of Civil Beat, as well as gathered correspondence, pursuant to his email records request, dated May 12, 2016, for EC Correspondence between the Honolulu Ethics Commission and Mayor Kirk Caldwell.
- I assisted the EDLC in finalizing all the EC meeting materials, as well as reviewed, edited and finalized the Minutes of the May 18 EC meeting.

6-15-16

OPEN – 4

Agenda Item II.B.6., Pg. 3

[Gift Law]

Totto, Charles W.

From: Totto, Charles W.
Sent: Tuesday, May 17, 2016 9:56 AM
To: Charter Commission
Cc: Amemiya, Roy K. Jr.; Deemer, Georgette; Soon, Ray; Leong, Donna Y L; Yamashiro, Jill; Muramatsu, Megan; Bigornia, Kristine Ian D; Parker, Lisa P; Oamilda, Linda
Subject: Charter Commission Proposal 153A, Departmental Review

Tracking:	Recipient	Read
	Charter Commission	Read: 5/17/2016 12:45 PM
	Amemiya, Roy K. Jr.	
	Deemer, Georgette	Read: 5/17/2016 9:59 AM
	Soon, Ray	Read: 5/17/2016 10:05 AM
	Leong, Donna Y L	Read: 5/17/2016 10:51 AM
	Yamashiro, Jill	
	Muramatsu, Megan	Read: 5/17/2016 10:01 AM
	Bigornia, Kristine Ian D	
	Parker, Lisa P	Read: 5/22/2016 8:30 PM
	Oamilda, Linda	Read: 5/17/2016 9:57 AM

Dear Chair Rae,

The Managing Director asked that I respond to your May 6, 2016 memorandum requesting departmental review as to Proposal 153A regarding gifts. Proposal 153A will help reduce the frequency and amount of gifts to city officials from lobbyists and, in turn, will improve the public's trust and confidence in government integrity.

Proposal 153A would amend RCH Sec. 11-102.1(a). The new language in RCH Sec. 11-102.1(a)(1) prohibits taking a gift under circumstances where it can be reasonably inferred that the gift "is intended as a reward for any official action." This language is nearly identical to the similar prohibitions contained ROH Secs. 3-8.7(b)(2), as to city officers and employees, and 3-8.8(a), as to councilmembers. Because the policy and language is adopted from the gift ordinance, the new language will not change the substantive law but will elevate the importance of the new language to the Charter level.

Proposal 153A would also add a new section, RCH Sec. 11-102.1(a)(2). This new section would prohibit all gifts from city lobbyists. The restriction appears intended to respond to the recent state and city government cases showing patterns of gifts from lobbyists to government officials. It clarifies the law for lobbyists, city officials and the public that no gifts from lobbyists are permitted.

Recommended change in language for proposed RCH Sec. 11-102.1(a)(2). The current proposal states "From a lobbyist registered with the city." The present language creates a loophole – that is, if the lobbyist is not registered with the city, the lobbyist's gift would not be prohibited. The language should read simply: "From a lobbyist." The donor's and recipient's rights will be protected because any conclusion that a gift from a lobbyist is unlawful will first require proof that the donor is a lobbyist under city law. (ROH Sec. 3-13.2 defines "lobbyist.") The donor will have to fit the definition of a "lobbyist" before her/his gift could be found unlawful.

Thank you for considering this important amendment.

Should you or your staff have any questions, please contact me.

Chuck

CHARLES W. TOTTO

Executive Director and Legal Counsel

Honolulu Ethics Commission

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THANK YOU.