

Charter: An instrument emanating from the sovereign power, in the nature of a grant, either to the whole nation, or to a class or portion of the people, to a corporation, or to a colony or dependency, assuring to them certain rights, liberties or powers.

A charter differs from a constitution, in that the former is granted by the sovereign, while the latter is established by the people themselves.
(Black's Law Dictionary Abridged 6th Edition (BLD 6th) p. 161

Constitution: The organic and fundamental law of a nation or state, which may be written or unwritten, establishing the character and conception of its government, laying the basic principles to which its internal life is to be conformed, organizing the government, and regulating, distributing, and limiting the functions of its different departments, and prescribing the extent and manner of the exercise of sovereign powers.

(BLD 6th p. 214, 215)

Statute: A formal written enactment of a legislative body, whether federal, state, city or county. An act of the legislature declaring, commanding, prohibiting something; a particular law enacted and established by the will of the legislative department of government; the written will of the legislature, solemnly expressed according to the forms necessary to constitute it the law of the state.

(BLD 6th p. 981)

Administrative Rule: Agency statement of general applicability and continuing effect that interprets law or policy or describes agency's requirements.

(BLD 6th p. 30)

072511 - Reg - Rec'd from Jim Smith

FROM SALLY RAISBECK
7/25/11

THE MAUI NEWS – Monday, July 25, 2011 – A7

Charter Commission members should listen to the public

The appointed members of the Maui County Charter Commission have great power within county government. Every 10 years, the commission is formed and given the special authority to propose amendments to the charter or draft a new charter. The charter is the county's constitutional, foundational document.



VIEWPOINT
DANNY A. MATEO

The mayor nominates Charter Commission members, subject to the County Council's approval or disapproval. This year, the council approved all 11 nominations.

The Council's Policy Committee convened twice in March to interview and evaluate the nominees. As noted in Policy Committee Report No. 11-32 (adopted on April 1 and available for review on the county website), the Charter Commission nominees expressed "their willingness to engage the community" and "their ability to keep an open mind."

Initially, it appeared that all of the Charter Commission members would keep these promises of engagement and objectivity, as the commission announced a countywide schedule of public hearings to solicit input. However, a Viewpoint pub-

lished in The Maui News on July 10 — before the Charter Commission heard from the people of the island of Molokai — showed that at least one member had already committed to a position on one of the most controversial charter issues.

Charter Commission Member Dave DeLeon has long been an outspoken advocate of a voting system that would merge the small communities of Molokai, Lanai and Hana with more urbanized parts of the island of Maui in establishing council districts. His views and nomination were discussed at length by the Policy Committee, which interviewed him on March 2.

Here's an excerpt from the meeting minutes:

"Mr. DeLeon: I definitely have stated my opinions on at least some of the issues in front of this commission, but I can tell you I can put that on the side and be objective. . . . I'm trying very hard not to bring any of that baggage to the table. . . . I want to hear from the public . . . the whole community."

Yet Mr. DeLeon's July 10 Viewpoint in favor of district voting was published the day before the Charter Commission held its first public hearing on Molokai. So it was written without giving Molokai residents the courtesy of a listen.

That's disrespectful. It's also contrary to the assertions made to the council about how the Charter Commission and its members would function.

Additionally, I question whether a news-

paper is the proper forum for a Charter Commission member to try to persuade his colleagues on a contentious issue. As a tester pointed out during the July 11 meeting, volunteer commission members are expected to debate in public meetings and fulfill their specified duties with objectivity and discretion, not to serve as public advocates who are committed to certain political positions or to favoring particular interests.

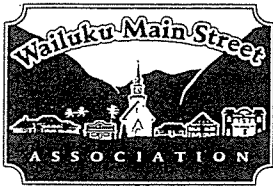
I've noted my objections to the type of district voting proposed by Mr. DeLeon (Viewpoint, Aug. 3, 2010). But I don't expect every Charter Commission member to agree with me on every charter issue.

I do, however, expect that Charter Commission members will fulfill their duties in an open-minded and constrained manner, as they promised council members they would and as the public presumes. I trust that Charter Commission Chairman Joshua Stone, other Charter Commission members and the public will join me in voicing this concern.

The next Charter Commission meeting is scheduled for noon today in the Planning Conference Room, adjacent to the county building in Wailuku. The Charter Commission is also conducting a public hearing 6:30 p.m. today at the Kihei Community Center.

