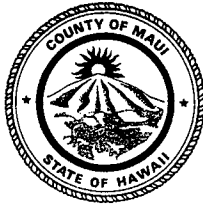


ALAN M. ARAKAWA
MAYOR



KEITH A. REGAN
MANAGING DIRECTOR

OFFICE OF THE MAYOR

Ke'ena O Ka Meia
COUNTY OF MAUI – Kalana O Maui

July 19, 2018

RECEIVED
2018 JUL 20 AM 9:37
OFFICE OF THE
COUNTY COUNCIL

Honorable Yuki Lei Sugimura, Chair
Policy, Economic Development and Agriculture Committee
County of Maui
Wailuku, Hawaii 96793

Dear Councilmember Sugimura:

**SUBJECT: NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(VARIOUS) (PEA-2(37))**

I would like to thank you and your committee members for the support of my nominee to the Maui Redevelopment Agency (MRA), Ms. Jo-Ann Ridao, at your June 19, 2018 Policy, Economic Development & Agriculture (PEA) meeting. Below re the responses to the questions from your June 25, 2018 letter regarding the MRA.

1. What is the intent behind requiring each board member to post a \$15,000 bond? Is this requirement still necessary?

The MRA was created pursuant to Chapter 53, HRS; said chapter gives very broad powers to the agency (i.e., the MRA) including, but not limited to, holding, purchasing and selling property, borrowing/financing authority, and even issuing bonds. Accordingly, the State requires members of the agency to be covered by a \$15,000 performance bond in their capacities as fiduciaries. The COM Department of Finance includes all MRA members under the County's blanket coverage.

The requirement to bond is still necessary. Please refer to the attached correspondence dated March 19, 2003 from Corporation Counsel to the Mayor's Office for further clarification.

2. Has this requirement been consistently applied for all past and present members of the Maui Redevelopment Agency? If no, why not?

Yes.

3. Who is responsible for following up on whether the bond was posted?

The Planning Department and Finance Department are tasked with the responsibility of following up on the status of the bond for MRA members.

4. Does the requirement to post a \$15,000 bond hinder the number of applicants that apply for the Maui Redevelopment Agency?

We have had on occasion a number of applicants inquire about the bond requirement. As of this time, I am not aware of any applicant withdrawing their name for this agency due to the requirement.

Sincerely,



ALAN M. ARAKAWA

Mayor

AA:MM/pn

cc: All Councilmembers, Maui County Council
Michele McLean, Director, Department of Planning
Ed Kushi, First Deputy Corporation Counsel, Department of Corporation Counsel
Mike Molina, Executive Assistant, Office of the Mayor

ALAN M. ARAKAWA
Mayor



BRIAN T. MOTO
Corporation Counsel

DEPARTMENT OF THE CORPORATION COUNSEL

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7740
FAX: (808) 270-7152

March 19, 2003

MEMO TO: Dave DeLeon
Mayor's Office

F R O M: Ed Kushi, Jr.
Deputy Corporation Counsel

SUBJECT: BONDING OF MAUI REDEVELOPMENT AGENCY ("MRA") MEMBERS

Answering your March 11, 2003 inquiry whether it is required that MRA members be bonded, we respond "yes".

Section 2.44.030, Maui County Code ("MCC"), entitled "Bond coverages required" lists four categories of county officers and employees required to be bonded for not less than \$50,000 per position. Although not specifically listed, MRA members, as county "officers" as defined in Section 13-1.4(b), Maui County Charter, and Section 1.04.010(D)(2), MCC, may fall into the fourth category of county officers, which includes:

"D. All employees of the department of finance and all other officers and employees concerned with the receipt, collection, custody, or disbursement of public funds."

Although the MRA was created by county ordinance in 1989 (reference Section 2.40.050, MCC), its enabling legislation was previously codified in Chapter 53, Hawaii Revised Statutes ("HRS"), the Hawaii "Urban Renewal Law." The state law authorized each county council to create a county agency such as the MRA (see Section 53-2, HRS), and, in general, authorized such agency vast and plenary powers, including but not limited to the authority to acquire, hold, develop and sell land, as well as issue revenue bonds (see Sections 53-5, 53-8, 53-12, and 53-16, HRS, generally).

Based on such authority, we submit that MRA members could most certainly fall into the fourth category listed in Section 2.44.030(D), cited above, thereby activating a \$50,000 per member bonding requirement.

Lastly and more on point, the State enabling legislation, at Section 53-2(b), HRS, specifically requires that:

Dave DeLeon
March 19, 2003
Page 2

"(b) Each member shall be required to give bond in the sum of \$15,000 for the faithful performance of the member's duties, and the agency may also require any of its subordinates to give bond, the premiums upon the bonds to be paid by the agency."

Based on the above, we submit that pursuant to State law, MRA members must be bonded in the amount of \$15,000 per position; however, pursuant to County Code (i.e., Section 2.44.030(D), MCC), said bond amount should be \$50,000 per position.

Lastly, please be informed that our office has advised the Planning Department that staffs the MRA, and the Finance Department of this bonding requirement, and Finance has taken steps to include the MRA members under the County's blanket coverage.

Call if further discussion/clarification is needed.

APPROVED FOR TRANSMITTAL:



GREGORY S. GARNEAU
First Deputy Corporation Counsel
S:\ALL\ESK\Advisory\memo to deleon re MRA bonding.wpd