

Hawai'i County Charter Commission
Friday, November 6th - 1:30 pm
333 Kilauea Avenue - 2nd Floor, Council Room - Hilo, Hawaii
In Consideration of CA -21 Planning Commission and Board of Appeals Membership

Good Afternoon Chairman Haitsuka, Vice Chair Fuertes and Members of the Hawai'i County Charter Commission:

I am Jacqui Hoover, President of Hawai'i Leeward Planning Conference (HLPC) a member-based organization with a history of thirty-five years of commitment to sound planning, wise use of our resources, and effective government process.

I also have the privilege and pleasure of serving, as Executive Director for the Hawai'i Island Economic Development Board. HIEDB is another member-based organization and in its twenty-five year history has been committed to providing and promoting private sector support and expertise for balanced growth in Hawai'i County in partnership with both public and private resources.

Proposed Charter Amendment 21 seeks to "ensure that the planning process is above reproach and to maintain the integrity of the Planning Commission and Appeals Board by avoiding charges of the appearance of impropriety in the composition of these bodies" by excluding any one "who: (1) receives or has during the previous two years received, a significant portion of the person's income directly or indirectly from permit holders or applicants for approvals from the planning commission; or (2) has a fiduciary duty to an entity which has business before the planning commission or board of appeals."

Several concerns arise upon considering the proposed amendment:

1. What is "substantial income"?
2. What is the definition of "permit holders"? Aside from development permits issued by the planning commission, this term could include building/grading/ grubbing permits/ variances, from either the building or subdivision codes. The Board of Appeals handles appeals from the decisions of the Planning Director, as well as the Director of Public Works.
3. Is the proposed amendment intended to also exclude individuals such as realtors, contractors, subcontractors, mortgage providers, vendors, etc?
4. Does the exclusion to individuals who have "a fiduciary duty to an entity which has business before the planning commission or board of appeals" apply to individuals for example such as the Executive Directors of the Hawai'i Island Economic Development Board, Nature Conservancy, Sierra Club, Public Land Trust, etc. whose "business before the planning commission or board of appeals" may be indirect such as being related to advocacy for and/or opposition to proposals and concerns coming before these bodies? {Member-based organizations – how does this apply if members have business before the commission/board?}
5. If as stated, the intention is "to ensure that the planning process is above reproach and to maintain the integrity of the Planning Commission and Appeals Board by avoiding charges of the appearance of impropriety in the composition of these bodies", should such exclusion not also apply to any one *who (1) receives or has during the previous two years received, a significant portion of the person's income directly or indirectly from individuals and/or entities who have opposed applications for approval from the planning commission; or likewise has a fiduciary duty to an entity which has business before the planning commission or board of appeals?*
6. What is the specific problem that this proposed amendment is seeking to resolve? Is recusal not a viable response in the event a commission and/or board member has conflict of interest (real or perceived)?
7. Are "charges of the appearance of impropriety in the composition of these bodies" objective and based on fact supported by data or more ambiguous and based on anecdote and perception rather than reality?

We urge the Charter Commission to defer decision making until clarification is provided and the public is provided an opportunity to consider and comment on such clarification.

Finally, we are in strong opposition to this (and any) amendment to the Hawai'i County Charter that seeks to be exclusive and dissuade rather than encourage residents of the County of Hawai'i from participating in the planning and appeals process for our island community. Mahalo for allowing this opportunity to share our comments.

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