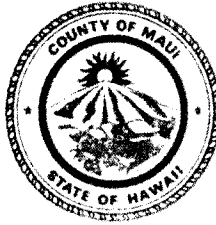


MICHAEL P. VICTORINO  
Mayor

SANDY K. BAZ  
Managing Director

JOSIAH K. NISHITA  
Deputy Managing Director



DEPARTMENT OF MANAGEMENT  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793

July 1, 2020

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

For Transmittal to:

G. Riki Hokama, Chair  
Healthy Families and Communities Committee  
Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793


 7/1/2020  
Mayor Date

Dear Chair Hokama:

SUBJECT: **2019 MAUI AGRICULTURAL FESTIVAL AND 4-H LIVESTOCK FAIR,  
WAR MEMORIAL COMPLEX (HFC-19)**

At the June 18, 2020 Healthy Families and Communities Committee, responses to a variety of questions relating to the County's use of the County seal and logos on flyers and other materials for sponsored events was requested. Enclosed is a copy of the previously transmitted responses from June 3, 2019. We apologize if you had not received this previous transmittal.

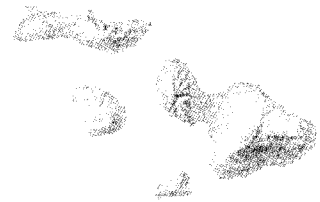
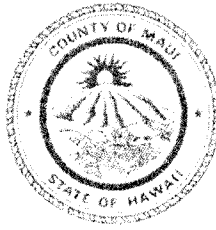
Sincerely,

  
Sandy Baz  
Managing Director

MICHAEL P. VICTORINO  
Mayor

SANDY K. BAZ  
Managing Director

TYSON K. MIYAKE  
Deputy Managing Director



DEPARTMENT OF MANAGEMENT  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793

June 3, 2019

Riki Hokama, Chair  
Healthy Families and Communities Committee  
Maui County Council  
200 South High Street  
Wailuku, HI 96793

Dear Mr. Hokama:

SUBJECT: **2019 MAUI AGRICULTURAL FESTIVAL AND 4-H LIVESTOCK FAIR, WAR MEMORIAL COMPLEX (HFC-19)**

Thank you for your letter dated May 16, 2019 requesting responses to the the following:

1. **Please advise whether there is a policy regarding the use of the County seal or logos on promotional materials for County-sponsored events. If so, please provide a copy of the policy. Does the policy account for Chapter 1.08, Maui County Code (which designates the County seal) and Section 5-3, Revised Charter of the County of Maui (1983), as amended (which grants the County Clerk "custody of the county seal")?**

The current Administration does not have an existing policy and is unaware of any official County policy or procedure "regarding the use of the County seal or logos on promotional materials for County-sponsored events".

2. **What guidance, if any, does the County provide to grant recipients on the use of the County seal and logos on promotional materials for their events?**

Although Section 1.08.010, Maui County Code designates the seal of the County of Maui and Section 5-3 of the Revised Charter of the County of Maui (1983) ("Charter"), states that "the county clerk shall...have custody of the county seal", neither the Maui County Code nor the Charter provides provisions regulating or restricting the usage of the County seal. However, as previously opined by the Department of the Corporation Counsel, and in concurrence with the County Clerk's position on this matter, the County seal should be used for official County business purposes only, and not for private purposes. Copies of those opinions are attached hereto for your reference as Exhibit "A", Exhibit "B", Exhibit "C", and Exhibit "D".

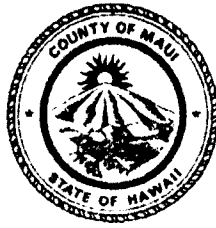
3. **Section 11.02.070, Maui County Code, provides that the Department of Transportation "may adopt an official logo for the County bus system." The attached examples show the Office of Economic Development has a logo. Which other agencies or program have logos? Under what authority were logos adopted? How are they used?**

We did not conduct an official inquiry or survey into this matter. However, based on limited informal discussions with a few departments, there is a consensus that historically, logos have been adopted by a means of verbal communications and utilized under the pretense that its purpose is strictly for official county business.

Sincerely,

  
Sandy Baz  
Managing Director

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

April 27, 2015

TO: Danny Mateo  
County Clerk

FROM: Linden H. Joesting   
Deputy Corporation Counsel

SUBJECT: Custody and Use of the County Seal

This is in response to your April 8, 2015 Request for Legal Services requesting the following:

1. Please provide an opinion regarding the meaning of Section 5-3(3), Charter of the County of Maui, specifically as it relates to the term "custody" and how it may relate to the use of an electronic version of the County seal by the Legislative or Executive Branch, non-profits, and other groups (i.e. T-Shirts sold at Maui County Business Resource Center, Fire Department, etc.) Provide clarification over which agency or branch of government would control the electronic use of the County seal on printed materials, souvenirs, and websites, and what authority, if any, would they have in regulating permissible uses of it.

