

# **WELCOME TO THE ETHICS COMMISSION MEETING**

*Please sign in at the testimony table.*

*As a courtesy, please silence your cell phone.*



Date: October 16, 2019  
Time: 11:30 a.m.  
Place: Kapālama Hale  
925 Dillingham Boulevard  
Conf. Rm. 153, 1<sup>st</sup> Floor

## **ORDER OF BUSINESS**

### **I. Call to Order, Public Notice, Quorum**



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## II. NEW BUSINESS

### A. Chair's Report

1. Announcements, Introductions, Correspondence, and Additional Distribution
2. For Action: Approval of Open Session Minutes of August 21, 2019



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## II.B. EXECUTIVE DIRECTOR AND LEGAL COUNSEL'S (EDLC) REPORT

1. Staff Work Reports Summary
  - Legal Clerk III (TA)
  - Investigator
  - Associate Legal Counsel



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### **II.B.1. STAFF WORK REPORTS–HIGHLIGHTS LEGAL CLERK III (TA)**

- Prepping meeting minutes, materials; processing intake, UIPA requests, disclosures, other forms
- Processing pCard
- Assisting investigations
- Managing front-office, phones, inventory
- Assisting with newsletter, training, outreach



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### **II.B.1. STAFF WORK REPORTS – HIGHLIGHTS INVESTIGATOR**

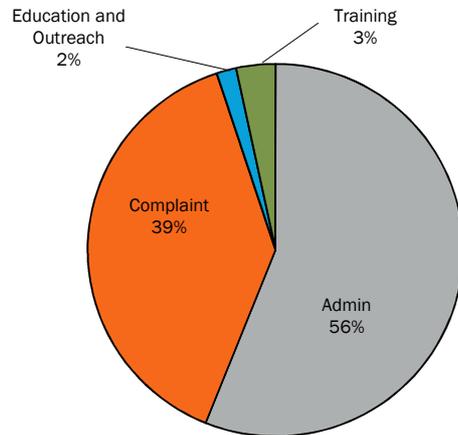
- Managing case load, attending case management meetings
- Assisting with case processing, procedures
- Assisting with Twitter, newsletter, online training, outreach
- Attended training – personality style code-breaker, Part 2 (B.A.N.K.)



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## II.B.1. STAFF WORK REPORTS SUMMARY INVESTIGATOR



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## II.B.1. STAFF WORK REPORTS - HIGHLIGHTS ASSOCIATE LEGAL COUNSEL

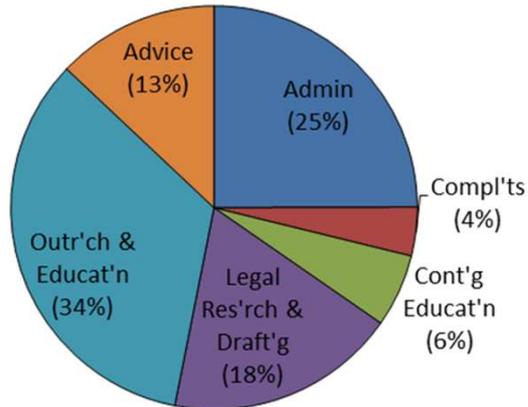
- Training/outreach – new biennium curriculum done, working w/ IT to launch, finalize public interface; newsletter; Twitter content; other
- Legal research, handling requests for legal advice
- Leading case management meetings; creating case SOPs, templates, Adv. Opin. compendium index
- Investigating, prosecuting cases, training INV, LC III
- Financial disclosures legislation drafted; conducting multi-jurisdictional research for EC law, other revisions



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## II.B.1. STAFF WORK REPORTS SUMMARY ASSOCIATE LEGAL COUNSEL



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## II.B.2 STATISTICS

### a. Website Sessions

- August 2019 – 380
- September 2019 – 386



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## II.B.4. EDUCATION AND OUTREACH

### a. Ethics Training Program (FY19–FY20)

- Challenge – City IT Dept. personnel changes
- Biennial online curriculum done, but DIT finalizing, launch pending
- DIT finalizing platform to host board, commission member training for non-domain (private) users



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## II.B.4 EDUCATION AND OUTREACH (cont'd)

- ### b. Twitter – Facebook pros/cons, resources needed
- ### c. E-Newsletter
- Guidance on Honolulu City Lights fundraising sent – August 2019
  - Emailed to City officers, employees; posted on Twitter, website



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## II.B.5. LEGISLATION – CITY ETHICS LAWS

d. For Discussion:

