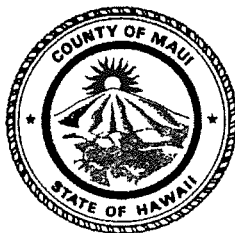


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COUNTY COUNCIL

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April 22, 2019

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street  
Wailuku, HI 96793

For transmittal to:

Honorable Michael J. Molina, Chair  
Government, Ethics, and Transparency Committee  
Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

**SUBJECT: NOMINATION AS CORPORATION COUNSEL (GET-1)**

Dear Chair Molina:

This correspondence is in response to Council Chair Kelly King's letter dated April 12, 2019. Chair King has requested response to eight (8) questions be submitted to the Government, Ethics and Transparency Committee. The specific requests, and responses, are provided below.

**1. Why did you apply to serve as the Corporation Counsel?**

I have worked for the County of Maui for almost 21 years, starting as a Deputy Prosecuting Attorney in 1995. I transferred to Corporation

Counsel in 1999 as a civil litigator. For the past ten years, I have supervised the Litigation Section. This supervisory experience includes management of other deputies, case management and overseeing budgetary concerns.

While serving as an attorney for the County, I have had the privilege to serve under three Corporation Counsels. One thing that I have witnessed during transition periods is that there is a steep learning curve for each new Corporation Counsel that can be difficult for the office. One of the strengths that I offer is that I will not have as much of a learning curve, as would an attorney from the outside. I pride myself on the relationships I have with my department, other directors, staff, Administration and Council members.

Having handled conflict in hundreds of litigation cases over the years, I am well versed in potential county liability both in state and federal courts. This background will allow me to provide sound legal advice, which will allow the County Council and Administration to confidently carry out their duties.

**2. What do you perceive as the roles and responsibilities of the Corporation Counsel?**

All attorneys are governed by the Hawaii Rules of Professional Conduct, as well as other rules. The primary role of the Corporation Counsel, as prescribed in Section 8-2.3, Powers, Duties, and Functions of the Charter of the County of Maui provides that:

The corporation counsel shall. . .[b]e the chief legal advisor and legal representative of the County of Maui; of the council, the mayor, all departments, and all boards and commissions; and of all officers and employees in matters related to their official duties. . .

**3. Given your understanding of the role and responsibilities of the Corporation Counsel, why do you believe you are qualified for the position? Please include a brief statement of your skills, expertise, experiences, or knowledge that would aid in your decision-making ability as the Corporation Counsel. Highlight three qualities you feel make you a highly qualified candidate.**

I believe that I am qualified to serve as the Corporation Counsel because I have strong understanding of the work this department performs. I have

worked as a litigation attorney in this office for almost eighteen years, under three different bosses and five different administrations. Although I have primarily focused on litigation, I have worked closely with the Counseling and Drafting Section matters handled by that section as well.

The three qualities that make me a highly qualified candidate are:

- A. Commitment to this County. I was raised on Maui, attended Kamehameha III school, Lahaina Intermediate and graduated from Lahainaluna High School. I went to California for college and returned to work for this County. I have served as a Deputy Prosecuting Attorney and a Deputy Corporation Counsel for almost 21 years. I remain committed to serving this County and providing the best legal services possible.
- B. Strong supervisory skills. For over a decade I have supervised the Litigation Division, and assisted in the training of new attorneys. I work well with others and am able to provide guidance and feedback based on my experience. I believe in positive reinforcement and teamwork.
- C. Strong litigation skills. Over the last 18 years, I have defended the County in large tort litigation cases, such as lethal force and roadway design defect cases. I have successfully argued for the dismissal of lethal force cases in federal court and negotiated resolution of multi-million dollar lawsuits.

**4. Please identify one short and one long-term goal you would have as the Corporation Counsel and how you would accomplish these during your term of service.**

My short-term goal is to ensure that all attorneys are up to date on their continuing legal education training in their area of expertise. One aspect of this training will require that all attorneys attend a session on Native Hawaiian law within the next year.

My long-term goal is to find a method by which to provide public education on topics of interest handled by this office. I believe the most effective way to accomplish this goal would be to provide information to the Maui News and/or via social media to begin the conversation on topics of interest.

**5. How do you plan to enhance the transparency of the Department of Corporation Counsel?**

Our office complies with requests for information, to the extent allowed by law. To assist with making our office more transparent, it is my hope to assist in educating the public, as discussed above. There are limitations regarding what can be disclosed, based on the law and Rules of Professional Responsibility, so we will need to find a proper balance.

**6. How do you plan to ensure the Department of Corporation Counsel exhibits appropriate fidelity to all agencies, officers and employees it represents and advises?**

The term “appropriate fidelity” depends on the context. All attorneys are bound by the Professional Rules of Conduct, which defines our duties and roles as government attorneys. We will have to evaluate each matter independently and adhere to the rules that bind us.

**7. What is your plan on helping the Council implement Sections 3-6.7 and 3.7(2), Maui County Charter, pertaining to Office of Council Services attorneys serving as legal advisors to the Council?**

I support, and am open to assisting as needed, implementing Sections 3-6.7 and 3.7(2) of the Maui County Charter. It would be great to have Office of Council Services attorneys serving as legal advisors to the Council.

**8. Can you foresee any possible conflicts of interests that could arise during your service in the Corporation Counsel? How would you overcome any possible conflicts of interests?**

Attorneys are governed by the Hawaii Rules of Professional Conduct when potential conflicts arise. The rules prescribe how potential conflicts should be handled by legal counsel, including Corporation Counsel. Each potential conflict would first require an evaluation of the facts of each case to determine the best approach.

As a County employee, attorneys are also bound by the Code of Ethics, Article 10 of the Charter; Code of Ethics, Section 2.56 of the Maui County Code; and Chapter 101 of the Administrative Rules for the Maui County Board of Ethics.

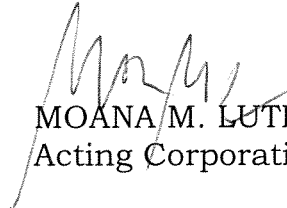
GET Chair Michael Molina

April 22, 2019

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Thank you for your consideration, and I am happy to provide further clarification at your request.

Sincerely,



MOANA M. LUTEY  
Acting Corporation Counsel