■ *Danny A. Mateo is the chairman of the Maui County Council and holds the Molokai residency seat on the council.*

072511 - Reg - Rec'd from Sally Raisbeck



Wailuku Main Street Association, Inc.
Tri-Isle Main Street Resource Center

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July 25, 2011

Commissioner Josh Stone
And County Charter Commission Members c/o County of Maui ,
200 South High Street Wailuku, Hi 96793

Dear Chair Stone and Maui County Commission members:

Aloha! On behalf of the 9 towns that comprise Tri-Isle Main Street Resource Center's Board of Directors, I am here today to express our sentiments relating to a Proposed Charter Amendment relating to County Council Election Districts. Our organization, a 25+ year advocate for Maui County's Small Towns are concerned that a balanced viewpoint be considered in this important issue and a decision the result of an extensive public awareness discussion with all segments within each community especially districts that will be heavily impacted. Our voice is in solidarity with those of our less populated small towns of isolated Hana and the islands of Molokai, Lana'i. We stand with and for their right to fully participate with an independent voice that will not be drowned out by the masses. We appreciate the commissioners speaking with one voice so no confusion or exerting undue influence is misinterpreted in a fair & equitable process.

The proposal, while popular with some residents whom we respect and understand where they are coming from having had direct experience with district voting elsewhere...may not fully understand or appreciate the roots of this system of island representation is both traditional, and historical. It is a home rule issue that has been extensively discussed and debated periodically over the last century with the result being a respectful recognition that everyone has the right to a voice and a seat at the table that makes decisions that impact their respective island. As in an ohana, each has a voice no matter how big or small. We feel that it is necessary to prove a change is in order. Surveys are highly suspect as they can be skewed to reflect a particular outcome. Furthermore, the burden of educating the populace (including and especially those who do not vote) to understand what this means and how it will affect them is a primary responsibility of this Charter Commission to examine the question, come up with a viable answer or do not change anything. The leaders of our County have debated this issue periodically and the outcome of the majority always prevailed supporting the need for geographical representation as a fair democracy. It is the Maui Nui way...respected for generations.

A different philosophy is now emerging and it has a direct relationship with population growth. What does this proposal mean to our small towns and their preferred future? What are the implications of an updated County General Policy Plan and Island Plans that emphasizes directed growth? Unless our small towns grow, they will not be represented? There is even proposals to change the names of our districts to reflect a more homogenized citizenry. This is not well received by the towns of Waihee and Waikapu who while under the Wailuku/Kahului district, receive special acknowledgement for their uniqueness and placing all of this under a Central Maui label does not necessarily mean progress. It intrudes on our historical roots, our identity and "sense of place". It appears to be a clever a measure to reduce the allocations of the pie. This is contrary to our Hawaiian value system that respects the right of communities as diverse as Hana, Lana'i and Molokai to have a participatory voice at the table where decisions are made.

072511 - Req - Rec'd from Jocelyn Perreira

The residents and businesses in these towns pay the same taxes, fees and contribute to our County's Planning process. Yet they often feel like second-class citizens for they must take extraordinary measures to travel to be assured of attaining full service and access. Requiring them to bear a greater burden not only seems unfair, it is unfair.

When these small towns try to get a project to benefit their community, it is important that all 9 members are aware and responsible to each and every citizen for a fair division of resources and opportunities for a broader field of judgment on home rule issues.

Maui County is the only county in the state with islands separated by water and each of them is distinctly different from the other and from Maui. We have repeatedly been made aware of their isolation and the few and far between County Services that everyday Mauians take for granted. To combine Lana'i with Lahaina is more than a cultural shock; they will be a tiny fish in a bowl of big fish. How would we like ^{to} have Hawaii linked to California for representation?

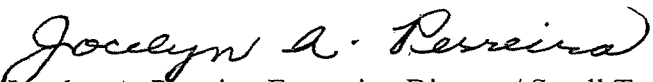
Incumbents have an advantage yes, but only if the general public believes they should only vote in their district. Blank votes can mean a variety of things including sending a message that none of the above was considered qualified or provided true representation.

While Lanai & Molokai candidates may not be readily defeated... factually, it has happened. Nor should not ignore the benefits to all of Maui County that has come from the tenures of Goro Hokama and Pat Kawano. Each of them has worked to make our County No Ka Oi (The Best)!

