

*LAW OFFICES OF  
LESLIE K. ICZKOVITZ*  
1215 S. Kihei Road, Ste. 0, # 815  
Kihei, Hawaii 96753  
808.523.8449  
les.iczkovitz@gmail.com

November 11, 2025

Lauren Akitake, Executive Director / Legal Counsel  
Maui Board of Ethics  
Via email to boardofethics@mauicounty.gov

Re: Ethics Complaints vs. Tom Cook, Violations of Hawaii Sunshine Law by Maui Board of Ethics, Conflicts of Interest of Maui Corporation Counsel and October 8 Board of Ethics Hearing

Dear Ms. Akitake,

This letter is an amendment to the Ethics Complaint which I filed against Tom Cook with the Maui Board of Ethics. I sent a similar letter to you over a month ago, and I received no response from you.

This letter sets forth the detailed history of the above-referenced issues. Please include this letter and attachments in the board packet which you distribute to the Board Members of the Maui Board of Ethics prior to the October 8 MBOE meeting. This is the detailed history which future courts will review if the MBOE rejects the complaint that I filed against Tom Cook with the MBOE on June 30, 2025. This letter sets forth a new complaint that I am asking the MBOE to review, evaluate and enter into decisions upon

**I. THE MAUI BOARD OF ETHICS ONCE AGAIN VIOLATED THE HAWAII SUNSHINE LAW BY INADEQUATELY GIVING NOTICE TO THE PUBLIC OF ALL OF THE ITEMS IN EXECUTIVE SESSION IN THE NOVEMBER 12 AGENDA**

In the November 12 BOE Agenda, the BOE lists six items to be heard in Executive Session. I hereby request that I receive copies of all six of these agenda items and their related documents. The Agenda does not disclose sufficient information regarding any of these six items for me or other members of the public to decide whether to give testimony regarding each of these Agenda items. The November 12 BOE Agenda clearly violates the Hawaii Sunshine Law.

**II. IS TOM COOK STILL EMPLOYED BY LC HAULING?**

I have written an email to Tom Cook asking him if he is still employed by LC Hauling, He has not responded to my email. I asked Lauren Akitake if the Board of Ethics has been informed by Tom Cook that he is no longer employed by LC Hauling. Ms. Akitake refused to answer my question. There has been no public announcement by Mr. Cook, so I suspect he is still receiving his monthly consulting fee from LC Hauling. This would mean he still has a financial interest in the company. I suspect that Tom Cook decided to spread the rumor that he had resigned from his consulting job, by having the owner of LC Hauling tell a reporter that Tom Cook had resigned his position. The reporter published the statement without receiving any confirmation from Mr. Cook that he had actually resigned from his consulting job. I am asking the Board of Ethics to investigate whether Tom Cook has resigned or is still employed by LC Hauling. If Tom Cook is responsible for spreading a false rumor to “take the heat off of him”, this would be a separate violation of the Code of Ethics.

**III. THE AGENDA ITEM FOR MY ETHICS COMPLAINT AGAINST TOM COOK DOES NOT DISCLOSE THAT TOM COOK IS THE MAUI COUNTY EMPLOYEE NAMED IN THE ETHICS COMPLAINT, WHICH IS IN VIOLATION OF THE HAWAII SUNSHINE LAW**

Agenda Item 4 (ii)(1) includes what appears to be the complaint I filed against Tom Cook. I did not receive any emails from the MBOE that my complaint had been rescheduled and which Agenda Item was for my complaint. I object to the failure to give me proper written notice

Tom Cook waived confidentiality when he submitted a written request asking for an Advisory Opinion from the MBOE regarding his consulting job with LC Hauling. In my legal opinion, any and all information which Tom Cook has voluntarily disclosed to the public, is relevant to the issues in the Ethics Complaint which I filed. None of the information Tom Cook disclosed to the public is currently confidential. My ethics complaint and subsequent amendments to my complaint, do not include anything that is currently confidential regarding Tom Cook. I object to my complaint against Tom Cook being heard in executive session. I am asking that I be allowed to question Tom Cook or his representative if he shows up at the November 12 BOE Meeting, either publicly or in executive session.

In order to comply with the Hawaii Sunshine Law, the November 12 Agenda was required to specify that Tom Cook is the subject of the ethics complaint that I filed. In order to give the public, the information they needed to decide whether to testify regarding my ethics complaint, the BOE should have included a link to all documents possessed by the BOE, which I have submitted to the BOE, since none of these documents include any confidential information.

