

ACTION REQUESTED

November 30, 2023

ALSO SENT VIA EMAIL: CWINDER@SENATE.IDAHO.GOV

Idaho State Legislature
State Affairs
Attn: Chuck Winder, President Pro Tem
5528 N Ebbetts Ave
Boise ID 83713

Idaho State Bar Association
Grievances
PO Box 895
Boise ID 83701

RE: Conflict of Interest & Ethical Conduct Unbecoming a Senator and an Attorney

Dear Pres. Pro Tem Winder & Bar Association:

This complaint/grievance is regarding Senator Todd Lakey who is also a practicing attorney in Meridian Idaho. He received the attached letter at a fire annexation meeting on August 29, 2023, wherein he represented the applicant IMH Boise Heritage, LLC. The parcel in question is located in District 23 and the proposed development is known as Lago Vista Estates. If approved will add over 100 homes to a volunteer fire district in a rural area heavy with agricultural activities and spot residential development.

Mr. Lakey has stated that he only works part-time as a Senator and therefore has the right to represent anyone he wishes from his private practice. I disagree and so did/do the other 20 people in attendance at the August 29th meeting. Mr. Lakey regularly meets with constituents in various locations, including his office, throughout the year. We met with him just after the 2023 session had finished. I recently saw him present a land use statute in which he is the chair to the Canyon County Board of County Commissioners. A statute that will benefit him and his developer clients. He did not indicate any "Joe Citizens" were appointed to the committee, but there were several that were involved in real estate.

I am not denying Mr. Lakey cannot represent developers, but how can he legally and ethically with a clear conflict of interest, represent developers/builders in the district where his constituents reside? We made it clear at the August meeting that we felt a conflict of interest was occurring because he was our Senator and we opposed the annexation. Mr. Lakey, on record, stated the reasons he disagreed, and attorney Kevin Dinius, representative for the fire district, allowed the meeting to continue.

We, as citizens, cannot enlist the assistance of Mr. Lakey for changes to laws because he cannot chose between his livelihood and his constituents, or if he does, it will be for a financial decision as a private practice attorney and not as a senator. Citizens in our district want to change several laws and cannot ask for his assistance based on his attorney client base. That is a conflict. To chose a developer over his constituents, especially while at the same meeting wherein we were not in agreement with the annexation he was proposing for his developer client is an ethical issue and a conflict of interest. I am not sure what else this would be? Knowing he cannot help us with issues in the laws because he has an ulterior motive to protect his clients' interest is a conflict.

The investigator for the Attorney General indicated that while he believed it to be a conflict of interest, because it was not a criminal act, there was nothing the AG's office could do. He did highly recommend a bar complaint against Mr. Lakey. I spoke with my Representative Tina Lambert who then had a conversation with Mr. Lakey expressing her concerns about the conflict but was advised by Mr. Lakey that he saw no issue which is why I also felt his colleagues in the legislature should also be made aware. I am also not sure how an investigation by

either the State Affairs Committee or the Bar Association would be effective as it seems already biased in not wanting to find fault in a colleague. It would be best business practice to always have citizens serve on these investigation committees, someone who isn't in the house or senate and who is not an Idaho attorney. I want to believe the best in both the committee and the association, but from our perspective, the citizen interest seems to take the back seat.

While my complaint/grievance is directed at Mr. Lakey, it seems that for some time, conduct such as this has been occurring across the state of Idaho by various members of the public. One in particular is Randy Haverfield, Nampa City Council/Architect. This is extremely problematic as several issues arise again. Mr. Haverfield can recuse himself from voting, but Mr. Haverfield knows what information the Council is looking for when approving projects. Further, there are many architects who do not sit on the City Council so he has a duty to send business elsewhere because his duty to the citizens of the City of Nampa should be the priority, not the developer. Finally, the constituents who elected Mr. Haverfield did so because his duty was to protect the citizens and their wishes and/or needs, change laws that the citizens requested (and were lawful of course), but he, like Mr. Lakey, will have conflict in this decision making.

The standard answer we receive is "this is how it has always been done" is not acceptable. Doing something wrong or compromised for decades does not make it right. It is clear to so many who have been advised of this situation that it is a clear conflict of interest and an ethical violation and yet the laws are not written clearly with enforcement to prevent this type of activity. We believe and ask that four things occur:

- 1) An investigation into the actions of Mr. Lakey be conducted by the State Affairs/Ethical Conduct Committee to determine whether an ethical violation and conflict of interest occurred;
- 2) An investigation into the actions of Mr. Lakey be conducted by the Bar Association to determine whether an ethical violation and conflict of interest occurred; and
- 3) A change to the laws to make it clear this conduct is in fact a violation with appropriate disciplinary action to deter others from engaging in the same or similar conduct.
 - a. No representation of a developer/builder shall occur within the district, city, county, or other entity or agency where that legislator, commissioner, or council member represents or sits on a board or council.
- 4) Committees created to investigate these matters in either state affairs or the bar association shall include at least one member of the public who is not or has not been elected to or affiliated with by way of dues or otherwise.

Thank you for your attention to the above. We look forward to hearing from you.

Sincerely,


Kim Yanecko

The Posse

We the People, Fighting back with Truth & Facts

Cc: Rep Tina Lambert, District 23
Enclosures: Letter to Senator Todd Lakey dated August 29, 2023
List of attendees in opposition at the Fire Annexation meeting on August 29, 2023