City ethics laws

- i. Clarify who can initiate a complaint
- ii. Clarify definition of “confidential”



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## II.B.5. LEGISLATION – CITY ETHICS LAWS

Revised Charter of Honolulu (RCH) - § 11-107

Revised Ordinances of Honolulu (ROH)

§ 3-6.3(j)

§ 3-6.7(a)

§ 3-6.11

§ 3-6.12



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## II.B.6. EDUCATION OPPORTUNITIES

- a. *Ethics in Hawai`i* Conference (Sept. 5, 2019) – Report
- b. Common Cause (Sept. 5, 2019), *Ethics in Hawai`i Under Siege?* – Report



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## II.B.6. EDUCATION OPPORTUNITIES

- c. Society of Corporate Compliance and Ethics (SCCE) 18<sup>th</sup> Annual Compliance & Ethics Institute 2019 (Sept. 15-18, 2019) – Report
- d. Council on Governmental Ethics Laws (COGEL) 41<sup>st</sup> Annual Conference (Dec. 15-18, 2019), Chicago Marriott Downtown, Chicago, IL – 4 Commissioners, staff attending



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### III. EXECUTIVE SESSION DETERMINATION

- A. For Discussion and Action:  
Whether the EC should exercise its discretion to consider the EDLC's evaluation in an executive session where consideration of matters affecting privacy will be involved



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### IV. EXECUTIVE SESSION

- A. For Discussion:  
EDLC Annual Evaluation (FY19)



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## IV. EXECUTIVE SESSION

### B. For Discussion:

Request for a formal advisory opinion – should the EC amend the gift guidelines to prohibit city officers and employees from accepting gifts from persons doing business with their city agency, regardless of the value of the gift



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## IV. EXECUTIVE SESSION

### C. For Discussion:

May the EC:

1. Create a permitted interaction group (PIG) for community outreach, media response
2. Delegate 1 Cmmr to speak for the EC



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## IV. EXECUTIVE SESSION

### C. For Discussion:

May the EC (*cont'd*):

3. Respond to a complainant who would like to discuss their case in open session
4. Notice on its agenda and consider “matters affecting privacy” in executive session



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## V.A. STRATEGIC PLANNING – EC 2027

### 1. For Discussion and Action:

Delegation of authority by the EC to  
EC’s investigator to self-initiate  
investigations on behalf of the EC



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## V.A. STRATEGIC PLANNING – EC 2027

### 2. For Discussion and Action:

Community Outreach Plan (DRAFT);  
whether the EC may form a permitted  
interaction group (PIG) for community  
outreach, media response



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## VI. ADJOURNMENT

Request to reschedule December meeting  
Proposed meeting date: Wed, Nov. 20, 2019

- A. For Discussion and Action:  
**Reserved** Meeting Date: Nov. 13, 2019
- B. For Discussion and Action:  
**Scheduled** Meeting Date: Dec. 18, 2019  
(conflicts with COGEL; 4 cmmrs, staff attending)



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## 2020 MEETING DATES (PROPOSED)

Scheduled Meeting Dates	Reserved Meeting Dates
	January 15, 2020
February 19, 2020	March 18, 2020
April 15, 2020	May 20, 2020
June 17, 2020	July 15, 2020
August 19, 2020	September 16, 2020
October 21, 2020	November 18, 2020
December 16, 2020	



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## VI. ADJOURNMENT

*Aloha and Mahalo for Attending*

Website: [www.honolulu.gov/ethics](http://www.honolulu.gov/ethics) Email: [ethics@honolulu.gov](mailto:ethics@honolulu.gov)

 Twitter: @HonEthicsComm



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**ADJUDICATORY MATTER**

**1. EC Nos. 14-284-A, 14-284-B**

*(not part of sunshine meeting)*



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**Agenda Item II.B.4.c.,  
Page 2  
[E-Newsletter Honolulu City  
Lights]**

Happy Early Ethical Holidays! Yes, 2019 Honolulu City Lights (HCL) fundraising has begun! This year, Elfie the Ethics Elf partnered with Paz the Ethical Pumpkin to bring you some fundraising guidance. Here are Elfie's pointers for ethical holiday fundraising.

- Fundraise to pay for HCL decorations
- Limit fundraising events to city officers and employees
- Items for sale should not promote or advertise private companies
- Apply leftover monies to next year's HCL decorations

Elfie also answers fundraising questions — here are some of them.

Q: May City departments fundraise for HCL?

A: **YES**, the Mayor designated HCL as a "project with a community-wide benefit" so departments may use city resources to hold fundraisers to pay for HCL supplies and decorations. Departments usually use such funds for department Christmas trees in Honolulu Hale and Kapolei Hale.