The following legal analysis has been well-researched. I am asking the BOE's Legal Counsel, Ms. Akitake perform the necessary legal research and fully respond with a legal response to the points made in this letter.

Case law is clear that the Maui County Ethics Commission may include public details from a councilman's advisory opinion request in the agenda describing a new ethics complaint against the councilman, provided certain conditions are met. The relevant legal framework includes the confidentiality provisions of the Hawai'i Revised Statutes (HRS) and the Sunshine Law governing public meetings.

### **Public Disclosure of Ethics Complaints and Related Information**

HRS § 84-31(c) provides that once the ethics commission issues a notice of hearing regarding a charge, the charge, the statement of alleged violation, and the alleged violator's written response become public records. Additionally, hearings are required to be open to the public, and the commission's findings and decisions after a hearing are public records HRS § 84-31. This indicates that information related to the new ethics complaint, including the agenda describing the complaint, may be disclosed publicly once the commission has issued a notice of hearing.

### **Disclosure of Information Under the Uniform Information Practices Act (UIPA)**

HRS § 92F-14(b)(4) recognizes a significant privacy interest in information contained in an agency's personnel file or related to employment misconduct. However, this privacy interest may be outweighed by the public's interest in disclosure under HRS § 92F-14(a); HRS § 92F-14. If the public details from the councilman's advisory opinion request are deemed to have a significant privacy interest, the commission must balance this interest against the public's interest in disclosure. If the public interest outweighs the privacy interest, the information may be disclosed.

### **Considerations for Including Public Details in the Agenda**

The commission must consider whether the public details from the councilman's advisory opinion request are relevant to the new ethics complaint and whether their disclosure serves the public interest. If the councilman has waived confidentiality regarding the advisory opinion request, the commission may include these details in the agenda.

In summary, the inclusion of public details from the councilman's advisory opinion request in the agenda for the new ethics complaint is permissible if the councilman has waived confidentiality or if the commission determines that the public interest in disclosure outweighs any privacy concerns. The commission must also adhere to the requirements of the Sunshine Law and UIPA in making its decision. My opinion is that due to the BOE Sunshine Law Violations regarding the Agenda of the November 12 BOE Meeting, none of the decisions made by the MBOE at the November 12 meeting will be legally valid or binding.

## **IV. SUMMARY OF HISTORY OF ETHICS COMPLAINTS FILED AGAINST TOM COOK**

This letter, and the documents previously submitted to the Maui Board of Ethics with my prior correspondence, provide the MBOE with many details of the accusations and ethics complaints that have been made regarding:

a. Maui County Councilmember Tom Cook's violations of the Maui Code of Ethics from 2023 to the present, by me and another Maui resident;

b. an apparent years-long pattern of intentional and continuing violations of the Hawaii Sunshine Law by the Maui Board of Ethics when it publishes its meeting agendas; and,

c. conflicted legal advice which has been provided, and continues to be provided by the Maui Corporation Counsel to the Maui Board of Ethics.

I previously provided documents which confirm most if not all of the statements made in this letter. All of the correspondence, complaints and other documents which I have submitted to the Maui Board of Ethics and Office of Information Practices have been solely on my personal behalf. None were submitted on behalf of any organization of which I am a member. I do not legally represent any non-profit organizations in Hawaii.

## **V. TOM COOK ELECTORAL AND WORK HISTORY WITH LC HAULING**

According to his campaign web site, Tom Cook has been a fulltime resident of Maui County since 1971, and spent fifty years in the local construction industry. Cook lost to Kelly King in the 2020 election for the south Maui county council seat. From 2019 to 2022, Maui County council members who opposed development held a majority on the council. Numerous affordable housing projects were approved by the Maui County Council during this period.

Then, in 2022, council members Kelly King and Mike Molina gave up their safe Maui council seats to unsuccessfully run for Maui of Maui. Tom Cook defeated water expert Robin Knox in the 2022 election for the south Maui council seat held by Kelly King, and Nohelani U'u-Hodgins defeated Nara Boone for the Makawao seat, formerly held by Mike Molina. The result of that election was that the pro real estate development council members became a 5-4 majority on the County Council, as of January 2023.