I. Background – What do the terms seal and custody mean?

The Charter of the County of Maui (1983), as amended ("Charter"), states "the county clerk shall: ... Have custody of the county seal." Section 5-3.3. Since both terms *custody* and *seal* are undefined by the Charter or within the section on the County Clerk in the Maui County Code ("MCC"), we use the principles of statutory construction to define their meaning. Courts may resort to legal or other well accepted dictionaries as a way to determine a word's ordinary

Danny Mateo, County Clerk  
April 27, 2015  
Page 2

meaning. *Gillan v. Government Employees Ins. Co.*, 119 Haw. 109, 115 (2008) (citing *Leslie v. Bd. Of Appeals of the County of Hawaii*, 109 Haw. 384, 393. (2006)).

A *seal* is a symbol or mark of office. It is something that confirms, ratifies, or makes secure.<sup>1</sup> It is also “a design embossed or stamped on paper to authenticate, confirm, or attest.”<sup>2</sup> Although there are multiple definitions in the Black’s Law Dictionary, a *public seal* is defined as, “(a) seal used to certify documents belonging to a public authority or government bureau.”<sup>3</sup> The Oxford English Dictionary (OED) has no definition of a public seal.

The term *custody* is defined as immediate charge and control exercised by a person or an authority. Synonyms are safekeeping, care, guardianship.<sup>4</sup> The Black’s Law Dictionary defines *custody* as, “(t)he care and control of a thing or person for inspection, preservation, or security.”<sup>5</sup> It is defined in the OED as “(s)afe keeping, protection, defence; charge, care guardianship.”<sup>6</sup>

## II. Discussion and Recommendation.

The Charter charges the County Clerk with the custody of the County seal. The MCC doesn’t define, diminish, or enhance this authority. And there is no suggestion in either legal source that responsibility for the County seal rests with any other office.

Additionally, there is no distinction between physical or electronic control of the County seal. Since this section of the Charter was approved by the voters in 1982, there was no anticipation of the electronic and digital revolution that would sweep society and government and a need to expand the Clerk’s authority to regulate the County seal electronically.

Therefore, using the principles of statutory construction and the ordinary meanings of the terms *custody* and *seal*, we conclude the County Clerk has the authority to control the use of the County seal. Authority to control includes the authority to regulate the use of the County seal. If you intend to regulate the

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<sup>1</sup> Merriam-Webster dictionary, <http://www.merriam-webster.com/dictionary/seal>, accessed April 22, 2015.

<sup>2</sup> Black’s Law Dictionary, p. 1550 (10<sup>th</sup> edition 2014).

<sup>3</sup> Id.

<sup>4</sup> Merriam-Webster dictionary, <http://www.merriam-webster.com/dictionary/custody>, accessed April 22, 2015.

<sup>5</sup> Black’s Law Dictionary, p. 467 (10<sup>th</sup> edition 2014).

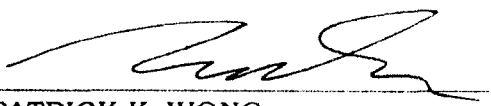

<sup>6</sup> OED, <http://www.oed.com/view/Entry/46305?redirectedFrom=custody#eid>, accessed April 22, 2015.

Danny Mateo, County Clerk  
April 27, 2015  
Page 3

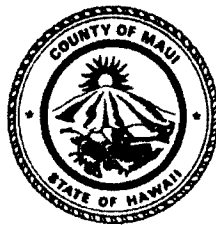
use of the County seal, then we recommend amending the existing County Code to add the following:

- A more specific description of the County seal which includes a picture and colors. Section 1.08.010, MCC.
- Clarity to your authority to have custody of and to regulate use of the County seal. Section 2.12.010, MCC.

