

BEFORE THE BOARD OF ETHICS

COUNTY OF HAWAI'I

In the Matter of the Petition by

Eric Watanabe,

Petitioner.

PETITION NO. 2022-08

INFORMAL ADVISORY OPINION

Initial Review: May 11, 2022

INFORMAL ADVISORY OPINION

By Petition dated May 2, 2022, with the Hawai'i County Board of Ethics (hereinafter "the Board"), Petitioner Eric Watanabe (hereinafter referred to as "Petitioner") who is employed as a Grade 1 Operator at the Hilo Wastewater Treatment Plant within the Department of Environmental Management (hereinafter "DEM"), requested an Informal Advisory Opinion from the Board. Petitioner sought guidance as to whether Petitioner, who is the sole owner and manager of E. Watanabe & Sons Services, LLC (hereinafter "Watanabe Pumping"), a sewer pumping service provider, could enter into a contract with the County of Hawai'i to provide sewage pumping services without a conflict of interest arising in violation of Hawai'i County Code Section 2-84 (Conflicts of Interests).

At its duly noticed meeting on May 11, 2022, the Board reviewed and considered the above-captioned Petition pursuant to Rule 4 of the *Rules and Practice and Procedure of the Board of Ethics*. Petitioner attended the meeting, provided testimony, and further expounded on his sewage pumping business, his position at DEM, how DEM would handle any interactions with Watanabe Pumping, and whom would be doing the majority of the work for the contract in question. The Board, having deliberated and considered and giving appropriate weight to the

testimony and evidence submitted by the Petitioner, and having considered the arguments presented, hereby renders the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. To the extent that any of these Findings of Fact are Conclusions of Law, they are to be so construed.
 - A. The Petition
2. Petitioner is the sole Owner/Manager of E. Watanabe & Sons Services, LLC, a sewage pumping business. Petitioner's partner, Aja Nozaki, is the only employee of the business. Ms. Nozaki has a CDL license and handles the day-to-day operations, which include driving the company truck, maintaining, and performing all of the job-related duties of E. Watanabe & Sons Services, LLC.
3. Petitioner is also employed by the County of Hawai'i on a full-time basis as a Grade 1 Operator at the Hilo Wastewater Treatment Plant within the Department of Environmental Management.
4. As a Grade 1 Operator at the Hilo Wastewater Treatment Plant, Petitioner's supervisor at DEM, Eric Takamura indicated that Petitioner's employment generally does not have him working at the septage receiving pit and therefore, it would be unlikely that Petitioner would be receiving the sewage from his own truck while operated by Ms. Nozaki. Mr. Takamura further indicated that there have been previous DEM Wastewater employees performing similar services outside of their county employment without issue and had no concerns that Petitioner could likewise do the same.
5. Petitioner was approached by Niagara Consulting Inc. and made aware of the County of Hawai'i's IFB (Invitation For Bid) No. 4211 (Septage Hauling). Petitioner engaged with

Niagara Consulting to submit a bid for the Contract and was eventually awarded the Contract subject to obtaining a Board of Ethics opinion that there was no conflict of interest under HCC Section 2-84.

B. Board's Ruling

6. Based on the evidence and testimony presented, the Board finds that there is no conflict of interest in Petitioner accepting the contract under the IFB No. 4211 (Septage Hauling) provided that Petitioner never "receives" a sewage/septage load from his company/Ms. Nozaki. Petitioner was also cautioned to ensure that he does not conduct E. Watanabe & Sons LLC work during his County of Hawai'i employment hours, and to ensure that the necessary disclosures were made to his employer about his private business engagement.
7. Board Member Kelly Valenzuela moved that the Board find that there is no conflict of interest under Section 2-84 of the Hawai'i County Code of Ethics provided that Petitioner does not receive sewage loads from his business and that he not conduct his personal business operations while on County time.
8. Board Member Erick Allende seconded the motion. The motion passed 5-0.

CONCLUSION OF LAW

Based upon the evidence presented and the Board's review of the Hawai'i County Code of Ethics and the Board's Rules of Practice and Procedure, the Board finds and concludes that Petitioner can enter into an agreement under IFB No. 4211 with the County of Hawai'i as the Owner/Manager of E. Watanabe & Sons, LLC provided the above provisions are adhered to.

ORDER

Pursuant to Board Rule 4.9, this Informal Advisory Opinion shall be filed and a copy shall be sent to the Petitioner.

Dated: Hilo, Hawai'i, DEC 12 2022, 2022.

BOARD OF ETHICS, COUNTY OF HAWAI'I

By 
LAWRENCE HEINTZ
Chair

APPROVED AS TO FORM
AND LEGALITY:



Dakota K. Frenz
Deputy Corporation Counsel