In 2024, Tom Cook defeated Kelly King for the South Maui seat, by 97 votes, and U'u- Hodgins again defeated Nara Boone for the Makawao seat. The results of the 2024 election maintained a 5-4 pro-development county council majority which continues to this date. Since 2023, the current Maui Council have approved multiple real estate development projects in South Maui, including Ledcor and Honua'ula in Wailea, which many dozens of south Maui residents have testified against in hearings. Some of these approvals are currently being challenged in Court by Maui Tomorrow and

other organizations. Real estate developers are seeking approval to build over 6,000 new luxury residences for millionaire and billionaire who spend at most two weeks per year on Maui.

Prior to his 2022 election, Cook was collecting unemployment from the State of Hawaii. (Cook publicly admitted to this). Cook has not been a Hawaii licensed contractor since a number of years before 2022. (Year last licensed is unknown). Soon after he was elected to the Council in 2022, Cook was hired as a consultant by LC Hauling, a Maui Excavation, Grading and Trenching Contractor, and paid at the rate of \$8,000 per month, regardless of the number of hours he worked for LC Hauling. Mr. Cook is likely the only very highly paid “consultant” for a construction company in the County of Maui, which historically operate with very tight profit margins.

**VI. HISTORY OF ADVISORY OPINIONS ISSUED BY MAUI BOARD OF ETHICS AND ETHICS COMPLAINTS FILED AGAINST TOM COOK WITH THE MAUI BOARD OF ETHICS**

**A. COOK REQUEST FOR ADVISORY OPINION FROM MBOE**

After he was elected to Maui County Council in November 2022, Tom Cook requested an Advisory Opinion from the Maui Board of Ethics (MBOE) on January 17, 2023. Cook’s Request Letter is attached. Mr. Cook’s request asked the Board of Ethics for an advisory opinion as to whether his position on the County Council created a potential conflict of interest with his work as an independent contractor for LC Hauling LLC. Cook’s letter acknowledged that he was being paid a flat rate of \$8,000 per month, regardless of how many hours he spent providing consulting services to LC Hauling.

Mr. Cook informed the MBOE that LC Hauling provides construction related construction services to private entities and individuals. He also informed the Board of Ethics that “to his knowledge”, LC Hauling does not have any current or pending contracts with County of Maui. He stated that he wanted to make sure that his duties as a member of council did not create an inherent conflict of interest under the code of ethics with his continued work for LC Hauling. Mr. Cook waived his right to have an informal hearing take place privately, in executive session. Mr. Cook did not testify at the public hearing held on Mr. Cook’s request with the MBOE.

Mr. Cook’s request was not placed on the BOE Agenda until seven months later. It was placed on the Agenda for the August 29, 2023 Public Hearing. The Tom Cook request for an Advisory Opinion was listed on the August 29 Agenda, which was likely published on August 22, 2023, seven business days before the public hearing.

Nobody from the public testified on Mr. Cook’s Request for an Advisory Opinion at the August 29 hearing, likely because nobody in the public actually knew about it. Tom Cook did not publicly inform his constituents that his request for an Advisory Opinion from the MBOE had been pending for seven months. This Agenda technically

complied with the Sunshine Law because Mr. Cook's name and request for an Advisory Opinion was published in the MBOE August 29 Agenda.

The transcript of the minutes of the August 29 public hearing is attached. Mr. Cook did not testify or make himself available for questions from BOE members at the August 29 hearing. Mr. Cook had a representative at the meeting who worked for the County of Maui, who did not submit any testimony or answer any questions on Mr. Cook's behalf. Mr. Cook entirely relied upon his written request to receive an Advisory Opinion from the MBOE.

The MBOE also entirely relied upon the written request Cook had submitted. On October 6, 2023, the Board of Ethics issued Advisory Opinion No. 23A-15, solely based upon Mr. Cook's submission. The Board of Ethics held that Mr. Cook's employment with LC Hauling did not create an inherent conflict of interest.

The transcript of the August 29, 2023 MBOE meeting discloses that Caleb Rowe, of the Office of Corporation Counsel, who was officially advising the BOE regarding Mr. Cook's request, was asked by the BOE members what they can do to address Mr. Cook's potential ethical issues. Mr. Rowe directed the BOE in the direction of sending the standard letter Maui County usually sends to people / Maui County employees who have a side business. After some very limited internal discussion, the MBOE agreed to follow Mr. Rowe's legal advice to send the standard letter to Mr. Cook which informed him that he has to recuse himself from any matters that Mr. Cook's company has before the council, and also that he cannot use any inside information he got from his job.

