

DATE: March 25, 2006

TO: Bill "Kaipo" Asing, Chairperson
and Kauai County Council Members
Kauai County Council

FROM: K.C. Lum, Chief of Police, private person with vested interest

SUBJECT: Ethics Commission Recommendations dated March 24, 2006

Item (1) of the communication from the Ethics Commission to the County Council dated March 24, 2006 recommended "Cancellation of the Police Chief's employment contract (Kauai County Code Section 3-1.11(a) and (b))." This communication had been passed on to the news media as an official adoption of the finding from the Board of Ethics. I have grave concern on the official action of the Ethics Commission's decision.

1. The mention of County Code Section 3-1.11 gives rise to the authority of the decision on item #1. The Ethics Commission and, I assume, the County Attorney who advised the board used Section 3 of the County Code as the authority. I must bring your attention to Section 3-1.8 of the same chapter:

(c) This Section shall not apply to a personal contract of employment with the County. (Sec. 20.03, Art. XX, Charter; Sec. 3-1.8, R.C.O. 1976)

The Ethics Commission's communication to the Council and to the media based on selective interpretation of the County Code possibly created another liability to the County and its tax payers.

2. Item (1)A of the communication stated "..... Therefore, this Board of Ethics recommends that the Director of Finance void the County's contract with Chief K.C. Lum". By this statement, I can assume the Ethics Board qualified the authority by using Section 3-1.9(g) of the County Code as follows:

(g) Any violation of any of the provisions of this section shall, at the option of the Director of Finance, render forfeit and void the contract, work, business, sale or transaction affected. Any violation of any of the provisions of this section shall constitute cause for fine, suspension or removal from office or employment. (Ord. No. 142, May 7, 1969; Sec. 25, C.O. 1971; Sec. 3-1.9, R.C.O. 1976; Ord. No. 387, June 26, 1980)

As stated in the beginning of this section, "Any violation of any of the provisions of this **section**...", in my opinion, means the intent is to validate this sentence to the entire Chapter 3 of the County Code. It also validates 3-1.8 (c) not as an isolated definition for only that section 3-1.8 (c), but to the entire Chapter 3 of the County Code.

I am not addressing the other part of the communication where I do not have primary vested rights. And I am writing to you as a courtesy just as I did in April, 2005 prior to your consideration of the Mayor's request to remove Leon Gonsalves as a Police Commissioner due to racial discrimination.

I would also like to draw your attention to the Ethics Hearing Officer's finding that he did not find any violation of the Charter or Code by Commissioner Ching individually in the selection process of the Chief¹. My appointment as Chief of Police is valid despite the complication of one vote. If you choose to invalidate my contract as recommended and not give my concerns some serious consideration, my employment as the Chief of Police in my opinion will still be valid. I simply will be the Chief of Police working without an employment contract which I will challenge in court.

I will be forwarding a copy of this communication to:

1. News media(s)
2. County Attorney
3. Finance Director
4. Ethics Commission
5. Police Commission
6. Mayor's Office
7. Clayton Ikei, Esq.

I hope you will give this communication serious consideration.



K.C. Lum

¹ For the charge" by failing to conduct the selection process in a fair and impartial manner", the hearing officer, Judge E. John McConnell, stated "..... the Hearing Officer declines to conclude that the findings of fact set forth in Section D of Complainant's proposed findings establish a particular violation of the Charter or Code by Commissioner Ching. [Hearing Officer's Report BOE No. 94-001(a) pg.2 pg5].