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OFFICE OF THE  
COUNTY COUNCIL

Corrected Testimony Regarding PIA 27 - related to establishing qualifications for a Mayor's appointment of a Director to Departments and administrating agencies as defined or empowered by the Maui County Charter.

Chairperson Yuki Lei K. Sugimura and Members of this Committee,

Recently in an election on Maui, ideas of the structure of governance were promoted in an effort to gain votes. But, we have our structure: Power is administered by an elected Mayor, managed by consent to be governed as enforced by a Council composed of members from nine areas; elected and representing the perspective common to each area. This diversity of perception established by residency is protected by our Charter.

Does the proposed ordinance dictate, control or in any way impede the Office of Mayor from appointing the person or persons it wants to administer Departments defined in our Charter? It does. On its face the proposal appears to violate Article 3 – Section 8(1) that restricts the power of the Council: and Article 7 Section 5 (1) and (2) that provide authority to supervise and appoint necessary staff for which appropriations are made.

In its request to Corporation Counsel, the Committee asked for an opinion of whether the proposed ordinance was “appropriate” not whether the proposed ordinance satisfied the requirements of Article 3-8(1) and Article 7 -1 (1 and (2). This question should be asked.

I hope no action is taken until a written legal analysis from Corporation Counsel is requested and reviewed prior to deliberation specific to compliance with our Charter or that a written analysis from Council Services Counsel be obtained and provided for review by citizens interested in our structure of governance, because structure of governance is at issue in this instance.

Mahalo,  
s/ Jim Smith  
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