

## Maui County Council to Seat Eight of Nine Members at Inauguration

For Immediate Release

January 1, 2023

The newly elected Maui County Council will be seated and hold their inauguration ceremony at 10 am on Monday, January 2 pursuant to the County Charter, at the Council's chambers in Wailuku. Only eight of the nine council members will be participating because a certificate of election has not been issued for the Wailuku, Waihe'e, Waikapū residency area seat.

On November 23, Noelani Ahia and thirty voters filed an election contest over the Clerk's mishandling of over 800 ballots with the Hawai'i Supreme Court asserting six causes to have the Wailuku, Waihe'e, Waikapū council member election invalidated and for holding a new election. The Hawai'i Supreme Court has not rendered a decision on the contest.

Pursuant to HRS 11-156, the County Clerk cannot deliver a certificate of election until an election contest is resolved and the period for appeal has ended. The election contest has raised two federal questions meaning that the period for appeal to the U.S. Supreme Court is ninety days. (Rule 13 of the Rules of the US Supreme Court). The earliest possible time for the seating of the Wailuku, Waihe'e, Waikapū seat under all scenarios will be ninety days after the decision of the Hawai'i Supreme Court.

The Council has 30 days from January 2 to fill the interim vacancy until the election contest is resolved and either a new election is called or a certificate of election can be delivered after the period of appeal ends. Otherwise, the mayor is given the power to appoint an interim council member. (Section 3-4(2) of the Maui County Charter)

By way of comparison, in 2019, the Hawai'i Supreme Court invalidated a Honolulu city council seat election between Tommy Waters and Trevor Ozawa due to the Honolulu City Clerk's mishandling of ballots. The Court held oral argument on January 15 after the election and rendered its decision on January 25 – invalidating the election and ordering a new election. In the interim, to assure a fully functioning council, the Honolulu City Council appointed Mike Formby to serve as interim councilmember. The special mail-in election concluded on April 13, 2019.

The election contestants allege that the County Clerk's mishandling of 800-plus deficient ballots has made it impossible to know the true result of the election. On Election Day, the Clerk had ruled that the return envelopes of more than 800 mailed-in ballots were deficient due to return envelopes. However, the Clerk did not give uniform notice to voters regarding the deficiency

determination and how to cure, hundreds of voters were not given written mailed notice until the day of the deadline to fix the alleged issue.

Voter Disenfranchisement is a serious issue and reflects a government's capacity to provide fair and transparent elections for it's people. As only the second all mail-in ballot election, it is of paramount importance that procedures are implemented in a fair and uniform manner, to protect the integrity of the election system and our democratic form of government.

Contact:

Lance Collins 808-243-9292

lawyer@maui.net