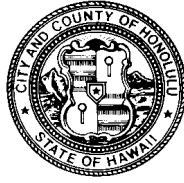


**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

925 DILLINGHAM BOULEVARD, SUITE 190 • HONOLULU, HAWAII 96817
PHONE: (808) 768-9242 • FAX: (808) 768-7768 • EMAIL: ethics@honolulu.gov • INTERNET: www.honolulu.gov/ethics



RICK BLANGIARDI
MAYOR

JAN K. YAMANE
EXECUTIVE DIRECTOR
AND LEGAL COUNSEL

March 30, 2022

VIA EMAIL: [REDACTED]

[REDACTED]

RE: EC Case No. 22-176; Concern received November 18, 2021

Dear [REDACTED],

Thank you for submitting a concern/intake form to our office dated 11/18/2021 wherein you allege that Dean Uchida, Director of the Department of Planning and Permitting ("DPP") has a financial conflict of interest on Bill 41 (2021) due to his wife's employment with Aqua Aston Hospitality, LLC.

We have completed our investigation including witness interviews, document review, and legal research, and concluded that there is most likely insufficient evidence to find any violation of the city's ethics laws as to this issue.

To arrive at this conclusion, we specifically reviewed relevant law (Revised Ordinances of Honolulu Secs. 3-8.1; 3-8.2(a)); interviewed Director Uchida ("Dir. Uchida"), his spouse, and other DPP officials; reviewed documents and information, including City Council and Planning Commission records and information received from Dir. Uchida and his spouse, including their present and prior financial disclosures; and researched Bill 41. We also conducted legal research, including review of Hawaii State Ethics Commission Advisory Opinion No. 2019-1 and Honolulu Ethics Commission Advisory Opinion Nos. 161 and 2011-7. In particular, we researched past precedent interpreting what constitutes "official action," "directly affecting," and "substantial financial interest." The law prohibits city officers and employees from taking any official action directly affecting a business or matter in which such person has a substantial financial interest. ROH Sec. 3-8.2(a).

Based on our review of information and research, we conclude that Dir. Uchida would not be taking any official action that would directly affect a substantial financial interest. Although the planning director's job duties include preparing zoning ordinances, maps and rules and regulations and any amendments, it is the Planning Commission that holds hearings and make recommendations through the mayor to city council for consideration and action. Further, upon review of Dir. Uchida's spouse's employment, we conclude that the terms and conditions of his spouse's employment is not dependent on whether Bill 41 passes or not. Thus, Dir. Uchida has an indirect financial interest in the hotel industry that is not in violation of the city's

Letter to [REDACTED]
March 30, 2022
Page 2

ethics laws.

In conclusion, we recommended that Dir. Uchida delegate Bill 41 responsibilities to others on his staff and recuse himself from any further participation in an abundance of caution to avoid even an appearance of a conflict of interest. As a result, Director Uchida has filed a Disclosure of Conflict of Interest Statement, and has recused himself from Bill 41 matters ever since. A copy of the Disclosure of Conflict of Interest is attached hereto for your reference.

Your request of anonymity was maintained throughout the course of the investigation. Please know that strict confidentiality to the details of this case will continue to be maintained by this office and we will not be able to divulge specifics of the investigation.

Thank you for taking the time to raise your concerns with us. If you have any questions, please contact us

This staff opinion is based on the facts and circumstances presented to us. If the material facts are not as stated or changed, the opinion may no longer be valid and you should contact the Commission. In addition, the opinion is based on staff's understanding of the ethics laws and prior Commission opinions. If you disagree with the staff opinion, you may request a review by the Commission itself. If a review is requested, submit the request in writing stating the reasons why you believe the staff opinion is in error. The request should be made within 15 days of the opinion.