In a dereliction of the legal duties which it owed to the County and citizens of Maui, Maui Corporation Counsel / Caleb Rowe did not inform the members of the MBOE of the following relevant Hawaii statute and Maui Charter provisions:

Maui County Charter Section 10-4 provides:

Prohibitions include:

1. No officer or employee of the county shall: . . .
  - b. Disclose information which, by law or practice, is not available to the public and which the officer or employee acquires in the course of the officer's or employee's official duties or use such information for the officer's or employee's personal gain or for the benefit of anyone.
  - c. Engage in any business transaction or activity or **have a financial interest**, direct or indirect, which is incompatible with the proper discharge of the officer's or employee's official duties or which may tend to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties, or take any official action in which the officer or employee has a direct or indirect financial interest, including participation in deliberation.

g. Use or attempt to use the officer's or employee's official position to secure or grant unwarranted consideration, privileges, exemptions, advantages, contracts, or treatment, for oneself or others.

Hawaii Revised Statutes, Chapter 84, is the Hawaii Code of Ethics which applies to all public employees in the state of Hawaii. HRS 84-3 defines "Financial Interest" as follows:

Financial interest" means an interest held by an individual, the individual's spouse, or dependent children which is:

- (1) An ownership interest in a business.
- (2) A creditor interest in an insolvent business.
- (3) **An employment**, or prospective employment for which negotiations have begun.
- (4) An ownership interest in real or personal property.
- (5) A loan or other debtor interest.
- (6) A directorship or officer ship in a business.

As a paid employee of LC Hauling, Cook undeniably, as a matter of law, held a financial interest in LC Hauling. The Maui MBOE, to this day, has not been officially informed of this undeniable fact.

Corporation Council is officially the legal advisor for all Maui County departments, including the MBOE. Corporation Council legally advised the MBOE regarding Cook's request for an advisory opinion. Corporation Council also officially represents all Maui County employees. Therefore, Corporation Council also represented Tom Cook, as a Maui County employee, at the BOE meeting considering Mr. Cook's request for an Advisory Opinion regarding whether his employment by LC Hauling created a conflict of interest.

In a breach of legal ethics and the Hawaii Code of Professional Responsibility, Corporation Council did not disclose this obvious conflict of interest to the Maui BOE members. Corporation Council also did not disclose that as a matter of state law; Tom Cook held a financial interest in LC Hauling, which was a second breach of legal ethics..

Neither Mr. Cook nor Corporation Counsel disclosed / brought the two statutory provisions above to the attention of the members of the Maui Board of Ethics, at its Public Hearing held on Mr. Cook's request for an Advisory Opinion held on August 29, 2023. It is likely that the MBOE will not be officially notified of this conflict of interest, and that Tom Cook, by statutory definition, held a financial interest in LC Hauling, by its legal counsel, Ms. Akitake or by Corporation Counsel.

My legal opinion, and the opinion of most attorneys who do not represent Tom Cook, is that this dual representation created an impermissible conflict of interest on the part of Corporation Counsel pursuant to Hawaii law, the Maui County Charter, and the Hawaii Code of Professional Responsibility. If Corporation Counsel had been acting as

independent legal counsel to the Board of Ethics regarding the Tom Cook request for an advisory opinion, it would have been required to do legal research. If Corporation Counsel had performed legal research on the issue, the two statutory provisions would have been discovered, and Corporation Counsel would have been required to disclose the above two statutory provisions to the MBOE. Corporation Counsel failed to do so, in a dereliction of its legal duties owed to the County and citizens of Maui.

The MBOE issued an Advisory Opinion that Mr. Cook did not have a conflict of interest, solely based on the incomplete information which Mr. Cook had provided to the MBOE in his written request, and based on the conflicted, incomplete legal advice it received from Maui Corporation Counsel.

## **B. JOHAN LALL COMPLAINT VS. TOM COOK**

Johann Lall submitted a separate ethics complaint against Tom Cook on January 15, 2024. Mr. Lall alleged that Respondent violated sections 10-4.1.c, 10-4.1.g, and 10-4.4 of the Revised Charter of the County of Maui (Charter) based on Respondent's employment as a consultant with LC Hauling. A copy of Mr. Lall's complaint is attached. This complaint raised the issue that construction companies on Maui are regulated by the Maui County Council. Mr. Lall asserted that it is a conflict of interest for a councilman to be employed by a company in an industry which is regulated by the Maui county council. Mr. Cook chose to have Mr. Lall's Complaint discussed by the Board of Ethics in private, in executive session. Mr. Cook could have chosen to have this complaint discussed in a public hearing.

