

Friday May 24th, 2019

Prosecuting Attorney, Don Guzman
150 S. High St. Wailuku, HI 96793

Attorney General, Clare E. Connors
Department of the Attorney General
425 High St. Honolulu, HI 96813

United States Department of Justice, Michael Wheat
United States Attorney Office
Central District of California
312 North Spring St. Suite 1200
Los Angeles, California 90012

Re: Request for Criminal Investigation of Acting Corporation Counsel Moana Lutey, Deputy Corporation Counsels' Michael Hopper, Caleb Rowe, Brian Bilberry, Jennifer Oana, and Edward Kushi of The Department of the Corporation Counsel, County of Maui, State of Hawai'i.

Dear Mr Guzman, Ms. Connors, and Mr. Wheat,

This letter is to request the opening of a criminal investigation of the above-mentioned individuals of the Department of the Corporation Counsel, County of Maui. Substantial documentary evidence now clearly shows that the actions of Ms. Lutey and her deputies appear to constitute a criminal conspiracy to cover-up unlawful actions by County Officials on behalf of private developers and their associates.

There has been, and continues to be, an ongoing pattern of deceit and false representations, having been made in court pleadings, by these government attorneys', to the Maui County Council, as well as to Mayor Victorino, regarding the same.

Moreover, public records show that Acting Director Lutey, and the above-named Deputies, have misused their power and privilege with the judiciary, the Council and the Mayor, to intentionally and knowingly withhold county records, obstruct investigations, violate County Ordinances, State Environmental and Federal Law, and intimidate and discredit whistleblowers.

One of the whistleblowers, who has exposed thousands of developer agreements administered unlawfully and in contravention of County Ordinance for years, under the advise and at the direction of the Department of the Corporation Counsel, is presently being unlawfully obstructed in his County employment by Acting Director Moana Lutey and Deputy Corporation Counsel Brian Bilberry. His work with two successive Mayors has exposed multiple layers of fraud which Ms. Lutey continues to conceal. The whistleblower is aiding the County in bringing forth significant recovery through highly credentialed professional consultants; which work Acting Director Lutey and Mr. Bilberry are actively obstructing.

They have been trying to extort a contract from this individual in order to secure his employment with the Mayor's Office, in exchange for him no longer pursuing the enforcement of a private developer's SMA permit obligations, which are in non-compliance, and which enforcement exposes fraud by engineering and land planning firms presently and historically benefiting from contracts with the County of Maui. The Partner of one of these firms is a former Director and Deputy Director of the Department of Public Works for the County of Maui.

In addition to an Affidavit of over 260 pages with 41 Exhibits in support, there is new evidence of the above-mentioned fraud by County Official(s) presently being covered-up and not being acted upon by Ms. Lutey. This includes a false ledger provided by an Engineer in the Department of Planning, which reveals the creation of unlawful government liens on five private properties.

Additionally, In furtherance of covering-up wrong doing by County Officials; Acting Director Lutey wrote a legal memorandum advising the Mayor not to enforce the above-referenced SMA permit, (which is required under the County administration of the Federal Zone Management Act). Ms. Lutey and her deputies have been fully aware and intentionally covered up this developer's non-compliance for years.

Asserted in this letter is also a serious pattern of "abuse of power" which exists and is pervasive within the Department of the Corporation Counsel, and, specifically, has occurred by the above-named individuals. An example of such abuse is evidenced by Acting Director Moana Lutey who recently attempted to appropriate the power of the Maui County Council and the Mayor to themselves i.e. their department, for settlement authorization. This just took place in a case presently before the United States Supreme Court which impacts both Maui County and the mainland United States regarding the Clean Water Act. The legal letter by the Department of the Corporation Counsel was clearly and flagrantly written in contravention of legal norms, powers, and rules represented in both the Maui County Charter and the Hawaii Rules of Professional Responsibility as adopted by the Hawaii State Supreme Court.

Due to exposure and intense pressure and scrutiny which occurred in public testimony before the Maui County Counsel on May 20th, 2019, the Department of the Corporation Counsel was compelled to remove the unlawful and unprecedented language included in the proposed authorization for settlement. This attempt to appropriate power and the subsequent removal of said language, is characteristic of the behavior demonstrated by these above-named individual government attorneys.

I assert that there is pattern and practice of both allegedly unlawful and unethical behavior, existing under both Patrick Wong, Ms. Lutey's predecessor, and now continues unabated and with fresh vigor under Acting Director Moana Lutey.

There is a plethora of documentary evidence, in support of the above allegations, justifying this request for investigation.

The citizens of Maui County deserve a transparent government which has law abiding and ethical government attorneys who serve the public interest with integrity. The Department of the Corporation Counsel claim both the Maui County Council and the Mayor as their clients. The record shows that Acting Director Moana Lutey and the deputies named herein, have been, and continue to be involved in

a criminal conspiracy which defrauds the County and its taxpaying residents. These government attorneys' facilitate and then cover-up their own and other County Officials' unlawful acts, to the benefit of private developers and their associates.

The health and well-being of a County government in the second wealthiest island in Hawai'i, and one of the top tourist destination spots in the world, require a thorough investigation into these well documented allegations of unlawful and unethical acts and criminal conspiracy by the Acting Director, Moana Lutey of the department of the Corporation Counsel and the numerous deputies named above.

It should be noted that I, too, have also been made a victim of Ms. Lutey, Mr. Bilberry and Mr. Rowe's abuse of power and intimidation in seeking to expose this corruption.

Public Records in evidentiary support will be made available to law enforcement and the Hawaii Supreme Court upon request.

Thank you for your immediate attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Chris P. Fishkin", written in a cursive style.

Christopher P. Fishkin

Founder

Maui Citizens for Clean Government

cc. Chief Justice Mark E. Recktenwald, Hawaii Supreme Court