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TO: Media Outlets
FR: Prosecuting Attorney Shaylene Iseri-Carvalho
RE: **Recording Shows County Attorneys Protected Bynum in Exchange for TVR Vote**

County Attorneys barred planning inspectors from enforcing the law against Councilmember Tim Bynum for alleged zoning violations in order to influence Bynum's vote on Mayor Bernard P. Carvalho Jr.'s TVR bill, according to a recording that surfaced last week when Bynum filed a federal lawsuit against the county.

The recording of a meeting between First Deputy Prosecuting Attorney Jake Delaplane, supervising planning inspector Sheila Miyake, and planning inspector Patrick Henriques was made when Delaplane met with the Planning Department to review zoning violation files in November 2010. Bynum's was among the files.

Planning inspectors began their investigation into Bynum after receiving an anonymous complaint that he had illegally converted his single family residence into a multi-family dwelling on agriculturally zoned land.

Investigating the complaint, planning inspectors went to the residence where they found separate entries, parking areas, and grills for two units. When inspectors approached the sliding glass doors of what was supposed to be a family room according to floor plans Bynum had previously submitted, they saw a full sized refrigerator that was not depicted in the plans, a counter top, and a rice cooker. The Planning Department then attempted to send a Notice of Violation to Bynum

Henriques said Bynum refused to accept any of three notices of violation the Planning Department sent to him. He also said that Bynum was worried about leaving a paper trail and that Bynum refused to schedule a site visit to allow an inspection of the property.

"We handled it like anybody else because we did not want to get into any troubles," Miyake said of the initial treatment of the Bynum complaint. "If I deviated from that then I would get a class action law suit."

When asked by Delaplane when Bynum's case started to deviate from the normal course for such a complaint, Miyake said, "When Bynum started speaking with the deputy and the county attorney."

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That's when county attorneys assigned to the Planning Department began pressuring planning inspectors to ease off Bynum, according to Miyake.

At the time of the recording, Ian Costa was the Planning Director and Deputy County Attorneys Mike Dahilig and Ian Jung were assigned to the Planning Department. Dahilig was slated to become the Interim Planning Director on December 1, 2010.

"Ian (Costa) asked me: ask (county attorneys) Dahilig or Jung to read this," said Miyake of a notice of violation that was to be sent to Bynum. "If it's good, shoot it out."

That's when Dahilig told her, "Hold it up until after the vote. We need his vote for the TVR."

"It's political. Everything is political," said Miyake about the decision to hold off on serving Bynum with the letter. She said she was told, "Don't push it, don't push it because they needed his vote."

"So it got very hot and they kind of catered to him," Miyake can be heard saying on the recording, "because it was their TVR screw up, because the Mayor really wanted that TVR or whatever it was."

"You have to understand," said Miyake, "the Mayor and Bynum are good friends."

"I can't testify that Dahilig said that because he's going to be my boss," said Miyake. "It was political. But I'm never going to say it because that would be my demise."

A critical vote was looming before the County Council on a bill to grandfather transient vacation rentals on agricultural lands. On July 28, 2010, the Council passed the bill in a 5-2 vote, with Bynum voting in the majority.

After the vote, the County Attorney's Office renewed their efforts to influence the investigation. According to Miyake and Henriques, after being approached by Bynum, Deputy County Attorneys Ian Jung and Mike Dahilig began telling inspectors that what they observed in the Bynum residence was not a kitchen.

"But it's hard to change our minds about the preparation of food," Miyake said, "Our director, Ian (Costa) believes in the code it is an area to prepare food."

The County Zoning Ordinance defines kitchen as "any room used or intended or designed to be used for cooking and preparing food."

The decision to send out a second revised notice of violation, a deviation from standard policy, occurred when Miyake was on a trip to the mainland.

“When they was doing that to me, I thought they was going to hang me.” said Henriques regarding the directive he received to sign the second notice that he had no part in preparing.

Nearly one year after the initial site visit, Bynum agreed to an interior inspection of his “family room.” The inspection revealed the area contained a full sized refrigerator, unpermitted double sink, upper and lower kitchen cabinets, knife block, spice rack, dishes, dish towel, and food items.

Responding to the press release that accompanied Bynum’s lawsuit, Delaplane said “Bynum’s attorney, Margery Bronster made false and defamatory statements indicating that the recording contains discussions of plans and knowledge of wrongdoing, and is even worded to give the appearance that Shaylene was present at the meeting. That is so far off the mark that you have to wonder if she actually ever listened to the recording.”

“Bronster also claimed there were jokes about committing perjury,” said Delaplane. “Sheila might have laughed when she said she couldn’t testify against Dahilig because he would soon be made her boss, but she was visibly worried about losing her job.”

“Of course she was worried,” said Delaplane. “She had blown the whistle on the Office of the County Attorney’s quid-pro-quo to cover up for Bynum in exchange for Bynum’s vote. She was speaking out against some powerful people in the government.”

“It’ll blow up ugly,” Miyake can be heard saying in the taped meeting. “He’s had so much people trying to cover for him. The mayor. He had this whole office trying to cover for him.”

Pursuant to a Freedom of Information Act request from The Garden Island Newspaper, the OPA has released the entire recording to the public, which can be accessed at:

<http://www.youtube.com/watch?v=PpdwKM4JPYE>