

REQUEST FOR LEGAL SERVICES

Date: March 4, 2019
From: Michael J. Molina, Chair
Governance, Ethics, and Transparency Committee

RECEIVED
CORPORATION COUNSEL
2019 MAR -4 AM 10: 03

TRANSMITTAL

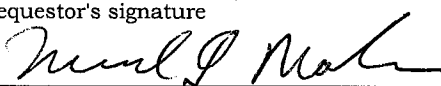
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Edward S. Kushi, Jr., Esq.

Subject: APPOINTMENT AND REMOVAL OF ADMINISTRATIVE HEADS OF DEPARTMENTS (PROSECUTING ATTORNEY) (GET-1(3))

Background Data: Please review and, if appropriate, approve as to form and legality, the attached revised proposed resolution to approve and proposed resolution to disapprove the appointment of Donald S. Guzman as Prosecuting Attorney. A hard copy of each is requested with your response.

Work Requested: [X] FOR APPROVAL AS TO FORM AND LEGALITY
 [] OTHER:

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2019 MAR -4 PM 1:20
OFFICE OF THE
COUNTY CLERK

Requestor's signature  Michael J. Molina	Contact Person Shelly Espeleta or Carla Nakata (Telephone Extension: 7134 or 7659, respectively)
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- [] ROUTINE (WITHIN 15 WORKING DAYS) [] RUSH (WITHIN 5 WORKING DAYS)
 [] PRIORITY (WITHIN 10 WORKING DAYS) [] URGENT (WITHIN 3 WORKING DAYS)

[X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): March 5, 2019
REASON: To post for Committee meeting of March 12, 2019.

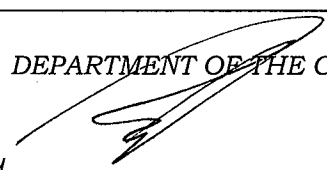
FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>ESK</u>	ASSIGNMENT NO. <u>2019-0065</u>	BY: <u>LAK</u>
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TO REQUESTOR: [X] APPROVED [] DISAPPROVED [] OTHER (SEE COMMENTS BELOW)
 [] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

Date 3/4/19

DEPARTMENT OF THE CORPORATION COUNSEL
By 

(Rev. 7/03)

get:ltr:001(3)acc01:ske

Attachments

Resolution

No. _____

APPROVING THE MAYOR'S APPOINTMENT OF DONALD S. GUZMAN FOR PROSECUTING ATTORNEY

WHEREAS, by letter dated and received by the Council on March 1, 2019, Mayor Michael P. Victorino notified the Council he appointed Donald S. Guzman as the Prosecuting Attorney, pursuant to Sections 6-2(5) and 8-3.2 of the Revised Charter of the County of Maui (1983), as amended; and

WHEREAS, Charter Section 6-4 authorizes the Council to establish specific qualifications for administrative heads appointed by the mayor in addition to any set forth in the Charter; and

WHEREAS, Section 2.14.110, Maui County Code, attached hereto as Exhibit "A," establishes additional qualifications for the Prosecuting Attorney effective January 2, 2019; and

WHEREAS, Charter Section 6-2(5) requires the Council to confirm or deny the appointment within sixty days after receiving notice of the appointment by the Mayor; and

WHEREAS, Charter Section 8-3.2 states: "The prosecuting attorney shall be appointed by the mayor with the approval of the council"; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it deems Donald S. Guzman to have satisfied the minimum qualifications for the position of Prosecuting Attorney;

Resolution No. _____

2. That it hereby approves the appointment of Donald S. Guzman as the Prosecuting Attorney; and
3. That a certified copy of this resolution be transmitted to the Mayor.

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, appearing to be 'Paul', is written over a horizontal line.

Department of the Corporation Counsel
County of Maui

get:misc:001(3)areso04:ske

2.14.110 - Prosecuting attorney.

The prosecuting attorney shall have the following minimum qualifications:

1. As set forth in the charter, the prosecuting attorney shall be an attorney licensed to practice and in good standing before the Hawaii supreme court.
2. As set forth in the charter, the prosecuting attorney shall have engaged in the practice of law for five years.
3. As a part of in addition to the five years of experience in the practice of law, three years of criminal litigation experience.
4. As a part of or in addition to the five years of experience in the practice of law, three years of responsible managerial and budgetary experience.
5. As a part of or in addition to the five years of experience in the practice of law, three years of experience in one or more of the following functions:
 - a. Attending and appearing in courts of competent jurisdiction, and prosecuting criminal offenses on behalf of a municipality or other governmental entity or defending against such proceedings.
 - b. Instituting proceedings, or directing the chief of police of a municipality or other governmental entity to institute proceedings, before a judge of a court of competent jurisdiction for the arrest of persons charged with or reasonably suspected of criminal offenses.
 - c. Drawing and presenting indictments to a grand jury for consideration.
 - d. Prosecuting administrative violations of liquor laws.

(Ord. No. 4848 § 3, 2018, eff. 1-2-2019)

Resolution

No. _____

DISAPPROVING THE MAYOR'S APPOINTMENT OF DONALD S. GUZMAN FOR PROSECUTING ATTORNEY

WHEREAS, by letter dated and received by the Council on March 1, 2019, Mayor Michael P. Victorino notified the Council he appointed Donald S. Guzman as the Prosecuting Attorney, pursuant to Sections 6-2(5) and 8-3.2 of the Revised Charter of the County of Maui (1983), as amended; and

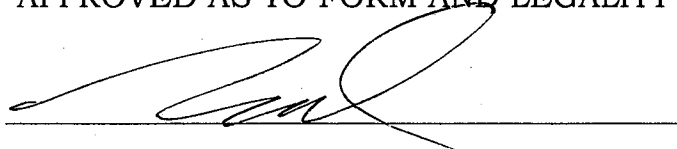
WHEREAS, Charter Section 6-2(5) requires the Council to confirm or deny the appointment within sixty days after receiving notice of the appointment by the Mayor; and

WHEREAS, Charter Section 8-3.2 states: "The prosecuting attorney shall be appointed by the mayor with the approval of the council"; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby disapproves the appointment of Donald S. Guzman as the Prosecuting Attorney; and
2. That a certified copy of this resolution be transmitted to the Mayor.

APPROVED AS TO FORM AND LEGALITY



Department of the Corporation Counsel
County of Maui