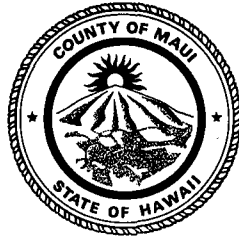


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July 12, 2013

T O : Elle Cochran, Council Member
Maui County Council

F R O M : Scott K. Hanano, Deputy Corporation Counsel

SUBJECT: Chapter 5.16, Maui County Code, Relating to Taxicab
Operation in the Lahaina Harbor. (PAF 13-168)

This memorandum is in response to your legal request dated June 14, 2013 to our Department to provide a legal opinion to the following questions:

1. Does the County have the authority to regulate individual taxicab vendors by requiring a central dispatching system?
2. If your response is "No", may the Council, by ordinance, regulate taxicab operations by requiring a central dispatching system?

Short answer:

1. The County currently does not have authority to regulate taxicab operations in the Lahaina harbor using a central dispatching system.

2. The County may not, by ordinance, regulate taxicab operation in the Lahaina Harbor by requiring a central dispatching system.

Elle Cochran, Council Member
July 12, 2013
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Discussion/Analysis:

The State has jurisdiction for enforcement of laws and regulations pertaining to harbors and airports in the State of Hawaii. The State confers this jurisdiction to the State of Hawaii Department of Transportation. Currently, the State has not delegated the regulation of taxicabs utilizing a central dispatch system to the respective counties in which any State harbor is located.

The State has prescribed rules and regulations for the regulation of the operation of taxicabs (defined as motor carriers) in State harbor facilities. These regulations are found in Title 19, Subtitle 3, Chapters 43 and 44 of the State of Hawaii Administrative Rules. These rules, unlike the rules governing State airports, are silent as to the utilization of a central dispatching system for the operation of taxicabs and other motor carriers in State harbor facilities.

The relevant Hawaii Administrative Rules would have to be amended authorizing the counties to utilize a central dispatching system for the operation of taxicabs and motor carriers in State harbor facilities. The delegated authority to the respective counties only allows regulation of licensing and permitting and the enforcement of any State or County traffic law or ordinance.

Conclusion: The State does not appear to confer jurisdiction on the counties to regulate the operation of taxicabs and motor carriers in State harbors. Until this authority is delegated or authorized, any ordinance enacted by the County of Maui requiring the use of a central dispatching system may be challenged.

Should you have any questions or concerns, please do not hesitate to contact me.

APPROVED FOR TRANSMITTAL:



PATRICK K. WONG
Corporation Counsel

S:\ALL\Advisory\SKH\PAF 13-168 Taxicab in Lah Hrbr.wpd

xc: Alan M. Arakawa, Mayor
Keith A. Regan, Managing Director
website