Q: Our fundraiser is really successful and we have lots of money left over after we decorate our tree. Can we use this money for our department holiday party?

A: **NO**, you may not use HCL funds for your department holiday party. You may separately fundraise within your department for your department party, but not as part of HCL fundraising.

Q: We're so excited, a well-known designer offered to donate a decorated tree to our department! We want to display this tree in Honolulu Hale as our department's tree. Can we do this?

A: **YES, PROVIDED** you follow these steps. The department should accept the tree and its stated value by City Council resolution. The tree may not display the designer's name or other identifying logo. The designer may decorate the tree, but their time, decorations, and other tree items must be included in the stated value.

If you have questions about Honolulu City Lights fundraising, contact the Ethics Commission p: 768-9242 e: [ethics@honolulu.gov](mailto:ethics@honolulu.gov)

*Happy Early Ethical Holidays!*



# **Agenda Item II.B.5.,**

## **Page 2**

**[Revised Charter of Honolulu  
& Revised Ordinances of  
Honolulu (excerpts only)]**

## **Item II.B.5. Legislation**

### **Revised Charter of Honolulu (RCH), Revised Ordinances of Honolulu (ROH) (excerpts only)**

#### **RCH Section 11-107. Ethics Commission –**

There shall be within the department of the corporation counsel for administrative purposes only an ethics commission which shall consist of seven members. The commission shall be governed by the provisions of Section 13-103 of this charter. In accordance with the prohibition in Article XIV of the Constitution of the State of Hawaii, the members of the ethics commission shall be prohibited from taking an active part in political management or in political campaigns.

The commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties. Such staff and consultants may include attorneys who may advise the commission independently of the department of the corporation counsel. All staff positions shall be exempt from the provisions of Chapter 11 of Article VI of this charter, but such staff positions, except the position of executive director and staff attorneys, shall be included in the position classification plan. The executive director shall be an attorney qualified to practice law in the State of Hawaii. The salaries of the executive director and any staff attorneys of the ethics commission shall be set by the ethics commission. The salary of the executive director shall not exceed the salary of the first deputy corporation counsel and the salaries of any other staff attorney shall not exceed the salary of the executive director.

The commission is authorized to hold hearings and to conduct investigations concerning the application of this article of the charter and shall have the powers provided in Section 13-114 of this charter.

The commission may, on its own initiative, render advisory opinions with respect to this article of the charter. An advisory opinion shall be rendered

pursuant to a written request of any elected or appointed officer or employee concerned and may be rendered pursuant to the request of any person. The commission shall publish its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of the persons involved.

The commission may impose civil fines established by ordinance against elected and appointed officers and employees of the city with significant discretionary or fiscal power as determined by ordinance, found by the commission to have violated the standards of conduct established by this article of the charter or by ordinance. The commission shall recommend appropriate disciplinary action against officers and employees found to have violated the standards of conduct established by this article of the charter or by ordinance. The appointing authority shall promptly notify the commission of the action taken on the recommendation.

\* \* \* \* \*

**ROH Sec. 3-6.3 Powers, duties and functions. [paragraph (j) only]**

(j) The commission may disclose the name of any officer or employee who has been determined by the commission, following investigation and a hearing or opportunity for a hearing, to have violated any of the provisions of Article 8 of this chapter or of Article XI of the revised charter in accordance with HRS Chapter 92F.

\* \* \* \* \*

**ROH Sec. 3-6.7 Complaints. [paragraph (a) only]**

(a) Any person may submit a written complaint to the commission, which shall be signed by the complainant. The complaint shall relate to an actual situation and shall set forth the pertinent facts if known, including the names of those involved and the nature of the alleged acts or omissions. The commission shall not consider any complaint that is not submitted in writing and signed by the complainant, except that it may consider one initiated by the commission.

\* \* \* \* \*

**ROH Sec. 3-6.11 Definitions.**

As used in this article:

“Advisory opinion” means a written or oral response by the commission or its staff to a request for advice or a complaint.

“Complaint” means a written statement of facts or allegations giving rise to a reasonable inference that a violation of the standards of conduct by an officer or an employee has occurred, which statement is either: (1) submitted to the ethics commission by a person other than the person whose conduct is in question; or (2) initiated by the commission, based on written or non-written information.

“Employee” means the same as defined in Revised Charter Section 13-101.3 and shall include employees of the board of water supply and the Honolulu Authority for Rapid Transportation.

