

► HAYDEN ALULI

ATTORNEY AT LAW

2180 Kaho'okele Street
Wailuku, Hawai'i 96793

Office: (808) 244-3434
Fax: (808) 244-3388

January 23, 2019

The Honorable Mike Molina, Chair
Governance, Ethics and Transparency Committee
Maui County Council
200 South High Street Seventh Floor
Wailuku, HI 96793

RE: GET-1(2) Appointment of Patrick Kanoholani Wong as Corporation Counsel

Dear Chair Molina and Honorable Members of the GET Committee:

I write this letter in strong support of confirming the reappointment of Patrick Kanoholani Wong as Corporation Counsel for the County of Maui.

I am a native Hawaiian attorney who has been blessed with the privilege and honor of being licensed to practice law in Hawai'i since 1984. During the course of my private practice on Maui, I have come to know Mr. Wong professionally for well over a decade. I have also come to know Mr. Wong's professional reputation held by members of the Maui bar. Based upon the same, I can confidently confirm that Mr. Wong is well-respected, having demonstrated an excellent working relationship with members of the Maui bar, then for the past eight years as Corporation Counsel. I know from personal experience that under his leadership, he has assembled a highly-respected team of hard-working lawyers and support staff dedicated to providing excellent legal services to the County of Maui.

In exercising your duties regarding confirming Mr. Wong's reappointment as corporation counsel or not, I believe prior council members' statements regarding their decision to confirm his reappointment four years ago are worth revisiting. On Feb. 6, 2015, prior council members--in a seven-to-one vote with one member excused--confirmed Mr. Wong's reappointment for a second four-year term. The vote came after the council heard from 54 members of the community, many of whom provided negative testimony about his alleged allegiance to "special interest groups" with respect to his decision not to support Maui's initiative banning genetically modified organisms (GMO) and his handling of the county's injection wells litigation. Despite such negative community sentiment, seven council members confirmed Mr. Wong's reappointment by independently judging his track record with comments as follows.

Robert Carroll said that Mr. Wong "has done his duty; he has done his job". He said that it would be very easy to go with the purported 54 members of the public's alleged "popular vote" and deny Mr. Wong's reappointment. However, he made it clear that "our mandate to represent our people, and represent these islands, the people in it, the sea around us, do not allow us to go over there and do the popular decision. We were elected . . . to represent our people and this land and the sea around us. We need to make the decisions that will protect this. We need to make the decisions for our children, our grandchildren, our great grandchildren I study it. I listened to everyone. I listen to every testifier seriously and I weigh it from what we know from executive session and other places and what Mr. Wong has brought forward and what other people have brought forward. . . . What really bothers me is we are going to hear from people that don't like [Mr. Wong's] decision, oh yeah, he was just blowing smoke. I'll tell the general public right now and everybody that knows me. I personally am saying that he is not blowing smoke. He has done his duty; he had done his job. People are dissatisfied with the results. I'm not happy with the results. But this is something we have to live with and its something that we just do not have complete control over. But we need to work harder and try to make it better."

Gladys Baisa commented on the purported misinformation provided by the public who testified against Mr. Wong's reappointment. She said that Mr. Wong has represented the county "very successfully, very creatively" and has "prevented the county from spending millions and millions of dollars because he has great skills." With respect to the legislative process that necessarily incorporates executive session to protect the council's attorney-client privilege with its corporation counsel, she cautioned members and the community, "Don't judge him on something that is not well understood."

Don Couch said, "What's popular is not always right; what's right is not always popular." He reminded council members and the community that in a "republic", elected representatives have the duty to protect both the majority and the minority, and not just to cater to the mob. He said, "Mr. Wong has done an exemplary job at protecting this county and I see no reason to change my [9-0 committee] vote."

Stacy Crivello, recognizing the overwhelming testimony that had been presented against reconfirming Mr. Wong's reappointment as corporation counsel, said it's "unfair for us to use this issue or [GMO] initiative . . . to make this determination on how we will choose or not to choose to reappoint Mr. Wong. . . . In reference to the many, many, many issues that we deal with, we look at the fiduciary perspective that, how much our county comes out winning. And, that was why my original vote was yes . . . I believe that at time that all nine of us voted yes [to confirm Mr. Wong's reappointment]."

Riki Hokama said that as former chair of the Policy Committee over the past four years, he has worked very closely with Mr. Wong over many, many cases involving county litigation with respect to claims, settlements, personnel and contractual issues. Although he has not always agreed with Mr. Wong, he said that at no time had it ever crossed his mind that "Mr. Wong was not working in the interest of the county. Not once. . . . Mr. Wong has been consistent in representing the best interest of the county. . . . In my experience, being around this building for close to 60 years, I think Mr. Wong

is one of our better corporation counsels. . . .Today I am going to continue to follow how I base all my decisions serving the people of this county, the people of my island, and I am going to do what I believe is the best thing for the county of Maui."

Don Guzman said, "I think Mr. Wong has done his best duties as corporation counsel. . . . I had my own concerns and I think that I have overcome those concerns."

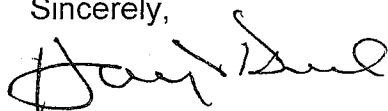
Chair Michael White said, "When I look at Mr. Wong's work, I believe that in the overall view of his caseload and the direction that he has provided us in executive session, the direction that he has provided for the administration and this council, that overall, his production, his focus has been on the right track. . . . It's with the understanding that he has done a very solid, credible job in many, many cases that has presented to us."

Ellie Cochran--the only member to oppose Mr. Wong's reappointment--appeared to base her opposition on the plain language of the County Charter, which only provides the council with the power to confirm the Mayor's appointment of county department heads, not the power to terminate that appointment. Although she had previously approved of Mr. Wong's reappointment in committee, she changed her vote when 54 disgruntled members of the public showed up at the hearing. Seven other council members, however, resisted following this so-called "majority special interest opposition". Instead, these seven, independent council members relied upon Mr. Wong's proven four-year track record of providing sound legal advice consistent with the best interests of the County of Maui. It is worthy to note that Mr. Wong's position not to support Maui's GMO initiative in court was proven to be sound legal advice by the U.S. Court of Appeals for the Ninth Circuit in Atay v. County of Maui, 842 F.3d 688 (9th Cir. 2016) (trial court's grant of summary judgment affirmed because Maui's GMO initiative preempted by federal and state law).

In closing, I hope all members of this council will have independently exercised due diligence by becoming familiar with Mr. Wong's excellent eight-year track record as corporation counsel, and by interviewing individual deputies corporation counsel and staff regarding his managerial style and overall performance. I expect your decision to be independent and based on clear, articulable facts--not on rumor or innuendo. Finally, your decision must be based upon the strength of Mr. Wong's character, his demonstrated litigation and managerial abilities as head of one of Maui's largest law firms, and his professional reputation.

Thank you for this opportunity to provide my strong support for confirming Mr. Wong's reappointment as Corporation Counsel for the County of Maui.

Sincerely,

A handwritten signature in black ink, appearing to read "Hayden Aluli", written in a cursive style.

Hayden Aluli