APPROVED FOR TRANSMITTAL:

  
  
\_\_\_\_\_  
PATRICK K. WONG  
Corporation Counsel  
2015-4062

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  
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EMAIL: CORPCOUN@MAUICOUNTY.GOV  
TELEPHONE: (808) 270-7740  
FACSIMILE: (808) 270-7152

April 17, 2015

**MEMO TO:** Riki Hokama, Chair  
Budget and Finance Committee

**FROM:** Jeffrey Ueoka, Deputy Corporation Counsel *JU*

**SUBJECT:** **FISCAL YEAR ("FY") 2016 BUDGET** (CC-4) (BF-1)

We are in receipt of your memorandum dated April 10, 2015, posing the following questions:

1. Pursuant to Section 5-3(3) of the Revised Charter of the County of Maui (1983), as amended, the County Clerk has "custody of the county seal." Explain whether this Charter provision requires that permission be obtained from the County Clerk to affix the County seal on t-shirts, cups, and other merchandise sold by the County. Further explain the level of authority the County Clerk has on the use of the County seal.

Our office has previously opined that the County seal should be used for official purposes only, and not for purposes that are, or may be mistaken as, private purposes. As stated above, the County Clerk has "custody of the county seal." "Custody" is defined as, "[t]he care and control of a thing or person for inspection, preservation, and security."<sup>1</sup> While there is nothing in the Revised Charter of the County of Maui (1983), as amended, or the Maui County Code which defines "custody" or gives guidance regarding the use of the County Seal, it would be our recommendation that any person or entity that desires to use the County seal consult with the County Clerk prior to use.

<sup>1</sup> Black's Law Dictionary 412 (8<sup>th</sup> ed. 2004)

**2015-8 (PUBLIC-PUBLISH)**

**EXHIBIT "B"**

Riki Hokama, Chair

April 17, 2015

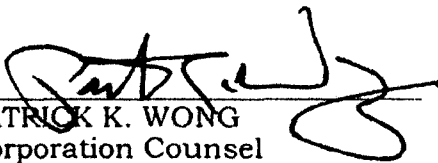
Page 2

2. Explain whether t-shirts and other items can be sold at public facilities, such as fire stations and a "county store." Further explain whether the fee for such items needs to be established as other County rates and fees are established – in Appendix B to the annual budget, relating to fees, rates, assessments and taxes. Also, indicate the fund into which the fees collected are deposited and the fund from which expenses are drawn.

We apologize, but due to the expedited response requested, we were unable to conduct an exhaustive inquiry into this matter. We contacted the Department of Fire and Public Safety in regards to sales at fire stations and the Office of Economic Development in regards to sales at the Maui County Business Resource Center ("MCBRC"). Based on our limited review, the sales activities conducted at the premises are a permissible, secondary use of the premises and do not appear to rise to the level of a "concession" as defined by Section 3.40.030(A), Maui County Code. We did not conduct any further inquiry into the general question of what constitutes permissible activities at these specific locations.

In regards to whether the fees for items sold must be included in the annual budget, we were informed that the sales activities at the respective locations are conducted by different nonprofit entities, all inventory is purchased by the entities, and the proceeds do not become County funds, therefore, we do not see the need for the fees to be included in the annual budget. We were informed that the proceeds from the sales at the MCBRC go towards supporting the entity and the proceeds from the sales at the fire stations primarily go to the entity with a portion of the sales proceeds helping to defray firefighter expenses at the station that the sale was made.

APPROVED FOR TRANSMITTAL:

  
PATRICK K. WONG  
Corporation Counsel

cc: Alan M. Arakawa, Mayor  
Sananda K. Baz, Budget Director  
Jeffrey A. Murray, Fire Chief of Department of Fire and Public Safety  
Teena M. Rasmussen, Director of Office of Economic Development  
Dennis A. Mateo, County Clerk

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

July 25, 2006

MEMO TO: Lynn Araki-Regan, Economic Development Coordinator

FROM: Jesse K. Souki, Deputy Corporation Counsel

SUBJECT: Use of County Seal

This memorandum addresses your request for legal advice, dated January 13, 2005, wherein you asked:

- (1) Whether the County has guidelines or policies for preventing a third party from using reproductions of the County seal; and
- (2) Whether misuse of the County seal should be considered in future Office of Economic Development ("OED") grant applications from the violator.

The relevant facts of your inquiry are that an organization, apparently in the premature expectation that it might be the recipient of County grant funds in support of an event, prepared and distributed flyers incorporating a reproduction of the County seal, thereby giving the mistaken impression that the County was a sponsor of the event.

Section 1.08.010, Maui County Code, designates the seal of the County of Maui, but has no provisions regulating or restricting the use of the County seal. We are not aware of any official County policies or procedures pertaining to third-party use of the County seal.

We note that our Department has opined that the County seal should be used for County business purposes only and not for private purposes. A copy of that opinion is attached hereto for your information.<sup>1</sup>

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<sup>1</sup> See Exhibit "A".

