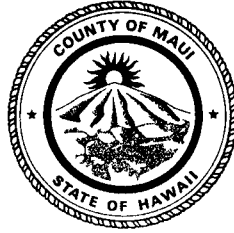


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MEMO TO: Robert Carroll
Councilmember, East Maui

FROM: James A. Giroux, Deputy Corporation Counsel 

DATE: June 9, 2016

SUBJECT: **SPECIAL COMMITTEE ON COUNTY GOVERNANCE** (CC-16-95)

This is in response to your June 3, 2016 memo, in which you request our department's assistance in interpreting the proposed Revised County Charter Amendment regarding the Special Committee on County Governance (CR-16-95):

Question posed.

Is there a requirement that will mandate that the potential County Manager applicant must be a resident of our County?

Answer.

No. The proposed Revised County Charter Amendment regarding the Special Committee on County Governance (CR-16-95) does not contain any provision mandating that the potential managing director applicant be a resident of the County of Maui. However, the managing director would be an appointed position and governed under Hawaii Revised Statutes Section 78-1(b) which states:

“(b) All appointive officers in the service of the government of the State or any county who are employed as department heads and deputies or assistants to a department head shall be citizens of the United State and residents of the State for at least one year immediately preceding their appointment; provided that the foregoing one year residency requirement may be waived by the appointing authority when the appointive officer is required to have highly specialized or scientific knowledge and training and a qualified applicant who is a resident for at least one year is not available to fill the position. All others appointed in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens, nationals, or permanent resident aliens of the United States and residents of the State at the time of their appointment. A national or permanent resident alien appointee shall not be eligible for continued employment unless such person diligently seeks citizenship upon becoming eligible to apply for United States citizen.” (Emphasis added).

As currently proposed, the managing director would be the head of the executive branch under Article 6, and would not be an appointive officer in the service of the county employed as a department head. The proposed Revised County Charter Amendment Section 6-1 states the following:

“Section 6-1. Executive Power. The executive power of the county shall be vested in and exercised by the executive branch, which shall be headed by the [mayor] managing director, except as otherwise provided by this charter.:

Under the proposed revised county charter the council will appoint and remove the managing director. The proposed Revised County Charter Amendment Section 3-6(7) states the following:

“Section 3-6. Powers of Council. The council shall be the legislative body of the county. Without limitation of the foregoing grant or other powers given it by this charter, the council shall have the power:

...
(7) To appoint and remove the managing director. The terms of the managing director’s employment shall be established by contract. The elements and standards of the council’s recruitment for the position of managing director shall be publicly announced. Evaluation of candidates shall be based on publicly announced criteria of professional qualifications that are based on advice from the Department of Personnel Services, the

Robert Carroll
Councilmember, East Maui
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International City/County Management Association, and other entities as requested by council.”

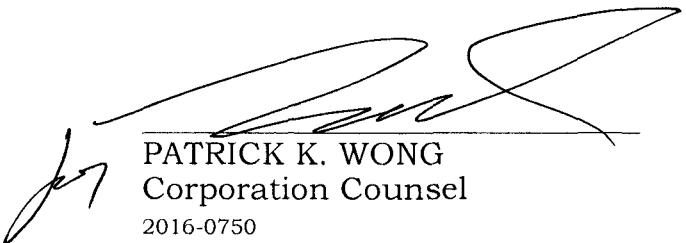
Conclusion.

The proposed managing director need not be a resident of the County of Maui, but must be a resident of the State of Hawaii at the time of his/her appointment.

If you have any questions, please feel free to contact me.

JAG:lk

APPROVED FOR TRANSMITTAL:



PATRICK K. WONG
Corporation Counsel
2016-0750