When Mr. Lall's complaint was included as item 3.a in the Executive Session part of the Agenda of the August 14, 2024 Board of Ethics meeting, Tom Cook's name was not mentioned anywhere in the Agenda. This was an apparent intentional violation of the Sunshine Law. There was no possible way for the public to be aware that Mr. Lall had submitted a new ethics complaint against Mr. Cook, which actually raised issues that had not been previously raised in the Board of Ethics discussions regarding Tom Cook, which would be heard by the BOE on August 14.

Mr. Cook apparently was the only person who testified in person at the August 14 hearing in the Executive Session. Because Mr. Lall's complaint was only discussed in Executive Session on August 14, 2024, there are no minutes to confirm what Mr. Cook testified to, or what issues were discussed regarding Mr. Lall's complaint, or what Corporation Counsel advised the Board of Ethics. What we do know, is that once again Corporation Counsel did not inform the MBOE of the two relevant statutory provisions set forth above.

Mr. Cook testified in person at the August 14 hearing. Because Mr. Lall's complaint was only discussed in Executive Session on August 14, 2024, there are no minutes available to the public, to confirm what Mr. Cook testified to, or what issues

were discussed, or what Corporation Counsel advised the Board of Ethics regarding Mr. Lall's complaint.

Unlike the hearing held on Mr. Cook's request for an Advisory Opinion, Mr. Cook did not waive his right to have the Board hear the Johan Lall complaint filed against him in public. Therefore, the Board conducted an informal hearing on the complaint during the executive session of its August 14, 2024 meeting.

This is the Summary of Facts which was the entire record which the MBOE considered in the executive session regarding Mr. Lall's complaint:

Tom Cook is a member of the Maui County Council, where he acts as the Chair of the Water and Infrastructure Committee. Mr. Cook also works as a consultant for LC Hauling LLC, where he provides construction-related consulting services. LC Hauling LLC provides excavating, grading, and structural concrete construction services to private entities and individuals. Mr. Cook testified that he is not aware of any current or pending projects in which LC Hauling is a contractor or a subcontractor. Respondent further testified that, due to his position, he advises LC Hauling not to enter into contracts with the County, or act as a subcontractor on County projects. Mr. Cook had previously sought an advisory opinion regarding potential conflicts with his position as a member of the Maui County Council and his position as a consultant with LC Hauling. The Board issued Advisory Opinion No. 23A-15 on October 6, 2023.

On September 4, 2024, the Board expanded on its decision in Advisory Opinion No. 23A-15 "to clarify that the advice contained therein applies not only to matters in which LC Hauling may directly contract with the County, but also to matters in which LC Hauling is a potential subcontractor for a County project."

The Board made the following ruling:

"Based on the foregoing provisions of the Maui County Charter and the Rules of the Board, the information contained in the Complaint, the testimony provided by Mr. Cook, and the records and files herein, the Board finds that the complaint fails to raise probable cause that a violation of the Code of Ethics has occurred. Mr. Cook received Advisory Opinion 23A-15. The complaint fails to contain allegations that Mr. Cook did not act in accordance with the opinion. Instead, the complaint expresses disagreement with that opinion and raises hypothetical scenarios. As Mr. Cook is not alleged to have acted in a manner contrary to Advisory Opinion 23A-15, he "shall not be held liable for violating any provisions" of the Code of Ethics pursuant to Section 10-2.5 of the Charter."

However, based on concerns raised in Mr. Lall's complaint, on September 4, 2024, the Board elected to issue an advisory opinion pursuant to Rule 04-101-65 of the Rules of Board in order to expand on its decision in Advisory Opinion 23A-15 to clarify that the advice contained therein applies not only to matters in which LC Hauling may directly contract with the County, but also to matters in which LC Hauling is a potential subcontractor for a County project.

In my legal opinion, and the legal opinion of other attorneys, the Board's decisions on Mr. Cook's Advisory Opinion and Mr. Lall's complaint, were legally incomplete, inaccurate and invalid. The conclusion that Mr. Cook did not have a conflict of interest based solely on the alleged fact that LC Hauling did not have any contracts with Maui County is not the key, relevant, decisive fact. The Maui Board of Ethics focused on answered the question which Mr. Cook requested the MBOE to answer. Mr. Cook asked the MBOE the wrong question. The MBOE did not ask the key questions which should have been based upon the Hawaii Statute and the Maui Charter provision set forth above, because Corporation Counsel failed to give the MBOE independent, unconflicted legal advice.

