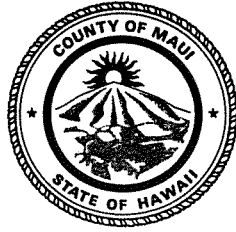


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November 15, 2013

MEMORANDUM

MEMO TO: Lance T. Taguchi, County Auditor

FROM: Linden H. Joesting, Deputy Corporation Counsel 

SUBJECT: AUTHORITY FOR THE AUDITOR TO HIRE AND PAY STAFF

This opinion responds to your written request, dated October 2, 2013, in which you asked for an opinion on the following question:

I. QUESTION PRESENTED

1. Does the County Charter provide the Auditor sufficient authority to hire and pay staff?

II. SHORT ANSWER

1. Yes, the Charter of the County of Maui, as amended (1983) ("County Charter") provides the Auditor the authority to hire and pay staff.

III. ANALYSIS

Provisions were added to the County Charter in 2012 which created the Office of the County Auditor and County

MEMO TO: Lance T. Taguchi, County Auditor

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Auditor. These new provisions also provided the Auditor's "Powers, Duties, and Functions" and "Definitions."

In these new provisions, the County Charter states "The county auditor shall appoint the necessary staff as shall be authorized by law." MCC § 3-9.1.4. Further on in the County Charter, it is stated that "The county auditor shall submit its budget to the county council and its budget shall include the cost of government's budget subject to" MCC § 3-9.2.4.

The term "appoint" has a plain meaning definition. The first method of understanding a law is to look to the usual, or plain and ordinary, meaning. HRS § 1-14 (2009 replacement). Extrinsic aids, such as dictionaries and case law, are helpful in confirming the ordinary meaning of a term. State v. Kalani, 108 Hawai'i 279 (2005). The Merriam-Webster's dictionary defines the term "appoint" as "to choose someone to have a particular job" or "to give (someone) a position or duty."¹ None of the definitions of appoint give the added information that an appointed person also receives wages. By contrast, the definition of the word "hire" includes the payment of wages in exchange for labor or personal services.²

When the language of a statute is ambiguous, the meaning of the words can be sought by examining the context, the reason and spirit of the law, but every construction which leads to an absurdity shall be rejected. HRS § 1-15. This leads to an examination of the rest of the County Charter provisions creating the County Auditor.

The second provision above, about the Auditor submitting its budget to the County Council, addresses the ability of the Auditor to receive funding. Using the Hawaii Revised Statutes and the principles of statutory construction, these two provisions are construed with reference to each other.

¹ Merriam-Webster on-line dictionary, sighted Nov. 15, 2013, <http://www.merriam-webster.com/dictionary/appoint>.

² Id., <http://www.merriam-webster.com/dictionary/hire>.

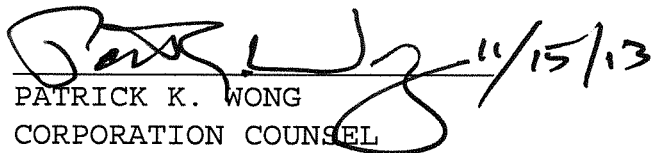
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Using the Hawaii Revised Statutes direction on how to construe the words of a law that are ambiguous, a reading of these two County Charter provisions must not create an absurdity. HRS § 1-15. It would be absurd for the Auditor to appoint staff but not be able to pay the staff. Therefore, a reading of the County Charter provisions together must allow the Auditor to appoint and pay his staff.

IV. CONCLUSION

The County Auditor has the authority to hire and pay the staff whom he appoints to positions in his office.

APPROVED FOR TRANSMITTAL:

 11/15/13
PATRICK K. WONG
CORPORATION COUNSEL

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cc: Webpage