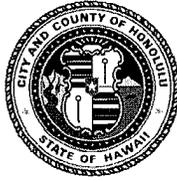


ETHICS COMMISSION  
**CITY AND COUNTY OF HONOLULU**

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**FOR IMMEDIATE RELEASE**

**NEWS RELEASE**

**HONOLULU ETHICS COMMISSION FINDS NO GIFT LAW VIOLATION  
BY MAYOR CALDWELL FOR INAUGURAL LUAU -- BUT RESTRICTS  
FUTURE DONATIONS**

The Honolulu Ethics Commission examined the funds collected and expended by the Mayoral Transition Committee (“Committee”) for costs of (1) the transition from the Carlisle to the Caldwell administrations (\$51,000), (2) the Mayor’s official inaugural ceremony (\$11,000), and (3) the unofficial Luau in Mayor Caldwell’s honor (\$145,000). There are three significant findings in the opinion.

First, the Luau was not a government function and the benefit of the Luau is attributed as a personal gift to Mayor Caldwell. The Mayor received two free tickets as well as the intangible goodwill benefit of the well-attended Luau in his honor. Some of the contributions used for the Luau expenses were prohibited under the ethics laws. A city official may not accept a personal gift if a reasonable person could conclude that the gift is intended to influence or reward the official in discharging his or her city duties.

However, under the circumstances of this case, the Commission concludes “. . . a reasonable person in the Mayor’s position would neither know nor should have known that acceptance of free Luau tickets or the goodwill benefit of the Luau would violate city gift laws. At the time the gifts were received, there were no ethical guidelines or laws in place establishing limits on contributions for [city] inaugural or transitional purposes.”

Second, the Commission concludes that funds contributed to and used by the Committee from 25 of its donors were prohibited gifts under the ethics laws. In determining that the gifts were prohibited, the Commission notes that:

- (a) At least 25 of the Committee’s Donors (the “25 Donors”) had matters pending with the city, including open contracts with city agencies, personal employment or appointments as city officials, or use registered city lobbyists to

represent them. Together these 25 Donors provided \$127,000 or about 33% of all funds donated to the Committee. The one-third contribution for the Luau from the 25 Donors was \$42,000.

(b) The Mayor has the highest and broadest level of fiscal power and discretionary authority possessed by any city official, giving him the latitude to favor or disfavor the interests of the 25 Donors, if he were so disposed.

(c) The public may reasonably perceive that the Mayor is the ultimate beneficiary of the donations and that some contributors are able to effectively donate far in excess of gift law and campaign contribution limits, all of which undermines the public confidence and trust in the Office of the Mayor.

“Government officials are restricted in receiving gifts because of the reasonable concern that gifts to an official may lead to the appearance or reality of preferential treatment by the official to the donor. Preferential treatment is inconsistent with the official’s ethical duty to treat all members of the public fairly and equally,” said the Commission.

To avoid pay-to-play concerns in future contributions either for legitimate government transition expenses or unofficial inaugural celebrations, safeguards will be required to protect the integrity of government. These protections include:

- (a) Public disclosure of the amounts and source of each donation and the reasons for and amounts expended for each purpose or project;
- (b) Prohibit asking any current or prospective city officer or employee to solicit or make contributions; and
- (c) Require each contributor to affirm he or she is not a registered city lobbyist and has no pending or predictable future business, proposals or transactions before the city in which the incoming administration is likely to be involved.

Gifts to a new mayor that do not follow the guidelines described in the opinion may be unlawful and prohibited.

In its third point, the Commission holds that Committee funds used to support legitimate government purposes – in this case the transition between the Carlisle and Caldwell administrations and the official inaugural ceremony – are gifts to the city. As a result, the Committee and the Office of the Mayor were required to submit the gifts to the Council for vetting.

The opinion is lengthy because the Commission carefully examines the public concern that at least the appearance of preferential treatment arises from large individual or aggregate personal gifts to a mayor from donors with business, financial or personal interests that may be affected by the mayor or his/her administration.

Advisory Opinion No. 2013-3 is available at:

**<http://www1.honolulu.gov/ethics/>**

The Commission speaks through its advisory opinions and staff is not allowed to comment on an opinion. Questions about the Commission or its process may be directed to Chuck Totto, Executive Director and Legal Counsel, at [ctotto@honolulu.gov](mailto:ctotto@honolulu.gov) or 768-7786.