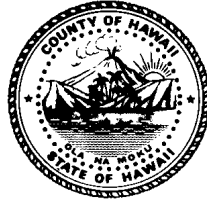


William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawaii

### PLANNING DEPARTMENT

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#### Testimony of Planning Director Bobby Jean Leithead Todd Charter Commission Meeting of December 18, 2009

Testimony in opposition to the proposed amendment:

#### **Charter Amendment Proposal CA-21 regarding Section 13-4(k) regarding disqualification from serving on the Planning Commission or Board of Appeals**

This proposal as drafted would amend Section 13-4(k) by changing it to read:

“Notwithstanding any other provision in this charter, no person shall, by reason of occupation alone, be barred from serving as a member of any board or commission[-] provided that no one may serve on the planning commission or board of appeals 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.”

The charter currently leaves service on all boards and commissions open to all residents of the island. They are nominated by the mayor and subject to confirmation by the council. This occurs in a public meeting where members of the public have an opportunity to object to any nomination and the person nominated can be asked questions by members of the council. The current process provides for checks and balances and allows all residents an opportunity to submit their names for nomination.

The proposal as drafted would restrict anyone who receives a significant portion of their income directly or indirectly from a permit holder. Since permits run with the land, even a permit that was applied for and granted many years ago would prohibit current employees or contractors from being considered.

For example, every hotel in the Shoreline Management Area has an SMA permit. In the case of a hotel such as Mauna Lani this would have been granted many years ago. The current proposal would probably prohibit any hotel employee as well as contractors and their employees that had

significant work at the hotel (such as repairs after the 2006 earthquake) from being considered for appointment. Since the language also says indirectly, this could also prohibit spouses of employees from being considered. Bed and Breakfasts have special use permits. Up until recently, all cell phone providers have special use permits for their cell towers so all their employees would be disqualified. Even businesses such as KTA have SMA permits that run with the land. This proposed amendment could potentially disqualify significant portions of our population as the hotel and resort industry, construction, retail stores in hotels and resort areas, Verizon, Hawaiian Tel, Helco and even the state and county departments may have such permits.

If the purpose is to prohibit someone who applied, lobbied or appeared on behalf of an applicant for a permit or other approval in the past two years from being considered, this goes far beyond that and instead disqualifies significant portions of our working members of society and their spouses who may not even know that their employer has a permit or that they applied for one. How many hotel employees would know about an SMA permit? Would a KTA employee at Puainako know that another branch of KTA had an SMA permit?