The two critical statutory provisions set forth above, has never been disclosed to the MBOE by Mr. Cook or the Corporation Counsel. Neither before the BOE issued either Advisory Opinion it issued, which allegedly cleared Mr. Cook of alleged ethical violations arising from his employment by LC Hauling, and his receipt of a \$96,000 annual salary from the company, or subsequently. This absence / failure to disclose this vital information to the MBOE, rendered the BOE opinion to be legally invalid and woefully inadequate. Therefore, the BOE prior Advisory Opinions are not definitive or precedent-setting on the issue as to whether or not Mr. Cook has violated the state or county ethics laws with his employment by LC Hauling.

Corporation Counsel is officially the legal advisor to the Board of Ethics. Corporation Counsel is also officially the legal advisor for all Maui County employees including Tom Cook. If Corporation Counsel had done the independent legal research it was legally and ethically required to conduct, it would have discovered the case law that I found, which I cited, and extensively discussed in the Ethics Complaint which I submitted to the BOE on June 30, 2025.

The case law concludes, overwhelmingly, that Cook's employment by LC Hauling created an impermissible appearance of impropriety. The Mayor appoints the Corporation Counsel, and the office always does exactly what the Mayor wants them to do. This is Corporation Counsel's priority, rather than giving independent legal advice which is in the best interests of the County and citizens of Maui. Since the BOD was not given independent legal advice, and it was not informed about Tom Cook's undeniable financial interest in LC Hauling, the BOE's issued opinions were invalid, and created no precedent. Mr. Cook did not testify at the August 29, 2023 BOE hearing. He entirely relied upon his letter requesting the Advisory Opinion. This made it impossible for the members of the Board of Ethics to ask Mr. Cook any questions.

Hawaii law specifically states that by virtue of his \$96,000 salary, Mr. Cook had an undeniable financial interest in LC Hauling. Being named as a consultant instead of an employee does not change the reality that LC Hauling employed Tom Cook and that he was paid a very large salary by a construction company which is regulated by the Maui County Council. The Board of Ethics did not receive independent legal advice from Corporation Counsel due to Corporation Counsel's inherent, apparent, and undeniable conflict of interest.

The MBOE was never made aware by its official legal advisor that Tom Cook's undeniable appearance of impropriety should have dictated that Tom Cook was required to recuse himself regarding all Honua'ula 670 issues /votes, and all other construction / development matters which were brought before the County Council. The fact that Tom Cook was the deciding vote in favor of the approval of Wailea / Honualua 670 last month, and the fact that he had an undeniable conflict of interest for the reasons stated above, means that a court in the future will likely set aside and void the Council's vote approving the changes in law set forth in Bills 171 and 172. I predict that the Honua'ula project will eventually be brought to a halt by a future court decision, regardless of the amount of money that the Honualua 670 developers will have spent up to the time of the court decision. Millions of dollars will likely be wasted because Corporation Counsel failed to give independent legal advice to the MBOE.

The MBOE's Advisory Opinions Board's regarding Mr. Cook's alleged ethical violations, were legally invalid. Due to Corporation Counsel's conflict of interest, the BOE was not informed that Cook held a financial interest in LC Hauling, as a matter of Hawaii statute. The BOE also was not informed that the case law is overwhelming in its conclusion that Mr. Cook has a conflict of interest due to an overwhelming appearance of impropriety.

In People v. Honig, 48 Cal.App.4th 289 (1996) the court emphasized that conflict-of-interest statutes are concerned with eliminating temptation, avoiding the appearance of impropriety, and ensuring the government of the officer's undivided and uncompromised allegiance. Mr. Cook's annual salary of \$96,000, for which he votes in favor of every new development project, reeks of apparent appearances of impropriety.

Similarly, in Lexin v. Superior Court, 47 Cal.4th 1050 (2010) the court held that a public official's judgment cannot be trusted if they are pulled in one direction by their financial interest and in another direction by their official duties.

The court in Witt v. Morrow, 70 Cal.App.3d 817 (1977) also noted that a public official's financial interest is not considered remote if it directly affects their pocketbook and is related to their official duties.