Sincerely,
Wong-Nowinski,
Laurie A
Laurie Wong-Nowinski
Asst. Executive Director and Legal Counsel

Digitally signed by Wong-Nowinski, Laurie A
Date: 2022.03.30 15:18:35 -10'00'

Attachment

DISCLOSURE OF CONFLICT OF INTEREST STATEMENT

TO: ETHICS COMMISSION

FROM:

Dean Uchida

Director

Name

Position

Department of Planning and Permitting

768-8000

Agency, Board or Commission

Telephone

OFFICER, EMPLOYEE OR MEMBER OF BOARD OR COMMISSION COMPLETES

1. §11-103, Revised Charter of Honolulu, requires an elected or appointed officer or employee to disclose in writing any interest he or she possesses or acquires that might reasonably tend to create a conflict with the public interest. Please be advised that I have the following business, financial or personal interest:

My wife works for Aqua-Aston. I have disclosed this in my financial disclosure form.

2. I have the following duties or responsibilities to the City that are related to the above interest:

I am involved in the preparation of Bill No. 41 Relating to Transient Accommodations, but not involved in the actual decision making on the bill.

3. The following matter is before this agency, board or commission and is related to the above interest:

Bill No. 41 Relating to transient accommodations is before the Honolulu City Council. Final decision making has not been scheduled by the Full City Council.

4. a. A decision on this matter will take place, or took place, on NOT YET SCHEDULED

- b. I participated, or plan to participate, in the decision making process on this matter. ✓

I did/will not participate in the decision making process on this matter. _____

5. I request advice from the Ethics Commission regarding this matter. _____

I FILE THIS DISCLOSURE OUT OF AN ABUNDANCE OF CAUTION.

January 25, 2022

Date

Signature

ETHICS COMMISSION COMPLETES

1. The facts disclosed do not indicate a conflict of interest exists.

2. The facts disclosed indicate a conflict of interest exists because:

- X 3. The Ethics Commission recommends:

The facts disclosed indicate a potential conflict of interest. Research pending. Recommend
recusal if possible until research complete.

Wong-Nowinski, Laurie A

Digitally signed by Wong-Nowinski,

Laurie A

Date: 2022.01.29 10:30:30 -10'00'

For Ethics Commission

cc: Appointing Authority
City Clerk

22MAR23 PM12:31 CITY CLERK

Addendum to Disclosure of Conflict of Interest Statement (Dean Uchida) dated 1/25/22

Upon review, Dir. Dean Uchida, Department of Planning and Permitting (DPP), most likely does not have a financial conflict of interest that would prohibit him from performing his official duties regarding Bill 41. However, there is an appearance of a conflict of interest that could be just as damaging for his and the City's reputation. Accordingly, we recommend that he voluntarily recuse from further participation on Bill 41 before the City Council.

To arrive at this conclusion, we reviewed relevant law (ROH Sects. 3-8.1; 3-8.2(a)); interviewed Dir. Uchida, his spouse, and other DPP officials; reviewed documents and information, including City Council and Planning Commission records and information received from Dir. Uchida and his spouse, including their present and prior financial disclosures; and researched Bill 41. We also conducted legal research, including review of Hawaii State Ethics Commission Advisory Opinion No. 2019-1 and Honolulu Ethics Commission Advisory Opinion Nos. 161 and 2011-7. In particular, we researched past precedent interpreting what constitutes "official action," "directly affecting," and "substantial financial interest."

Based on our review of information and research, we conclude that Dir. Uchida would not be taking any official action that would directly affect a substantial financial interest. Although the planning director's job duties include preparing zoning ordinances, maps and rules and regulations and any amendments, it is the Planning Commission that holds hearings and make recommendations through the mayor to city council for consideration and action. Further, upon review of Dir. Uchida's spouse's terms and conditions of employment, we conclude that his spouse's employment is not dependent on whether Bill 41 passes or not. Thus, Dir. Uchida has an indirect financial interest in the hotel industry.

Despite our conclusions, the Honolulu Ethics Commission has long held that city officials must avoid even an appearance of a conflict of interest. Further involvement in Bill 41 hearings could risk the director's, department's, and city's integrity. In conclusion, we recommend that Dir. Uchida delegate Bill 41 responsibilities to others on his staff and recuse himself from any further participation.

Ethics Commission internal references - EC Nos. 22-166, 22-169, 22-170, 22-171, 22-176

**Wong-
Nowinski,
Laurie A**

Digitally signed by
Wong-Nowinski, Laurie
A
Date: 2022.03.22
17:22:07 -10'00'