“Formal advisory opinion” means a written opinion in response to a request for advice or a complaint approved by an affirmative vote of the majority of the entire membership of the commission.

“Officer” means the same as defined in Revised Charter Section 13-101.4 and shall include officers of the board of water supply and the Honolulu Authority for Rapid Transportation.

“Request for advice” means a written or oral request to the commission for an opinion whether the conduct of an officer or employee would be a violation of the standards of conduct.

“Standards of conduct” means the provisions regarding ethical conduct stated in Article XI of the Revised Charter and Article 8 of this chapter.

\* \* \* \* \*

**ROH Sec. 3-6.12 Confidentiality of commission records.**

(a) All advisory opinions, files, records, reports, writings, documents, exhibits, electronic records and other information prepared or received by the

commission or its staff or consultants relating to a request for advice or a complaint shall be held in confidence and no information as to the contents thereof shall be disclosed, unless such disclosure is:

- (1) The result of the information being presented to or received by the commission at a hearing or meeting that is open to the public;
- (2) Ordered by a court of competent jurisdiction;
- (3) Reasonably required by the commission, its staff or consultant to investigate or otherwise discharge its duties regarding the request for advice or the complaint, including but not limited to providing information to the appointing authority or council, in the case of a councilmember, in support of the commission's advisory opinion and recommended disciplinary action, unless otherwise protected by law. If disciplinary action is taken against an employee, the employee's exclusive representative shall also be entitled to the information, unless otherwise protected by law; or
- (4) Allowed or required by applicable law.

(b) Any commission member, commission staff member or consultant who discloses information related to a request for advice or complaint, unless disclosure is allowed pursuant to subsection (a), shall be subject to the applicable provisions of Section 11-106 of the Revised Charter and Section 3-8.5.

(c) The disclosures of conflicts of interests as provided in the Revised Charter shall be made matters of public record at any time that such a conflict becomes apparent.

**Agenda Item V.A.2.,  
Page 3  
[DRAFT Community  
Outreach Plan]**

# Letter: Cataluna misleads on work of mayor, city

Oct. 4, 2019

It appears Lee Cataluna is deliberately attempting to mislead the public with her almost daily missives regarding the city and Mayor Kirk Caldwell.

In her latest column (["Sweep leaves beach clean only a matter of hours," Star-Advertiser, Oct. 2](#)) Cataluna derides the city's recent enforcement action against illegal campers at Kuilei Cliffs by stating the mayor "can do nothing about intransigent squatters." If Cataluna had reached out to the city, she would have learned about a new effort to work with volunteer groups to activate park areas and immediately report new encampments to police.

In the same column, Cataluna also said the mayor is developing the shoreline at Waimanalo by building a playfield. In truth, there is no shoreline development, as the playfield is on the mauka side of Waimanalo Bay Beach Park and the mayor has stated repeatedly the project will stop after the playfield is finished.

**Andrew Pereira**

*Communications director for Mayor Kirk Caldwell*

*City and County of Honolulu*

[Click here to read more Letters to the Editor.](#)



Sponsored Content

## How Will You Partner With Your PsA Specialist?

By [AbbVie](#) - Find out how a real PsA patient teamed up with her doctor to find treatment that works for her.

**Ethics Commission Community Outreach Plan**  
Draft 7/20/19

Note: Topics, Venues and Authors/Speakers to be matched.

**Goals**

- To communicate the role, scope and limitations of the Ethics Commission
- To reassure the public that the commission will do the right thing
- Increase visibility of the commission which hopefully will result in an increased budget to perform duties

**Possible Topics**

- Proposed Strategic Plan
- General information on the Commission's Duties
- Specific facts about Chuck Totto case
- Update on pending Kealoha matters
- Update on Lincoln Ashida, Barbara Petrus matters
- Streamlining of lobbyists filing

**Possible Venues**

- Letter to the Editor – Star-Advertiser, Civil Beat, PBN, Hawaii Business
- Opinion Piece – Star-Advertiser, Civil Beat, PBN, Hawaii Business
- Editorial Board meeting - Star-Advertiser, Civil Beat, PBN, Hawaii Business
- PBS - Insights
- Segment on television morning shows
- Online responses
- Speakers Bureau – such as Rotary Clubs, Lions Clubs, Soroptimists, etc.
- Our website
- Our newsletter
- A letter to those who have filed complaints

**Authors/Speakers**

- Jan as head of staff
- Victoria Marks as Chair
- Mike Lilly as Vice Chair
- Riki Mae Amano as a longstanding commissioner
- All commissioners