The conflict-of-interest statutes are based upon "[t]he truism that a person cannot serve two masters simultaneously". Thomson v. Call, 38 Cal.3d 633 (1985), which is regarded as a "self-evident truth, as trite and impregnable as the law of gravitation...." Stockton P. & S. Co. v. Wheeler, 68 Cal.App. 592 (1924).

Yet it is recognized " 'that an impairment of impartial judgment can occur in even the most well-meaning men when their personal economic interests are affected by the business they transact on behalf of the Government.' " Stigall v. City of Taft, 58 Cal.2d at p. 570, quoting United States v. Mississippi Valley Generating Co, 364 U.S. 520, 549, 81 (1961).

Consequently, our conflict-of-interest statutes are concerned with what might have happened rather than merely what actually happened. They are aimed at eliminating temptation, avoiding the appearance of impropriety, and assuring the government of the officer's undivided and uncompromised allegiance. Thomson v. Call, 38 Cal.3d at p. 648. Their objective “is to remove or limit the *possibility* of any personal influence, either directly or indirectly which might bear on an official's decision....” Stigall v. City of Taft, 58 Cal.2d at p. 569.

In view of the purposes of our conflict-of-interest statutes, it is well established that their scope is not limited to instances of actual fraud, dishonesty, unfairness or loss to the governmental entity, and criminal responsibility is assessed without regard to whether the contract in question is fair or oppressive. People v. Darby, 114 Cal.App.2d 412(1952) Thus, it has been repeatedly held that such matters are irrelevant under section 1090; Thomson v. Call,38 Cal.3d at pp. 648–649.

These principles of fact and law undeniably apply to Mr. Cook. Whether or not Mr. Cook has actually voted improperly as a Maui County Council member is irrelevant. The principles of law regarding the appearance of impropriety and assuring the government of the officer's undivided and uncompromised allegiance, as set forth in great detail in multiple cases, require Mr. Cook's immediate recusal from all matters regarding any real estate development projects which come before the Maui County Council. This includes Wailea / Honualua 670, Ledcor / Wailea, and Makena, and all other real estate development projects. Mr. Cook should also be removed as the Chairman on the Water and Infrastructure Committee. This is absolutely, legally necessary. If the MBOE's investigation of Mr. Cook finds actual violations of the ethics law, Mr. Cook will be required to resign from the Maui County Council.

Relevant facts that the Board of Ethics did not previously consider in rendering its prior Advisory Opinions regarding Mr. Cook, include but are not limited to the following:

A. In Mr. Cook's campaign for Maui County Council in 2022, he received political contributions of not less than \$142,059 by October 24, 2022 vs \$40,000 which had been received by his opponent, Robin Knox

B. In Mr. Cook's campaign for Maui County Council in 2024, he received political contributions of not less than \$170,440 by October 21, 2024 vs \$35,000 which had been received by his opponent, Kelly King.

These numbers do not include the amended reports which were filed only after the November 2024 election. It is estimated that the pro-development council members received over \$500,000 in 2024 campaign contributions, and received \$250 million worth of financial benefits / concessions in return.

The overwhelming percentage of the campaign contributions which Mr. Cook received in 2022 and 2024 were contributed to Mr. Cook by entities with direct financial

dependence upon the approval of real estate development projects including construction companies, unions, and realtors.

The 2024 election for the South Maui Council seat was won by Tom Cook by 97 votes. Of the 50,000 votes submitted in the 2024 election, the Maui County clerk questionably held that 10,000 voters did not select either candidate for the South Maui council seat. Maui citizens were allegedly denied their legal right to inspect the uncounted 10,000 ballots.

As a result of Mr. Cook's election, the Maui County Council currently consists of five members who are on the record of having supported every new real estate development project brought before the Council in recent years, and four members who have opposed all new real estate development projects brought before the Council in recent years. These 97 votes are the difference between thousands of new residences being built for foreign or out of state millionaires in south Maui, or thousands of affordable housing units being built for the residents of Maui, in the years soon to come.

### **C. ETHICS COMPLAINT FILED BY ICZKOVITZ TO MBOE**

In response to requests made by the Honua'ula 670 developers and Mayor Richard Bissen, Bills 171 and 172 were introduced and submitted to the Maui County Council. Prior to the passage of these bills, Leslie Iczkovitz / I submitted an ethics complaint against Tom Cook to the Maui Board of Ethics, on June 30, 2025. A copy is attached. In spite of almost unanimous testimony opposed to these bills, the bills were approved by the Maui County Council by a 5-4 vote, and then signed into law by Mayor Bissen the next day.

