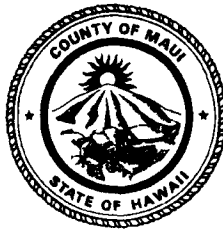


ALAN M. ARAKAWA  
Mayor



PATRICK K. WONG  
Corporation Counsel


EDWARD S. KUSHI  
First Deputy

LYDIA A. TODA  
Risk Management Officer  
Tel. No (808) 270-7535  
Fax No. (808) 270-1761

DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 SOUTH HIGH STREET, 3<sup>RD</sup> FLOOR  
WAILUKU, MAUI, HAWAII 96793  
EMAIL: CORPCOUN@MAUICOUNTY.GOV  
TELEPHONE: (808) 270-7740  
FACSIMILE: (808) 270-7152

---

MEMO TO: Riki Hokama, Chair  
Budget and Finance Committee

FROM: Jeff Ueoka   
Deputy Corporation Counsel

DATE: August 21, 2017

SUBJECT: **PLAN OF AUDITS (FISCAL YEAR 2016) (AUDIT OF COUNTY PROCUREMENTS (PCARD))** (BF-98(3))

We are in receipt of your memorandum dated August 16, 2017 regarding questions arising from the Budget and Finance Committee's meeting of August 1, 2017, where Audit Report 16-01, "Audit of County Procurements (pCard)" was reviewed. We offer these general responses as there is no specific set of facts on which the questions are raised and please understand that every incident will need to be reviewed on a case-by-case basis.

Violations of the State Cooperative Purchasing Program

The role of the Department of the Corporation Counsel ("DCC") in violations of the State Cooperative Purchasing Program will vary depending on the specifics of the violation. The DCC could be involved by providing guidance to County departments on the investigation into the matter and providing legal advice regarding the various remedies. If the investigation finds that the violation is an administrative matter, the department is tasked with disciplining the employee. If it is found that a civil suit needs to be filed in the court system, the DCC will likely file said suit. If the violation is found to be criminal in nature, the Maui Police Department and the Department of the Prosecuting Attorney will be notified. The State of Hawaii Department of the Attorney General has the jurisdiction to prosecute criminal actions and could conduct an investigation into the matter.

Riki Hokama, Chair  
Budget and Finance Committee  
August 21, 2017  
Page 2

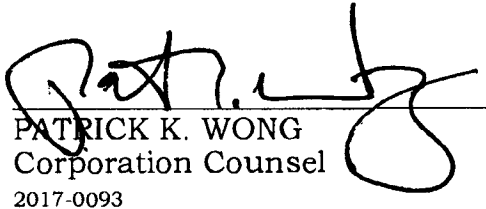
Garnishment of Retirement Benefits

We are not aware of any incidents where the County has garnished retirement benefits. Section 88-92, Hawaii Revised Statutes ("HRS") establishes the procedure for the garnishment of retirement benefits in certain situations. While it is our understanding that garnishment of retirement benefits is allowed under Section 88-92, HRS, in an abundance of caution, we feel it necessary to warn that a judicial determination regarding the applicability of Section 653-3, HRS, which establishes exemptions from the garnishment of pensions, may be required at some point in the garnishment proceedings.

If the individual has not retired and is still employed by the County, Section 78-12, HRS, establishes the framework for withholding salary for indebtedness to the government.

It is important to be mindful of the fact that there may be criminal proceedings involved and that there may be other remedies available depending on the specific circumstances of the situation.

APPROVED FOR TRANSMITTAL:

  
PATRICK K. WONG  
Corporation Counsel

2017-0093

BF-98(3) 2017-08-21 Memo to Chair