EXHIBIT "C"

Lynn Araki-Regan

July 25, 2006

Page 2

Your second question regarding the treatment of future grant applications submitted to OED is one of policy and a matter subject to your review as OED grant administrator. OED may consider cautioning all grant applicants regarding the premature release of public relations or marketing materials that refer to the County of Maui as a sponsor or participant or that display the County seal. OED may also consider incorporating an appropriate warning in its grant application forms and instructions and in the terms and conditions of OED grant agreements.

cc: Michele White, Legal Assistant

S:\ALL\Advisory\JKS\OED\Impermissible Use County Seal.wpd

APPROVED FOR TRANSMITTAL:

  
BRIAN T. MOTO  
Corporation Counsel

COPY

**DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI**


200 South High Street

Wailuku, Hawaii 96793

**INTEROFFICE CORRESPONDENCE**

October 29, 2002

**MEMO TO:** Grant Chun, Managing Director

**FROM:** Traci Fujita Villarosa, Deputy Corporation Counsel 

**SUBJECT:** Use of Large County Seal by HGEA

You have asked this office for an opinion on the use by the Hawaii Government Employees Association ("HGEA") of the large county seal hanging on the 9th floor wall of the county building for the event, "A Tribute to Patsy Mink" on Wednesday, October 30, 2002. It is my understanding that this is a function being sponsored by various labor unions and not the County of Maui. HGEA has offered to lease the large county seal wall-hanging for a fee for the event. The county seal wall-hanging was purchased by the Office of the Managing Director on June 26, 2001.

On previous occasions when asked for advice concerning the use of the county seal for various purposes, our office has opined that the seal should be used for official purposes only, and not for purposes that are, or may be mistaken as, private purposes. We have commented that this restriction as to use is compromised if the seal is allowed to be used in situations where such use gives the mistaken or false impression that a private event, activity, or purpose is endorsed or supported by the county government. On occasions past, we have consulted with the Office of the County Clerk regarding the use of the county seal because the County Clerk has custody of the county seal under section 5-3(3), Revised Charter of the County of Maui (1983), as amended ("Charter"). In brief, the County Clerk has concurred with the position that the county seal should be reserved for official county business use only.

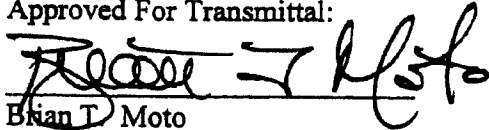
Further, Charter section 10-4(1)(e) states: "No officer or employee of the county shall use county property or personnel for other than public activity or purpose." Because the event is being organized by non-governmental entities, the event is arguably not a public activity

nor for a public purpose.<sup>1</sup> Therefore, to avoid possible violation of Charter section 10-4(1)(e) by a County officer or employee, the county seal should not be used by HGEA or other non-governmental entities.

Finally, section 9-7(3) of the Charter states: "Unless otherwise specifically provided for in this charter, all fees, rates, assessments and taxes imposed by the county shall be set in the annual budget." Even though HGEA is willing to lease the county seal wall-hanging for a fee, such fee is not set forth in the 2003 budget ordinance. Thus, in any event, the county would not be able to lease the county seal wall-hanging.

If you should have any further questions, please do not hesitate to contact me at extension 7925.

Approved For Transmittal:



Brian T. Moto

First Deputy Corporation Counsel  
County of Maui

---

<sup>1</sup> The Hawaii Supreme Court has not defined "private interest." However the court, in discussing the definition of the word "public" has stated: "The word "public" is susceptible of various shades of meaning. In one sense it means everybody, and accordingly the body of the people at large or the community at large. It is also apt in referring to the whole body politic or the aggregate of the citizens of a state, nation, or municipality. So employed, "public" refers to organized government. In the past this court has taken the word "public" to mean of or relating to Government.


**DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI**

200 South High Street

Wailuku, Hawaii 96793

**INTEROFFICE CORRESPONDENCE**

October 29, 2002

**MEMO TO:** Grant Chun, Managing Director  
**FROM:** Traci Fujita Villarosa, Deputy Corporation Counsel   
**SUBJECT:** Use of Large County Seal by HGEA

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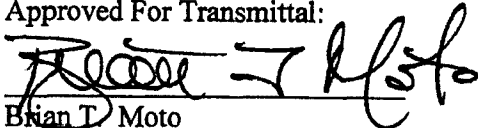
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Approved For Transmittal:



Brian T. Moto

First Deputy Corporation Counsel  
County of Maui

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