

October 7, 1991

MEMORANDUM

TO: The Honorable Michael D. Veith
Director of Finance, County of Kauai

Attention: Mr. Timothy L. Albao
Accounting Systems Administrator

FROM: Hugh R. Jones, Staff Attorney

RE: Disclosure of Kauai County Budget Ordinance

This is in reply to Mr. Timothy L. Albao's letter to the Office of Information Practices ("OIP") dated July 3, 1991.

In his letter to the OIP, Mr. Albao requested the OIP to provide advice concerning whether, under the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes, ("UIPA"), Kauai County budget ordinances which contain salary information concerning non-exempt and included county employees must be made available for public inspection and duplication.

Notwithstanding the fact that the Kauai County budget ordinance contains exact salary information for identifiable civil service employees, it is our opinion that legislative enactments of the State Legislature and of the county councils must be made available for public inspection and copying. It is a fundamental principle that legislative enactments are, of their very essence, "public records." See, e.g., Haw. Rev. Stat. § 23G-13 (1985). Indeed, as a condition of passage, every legislative enactment must go through three separate "readings." See, e.g., Haw. Const. art. III, § 15. Similarly, while not controlling of a determination under the UIPA, article IV, section 4.02F of the Revised Charter of the County of Kauai is persuasive evidence of an ordinance's "public" character. This charter provision requires that all bills making an appropriation

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of public funds be available for inspection by the public in the office of the county clerk.

In addition, courts of the State of Hawaii must take judicial notice of the constitutions and statutes of every state, and of all duly enacted ordinances of the cities and counties of this State. See Rule 202(b), Hawaii Rules of Evidence, chapter 626, Hawaii Revised Statutes.

Moreover, the UIPA provides that "[a]ny provision to the contrary notwithstanding, each agency shall make available for public inspection and copying during regular business hours . . . [i]nformation collected and maintained for the purpose of making information available to the public." Haw. Rev. Stat. § 92F-12(a)(15) (Supp. 1990). It is our opinion that legislative enactments contain information within the scope of this UIPA provision. As to the list of records set forth by section 92F-12, Hawaii Revised Statutes, the UIPA's exceptions to public access, including the UIPA's personal privacy exception set forth at section 92F-13(1), Hawaii Revised Statutes, are inapplicable. See S. Conf. Comm. Rep. No. 235, 14th Leg., 1988 Reg. Sess., Haw. S.J. 689, 690 (1988); H.R. Conf. Comm. Rep. No. 112-88, 14th Leg., 1988 Reg. Sess., Haw. H.J. 817, 818 (1988)

Also, it was not the intention of the Legislature that the UIPA's exceptions to public access, including its personal privacy exception, apply to records that were available for inspection before the passage of the UIPA. Id. It goes without saying that legislative enactments of the county councils were available for inspection before the passage of the UIPA.

Therefore, it is our opinion that all duly enacted ordinances of the County of Kauai must be made available for inspection and duplication "upon request by any person." Haw. Rev. Stat. § 92F-11(b) (Supp. 1990). If you should have any questions regarding this matter, I may be contacted at (808) 586-1404.

Hugh R. Jones
Staff Attorney

HRJ:sc
c: The Honorable Joann A. Yukimura
Mayor, County of Kauai

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Mr. Gregg Takayama
Office of the Lieutenant Governor
Ms. Ferne V. Orlik

APPROVED:

Kathleen A. Callaghan
Director