

BOARD OF ETHICS

COUNTY OF MAUI

In the Matter of a Request by
KIMBERLY WILLENBRINK for an
Advisory Opinion

Advisory Opinion
No. 22A-07

ADVISORY OPINION

The Maui County Board of Ethics (the "Board"), having reviewed a request for an advisory opinion filed by KIMBERLY WILLENBRINK a Department of Water Supply employee, and having obtained all the information deemed necessary by the Board to make a proper determination regarding the subject request, renders this Advisory Opinion No. 22A-07 pursuant to Section 10-4.1.c. of the Revised Charter of the County of Maui (1983), as amended (the "Charter") and Section 04-101-52 of the Rules of the Board.

SUMMARY OF FACTS

After review of the request for an advisory opinion the Board finds as follows:

(a) Procedural history.

By letter dated April 4, 2022, Ms. Willenbrink requested an advisory opinion regarding a possible conflict of interest with her employment as a Planner IV for the County of Maui's Department of Water Supply, Water Resources and Planning Division ("DWS") and her offering her services, for a nominal fee, to the public to understand the new County of Maui permitting process and to assist them complete and submit their applications via the recently released, Maui's Automated Planning and Permitting System ("MAPPS") permitting program

On April 13, 2022, the Board convened in open session to consider the subject advisory opinion request.

(b) Summary of Facts.

Ms. Willenbrink is currently employed as a Planner IV with the DWS effective January 16, 2022; and was a Planner with the Department of the Planning, with duties that included processing permit applications, from 2017 thru December 2021. With her knowledge of and extensive experience using the various County of

Maui permitting applications, her understanding of the processes for submission, ability to determine which application is required for their specific project, and her advanced training on the new MAPPS system, she would like to offer her services, navigating the permitting process completing online forms, and submitting their applications, for a nominal fee.

Ms. Willenbrink stated that during her employment with the DWS and Planning department she has had no decision-making authority or final approval on applications she has processed.

Ms. Willenbrink appeared in person via BlueJeans video in open session and provided testimony and responded to questions from the Board.

The Board deliberated in open session to consider the subject advisory opinion request.

APPLICABLE LAW

The Board considered the following provisions of Article 10 of the Charter ("Code of Ethics") and Maui County Code, in rendering this Advisory Opinion.

Section 10-4. Prohibitions.

1. No officer or employee of the county shall:
 ...
- b. Disclose information which, by law or practice, is not available to the public and which the officer or employee acquires in the course of the officer's or employee's official duties or use such information for the officer's or employee's personal gain or for the benefit of anyone.
- c. Engage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of the officer's or employee's official duties or which may tend to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties.

OPINION


Based on the foregoing provisions of the Code of Ethics, the Maui County Code, the information received and files herein, the Board finds as follows:

Ms. Willenbrink's position as a County employee, in the DWS and Planning Department, has given her firsthand training, access and knowledge of the new MAPPS permitting process and access to internal permitting generally not available to the public or permitting consultants, providing her with an advantage over other businesses in the community offering similar services, with information which, by practice, not available to the public. Ms. Willenbrink is advised to not offer her services, to the public for navigating the permitting process, completing online forms, and submitting applications, for a nominal fee.

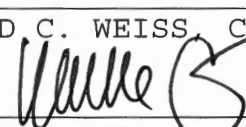
This Advisory Opinion is based upon the facts available to the Board. Ms. Willenbrink is advised to bring this matter before the Board again, should the facts of her situation change.

The Board thanks Ms. Willenbrink for bringing this matter to the Board's attention.

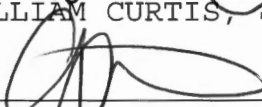
Adopted by the Board on July 13, 2022;



DAVID C. WEISS, Chairperson



WILLIAM CURTIS, Jr., Vice-Chair



GERALDINE LEWIS, Secretary

Excused

SCOTT K. PARKER, Member

/s/ Kelly Lanilei Maluo-Pearson

KELLY LANILEI MALUO-PEARSON, Member



KATHRYN REEVES SHRODER, Member



STEVEN T. STURDEVANT, Member

/s/ Shanna Willing

SHANNA WILLING, Member

VACANT, Member