\* In effect, the Maui County Council gave gifts to the developers valued at over \$250 million dollars. Before the recent law was passed, the developers were legally required to widen Piilani Highway to four lanes before any construction activity can take on the property. The State of Hawaii has not agreed in writing to pay for the widening of Piilani Highway. This is just one of the gifts that the developers received in return for their half million dollars in 2024 campaign contributions.

My ethics complaint was placed on the Agenda for the August 13 BOE meeting. I submitted a supplement to my ethics complaint to the BOE on August 6. A copy is attached. My complaint asserted that the Agenda for the August 13 meeting violated the Hawaii Sunshine Law because it did not disclose that Tom Cook was the subject of the complaint which I had filed. My supplement also specified the undeniable conflict of interest held by Corporation Counsel which legally should have prohibited them from giving any legal advice to the BOE regarding my ethics complaint against Tom Cook.

I then submitted a complaint to the Office of Information Practices making the same allegations regarding Sunshine Law violations. In response, the OIP wrote a letter to the MBOE informing them that it should cancel my Agenda item and reschedule it for another meeting for which proper public notice has been given. A copy of this

letter is attached. In response to OIP's letter, the MBOE took my ethics complaint off of the August 13 Agenda. After I wrote a follow-up letter to the MBOE (copy attached), the MBOE also cancelled the remaining items on the Executive Session August 13 Agenda for which the posted Agenda had also failed to give proper public notice. The MBOE then cancelled its entire August 13 Agenda and then cancelled its August 13 meeting. The MBOE subsequently cancelled its meeting which had been scheduled for September 9. The letters to and from the OIP are attached.

Lauren Akitake, former Baldwin High valedictorian, a University of Hawaii regent, and per diem Second Circuit Court district judge, took office as the MBOE's Executive director as of July 1, 2025, at a salary in excess of \$200,000. Rather than provide the legal advice to the MBOE which is needed, Ms. Akitake apparently intends to continue to invite Corporation Counsel into Executive Session, and listen to legal advice from attorneys who have undeniable conflicts of interest as discussed above.

Instead of posting Agendas of BOE meetings which comply with the Sunshine Law, Ms. Akitake has continued the years-long practice of the MBOE to post Agendas which intentionally violate the Sunshine Law.

I previously submitted to the MBOE, the following documents:

**VII. LIST OF DOCUMENTS ATTACHED TO EMAIL AND REFERENCED IN THIS LETTER**

1. Cook request to Maui Board of Ethics for Advisory Opinion
2. Transcript of 8/29/23 MBOE meeting
3. BOE Advisory Opinion issued in response to Cook Request – 2023
4. Johan Lall Ethics Complaint
5. BOE Advisory Opinion issued in response to Lall Complaint - 2024
6. June 30 LKI Ethics Complaint against Tom Cook submitted to MBOE
7. August 8 MBOE Agenda
8. August 6 LKI Letter to BOE / Supplement to Ethics Complaint
9. August 7 LKI Complaint submitted to OIP re MBOE Sunshine Law Violations
10. OIP letter to MBOE re Alleged Sunshine Law Violations
11. October 8 MBOE Agenda
12. October 3, 2025 LKI letter to MBOE re Sunshine Law violations in October 8 MBOE Agenda
13. October 3, 2025 LKI letter to OIP re Sunshine Law violations in MBOE October 8 Agenda
14. OIP letter responding to LKI October 3 letter to OIP re October 8 MBOE Agenda
15. LKI letter to OIP responding to OIP 10-3-25 response.

## **VIII. CONCLUSION**

The Sunshine Law continues to be intentionally violated by the Maui Board of Ethics when it publishes its Agendas which include ethics complaints filed against Maui County employees. The Corporation Counsel will apparently continue to ignore its undeniable conflicts of interest and proceed to give legal advice to the Maui Board of Ethics regarding complaints against Maui County employees, the Corporation Counsel's clients. It is unknown whether Tom Cook continues to be employed by LC Hauling, if he resigned, or whether he continues to receive a salary from LC Hauling. Even if Tom Cook is still employed by LC Hauling, if history predicts the future, Tom Cook will continue to be allowed to vote in favor of Maui Council matters which involve real estate development, in violation of the Maui Code of Ethics.

Sincerely,

Leslie K. Iczkovitz  
808-523-8449  
Les.iczkovitz@gmail.com