

Aloha, my testimony is regarding the August 13th, 2025 item addressing a complaint by Les Izckovitz against Councilmember Tom Cook.

I first heard of CM Cook's employment by LC Hauling at the August 2023 BOE meeting. The Board ruled that Cook must recuse if his employer had an item up for vote at Council. But the Board did not address the conflict between CM Cook's role as a regulator and his consulting **clients** being the primary **subjects of regulation** by Council.

So in January 2024, I submitted a complaint for violation of the Conflict of Interest clause of the County Charter (10-4 1c), plus related prohibitions.

In September 2024, the Board issued **Opinion 24-03** in response to my complaint. You essentially ruled that you had already addressed my complaint with your initial ruling, and referred to my complaint as hypothetical. You did strengthen your ruling banning Cook from making decisions regarding government contracts that LC Hauling might bid for.

But again, you ignored the conflict of interest between Cook's role as a **regulator of development** and his private employment by LC Hauling. This is the prohibition in 10-4 1c:

Section 10-4. Prohibitions.

1. No officer or employee of the County shall:

a. Solicit, accept, or receive any gift; directly or indirectly, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the officer or employee in the performance of the officer's or employee's official duties or is intended as a reward for any official action on the officer's or employee's part.

b. Disclose information that, by law or practice, is not available to the public and that 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, that is incompatible with the proper discharge of the officer's or employee's official duties or that 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 participating in deliberations.

Big picture: Several of the prohibitions in the Charter are written to ban corrupt activity by government employees and board members. For example, one of them states that a board member can't use his position to benefit a private interest as opposed to the public interest. This is simply the definition of public corruption. **But 10-4 1c is different.**

The 10-4 1c prohibition **is not a ban on corrupt activity**, instead it tries to prevent corruption. It does this by banning a public servant from having a conflict of interest to begin with. The rule even goes so far as to prohibit having an **indirect financial interest** that conflicts with the government job.

In other words, the goal of 1c is to prevent "hypothetical" corruption by preventing the conditions that lead to corruption. The rule doesn't say a conflict is acceptable as long as you don't act on it. You just aren't allowed to have the conflict. So I ask the Board of Ethics to carefully read section 10-4 1c and follow the letter of the law prohibiting conflict of interest.

To reiterate my previous complaint, the conflict is that Councilmember Cook has a second job for LC Hauling which pays \$96,000 per year to provide construction consulting services for their clients, which likely include developers and construction companies. Cook's role may be as an employee or subcontractor, but either way he has a financial interest in the construction projects of his clients through LC Hauling. This financial interest, whether you call it direct or indirect, is in conflict with Cook's role as a regulator. The **existence of this conflict is a violation** of 1c.

I want to make sure that the BOE understands that this is about regulation not government contracts (which you've already ruled on). So I'm providing an example of regulation.

One **regulatory duty** that Council has is approving or disapproving Changes in Zoning. These changes are often to convert Agriculture zoned land to allow housing or commercial development. When a landowner or developer requests a CIZ, it is reviewed by the Planning Commission but the final decision is by Council. CIZ can increase the value of land by billions.

A high profile CIZ example is Wailea 670. They are currently asking for an amendment to reduce the amount of affordable housing written into their CIZ, among other things. If CM Cook votes to reduce the affordable housing and increase luxury housing, it will benefit the developer at the expense of the community. That's not inherently unethical, it's just a decision I disagree with. The problem is we don't know if there's a financial conflict influencing the Councilmember because the **BOE never required Cook to disclose his construction and developer clients, or to recuse when they stand to gain from his decisions.**

I believe the board has two options.

- 1) Disallow Councilmember Cook's employment by LC Hauling or
- 2) Require disclosure of LC Hauling's current business relationships, require recusal, and require that these companies never benefit from any project CM Cook votes on

In **Advisory Opinion 20A-2**, the Board ruled that Gwen Hiraga, while serving on the Maui Redevelopment Agency, had to **recuse** from any item “involving” her employer Munekiyo-Hiraga, which would presumably include all their clients/projects:

The Board further concludes that Ms. Hiraga’s employment with Munekiyo Hiraga is a financial interest that is incompatible with her duties with the MRA. Ms. Hiraga should not discuss or participate in voting on projects involving Munekiyo Hiraga.