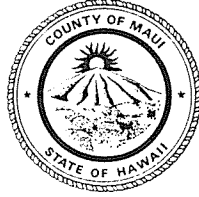
So it is with the rest of us on the island of Maui, because you are asking us to take away our votes for 9 representative offices and replacing it with one. Why should we support losing the opportunity to express our independent voices that carry the power and equality of 9 representatives. That allows a broader discussion and understanding of the issues that may not be in sync with the person who was elected from your district. In some cases, entire districts have grown and changed with new sets of values and visions. This leaves those who have lived in these areas for generations with a much smaller and at times an intimidated voice and insufficient options to seek out someone whom they are comfortable sharing their concerns.

We have other areas in the County Charter that we wish to share our opinions/concerns and recommendations. However, time allotted does not afford us an opportunity at the same meeting. We will attempt to take these issues separately as we discuss them in our own process of public outreach and representation in our small town boards. We felt it important to begin with the 900lb gorilla in the room. This is a very serious and important proposed initiative. We should heed the wisdom of our forefathers for surely the present system was grounded in careful deliberation and supported in adopted legislation.

Sincerely,
Wailuku Main Street Association Inc. /Tri-Isle Main Street Resource Center-


Jocelyn A. Perreira, Executive Director/ Small Town Specialist
Tri-Isle Main Street Program Coordinator

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July 25, 2011

Dear Chair Stone and Charter Commissioners:

The purpose of this letter is to provide comments and a recommendation on Proposal No. 4, Abolishing Liquor Adjudication Board, in the Final Report of the West Maui Charter Working Group.

The Department of Liquor Control ("Department") was surprised to learn of this proposal because we have not received any complaints about the current structure of the Liquor Control Adjudication Board ("Board") or the Liquor Control Commission ("Commission"). In fact, no one has communicated with the Department about any proposed Charter amendments.

A separate Board promotes fairness in liquor law enforcement. The Department presents liquor adjudication cases to the Board and the Board, a quasi-judicial agency, determines whether or not a violation of the liquor laws occurred and whether or not a penalty should be imposed. During the hearing the Department is represented by a deputy prosecuting attorney and the licensee may choose to be represented by a private attorney.

Contested liquor adjudication hearings can be similar to court trials with witnesses testifying under oath and evidence submitted to the Board who acts like a jury. However, state law provides that the rules of evidence do not apply so the hearing process is simplified for lay people. The Board is comprised of volunteers, some of who are or have been licensee employees, which promotes fairness to the licensees. Decisions of the Board are rarely appealed to court and, in the few instances they are appealed, the Board's decision is usually confirmed.

Under the current structure, when the Board hears an adjudication case the Board is fresh and untainted by any actions or statements previously made. If the Commission decided both licensing and adjudication matters, statements made by Commissioners during the licensing process could be used to disqualify Commissioners during the adjudication hearing. Also, there have been instances with the Honolulu Liquor Commission bringing up statements during adjudication hearings previously made by a licensee during the licensing process. The same situation could occur with previous public testimony heard by the Commission. Once a bell is rung it cannot be unring.

072511-Req - Rec'd from Franklyn Silva
Item No. IV.B.

Chair Stone and Charter Commissioners

July 25, 2011

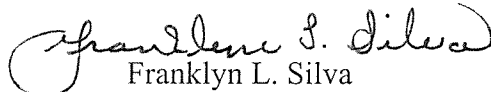
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A separate Board is efficient, not redundant. As stated above the Board adjudicates enforcement cases while the Commission administers licensing matters, two completely different functions. The Commission and Board meet once a month on a consistent basis and, as a previous testifier confirmed, Board meetings can be quite lengthy. The Honolulu Liquor Commission, because it hears both licensing and adjudication matters, meets every week and receives a stipend for each meeting.

It is one thing to ask a volunteer to commit to a once a month meeting. But if the Commission handled both licensing and adjudication matters, volunteers would have to commit to multiple meetings a month, some of which could last for most of the day. This could make it difficult to find volunteers to serve on the Commission. Currently, there are no issues with filling vacancies on either the Board or Commission.

For these reasons, the Department recommends keeping the current structure and retaining the Liquor Control Adjudication Board.

Very truly yours,


Franklyn L. Silva
Director