In **Advisory Opinion 24A-02 issued in June 2024**, the BOE ruled that a County employee could not have a second job as a consultant helping Lahaina Fire survivors navigate the county regulatory processes. A conflict of interest was recognized and the second job was disallowed:

OPINION

Based on the foregoing provisions of the Maui County Charter, the information contained in [REDACTED] written submission, the answers provided during the executive session of the May 9, 2024 meeting, and the records and files herein, the Board finds that there is an inherent conflict between [REDACTED] position as a [REDACTED] with [REDACTED] and [REDACTED] desire to provide services through the [REDACTED] through [REDACTED] non-profit, [REDACTED].

The Board believes that the information [REDACTED] hopes to use to assist wildfire victims with the [REDACTED] process would be based on knowledge derived directly from [REDACTED] County employment with [REDACTED]. Accordingly, assisting members of the public to navigate the County [REDACTED] process would potentially violate § 10-4(1)(b) of the Charter, which prohibits the disclosure of information which, by law or practice, is not available to the public and which the officer or employee acquires in the course of their duties.

In addition, assisting members of the public with the County [REDACTED] process would inevitably result in [REDACTED] appearing on behalf of members of the public before County agencies. This would potentially violate the § 10-4(4) of the Charter, which prohibits county employees from appearing before County agencies on behalf of private interests.

Finally, the Board is concerned that [REDACTED] could potentially use [REDACTED] position with [REDACTED] to grant unwarranted consideration to [REDACTED]. [REDACTED] knows and has worked with as part of the [REDACTED]. This would violate § 10-4(1)(g) of the Charter, which prohibits employees from using their official position to secure or grant unwarranted consideration, privileges, exemptions, advantages, contracts, or treatment, for oneself or others.

Because of the above-referenced potential conflicts of interest between [REDACTED] County work duties and [REDACTED] plans regarding the [REDACTED], the Board determines that, as a whole, an inherent conflict exists between the two positions.

Adopted by the Board on 06/24/2024 ;

In **Opinion 24A-02**, the board even showed concern for several “potential” violations including one wherein the County staffer would “inevitably” represent his or her clients before the County. The board clearly has the capability to consider “hypothetical” scenarios in crafting its rulings.

Only three months after **Opinion 24A-02** was issued, the Board ruled on my complaint against Cook. Yet for CM Cook, the BOE refused to even consider the same exact type of conflict of interest that was found to violate the Charter for the rank & file employee. The BOE also refused to consider what it called “hypothetical” scenarios despite doing so three months prior.

Sadly, the BOE appears to hold line-level staff and board volunteers to a much higher standard than sitting Councilmembers. It should use Les Iczkowitz’s complaint as an opportunity to rectify its past inconsistency and unfairness.

At the initial August 2023 meeting addressing CM Cook’s letter asking for an advisory opinion, Chair (then Member) Sturdevant inquired about prohibiting CM Cook from having the second job. I believe the Chair has a moral compass and understands the conflict of interest. As I did last year, I again encourage Chair Sturdevant to hold strong and avoid being swayed by Corporation Counsel or other board members who, due to their own professional backgrounds, may subscribe to a different set of ethics.

The ethical principles codified in the Charter are commonly agreed-upon American ethics that have traditionally ruled every level of government, from the local school board to the Pentagon.

I’ve had several government jobs, including 4 years at Texas Highway Patrol. I am not a “law and order” person but I know that **government has to be ethical to serve the people**.

Hawai’i’s sordid history of normalized corruption and domination by the development industry should be cautionary for the Board of Ethics– Plantation Politics and “the way we do things here” should not be the basis of your rulings, they are treacherous pitfalls to be avoided.

The voting and taxpaying public deserves a Board of Ethics and a County Council that protects their interests. Native Hawaiians are the group most severely impacted by lax regulation. Prioritization of luxury housing over affordable housing, destruction of cultural resources, damage to the environment, and even desecration of iwi kupuna are directly harmful to Kanaka Maoli. So please consider that Hawaiians especially deserve and need an ethical government free of undue influence, that safeguards their Constitutional rights.

Mahalo and Aloha,
Johann Peter Lall